



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB1632

Introduced 2/22/2007, by Rep. Michael Tryon

#### SYNOPSIS AS INTRODUCED:

See Index

Creates the Long-Term Care Program Article of the Illinois Insurance Code. Provides that the Illinois long-term care program is established to: (1) provide incentives for individuals to insure against the costs of providing for their long-term care needs; (2) provide a mechanism for individuals to qualify for coverage of the costs of their long-term care needs under the Medicaid program without first being required to substantially exhaust all their resources; (3) assist in developing methods for increasing access to and the affordability of a long-term care policy; (4) provide counseling services to individuals in planning for their long-term care needs; and (5) alleviate the financial burden on the State's medical assistance program by encouraging the pursuit of private initiatives. Provides for the implementation and administration of the Article by the Division of Insurance and the Department of Healthcare and Family Services. Sets forth the formula for an asset disregard adjustment under the Illinois long-term care program. Sets forth requirements and prohibitions concerning qualified long-term care policies and insurers. Provides for policy disclosure and other standards. Contains provisions concerning long-term care benefits, group policy certificates, and compensation of insurance producers. Provides that the Director of the Division may impose a civil penalty against an insurer who has violated the Article or rules adopted under the Article. Repeals the Long-Term Care Insurance Article of the Illinois Insurance Code.

LRB095 10154 KBJ 30368 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning insurance.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Insurance Code is amended by adding  
5 Article XLV as follows:

6 (215 ILCS 5/Art. XLV heading new)

7 ARTICLE XLV. LONG-TERM CARE PROGRAM

8 (215 ILCS 5/1500 new)

9 Sec. 1500. Definitions. In this Article:

10 "Applicant" means an individual who applies for long-term  
11 care insurance through an individual insurance policy or a  
12 prospective holder of a certificate issued under a group  
13 long-term care insurance policy.

14 "Certificate" means a document issued to a member of the  
15 group covered under a group insurance policy, which policy has  
16 been delivered or issued for delivery in this State, to signify  
17 that the individual named in the certificate is covered under  
18 the policy.

19 "Certificate holder" means an individual to whom a  
20 certificate is issued.

21 "Department" means the Department of Healthcare and Family  
22 Services.

1       "Division" means the Division of Insurance of the  
2 Department of Financial and Professional Regulation.

3       "Health maintenance organization" has the same meaning  
4 ascribed to the term in the Health Maintenance Organization  
5 Act.

6       "Insurance policy" means any policy, contract, subscriber  
7 agreement, rider, or endorsement delivered or issued for  
8 delivery in this State by an insurer, a fraternal benefit  
9 society, a nonprofit corporation, a health maintenance  
10 organization, a limited service health maintenance  
11 organization, a preferred provider arrangement, or any other  
12 organization.

13       "Long-term care" means the provision of the following  
14 services in a setting, other than an acute care wing of a  
15 hospital, to enable individuals whose functional capacities  
16 are chronically impaired to be maintained at their maximum  
17 level of health and well-being:

18           (1) physician's services;

19           (2) nursing services;

20           (3) diagnostic services;

21           (4) therapeutic services, including physical therapy,  
22 speech therapy, and occupational therapy;

23           (5) rehabilitative services;

24           (6) maintenance services;

25           (7) personal care services, including companion  
26 services and assistance in bathing, dressing, and other

1 skills of daily living;

2 (8) transportation services;

3 (9) day care services;

4 (10) home health care services;

5 (11) respite care services; and

6 (12) services provided by chiropractors, podiatrists,  
7 and optometrists.

8 "Long-term care insurance" means insurance coverage for at  
9 least 12 consecutive months for each covered person on an  
10 expense incurred, indemnity, or prepaid basis for one or more  
11 necessary long-term care services provided in a setting other  
12 than an acute care wing of a hospital. "Long-term care  
13 insurance" does not include payment:

14 (1) of coinsurance, deductibles, or premiums for other  
15 insurance policies;

16 (2) for services covered by other insurance policies;

17 or

18 (3) for services covered by Parts A and B of the  
19 Medicare program (42 U.S.C. 1395).

20 "Long-term care facility" has the same meaning ascribed to  
21 that term in the Nursing Home Care Act.

22 "Long-term care policy" means an insurance policy that  
23 provides coverage for at least 12 consecutive months for each  
24 covered person on an expense incurred, indemnity, prepaid, or  
25 other basis for one or more necessary diagnostic, preventive,  
26 therapeutic, rehabilitative, maintenance, or personal care

1 services provided in a setting other than an acute care wing of  
2 a hospital. "Long-term care policy" includes the following:

3 (1) A policy advertised, marketed, or offered as  
4 long-term care insurance.

5 (2) A group or individual annuity, a life insurance  
6 policy, or riders that provide directly or supplement  
7 long-term care insurance.

8 (3) A policy or rider that provides for payment of  
9 benefits based upon cognitive impairment or the loss of  
10 functional capacity.

11 "Long-term care policy" does not include the following:

12 (1) An insurance policy that is offered primarily to  
13 provide basic hospital expense coverage, basic medical and  
14 surgical expense coverage, hospital confinement indemnity  
15 coverage, major medical expense coverage, disability  
16 income protection coverage, accident only coverage,  
17 specified disease or specified accident coverage,  
18 comprehensive coverage, catastrophic coverage, or limited  
19 benefit health coverage.

20 (2) A life insurance policy that accelerates the death  
21 benefit specifically for terminal illness, a medical  
22 condition requiring extraordinary medical intervention, or  
23 a permanent institutional confinement and that provides  
24 the option of a lump sum payment for those benefits and in  
25 which neither the benefits nor the eligibility for the  
26 benefits is conditioned upon the receipt of long-term care.

1           (3) An insurance policy that is offered primarily to  
2           provide basic Medicare supplemental coverage.

3           (215 ILCS 5/1505 new)

4           Sec. 1505. Illinois long-term care program.

5           (a) The Illinois long-term care program is established to  
6           do the following:

7           (1) provide incentives for individuals to insure  
8           against the costs of providing for their long-term care  
9           needs;

10          (2) provide a mechanism for individuals to qualify for  
11          coverage of the costs of their long-term care needs under  
12          the Medicaid program without first being required to  
13          substantially exhaust all their resources;

14          (3) assist in developing methods for increasing access  
15          to and the affordability of a long-term care policy;

16          (4) provide counseling services to individuals in  
17          planning for their long-term care needs; and

18          (5) alleviate the financial burden on the State's  
19          medical assistance program by encouraging the pursuit of  
20          private initiatives.

21          (b) The Department and the Division shall administer the  
22          program. The Division shall develop and coordinate a plan to  
23          provide counseling services under the program.

24          (215 ILCS 5/1510 new)

1       Sec. 1510. Information on program.

2       (a) The Division or the agency with which the Division has  
3 contracted shall make available to any individual interested in  
4 participating in the Illinois long-term care program  
5 information concerning the following:

6           (1) The Illinois long-term care program.

7           (2) Long-term care insurance policies.

8           (3) Medicare supplement insurance policies.

9           (4) Parts A and B of the Medicare program (42 U.S.C.  
10 1395).

11           (5) Health maintenance organizations that have  
12 contracted with the Medicare program.

13           (6) The Medicaid program.

14       (b) If an individual elects to pursue any of the options  
15 under subsection (a) of this Section, the Division shall assist  
16 the individual in doing so.

17       (215 ILCS 5/1515 new)

18       Sec. 1515. Eligibility. An individual who is either: (1)  
19 the beneficiary of a qualified long-term care policy approved  
20 by the Division; or (2) enrolled in a health maintenance  
21 organization that both provides long-term care services and  
22 meets the requirements of this Article is eligible for  
23 assistance under the Medicaid program using the asset disregard  
24 under Section 1525 of this Code.

1 (215 ILCS 5/1520 new)

2 Sec. 1520. Policy provisions.

3 (a) An insurer or other person who issues a qualified  
4 long-term care policy under this Article must at a minimum  
5 offer to each policyholder or prospective policyholder a policy  
6 that provides both:

7 (1) long-term care facility coverage; and

8 (2) home and community care coverage.

9 (b) An insurer or other person who complies with subsection  
10 (a) of this Section may also elect to offer a qualified  
11 long-term care policy that provides only long-term care  
12 facility coverage.

13 (215 ILCS 5/1525 new)

14 Sec. 1525. Asset disregard adjustment.

15 (a) As used in this Section, "asset disregard" means one of the  
16 following:

17 (1) A one dollar increase in the amount of assets an  
18 individual who: (A) purchases a qualified long-term care  
19 policy; and (B) meets the requirements under Section 1515  
20 of this Code may retain under the Medicaid program for each  
21 one dollar of benefit paid out under the individual's  
22 long-term care policy for long-term care services.

23 (2) The total assets an individual owns and may retain  
24 under the Medicaid program and still qualify for benefits  
25 at the time the individual applies for benefits if the



1       individual:

2               (A) is the beneficiary of a qualified long-term  
3               care policy that provides maximum benefits at the time  
4               of purchase of at least \$140,000 and includes a  
5               provision under which the daily benefit increases by at  
6               least 5% per year, compounded at least annually;

7               (B) meets the requirements under Section 1515 of  
8               this Article; and

9               (C) has exhausted the benefits of the qualified  
10              long-term care policy.

11       (b) When the Department determines whether an individual is  
12       eligible for Medicaid, the Department shall make an asset  
13       disregard adjustment for any individual who purchases a  
14       qualified long-term care policy. The asset disregard must be  
15       available after benefits of the long-term care policy have been  
16       applied to the cost of long-term care as required under this  
17       Article.

18       (c) The qualified long-term care policy an individual must  
19       purchase to be eligible for the asset disregard under  
20       subsection (a) (2) of this Section must have maximum benefits at  
21       the time of purchase equal to at least \$140,000 plus 5%  
22       interest compounded annually beginning January 1, 2008.

23               (215 ILCS 5/1530 new)

24       Sec. 1530. Public programs; asset disregard. A public  
25       program administered by the State that (i) provides long-term

1 care services and (ii) bases eligibility upon the amount of the  
2 individual's assets must apply the asset disregard under  
3 Section 1525 of this Code in determining the amount of the  
4 individual's assets.

5

6 (215 ILCS 5/1535 new)

7 Sec. 1535. Discontinuation of program. If the Illinois  
8 long-term care program is discontinued, an individual who  
9 purchased a qualified long-term care policy prior to the date  
10 the program is discontinued is eligible to receive an asset  
11 disregard as defined under Section 1525 of this Code.

12 (215 ILCS 5/1540 new)

13 Sec. 1540. Reciprocal agreements to extend asset  
14 disregard. The Department may enter into reciprocal agreements  
15 with other states to extend the asset disregard under Section  
16 1525 of this Article to residents who had purchased qualified  
17 long-term care policies in other states.

18 (215 ILCS 5/1545 new)

19 Sec. 1545. Rules. The Director of Healthcare and Family  
20 Services may adopt rules necessary to implement this Act.

21 (215 ILCS 5/1550 new)

22 Sec. 1550. Compliance with statutory requirements. An

1 insurance policy may be marketed, advertised, offered, or sold  
2 in this State as long-term care insurance only if that policy  
3 complies with the requirements of this Article.

4 (215 ILCS 5/1555 new)

5 Sec. 1555. Standards for policy disclosure, marketing  
6 practices, continuing education, penalties, and reporting  
7 practices.

8 (a) The Director of the Division shall adopt rules  
9 establishing standards of full and fair disclosure concerning  
10 long-term care insurance policies. The standards must require  
11 disclosure of information concerning the following:

12 (1) the sale of the policies;

13 (2) terms of renewability;

14 (3) initial and subsequent terms of eligibility;

15 (4) nonduplication of coverage provisions;

16 (5) coverage of dependents;

17 (6) preexisting conditions;

18 (7) termination of insurance coverage;

19 (8) probationary periods;

20 (9) limitations on coverage;

21 (10) exceptions to coverage;

22 (11) reductions from coverage;

23 (12) elimination periods;

24 (13) requirements for replacement;

25 (14) recurrent conditions;

1           (15) definitions of terms; and

2           (16) continuation or conversion of coverage.

3           (b) The Director of the Division may establish minimum  
4 standards concerning:

5           (1) marketing practices;

6           (2) insurance producer continuing education;

7           (3) penalties; and

8           (4) reporting practices for long-term care insurance.

9           (c) Rules adopted by the Director of the Division under  
10 this Section must:

11           (1) recognize the unique, developing, and experimental  
12 nature of long-term care insurance; and

13           (2) where necessary or appropriate, recognize the  
14 distinctions between group insurance policies and  
15 individual insurance policies.

16           (215 ILCS 5/1560 new)

17           Sec. 1560. Qualification of long-term care policies;  
18 rules. The Division shall adopt rules that establish standards  
19 for the qualification of a long-term care policy. The rules  
20 must include the following:

21           (1) The standards adopted under Section 1555 of this  
22 Code.

23           (2) The requirement that an insurer or other person who  
24 issues a qualified long-term care policy must at a minimum  
25 offer to each policyholder or prospective policyholder a

1 policy that provides both:

2 (A) long-term care facility coverage; and

3 (B) home and community care coverage.

4 (3) A provision that an insurer or other person who  
5 complies with subdivision (2) of this Section may elect to  
6 also offer a qualified long-term care policy that provides  
7 only long-term care facility coverage.

8 (4) The submission of data by insurers that will allow  
9 the Division and the Department to administer the Illinois  
10 long-term care program.

11 (5) Other standards needed to administer the Illinois  
12 long-term care program.

13 (215 ILCS 5/1565 new)

14 Sec. 1565. Loss ratio standards rule. The Director of the  
15 Division may not adopt a rule establishing loss ratio standards  
16 that apply to long-term care insurance policies unless the rule  
17 exclusively concerns long-term care insurance.

18 (215 ILCS 5/1570 new)

19 Sec. 1570. Termination of policy on grounds of age or  
20 deteriorated health. An insurer that issues a long-term care  
21 insurance policy may not cancel, decline to renew, or otherwise  
22 terminate the policy solely on the grounds of the age or  
23 deterioration in mental or physical health of the insured  
24 individual or certificate holder.

1 (215 ILCS 5/1575 new)

2 Sec. 1575. Exclusion of coverage; limitations.

3 (a) As used in this Section, "preexisting condition" means  
4 the existence of either symptoms that would cause an ordinarily  
5 prudent person to seek diagnosis, care, or treatment or a  
6 condition for which medical advice or treatment was recommended  
7 by or received from a provider of health care services within a  
8 period not to exceed either:

9 (1) 12 months preceding the effective date of coverage  
10 of an insured person who is 65 years of age or older on the  
11 effective date of coverage; or

12 (2) 24 months preceding the effective date of coverage  
13 of an insured person who is less than 65 years of age on  
14 the effective date of coverage.

15 (b) A long-term care insurance policy may exclude coverage  
16 for a loss or confinement that is the result of a preexisting  
17 condition only if that loss or confinement begins within:

18 (1) 12 months following the effective date of coverage  
19 of an insured person who is 65 years of age or older on the  
20 effective date of coverage; or

21 (2) 24 months following the effective date of coverage  
22 of an insured person who is under 65 years of age on the  
23 effective date of coverage.

24 (c) The Director of the Division may extend the limitation  
25 periods set forth in this Section concerning specific age group

1 categories in specific policies upon a finding that the  
2 extension is in the best interests of the public.

3 (215 ILCS 5/1580 new)

4 Sec. 1580. Loss or confinement resulting from a preexisting  
5 condition.

6 (a) As used in this Section, "preexisting condition" means  
7 a condition for which medical advice or treatment was  
8 recommended by or received from a provider of health care  
9 services within 6 months preceding the effective date of  
10 coverage of an insured individual.

11 (b) A long-term care insurance policy may not use a  
12 definition of preexisting condition that is more restrictive  
13 than the definition contained in subsection (a) of this  
14 Section.

15 (c) A long-term care insurance policy may not exclude  
16 coverage for a loss or confinement that is the result of a  
17 preexisting condition unless the loss or confinement begins  
18 within 6 months following the effective date of coverage of an  
19 insured individual.

20 (d) The Director of the Division may extend the limitation  
21 period under subsections (a) and (c) of this Section concerning  
22 a specific age group category in a specific policy form upon a  
23 finding by the Director that the extension is in the best  
24 interest of the public.

25 (e) This Section does not prohibit an insurer from doing

1 any of the following:

2 (1) Using an application form designed to elicit the  
3 complete health history of an applicant.

4 (2) Based on an application, underwriting in  
5 accordance with the insurer's established underwriting  
6 standards.

7 (f) Unless otherwise provided in the policy or certificate,  
8 a preexisting condition, regardless of whether the condition is  
9 disclosed on the application, need not be covered until after  
10 the waiting period described in subsection (c) of this Section.

11 (g) A long-term care insurance policy may not exclude or  
12 use a waiver or rider to exclude, limit, or reduce coverage or  
13 benefits for a specifically named or described preexisting  
14 disease or physical condition beyond the waiting period  
15 described in subsection (c) of this Section.

16 (215 ILCS 5/1585 new)

17 Sec. 1585. Conditions on eligibility for benefits;  
18 restrictions.

19 (a) A long-term care insurance policy may not be delivered  
20 or issued for delivery in this State if the policy:

21 (1) conditions eligibility for any benefits on a prior  
22 hospitalization requirement;

23 (2) conditions eligibility for benefits provided in an  
24 institutional care setting on the receipt of a higher level  
25 of institutional care; or



1           (3) conditions eligibility for a benefit other than:

2                   (A) a waiver of premium;

3                   (B) postconfinement;

4                   (C) postacute care; or

5                   (D) recuperative benefits on a prior  
6                   institutionalization requirement.

7           (b) A long-term care insurance policy containing a  
8           postconfinement, postacute, or recuperative benefit must  
9           clearly label in a separate paragraph of the policy a statement  
10           entitled "limitations or conditions on eligibility for  
11           benefits". Under the statement, the policy must outline any  
12           limitations or conditions for benefits.

13           (c) A long-term care insurance policy or rider that  
14           conditions eligibility of noninstitutional benefits on the  
15           prior receipt of institutional care must not require a prior  
16           institutional stay of more than 30 days.

17           (d) A long-term care insurance policy or rider that  
18           provides benefits only following institutionalization may not  
19           condition such benefits upon admission to a facility for the  
20           same or related conditions within a period of less than 30 days  
21           after discharge from the institution.

22           (215 ILCS 5/1590 new)

23           Sec. 1590. Establishment of new waiting period. A  
24           long-term care insurance policy may not:

25                   (1) contain a provision establishing a new waiting

1 period if an existing policy is converted to or replaced by  
2 a new form issued by the same insurer, except in the case  
3 of an increase in benefits voluntarily selected by the  
4 insured individual or group policyholder;

5 (2) be canceled, nonrenewed, or otherwise terminated  
6 on the grounds of age or the deterioration of the mental or  
7 physical health of the insured individual or certificate  
8 holder;

9 (3) provide coverage for skilled nursing care only; or

10 (4) provide significantly more coverage for skilled  
11 care than coverage for a lower level of care.

12 This Section does not prohibit an insurer from voluntarily  
13 waiving any authorized waiting period.

14 (215 ILCS 5/1595 new)

15 Sec. 1595. No obligation return period; notice.

16 (a) An individual long-term care insurance policyholder  
17 may return the policy within 30 days after its delivery and  
18 have the premium refunded if, after examination of the policy,  
19 the policyholder is not satisfied for any reason.

20 (b) Each individual long-term care insurance policy must  
21 have prominently printed on or attached to its first page a  
22 notice setting forth in substance the provisions of subsection  
23 (a) of this Section.

24 (215 ILCS 5/1600 new)

1       Sec. 1600. Direct response solicitation issued policies.

2       (a) A person insured under a long-term care insurance  
3 policy or certificate issued under a direct response  
4 solicitation may return the policy or certificate within 30  
5 days after its delivery and have the premium refunded if the  
6 insured person is not satisfied for any reason.

7       (b) Each long-term care insurance policy or certificate  
8 issued under a direct response solicitation must have printed  
9 on or attached to its first page a notice setting forth in  
10 substance the provisions of subsection (a) of this Section.

11       (215 ILCS 5/1605 new)

12       Sec. 1605. Outline of coverage; contents.

13       (a) The insurer shall deliver an outline of the coverage  
14 provided by an individual long-term care insurance policy to  
15 the prospective applicant at the time of initial solicitation  
16 through means that prominently direct the attention of the  
17 recipient to the document and the document's purpose.

18       (b) The Director of the Division shall prescribe a standard  
19 format regarding: (1) style; (2) arrangement; (3) overall  
20 appearance; and (4) content for an outline of coverage.

21       (c) An insurance producer who solicits a long-term care  
22 insurance policy shall deliver the outline of coverage before  
23 the presentation of an application or enrollment form.

24       (d) The outline of coverage must be presented in  
25 conjunction with any application or enrollment form when there

1 is a direct response solicitation of long-term care insurance.

2 (e) An outline of coverage required under this Section must  
3 include the following:

4 (1) A description of the principal benefits and  
5 coverage provided in the policy.

6 (2) A statement of the principal exclusions,  
7 reductions, and limitations set forth in the policy.

8 (3) A statement of the policy's renewal provisions,  
9 including any reservation by the insurer of a right to  
10 change premiums.

11 (4) A statement that the outline of coverage is a  
12 summary of the policy issued or applied for and that the  
13 policy should be consulted to determine the exact terms of  
14 the coverage provided by the policy.

15 (5) A description of the terms under which the policy  
16 may be returned and the premium refunded.

17 (6) A brief description of the relationship of the cost  
18 of care and benefits.

19 (7) A statement of the terms under which the policy or  
20 certificate may continue or be discontinued, including any  
21 reservation in the policy of the right to change the  
22 premium.

23 (215 ILCS 5/1610 new)

24 Sec. 1610. Policy summary; requirements.

25 (a) A policy summary must be delivered, at the time of

1 policy delivery, for an individual life insurance policy that  
2 provides long-term care benefits within the policy or by a  
3 rider.

4 (b) The insurer shall deliver the policy summary upon the  
5 applicant's request when there is a direct response  
6 solicitation. If there is no request, the insurer shall deliver  
7 the policy summary not later than when the policy is delivered.

8 (c) The policy summary must include the following:

9 (1) An explanation of how long a long-term care benefit  
10 interacts with other components of the policy, including  
11 deductions from a death benefit.

12 (2) An illustration of the amount of a benefit, the  
13 length of a benefit, and the guaranteed lifetime benefits  
14 for each covered person.

15 (3) Any exclusion, reduction, or limitation on  
16 benefits of long-term care.

17 (d) A policy summary required under this Section must also  
18 include the following information, if applicable:

19 (1) A disclosure of any effect of exercising rights  
20 under the policy other than rights referred to in  
21 subsection (c) of this Section.

22 (2) A disclosure of any guarantee related to long-term  
23 care costs of insurance charges.

24 (3) Current and projected maximum lifetime benefits.

1       Sec. 1615. Benefits funded through life insurance by  
2 acceleration of death benefits. If a long-term care benefit,  
3 funded through a life insurance vehicle by the acceleration of  
4 the death benefit, is in benefit payment status, a monthly  
5 report containing the following must be provided to the  
6 policyholder:

7           (1) Any long-term care benefit paid out during the  
8 month.

9           (2) An explanation of any change in the policy,  
10 including a change in death benefit or cash value due to  
11 long-term care benefits being paid.

12           (3) The amount of long-term care benefits remaining  
13 under the policy.

14       (215 ILCS 5/1620 new)

15       Sec. 1620. Group policy certificate; contents. A  
16 certificate issued under a group long-term care insurance  
17 policy that is delivered or issued for delivery in this State  
18 must include the following:

19           (1) a description of the principal benefits and  
20 coverage provided in the policy;

21           (2) a statement of the principal exclusions,  
22 reductions, and limitations set forth in the policy; and

23           (3) a statement that the group master policy should be  
24 consulted to determine the exact terms of the coverage  
25 provided by the policy.

1 (215 ILCS 5/1625 new)

2 Sec. 1625. Application of general insurance law. All other  
3 applicable provisions of this Code not in conflict with the  
4 provisions of this Article shall apply to insurance policies  
5 issued under this Article.

6 (215 ILCS 5/1630 new)

7 Sec. 1630. Group policies issued in another state;  
8 requirements. Group long-term care insurance may not be offered  
9 to a resident of this State under a group policy issued in  
10 another state unless the Director of the Division determines  
11 that the group long-term care insurance policy substantially  
12 complies with insurance requirements similar to those  
13 established under this Article.

14 (215 ILCS 5/1635 new)

15 Sec. 1635. Compensation of insurance producers;  
16 restrictions.

17 (a) As used in this Section, "compensation" includes  
18 pecuniary and nonpecuniary remuneration of any kind relating to  
19 the sale or renewal of the policy or certificate including, but  
20 not limited to, the following:

21 (1) bonuses;

22 (2) gifts;

23 (3) prizes;

1           (4) awards; and

2           (5) finders fees.

3           (b) An insurer or other entity that provides a commission  
4 or other compensation to an insurance producer or other  
5 representative for the sale of a long-term care insurance  
6 policy may not violate the following conditions:

7           (1) The amount of the first year commission or first  
8 year compensation for selling or servicing the policy may  
9 not exceed 200% of the amount of the commission or other  
10 compensation paid in the second year.

11           (2) The amount of commission or other compensation  
12 provided in years after the second year must be equal to  
13 the amount provided in the second year.

14           (3) A commission or other compensation must be provided  
15 each year for at least 5 years after the first year.

16           (c) If an existing long-term care policy or certificate is  
17 replaced, the insurer or other entity that issues the  
18 replacement policy may not provide, and its insurance producer  
19 may not accept, compensation in an amount greater than the  
20 renewal compensation payable by the replacing insurer on  
21 renewal policies, unless the benefits of the replacement policy  
22 or certificate are clearly and substantially greater than the  
23 benefits under the replaced policy or certificate.

24           (d) This Section does not apply to the following:

25           (1) Life insurance policies and certificates.

26           (2) A policy or certificate that is sponsored by an



1 employer for the benefit of:

2 (A) the employer's employees; or

3 (B) the employer's employees and their dependents.

4 (215 ILCS 5/1640 new)

5 Sec. 1640. Violations; civil penalty; amount.

6 (a) In addition to any other sanction provided under this  
7 Article, the Director of the Division may impose a civil  
8 penalty against an insurer who has violated this Article or  
9 rules adopted under this Article. A penalty imposed under this  
10 Article must be the greater of:

11 (1) 3 times the amount of the commissions paid for each  
12 policy involved in the violation; or

13 (2) \$10,000.

14 (b) In addition to any other sanction provided under this  
15 Article, the Director of the Division may impose a penalty  
16 against an insurance producer who has violated this Article or  
17 rules adopted under this Article. The penalty must be the  
18 greater of:

19 (1) up to 3 times the amount of the commissions paid to  
20 that insurance producer for each policy involved in the  
21 violation; or

22 (2) \$2,500.

23 (215 ILCS 5/Art. XIXA rep.)

24 Section 10. The Illinois Insurance Code is amended by

1      repealing Article XIXA.

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