

## LEGISLATIVE BILL 323

Approved by the Governor March 8, 1999

Introduced by Jensen, 20

AN ACT relating to the Long-Term Care Insurance Act; to amend sections 44-4501 and 44-4518, Reissue Revised Statutes of Nebraska; to provide provisions relating to incontestability and nonforfeiture; to change provisions relating to rules and regulations; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 44-4501, Reissue Revised Statutes of Nebraska, is amended to read:

44-4501. Sections 44-4501 to 44-4520 and sections 2 and 3 of this act shall be known and may be cited as the Long-Term Care Insurance Act.

Sec. 2. (1) For a policy or certificate that has been in force for less than six months, an insurer may rescind a long-term care insurance policy or certificate or deny an otherwise valid long-term care insurance claim upon a showing of misrepresentation that is material to the acceptance for coverage.

(2) For a policy or certificate that has been in force for at least six months but less than two years, an insurer may rescind a long-term care insurance policy or certificate or deny an otherwise valid long-term care insurance claim upon a showing of misrepresentation that is both material to the acceptance for coverage and which pertains to the condition for which benefits are sought.

(3) After a policy or certificate has been in force for two years it is not contestable upon the grounds of misrepresentation alone. Such policy or certificate may be contested only upon a showing that the insured knowingly and intentionally misrepresented relevant facts relating to the insured's health.

(4)(a) No long-term care insurance policy or certificate may be field issued based on medical or health status.

(b) For purposes of this section, field issued means a policy or certificate issued by an agent or a third-party administrator pursuant to the underwriting authority granted to the agent or third-party administrator by an insurer.

(5) If an insurer has paid benefits under a long-term care insurance policy or certificate, the benefit payments may not be recovered by the insurer in the event that the policy or certificate is rescinded.

(6) In the event of the death of the insured, this section shall not apply to the remaining death benefit of a life insurance policy that accelerates benefits for long-term care. In this situation, the remaining death benefits under these policies shall be governed by section 44-502. In all other situations, this section shall apply to life insurance policies that accelerate benefits for long-term care.

Sec. 3. (1) Except as provided in subsection (2) of this section, a long-term care insurance policy may not be delivered or issued for delivery in this state unless the policyholder or certificate holder has been offered the option of purchasing a policy or certificate including a nonforfeiture benefit. The offer of a nonforfeiture benefit may be in the form of a rider that is attached to the policy.

(2) When a group long-term care insurance policy is issued, the offer required in subsection (1) of this section shall be made to the group policyholder. However, if the policy is issued as group long-term care insurance, other than to a continuing care retirement community or other similar entity, the offering shall be made to each proposed certificate holder.

(3) The director shall adopt and promulgate rules and regulations specifying the type or types of nonforfeiture benefits to be offered as part of long-term care insurance policies and certificates and the standards for nonforfeiture benefits.

Sec. 4. Section 44-4518, Reissue Revised Statutes of Nebraska, is amended to read:

44-4518. The director shall adopt and promulgate rules and regulations to promote premium adequacy, to protect the policyholder in the event of substantial rate increases, and to establish minimum standards for marketing practices, agent compensation, agent testing, penalties, and reporting practices for long-term care insurance.

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Sec. 5. Original sections 44-4501 and 44-4518, Reissue Revised Statutes of Nebraska, are repealed.