



General Assembly

January Session, 2013

Raised Bill No. 1027

LCO No. 3665



Referred to Committee on INSURANCE AND REAL ESTATE

Introduced by:
(INS)

***AN ACT CONCERNING NOTIFICATION OF NONPAYMENT OF
PREMIUM FOR INDIVIDUAL LONG-TERM CARE INSURANCE
POLICIES AND LONG-TERM CARE BENEFITS UNDER AN ANNUITY
CONTRACT.***

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 Section 38a-501 of the general statutes is repealed and the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 October 1, 2013*):

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) No insurance company, fraternal benefit society, hospital service
52 corporation, medical service corporation or health care center may
53 deliver or issue for delivery any long-term care policy that has a loss
54 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. Any rate filings or rate
58 revisions shall demonstrate that anticipated claims in relation to
59 premiums when combined with actual experience to date can be
60 expected to comply with the loss ratio requirement of this section. A
61 rate filing shall include the factors and methodology used to estimate
62 irrevocable trust values if the policy includes an option for the
63 elimination period specified in subdivision (1) of subsection (a) of this
64 section.

65 (c) No such company, society, corporation or center may deliver or
66 issue for delivery any long-term care policy without providing, at the
67 time of solicitation or application for purchase or sale of such coverage,
68 full and fair disclosure of the benefits and limitations of the policy. If
69 the offering for any long-term care policy includes an option for the
70 elimination period specified in subdivision (1) of subsection (a) of this
71 section, the application form for such policy and the face page of such
72 policy shall contain a clear and conspicuous disclosure that the
73 irrevocable trust may not be sufficient to cover all costs during the
74 elimination period.

75 (d) No such company, society, corporation or center may deliver or
76 issue for delivery any long-term care policy on or after July 1, 2008,
77 without offering, at the time of solicitation or application for purchase
78 or sale of such coverage, an option to purchase a policy that includes a

79 nonforfeiture benefit. Such offer of a nonforfeiture benefit may be in
80 the form of a rider attached to such policy. In the event the
81 nonforfeiture benefit is declined, such company, society, corporation
82 or center shall provide a contingent benefit upon lapse that shall be
83 available for a specified period of time following a substantial increase
84 in premium rates. Not later than July 1, 2008, the Insurance
85 Commissioner shall adopt regulations, in accordance with chapter 54,
86 to implement the provisions of this subsection. Such regulations shall
87 specify the type of nonforfeiture benefit that may be offered, the
88 standards for such benefit, the period of time during which a
89 contingent benefit upon lapse will be available and the substantial
90 increase in premium rates that trigger a contingent benefit upon lapse
91 in accordance with the Long-Term Care Insurance Model Regulation
92 adopted by the National Association of Insurance Commissioners.

93 (e) The Insurance Commissioner shall adopt regulations, in
94 accordance with chapter 54, that address (1) the insured's right to
95 information prior to [his] the insured replacing an accident and
96 sickness policy with a long-term care policy, (2) the insured's right to
97 return a long-term care policy to the insurer, within a specified period
98 of time after delivery, for cancellation, and (3) the insured's right to
99 accept by the insured's signature, and prior to it becoming effective,
100 any rider or endorsement added to a long-term care policy after the
101 issuance date of such policy. The Insurance Commissioner shall adopt
102 such additional regulations as the commissioner deems necessary in
103 accordance with chapter 54 to carry out the purpose of this section.

104 (f) (1) No notice of cancellation on the basis of nonpayment of
105 premium for a long-term care policy shall be effective unless sent, by
106 registered or certified mail or by mail evidenced by a certificate of
107 mailing, or delivered by the insurer, to the insured and any third party
108 designated pursuant to subdivision (2) of this subsection, at least thirty
109 days before the effective date of cancellation. The notice of cancellation
110 shall be accompanied by the amount of the premium owed. The
111 named insured may continue the coverage and avoid the effect of

112 cancellation by payment in full of such amount by such insured, a
113 third party designated pursuant to subdivision (2) of this subsection or
114 any other person on behalf of such insured, at any time prior to the
115 effective date of cancellation.

116 (2) (A) Each insurer that delivers, issues for delivery or renews a
117 long-term care policy on or after October 1, 2013, in this state shall
118 include with the policy a conspicuous statement specifying that the
119 insured may designate a third party to receive notice of cancellation of
120 the policy based on nonpayment of premium. The statement shall
121 include a designation form and mailing address the insured may use
122 to designate a third party. Such statement shall be in a form approved
123 by the Insurance Commissioner.

124 (B) No designation form shall be effective unless it contains a
125 written acceptance by the third party designee to receive copies of
126 notices of cancellation from the insurer on behalf of the insured. The
127 third party designation shall be effective not later than ten business
128 days after the date the insurer receives the designation form and the
129 acceptance of the third party. The third party may terminate the status
130 as a third party designee by providing written notice to both the
131 insurer and the insured. The insured may terminate the third party
132 designation by providing written notice to the insurer and the third
133 party designee. The insurer may require the insured and the third
134 party to send the notices to the insurer by certified mail, return receipt
135 requested.

136 (C) The insurer's transmission to the third party designee of a copy
137 of a notice of cancellation based on nonpayment of premium shall be
138 in addition to the transmission of the original document to the insured.
139 When a third party is so designated all such notices and copies shall be
140 mailed in an envelope clearly marked on its face with the following:
141 "IMPORTANT INSURANCE POLICY INFORMATION: OPEN
142 IMMEDIATELY". The copy of the notice of cancellation transmitted to
143 the third party shall be governed by the same law and policy

144 provisions that govern the notice being transmitted to the insured. The
145 designation of a third party shall not constitute acceptance of any
146 liability on the part of the third party or insurer for services provided
147 to the insured.

148 [(f)] (g) The Insurance Commissioner may, upon written request by
149 any such company, society, corporation or center, issue an order to
150 modify or suspend a specific provision of this section or any regulation
151 adopted pursuant thereto with respect to a specific long-term care
152 policy upon a written finding that: (1) The modification or suspension
153 would be in the best interest of the insureds; (2) the purposes to be
154 achieved could not be effectively or efficiently achieved without such
155 modification or suspension; and (3) (A) the modification or suspension
156 is necessary to the development of an innovative and reasonable
157 approach for insuring long-term care, (B) the policy is to be issued to
158 residents of a life care or continuing care retirement community or
159 other residential community for the elderly and the modification or
160 suspension is reasonably related to the special needs or nature of such
161 community, or (C) the modification or suspension is necessary to
162 permit long-term care policies to be sold as part of, or in conjunction
163 with, another insurance product. Whenever the commissioner decides
164 not to issue such an order, the commissioner shall provide written
165 notice of such decision to the requesting party in a timely manner.

166 [(g)] (h) Upon written request by any such company, society,
167 corporation or center, the Insurance Commissioner may issue an order
168 to extend the preexisting condition exclusion period, as established by
169 regulations adopted pursuant to this section, for purposes of specific
170 age group categories in a specific long-term care policy form whenever
171 the commissioner makes a written finding that such an extension is in
172 the best interest to the public. Whenever the commissioner decides not
173 to issue such an order, the commissioner shall provide written notice
174 of such decision to the requesting party in a timely manner.

175 [(h)] (i) The provisions of section 38a-19 shall be applicable to any

176 such requesting party aggrieved by any order or decision of the
177 commissioner made pursuant to subsections [(f) and] (g) and (h) of this
178 section.

179 Sec. 2. Section 38a-458 of the general statutes is repealed and the
180 following is substituted in lieu thereof (*Effective October 1, 2013*):

181 (a) [On and after June 16, 1989] Provided such company is licensed
182 for both life and health insurance in this state, any life insurance
183 company doing business in this state may issue life insurance policies
184 or certificates, or riders or endorsements thereto, [which] that provide,
185 within the terms and conditions of the policy or certificate, long-term
186 care benefits as described in section 38a-501, as amended by this act,
187 [provided such company is licensed for both life and health insurance
188 in this state] or 38a-528, except as specified in subsection (c) of this
189 section. The Insurance Commissioner may adopt regulations, in
190 accordance with chapter 54, to implement the provisions of this
191 section. [Prior to the effective date of such regulations, any such policy,
192 certificate, rider or endorsement may be filed with the commissioner
193 and may be approved at the commissioner's discretion.]

194 (b) Provided such company is licensed for both life and health
195 insurance in this state, any life insurance company doing business in
196 this state may issue annuity contracts or certificates, or riders or
197 endorsements thereto, that provide, within the terms and conditions of
198 the contract or certificate, long-term care benefits as described in
199 section 38a-501, as amended by this act, or 38a-528, except as specified
200 in subsection (c) of this section, and that waive the surrender charges
201 under such contract or accelerate a specified portion of the annuity
202 value of such contract.

203 [(b)] (c) Long-term care benefits provided pursuant to subsection (a)
204 or (b) of this section shall not be subject to the requirements of
205 subsection (b) of section 38a-501, as amended by this act, or subsection
206 (b) of section 38a-528.

207 [(c)] (d) No insurance producer shall sell any such policy, certificate,
208 rider or endorsement unless the producer is licensed to sell both life
209 and health insurance in this state.

210 [(d)] (e) A life insurance policy or annuity contract with long-term
211 care benefits issued pursuant to this section may include a rider that
212 provides long-term care benefits that become payable upon exhaustion
213 of [benefits] a specified amount of the death benefit under the life
214 insurance policy or a specified amount of the annuity value of the
215 annuity contract. [The] Any elimination period limitations shall apply
216 only to the acceleration phase of the life insurance policy or annuity
217 contract to which the rider is attached. Such rider shall not contain an
218 additional elimination period and may calculate the waiver of
219 premium from the time benefits are payable under such rider.

220 Sec. 3. Section 38a-458a of the general statutes is repealed. (*Effective*
221 *October 1, 2013*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2013</i>	38a-501
Sec. 2	<i>October 1, 2013</i>	38a-458
Sec. 3	<i>October 1, 2013</i>	Repealer section

Statement of Purpose:

To require at least thirty days' notice for cancellation of an individual long-term care policy based on nonpayment of premium, to allow a named insured under such policy to designate a third party to receive such notices of cancellation, and to permit a life insurance company to issue annuities that provide long-term care benefits.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]