S T A T E   O F   N E W   Y O R K

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I N S E N A T E

January 7, 2016

Introduced by Sens. KLEIN, CARLUCCI, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the tax law and the insurance law, in relation to credits for premiums paid for long-term care insurance policies

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision 1 of section 190 of the tax law, as amended by section 102 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

1. General. A taxpayer shall be allowed a credit against the tax imposed by this article equal to twenty percent of the premium paid during the taxable year for long-term care insurance OR FOR A POLICY RIDER TO A LIFE INSURANCE POLICY ISSUED PURSUANT TO SUBPARAGRAPH (C), (D), (E) OR (F) OF PARAGRAPH ONE OF SUBSECTION (A) OF SECTION ONE THOUSAND ONE HUNDRED THIRTEEN OF THE INSURANCE LAW.

In order to qualify for such credit, the taxpayer's premium payment must be for the purchase of or for continuing coverage under a long-term care insurance policy that qualifies for such credit pursuant to section one thousand one hundred seventeen of the insurance law.

S 2. Paragraph (a) of subdivision 14 of section 210-B of the tax law, as added by section 17 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

(a) General. A taxpayer shall be allowed a credit against the tax imposed by this article equal to twenty percent of the premium paid during the taxable year for long-term care insurance OR FOR A POLICY RIDER TO A LIFE INSURANCE POLICY ISSUED PURSUANT TO SUBPARAGRAPH (C), (D), (E) OR (F) OF PARAGRAPH ONE OF SUBSECTION (A) OF SECTION ONE THOUSAND ONE HUNDRED THIRTEEN OF THE INSURANCE LAW.

In order to qualify for such credit, the taxpayer's premium payment must be for the purchase of or for continuing coverage under a long-term care insurance policy that qualifies for such credit pursuant to section one thousand one hundred seventeen of the insurance law.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD13304-01-5

S 3. Paragraph 1 of subsection (aa) of section 606 of the tax law, as amended by section 1 of part P of chapter 61 of the laws of 2005, is amended to read as follows:

(1) Residents. A taxpayer shall be allowed a credit against the tax imposed by this article equal to twenty percent of the premium paid during the taxable year for long-term care insurance OR FOR A POLICY RIDER TO A LIFE INSURANCE POLICY ISSUED PURSUANT TO SUBPARAGRAPH (C), (D), (E) OR (F) OF PARAGRAPH ONE OF SUBSECTION (A) OF SECTION ONE THOUSAND ONE HUNDRED THIRTEEN OF THE INSURANCE LAW.

In order to qualify for such credit, the taxpayer's premium payment must be for the purchase of or for continuing coverage under a long-term care insurance policy that qualifies for such credit pursuant to section one thousand one hundred seventeen of the insurance law. If the amount of the credit allowable under this subsection for any taxable year shall exceed the taxpayer's tax for such year, the excess may be carried over to the following year or years and may be deducted from the taxpayer's tax for such year or years.

S 4. Paragraph 1 of subdivision (m) of section 1511 of the tax law, as amended by section 21 of part B of chapter 58 of the laws of 2004, is amended to read as follows:

(1) A taxpayer shall be allowed a credit against the tax imposed by this article equal to twenty percent of the premium paid during the taxable year for long-term care insurance OR FOR A POLICY RIDER TO A LIFE INSURANCE POLICY ISSUED PURSUANT TO SUBPARAGRAPH (C), (D), (E) OR (F) OF PARAGRAPH ONE OF SUBSECTION (A) OF SECTION ONE THOUSAND ONE HUNDRED THIRTEEN OF THE INSURANCE LAW.

In order to qualify for such credit, the taxpayer's premium payment must be for the purchase of or for continuing coverage under a long-term care insurance policy that qualifies for such credit pursuant to section one thousand one hundred seventeen of the insurance law.

S 5. Paragraphs 1 and 2 of subsection (g) of section 1117 of the insurance law, paragraph 1 as amended by chapter 417 of the laws of 2001, paragraph 2 as amended by section 12 of part E of chapter 63 of the laws of 2000 and subparagraphs (A) and (B) of paragraph 2 as amended by chapter 311 of the laws of 2002, are amended to read as follows:

(1) Except for certain group contracts described in paragraph four of this subsection, in order for premium payments for long-term care insurance, OR FOR A POLICY RIDER TO A LIFE INSURANCE POLICY ISSUED PURSUANT TO SUBPARAGRAPH (C), (D), (E) OR (F) OF PARAGRAPH ONE OF SUBSECTION (A) OF SECTION ONE THOUSAND ONE HUNDRED THIRTEEN OF THIS ARTICLE, to qualify for purposes of section one hundred ninety, subdivision [twenty-five-a] FOURTEEN of section two hundred [ten] TEN-B, subsection (aa) of section six hundred six[, subsection (k) of section one thousand four hundred fifty-six] and subsection (m) of section one thousand five hundred eleven of the tax law, the long-term care insurance OR SUCH POLICY RIDER must be approved by the superintendent pursuant to this subsection. Prior to approving any such insurance OR POLICY RIDER, the superintendent shall conclude that it meets minimum standards, including minimum loss ratio standards under this section or section three thousand two hundred twenty-nine of this chapter and is a qualified long-term care insurance contract as defined in section 7702B of the internal revenue code.

(2) (A) No insurer, agent, broker, person, business or corporation doing business in or into this state shall in any manner state, advertise or claim that a long-term care insurance policy, OR A POLICY RIDER TO A LIFE INSURANCE POLICY ISSUED PURSUANT TO SUBPARAGRAPH (C), (D),

(E), OR (F) OF PARAGRAPH ONE OF SUBSECTION (A) OF SECTION ONE THOUSAND ONE HUNDRED THIRTEEN OF THIS ARTICLE, qualifies for purposes of the above-referenced provisions of the tax law unless either: (i) the superintendent has issued a letter or other written instrument to the insurer stating that the policy OR POLICY RIDER has been determined to qualify under this subsection, or (ii) the policy OR POLICY RIDER qualifies under paragraph four of this subsection without the need for approval by the superintendent.

(B) Any policy OR POLICY RIDER which is held out or purported to be a long-term care insurance policy by any insurer, agent, broker, person, business or corporation doing business in or into this state which has not been determined by the superintendent to qualify and which does not qualify under paragraph four of this subsection for purposes of the above referenced provisions of the tax law shall so state clearly, legibly and in close physical proximity to any description of the policy OR POLICY RIDER as a long-term care insurance policy that it does not so qualify. This subsection shall also be deemed to cover any statement, advertisement or claim concerning such policy by any insurer, agent, broker, person, business or corporation doing business in or into this state.

(C) Violation of this paragraph shall be considered a misrepresentation under section [twenty-one] TWO THOUSAND ONE hundred twenty-three of this chapter.

S 6. This act shall take effect on the first of April next succeeding the date on which it shall have become a law.