Elderly Social Care (Insurance) Bill [HL]

[AS INTRODUCED]

CONTENTS

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BILL

TO

Establish a publicly owned body to provide insurance for home owners at cost against selling their homes to pay for elderly social care; and for connected purposes.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 The Public Social Care Insurance Body

(1) The Secretary of State must, within two years of this Act being passed, establish by regulations a public not-for-profit company, owned and guaranteed by Her Majesty's Government, to be known as the Public Social Care Insurance Body ("the Body").

(2) The purpose of the Body is to provide home owners in England with the option of purchasing insurance from the Body against the risk of needing to sell their homes to pay for elderly residential social care in England.

(3) Purchasing the insurance provided by the Body is not mandatory, and home owners who choose not to purchase the insurance continue to be subject to existing regulations regarding the provision of social care.

2 The cost of the insurance

(1) The Body is empowered to set the cost of the insurance for each home owner in England who seeks to purchase an insurance policy from the Body, as set out in subsections (2) to (11).

(2) The Body must annually assess and publish the premiums necessary to meet the cost of insuring properties for a schedule of residential property values.

(3) In calculating those premiums the Body must take into account the proportion of home owners in England who are eventually assessed as needing elderly residential social care, the lengths of time that home owners stay in elderly residential care receiving social care, and therefore the additional cost to local authorities of providing social care for the periods which the insured persons would otherwise have been required to finance up to the value of their insured property, based on current costs of social care at the time of calculating the premiums.

(4) In calculating the premiums the Body must take into account the goal of ensuring that, over the long term, the Body's income from the sale of insurance policies meets the cost of funding social care for insured persons and the Body's administrative costs.

(5) A home owner in England may purchase insurance for one residential property which they own and in which they reside, and the Body is empowered to value that property, net of mortgage, at current market prices at the time of the policy being purchased.

(6) The Body must set the cost of purchasing the insurance policy as a charge on the property set at a fixed fraction of the value of the property, net of mortgage.

(7) That fraction must be set equal to the premium for a residential property of that value divided by its value.

(8) Where a property is owned by a couple who are married or in a civil partnership they must be entitled to purchase a joint policy to insure that property, and the premium must be set at a reduced level which takes into account the extra cost the local authority would incur in respect of such couples without the insurance, because their home would not be taken into account in means testing the entitlement of one spouse or civil partner to elderly residential social care if still occupied by the other spouse or civil partner.

(9) Where a property to be insured is owned by a couple who are married or in a civil partnership neither spouse or civil partner may purchase a policy other than a joint policy.

(10) When setting the cost of the policy, the Body may not take into account the health or health-related circumstances of the home owner.

(11) The Secretary of State must establish by regulations whether the Body may or may not set a premium that is differentiated to take into account the sex of the home owner.

3 Paying for the insurance

(1) The Body is authorised to accept payment for the insurance by a charge on the insured residential property and is empowered to realise that charge on the death of the insured person or the sale of the property; that charge being the fraction, set at the time of the purchase of the policy, of the value of the property at the time of the death or sale, net of mortgage.

(2) The Body is authorised to accept a cash payment equal to the premium calculated under section 2 at the time of the policy's purchase in place of the charge on the property.

4 The entitlement to elderly residential social care

(1) The policy holder, if they develop a requirement for elderly residential social care as assessed by their local authority, is entitled to receive the elderly

residential social care provided by their local authority that they would have received if they did not own assets or income greater than required to pay their "hotel costs" (costs, other than the cost of social care, of occupying a residential care home, such as accommodation and meals), until the cumulative cost of that social care equals the calculated value of the insured property, and the Body must reimburse the local authority for the cost of that care.

(2) The calculated value of the insured property is deemed to be the initial value of the property at the time the policy was agreed, as enhanced by the increase in an index of house prices for each year since the policy was purchased.

(3) The Secretary of State may by regulations specify one or more valuation methods and indices for the purposes of subsection (2).

(4) From the point that the cumulative cost of the elderly residential social care provided by the local authority surpasses the calculated value of the insured property, in assessing the entitlement to support for elderly residential social care of the policy holder the local authority shall only take into account any assets and income other than the home which has been insured.

(5) If the policy holder's assets and income, excluding the insured home, then become depleted below the threshold for means testing, the policy holder shall become eligible for financial support with the costs of elderly residential social care from the local authority, which shall not take into account the value of the insured home.

(6) The holding of an insurance policy does not affect the policy holder's entitlement to nursing and other health care provided by the NHS for those in residential care.

(7) The holding of an insurance policy does not affect the obligation on the policy holder to fund, from their income and assets other than the insured home, the hotel costs of occupying a residential care home.

5 Timing

(1) The Secretary of State must attempt to contact all residents of England twice per year in the two years leading up to the resident reaching state pension age, and in the two years after the resident reaches state pension age, to offer and explain the insurance option provided by the Body.

(2) Subject to subsection (3) and to the transitional provision in section 10, a home owner may only take out an insurance policy with the Body after reaching state pension age, and may not take out an insurance policy with the Body more than two years after reaching state pension age.

(3) Where a property is owned by a couple who are married or in a civil partnership they may only take out a joint insurance policy with the Body after the older spouse or civil partner reaches state pension age, and may not take out a joint insurance policy with the Body more than two years after the older spouse or civil partner reaches state pension age.

6 Regulations

Regulations under this Act are made by statutory instrument, and a statutory instrument containing regulations under this Act may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

7 Interpretation

In this Act "home owner" means a person who owns a residential property and would, without insurance from the Body, be eligible for financial support with the costs of elderly residential social care from the local authority once their income and assets fell to the relevant means test threshold.

8 Financial provision

(1) There is to be paid out of money provided by Parliament—

(a) any expenditure incurred by virtue of this Act by the Secretary of State, and

(b) any increase attributable to this Act in the sums payable under any other Act out of money so provided.

(2) The Secretary of State may give financial assistance to the Body by way of loan, grant or other payment.

(3) For the purpose of its functions the Body may borrow (both temporarily, by way of overdraft, and longer term) from the Secretary of State.

9 Extent

This Act extends to England and Wales.

10 Commencement and transitional provision

(1) This Act comes into force on the day on which this Act is passed.

(2) Home owners in England who have already reached state pension age on the day on which the Body is established may, within two years of the Body being established, purchase an insurance policy from the Body on the condition that if they enter elderly residential social care within two years of the policy being purchased, the charge would be cancelled and they would be subject instead to the existing regulations regarding the provision of social care.

11 Short title

This Act may be cited as the Elderly Social Care (Insurance) Act 2021.

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Lord Lilley

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