

SENATE SUBSTITUTE FOR

HOUSE BILL NO. 5349

(As amended, September 13 and 14, 2006)  
(1 of 2)

<<A bill to amend 1956 PA 218, entitled  
"The insurance code of 1956,"  
by amending sections 1204a, 1204c, 3915, 3927, 3935, and 3942 (MCL  
500.1204a, 500.1204c, 500.3915, 500.3927, 500.3935, and 500.3942),  
section 1204a as amended by 1987 PA 64, section 1204c as amended by 2006  
PA 109, sections 3915, 3927, 3935, and 3942 as added by 1992 PA 84, and  
by adding sections 1204f, 3906, 3910, 3910a, 3910b, 3925, 3926, 3926a,  
and 3941a.>>

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

<<Sec. 1204a. (1) To qualify as a registered insurance agent program of  
study, the program of study shall meet all of the following criteria:

(a) Be conducted through an educational institution offering home study  
courses that has been in existence for not less than 5 years, by an insurance  
trade association, by an authorized insurer as provided in subsection (2), or  
by an educational institution listed in the state board of education  
directory of institutions of higher learning.

(b) Except as provided in subsection (2), provide for a minimum number  
of hours of classroom instruction or its equivalent in home study **OR ONLINE**  
courses as follows:

(i) In the case of a program of study for health insurance agents, 14  
hours of instruction on the principles of health insurance and 6 hours of  
instruction on the requirements of the insurance laws of this state.

House Bill No. 5349 as amended September 13, 2006

(ii) In the case of a program of study for life insurance agents, 20 hours of instruction on the principles of life insurance and 6 hours of instruction on the requirements of the insurance laws of this state.

(iii) In the case of a combined program of study for life and health insurance agents, 14 hours of instruction on the principles of health insurance, 20 hours of instruction on the principles of life insurance, and 6 hours of instruction on the requirements of the insurance laws of this state.

(iv) In the case of a program of study for property and casualty insurance agents and solicitors, 12 hours of instruction on the principles of property insurance, 6 hours of instruction on the requirements of the insurance laws of this state, and 22 hours of instruction on the principles of liability insurance.

(c) Include instruction in ethical practices in the marketing and selling of insurance.

(d) Instruction shall be given only by individuals who meet the qualifications required by the commissioner. The commissioner, after consulting the insurance agent education advisory council, shall promulgate rules prescribing the criteria which must be met by a person in order to render instruction in a registered insurance agent program of study.

(2) An authorized insurer may conduct that portion of the minimum number of ~~classroom~~ hours of instruction under subsection (1) as the commissioner deems appropriate. **ANY COMBINATION OF CLASSROOM, ONLINE, OR SELF-STUDY HOURS MAY BE USED IN SATISFYING THE MINIMUM NUMBER OF HOURS OF INSTRUCTION UNDER SUBSECTION (1).**

(3) The commissioner shall promulgate rules prescribing the subject matter that a program of study must possess to qualify for registration under this section.

(4) The commissioner may make recommendations for improvements in course materials as deemed necessary by the commissioner. The commissioner may, after notice and opportunity for a hearing, withdraw the registration of a program of study which does not maintain reasonable standards as determined by the commissioner for the protection of the public.>>

1       Sec. 1204c. (1) As used in this section:

2       (a) "Hour" means a period of time of not less than 50  
3       minutes.

4       (b) "Insurance producer" means a life-health agent or  
5       property-casualty agent.

(c) "Life-health agent" means a resident or nonresident individual insurance producer licensed for life, limited life, mortgage redemption, accident and health, or any combination thereof.

(d) "Property-casualty agent" means a resident or nonresident individual insurance producer or solicitor licensed for automobile, fire, multiple lines, any limited or minor property and casualty line, or any combination thereof.

(2) Unless the insurance producer has renewed his or her license pursuant to subsection (4), an insurance producer's hours of study accrued under this section shall be reviewed for license continuance as follows:

(a) If the insurance producer's license number ends in "1" as follows:

(i) If the insurance producer's last name starts with A to L, on January 1, 1995 and on January 1 every 2 years thereafter.

(ii) If the insurance producer's last name starts with M to Z, on January 1, 1996 and on January 1 every 2 years thereafter.

(b) If the insurance producer's license number ends in "2" as follows:

(i) If the insurance producer's last name starts with A to L, on February 1, 1995 and on February 1 every 2 years thereafter.

(ii) If the insurance producer's last name starts with M to Z, on February 1, 1996 and on February 1 every 2 years thereafter.

(c) If the insurance producer's license number ends in "3" as follows:

1           (i) If the insurance producer's last name starts with A to L,  
2 on March 1, 1995 and on March 1 every 2 years thereafter.

3           (ii) If the insurance producer's last name starts with M to  
4 Z, on March 1, 1996 and on March 1 every 2 years thereafter.

5           (d) If the insurance producer's license number ends in "4"  
6 as follows:

7           (i) If the insurance producer's last name starts with A to L,  
8 on June 1, 1995 and on June 1 every 2 years thereafter.

9           (ii) If the insurance producer's last name starts with M to  
10 Z, on June 1, 1996 and on June 1 every 2 years thereafter.

11          (e) If the insurance producer's license number ends in "5"  
12 as follows:

13          (i) If the insurance producer's last name starts with A to L,  
14 on July 1, 1995 and on July 1 every 2 years thereafter.

15          (ii) If the insurance producer's last name starts with M to  
16 Z, on July 1, 1996 and on July 1 every 2 years thereafter.

17          (f) If the insurance producer's license number ends in "6"  
18 as follows:

19          (i) If the insurance producer's last name starts with A to L,  
20 on August 1, 1995 and on August 1 every 2 years thereafter.

21          (ii) If the insurance producer's last name starts with M to  
22 Z, on August 1, 1996 and on August 1 every 2 years thereafter.

23          (g) If the insurance producer's license number ends in "7"  
24 as follows:

25          (i) If the insurance producer's last name starts with A to L,  
26 on September 1, 1995 and on September 1 every 2 years thereafter.

27          (ii) If the insurance producer's last name starts with M to

1 Z, on September 1, 1996 and on September 1 every 2 years  
2 thereafter.

3 (h) If the insurance producer's license number ends in "8"  
4 as follows:

5 (i) If the insurance producer's last name starts with A to L,  
6 on October 1, 1995 and on October 1 every 2 years thereafter.

7 (ii) If the insurance producer's last name starts with M to  
8 Z, on October 1, 1996 and on October 1 every 2 years thereafter.

9 (i) If the insurance producer's license number ends in "9"  
10 as follows:

11 (i) If the insurance producer's last name starts with A to L,  
12 on November 1, 1995 and on November 1 every 2 years thereafter.

13 (ii) If the insurance producer's last name starts with M to  
14 Z, on November 1, 1996 and on November 1 every 2 years  
15 thereafter.

16 (j) If the insurance producer's license number ends in "0"  
17 as follows:

18 (i) If the insurance producer's last name starts with A to L,  
19 on December 1, 1995 and on December 1 every 2 years thereafter.

20 (ii) If the insurance producer's last name starts with M to  
21 Z, on December 1, 1996 and on December 1 every 2 years  
22 thereafter.

23 (3) If an insurance producer's hours of study would be  
24 reviewed according to the schedule under subsection (2) within 23  
25 months after issuance of the initial license, the hours shall not  
26 be reviewed on the first scheduled date following the issuance of  
27 the initial license and shall be reviewed on the next scheduled

1 review date following the first review date according to the  
2 schedule under subsection (2), unless the insurance producer has  
3 renewed his or her license pursuant to subsection (4).

4 (4) Except as provided in subsections (11) to (14), before  
5 the review date of each applicable 2-year period provided for  
6 under subsection (2) or (3), an insurance producer wishing to  
7 renew his or her license shall renew his or her license by  
8 attending or instructing not less than 24 hours of continuing  
9 education classes approved by the commissioner or 24 hours of  
10 home study if evidenced by successful completion of course work  
11 approved by the commissioner. Of the 24 hours of continuing  
12 education required, not less than 3 hours shall be in ethics in  
13 insurance classes or course work.

14 (5) After reviewing recommendations made by the council  
15 under section 1204b, the commissioner shall approve a program of  
16 study if the commissioner determines that the program increases  
17 knowledge of insurance and related subjects as follows:

18 (a) For a life-health agent program of study, the program  
19 offers instruction in 1 or more of the following:

20 (i) The fundamental considerations and major principles of  
21 life insurance.

22 (ii) The fundamental considerations and major principles of  
23 health insurance.

24 (iii) Estate planning and taxation as related to insurance.

25 (iv) Industry and legal standards concerning ethics in  
26 insurance.

27 (v) Legal, legislative, and regulatory matters concerning

1 insurance, the insurance code, and the insurance industry.

2 (vi) Principal provisions used in life insurance contracts,  
3 health insurance contracts, or annuity contracts and differences  
4 in types of coverages.

5 (vii) Accounting and actuarial considerations in insurance.

6 (viii) Principles of agency management, excluding  
7 telemarketing or other marketing instruction.

8 **(ix) THE FUNDAMENTAL CONSIDERATIONS, MAJOR PRINCIPLES, AND**  
9 **STATUTORY REQUIREMENTS OF LONG-TERM CARE INSURANCE.**

10 (b) For a property-casualty agent program of study, the  
11 program offers instructions in 1 or more of the following:

12 (i) The fundamental considerations and major principles of  
13 property insurance.

14 (ii) The fundamental considerations and major principles of  
15 casualty insurance.

16 (iii) Basic principles of risk management.

17 (iv) Industry and legal standards concerning ethics in  
18 insurance.

19 (v) Legal, legislative, and regulatory matters concerning  
20 insurance, the insurance code, and the insurance industry.

21 (vi) Principal provisions used in casualty insurance  
22 contracts, no-fault insurance contracts, or property insurance  
23 contracts and differences in types of coverages.

24 (vii) Accounting and actuarial considerations in insurance.

25 (viii) Principles of agency management, excluding  
26 telemarketing or other marketing instruction.

27 (6) A provider of a program of study for insurance producers

1 applying for approval or reapproval from the commissioner under  
2 this section shall file, on a form provided by the commissioner,  
3 a description of the course of study including a description of  
4 the subject matter and course materials, hours of instruction,  
5 location of classroom, qualifications of instructors, and maximum  
6 student-instructor ratio and shall pay a nonrefundable \$25.00  
7 filing fee. Any material change in a program of study shall  
8 require reapproval by the commissioner. If the information in an  
9 application for approval or reapproval is insufficient for the  
10 commissioner to determine whether the program of study meets the  
11 requirements under subsection (5), the commissioner shall give  
12 written notice to the provider, within 15 days after the  
13 provider's filing of the application for approval or reapproval,  
14 of the additional information needed by the commissioner. An  
15 application for approval or reapproval shall be considered  
16 approved unless disapproved by the commissioner within 90 days  
17 after the application for approval or reapproval is filed, or  
18 within 90 days after the receipt of additional information if the  
19 information was requested by the commissioner, whichever is  
20 later.

21 (7) A provider of a program of study approved by the  
22 commissioner under this section shall pay a provider  
23 authorization fee of \$500.00 for the first year the provider's  
24 program of study was approved under this section and a \$100.00  
25 provider renewal fee for each year thereafter that the provider  
26 offers the approved program of study.

27 (8) A person dissatisfied with an approved program of study



1 may petition the commissioner for a hearing on the program or the  
2 commissioner on his or her own initiative may request a hearing  
3 on a program of study. If the commissioner finds the petition to  
4 have been submitted in good faith, that the petition if true  
5 shows the program of study does not satisfy the criteria in  
6 subsection (5), or that the petition otherwise justifies holding  
7 a hearing, the commissioner shall hold a hearing pursuant to  
8 chapter 4 of the administrative procedures act of 1969, 1969 PA  
9 306, MCL 24.271 to 24.287, within 30 days after receipt of the  
10 petition and upon not less than 10 days' written notice to the  
11 petitioner and the provider of the program of study. If the  
12 commissioner requests a hearing on a program of study on his or  
13 her own initiative, the commissioner shall hold a hearing  
14 pursuant to chapter 4 of the administrative procedures act of  
15 1969, 1969 PA 306, MCL 24.271 to 24.287, upon not less than 10  
16 days' written notice to the provider of the program of study.

17 (9) If after a hearing under subsection (8) the commissioner  
18 finds that the program of study does not satisfy the requirements  
19 under subsection (5), the commissioner shall state, in a written  
20 order mailed first-class to the petitioner and provider of the  
21 program of study, his or her findings and the date upon which the  
22 commissioner will revoke approval of the program of study which  
23 date shall be within a reasonable time of the issuance of the  
24 order.

25 (10) A certificate of attendance or instruction of an  
26 approved program of study or a certificate of successful  
27 completion of course work shall be filed as directed by the

1 commissioner on a form prescribed by the commissioner and shall  
2 indicate the name and number of the course of study, the number  
3 of hours, dates of completion, and the name and number of schools  
4 attended or taught by the insurance producer or the evidence of  
5 successful completion of course work. A representative of the  
6 approved program of study shall file the form and a fee of \$1.00  
7 per hour for course credit for each insurance producer license  
8 renewal as directed by the commissioner within 30 days after the  
9 insurance producer completes the program. A copy of the form  
10 shall also be mailed first-class to the insurance producer who  
11 attended, taught, or successfully completed the program of study.  
12 The commissioner may enter into contracts to provide for the  
13 administrative functions of this subsection.

14 (11) The commissioner shall waive the continuing education  
15 requirements of this section for an insurance producer if the  
16 producer is unable to comply with the continuing education  
17 requirements of this section due to military service or if the  
18 commissioner determines that enforcement of the requirements  
19 would cause a severe hardship. The commissioner shall waive the  
20 continuing education requirements of this section for the  
21 following insurance producers:

22 (a) An insurance producer who is licensed to write only  
23 travel or baggage insurance policies and whose employment is for  
24 a purpose other than the sale of those policies.

25 (b) An insurance producer who is licensed to write only  
26 limited line credit insurance.

27 (12) The commissioner may enter into reciprocal continuing

1 education agreements with insurance commissioners from other  
2 states.

3 (13) If an insurance producer has not met his or her  
4 continuing education requirements by the expiration date of his  
5 or her license, the insurance producer shall have a 90-day grace  
6 period in which to meet the continuing education requirements of  
7 this section. During the 90-day grace period, the insurance  
8 producer shall not solicit or sell new policies of insurance,  
9 bind coverage, or otherwise act as an insurance producer except  
10 that the insurance producer may continue to service policies  
11 previously sold and may receive commissions on policies  
12 previously sold. If the insurance producer has not met his or her  
13 continuing education requirements by the expiration of the 90-day  
14 grace period, the insurance producer's license shall be canceled.  
15 An insurance producer whose license has been canceled under this  
16 section may reapply for license to act as an insurance producer  
17 under section 1204, except that the program of study requirements  
18 under section 1204 shall not be waived.

19 (14) An insurance producer who has sold his or her insurance  
20 business and who has not met the continuing education  
21 requirements of this section shall not solicit or sell new  
22 policies of insurance, bind coverage, or otherwise act as an  
23 insurance producer except that the insurance producer may  
24 continue to service policies previously sold and may receive  
25 commissions on policies previously sold as well as receive  
26 partial commissions on policies of insurance sold by a purchasing  
27 insurance producer. An insurance producer who is in the process

1 of selling his or her insurance business and who has not met the  
2 continuing education requirements of this section shall not  
3 solicit or sell new policies of insurance, bind coverage, or  
4 otherwise act as an insurance producer except that the insurance  
5 producer may continue to service policies previously sold and may  
6 receive commissions on policies previously sold as well as  
7 receive partial commissions on policies of insurance sold by a  
8 purchasing insurance producer, for a period not to exceed 12  
9 months after the selling insurance producer's license review date  
10 under subsection (2). An insurance producer whose license has  
11 been canceled and who wishes to resume soliciting or selling new  
12 policies of insurance, bind coverage, or otherwise act as an  
13 insurance producer and who has not met the continuing education  
14 requirements within the immediately preceding 2-year period may  
15 reapply for license to act as an insurance producer under section  
16 1204.

17       **SEC. 1204F. (1) EACH INSURER THAT SELLS, SOLICITS, OR**  
18 **NEGOTIATES LONG-TERM CARE INSURANCE SHALL ENSURE THAT EACH**  
19 **PRODUCER WHOSE DUTIES INCLUDE SELLING, SOLICITING, OR NEGOTIATING**  
20 **LONG-TERM CARE INSURANCE COMPLETES A PROGRAM OF INSTRUCTION AS**  
21 **DESCRIBED IN SUBSECTION (3) BEFORE SELLING, SOLICITING, OR**  
22 **NEGOTIATING LONG-TERM CARE INSURANCE.**

23       **(2) A PROGRAM OF INSTRUCTION REQUIRED UNDER THIS SECTION MAY**  
24 **BE PROVIDED IN CONJUNCTION WITH OTHER PRODUCER TRAINING OR**  
25 **SEPARATELY. TO SATISFY SUBSECTION (1), A PRODUCER MAY DOCUMENT TO**  
26 **AN INSURER THAT HE OR SHE HAS OBTAINED TRAINING AS DESCRIBED IN**  
27 **SUBSECTION (3) FROM ANY OF THE FOLLOWING:**

1 (A) ANY INSURER THAT SELLS, SOLICITS, OR NEGOTIATES LONG-  
2 TERM CARE INSURANCE.

3 (B) A PROGRAM OF INSTRUCTION QUALIFIED UNDER SECTION 1204A.

4 (C) A PROGRAM OF INSTRUCTION QUALIFIED UNDER SECTION 1204C.

5 (3) A PROGRAM OF INSTRUCTION REQUIRED UNDER THIS SECTION  
6 SHALL CONSIST OF TOPICS RELATED TO LONG-TERM CARE INSURANCE AND  
7 LONG-TERM CARE SERVICES, INCLUDING, BUT NOT LIMITED TO, ALL OF  
8 THE FOLLOWING:

9 (A) STATE REGULATIONS AND REQUIREMENTS, INCLUDING, BUT NOT  
10 LIMITED TO, LAWS RELATING TO ADULT FINANCIAL EXPLOITATION.

11 (B) AVAILABLE LONG-TERM CARE SERVICES AND PROVIDERS.

12 (C) CHANGES OR IMPROVEMENTS IN LONG-TERM CARE SERVICES OR  
13 PROVIDERS.

14 (D) ALTERNATIVES TO THE PURCHASE OF PRIVATE LONG-TERM CARE  
15 INSURANCE.

16 (E) DIFFERENCES IN ELIGIBILITY FOR BENEFITS AND TAX  
17 TREATMENT BETWEEN POLICIES INTENDED TO BE FEDERALLY QUALIFIED AND  
18 THOSE NOT INTENDED TO BE FEDERALLY QUALIFIED.

19 (F) THE EFFECT OF INFLATION IN ERODING THE VALUE OF BENEFITS  
20 AND THE IMPORTANCE OF INFLATION PROTECTION.

21 (G) CONSUMER SUITABILITY STANDARDS AND GUIDELINES.

22 (4) A PROGRAM OF INSTRUCTION REQUIRED UNDER THIS SECTION  
23 SHALL NOT INCLUDE ANY TRAINING THAT IS SOLELY ORIENTED TO THE  
24 SALES OR MARKETING OF AN INSURER-SPECIFIC LONG-TERM CARE PRODUCT.

25 SEC. 3906. (1) AN INDIVIDUAL LONG-TERM CARE POLICY OR  
26 CERTIFICATE SHALL NOT BE ISSUED UNTIL THE INSURER HAS RECEIVED  
27 FROM THE APPLICANT EITHER A WRITTEN DESIGNATION OF AT LEAST 1

1 PERSON, IN ADDITION TO THE APPLICANT, WHO IS TO RECEIVE NOTICE OF  
2 LAPSE OR TERMINATION OF THE POLICY OR CERTIFICATE FOR NONPAYMENT  
3 OF PREMIUM, OR A WRITTEN WAIVER DATED AND SIGNED BY THE APPLICANT  
4 ELECTING NOT TO DESIGNATE ADDITIONAL PERSONS TO RECEIVE NOTICE.  
5 THE APPLICANT MAY DESIGNATE AT LEAST 1 PERSON WHO IS TO RECEIVE  
6 THE NOTICE OF TERMINATION, IN ADDITION TO THE INSURED. A  
7 DESIGNATION SHALL NOT CONSTITUTE ACCEPTANCE OF ANY LIABILITY ON  
8 THE THIRD PARTY FOR SERVICES PROVIDED TO THE INSURED. THE FORM  
9 USED FOR THE WRITTEN DESIGNATION SHALL PROVIDE SPACE CLEARLY  
10 DESIGNATED FOR LISTING AT LEAST 1 PERSON. THE DESIGNATION SHALL  
11 INCLUDE EACH PERSON'S FULL NAME AND HOME ADDRESS. FOR AN  
12 APPLICANT WHO ELECTS NOT TO DESIGNATE AN ADDITIONAL PERSON, THE  
13 WAIVER SHALL STATE: "PROTECTION AGAINST UNINTENDED LAPSE. I  
14 UNDERSTAND THAT I HAVE THE RIGHT TO DESIGNATE AT LEAST 1 PERSON  
15 OTHER THAN MYSELF TO RECEIVE NOTICE OF LAPSE OR TERMINATION OF  
16 THIS LONG-TERM CARE INSURANCE POLICY FOR NONPAYMENT OF PREMIUM. I  
17 UNDERSTAND THAT NOTICE WILL NOT BE GIVEN UNTIL 30 DAYS AFTER A  
18 PREMIUM IS DUE AND UNPAID. I ELECT NOT TO DESIGNATE A PERSON TO  
19 RECEIVE THIS NOTICE." THE INSURER SHALL NOTIFY THE INSURED OF THE  
20 RIGHT TO CHANGE THIS WRITTEN DESIGNATION, NO LESS OFTEN THAN ONCE  
21 EVERY 2 YEARS.

22 (2) IF THE POLICYHOLDER OR CERTIFICATEHOLDER PAYS PREMIUM  
23 FOR A LONG-TERM CARE INSURANCE POLICY OR CERTIFICATE THROUGH A  
24 PAYROLL OR PENSION DEDUCTION PLAN, SUBSECTION (1) DOES NOT APPLY  
25 UNTIL 60 DAYS AFTER THE POLICYHOLDER OR CERTIFICATEHOLDER IS NO  
26 LONGER ON SUCH A PAYMENT PLAN. THE APPLICATION OR ENROLLMENT FORM  
27 FOR SUCH POLICIES OR CERTIFICATES SHALL CLEARLY INDICATE THE

1 PAYMENT PLAN SELECTED BY THE APPLICANT.

2 (3) AN INDIVIDUAL LONG-TERM CARE POLICY OR CERTIFICATE SHALL  
3 NOT LAPSE OR BE TERMINATED FOR NONPAYMENT OF PREMIUM UNLESS THE  
4 INSURER, AT LEAST 30 DAYS BEFORE THE EFFECTIVE DATE OF THE LAPSE  
5 OR TERMINATION, HAS GIVEN NOTICE TO THE INSURED AND TO THOSE  
6 PERSONS DESIGNATED UNDER SUBSECTION (1), AT THE ADDRESS PROVIDED  
7 BY THE INSURED FOR PURPOSES OF RECEIVING NOTICE OF LAPSE OR  
8 TERMINATION. NOTICE SHALL BE GIVEN BY FIRST-CLASS UNITED STATES  
9 MAIL, POSTAGE PREPAID, AND NOTICE SHALL NOT BE GIVEN UNTIL 30  
10 DAYS AFTER A PREMIUM IS DUE AND UNPAID. NOTICE SHALL BE  
11 CONSIDERED GIVEN 5 DAYS AFTER THE DATE OF MAILING.

12 (4) A LONG-TERM CARE INSURANCE POLICY OR CERTIFICATE SHALL  
13 PROVIDE FOR REINSTATEMENT OF COVERAGE IF THE INSURER IS PROVIDED  
14 PROOF THAT THE POLICYHOLDER OR CERTIFICATEHOLDER WAS COGNITIVELY  
15 IMPAIRED OR HAD A LOSS OF FUNCTIONAL CAPACITY BEFORE THE GRACE  
16 PERIOD CONTAINED IN THE POLICY EXPIRED. THIS OPTION SHALL BE  
17 AVAILABLE TO THE INSURED IF REQUESTED WITHIN 5 MONTHS AFTER  
18 TERMINATION AND SHALL ALLOW FOR THE COLLECTION OF PAST DUE  
19 PREMIUM, WHERE APPROPRIATE. THE STANDARD OF PROOF OF COGNITIVE  
20 IMPAIRMENT OR LOSS OF FUNCTIONAL CAPACITY SHALL NOT BE MORE  
21 STRINGENT THAN THE BENEFIT ELIGIBILITY CRITERIA ON COGNITIVE  
22 IMPAIRMENT OR THE LOSS OF FUNCTIONAL CAPACITY CONTAINED IN THE  
23 POLICY AND CERTIFICATE.

24 (5) THIS SECTION TAKES EFFECT MARCH 1, 2007 AND APPLIES TO  
25 LONG-TERM CARE POLICIES AND CERTIFICATES ISSUED ON OR AFTER MARCH  
26 1, 2007.

27 SEC. 3910. (1) THIS SECTION DOES NOT APPLY TO LIFE INSURANCE

1 POLICIES OR RIDERS CONTAINING ACCELERATED BENEFITS FOR LONG-TERM  
2 CARE.

3 (2) EXCEPT AS PROVIDED IN SUBSECTION (3), A LONG-TERM CARE  
4 INSURANCE POLICY SHALL NOT BE DELIVERED OR ISSUED FOR DELIVERY IN  
5 THIS STATE UNLESS THE POLICYHOLDER OR CERTIFICATEHOLDER HAS BEEN  
6 OFFERED THE OPTION OF PURCHASING A POLICY OR CERTIFICATE  
7 INCLUDING A NONFORFEITURE BENEFIT. AN OFFER SHALL BE IN WRITING  
8 IF THE NONFORFEITURE BENEFIT IS NOT OTHERWISE DESCRIBED IN THE  
9 OUTLINE OF COVERAGE OR OTHER MATERIALS GIVEN TO THE PROSPECTIVE  
10 POLICYHOLDER OR CERTIFICATEHOLDER. THE OFFER OF A NONFORFEITURE  
11 BENEFIT MAY BE IN THE FORM OF A RIDER THAT IS ATTACHED TO THE  
12 POLICY. IF THE POLICYHOLDER OR CERTIFICATEHOLDER DECLINES THE  
13 NONFORFEITURE BENEFIT, THE INSURER SHALL PROVIDE A CONTINGENT  
14 BENEFIT UPON LAPSE THAT SHALL BE AVAILABLE FOR A SPECIFIED PERIOD  
15 OF TIME FOLLOWING A SUBSTANTIAL INCREASE IN PREMIUM RATES.

16 (3) WHEN A GROUP LONG-TERM CARE INSURANCE POLICY IS ISSUED,  
17 THE OFFER REQUIRED IN SUBSECTION (2) SHALL BE MADE TO THE GROUP  
18 POLICYHOLDER. HOWEVER, IF THE POLICY IS ISSUED AS GROUP LONG-TERM  
19 CARE INSURANCE AS DEFINED IN SECTION 3901(C) (iv), OTHER THAN TO A  
20 CONTINUING CARE RETIREMENT COMMUNITY OR OTHER SIMILAR ENTITY, THE  
21 OFFERING SHALL BE MADE TO EACH PROPOSED CERTIFICATEHOLDER.

22 SEC. 3910A. (1) THIS SECTION DOES NOT APPLY TO LIFE  
23 INSURANCE POLICIES OR RIDERS CONTAINING ACCELERATED BENEFITS FOR  
24 LONG-TERM CARE.

25 (2) A POLICY OR CERTIFICATE OFFERED WITH NONFORFEITURE  
26 BENEFITS SHALL HAVE COVERAGE ELEMENTS, ELIGIBILITY, BENEFIT  
27 TRIGGERS, AND BENEFIT LENGTH THAT ARE THE SAME AS COVERAGE TO BE



1 ISSUED WITHOUT NONFORFEITURE BENEFITS. THE NONFORFEITURE BENEFIT  
 2 INCLUDED IN THE OFFER SHALL BE THE BENEFITS DESCRIBED IN  
 3 SUBSECTION (8).

4 (3) IF THE OFFER REQUIRED TO BE MADE UNDER SECTION 3910 IS  
 5 REJECTED, THE INSURER SHALL PROVIDE A CONTINGENT BENEFIT UPON  
 6 LAPSE AS DESCRIBED IN THIS SECTION FOR INDIVIDUAL AND GROUP  
 7 POLICIES WITHOUT NONFORFEITURE BENEFITS ISSUED ON AND AFTER JUNE  
 8 1, 2007.

9 (4) IF A GROUP POLICYHOLDER ELECTS TO MAKE THE NONFORFEITURE  
 10 BENEFIT AN OPTION TO THE CERTIFICATEHOLDER, A CERTIFICATE SHALL  
 11 PROVIDE EITHER THE NONFORFEITURE BENEFIT OR THE CONTINGENT  
 12 BENEFIT UPON LAPSE.

13 (5) EXCEPT AS OTHERWISE REQUIRED, POLICYHOLDERS SHALL BE  
 14 NOTIFIED NOT LESS THAN 45 DAYS BEFORE THE DUE DATE OF A PREMIUM  
 15 INCREASE AND OF THE AMOUNT OF THE INCREASE.

16 (6) THE CONTINGENT BENEFIT ON LAPSE IS TRIGGERED EVERY TIME  
 17 AN INSURER INCREASES THE PREMIUM RATES TO A LEVEL THAT RESULTS IN  
 18 A CUMULATIVE INCREASE OF THE ANNUAL PREMIUM EQUAL TO OR EXCEEDING  
 19 THE PERCENTAGE OF THE INSURED'S INITIAL ANNUAL PREMIUM AS FOLLOWS  
 20 BASED ON THE INSURED'S ISSUE AGE, AND THE POLICY OR CERTIFICATE  
 21 LAPSES WITHIN 120 DAYS OF THE DUE DATE OF THE PREMIUM SO  
 22 INCREASED:

23 TRIGGERS FOR A SUBSTANTIAL PREMIUM INCREASE

24	PERCENT INCREASE OVER
25	<u>ISSUE AGE</u> <u>INITIAL PREMIUM</u>
26	29 AND UNDER                      200%

1	30-34	190%
2	35-39	170%
3	40-44	150%
4	45-49	130%
5	50-54	110%
6	55-59	90%
7	60	70%
8	61	66%
9	62	62%
10	63	58%
11	64	54%
12	65	50%
13	66	48%
14	67	46%
15	68	44%
16	69	42%
17	70	40%
18	71	38%
19	72	36%
20	73	34%
21	74	32%
22	75	30%
23	76	28%
24	77	26%
25	78	24%
26	79	22%
27	80	20%
28	81	19%
29	82	18%
30	83	17%
31	84	16%

1	85	15%
2	86	14%
3	87	13%
4	88	12%
5	89	11%
6	90 AND OVER	10%

7 (7) ON OR BEFORE THE EFFECTIVE DATE OF A SUBSTANTIAL PREMIUM  
8 INCREASE AS DEFINED IN SUBSECTION (6), THE INSURER SHALL DO ALL  
9 OF THE FOLLOWING:

10 (A) OFFER TO REDUCE POLICY BENEFITS PROVIDED BY THE CURRENT  
11 COVERAGE WITHOUT THE REQUIREMENT OF ADDITIONAL UNDERWRITING SO  
12 THAT REQUIRED PREMIUM PAYMENTS ARE NOT INCREASED.

13 (B) OFFER TO CONVERT THE COVERAGE TO A PAID-UP STATUS WITH A  
14 SHORTENED BENEFIT PERIOD AS PROVIDED IN SUBSECTION (8). THIS  
15 OPTION MAY BE ELECTED AT ANY TIME DURING THE 120-DAY PERIOD UNDER  
16 SUBSECTION (6).

17 (C) NOTIFY THE POLICYHOLDER OR CERTIFICATEHOLDER THAT A  
18 DEFAULT OR LAPSE AT ANY TIME DURING THE 120-DAY PERIOD UNDER  
19 SUBSECTION (6) IS CONSIDERED TO BE THE ELECTION OF THE OFFER TO  
20 CONVERT UNDER SUBDIVISION (B).

21 (8) BENEFITS CONTINUED AS NONFORFEITURE BENEFITS, INCLUDING  
22 CONTINGENT BENEFITS UPON LAPSE, ARE AS FOLLOWS:

23 (A) FOR PURPOSES OF THIS SUBSECTION, ATTAINED AGE RATING IS  
24 DEFINED AS A SCHEDULE OF PREMIUMS STARTING FROM THE ISSUE DATE  
25 THAT INCREASES AGE AT LEAST 1% PER YEAR PRIOR TO AGE 50 AND AT  
26 LEAST 3% PER YEAR BEYOND AGE 50.

27 (B) FOR PURPOSES OF THIS SUBSECTION, THE NONFORFEITURE

1 BENEFIT SHALL BE OF A SHORTENED BENEFIT PERIOD PROVIDING PAID-UP  
2 LONG-TERM CARE INSURANCE COVERAGE AFTER LAPSE. THE SAME BENEFITS  
3 SHALL BE PAYABLE FOR A QUALIFYING CLAIM, BUT THE LIFETIME MAXIMUM  
4 DOLLARS OR DAYS OF BENEFITS SHALL BE DETERMINED AS PROVIDED IN  
5 SUBDIVISION (C). AS USED IN THIS SUBDIVISION, "SAME BENEFITS"  
6 MEANS AMOUNTS AND FREQUENCY IN EFFECT AT THE TIME OF LAPSE BUT  
7 NOT INCREASED THEREAFTER.

8 (C) THE STANDARD NONFORFEITURE CREDIT WILL BE EQUAL TO 100%  
9 OF THE SUM OF ALL PREMIUMS PAID, INCLUDING THE PREMIUMS PAID  
10 PRIOR TO ANY CHANGES IN BENEFITS. THE INSURER MAY OFFER  
11 ADDITIONAL SHORTENED BENEFIT PERIOD OPTIONS, AS LONG AS THE  
12 BENEFITS FOR EACH DURATION EQUAL OR EXCEED THE STANDARD  
13 NONFORFEITURE CREDIT FOR THAT DURATION. HOWEVER, THE MINIMUM  
14 NONFORFEITURE CREDIT SHALL NOT BE LESS THAN 30 TIMES THE DAILY  
15 NURSING HOME BENEFIT AT THE TIME OF LAPSE. IN EITHER EVENT, THE  
16 CALCULATION OF THE NONFORFEITURE CREDIT IS SUBJECT TO THE  
17 LIMITATION OF SUBSECTION (9).

18 (D) THE NONFORFEITURE BENEFIT SHALL BEGIN NOT LATER THAN THE  
19 END OF THE THIRD YEAR FOLLOWING THE POLICY OR CERTIFICATE ISSUE  
20 DATE. THE CONTINGENT BENEFIT UPON LAPSE SHALL BE EFFECTIVE DURING  
21 THE FIRST 3 YEARS AS WELL AS THEREAFTER. HOWEVER, FOR A POLICY OR  
22 CERTIFICATE WITH ATTAINED AGE RATING, THE NONFORFEITURE BENEFIT  
23 SHALL BEGIN ON THE EARLIER OF THE END OF THE TENTH YEAR FOLLOWING  
24 THE POLICY OR CERTIFICATE ISSUE DATE OR THE END OF THE SECOND  
25 YEAR FOLLOWING THE DATE THE POLICY OR CERTIFICATE IS NO LONGER  
26 SUBJECT TO ATTAINED AGE RATING.

27 (E) NONFORFEITURE CREDITS MAY BE USED FOR ALL CARE AND

1 SERVICES QUALIFYING FOR BENEFITS UNDER THE TERMS OF THE POLICY OR  
2 CERTIFICATE, UP TO THE LIMITS SPECIFIED IN THE POLICY OR  
3 CERTIFICATE.

4 (9) ALL BENEFITS PAID BY THE INSURER WHILE THE POLICY OR  
5 CERTIFICATE IS IN PREMIUM PAYING STATUS AND IN THE PAID-UP STATUS  
6 SHALL NOT EXCEED THE MAXIMUM BENEFITS THAT WOULD BE PAYABLE IF  
7 THE POLICY OR CERTIFICATE HAD REMAINED IN PREMIUM PAYING STATUS.

8 (10) THERE SHALL BE NO DIFFERENCE IN THE MINIMUM  
9 NONFORFEITURE BENEFITS AS REQUIRED UNDER THIS SECTION FOR GROUP  
10 AND INDIVIDUAL POLICIES.

11 (11) THIS SECTION IS EFFECTIVE JUNE 1, 2007 AND SHALL APPLY  
12 AS FOLLOWS:

13 (A) EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION (B), THIS  
14 SECTION APPLIES TO ANY LONG-TERM CARE POLICY ISSUED IN THIS STATE  
15 ON OR AFTER JUNE 1, 2007.

16 (B) THIS SECTION DOES NOT APPLY TO CERTIFICATES ISSUED ON OR  
17 AFTER JUNE 1, 2007, UNDER A GROUP LONG-TERM CARE INSURANCE POLICY  
18 AS DEFINED IN SECTION 3901(C) (i), WHICH POLICY WAS IN FORCE AT THE  
19 TIME THIS SECTION BECAME EFFECTIVE.

20 (12) PREMIUMS CHARGED FOR A POLICY OR CERTIFICATE CONTAINING  
21 NONFORFEITURE BENEFITS OR A CONTINGENT BENEFIT ON LAPSE ARE  
22 SUBJECT TO THE LOSS RATIO REQUIREMENTS OF SECTION 3926A TREATING  
23 THE POLICY AS A WHOLE.

24 (13) TO DETERMINE WHETHER CONTINGENT NONFORFEITURE UPON  
25 LAPSE PROVISIONS ARE TRIGGERED UNDER SUBSECTION (6), A REPLACING  
26 INSURER THAT PURCHASED OR OTHERWISE ASSUMED A BLOCK OR BLOCKS OF  
27 LONG-TERM CARE INSURANCE POLICIES FROM ANOTHER INSURER SHALL

1 CALCULATE THE PERCENTAGE INCREASE BASED ON THE INITIAL ANNUAL  
2 PREMIUM PAID BY THE INSURED WHEN THE POLICY WAS FIRST PURCHASED  
3 FROM THE ORIGINAL INSURER.

4 (14) FOR QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS THAT  
5 ARE LEVEL PREMIUM CONTRACTS, AN INSURER SHALL OFFER A  
6 NONFORFEITURE BENEFIT THAT MEETS ALL OF THE FOLLOWING:

7 (A) IS APPROPRIATELY CAPTIONED.

8 (B) PROVIDES A BENEFIT AVAILABLE IN THE EVENT OF A DEFAULT  
9 IN THE PAYMENT OF ANY PREMIUMS AND STATES THAT THE AMOUNT OF THE  
10 BENEFIT MAY BE ADJUSTED SUBSEQUENT TO BEING INITIALLY GRANTED  
11 ONLY AS NECESSARY TO REFLECT CHANGES IN CLAIMS, PERSISTENCY, AND  
12 INTEREST AS REFLECTED IN CHANGES IN RATES FOR PREMIUM PAYING  
13 CONTRACTS APPROVED BY THE COMMISSIONER FOR THE SAME CONTRACT  
14 FORM.

15 (C) PROVIDES AT LEAST 1 OF THE FOLLOWING:

16 (i) REDUCED PAID-UP INSURANCE.

17 (ii) EXTENDED TERM INSURANCE.

18 (iii) SHORTENED BENEFIT PERIOD.

19 (iv) OTHER OFFERINGS APPROVED BY THE COMMISSIONER THAT ARE  
20 SIMILAR TO SUBPARAGRAPHS (i) TO (iii).

21 SEC. 3910B. (1) A LONG-TERM CARE INSURANCE POLICY OR  
22 CERTIFICATE SHALL PROVIDE THAT A POLICYHOLDER OR  
23 CERTIFICATEHOLDER WHO WISHES TO REDUCE COVERAGE AND LOWER THE  
24 POLICY OR CERTIFICATE PREMIUM MAY CHOOSE AT LEAST 1 OF THE  
25 FOLLOWING OPTIONS:

26 (A) REDUCING THE LIFETIME MAXIMUM BENEFIT.

27 (B) REDUCING THE DAILY, WEEKLY, OR MONTHLY BENEFIT AMOUNT.

1           (2) IN ADDITION TO THE REDUCTION OPTIONS LISTED IN  
2 SUBSECTION (1), A LONG-TERM CARE INSURER MAY OFFER ADDITIONAL  
3 REDUCTION OPTIONS THAT ARE CONSISTENT WITH THE POLICY OR  
4 CERTIFICATE DESIGN OR THE INSURER'S ADMINISTRATIVE PROCESSES.

5           (3) A LONG-TERM CARE INSURER SHALL INCLUDE IN THE LONG-TERM  
6 CARE INSURANCE POLICY OR CERTIFICATE A DESCRIPTION OF THE WAYS IN  
7 WHICH COVERAGE MAY BE REDUCED AND THE PROCESS FOR REQUESTING AND  
8 IMPLEMENTING A REDUCTION IN COVERAGE.

9           (4) THE AGE TO DETERMINE THE PREMIUM FOR REDUCED COVERAGE  
10 SHALL BE BASED ON THE AGE USED TO DETERMINE THE PREMIUMS FOR THE  
11 COVERAGE CURRENTLY IN FORCE.

12           (5) A LONG-TERM CARE INSURER MAY LIMIT ANY REDUCTION IN  
13 COVERAGE TO PLANS AVAILABLE FOR THAT POLICY FORM AND TO THOSE FOR  
14 WHICH BENEFITS WILL BE AVAILABLE AFTER CONSIDERATION OF CLAIMS  
15 PAID OR PAYABLE.

16           (6) IF A LONG-TERM CARE INSURANCE POLICY OR CERTIFICATE IS  
17 ABOUT TO LAPSE, THE INSURER SHALL PROVIDE WRITTEN NOTICE TO THE  
18 INSURED OF THE OPTIONS IN SUBSECTION (1) TO LOWER THE PREMIUM BY  
19 REDUCING COVERAGE AND OF THE PREMIUMS APPLICABLE TO THE REDUCED  
20 COVERAGE OPTIONS. THE INSURER MAY INCLUDE IN THE NOTICE  
21 ADDITIONAL OPTIONS TO THOSE REQUIRED IN SUBSECTION (1). THE  
22 NOTICE SHALL PROVIDE THE INSURED AT LEAST 30 DAYS IN WHICH TO  
23 ELECT TO REDUCE COVERAGE, AND THE POLICY OR CERTIFICATE SHALL BE  
24 REINSTATED WITHOUT UNDERWRITING IF THE INSURED ELECTS THE REDUCED  
25 COVERAGE.

26           (7) THIS SECTION APPLIES TO LONG-TERM CARE POLICIES AND  
27 CERTIFICATES ISSUED ON OR AFTER JUNE 1, 2007.

1       Sec. 3915. A long-term care insurance policy **SOLD BEFORE,**  
2 **ON, OR AFTER JUNE 2, 1992** shall not condition benefits on any of  
3 the following:

4       (a) The prior institutionalization of the insured.

5       (b) Prior receipt of a higher level of institutional care.

6       **SEC. 3925. (1) EXCEPT AS PROVIDED IN SUBSECTION (2), THIS**  
7 **SECTION APPLIES TO ANY LONG-TERM CARE POLICY OR CERTIFICATE**  
8 **ISSUED IN THIS STATE ON OR AFTER JUNE 1, 2007.**

9       **(2) FOR A LONG-TERM CARE CERTIFICATE ISSUED ON OR AFTER JUNE**  
10 **1, 2007 UNDER A GROUP LONG-TERM CARE INSURANCE POLICY DESCRIBED**  
11 **IN SECTION 3901(C) (i), WHICH POLICY WAS IN FORCE ON JUNE 1, 2007,**  
12 **THIS SECTION APPLIES ON THE POLICY ANNIVERSARY DATE FOLLOWING**  
13 **JUNE 1, 2007.**

14       **(3) OTHER THAN LONG-TERM CARE POLICIES OR CERTIFICATES FOR**  
15 **WHICH NO APPLICABLE PREMIUM RATE OR RATE SCHEDULE INCREASES CAN**  
16 **BE MADE, AN INSURER SHALL PROVIDE ON FORMS APPROVED BY THE**  
17 **COMMISSIONER ALL OF THE FOLLOWING INFORMATION TO THE APPLICANT AT**  
18 **THE TIME OF APPLICATION OR ENROLLMENT OR, IF THE METHOD OF**  
19 **APPLICATION DOES NOT ALLOW FOR DELIVERY AT THAT TIME, AN INSURER**  
20 **SHALL PROVIDE ON FORMS APPROVED BY THE COMMISSIONER ALL OF THE**  
21 **FOLLOWING INFORMATION TO THE APPLICANT NO LATER THAN AT THE TIME**  
22 **OF DELIVERY OF THE POLICY OR CERTIFICATE:**

23       **(A) A STATEMENT THAT THE POLICY MAY BE SUBJECT TO RATE**  
24 **INCREASES IN THE FUTURE.**

25       **(B) AN EXPLANATION OF POTENTIAL FUTURE PREMIUM RATE**  
26 **REVISIONS, AND THE POLICYHOLDER'S OR CERTIFICATEHOLDER'S OPTION**  
27 **IN THE EVENT OF A PREMIUM RATE REVISION.**



1 (C) THE PREMIUM RATE OR RATE SCHEDULES APPLICABLE TO THE  
2 APPLICANT THAT WILL BE IN EFFECT UNTIL A REQUEST IS MADE FOR AN  
3 INCREASE.

4 (D) A GENERAL EXPLANATION FOR APPLYING PREMIUM RATE OR RATE  
5 SCHEDULE ADJUSTMENTS THAT SHALL INCLUDE A DESCRIPTION OF WHEN  
6 PREMIUM RATE OR RATE SCHEDULE ADJUSTMENTS WILL BE EFFECTIVE AND  
7 THE RIGHT TO A REVISED PREMIUM RATE OR RATE SCHEDULE IF THE  
8 PREMIUM RATE OR RATE SCHEDULE IS CHANGED.

9 (E) INFORMATION CONCERNING EACH PREMIUM RATE INCREASE ON THE  
10 POLICY OR CERTIFICATE OR SIMILAR POLICIES OR CERTIFICATES OVER  
11 THE PAST 10 YEARS FOR THIS STATE OR ANY OTHER STATE THAT, AT A  
12 MINIMUM, IDENTIFIES ALL OF THE FOLLOWING:

13 (i) THE POLICIES OR CERTIFICATES FOR WHICH PREMIUM RATES HAVE  
14 BEEN INCREASED.

15 (ii) THE CALENDAR YEARS WHEN THE POLICY OR CERTIFICATE WAS  
16 AVAILABLE FOR PURCHASE.

17 (iii) THE AMOUNT OR PERCENT OF EACH INCREASE. THE PERCENTAGE  
18 MAY BE EXPRESSED AS A PERCENTAGE OF THE PREMIUM RATE PRIOR TO THE  
19 INCREASE AND MAY ALSO BE EXPRESSED AS MINIMUM AND MAXIMUM  
20 PERCENTAGES IF THE RATE INCREASE IS VARIABLE BY RATING  
21 CHARACTERISTICS. AN INSURER MAY EXCLUDE FROM THIS DISCLOSURE  
22 PREMIUM RATE INCREASES THAT ONLY APPLY TO BLOCKS OF BUSINESS  
23 ACQUIRED FROM ANOTHER NONAFFILIATED INSURER OR THE LONG-TERM CARE  
24 POLICIES OR CERTIFICATES ACQUIRED FROM ANOTHER NONAFFILIATED  
25 INSURER WHEN THOSE INCREASES OCCURRED PRIOR TO THE ACQUISITION.  
26 IF AN ACQUIRING INSURER FILES FOR A RATE INCREASE ON A LONG-TERM  
27 CARE POLICY OR CERTIFICATE ACQUIRED FROM A NONAFFILIATED INSURER

1 OR A BLOCK OF POLICIES OR CERTIFICATES ACQUIRED FROM A  
2 NONAFFILIATED INSURER BEFORE THE LATER OF JUNE 1, 2007 OR THE END  
3 OF A 24-MONTH PERIOD FOLLOWING THE ACQUISITION OF THE BLOCK OF  
4 POLICIES OR CERTIFICATES, THE ACQUIRING INSURER MAY EXCLUDE THAT  
5 RATE INCREASE FROM THIS DISCLOSURE. HOWEVER, THE NONAFFILIATED  
6 SELLING COMPANY SHALL INCLUDE THE DISCLOSURE OF THAT RATE  
7 INCREASE AS PROVIDED IN SUBPARAGRAPH (i). IF THE ACQUIRING INSURER  
8 FILES FOR A SUBSEQUENT RATE INCREASE, EVEN WITHIN THE 24-MONTH  
9 PERIOD, ON THE SAME POLICY OR CERTIFICATE ACQUIRED FROM A  
10 NONAFFILIATED INSURER OR BLOCK OF POLICIES OR CERTIFICATES  
11 ACQUIRED FROM A NONAFFILIATED INSURER, THE ACQUIRING INSURER  
12 SHALL MAKE ALL DISCLOSURES REQUIRED BY THIS SUBDIVISION,  
13 INCLUDING DISCLOSURE OF THE EARLIER RATE INCREASE.

14 (4) THE INSURER MAY, IN A FAIR MANNER, PROVIDE EXPLANATORY  
15 INFORMATION RELATED TO THE RATE INCREASES IN ADDITION TO THAT  
16 REQUIRED UNDER SUBSECTION (3).

17 (5) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, AN  
18 APPLICANT SHALL SIGN AN ACKNOWLEDGMENT AT THE TIME OF APPLICATION  
19 THAT THE INSURER MADE THE DISCLOSURE REQUIRED UNDER SUBSECTION  
20 (3). IF DUE TO THE METHOD OF APPLICATION THE APPLICANT CANNOT  
21 SIGN AN ACKNOWLEDGMENT AT THE TIME OF APPLICATION, THE APPLICANT  
22 SHALL SIGN AN ACKNOWLEDGMENT THAT THE INSURER MADE THE DISCLOSURE  
23 REQUIRED UNDER SUBSECTION (3) NO LATER THAN AT THE TIME OF  
24 DELIVERY OF THE POLICY OR CERTIFICATE.

25 (6) AN INSURER SHALL PROVIDE NOTICE OF AN UPCOMING PREMIUM  
26 RATE SCHEDULE INCREASE TO ALL POLICYHOLDERS OR  
27 CERTIFICATEHOLDERS, IF APPLICABLE, AT LEAST 45 DAYS PRIOR TO THE

1 IMPLEMENTATION OF THE PREMIUM RATE SCHEDULE INCREASE BY THE  
2 INSURER. THE NOTICE SHALL INCLUDE THE INFORMATION REQUIRED BY  
3 SUBSECTION (3) WHEN THE RATE INCREASE IS IMPLEMENTED.

4 (7) A LONG-TERM CARE INSURER SHALL PROVIDE TO AN APPLICANT A  
5 LONG-TERM CARE INSURANCE PERSONAL WORKSHEET APPROVED BY THE  
6 COMMISSIONER THAT THE APPLICANT CAN USE FOR HELP IN DETERMINING  
7 WHETHER LONG-TERM CARE INSURANCE SHOULD BE PURCHASED.

8 (8) A LONG-TERM CARE INSURER SHALL PROVIDE TO AN APPLICANT  
9 WHO IS 60 YEARS OF AGE OR OLDER OR WHO IS DISABLED A CURRENT  
10 BROCHURE, OR THE WEB ADDRESS WHERE THE BROCHURE CAN BE OBTAINED  
11 AND THE TELEPHONE NUMBER FOR THE AGENCY THAT CAN PROVIDE THE  
12 BROCHURE, FROM THE STATE'S MEDICARE MEDICAID ASSISTANCE PROGRAM  
13 THAT CONTAINS INFORMATION ON THE AVAILABILITY OF FREE AND  
14 INDEPENDENT INSURANCE PURCHASING AND PUBLIC BENEFITS COUNSELING.

15 SEC. 3926. (1) THIS SECTION APPLIES TO ANY LONG-TERM CARE  
16 POLICY OR CERTIFICATE ISSUED IN THIS STATE ON OR AFTER JUNE 1,  
17 2007.

18 (2) AN INSURER SHALL PROVIDE ALL OF THE FOLLOWING  
19 INFORMATION TO THE COMMISSIONER 30 DAYS PRIOR TO MAKING A LONG-  
20 TERM CARE INSURANCE POLICY OR CERTIFICATE AVAILABLE FOR SALE:

21 (A) A COPY OF THE DISCLOSURE DOCUMENTS REQUIRED IN SECTION  
22 3925.

23 (B) AN ACTUARIAL CERTIFICATION CONSISTING OF AT LEAST ALL OF  
24 THE FOLLOWING:

25 (i) A STATEMENT THAT THE INITIAL PREMIUM RATE SCHEDULE IS  
26 SUFFICIENT TO COVER ANTICIPATED COSTS UNDER MODERATELY ADVERSE  
27 EXPERIENCE AND THAT THE PREMIUM RATE SCHEDULE IS REASONABLY

1 EXPECTED TO BE SUSTAINABLE OVER THE LIFE OF THE POLICY OR  
2 CERTIFICATE WITH NO FUTURE PREMIUM INCREASES ANTICIPATED.

3 (ii) A STATEMENT THAT THE POLICY OR CERTIFICATE DESIGN AND  
4 COVERAGE PROVIDED HAVE BEEN REVIEWED AND TAKEN INTO  
5 CONSIDERATION.

6 (iii) A STATEMENT THAT THE UNDERWRITING AND CLAIMS  
7 ADJUDICATION PROCESSES HAVE BEEN REVIEWED AND TAKEN INTO  
8 CONSIDERATION.

9 (iv) A COMPLETE DESCRIPTION OF THE BASIS FOR CONTRACT  
10 RESERVES THAT ARE ANTICIPATED TO BE HELD UNDER THE POLICY OR  
11 CERTIFICATE, WITH SUFFICIENT DETAIL OR SAMPLE CALCULATIONS  
12 PROVIDED SO AS TO HAVE A COMPLETE DEPICTION OF THE RESERVE  
13 AMOUNTS TO BE HELD, A STATEMENT THAT THE ASSUMPTIONS USED FOR  
14 RESERVES CONTAIN REASONABLE MARGINS FOR ADVERSE EXPERIENCE, A  
15 STATEMENT THAT THE NET VALUATION PREMIUM FOR RENEWAL YEARS DOES  
16 NOT INCREASE EXCEPT FOR ATTAINED-AGE RATING WHERE PERMITTED, AND  
17 A STATEMENT THAT THE DIFFERENCE BETWEEN THE GROSS PREMIUM AND THE  
18 NET VALUATION PREMIUM FOR RENEWAL YEARS IS SUFFICIENT TO COVER  
19 EXPECTED RENEWAL EXPENSES OR IF SUCH A STATEMENT CANNOT BE MADE,  
20 A COMPLETE DESCRIPTION OF THE SITUATIONS WHERE THIS DOES NOT  
21 OCCUR. AN AGGREGATE DISTRIBUTION OF ANTICIPATED ISSUES MAY BE  
22 USED AS LONG AS THE UNDERLYING GROSS PREMIUMS MAINTAIN A  
23 REASONABLY CONSISTENT RELATIONSHIP. IF THE GROSS PREMIUMS FOR  
24 CERTAIN AGE GROUPS APPEAR TO BE INCONSISTENT WITH THIS  
25 REQUIREMENT, THE COMMISSIONER MAY REQUEST A DEMONSTRATION UNDER  
26 SUBSECTION (3) BASED ON A STANDARD AGE DISTRIBUTION.

27 (v) A STATEMENT THAT THE PREMIUM RATE SCHEDULE IS NOT LESS

1 THAN THE PREMIUM RATE SCHEDULE FOR EXISTING SIMILAR POLICIES OR  
2 CERTIFICATES ALSO AVAILABLE FROM THE INSURER EXCEPT FOR  
3 REASONABLE DIFFERENCES ATTRIBUTABLE TO BENEFITS OR A COMPARISON  
4 OF THE PREMIUM SCHEDULES FOR SIMILAR POLICIES OR CERTIFICATES  
5 THAT ARE CURRENTLY AVAILABLE FROM THE INSURER WITH AN EXPLANATION  
6 OF THE DIFFERENCES.

7 (3) PRIOR TO THE EXPIRATION OF THE 30 DAYS UNDER SUBSECTION  
8 (2), THE COMMISSIONER MAY REQUEST AN ACTUARIAL DEMONSTRATION THAT  
9 BENEFITS ARE REASONABLE IN RELATION TO PREMIUMS. THE ACTUARIAL  
10 DEMONSTRATION SHALL INCLUDE EITHER PREMIUM AND CLAIM EXPERIENCE  
11 ON SIMILAR POLICIES OR CERTIFICATES, ADJUSTED FOR ANY PREMIUM OR  
12 BENEFIT DIFFERENCES, OR RELEVANT AND CREDIBLE DATA FROM OTHER  
13 STUDIES, OR BOTH. IF THE COMMISSIONER ASKS FOR THIS ADDITIONAL  
14 INFORMATION, THE 30-DAY TIME PERIOD UNDER SUBSECTION (2) IS  
15 TOLLED UNTIL THE COMMISSIONER RECEIVES THE REQUESTED INFORMATION.

16 SEC. 3926A. (1) EXCEPT AS PROVIDED IN SUBSECTION (2), THIS  
17 SECTION APPLIES TO ANY LONG-TERM CARE POLICY OR CERTIFICATE  
18 ISSUED IN THIS STATE ON OR AFTER JUNE 1, 2007.

19 (2) FOR CERTIFICATES ISSUED ON OR AFTER JUNE 1, 2007 UNDER A  
20 GROUP LONG-TERM CARE INSURANCE POLICY DESCRIBED IN SECTION  
21 3901(C) (i), WHICH POLICY WAS IN FORCE ON JUNE 1, 2007, THIS  
22 SECTION APPLIES ON THE POLICY ANNIVERSARY DATE FOLLOWING JUNE 1,  
23 2007.

24 (3) AN INSURER SHALL PROVIDE NOTICE OF A PENDING PREMIUM  
25 RATE SCHEDULE INCREASE, INCLUDING AN EXCEPTIONAL INCREASE, TO THE  
26 COMMISSIONER AT LEAST 30 DAYS PRIOR TO THE NOTICE TO THE  
27 POLICYHOLDERS. THIS NOTICE TO THE COMMISSIONER SHALL INCLUDE ALL

1 OF THE FOLLOWING:

2 (A) INFORMATION REQUIRED BY SECTION 3925.

3 (B) CERTIFICATION BY A QUALIFIED ACTUARY THAT IF THE  
4 REQUESTED PREMIUM RATE SCHEDULE INCREASE IS IMPLEMENTED AND THE  
5 UNDERLYING ASSUMPTIONS, WHICH REFLECT MODERATELY ADVERSE  
6 CONDITIONS, ARE REALIZED, NO FURTHER PREMIUM RATE SCHEDULE  
7 INCREASES ARE ANTICIPATED AND THAT THE PREMIUM RATE FILING IS IN  
8 COMPLIANCE WITH THE PROVISIONS OF THIS SECTION.

9 (C) AN ACTUARIAL MEMORANDUM JUSTIFYING THE RATE SCHEDULE  
10 CHANGE REQUEST THAT INCLUDES ALL OF THE FOLLOWING:

11 (i) LIFETIME PROJECTIONS OF EARNED PREMIUMS AND INCURRED  
12 CLAIMS BASED ON THE FILED PREMIUM RATE SCHEDULE INCREASE AND THE  
13 METHOD AND ASSUMPTIONS USED IN DETERMINING THE PROJECTED VALUES,  
14 INCLUDING REFLECTION OF ANY ASSUMPTIONS THAT DEVIATE FROM THOSE  
15 USED FOR PRICING OTHER POLICIES OR CERTIFICATES CURRENTLY  
16 AVAILABLE FOR SALE. ANNUAL VALUES FOR THE 5 YEARS PRECEDING AND  
17 THE 3 YEARS FOLLOWING THE VALUATION DATE SHALL BE PROVIDED  
18 SEPARATELY. THE PROJECTIONS SHALL INCLUDE THE DEVELOPMENT OF THE  
19 LIFETIME LOSS RATIO, UNLESS THE RATE INCREASE IS AN EXCEPTIONAL  
20 INCREASE. THE PROJECTIONS SHALL DEMONSTRATE COMPLIANCE WITH  
21 SUBSECTION (4). FOR EXCEPTIONAL INCREASES, THE PROJECTED  
22 EXPERIENCE SHALL BE LIMITED TO THE INCREASES IN CLAIMS EXPENSES  
23 ATTRIBUTABLE TO THE APPROVED REASONS FOR THE EXCEPTIONAL INCREASE  
24 AND IF THE COMMISSIONER DETERMINES THAT OFFSETS MAY EXIST, THE  
25 INSURER SHALL USE APPROPRIATE NET PROJECTED EXPERIENCE.

26 (ii) IF THE RATE INCREASE WILL TRIGGER CONTINGENT BENEFIT  
27 UPON LAPSE, DISCLOSURE OF HOW RESERVES HAVE BEEN INCORPORATED IN

1 THIS RATE INCREASE.

2 (iii) DISCLOSURE OF THE ANALYSIS PERFORMED TO DETERMINE WHY A  
3 RATE ADJUSTMENT IS NECESSARY, WHICH PRICING ASSUMPTIONS WERE NOT  
4 REALIZED AND WHY, AND WHAT OTHER ACTIONS TAKEN BY THE INSURER  
5 HAVE BEEN RELIED ON BY THE ACTUARY.

6 (iv) A STATEMENT THAT POLICY DESIGN, UNDERWRITING, AND CLAIMS  
7 ADJUDICATION PRACTICES HAVE BEEN TAKEN INTO CONSIDERATION.

8 (v) IF IT IS NECESSARY TO MAINTAIN CONSISTENT PREMIUM RATES  
9 FOR NEW CERTIFICATES AND CERTIFICATES RECEIVING A RATE INCREASE,  
10 THE INSURER WILL NEED TO FILE COMPOSITE RATES REFLECTING  
11 PROJECTIONS OF NEW CERTIFICATES.

12 (D) A STATEMENT THAT RENEWAL PREMIUM RATE SCHEDULES ARE NOT  
13 GREATER THAN NEW BUSINESS PREMIUM RATE SCHEDULES EXCEPT FOR  
14 DIFFERENCES ATTRIBUTABLE TO BENEFITS, UNLESS SUFFICIENT  
15 JUSTIFICATION IS PROVIDED TO THE COMMISSIONER.

16 (E) SUFFICIENT INFORMATION FOR REVIEW AND APPROVAL OF THE  
17 PREMIUM RATE SCHEDULE INCREASE BY THE COMMISSIONER.

18 (4) ALL PREMIUM RATE SCHEDULE INCREASES SHALL BE DETERMINED  
19 IN ACCORDANCE WITH THE FOLLOWING REQUIREMENTS:

20 (A) EXCEPTIONAL INCREASES SHALL PROVIDE THAT 70% OF THE  
21 PRESENT VALUE OF PROJECTED ADDITIONAL PREMIUMS FROM THE  
22 EXCEPTIONAL INCREASE WILL BE RETURNED TO POLICYHOLDERS IN  
23 BENEFITS.

24 (B) PREMIUM RATE SCHEDULE INCREASES SHALL BE CALCULATED SUCH  
25 THAT THE SUM OF THE ACCUMULATED VALUE OF INCURRED CLAIMS, WITHOUT  
26 THE INCLUSION OF ACTIVE LIFE RESERVES, AND THE PRESENT VALUE OF  
27 FUTURE PROJECTED INCURRED CLAIMS, WITHOUT THE INCLUSION OF ACTIVE

1 LIFE RESERVES, WILL NOT BE LESS THAN THE SUM OF THE FOLLOWING:

2 (i) THE ACCUMULATED VALUE OF THE INITIAL EARNED PREMIUM TIMES  
3 58%.

4 (ii) EIGHTY-FIVE PERCENT OF THE ACCUMULATED VALUE OF PRIOR  
5 PREMIUM RATE SCHEDULE INCREASES ON AN EARNED BASIS.

6 (iii) THE PRESENT VALUE OF FUTURE PROJECTED INITIAL EARNED  
7 PREMIUMS TIMES 58%.

8 (iv) EIGHTY-FIVE PERCENT OF THE PRESENT VALUE OF FUTURE  
9 PROJECTED PREMIUMS NOT IN SUBPARAGRAPH (iii) ON AN EARNED BASIS.

10 (C) IF A POLICY OR CERTIFICATE HAS BOTH EXCEPTIONAL AND  
11 OTHER INCREASES, THE VALUES IN SUBDIVISION (B) (ii) AND (iv) SHALL  
12 ALSO INCLUDE 70% FOR EXCEPTIONAL RATE INCREASE AMOUNTS.

13 (D) ALL PRESENT AND ACCUMULATED VALUES USED TO DETERMINE  
14 RATE INCREASES SHALL USE THE MAXIMUM VALUATION INTEREST RATE FOR  
15 CONTRACT RESERVES AS SPECIFIED IN SECTION 733(1). THE ACTUARY  
16 SHALL DISCLOSE AS PART OF THE ACTUARIAL MEMORANDUM THE USE OF ANY  
17 APPROPRIATE AVERAGES.

18 (5) FOR EACH RATE INCREASE THAT IS IMPLEMENTED, THE INSURER  
19 SHALL FILE FOR REVIEW AND APPROVAL BY THE COMMISSIONER UPDATED  
20 PROJECTIONS, AS DESCRIBED IN SUBSECTION (3)(C)(i), ANNUALLY FOR  
21 THE NEXT 3 YEARS AND INCLUDE A COMPARISON OF ACTUAL RESULTS TO  
22 PROJECTED VALUES. THE COMMISSIONER MAY EXTEND THE PERIOD TO  
23 GREATER THAN 3 YEARS IF ACTUAL RESULTS ARE NOT CONSISTENT WITH  
24 PROJECTED VALUES FROM PRIOR PROJECTIONS. FOR GROUP INSURANCE  
25 CERTIFICATES THAT MEET THE CONDITIONS IN SUBSECTION (13), THE  
26 PROJECTION REQUIRED BY THIS SUBSECTION SHALL BE PROVIDED TO THE  
27 POLICYHOLDER IN LIEU OF FILING WITH THE COMMISSIONER.



1           (6) IF ANY PREMIUM RATE IN THE REVISED PREMIUM RATE SCHEDULE  
2 IS GREATER THAN 200% OF THE COMPARABLE RATE IN THE INITIAL  
3 PREMIUM SCHEDULE, LIFETIME PROJECTIONS, AS DESCRIBED IN  
4 SUBSECTION (3) (C) (i) , SHALL BE FILED FOR REVIEW AND APPROVAL BY  
5 THE COMMISSIONER EVERY 5 YEARS FOLLOWING THE END OF THE REQUIRED  
6 PERIOD IN SUBSECTION (5) . FOR GROUP INSURANCE CERTIFICATES THAT  
7 MEET THE CONDITIONS IN SUBSECTION (13) , THE PROJECTIONS REQUIRED  
8 BY THIS SUBSECTION SHALL BE PROVIDED TO THE POLICYHOLDER IN LIEU  
9 OF FILING WITH THE COMMISSIONER.

10           (7) IF THE COMMISSIONER HAS DETERMINED THAT THE ACTUAL  
11 EXPERIENCE FOLLOWING A RATE INCREASE DOES NOT ADEQUATELY MATCH  
12 THE PROJECTED EXPERIENCE AND THAT THE CURRENT PROJECTIONS UNDER  
13 MODERATELY ADVERSE CONDITIONS DEMONSTRATE THAT INCURRED CLAIMS  
14 WILL NOT EXCEED PROPORTIONS OF PREMIUMS SPECIFIED IN SUBSECTION  
15 (4) , THE COMMISSIONER MAY REQUIRE THE INSURER TO IMPLEMENT  
16 PREMIUM RATE SCHEDULE ADJUSTMENTS OR OTHER MEASURES TO REDUCE THE  
17 DIFFERENCE BETWEEN THE PROJECTED AND ACTUAL EXPERIENCE. IN  
18 DETERMINING WHETHER THE ACTUAL EXPERIENCE ADEQUATELY MATCHES THE  
19 PROJECTED EXPERIENCE, CONSIDERATION SHOULD BE GIVEN TO SUBSECTION  
20 (3) (C) (iii) , IF APPLICABLE.

21           (8) IF THE MAJORITY OF THE POLICIES OR CERTIFICATES TO WHICH  
22 AN INCREASE IS APPLICABLE ARE ELIGIBLE FOR THE CONTINGENT BENEFIT  
23 UPON LAPSE, THE INSURER SHALL FILE BOTH OF THE FOLLOWING WITH THE  
24 COMMISSIONER:

25           (A) A PLAN, SUBJECT TO COMMISSIONER APPROVAL, FOR IMPROVED  
26 ADMINISTRATION OR CLAIMS PROCESSING DESIGNED TO ELIMINATE THE  
27 POTENTIAL FOR FURTHER DETERIORATION OF THE POLICY OR CERTIFICATE

1 REQUIRING FURTHER PREMIUM RATE SCHEDULE INCREASES, OR BOTH, OR TO  
2 DEMONSTRATE THAT APPROPRIATE ADMINISTRATION AND CLAIMS PROCESSING  
3 HAVE BEEN IMPLEMENTED OR ARE IN EFFECT.

4 (B) THE ORIGINAL ANTICIPATED LIFETIME LOSS RATIO, AND THE  
5 PREMIUM RATE SCHEDULE INCREASE THAT WOULD HAVE BEEN CALCULATED  
6 ACCORDING TO SUBSECTION (4) HAD THE GREATER OF THE ORIGINAL  
7 ANTICIPATED LIFETIME LOSS RATIO OR 58% BEEN USED IN THE  
8 CALCULATIONS DESCRIBED IN SUBSECTION (4) (B) (i) AND (iii) .

9 (9) THE COMMISSIONER SHALL REVIEW, FOR ALL POLICIES AND  
10 CERTIFICATES INCLUDED IN A FILING, THE PROJECTED LAPSE RATES AND  
11 PAST LAPSE RATES DURING THE 12 MONTHS FOLLOWING EACH INCREASE TO  
12 DETERMINE IF SIGNIFICANT ADVERSE LAPSATION HAS OCCURRED OR IS  
13 ANTICIPATED FOR ANY RATE INCREASE FILING MEETING THE FOLLOWING  
14 CRITERIA:

15 (A) THE RATE INCREASE IS NOT THE FIRST RATE INCREASE  
16 REQUESTED FOR THE SPECIFIC POLICY OR CERTIFICATE.

17 (B) THE RATE INCREASE IS NOT AN EXCEPTIONAL INCREASE.

18 (C) THE MAJORITY OF THE POLICIES OR CERTIFICATES TO WHICH  
19 THE INCREASE IS APPLICABLE ARE ELIGIBLE FOR THE CONTINGENT  
20 BENEFIT UPON LAPSE.

21 (10) IF SIGNIFICANT ADVERSE LAPSATION HAS OCCURRED, IS  
22 ANTICIPATED IN THE FILING, OR IS EVIDENCED IN THE ACTUAL RESULTS  
23 AS PRESENTED IN THE UPDATED PROJECTIONS PROVIDED BY THE INSURER  
24 FOLLOWING THE REQUESTED RATE INCREASE, THE COMMISSIONER MAY  
25 DETERMINE THAT A RATE SPIRAL EXISTS. FOLLOWING THE DETERMINATION  
26 THAT A RATE SPIRAL EXISTS, THE COMMISSIONER MAY REQUIRE THE  
27 INSURER TO OFFER, WITHOUT UNDERWRITING, TO ALL IN FORCE INSURED

1 SUBJECT TO THE RATE INCREASE THE OPTION TO REPLACE EXISTING  
2 COVERAGE WITH 1 OR MORE REASONABLY COMPARABLE PRODUCTS BEING  
3 OFFERED BY THE INSURER OR ITS AFFILIATES. AN OFFER UNDER THIS  
4 SUBSECTION IS SUBJECT TO THE COMMISSIONER'S APPROVAL, SHALL BE  
5 BASED ON ACTUARIALLY SOUND PRINCIPLES, BUT SHALL NOT BE BASED ON  
6 ATTAINED AGE, AND SHALL PROVIDE THAT MAXIMUM BENEFITS UNDER ANY  
7 NEW POLICY OR CERTIFICATE ACCEPTED BY AN INSURED SHALL BE REDUCED  
8 BY COMPARABLE BENEFITS ALREADY PAID UNDER THE EXISTING POLICY OR  
9 CERTIFICATE. THE INSURER SHALL MAINTAIN THE EXPERIENCE OF ALL THE  
10 REPLACEMENT INSUREDSEPARATE FROM THE EXPERIENCE OF INSUREDSEPARATE  
11 ORIGINALLY ISSUED THE POLICY OR CERTIFICATE. IF A RATE INCREASE  
12 IS REQUESTED ON THE POLICY OR CERTIFICATE, THE RATE INCREASE  
13 SHALL BE LIMITED TO THE LESSER OF THE MAXIMUM RATE INCREASE  
14 DETERMINED BASED ON THE COMBINED EXPERIENCE AND THE MAXIMUM RATE  
15 INCREASE DETERMINED BASED ONLY ON THE EXPERIENCE OF THE INSUREDSEPARATE  
16 ORIGINALLY ISSUED THE POLICY OR CERTIFICATE PLUS 10%.

17 (11) IF THE COMMISSIONER DETERMINES THAT AN INSURER HAS  
18 EXHIBITED A PERSISTENT PRACTICE OF FILING INADEQUATE INITIAL  
19 PREMIUM RATES FOR LONG-TERM CARE INSURANCE, THE COMMISSIONER, IN  
20 ADDITION TO THE PROVISIONS OF SUBSECTIONS (9) AND (10), MAY  
21 PROHIBIT THE INSURER FROM EITHER OF THE FOLLOWING:

22 (A) FILING AND MARKETING COMPARABLE COVERAGE FOR A PERIOD OF  
23 UP TO 5 YEARS.

24 (B) OFFERING ALL OTHER SIMILAR COVERAGES AND LIMITING  
25 MARKETING OF NEW APPLICATIONS TO THE PRODUCTS SUBJECT TO RECENT  
26 PREMIUM RATE SCHEDULE INCREASES.

27 (12) SUBSECTIONS (1) TO (11) DO NOT APPLY TO POLICIES OR

1 CERTIFICATES FOR WHICH THE LONG-TERM CARE BENEFITS PROVIDED BY  
2 THE POLICY OR CERTIFICATE ARE INCIDENTAL, IF THE POLICY OR  
3 CERTIFICATE COMPLIES WITH ALL OF THE FOLLOWING:

4 (A) FOR ANY PLAN THAT MAY HAVE A CASH VALUE, THE INTEREST  
5 CREDITED INTERNALLY TO DETERMINE CASH VALUE ACCUMULATIONS,  
6 INCLUDING LONG-TERM CARE, IF ANY, ARE GUARANTEED NOT TO BE LESS  
7 THAN THE MINIMUM GUARANTEED INTEREST RATE FOR CASH VALUE  
8 ACCUMULATIONS WITHOUT LONG-TERM CARE SET FORTH IN THE POLICY OR  
9 CERTIFICATE.

10 (B) THE PORTION OF THE POLICY OR CERTIFICATE THAT PROVIDES  
11 INSURANCE BENEFITS OTHER THAN LONG-TERM CARE COVERAGE MEETS THE  
12 NONFORFEITURE REQUIREMENTS AS APPLICABLE IN SECTION 4060 OR 4072.

13 (C) THE POLICY OR CERTIFICATE MEETS SECTIONS 3928, 3933,  
14 3951, AND 3953.

15 (D) THE PORTION OF THE POLICY OR CERTIFICATE THAT PROVIDES  
16 INSURANCE BENEFITS OTHER THAN LONG-TERM CARE COVERAGE MEETS, AS  
17 APPLICABLE, THE POLICY ILLUSTRATIONS AND DISCLOSURE REQUIREMENTS  
18 UNDER SECTION 4038.

19 (E) AN ACTUARIAL MEMORANDUM IS FILED WITH THE OFFICE OF  
20 FINANCIAL AND INSURANCE SERVICES THAT INCLUDES ALL OF THE  
21 FOLLOWING:

22 (i) A DESCRIPTION OF THE BASIS ON WHICH THE LONG-TERM CARE  
23 RATES WERE DETERMINED.

24 (ii) A DESCRIPTION OF THE BASIS FOR THE RESERVES.

25 (iii) A SUMMARY OF THE TYPE OF POLICY, BENEFITS, RENEWABILITY,  
26 GENERAL MARKETING METHOD, AND LIMITS ON AGES OF ISSUANCE.

27 (iv) A DESCRIPTION AND A TABLE OF EACH ACTUARIAL ASSUMPTION

1 USED. FOR EXPENSES, AN INSURER SHALL INCLUDE PERCENT OF PREMIUM  
2 DOLLARS PER POLICY OR CERTIFICATE AND DOLLARS PER UNIT OF  
3 BENEFITS, IF ANY.

4 (v) A DESCRIPTION AND A TABLE OF THE ANTICIPATED POLICY OR  
5 CERTIFICATE RESERVES AND ADDITIONAL RESERVES TO BE HELD IN EACH  
6 FUTURE YEAR FOR ACTIVE LIVES.

7 (vi) THE ESTIMATED AVERAGE ANNUAL PREMIUM PER POLICY OR  
8 CERTIFICATE AND THE AVERAGE ISSUE AGE.

9 (vii) A STATEMENT AS TO WHETHER UNDERWRITING IS PERFORMED AT  
10 THE TIME OF APPLICATION. THE STATEMENT SHALL INDICATE WHETHER  
11 UNDERWRITING IS USED AND, IF USED, SHALL INCLUDE A DESCRIPTION OF  
12 THE TYPE OR TYPES OF UNDERWRITING USED, SUCH AS MEDICAL  
13 UNDERWRITING OR FUNCTIONAL ASSESSMENT UNDERWRITING. FOR A GROUP  
14 CERTIFICATE, THE STATEMENT SHALL INDICATE WHETHER THE ENROLLEE OR  
15 ANY DEPENDENT WILL BE UNDERWRITTEN AND WHEN UNDERWRITING OCCURS.

16 (viii) A DESCRIPTION OF THE EFFECT OF THE LONG-TERM CARE  
17 POLICY OR CERTIFICATE PROVISION ON THE REQUIRED PREMIUMS,  
18 NONFORFEITURE VALUES, AND RESERVES ON THE UNDERLYING INSURANCE  
19 POLICY OR CERTIFICATE, BOTH FOR ACTIVE LIVES AND THOSE IN LONG-  
20 TERM CARE CLAIM STATUS.

21 (13) SUBSECTIONS (7), (8), AND (9) DO NOT APPLY TO A GROUP  
22 INSURANCE POLICY DESCRIBED IN SECTION 3901(C) (i) IF THE POLICY  
23 INSURES 250 OR MORE PERSONS AND THE POLICYHOLDER HAS 5,000 OR  
24 MORE ELIGIBLE EMPLOYEES OF A SINGLE EMPLOYER OR THE POLICYHOLDER,  
25 AND NOT THE CERTIFICATE HOLDERS, PAYS A MATERIAL PORTION OF THE  
26 PREMIUM, WHICH SHALL NOT BE LESS THAN 20% OF THE TOTAL PREMIUM  
27 FOR THE GROUP IN THE CALENDAR YEAR PRIOR TO THE YEAR A RATE

1 INCREASE IS FILED.

2 (14) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION,  
3 EXCEPTIONAL INCREASES ARE SUBJECT TO THE SAME REQUIREMENTS AS  
4 OTHER PREMIUM RATE SCHEDULE INCREASES. THE COMMISSIONER MAY  
5 REQUEST A REVIEW BY AN INDEPENDENT QUALIFIED ACTUARY OR A  
6 PROFESSIONAL QUALIFIED ACTUARIAL BODY OF THE BASIS FOR A REQUEST  
7 THAT AN INCREASE BE CONSIDERED AN EXCEPTIONAL INCREASE. THE  
8 COMMISSIONER, IN DETERMINING THAT THE NECESSARY BASIS FOR AN  
9 EXCEPTIONAL INCREASE EXISTS, SHALL ALSO DETERMINE ANY POTENTIAL  
10 OFFSETS TO HIGHER CLAIMS COSTS.

11 (15) AS USED IN THIS SECTION:

12 (A) "EXCEPTIONAL INCREASE" MEANS ONLY THOSE INCREASES FILED  
13 BY AN INSURER AS EXCEPTIONAL FOR WHICH THE COMMISSIONER  
14 DETERMINES THE NEED FOR THE PREMIUM RATE INCREASE IS JUSTIFIED  
15 DUE TO CHANGES IN LAWS OR REGULATIONS APPLICABLE TO LONG-TERM  
16 CARE COVERAGE IN THIS STATE OR DUE TO INCREASED AND UNEXPECTED  
17 UTILIZATION THAT AFFECTS THE MAJORITY OF INSURERS OF SIMILAR  
18 PRODUCTS.

19 (B) "INCIDENTAL" MEANS THAT THE VALUE OF THE LONG-TERM CARE  
20 BENEFITS PROVIDED IS LESS THAN 10% OF THE TOTAL VALUE OF THE  
21 BENEFITS PROVIDED OVER THE LIFE OF THE POLICY OR CERTIFICATE AS  
22 MEASURED ON THE DATE OF ISSUE.

23 (C) "QUALIFIED ACTUARY" MEANS A MEMBER IN GOOD STANDING OF  
24 THE AMERICAN ACADEMY OF ACTUARIES.

25 (D) "SIMILAR POLICIES" MEANS ALL OF THE LONG-TERM CARE  
26 INSURANCE POLICIES AND CERTIFICATES ISSUED BY AN INSURER IN THE  
27 SAME LONG-TERM CARE BENEFIT CLASSIFICATION AS THE POLICY OR

1 CERTIFICATE BEING CONSIDERED. CERTIFICATES OF GROUPS DESCRIBED IN  
2 SECTION 3901(C) (i) ARE NOT CONSIDERED SIMILAR TO POLICIES OR  
3 CERTIFICATES OTHERWISE ISSUED AS LONG-TERM CARE INSURANCE, BUT  
4 ARE SIMILAR TO OTHER COMPARABLE CERTIFICATES WITH THE SAME LONG-  
5 TERM CARE BENEFIT CLASSIFICATIONS. FOR PURPOSES OF DETERMINING  
6 SIMILAR POLICIES, LONG-TERM CARE BENEFIT CLASSIFICATIONS ARE  
7 DEFINED AS FOLLOWS: INSTITUTIONAL LONG-TERM CARE BENEFITS ONLY,  
8 NONINSTITUTIONAL LONG-TERM CARE BENEFITS ONLY, OR COMPREHENSIVE  
9 LONG-TERM CARE BENEFITS.

10 Sec. 3927. (1) Benefits under individual long-term care  
11 insurance policies shall be considered reasonable in relation to  
12 premiums provided the expected loss ratio is at least 60%,  
13 calculated in a manner that provides for adequate reserving of  
14 the long-term care insurance risk. In evaluating the expected  
15 loss ratio, due consideration shall be given to all relevant  
16 factors, including:

17 (a) Statistical credibility of incurred claims experience  
18 and earned premiums.

19 (b) The period for which rates are computed to provide  
20 coverage.

21 (c) Experienced and projected trends.

22 (d) Concentration of experience within early policy  
23 duration.

24 (e) Expected claim fluctuation.

25 (f) Experience refunds, adjustments, or dividends.

26 (g) Renewability features.

27 (h) All appropriate expense factors.

(i) Interest.

(j) Experimental nature of the coverage.

(k) Policy reserves.

(l) Mix of business by risk classification.

(m) Product features such as long elimination periods, high deductibles, and high maximum limits.

(n) Premiums charged and losses incurred for other similar policies.

(2) This section does not apply to fixed indivisible premium life insurance policies that fund long-term care benefits entirely by accelerating the death benefit.

**(3) THIS SECTION APPLIES TO ALL LONG-TERM CARE INSURANCE POLICIES OR CERTIFICATES EXCEPT THOSE DESCRIBED IN SECTIONS 3926(1) AND 3926A(1) AND (2).**

Sec. 3935. An application for a long-term care policy shall contain the following statement printed, stamped, or as part of a sticker permanently affixed to the application in capital letters on the first page:

"For additional information about long-term care coverage write to the ~~Michigan insurance bureau~~ **OFFICE OF FINANCIAL AND INSURANCE SERVICES**, P.O. Box 30220, Lansing, MI 48909 or call the area agency on aging in your community."

**SEC. 3941A. (1) THIS SECTION DOES NOT APPLY TO LIFE INSURANCE POLICIES OR RIDERS CONTAINING ACCELERATED BENEFITS FOR LONG-TERM CARE.**

**(2) EVERY INSURER OR OTHER ENTITY MARKETING LONG-TERM CARE INSURANCE SHALL DO ALL OF THE FOLLOWING:**



1 (A) DEVELOP AND USE SUITABILITY STANDARDS TO DETERMINE  
2 WHETHER THE PURCHASE OR REPLACEMENT OF LONG-TERM CARE INSURANCE  
3 IS APPROPRIATE FOR THE NEEDS OF THE APPLICANT.

4 (B) TRAIN ITS PRODUCERS IN THE USE OF AND REQUIRE PRODUCERS  
5 TO USE ITS SUITABILITY STANDARDS.

6 (C) MAINTAIN A COPY OF ITS SUITABILITY STANDARDS AND MAKE  
7 THEM AVAILABLE FOR INSPECTION UPON REQUEST BY THE COMMISSIONER.

8 (D) TO DETERMINE WHETHER THE APPLICANT MEETS THE DEVELOPED  
9 SUITABILITY STANDARDS, THE INSURER SHALL MAKE REASONABLE EFFORTS  
10 TO OBTAIN ALL OF THE FOLLOWING INFORMATION:

11 (i) THE APPLICANT'S ABILITY TO PAY FOR THE PROPOSED COVERAGE  
12 AND OTHER PERTINENT FINANCIAL INFORMATION RELATED TO THE PURCHASE  
13 OF THE COVERAGE.

14 (ii) THE APPLICANT'S GOALS OR NEEDS WITH RESPECT TO LONG-TERM  
15 CARE AND THE ADVANTAGES AND DISADVANTAGES OF INSURANCE TO MEET  
16 THESE GOALS OR NEEDS.

17 (iii) THE VALUES, BENEFITS, AND COSTS OF THE APPLICANT'S  
18 EXISTING INSURANCE, IF ANY, WHEN COMPARED TO THE VALUES,  
19 BENEFITS, AND COSTS OF THE RECOMMENDED PURCHASE OR REPLACEMENT.

20 (3) IF THE INSURER DETERMINES THAT THE APPLICANT DOES NOT  
21 MEET ITS SUITABILITY STANDARDS, OR IF THE APPLICANT HAS DECLINED  
22 TO PROVIDE THE NECESSARY INFORMATION, THE INSURER MAY REJECT THE  
23 APPLICATION FOR LONG-TERM CARE INSURANCE.

24 Sec. 3942. (1) Every insurer marketing long-term care  
25 insurance coverage in this state, directly or through its  
26 producers, shall do all of the following:

27 (a) Establish marketing procedures to assure that any

1 comparison of policies by its ~~agents~~ **PRODUCERS** or other  
2 producers are fair and accurate.

3 (b) Establish marketing procedures to assure excessive  
4 insurance is not sold or issued.

5 (c) Display prominently by type, stamp, or other appropriate  
6 means, on the first page of the outline of coverage and policy  
7 the following:

8 "Notice to buyer: This policy may not cover all of the costs  
9 associated with long-term care incurred by the buyer during the  
10 period of coverage. The buyer is advised to review carefully all  
11 policy limitations.".

12 (d) Inquire and otherwise make every reasonable effort to  
13 identify whether a prospective applicant or enrollee for long-  
14 term care insurance already has accident and sickness or long-  
15 term care insurance and the types and amounts of such insurance.

16 (e) Establish auditable procedures for verifying compliance  
17 with this section.

18 (2) **AN INSURER MARKETING LONG-TERM CARE INSURANCE COVERAGE**  
19 **IN THIS STATE SHALL NOT USE THE TERM "LEVEL PREMIUM" OR**  
20 **"NONCANCELABLE" UNLESS THE INSURER DOES NOT HAVE THE RIGHT TO**  
21 **CHANGE THE PREMIUM FOR THE PRODUCT BEING MARKETED.**