

AN ACT

ENTITLED, An Act to revise the definition of long-term care insurance.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 58-17B-2 be amended to read as follows:

58-17B-2. Terms used in this chapter mean:

- (1) "Applicant,"
 - (a) In the case of an individual long-term care insurance policy, the person who seeks to contract for benefits; and
 - (b) In the case of a group long-term care insurance policy, the proposed certificate holder;
- (2) "Certificate," any certificate issued under a group long-term care insurance policy, which policy has been delivered or issued for delivery in this state;
- (3) "Director," the director of the Division of Insurance in this state;
- (4) "Group long-term care insurance," a long-term care insurance policy which is delivered or issued for delivery in this state and issued to:
 - (a) One or more employers or labor organizations, or to a trust or to the trustees of a fund established by one or more employers or labor organizations, or a combination thereof, for employees or former employees or a combination thereof or for members or former members or a combination thereof, of the labor organizations; or
 - (b) Any professional, trade, or occupational association for its members or former or retired members, or combination thereof, if such association:
 - (i) Is composed of individuals all of whom are or were actively engaged in the same profession, trade or occupation; and

- (ii) Has been maintained in good faith for purposes other than obtaining insurance; or
- (c) An association or a trust or the trustee of a fund established, created, or maintained for the benefit of members of one or more associations. Prior to advertising, marketing, or offering such policy within this state, the association or associations, or the insurer of the association or associations, shall file evidence with the director that the association or associations have at the outset a minimum of one hundred persons and have been organized and maintained in good faith for purposes other than that of obtaining insurance; have been in active existence for at least one year; and have a constitution and bylaws which provide that:
 - (i) The association or associations hold regular meetings not less than annually to further purposes of the members;
 - (ii) Except for credit unions, the association or associations collect dues or solicit contributions from members; and
 - (iii) The members have voting privileges and representation on the governing board and committees.

Thirty days after such filing the association or associations will be considered to have satisfied such organizational requirements, unless the director makes a finding that the association or associations have not satisfied those organizational requirements.

- (d) A group other than as described in this section subject to a finding by the director that:
 - (i) The issuance of the group policy is not contrary to the best interest of the public;

- (ii) The issuance of the group policy would result in economies of acquisition or administration; and
 - (iii) The benefits are reasonable in relation to the premiums charged;
- (5) "Guaranteed renewable,"
 - (a) The insured has the right to continue the long-term care insurance in force by the timely payment of premiums; and
 - (b) The insurer has no unilateral right to make any change in provisions of the policy or rider while the insurance is in force and cannot decline to renew the policy. However, rates may be revised by the insurer on a class basis subject to approval by the Division of Insurance;
- (6) "Long-term care insurance," any insurance policy or rider advertised, marketed, offered, or designed to provide coverage for not less than twelve consecutive months for each covered person on an expense incurred, indemnity, prepaid, or other basis; for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance or personal care services, provided in a setting other than an acute care unit of a hospital. Such term includes group and individual policies or riders whether issued by insurers; fraternal benefit societies; nonprofit health, hospital and medical service corporations; prepaid health plans; health maintenance organizations or any similar organization. Long-term care insurance does not include any insurance policy which is offered primarily to provide basic medicare supplement coverage, basic hospital expense coverage, basic medical-surgical expense coverage, hospital confinement, accident only coverage, specified disease or specified accident coverage or limited benefit health coverage;
- (7) "Mental or nervous disorder," may not be defined more restrictively than including

neurosis, psychoneurosis, psychopathy, psychosis, or mental or emotional disease or disorder. However, no policy, contract or rider may exclude or limit benefits on the basis of organic brain disease, including alzheimer's disease or senile dementia;

- (8) "Policy," any policy, contract, subscriber agreement, rider, or endorsement delivered or issued for delivery in this state by an insurer; fraternal benefit society; nonprofit health, hospital, or medical service corporation; prepaid health plan; health maintenance organization or any similar organization.

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I certify that the attached Act
originated in the

SENATE as Bill No. 186

Secretary of the Senate

President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 186

File No. _____

Chapter No. _____

Received at this Executive Office
this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

The attached Act is hereby
approved this _____ day of
_____, A.D., 20____

Governor

STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 20____
at _____ o'clock ____ M.

Secretary of State

By _____
Asst. Secretary of State