

106TH CONGRESS
1ST SESSION

S. 36

To amend title 5, United States Code, to provide for the establishment of a program under which long-term care insurance may be obtained by Federal employees and annuitants.

IN THE SENATE OF THE UNITED STATES

JANUARY 19, 1999

Mr. GRASSLEY (for himself and Mr. GRAHAM) introduced the following bill;
which was read twice and referred to the Committee on Governmental Affairs

A BILL

To amend title 5, United States Code, to provide for the establishment of a program under which long-term care insurance may be obtained by Federal employees and annuitants.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “The American Worker
5 Long-Term Care Affordability Act of 1999”.

1 **SEC. 2. LONG-TERM CARE INSURANCE.**

2 (a) IN GENERAL.—Subpart G of part III of title 5,
 3 United States Code, is amended by adding at the end the
 4 following:

5 **“CHAPTER 90—LONG-TERM CARE INSURANCE**

“Sec.

“9001. Definitions.

“9002. Availability of insurance.

“9003. Participating carriers.

“9004. Administrative functions.

“9005. Coordination with State laws.

“9006. Commercial items.

6 **“§ 9001. Definitions**

7 “In this chapter:

8 “(1) The term ‘employee’ has the meaning
 9 given such term by section 8901, but does not in-
 10 clude an individual employed by the government of
 11 the District of Columbia.

12 “(2) The term ‘annuitant’—

13 “(A) means—

14 “(i) a former employee who, based on
 15 the service of that individual, receives an
 16 annuity under subchapter III of chapter
 17 83, chapter 84, or another retirement sys-
 18 tem for employees of the Government (dis-
 19 regarding title XVIII of the Social Security
 20 Act (42 U.S.C. 1395 et seq.) and any re-
 21 tirement system established for employees
 22 described in section 2105(c)); and

1 “(ii) any individual who receives an
 2 annuity under any retirement system re-
 3 ferred to in clause (i) (disregarding those
 4 described parenthetically) as the surviving
 5 spouse of an employee (including an
 6 amount under section 8442(b)(1)(A),
 7 whether or not an annuity under section
 8 8442(b)(1)(B) is also payable) or of a
 9 former employee under clause (i); and

10 “(B) does not include a former employee of
 11 a Government corporation excluded by regula-
 12 tion of the Office of Personnel Management or
 13 the spouse of such a former employee.

14 “(3) The term ‘eligible relative’, as used with
 15 respect to an employee or annuitant, means each of
 16 the following:

17 “(A) The spouse of the employee or annu-
 18 itant.

19 “(B) The father or mother of the employee
 20 or annuitant, or an ancestor of either.

21 “(C) A stepfather or stepmother of the em-
 22 ployee or annuitant.

23 “(D) The father-in-law or mother-in-law of
 24 the employee or annuitant.

1 “(E) A son or daughter of the employee or
2 annuitant who is at least 18 years of age.

3 “(F) A stepson or stepdaughter of the em-
4 ployee or annuitant who is at least 18 years of
5 age.

6 “(4) The term ‘Government’ means the Govern-
7 ment of the United States, including an agency or
8 instrumentality thereof.

9 “(5) The term ‘group long-term care insurance’
10 means group long-term care insurance purchased by
11 the Office of Personnel Management under this
12 chapter.

13 “(6) The term ‘individual long-term care insur-
14 ance’ means any long-term care insurance offered
15 under this chapter which is not group long-term care
16 insurance.

17 “(7) A carrier shall be considered to be a ‘quali-
18 fied carrier’, with respect to a State, if it is licensed
19 to issue group or individual long-term care insurance
20 (as the case may be) under the laws of such State.

21 “(8) The term ‘qualified long-term care insur-
22 ance contract’ has the meaning given such term by
23 section 7702B of the Internal Revenue Code of
24 1986.

1 “(9) The term ‘State’ means a State, the Dis-
 2 trict of Columbia, the Commonwealth of Puerto
 3 Rico, the Commonwealth of the Northern Mariana
 4 Islands, the Trust Territory of the Pacific Islands,
 5 the Virgin Islands, Guam, American Samoa, and
 6 any other territory or possession of the United
 7 States.

8 **“§ 9002. Availability of insurance**

9 “(a) The Office of Personnel Management shall es-
 10 tablish and administer a program through which employ-
 11 ees and annuitants may obtain group or individual long-
 12 term care insurance for themselves, a spouse, or, to the
 13 extent permitted under the terms of the contract of insur-
 14 ance involved, any other eligible relative.

15 “(b) Long-term care insurance may not be offered
 16 under this chapter unless—

17 “(1) the only insurance protection provided is
 18 coverage under qualified long-term care insurance
 19 contracts; and

20 “(2) the insurance contract under which such
 21 coverage is provided is issued by a qualified carrier.

22 “(c) In addition to the requirements otherwise appli-
 23 cable under section 9001(8), in order to be considered a
 24 qualified long-term care insurance contract for purposes

1 of this chapter, a contract shall be fully insured, whether
 2 through reinsurance with other companies or otherwise.

3 “(d) Nothing in this chapter shall be considered to
 4 require that long-term care insurance coverage be made
 5 available in the case of any individual who would be imme-
 6 diately benefit eligible.

7 **“§ 9003. Participating carriers**

8 “(a) Before the beginning of each year, the Office of
 9 Personnel Management shall—

10 “(1) identify each carrier through whom any
 11 long-term care insurance may be obtained under this
 12 chapter during such year; and

13 “(2) prepare a list of the carriers identified
 14 under paragraph (1), and a summary description of
 15 the insurance obtainable under this chapter from
 16 each.

17 “(b) In order to carry out its responsibilities under
 18 subsection (a), the Office shall annually specify the time-
 19 table (including any application deadlines) and other pro-
 20 cedures that shall be followed by carriers seeking to be
 21 allowed to offer long-term care insurance under this chap-
 22 ter during the following year.

23 “(c) Before the beginning of each year, the Office
 24 shall in a timely manner—

1 “(1) publish in the Federal Register the list
2 (and summary description) prepared under sub-
3 section (a) for such year; and

4 “(2) make available to each individual eligible
5 to obtain long-term care insurance under this chap-
6 ter such information, in a form acceptable to the Of-
7 fice after consultation with the carrier, as may be
8 necessary to enable the individual to exercise an in-
9 formed choice among the various options available
10 under this chapter.

11 “(d)(1) The Office shall arrange to have the appro-
12 priate individual or individuals receive—

13 “(A) a copy of any policy of insurance obtained
14 under this chapter; or

15 “(B) in the case of group long-term care insur-
16 ance, a certificate setting forth the benefits to which
17 an individual is entitled, to whom the benefits are
18 payable, and the procedures for obtaining benefits,
19 and summarizing the provisions of the policy prin-
20 cipally affecting the individual or individuals in-
21 volved.

22 “(2) Any certificate issued under paragraph (1)(B)
23 shall be issued instead of the certificate which the insur-
24 ance company would otherwise be required to issue.

1 **“§ 9004. Administrative functions**

2 “(a) Except as provided in section 9003, the sole
3 functions of the Office of Personnel Management under
4 this chapter shall be as follows:

5 “(1) To provide reasonable opportunity (con-
6 sisting of not less than one continuous 30-day period
7 each year) for eligible employees and annuitants to
8 obtain long-term care insurance coverage under this
9 chapter.

10 “(2) To provide for a means by which the cost
11 of any long-term care insurance coverage obtained
12 under this chapter may be paid for through
13 withholdings from the pay or annuity of the em-
14 ployee or annuitant involved.

15 “(3) To contract for a qualified long-term care
16 insurance contract (in the case of group long-term
17 care insurance) with each qualified carrier that of-
18 fers such insurance, if such carrier submits a timely
19 application under section 9003(b) and complies with
20 such other procedural rules as the Office may pre-
21 scribe.

22 “(b) Nothing in this chapter shall be considered to
23 permit or require the Office to—

24 “(1) prevent from being offered under this
25 chapter any individual long-term care insurance
26 under a qualified contract; or

1 “(2) prescribe or negotiate over the benefits to
 2 be offered, or any of the terms or conditions under
 3 which any such benefits shall be offered, under this
 4 chapter.

5 **“§ 9005. Coordination with State laws**

6 “(a) The provisions of any contract under this chap-
 7 ter for group long-term care insurance may include provi-
 8 sions to supersede and preempt any provisions of State
 9 or local law described in subsection (b), or any regulation
 10 issued thereunder.

11 “(b) This subsection applies to any provision of law
 12 which in effect carries out the same policy as section 5
 13 of the long-term care insurance model Act, promulgated
 14 by the National Association of Insurance Commissioners
 15 (as adopted as of September 1997).

16 **“§ 9006. Commercial items**

17 “For purposes of the Office of Federal Procurement
 18 Policy Act (41 U.S.C. 403 et seq.), a long-term care insur-
 19 ance contract under this chapter shall be considered a
 20 commercial item, as defined in section 4(12) of such Act.”.

21 (b) CONFORMING AMENDMENT.—The table of chap-
 22 ters for part III of title 5, United States Code, is amended
 23 by adding at the end of subpart G the following:

“90. Long-Term Care Insurance 9001”.

1 **SEC. 3. EFFECTIVE DATE.**

2 The Office of Personnel Management shall take all
3 necessary actions to ensure that long-term care insurance
4 coverage under chapter 90 of title 5, United States Code,
5 (as added by this Act) may be obtained in time to take
6 effect beginning on the first day of the first applicable pay
7 period beginning on or after January 1, 2000.

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