# Statement of the Maryland Federation of National Active and Retired Federal Employees – State Legislative Committee

## Senate Bill 137

## Income Tax – Credit for Long Term Care Premiums

## (Long Term Care Relief Act of 2023)

Good Afternoon, Chairwoman Atterbeary and Members of the Ways and Means Committee. My name is Paul Schwartz and I am the Chair of the State Legislative Committee (SLC) of the Maryland Federation of NARFE, the National Active and Retired Federal Employees Association. The mission of NARFE is to promote the general welfare of current and potential Federal annuitants by advising them with respect to their rights under retirement laws and regulations. We represent approximately 300,000 Federal employees and annuitants living in Maryland.

For many years, the NARFE SLC has advocated for legislation in Maryland which would foster the purchase of long term care (LTC) insurance by Maryland consumers.  With this bill, we see the opportunity to help older LTC policy holders by offering substantial annual relief for their ever increasing annual premiums.  For the benefit of all Maryland taxpayers, NARFE supports Senate Bill 137, Income Tax – Credit for Long Term Care Insurance (Long Term Care Relief Act of 2022).

**What SB 137 Will Do**

Under current Maryland law, a taxpayer can take a one-time only credit against the State income tax for 100% of your eligible LTC insurance premiums to a maximum of $500.   SB 137 will allow eligible taxpayers to take an annual credit which will be the smaller amount of either 20% of his or her annual premium or $2000.  This is a significant increase in the LTC tax credit compared to the tax credits offered by the numerous previous unsuccessful bills introduced in the Assembly over the years. To be eligible for this new tax credit, the taxpayer must have a MD Adjusted Gross Income of under $250,000, and the taxpayer must have purchased the LTC policy before January 1, 2005.  This date would cover many policies purchased during the early days of this insurance (beginning in the 1980's), when companies often underpriced policies to pocket premium income.  When the LTC insurers found the cost of providing benefits far exceeded the premium income, they raised premiums astronomically and many retirees ended up priced out of their own policies.[i]   Even the Federal version of LTC insurance – called the Federal Long Term Care Life Insurance Program --  over the last ten years had existent policy average increases of 83%.[ii] SB 137 thus offers some real relief to the taxpayers who bought an underpriced policy early and then saw large premium increases in recent years.

**LTC Insurance Tax Credits under Federal and Maryland Law**

It is helpful to look at the tax credits possible under SB 137 in the context of current LTC tax credit legislation. Tax credits for LTC insurance have been in place since 1996 for Federal tax returns. Federal law treats LTC premiums as deductible unreimbursed medical expenses, but only if an individual's unreimbursed medical expenses exceed 10% of the individual's Federal adjusted gross income. LTC premiums may also qualify for pretax reimbursement plans such as Health Savings Accounts.

In Maryland, since 2000 Maryland law has provided for the one-time $500 tax credit described above for taxpayers. In addition, since 1998, any employer, including organizations exempt from taxation under §501(c)(3) or (4) of the Internal Revenue Code, that provides long-term care insurance as part of an employee benefit package may claim a credit for costs incurred during the taxable year. The credit may be taken against corporate income tax, personal income tax, insurance premiums tax or public service company franchise tax. The same credit may not, however, be applied to more than one tax type.

Sole proprietorships, corporations and pass-through entities, such as partnerships, subchapter S corporations, limited liability companies and business trusts may claim the tax credit. The credit allowed is 5% of the employer's cost which may not exceed the lesser of $5,000, or $100 for each employee in the State covered by long-term care insurance provided under the employee benefits package. If the credit is more than the tax liability, the unused credit may be carried forward for the next five (5) tax years.

Thus, the robust tax credits which SB 137 would provide will offer significant help to older LTC insurance holders compared to the status quo of Federal and Maryland law.

**The Importance of LTC Insurance**

As noted above, SB 137 will help older taxpayers who bought LTC policies in the early days keep their policies, which is important because of the likelihood they will need LTC. As all members of this Committee are well aware, statistics show that Maryland faces an aging population of Baby Boomers – by 2030, 25% of Maryland residents will be 60 years old or older. Figures from the Federal Department of Health and Human Services show that over ½ of all persons 65 years old and older will need substantial amounts of Long Term Care at some point in their lives, and about 15% of these seniors will need 5 or more years of Long Term Care. The costs of Long Term Care are high -- ranging from around $50,000 a year for home health aides to well over $100,000 for nursing home care.

If a Maryland taxpayer who has a longstanding LTC policy is faced with exorbitant premium increases, he or she may consider letting the policy lapse and taking their chances with Medicare or Medicaid, believing these will help – but they will be disappointed. Medicare's coverage of nursing home care is quite limited. Medicare covers only up to 100 days of "skilled nursing care" per illness. To qualify, you must enter a Medicare-approved "skilled nursing facility" or nursing home within 30 days of a hospital stay that lasted at least three days. The care in the nursing home must be for the same condition as the hospital stay.

Regarding Medicaid, middle class families generally cannot qualify. Medicaid helps needy individuals pay for long-term care, but you do not need to be completely destitute to qualify. While in general a Medicaid applicant can have no more than $2,000 in assets in order to qualify, this figure is higher in some states and there are many assets that don't count toward this limit. For example, the applicant's home will not be considered a countable asset for eligibility purposes to the extent the equity in the home is less than $585,000, with the states having the option of raising this limit to $878,000 (in 2019). In all states, the house may be kept with no equity limit if the Medicaid applicant's spouse or another dependent relative lives there. In addition the spouse of a nursing home resident may keep one half of the couple's joint assets up to $126,420 (in 2019). But other assets may be subject to what is called a Medicaid spend-down which can be quite complicated and usually needs the work of an experienced attorney to accomplish.

In light of all this, long term care insurance can be a good choice. We suggest that the new continuing and larger tax credit provided under SB 137 will allow many taxpayers to keep their LTC insurance when the alternative would be dropping an unaffordable policy, and having to rely on Medicare or Medicaid coverage, the latter of which would significantly increase state spending.

In preparing my statement, I looked on the Maryland General Assembly website at all of the hearings on the site on the prior versions of this bill – and there were quite a few as many of you know. In some earlier years, the LTC tax credit bills had numerous sponsors and bipartisan support, yet failed to make it out of committee. The Fiscal Notes for these earlier bills of course showed a decrease in revenue from expected use of the tax credit, but the Notes would ignore and never discuss the potential savings in state Medicaid spending from people using LTC insurance instead of Medicaid. The Fiscal Note for this SB 137 is no different.

I hope you will see this bill as a win-win for both taxpayers and the state and give a favorable report for SB 137.

Thank you.

Paul K. Schwartz

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[i] See, e.g., "Why a 41-Year Old Bought Long Term Care Insurance", by Jeff D. Opdyke, at https://www.rate.com/research/news/long-term-care-insurance

[ii] See "The Premium Stabilization Feature of the FLTCIP, by Benefits Ben", February 19, 2021, at https://stwserve.com/premium-stabilization-feature-fltcip/