



# Senate

General Assembly

**File No. 9**

January Session, 2013

Substitute Senate Bill No. 808

*Senate, February 26, 2013*

The Committee on Insurance and Real Estate reported through SEN. CRISCO of the 17th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT REQUIRING PUBLIC COMMENT FOR CERTAIN LONG-TERM CARE POLICY RATE INCREASE REQUESTS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 38a-501 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective January 1, 2014*):

3 (a) (1) As used in this section, "long-term care policy" means any  
4 individual health insurance policy delivered or issued for delivery to  
5 any resident of this state on or after July 1, 1986, that is designed to  
6 provide, within the terms and conditions of the policy, benefits on an  
7 expense-incurred, indemnity or prepaid basis for necessary care or  
8 treatment of an injury, illness or loss of functional capacity provided  
9 by a certified or licensed health care provider in a setting other than an  
10 acute care hospital, for at least one year after an elimination period (A)  
11 not to exceed one hundred days of confinement, or (B) of over one  
12 hundred days but not to exceed two years of confinement, provided  
13 such period is covered by an irrevocable trust in an amount estimated  
14 to be sufficient to furnish coverage to the grantor of the trust for the

15 duration of the elimination period. Such trust shall create an  
16 unconditional duty to pay the full amount held in trust exclusively to  
17 cover the costs of confinement during the elimination period, subject  
18 only to taxes and any trustee's charges allowed by law. Payment shall  
19 be made directly to the provider. The duty of the trustee may be  
20 enforced by the state, the grantor or any person acting on behalf of the  
21 grantor. A long-term care policy shall provide benefits for confinement  
22 in a nursing home or confinement in the insured's own home or both.  
23 Any additional benefits provided shall be related to long-term  
24 treatment of an injury, illness or loss of functional capacity. "Long-term  
25 care policy" shall not include any such policy that is offered primarily  
26 to provide basic Medicare supplement coverage, basic medical-surgical  
27 expense coverage, hospital confinement indemnity coverage, major  
28 medical expense coverage, disability income protection coverage,  
29 accident only coverage, specified accident coverage or limited benefit  
30 health coverage.

31 (2) (A) No insurance company, fraternal benefit society, hospital  
32 service corporation, medical service corporation or health care center  
33 delivering, issuing for delivery, renewing, continuing or amending any  
34 long-term care policy in this state may refuse to accept or make  
35 reimbursement pursuant to a claim for benefits submitted by or  
36 prepared with the assistance of a managed residential community, as  
37 defined in section 19a-693, in accordance with subdivision (7) of  
38 subsection (a) of section 19a-694 solely because such claim for benefits  
39 was submitted by or prepared with the assistance of a managed  
40 residential community.

41 (B) Each insurance company, fraternal benefit society, hospital  
42 service corporation, medical service corporation or health care center  
43 delivering, issuing for delivery, renewing, continuing or amending any  
44 long-term care policy in this state shall, upon receipt of a written  
45 authorization executed by the insured, (i) disclose information to a  
46 managed residential community for the purpose of determining such  
47 insured's eligibility for an insurance benefit or payment, and (ii)  
48 provide a copy of the initial acceptance or declination of a claim for

49 benefits to the managed residential community at the same time such  
50 acceptance or declination is made to the insured.

51 (b) (1) No insurance company, fraternal benefit society, hospital  
52 service corporation, medical service corporation or health care center  
53 may deliver or issue for delivery any long-term care policy that has a  
54 loss ratio of less than sixty per cent for any individual long-term care  
55 policy. An issuer shall not use or change premium rates for a long-  
56 term care [insurance] policy unless the rates have been filed with and  
57 approved by the Insurance Commissioner in accordance with the  
58 provisions of this subsection. Any rate filings or rate revisions shall  
59 demonstrate that anticipated claims in relation to premiums when  
60 combined with actual experience to date can be expected to comply  
61 with the loss ratio requirement of this section. A rate filing shall  
62 include the factors and methodology used to estimate irrevocable trust  
63 values if the policy includes an option for the elimination period  
64 specified in subdivision (1) of subsection (a) of this section.

65 (2) (A) Prior to approving any rate filing for a long-term care policy  
66 (i) other than a long-term care policy precertified under the  
67 Connecticut Partnership for Long-Term Care as set forth in section 38a-  
68 475, and (ii) that is for more than a ten per cent increase in such rate,  
69 the commissioner shall hold a symposium that provides an  
70 opportunity for public comment.

71 (B) Not later than five business days after receiving such rate filing,  
72 the commissioner shall set a date for such symposium and post the  
73 date, place and time of such symposium in a conspicuous place on the  
74 Internet web site of the Insurance Department. Such symposium shall  
75 be held not later than sixty calendar days prior to the proposed  
76 effective date of such rate filing, at a place and time that is convenient  
77 to the public.

78 (C) In making a decision to approve, disapprove or modify such  
79 rate filing, the commissioner shall consider any oral or written  
80 comments made or provided by the public at the symposium.

81 (c) No such company, society, corporation or center may deliver or  
82 issue for delivery any long-term care policy without providing, at the  
83 time of solicitation or application for purchase or sale of such coverage,  
84 full and fair disclosure of the benefits and limitations of the policy. If  
85 the offering for any long-term care policy includes an option for the  
86 elimination period specified in subdivision (1) of subsection (a) of this  
87 section, the application form for such policy and the face page of such  
88 policy shall contain a clear and conspicuous disclosure that the  
89 irrevocable trust may not be sufficient to cover all costs during the  
90 elimination period.

91 (d) No such company, society, corporation or center may deliver or  
92 issue for delivery any long-term care policy on or after July 1, 2008,  
93 without offering, at the time of solicitation or application for purchase  
94 or sale of such coverage, an option to purchase a policy that includes a  
95 nonforfeiture benefit. Such offer of a nonforfeiture benefit may be in  
96 the form of a rider attached to such policy. In the event the  
97 nonforfeiture benefit is declined, such company, society, corporation  
98 or center shall provide a contingent benefit upon lapse that shall be  
99 available for a specified period of time following a substantial increase  
100 in premium rates. Not later than July 1, 2008, the Insurance  
101 Commissioner shall adopt regulations, in accordance with chapter 54,  
102 to implement the provisions of this subsection. Such regulations shall  
103 specify the type of nonforfeiture benefit that may be offered, the  
104 standards for such benefit, the period of time during which a  
105 contingent benefit upon lapse will be available and the substantial  
106 increase in premium rates that trigger a contingent benefit upon lapse  
107 in accordance with the Long-Term Care Insurance Model Regulation  
108 adopted by the National Association of Insurance Commissioners.

109 (e) The Insurance Commissioner shall adopt regulations, in  
110 accordance with chapter 54, that address (1) the insured's right to  
111 information prior to his replacing an accident and sickness policy with  
112 a long-term care policy, (2) the insured's right to return a long-term  
113 care policy to the insurer, within a specified period of time after  
114 delivery, for cancellation, and (3) the insured's right to accept by the

115 insured's signature, and prior to it becoming effective, any rider or  
116 endorsement added to a long-term care policy after the issuance date  
117 of such policy. The Insurance Commissioner shall adopt such  
118 additional regulations as the commissioner deems necessary in  
119 accordance with chapter 54 to carry out the purpose of this section.

120 (f) The Insurance Commissioner may, upon written request by any  
121 such company, society, corporation or center, issue an order to modify  
122 or suspend a specific provision of this section or any regulation  
123 adopted pursuant thereto with respect to a specific long-term care  
124 policy, except for subdivision (2) of subsection (b) of this section, upon  
125 a written finding that: (1) The modification or suspension would be in  
126 the best interest of the insureds; (2) the purposes to be achieved could  
127 not be effectively or efficiently achieved without such modification or  
128 suspension; and (3) (A) the modification or suspension is necessary to  
129 the development of an innovative and reasonable approach for  
130 insuring long-term care, (B) the policy is to be issued to residents of a  
131 life care or continuing care retirement community or other residential  
132 community for the elderly and the modification or suspension is  
133 reasonably related to the special needs or nature of such community,  
134 or (C) the modification or suspension is necessary to permit long-term  
135 care policies to be sold as part of, or in conjunction with, another  
136 insurance product. Whenever the commissioner decides not to issue  
137 such an order, the commissioner shall provide written notice of such  
138 decision to the requesting party in a timely manner.

139 (g) Upon written request by any such company, society, corporation  
140 or center, the Insurance Commissioner may issue an order to extend  
141 the preexisting condition exclusion period, as established by  
142 regulations adopted pursuant to this section, for purposes of specific  
143 age group categories in a specific long-term care policy form whenever  
144 the commissioner makes a written finding that such an extension is in  
145 the best interest to the public. Whenever the commissioner decides not  
146 to issue such an order, the commissioner shall provide written notice  
147 of such decision to the requesting party in a timely manner.

148 (h) The provisions of section 38a-19 shall be applicable to any such  
149 requesting party aggrieved by any order or decision of the  
150 commissioner made pursuant to subsections (f) and (g) of this section.

151 Sec. 2. Section 38a-528 of the general statutes is repealed and the  
152 following is substituted in lieu thereof (*Effective January 1, 2014*):

153 (a) (1) As used in this section, "long-term care policy" means any  
154 group health insurance policy or certificate delivered or issued for  
155 delivery to any resident of this state on or after July 1, 1986, [which]  
156 that is designed to provide, within the terms and conditions of the  
157 policy or certificate, benefits on an expense-incurred, indemnity or  
158 prepaid basis for necessary care or treatment of an injury, illness or  
159 loss of functional capacity provided by a certified or licensed health  
160 care provider in a setting other than an acute care hospital, for at least  
161 one year after a reasonable elimination period. A long-term care policy  
162 shall provide benefits for confinement in a nursing home or  
163 confinement in the insured's own home or both. Any additional  
164 benefits provided shall be related to long-term treatment of an injury,  
165 illness or loss of functional capacity. "Long-term care policy" shall not  
166 include any such policy or certificate which is offered primarily to  
167 provide basic Medicare supplement coverage, basic medical-surgical  
168 expense coverage, hospital confinement indemnity coverage, major  
169 medical expense coverage, disability income protection coverage,  
170 accident only coverage, specified accident coverage or limited benefit  
171 health coverage.

172 (2) (A) No insurance company, fraternal benefit society, hospital  
173 service corporation, medical service corporation or health care center  
174 delivering, issuing for delivery, renewing, continuing or amending any  
175 long-term care policy in this state may refuse to accept or make  
176 reimbursement pursuant to a claim for benefits submitted by or  
177 prepared with the assistance of a managed residential community, as  
178 defined in section 19a-693, in accordance with subdivision (7) of  
179 subsection (a) of section 19a-694 solely because such claim for benefits  
180 was submitted by or prepared with the assistance of a managed

181 residential community.

182 (B) Each insurance company, fraternal benefit society, hospital  
183 service corporation, medical service corporation or health care center  
184 delivering, issuing for delivery, renewing, continuing or amending any  
185 long-term care policy in this state shall, upon receipt of a written  
186 authorization executed by the insured, (i) disclose information to a  
187 managed residential community for the purpose of determining such  
188 insured's eligibility for an insurance benefit or payment, and (ii)  
189 provide a copy of the initial acceptance or declination of a claim for  
190 benefits to the managed residential community at the same time such  
191 acceptance or declination is made to the insured.

192 (b) (1) No insurance company, fraternal benefit society, hospital  
193 service corporation, medical service corporation or health care center  
194 may deliver or issue for delivery any long-term care policy or  
195 certificate which has a loss ratio of less than sixty-five per cent for any  
196 group long-term care policy. An issuer shall not use or change  
197 premium rates for a long-term care insurance policy or certificate  
198 unless the rates have been filed with and approved by the Insurance  
199 Commissioner in accordance with the provisions of this subsection.  
200 Deviations in rates to reflect policyholder experience shall be  
201 permitted, provided each policy form shall meet the loss ratio  
202 requirement of this section. Any rate filings or rate revisions shall  
203 demonstrate that anticipated claims in relation to premiums when  
204 combined with actual experience to date can be expected to comply  
205 with the loss ratio requirement of this section. On an annual basis, an  
206 insurer shall submit to the Insurance Commissioner an actuarial  
207 certification of the insurer's continuing compliance with the loss ratio  
208 requirement of this section. Any rate or rate revision may be  
209 disapproved if the commissioner determines that the loss ratio  
210 requirement will not be met over the lifetime of the policy form using  
211 reasonable assumptions.

212 (2) (A) Prior to approving any rate filing for a long-term care policy  
213 (i) other than a long-term care policy precertified under the

214 Connecticut Partnership for Long-Term Care as set forth in section 38a-  
215 475, and (ii) that is for more than a ten per cent increase in such rate,  
216 the commissioner shall hold a symposium that provides an  
217 opportunity for public comment.

218 (B) Not later than five business days after receiving such rate filing,  
219 the commissioner shall set a date for such symposium and post the  
220 date, place and time of such symposium in a conspicuous place on the  
221 Internet web site of the Insurance Department. Such symposium shall  
222 be held not later than sixty calendar days prior to the proposed  
223 effective date of such rate filing, at a place and time that is convenient  
224 to the public.

225 (C) In making a decision to approve, disapprove or modify such  
226 rate filing, the commissioner shall consider any oral or written  
227 comments made or provided by the public at the symposium.

228 (c) No such company, society, corporation or center may deliver or  
229 issue for delivery any long-term care policy without providing, at the  
230 time of solicitation or application for purchase or sale of such coverage,  
231 full and fair disclosure of the benefits and limitations of the policy. The  
232 provisions of this subsection shall not be applicable to: (1) Any long-  
233 term care policy which is delivered or issued for delivery to one or  
234 more employers or labor organizations, or to a trust or to the trustees  
235 of a fund established by one or more employers or labor organizations,  
236 or a combination thereof, for employees or former employees or a  
237 combination thereof or for members or former members or a  
238 combination thereof, or the labor organizations; and (2)  
239 noncontributory plans.

240 (d) The Insurance Commissioner shall adopt regulations, in  
241 accordance with chapter 54, which address (1) the insured's right to  
242 information prior to his replacing an accident and sickness policy with  
243 a long-term care policy, (2) the insured's right to return a long-term  
244 care policy to the insurer, within a specified period of time after  
245 delivery, for cancellation, and (3) the insured's right to accept by his  
246 signature, and prior to it becoming effective, any rider or endorsement

247 added to a long-term care policy after the issuance date of such policy,  
248 provided (A) any regulations adopted pursuant to subdivisions (1) and  
249 (2) of this subsection shall not be applicable to (i) any long-term care  
250 policy which is delivered or issued for delivery to one or more  
251 employers or labor organizations, or to a trust or to the trustees of a  
252 fund established by one or more employers or labor organizations, or a  
253 combination thereof or for members or former members or a  
254 combination thereof, of the labor organizations, or (ii) noncontributory  
255 plans, and (B) any regulations adopted pursuant to subdivision (3) of  
256 this subsection shall not be applicable to any group long-term policy.  
257 The Insurance Commissioner shall adopt such additional regulations  
258 as he deems necessary in accordance with said chapter 54 to carry out  
259 the purpose of this section.

260 (e) The Insurance Commissioner may, upon written request by any  
261 such company, society, corporation or center, issue an order to modify  
262 or suspend a specific provision of this section or any regulation  
263 adopted pursuant thereto with respect to a specific long-term care  
264 policy, except for subdivision (2) of subsection (b) of this section, upon  
265 a written finding that: (1) The modification or suspension would be in  
266 the best interest of the insureds; (2) the purposes to be achieved could  
267 not be effectively or efficiently achieved without such modification or  
268 suspension; and (3) (A) the modification or suspension is necessary to  
269 the development of an innovative and reasonable approach for  
270 insuring long-term care, (B) the policy is to be issued to residents of a  
271 life care or continuing care retirement community or other residential  
272 community for the elderly and the modification or suspension is  
273 reasonably related to the special needs or nature of such community,  
274 or (C) the modification or suspension is necessary to permit long-term  
275 care policies to be sold as part of, or in conjunction with, another  
276 insurance product, whenever the commissioner decides not to issue  
277 such an order, he shall provide written notice of such decision to the  
278 requesting party in a timely manner.

279 (f) Upon written request by any such company, society, corporation  
280 or center, the Insurance Commissioner may issue an order to extend

281 the preexisting condition exclusion period, as established by  
 282 regulations adopted pursuant to this section, for purposes of specific  
 283 age group categories in a specific long-term care policy form whenever  
 284 he makes a written finding that such an extension is in the best interest  
 285 to the public. Whenever the commissioner decides not to issue such an  
 286 order, he shall provide written notice of such decision to the  
 287 requesting party in a timely manner.

288 (g) The provisions of section 38a-19 shall be applicable to any such  
 289 requesting party aggrieved by any order or decision of the  
 290 commissioner made pursuant to subsections (e) and (f) of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	January 1, 2014	38a-501
Sec. 2	January 1, 2014	38a-528

**Statement of Legislative Commissioners:**

The new sentences in sections 1(f) and 2(e) were moved to after "with respect to a specific long-term care policy" for statutory consistency.

**INS**      *Joint Favorable Subst. -LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 14 \$	FY 15 \$
Insurance Department	IF - Cost	57,500	115,000

**Municipal Impact:** None

**Explanation**

The bill requires, effective January 1, 2014, the Insurance Department to hold a public symposium when a long term care (LTC) insurance policy rate increase request exceeds 10%.

On average, the Insurance Department receives 25 LTC rate filings per year, all of which generally exceed the 10% increase requirement. Assuming that the staffing, technology and transcription costs of a symposium are similar to that of the department's public hearings (approximately \$4,600 per hearing), the department would incur an annualized cost of approximately \$115,000 to hold 25 symposiums.

**The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

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**OLR Bill Analysis****sSB 808*****AN ACT REQUIRING PUBLIC COMMENT FOR CERTAIN LONG-TERM CARE POLICY RATE INCREASE REQUESTS.*****SUMMARY:**

This bill requires the insurance commissioner, in most cases, to hold a symposium (meeting) on proposed rate increases of 10% or more for long-term care insurance policies to provide an opportunity for public comment on the proposal. The requirement applies to individual and group policies issued or delivered by insurance companies, HMOs, and other insurers.

Under current law, the Insurance Department can modify or suspend any specific provision of the laws governing long-term care policies. The bill requires that the symposium requirement be met in all cases.

The bill makes a related technical change.

EFFECTIVE DATE: January 1, 2014

**SYMPOSIUM**

The symposium requirement applies to any filing for a rate increase of 10% or more, except under a long-term care policy pre-certified under the Connecticut Partnership for Long-Term Care.

Within five business days after receiving the filing, the commissioner must set a date for a symposium. The symposium must be held no more than 60 days before the filing's proposed effective date, at a place and time convenient to the public. The commissioner must post the date, place, and time of the symposium in a conspicuous place on the Insurance Department's website. He must consider any

oral or written comments made by the public at the symposium in deciding to approve, disapprove, or modify the rate filing.

**COMMITTEE ACTION**

Insurance and Real Estate Committee

Joint Favorable

Yea 16    Nay 3    (02/14/2013)