

**SFA**

BILL ANALYSIS

Senate Fiscal Agency

Lansing, Michigan 48909

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Senate Bill 250 (as enrolled)  
 Senate Bill 311 (as enrolled)  
 Sponsor: Senator Doug Carl  
 Committee: Commerce and Technology

PUBLIC ACT 305 of 1989  
PUBLIC ACT 306 of 1989

Date Completed: 4-23-90

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**RATIONALE**

As public attention increasingly focuses on the need for protection against the high costs of long-term care, and as more insurance companies begin to market long-term care policies, the kinds of consumer problems that reportedly have been associated with the marketing of Medicare supplemental policies to senior citizens could be expected to recur. Buying insurance can be a complicated and confusing task, made even more difficult perhaps for senior citizens who wish to buy health-related policies that complement their existing coverages under Medicare. Insurance specialists say that older consumers often purchase duplicative or overlapping insurance policies while at the same time believing they are covered for certain kinds of care when they are not. Current law requires that customers for Medicare supplemental policies be provided with a summary of benefits in a specified form. Many people believe that this same kind of consumer information should be provided to customers for long-term care policies.

**CONTENT**

Senate Bill 250 (S-3) would amend the Nonprofit Health Care Corporation Reform Act and Senate Bill 311 (S-3) would amend Chapter 20 of the Insurance Code, the Uniform Trade Practices Act, to require that insurers offering individual or nongroup long-term care coverage provide a summary of benefits to prospective applicants before application and, upon request, before renewal. The insurer would have to obtain an acknowledgment of receipt of the summary on the application form or renewal form by obtaining the customer's signature. Insurers using direct sales methods would have

to provide the summary in connection with the initial application and upon request before renewal. The summary of coverage would have to be in substantially the form prescribed in the bills, i.e., the summary would have to list the benefit category such as skilled nursing care or home health benefits, define the category, and indicate the amount and extent of the coverage for that category. The bills would take effect January 1, 1990.

The bills also would require that application forms for long-term care coverage contain a notice to customers that additional information on such coverage was available by writing to the Insurance Bureau (with the address provided) or by calling the local area Agency on Aging.

Long-term care coverage would have to include coverage for intermediate/basic care, and could not limit or exclude coverage by type of illness, treatment, medical condition, or accident other than a motor vehicle accident except for the following:

- Preexisting conditions.
- Alcoholism or drug addiction.
- Aviation. (This exclusion would apply only to passengers who do not pay a fare.)
- Illness, treatment or medical condition as a result of declared or undeclared war or act of war; participation in a felony, riot, or insurrection; service in the armed forces or auxiliary units.
- Suicide (sane or insane), attempted suicide, or intentionally self-inflicted injury.

S.B. 250 &amp; 311 (4-23-90)

- Mental or nervous disorders. This would not include more than neurosis, psychoneurosis, psychopathy, psychosis, or mental or emotional disease or disorder and would not permit exclusion or limitation of benefits on the basis of Alzheimer's disease or related disorders.

These provisions would not be intended, however, to prohibit exclusions and limitations by type of provider or territorial limitations.

Long-term care coverage, other than home care coverage, could provide that before certain coverages in the policy took effect, care would have to be recommended first by a person or persons as provided in the policy or certificate and approved by the Insurance Commissioner, or prescribed by a licensed treating physician. Long-term coverage for home care could provide that before coverage for home care in the policy took effect, care would first have to be prescribed or recommended by a person or persons as provided in the policy and approved by the Commissioner. Any policy or certificate advertised, marketed or offered as long-term care or nursing home coverage would have to comply with provisions of the Act that pertain to the regulation of long-term care coverage. (Such provisions apply to coverage issued on or after January 1, 1990, and any renewals of such coverage.)

Senate Bill 311 (S-3) also would raise the maximum fine for misrepresentation by an agent from \$100 per violation to \$1,000 per violation. At the court's discretion, an agent could instead be sentenced to imprisonment in the county jail of the county in which the offense was committed.

Senate Bill 250 (S-3) is tie-barred to Public Acts 131 and 132 of 1989 which amended the Insurance Code and the Nonprofit Health Care Corporation Reform Act, respectively, to prohibit insurers from providing a commission or compensation to an agent, representative, or employee for the sale or service of a disability policy or rider issued to a person eligible for Medicare that is higher in the first year of the policy (or certificate) than the commission or compensation paid in each of the two subsequent, consecutive annual renewal periods.

Further, the Acts prohibit insurers from issuing to an individual eligible for Medicare a

disability policy or rider that provides for a new pre-existing condition limitation waiting period if coverage is converted to or replaced by a new or other form of similar coverage with the same insurer or any of its affiliates. If the pre-existing condition limitation waiting period in the original or replaced policy has not expired, the replacement policy may include the remaining term of the waiting period. These provisions do not apply to an increase in benefits voluntarily selected by the individual.

MCL 550.1430 et al. (S.B. 250)  
500.2069 et al. (S.B. 311)

## FISCAL IMPACT

### Senate Bill 250 (S-3)

Senate Bill 250 (S-3) would have no fiscal impact on State or local government.

### Senate Bill 311 (S-3)

Senate Bill 311 (S-3) would have an indeterminate fiscal impact on the State and no fiscal impact on local government. The number of insurers, agents, solicitors, or counselors who would be required to pay the increased fine to the State for misrepresenting the terms of an insurance policy cannot be determined.

## ARGUMENTS

### Supporting Argument

The bills would require that customers for long-term care policies be provided with the same kind of information that people shopping for Medicare supplemental policies are given. This is a method of helping senior citizens (and others) purchase the insurance coverages they need and only those they need. Consumers need clear explanations of what is covered and not covered by the policies they are contemplating purchasing if they are to make sensible decisions. Further, applications would have to notify consumers of how to obtain additional information from the Insurance Bureau or the local Area Agency on Aging.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.