

AMENDED IN ASSEMBLY JULY 23, 1997

AMENDED IN SENATE MAY 22, 1997

SENATE BILL

No. 527

Introduced by Senator Rosenthal

February 24, 1997

An act to add Sections ~~10232.9, 10232.93, and 10232.96~~ to *add and repeal Sections 10232.2, 10232.93, and 10232.96* of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 527, as amended, Rosenthal. Insurance: long-term care.

Existing California law regulates long-term care insurance, and requires that insurance to provide certain benefits.

Existing federal law provides that long-term care insurance is entitled to certain favorable tax treatment if it meets certain requirements.

This bill would provide that if an insurer provides long-term care intended to qualify for favorable tax treatment under federal law, ~~the policy provisions pertaining to an insured's eligibility for benefits shall be as permissive as allowed under federal law and federal regulations.~~ It would require insurers ~~that offer that coverage to~~ *the insurer shall* also offer coverage that conforms to the current state eligibility requirements.

The bill would require insurers to ~~make available a summary of the differences at the time of solicitation, and would require insurers to submit the summaries to the Department of Insurance~~ *provide a specified notice at the*

time of solicitation, and a specified notice in the application form.

The bill would require the Department of Insurance to hold hearings on a draft report concerning implementing the federal long-term insurance program, and to provide the report to the Legislature.

The bill would become inoperative upon a finding by the Insurance Commissioner that federal law or regulations, or other relevant federal decisions, allow long-term care coverage that conforms to the California eligibility requirements to qualify for favorable tax treatment, and would be repealed on January 1, following that finding.

~~The bill would also require specified disclosures on the application forms for long-term care insurance.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 10232.9 is added to the Insurance~~
- 2 SECTION 1. Section 10232.2 is added to the Insurance
- 3 Code, to read:
- 4 10232.2. Every insurer that offers long-term care
- 5 coverage intended to qualify for favorable tax treatment
- 6 under Public Law 104-191 shall at the same time fairly and
- 7 affirmatively offer, market, and sell long-term care
- 8 coverage that is not intended to be federally qualified as
- 9 described in subdivision (a) of Section 10232.1. All
- 10 long-term care insurance contracts approved after the
- 11 effective date of this act shall be required to meet the
- 12 requirements of this chapter.
- 13 SEC. 2. Section 10232.93 is added to the Insurance
- 14 Code, to read:
- 15 10232.93. (a) Each insurer that offers long-term care
- 16 coverage pursuant to Section 10232.2 shall make available
- 17 at the time of a solicitation the following notice in a
- 18 separate document, in 12-point type, to be signed and
- 19 dated by the applicant and agent, with a copy provided
- 20 to the applicant and the original maintained by both the



1 *insurer and agent in accordance with paragraph (8) of*
2 *subdivision (c) of Section 10508:*

3
4 *IMPORTANT NOTICE*

5
6 *WE OFFER TWO TYPES OF LONG-TERM CARE*
7 *POLICIES IN CALIFORNIA.*

8 *(1) LONG-TERM CARE POLICIES (OR*
9 *CERTIFICATES) THAT MEET FEDERAL*
10 *STANDARDS AND ARE INTENDED TO QUALIFY*
11 *FOR FEDERAL TAX BENEFITS.*

12
13
14 *AND*

15
16 *(2) LONG-TERM CARE POLICIES (OR*
17 *CERTIFICATES) THAT MEET CALIFORNIA*
18 *STANDARDS AND ARE NOT INTENDED TO*
19 *QUALIFY FOR FEDERAL TAX BENEFITS BUT*
20 *WHICH MAKE IT EASIER TO QUALIFY FOR HOME*
21 *CARE BENEFITS.*

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2 *(b) The commissioner, with the concurrence of the*
3 *Health Insurance Counseling and Advocacy Program,*
4 *may approve modifications to the language in the notice*
5 *set forth in subdivision (a), following the receipt of public*
6 *comments, if the modifications (1) are warranted based*
7 *on federal laws, federal regulations, or other relevant*
8 *federal decisions, and (2) are strictly limited to those*
9 *necessary to ensure that the summary notice required by*
10 *this section does not provide false or misleading*
11 *information.*

12 *SEC. 3. Section 10232.96 is added to the Insurance*
13 *Code, to read:*

14 *10232.96. Application forms for long-term care*
15 *policies, just above the signature line, shall contain the*
16 *following disclosure statement in at least 12-point*
17 *boldface type:*

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2 SEC. 4. The Department of Insurance shall hold one
3 or more public hearings on a draft report describing
4 California's experience implementing the long-term care
5 insurance provisions of P.L. 104-191 and related state
6 laws, and thereafter shall submit a final report to the
7 Legislature on or before July 1, 1999. The report shall
8 include, but need not be limited to, information
9 concerning:

10 (a) The number of applications both received and
11 approved by insurers for policies intended to qualify for
12 favorable tax treatment and for those not intended to so
13 qualify.

14 (b) Policyholder claims experience and issues
15 associated with the two out of six activities of daily living
16 requirement for policies intended to qualify for favorable
17 tax treatment and the two out of seven activities of daily
18 living requirement for policies not intended to so qualify.

19 (c) Policyholder claims experience and issues
20 associated with the 90-day certification requirement and
21 the Medicare limitations related to policies intended to
22 qualify for favorable tax treatment.

23 (d) Any new federal laws, federal regulations, or other
24 relevant federal decisions related to long-term care
25 insurance.

26 (e) Recommendations for changes to state law related
27 to long-term care insurance.

28 SEC. 5. (a) Sections 1 to 3, inclusive, of this act shall
29 become inoperative when the following requirements
30 have been met:

31 (1) The Insurance Commissioner finds by substantial
32 evidence, following one or more public hearings, that
33 federal law or regulations, or other relevant federal
34 decisions, allow long-term care coverage that conforms to
35 the California eligibility requirements of subdivision (a)
36 of Section 10232.8 of the Insurance Code to qualify for
37 favorable tax treatment under Public Law 104-191.

38 (2) The Insurance Commissioner issues a regulation or
39 other legally binding order that requires insurers that
40 wish to market and sell long-term care policies to conform



1 to the California eligibility requirements of subdivision
2 (a) of Section 10232.8 of the Insurance Code, and files a
3 notice of that regulation or order with the Secretary of
4 State.

5 (b) Sections 1 to 3, inclusive, of this act shall be
6 repealed on January 1 following the filing of the notice
7 with the Secretary of State under subdivision (a), unless
8 a later enacted statute, that becomes operative on or
9 before that date deletes or extends the dates on which it
10 becomes inoperative and is repealed.

**All matter omitted in this version of the
bill appears in the bill as amended in the
Senate, May 22, 1997 (JR 11)**

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CORRECTIONS

Text — Pages 4, 5, 6, and 7.

