# STATE OF NEW YORK

5591

2017-2018 Regular Sessions

## IN ASSEMBLY

February 10, 2017

Introduced by M. of A. GJONAJ, GARBARINO, RAIA, WALTER -- Multi-Sponsored by -- M. of A. SIMON -- read once and referred to the Committee on Ways and Means

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 1 2 section 102 of part A of chapter 59 of the laws of 2014, is amended to 3 read as follows: 4 1. General. A taxpayer shall be allowed a credit against the tax imposed by this article equal to [twenty percent] the following percent-5 ages of the premium paid during the taxable year for long-term care б 7 insurance or for a policy rider to a life insurance policy issued pursu-8 ant to subparagraph (C), (D), (E) or (F) of paragraph one of subsection 9 (a) of section one thousand one hundred thirteen of the insurance law: 10 (a) forty percent if the insured is less than forty years of age at 11 the end of the tax year for the first four policy years; 12 (b) thirty percent if the insured is less than fifty years of age, but 13 forty or more years of age, at the end of the tax year for the first 14 four policy years; (c) twenty-five percent if the insured is less than fifty-five years 15 of age, but fifty or more years of age, at the end of the tax year for 16 17 the first four policy years; or (d) twenty percent if the insured is fifty-five or more years of age 18 19 at the end of the tax year, and for all other insureds who have had a 20 policy for five years or more. 21 In order to qualify for such credit, the taxpayer's premium payment 22 must be for the purchase of or for continuing coverage under a long-term 23 care insurance policy that qualifies for such credit pursuant to section 24 one thousand one hundred seventeen of the insurance law.

EXPLANATION--Matter in <u>italics</u> (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD09046-01-7

A. 5591

§ 2. Paragraph (a) of subdivision 14 of section 210-B of the tax law, 1 2 added by section 17 of part A of chapter 59 of the laws of 2014, is as 3 amended to read as follows: 4 (a) General. A taxpayer shall be allowed a credit against the tax 5 imposed by this article equal to [twenty percent] the following percentб ages of the premium paid during the taxable year for long-term care 7 insurance or for a policy rider to a life insurance policy issued pursu-8 ant to subparagraph (C), (D), (E) or (F) of paragraph one of subsection 9 (a) of section one thousand one hundred thirteen of the insurance law: 10 (i) forty percent if the insured is less than forty years of age at 11 the end of the tax year for the first four policy years; (ii) thirty percent if the insured is less than fifty years of age, 12 13 but forty or more years of age, at the end of the tax year for the first 14 four policy years; (iii) twenty-five percent if the insured is less than fifty-five years 15 16 of age, but fifty or more years of age, at the end of the tax year for 17 the first four policy years; or (iv) twenty percent if the insured is fifty-five or more years of age 18 at the end of the tax year, and for all other insureds who have had a 19 20 policy for five years or more. 21 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 22 23 care insurance policy that qualifies for such credit pursuant to section one thousand one hundred seventeen of the insurance law. 24 25 § 3. Paragraph 1 of subsection (aa) of section 606 of the tax law, as 26 amended by section 1 of part P of chapter 61 of the laws of 2005, is 27 amended to read as follows: (1) Residents. A taxpayer shall be allowed a credit against the tax 28 29 imposed by this article equal to [twenty percent] the following percentages of the premium paid during the taxable year for long-term care 30 31 insurance or for a policy rider to a life insurance policy issued pursu-32 ant to subparagraph (C), (D), (E) or (F) of paragraph one of subsection 33 (a) of section one thousand one hundred thirteen of the insurance law: 34 (A) forty percent if the insured is less than forty years of age at 35 the end of the tax year for the first four policy years; (B) thirty percent if the insured is less than fifty years of age, but 36 37 forty or more years of age, at the end of the tax year for the first 38 four policy years; (C) twenty-five percent if the insured is less than fifty-five years 39 of age, but fifty or more years of age, at the end of the tax year for 40 41 the first four policy years; or 42 (D) twenty percent if the insured is fifty-five or more years of age 43 at the end of the tax year, and for all other insureds who have had a 44 policy for five years or more. 45 In order to qualify for such credit, the taxpayer's premium payment 46 must be for the purchase of or for continuing coverage under a long-term 47 care insurance policy that qualifies for such credit pursuant to section one thousand one hundred seventeen of the insurance law. If the amount 48 of the credit allowable under this subsection for any taxable year shall 49 50 exceed the taxpayer's tax for such year, the excess may be carried over 51 to the following year or years and may be deducted from the taxpayer's 52 tax for such year or years. 53 § 4. Paragraph 1 of subdivision (m) of section 1511 of the tax law, as 54 amended by section 21 of part B of chapter 58 of the laws of 2004, is 55 amended to read as follows:

2

1 (1) A taxpayer shall be allowed a credit against the tax imposed by 2 this article equal to [twenty percent] the following percentages of the 3 premium paid during the taxable year for long-term care insurance or for 4 a policy rider to a life insurance policy issued pursuant to subpara-5 graph (C), (D), (E) or (F) of paragraph one of subsection (a) of section б one thousand one hundred thirteen of the insurance law: 7 (A) forty percent if the insured is less than fifty years of age at 8 the end of the tax year for the first four policy years; 9 (B) thirty percent if the insured is less than fifty years of age, but 10 forty or more years of age, at the end of the tax year for the first 11 four policy years; (C) twenty-five percent if the insured is less than fifty-five years 12 13 of age, but fifty or more years of age, at the end of the tax year for 14 the first four policy years; or 15 (D) twenty percent if the insured is fifty-five or more years of age 16 at the end of the tax year, and for all other insureds who have had a 17 policy for five years or more. In order to qualify for such credit, the taxpayer's premium payment 18 must be for the purchase of or for continuing coverage under a long-term 19 20 care insurance policy that qualifies for such credit pursuant to section 21 one thousand one hundred seventeen of the insurance law. 22 § 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 23 2001, paragraph 2 as amended by section 12 of part E of chapter 63 24 of 25 the laws of 2000 and subparagraphs (A) and (B) of paragraph 2 as amended 26 by chapter 311 of the laws of 2002, are amended to read as follows: 27 (1) Except for certain group contracts described in paragraph four of 28 this subsection, in order for premium payments for long-term care insur-29 ance, or for a policy rider to a life insurance policy issued pursuant 30 to subparagraph (C), (D), (E) or (F) of paragraph one of subsection (a) 31 of section one thousand one hundred thirteen of this article, to qualify 32 for purposes of section one hundred ninety, subdivision [twenty five a] 33 **fourteen** of section two hundred [**ten-B**, subsection (aa) of section six hundred six[, subsection (k) of section one thousand four hundred 34 35 **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 36 must be approved by the superintendent pursuant to this subsection. 37 Prior to approving any such insurance or policy rider, the superinten-38 dent shall conclude that it meets minimum standards, including minimum 39 loss ratio standards under this section or section three thousand two 40 41 hundred twenty-nine of this chapter and is a qualified long-term care 42 insurance contract as defined in section 7702B of the internal revenue 43 code. 44 (2) (A) No insurer, agent, broker, person, business or corporation 45 doing business in or into this state shall in any manner state, adver-46 tise or claim that a long-term care insurance policy, or a policy rider 47 to a life insurance policy issued pursuant to subparagraph (C), (D), (E), or (F) of paragraph one of subsection (a) of section one thousand 48 one hundred thirteen of this article, qualifies for purposes of the 49 50 above-referenced provisions of the tax law unless either: (i) the super-51 intendent has issued a letter or other written instrument to the insurer 52 stating that the policy or policy rider has been determined to qualify 53 under this subsection, or (ii) the policy or policy rider qualifies 54 under paragraph four of this subsection without the need for approval by 55 the superintendent.

### A. 5591

of this chapter.

15

(B) Any policy or policy rider which is held out or purported to be a 1 long-term care insurance policy by any insurer, agent, broker, person, 2 business or corporation doing business in or into this state which has 3 not been determined by the superintendent to qualify and which does not 4 5 qualify under paragraph four of this subsection for purposes of the above referenced provisions of the tax law shall so state clearly, legiб bly and in close physical proximity to any description of the policy  $\ \underline{\text{or}}$ 7 8 **policy rider** as a long-term care insurance policy that it does not so 9 qualify. This subsection shall also be deemed to cover any statement, advertisement or claim concerning such policy by any insurer, agent, 10 11 broker, person, business or corporation doing business in or into this 12 state. (C) Violation of this paragraph shall be considered a misrepresen-13 14 tation under section [twenty-one] two thousand one hundred twenty-three

16 § 6. This act shall take effect on the first of April next succeeding 17 the date on which it shall have become a law.