

# SENATE BILL NO. 912

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR EIGEL.

4195S.01I

ADRIANE D. CROUSE, Secretary

## AN ACT

To repeal section 376.1109, RSMo, and to enact in lieu thereof one new section relating to long-term care insurance.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 376.1109, RSMo, is repealed and one  
2 new section enacted in lieu thereof, to be known as section  
3 376.1109, to read as follows:

376.1109. 1. The director may adopt regulations that  
2 include standards for full and fair disclosure setting forth  
3 the manner, content and required disclosures for the sale of  
4 long-term care insurance policies, terms of renewability,  
5 initial and subsequent conditions of eligibility,  
6 nonduplication of coverage provisions, coverage of  
7 dependents, preexisting conditions, termination of  
8 insurance, continuation or conversion, probationary periods,  
9 limitations, exceptions, reductions, elimination periods,  
10 requirements for replacement, recurrent conditions and  
11 definitions of terms. Regulations adopted pursuant to  
12 sections 376.1100 to 376.1130 shall be in accordance with  
13 the provisions of chapter 536.

14 2. No long-term care insurance policy may:

15 (1) Be cancelled, nonrenewed or otherwise terminated  
16 on the grounds of the age or the deterioration of the mental  
17 or physical health of the insured individual or certificate  
18 holder; or

19           (2) Contain a provision establishing a new waiting  
20 period in the event existing coverage is converted to or  
21 replaced by a new or other form within the same company,  
22 except with respect to an increase in benefits voluntarily  
23 selected by the insured individual or group policyholder; or

24           (3) Provide coverage for skilled nursing care only or  
25 provide significantly more coverage for skilled care in a  
26 facility than for lower levels of care.

27           3. No long-term care insurance policy or certificate  
28 other than a policy or certificate thereunder issued to a  
29 group as defined in paragraph (a) of subdivision (4) of  
30 subsection 2 of section 376.1100:

31           (1) Shall use a definition of preexisting condition  
32 which is more restrictive than the following: "Preexisting  
33 condition" means a condition for which medical advice or  
34 treatment was recommended by, or received from, a provider  
35 of health care services, within six months preceding the  
36 effective date of coverage of an insured person;

37           (2) May exclude coverage for a loss or confinement  
38 which is the result of a preexisting condition unless such  
39 loss or confinement begins within six months following the  
40 effective date of coverage of an insured person.

41           4. The director may extend the limitation periods set  
42 forth in subdivisions (1) and (2) of subsection 3 of this  
43 section as to specific age group categories in specific  
44 policy forms upon findings that the extension is in the best  
45 interest of the public.

46           5. The definition of preexisting condition provided in  
47 subsection 3 of this section does not prohibit an insurer  
48 from using an application form designed to elicit the  
49 complete health history of an applicant, and, on the basis  
50 of the answers on that application, from underwriting in

51 accordance with that insurer's established underwriting  
52 standards. Unless otherwise provided in the policy or  
53 certificate, a preexisting condition, regardless of whether  
54 it is disclosed on the application, need not be covered  
55 until the waiting period described in subdivision (2) of  
56 subsection 3 of this section expires. No long-term care  
57 insurance policy or certificate may exclude or use waivers  
58 or riders of any kind to exclude, limit or reduce coverage  
59 or benefits for specifically named or described preexisting  
60 diseases or physical conditions beyond the waiting period  
61 described in subdivision (2) of subsection 3 of this section.

62 6. No long-term care insurance policy may be delivered  
63 or issued for delivery in this state if such policy:

64 (1) Conditions eligibility for any benefits on a prior  
65 hospitalization requirement; or

66 (2) Conditions eligibility for benefits provided in an  
67 institutional care setting on the receipt of a higher level  
68 of institutional care; or

69 (3) Conditions eligibility for any benefits other than  
70 waiver of premium, post-confinement, post-acute care or  
71 recuperative benefits on a prior institutionalization  
72 requirement.

73 7. A long-term care insurance policy containing post-  
74 confinement, post-acute care or recuperative benefits shall  
75 clearly label in a separate paragraph of the policy or  
76 certificate entitled "Limitations or Conditions on  
77 Eligibility for Benefits" such limitations or conditions,  
78 including any required number of days of confinement.

79 8. A long-term care insurance policy or rider which  
80 conditions eligibility of noninstitutional benefits on the  
81 prior receipt of institutional care shall not require a  
82 prior institutional stay of more than thirty days.

83           9. No long-term care insurance policy or rider which  
84 provides benefits only following institutionalization shall  
85 condition such benefits upon admission to a facility for the  
86 same or related conditions within a period of less than  
87 thirty days after discharge from the institution.

88           10. The director may adopt regulations establishing  
89 loss ratio standards for long-term care insurance policies  
90 provided that a specific reference to long-term care  
91 insurance policies is contained in the regulation.

92           11. Long-term care insurance applicants shall have the  
93 right to return the policy or certificate within thirty days  
94 of its delivery and to have the premium refunded if, after  
95 examination of the policy or certificate, the applicant is  
96 not satisfied for any reason. Long-term care insurance  
97 policies and certificates shall have a notice prominently  
98 printed on the first page or attached thereto stating in  
99 substance that the applicant shall have the right to return  
100 the policy or certificate within thirty days of its delivery  
101 and to have the premium refunded if, after examination of  
102 the policy or certificate, other than a certificate issued  
103 pursuant to a policy issued to a group defined in paragraph  
104 (a) of subdivision (4) of subsection 2 of section 376.1100,  
105 the applicant is not satisfied for any reason. This  
106 subsection shall also apply to denials of applications and  
107 any refund must be made within thirty days of the return or  
108 denial.

109           12. (1) If a long-term care insurance policy issued,  
110 delivered, or renewed in this state on or after January 1,  
111 2011, is cancelled for any reason, the insurer shall refund  
112 the unearned portion of any premium paid beyond the month in  
113 which the cancellation is effective. Any refund shall be  
114 returned to the policyholder within twenty days from the

115 date the insurer receives notice of the cancellation. Long-  
116 term care insurance policies and certificates shall have a  
117 notice prominently printed on the first page or attached  
118 thereto stating in substance that the applicant shall be  
119 entitled to a refund of the unearned premium if the policy  
120 is cancelled for any reason.

121 (2) The policyholder may notify the insurer of  
122 cancellation of such long-term care insurance policy at any  
123 time by sending written or electronic notification.

124 13. No long-term care insurance policy shall increase  
125 premium rates, measured annually, in excess of **the least of**  
126 **the following:**

127 (1) The amount that is actuarially justified based on  
128 credible experience, and on the rate basis in effect in this  
129 state without recognition of rates that may be in effect in  
130 other states;

131 (2) **The percentage change in the Consumer Price Index**  
132 **for All Urban Consumers or its successor index, as published**  
133 **by the federal Bureau of Labor Statistics or its successor**  
134 **agency; or**

135 (3) **Five percent.**

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