

MAR 14 2005  
APPROPRIATIONS

HOUSE FILE 736  
BY COMMITTEE ON COMMERCE,  
REGULATION AND LABOR

(SUCCESSOR TO HF 353)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to asset disregard under the medical assistance  
2 program for the purchase of a certified long-term care  
3 insurance policy, providing for a repeal, providing a  
4 contingent effective date, and providing an appropriation.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20

HF 736

1 Section 1. NEW SECTION. 249J.1 DEFINITIONS.

2 As used in this chapter, unless the context otherwise  
3 requires:

4 1. "Certified long-term care insurance policy" means a  
5 long-term care insurance contract that is issued by an insurer  
6 or other person who complies with section 249J.4.

7 2. "Long-term care facility" means a facility licensed  
8 under chapter 135C or an assisted living program certified  
9 under chapter 231C.

10 3. "Long-term care insurance" means long-term care  
11 insurance as defined in section 514G.4 and regulated in  
12 section 514G.7.

13 4. "Qualified long-term care services" means qualified  
14 long-term care services as defined in section 7702B(c) of the  
15 Internal Revenue Code.

16 Sec. 2. NEW SECTION. 249J.2 IOWA LONG-TERM CARE ASSET  
17 DISREGARD INCENTIVE PROGRAM -- ESTABLISHMENT AND  
18 ADMINISTRATION.

19 1. The Iowa long-term care asset disregard incentive  
20 program is established to do all of the following:

21 a. Provide incentives for individuals to insure against  
22 the costs of providing for their long-term care needs.

23 b. Provide a mechanism for individuals to qualify for  
24 coverage of the costs of their long-term care needs under the  
25 medical assistance program without first being required to  
26 substantially exhaust all their resources.

27 c. Assist in developing methods for increasing access to  
28 and the affordability of long-term care insurance.

29 d. Alleviate the financial burden on the state's medical  
30 assistance program by encouraging the pursuit of private  
31 initiatives.

32 2. The insurance division of the department of commerce  
33 shall administer the program in cooperation with the division  
34 responsible for medical services within the department of  
35 human services. Each agency shall take appropriate action to

1 maintain the waiver granted by the centers for Medicare and  
2 Medicaid services of the United States department of health  
3 and human services under 42 U.S.C. § 1396 relating to  
4 providing medical assistance under chapter 249A, in effect  
5 prior to the effective date of this Act.

6 Sec. 3. NEW SECTION. 249J.3 ELIGIBILITY.

7 An individual who is the beneficiary of a certified long-  
8 term care insurance policy approved by the insurance division  
9 is eligible for assistance under the medical assistance  
10 program using the asset disregard provisions pursuant to  
11 section 249J.5.

12 Sec. 4. NEW SECTION. 249J.4 INSURER REQUIREMENTS.

13 1. An insurer or other person who wishes to issue a  
14 certified long-term care insurance policy meeting the  
15 requirements of this chapter shall, at a minimum, offer to  
16 each policyholder or prospective policyholder a policy that  
17 provides both of the following:

18 a. Facility coverage, including but not limited to long-  
19 term care facility coverage.

20 b. Nonfacility coverage, including but not limited to home  
21 and community-based care coverage.

22 2. An insurer or other person who complies with subsection  
23 1 may also elect to offer a certified long-term care insurance  
24 policy that provides only facility coverage.

25 Sec. 5. NEW SECTION. 249J.5 ASSET DISREGARD ADJUSTMENT.

26 1. As used in this section, "asset disregard" means a one  
27 dollar increase in the amount of assets an individual who  
28 purchases a certified long-term care insurance policy and  
29 meets the requirements of section 249J.3 may retain under  
30 section 249A.35 for each one dollar of benefit paid out under  
31 the individual's certified long-term care insurance policy for  
32 qualified long-term care services if the policy meets all of  
33 the following criteria:

34 a. If purchased prior to January 1, 2005, provides  
35 benefits in an amount equal to at least one hundred thirty

1 thousand dollars as computed on January 1, 2005.

2 b. If purchased on or after January 1, 2005, provides  
3 benefits in an amount equal to at least one hundred thirty  
4 thousand dollars as computed on January 1, 2005, compounded  
5 annually by at least five percent, or an amount equal to at  
6 least the minimum face amount specified by the commissioner of  
7 insurance pursuant to subsection 3, whichever amount is  
8 greater.

9 c. Includes a provision under which the total amount of  
10 the benefit increases by at least five percent, compounded  
11 annually.

12 2. When the division responsible for medical services  
13 within the department of human services determines whether an  
14 individual is eligible for medical assistance under chapter  
15 249A, the division shall make an asset disregard adjustment  
16 for any individual who meets the requirements of section  
17 249J.3. The asset disregard shall be available after benefits  
18 of the certified long-term care insurance policy have been  
19 applied to the cost of qualified long-term care services as  
20 required under this chapter.

21 3. Beginning September 1, 2006, or one year after the  
22 effective date of this Act, whichever is later, the  
23 commissioner of insurance shall issue a bulletin annually on  
24 that date, declaring the minimum face amount for policies to  
25 qualify for the Iowa long-term care asset disregard incentive  
26 program for the following calendar year. In making this  
27 determination, the commissioner shall consult with the  
28 division responsible for collecting data on average nursing  
29 home costs in Iowa. Additionally, in making this  
30 determination, the commissioner shall consider the current  
31 average daily cost for three years of nursing home care and  
32 other relevant information.

33 Sec. 6. NEW SECTION. 249J.6 APPLICATION OF ASSET  
34 DISREGARD TO DETERMINATION OF INDIVIDUAL'S ASSETS.

35 A public program administered by the state that provides

1 long-term care services and bases eligibility upon the amount  
2 of the individual's assets shall apply the asset disregard  
3 under section 249J.5 in determining the amount of the  
4 individual's assets.

5 Sec. 7. NEW SECTION. 249J.7 PRIOR PROGRAM --  
6 DISCONTINUATION OF PROGRAM.

7 1. If the Iowa long-term care asset disregard incentive  
8 program is discontinued, an individual who is covered by a  
9 certified long-term care insurance policy prior to the date  
10 the program is discontinued is eligible to continue to receive  
11 an asset disregard as defined under section 249J.5.

12 2. An individual who is covered by a long-term care  
13 insurance policy under the long-term care asset preservation  
14 program established pursuant to chapter 249G, Code 2005, on or  
15 before the effective date of this Act, is eligible to continue  
16 to receive the asset adjustment as defined under that chapter.

17 3. The insurance division shall adopt rules to provide an  
18 asset disregard to individuals who are covered by a long-term  
19 care insurance policy prior to the effective date of this Act,  
20 consistent with the Iowa long-term care asset disregard  
21 incentive program.

22 Sec. 8. NEW SECTION. 249J.8 RECIPROCAL AGREEMENTS TO  
23 EXTEND ASSET DISREGARD.

24 The division responsible for medical services within the  
25 department of human services may enter into reciprocal  
26 agreements with other states to extend the asset disregard  
27 under section 249J.5 to Iowa residents who had purchased or  
28 were covered by certified long-term care insurance policies in  
29 other states.

30 Sec. 9. NEW SECTION. 249J.9 RULES.

31 The department of human services and the insurance division  
32 of the department of commerce shall adopt rules pursuant to  
33 chapter 17A as necessary to administer this chapter. The  
34 insurance division shall consult with representatives of the  
35 insurance industry in adopting such rules. This delegation of

1 rulemaking authority shall be construed narrowly.

2 Sec. 10. NEW SECTION. 249A.35 PURCHASE OF CERTIFIED  
3 LONG-TERM CARE INSURANCE POLICY -- COMPUTATION UNDER MEDICAL  
4 ASSISTANCE PROGRAM.

5 A computation for the purposes of determining eligibility  
6 under this chapter concerning an individual who has purchased  
7 a certified long-term care insurance policy under chapter 249J  
8 shall include consideration of the asset disregard provided in  
9 section 249J.5.

10 Sec. 11. Chapter 249G, Code 2005, is repealed.

11 Sec. 12. MEDICAID STATE PLAN WAIVERS.

12 1. The department shall amend the medical assistance state  
13 plan to provide that all amounts paid for qualified long-term  
14 care services under a certified long-term care insurance  
15 policy shall be considered in determining the amount of the  
16 asset disregard.

17 2. The department of human services shall seek approval of  
18 a state plan amendment or make application to the United  
19 States department of health and human services for any waivers  
20 necessary to implement chapter 249J, as enacted in this Act.

21 Sec. 13. CONTINGENT EFFECTIVE DATE -- IOWA LONG-TERM CARE  
22 ASSET DISREGARD INCENTIVE PROGRAM.

23 1. This Act shall not take effect until both of the  
24 following conditions are met:

25 a. Funding is specifically appropriated to the insurance  
26 division of the department of commerce for the purpose of the  
27 Iowa long-term care asset disregard incentive program. The  
28 insurance division shall notify the Code editor if such  
29 appropriation is made.

30 b. All necessary Medicaid state plan amendments and  
31 waivers are approved by the United States department of health  
32 and human services. The department of human services shall  
33 notify the Code editor if such approval is received.

34 2. If the requirements of subsection 1 are met, the  
35 program shall begin no sooner than six months following the

1 date that both requirements are met.

2 Sec. 14. APPROPRIATION. There is appropriated from the  
3 general fund of the state to the division of insurance of the  
4 department of commerce for the fiscal year beginning July 1,  
5 2005, and ending June 30, 2006, the following amount, or so  
6 much thereof as is necessary, to establish an educational  
7 program to inform Iowans regarding the Iowa long-term care  
8 asset disregard incentive program and for up to the following  
9 full-time equivalent positions:

10	.....	\$	300,000
11	.....	FTEs	2.00

12 EXPLANATION

13 This bill establishes an Iowa long-term care asset  
14 disregard incentive program to provide incentives for  
15 individuals to insure against the costs of their long-term  
16 care needs, provide a mechanism for individuals to qualify for  
17 coverage of the costs of their long-term care needs under the  
18 medical assistance program without first being required to  
19 substantially exhaust all their resources, increase access to  
20 and the affordability of long-term care insurance, and  
21 alleviate the financial burden on the state's medical  
22 assistance program by encouraging the pursuit of private  
23 initiatives. The bill directs the insurance division of the  
24 department of commerce to administer the program in  
25 cooperation with the division responsible for medical services  
26 within the department of human services. The bill directs the  
27 department of human services and the division of insurance to  
28 each take appropriate action to maintain the waiver granted by  
29 the centers for Medicare and Medicaid services of the United  
30 States department of health and human services under 42 U.S.C.  
31 § 1396 relating to providing assistance under Code chapter  
32 249A, in effect prior to the effective date of the bill.

33 The bill requires insurers who wish to issue certified  
34 long-term care insurance policies that meet the requirements  
35 of the bill to offer, at a minimum, a policy that provides

1 both facility coverage and nonfacility coverage. If the  
2 insurer provides both types of coverage, the insurer may also  
3 offer a policy that provides only facility coverage.

4 Under the bill, an individual who purchases or is covered  
5 by a certified long-term care insurance policy would be  
6 allowed an asset disregard under the medical assistance  
7 program. The asset disregard is a \$1 increase in the amount  
8 of assets the individual may retain under the medical  
9 assistance program for each \$1 of benefits paid out under the  
10 individual's certified long-term care insurance policy for  
11 qualified long-term care services if the benefits meet minimum  
12 amounts established in the bill.

13 The bill also provides that beginning September 1, 2006, or  
14 one year after the effective date of the bill, whichever is  
15 later, the commissioner of insurance is to issue a bulletin on  
16 September 1 of each year, declaring the minimum face amount  
17 for policies to qualify for the asset disregard program for  
18 the following calendar year. In making this determination,  
19 the commissioner is to consult with the division responsible  
20 for collecting data on average nursing home costs in Iowa.  
21 Additionally, in making this determination, the commissioner  
22 is to consider the current average daily cost for three years  
23 of nursing home care and other relevant information.

24 The bill provides that if the Iowa long-term care asset  
25 disregard incentive program is discontinued, an individual who  
26 purchased or is covered under a certified long-term care  
27 insurance policy prior to the date the program is discontinued  
28 is eligible to continue to receive an asset disregard under  
29 the bill. The bill allows an individual participating in the  
30 asset preservation program existing on the effective date of  
31 the bill to continue to receive that asset adjustment and  
32 directs the department to adopt rules to allow an individual  
33 who purchased long-term care insurance prior to the effective  
34 date of the bill to receive an asset disregard incentive. The  
35 bill allows for reciprocal agreements to extend the asset

1 disregard program to Iowa residents who have purchased or are  
2 covered under certified long-term care insurance policies in  
3 other states.

4 The bill authorizes the department of human services and  
5 the insurance division to adopt rules to administer this new  
6 Code chapter, but this authority is to be construed narrowly.  
7 The insurance division is directed to consult with  
8 representatives of the insurance industry in adopting such  
9 rules.

10 The bill directs the department of human services to amend  
11 the medical assistance state plan to allow for disregard of  
12 all amounts paid out under a certified long-term care  
13 insurance policy and to seek approval of a state plan  
14 amendment or any waiver necessary from the federal government  
15 to implement the bill.

16 The bill repeals Code chapter 249G, the current long-term  
17 care asset preservation program.

18 The bill provides that the long-term care asset disregard  
19 incentive program and other provisions of the bill take effect  
20 only if funds are specifically appropriated to the insurance  
21 division for that purpose, only if the necessary Medicaid  
22 state plan amendment and waiver are approved, and then no  
23 sooner than six months after both of those requirements are  
24 met.

25 The bill appropriates \$300,000 from the general fund of the  
26 state to the division of insurance of the department of  
27 commerce for the fiscal year beginning July 1, 2005, and  
28 ending June 30, 2006, to establish an educational program to  
29 inform Iowans regarding the Iowa long-term care asset  
30 disregard incentive program and for up to two full-time  
31 equivalent positions.

32  
33  
34  
35