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Original sponsor(s): HESS Committee

1 IN THE SENATE BY THE HESS COMMITTEE  
2 CS FOR SENATE BILL NO. 315 (HESS)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 SIXTEENTH LEGISLATURE - SECOND SESSION  
5 A BILL  
6 For an Act entitled: "An Act relating to long-term care disability insur-  
7 ance; and providing for an effective date."  
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:  
9 \* Section 1. PURPOSE. The purpose of this Act is to promote the public  
10 interest and the availability of long-term care disability insurance poli-  
11 cies, to protect applicants for long-term care disability insurance from  
12 unfair or deceptive sales or enrollment practices, to establish standards  
13 for long-term care disability insurance, to facilitate public understanding  
14 and comparison of long-term care disability insurance policies, and to  
15 facilitate flexibility and innovation in the development of long-term care  
16 disability insurance coverage.  
17 \* Sec. 2. AS 21 is amended by adding a new chapter to read:  
18 CHAPTER 53. LONG-TERM CARE DISABILITY INSURANCE.  
19 Sec. 21.53.010. PROHIBITED SALE OR ADVERTISING. An insurer,  
20 hospital or medical service corporation, or a fraternal benefit soci-  
21 ety may not advertise, market, sell, deliver, or offer for delivery a  
22 long-term care disability insurance policy unless the policy complies  
23 with this chapter, AS 21.18, AS 21.45, the disability insurance re-  
24 quirements imposed under AS 21.51, and, if a group policy, the group  
25 disability insurance requirements imposed under AS 21.54.  
26 Sec. 21.53.020. DISCLOSURE AND PERFORMANCE STANDARDS. An insur-  
27 er, hospital or medical service corporation, or a fraternal benefit  
28 society that delivers or issues for delivery a long-term care disabil-  
29 ity insurance policy may not

1 (1) cancel, fail to renew, or otherwise terminate the  
2 policy on the grounds of age or deterioration of the mental or phys-  
3 ical health of the insured or certificate holder;

4 (2) include a provision requiring a new waiting period in  
5 the event existing coverage is converted to or replaced by a new or  
6 another form of disability insurance within the same company, unless  
7 there is an increase in benefits voluntarily selected by the insured;  
8 or

9 (3) provide coverage only for skilled nursing care, or  
10 provide significantly more coverage for skilled care in a facility  
11 than is provided for coverage for lower levels of care; evaluation of  
12 the coverage provided under this paragraph must be based on the number  
13 of days of coverage provided for lower levels of care, when compared  
14 to the number of days of coverage provided for skilled care.

15 Sec. 21.53.030. PREEXISTING CONDITIONS. (a) An insurer, hospi-  
16 tal or medical service corporation, or a fraternal benefit society  
17 may not include, in a long-term care disability insurance policy or  
18 certificate, a definition of "preexisting condition" that is more  
19 restrictive than the following: preexisting condition means the  
20 existence of symptoms that would cause an ordinarily prudent person to  
21 seek diagnosis, care, or treatment, or a condition for which medical  
22 advice or treatment was recommended by, or received from a provider of  
23 health care services, within six months preceding the effective date  
24 of coverage of an insured person.

25 (b) In a long-term care disability insurance policy or certifi-  
26 cate an insurer, hospital or medical service corporation, or a frater-  
27 nal benefit society may not exclude coverage for a loss or confinement  
28 that is the result of a preexisting condition, unless the loss or  
29 confinement begins within six months following the effective date of

1 coverage of an insured person.

2 (c) The director may extend the limitation periods established  
3 under (a) and (b) of this section for specific age group categories or  
4 specific policy forms, if the director finds that the extension is in  
5 the best interest of the public.

6 (d) This section does not prohibit an insurer, hospital or  
7 medical service corporation, or a fraternal benefit society from using  
8 an application form designed to elicit the complete health history of  
9 an applicant, and, on the basis of the answers on the application,  
10 from applying that insurer's, hospital or medical service corpora-  
11 tion's, or fraternal benefit society's established underwriting stan-  
12 dards. Unless otherwise provided in the policy or certificate, a  
13 preexisting condition, regardless of whether it is disclosed on the  
14 application, need not be covered until the waiting period described in  
15 (b) of this section expires. A long-term care disability insurance  
16 policy or certificate may not exclude, limit, or reduce, or use waiv-  
17 ers or riders of any kind to exclude, limit, or reduce coverage or  
18 benefits for specifically named or described preexisting diseases or  
19 physical conditions after the waiting period described in (b) of this  
20 section, unless the waiver or rider has been specifically approved by  
21 the director.

22 Sec. 21.53.040. PRIOR HOSPITAL OR INSTITUTIONAL CARE CONDITIONS  
23 PROHIBITED. (a) A long-term care disability insurance policy may not  
24 be delivered or issued for delivery in this state if the policy condi-  
25 tions eligibility

26 (1) on a prior hospitalization requirement;

27 (2) on the receipt of a higher level of institutional care,  
28 when care is provided in an institutional setting;

29 (3) for noninstitutional benefits on a prior institutional

1 stay of more than 30 days for which benefits are paid; or  
2 (4) on admission to an institutional care facility for the  
3 same or a related condition within a period of less than 30 days after  
4 discharge from the institution, if the policy provides benefits only  
5 following institutionalization.

6 (b) A long-term care disability insurance policy may contain a  
7 limitation or condition on eligibility for benefits, not prohibited in  
8 (a) of this section, if the limitation or condition is clearly set out  
9 in a separate paragraph of the policy or certificate.

10 Sec. 21.53.050. RIGHT OF RETURN; OUTLINE OF COVERAGE. (a) A  
11 long-term care disability insurance applicant may return a policy  
12 within 30 days after delivery and have the premium refunded if, after  
13 examination of the policy, the applicant is not satisfied with the  
14 policy. A long-term care disability insurance policy must have a  
15 notice prominently printed on the first page of the policy or sepa-  
16 rately attached stating that the applicant has the right to return the  
17 policy within 30 days of its delivery and to have the premium refunded  
18 if, after examination of the policy, the applicant is not satisfied  
19 with the policy.

20 (b) An insurer, hospital or medical service corporation, or a  
21 fraternal benefit society shall deliver an outline of coverage to a  
22 prospective applicant for long-term care disability insurance at the  
23 time of initial solicitation by a means that prominently directs the  
24 attention of the recipient to the document and its purpose. In the  
25 case of agent solicitations, an agent shall deliver the outline of  
26 coverage before the presentation of an application or enrollment form.  
27 In the case of direct response solicitations, the outline of coverage  
28 must be presented in conjunction with an application or enrollment  
29 form. The outline of coverage must include

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

3 (2) a statement of the principal exclusions, reductions,  
4 and limitations contained in the policy;

5 (3) a statement of the terms under which the policy or  
6 certificate, or both, may be continued in force or discontinued,  
7 including a reservation in the policy of a right to change the pre-  
8 mium; continuation or conversion provisions of group coverage must be  
9 specifically described;

10 (4) a statement that the outline of coverage is a summary  
11 only, not a contract of insurance, and that the policy or group master  
12 policy contain governing contractual provisions;

13 (5) a description of the terms under which the policy or  
14 certificate may be returned and premium refunded; and

15 (6) a brief description of the relationship between the  
16 cost of care and benefits.

17 (c) A certificate issued under a group long-term care disability  
18 insurance policy that is delivered or issued for delivery in this  
19 state must include

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

22 (2) a statement of the principal exclusions, reductions,  
23 and limitations contained in the policy; and

24 (3) a statement that the group master policy establishes  
25 the governing contractual provisions.

26 Sec. 21.53.060. GROUP LONG-TERM CARE BENEFITS UNDER LIFE INSUR-  
27 ANCE POLICIES. (a) In addition to the requirements of AS 21.45, at  
28 the time of policy delivery, a policy summary shall be included with  
29 an individual life insurance policy if the policy or policy rider

1 provides long-term care disability benefits. In the case of direct  
2 response solicitations, the insurer shall deliver the policy summary  
3 upon the applicant's request, but regardless of request shall deliver  
4 a policy summary not later than the time of policy delivery. The  
5 summary must include

6 (1) an explanation of how the long-term care benefits  
7 interact with other components of the policy, including deductions  
8 from death benefits;

9 (2) an illustration of the amount and length of benefits,  
10 and guaranteed lifetime benefits, if any, for each covered person;

11 (3) an explanation of each exclusion, reduction, and limi-  
12 tation on long-term care disability benefits; and

13 (4) if applicable to the policy type,

14 (A) disclosure of the effects of exercising other  
15 rights under the policy;

16 (B) disclosure of guarantees related to the long-term  
17 care disability costs of insurance charges; and

18 (C) current and projected maximum lifetime benefits.

19 (b) If a long-term care disability benefit is paid under a life  
20 insurance policy by the acceleration of the policy death benefit, and  
21 is in benefit payment status, a monthly report shall be provided to  
22 the policyholder. The report must include

23 (1) long-term care disability benefits paid out during the  
24 month;

25 (2) an explanation of changes in the policy, including  
26 changes in death benefits or cash values, due to long-term care dis-  
27 ability benefits being paid out; and

28 (3) the amount of long-term care disability benefits re-  
29 maining.

1           Sec. 21.53.070.   GROUP LONG-TERM CARE DISABILITY INSURANCE.  
2           Group long-term care disability insurance coverage may not be offered  
3           to a resident of this state under a group policy issued in another  
4           state, unless the state in which the policy is issued has statutory or  
5           regulatory provisions applicable to group long-term care disability  
6           insurance that are substantially similar to this chapter and the  
7           director determines that the issuance of the group policy is not  
8           contrary to the best interest of the public, results in economies of  
9           acquisition or administration, and the benefits are reasonable in  
10          relation to the premiums charged.

11          Sec. 21.53.080.   ORGANIZATIONAL REQUIREMENTS OF ASSOCIATIONS. An  
12          insurer, hospital or medical service corporation, or a fraternal  
13          benefit society may not issue group long-term care disability insur-  
14          ance to an association or a trust or the trustee of a fund estab-  
15          lished, created, or maintained for the benefit of members of one or  
16          more associations, unless the association or the insurer of the asso-  
17          ciation files evidence with the director that the association has

- 18                           (1) a minimum of 100 members;  
19                           (2) been organized and maintained in good faith for pur-  
20          poses other than that of obtaining insurance;  
21                           (3) been in active existence for at least one year; and  
22                           (4) a constitution and by-laws that require  
23                                   (A) the association to hold regular meetings not less  
24          than annually to further purposes of the members;  
25                                   (B) except for credit unions, the association to  
26          collect dues or solicit contributions from members; and  
27                                   (C) the members to have voting privileges and repre-  
28          sentation on the governing board and committees.

29          Sec. 21.53.090.   REQUIRED REGULATIONS. The director shall adopt

1 regulations regarding the sale of long-term care disability insurance  
2 that provide standards for

- 3 (1) terms of renewability;
- 4 (2) initial and subsequent conditions of eligibility;
- 5 (3) nonduplication of coverage provisions;
- 6 (4) coverage of dependents;
- 7 (5) preexisting conditions;
- 8 (6) termination of insurance;
- 9 (7) continuation or conversion;
- 10 (8) probationary periods, limitations, exceptions, reduc-  
11 tions, elimination periods, and requirements for replacement.

12 Sec. 21.53.200. DEFINITIONS. In this chapter,

13 (1) "applicant" means in the case of an individual long-  
14 term care disability insurance policy, the person who seeks to con-  
15 tract for benefits, and in the case of a group long-term care disabili-  
16 ty insurance policy, the proposed certificate holder;

17 (2) "certificate" means a certificate issued under a group  
18 long-term care disability insurance policy that has been delivered or  
19 issued for delivery in this state;

20 (3) "group long-term care disability insurance" means a  
21 long-term care disability insurance policy, subscriber's contract, or  
22 fraternal benefit society certificate that is delivered or issued for  
23 delivery in this state and issued to

24 (A) one or more employers or labor organizations, or  
25 to a trust or to the trustees of a fund established by one or  
26 more employers or labor organizations, or a combination of them,  
27 for employees or former employees or a combination of them, or  
28 for members or former members or a combination of them, of the  
29 labor organization;

1 (B) a professional, trade, or occupational association  
2 for its members or former or retired members, or combination of  
3 them, if the association is composed of individuals all of whom  
4 are or were actively engaged in the same profession, trade, or  
5 occupation, and has been maintained in good faith for purposes  
6 other than obtaining insurance;

7 (C) an association or a trust or the trustee of a fund  
8 established, created, or maintained for the benefit of members of  
9 one or more associations;

10 (D) a group other than described in this paragraph if  
11 the director determines that the issuance of the group policy is  
12 not contrary to the best interest of the public, would result in  
13 economies of acquisition or administration, and the benefits are  
14 reasonable in relation to the premiums charged;

15 (4) "long-term care disability insurance" means an indi-  
16 vidual or group insurance policy, including group and individual life  
17 insurance or annuities, a subscriber's contract, fraternal benefit  
18 society certificate, or rider advertised, marketed, offered, or de-  
19 signed to provide coverage for not less than 12 consecutive months for  
20 each covered person on an expense incurred, indemnity, prepaid, or  
21 other basis, for one or more necessary or medically necessary diagnos-  
22 tic, preventive, therapeutic, rehabilitative, maintenance, or personal  
23 care services that are provided in a setting other than an acute care  
24 unit of a hospital, and includes a policy or rider that provides for  
25 payment of benefits based on cognitive impairment or loss of func-  
26 tional capacity; "long-term care disability insurance" does not in-  
27 clude an insurance policy, subscriber's contract, or fraternal benefit  
28 society certificate that is offered primarily to provide basic Medi-  
29 care supplement coverage, basic hospital expense coverage, basic

1 medical-surgical expense coverage, hospital confinement indemnity  
2 coverage, major medical expense coverage, disability income and relat-  
3 ed asset protection coverage, catastrophic coverage, comprehensive  
4 coverage, accident only coverage, specified disease or specified  
5 accident coverage, or limited benefit health coverage;

6 (5) "policy" means a contract, subscriber agreement, rider,  
7 or endorsement delivered or issued for delivery in this state by an  
8 insurer, fraternal benefit society, nonprofit health, hospital or  
9 medical service corporation, prepaid health plan, or health mainte-  
10 nance organization.

11 \* Sec. 3. AS 21.84.590 is amended to read:

12 Sec. 21.84.590. OTHER PROVISIONS APPLICABLE. In addition to the  
13 provisions contained in this chapter, the following provisions of this  
14 title apply to fraternal benefit societies to the extent applicable  
15 and not in conflict with the express provisions of this chapter and  
16 the reasonable implications of this chapter:

- 17 (1) AS 21.03  
18 (2) AS 21.06  
19 (3) AS 21.09.050 and 21.09.100  
20 (4) AS 21.33  
21 (5) AS 21.36  
22 (6) AS 21.42.290 and 21.42.355  
23 (7) AS 21.53  
24 (8) AS 21.69.370 and 21.69.640  
25 (9) [(8)] AS 21.78  
26 (10) [(9)] AS 21.89.060.

27 \* Sec. 4. AS 21.87.340 is amended to read:

28 Sec. 21.87.340. OTHER PROVISIONS APPLICABLE. In addition to the  
29 provisions contained or referred to previously in this chapter, the

1 following chapters and provisions of this title also apply with re-  
2 spect to service corporations to the extent applicable and not in  
3 conflict with the express provisions of this chapter and the reason-  
4 able implications of the express provisions, and for the purposes of  
5 the application the corporations shall be considered to be mutual  
6 "insurers":

- 7 (1) AS 21.03
- 8 (2) AS 21.06
- 9 (3) AS 21.09, except AS 21.09.090
- 10 (4) AS 21.18.010
- 11 (5) AS 21.18.030
- 12 (6) AS 21.18.040
- 13 (7) AS 21.18.120
- 14 (8) AS 21.21.321
- 15 (9) AS 21.36
- 16 (10) AS 21.53
- 17 (11) AS 21.69.400
- 18 (12) [(11)] AS 21.69.520
- 19 (13) [(12)] AS 21.69.600, 21.69.620, and 21.69.630
- 20 (14) [(13)] AS 21.78
- 21 (15) [(14)] AS 21.90
- 22 (16) [(15)] AS 21.42.345 - 21.42.365
- 23 (17) [(16)] AS 21.89.040
- 24 (18) [(17)] AS 21.89.060.

25 \* Sec. 5. This Act takes effect July 1, 1990.