

# Washington State - The Long-Term Care Trust Act

The passage of The Long-Term Care Trust Act, effective January 1, 2022, makes Washington the first state in the nation to create a publicly funded insurance program that will provide working residents of Washington an opportunity to vest into a basic level of LTC benefits. The program will be funded by Washington workers who will pay premium assessments (a tax) through payroll deductions.

There is also a window of opportunity for residents who own “long-term care insurance” to apply for an exemption from the premium tax. As of this writing, it is currently unclear whether the insurance policy must have been in-force by the effective date of the legislation - July 28, 2019 - or whether a date as late as December 2022 will be applied.

## Overview

- Beginning January 1, 2022 each W-2 employee will pay a premium tax through payroll deduction.
- An initial premium rate will be 0.58% of the individual's wages (or \$0.58 for each \$100 earned).
- Wages will be taxed without limitation or capped amount.
- There is an option for self-employed individuals to elect coverage and be part of the program.
- If qualified to be exempted from the payroll tax, the resident must apply during the short timeframe spanning from October 1, 2021 and December 31, 2022.
- Benefits for approved services will become available starting on January 1, 2025.
- Maximum lifetime benefits are \$36,500 per person (adjusted annually) for vested individuals.
- An “eligible beneficiary” of the program is a qualified individual who:
  - is age 18 years or older,
  - was not disabled before the age of 18,
  - meets the requirement for assistance with ADLs, and
  - has not exhausted their lifetime benefits.
- Benefits will not be available to individuals who:
  - have already permanently retired, thus are unable to vest into the program,
  - are not residing in Washington state when qualified to receive benefits - even if vested in the program.

## Opting out of the program

An employee who attests they have “long-term care insurance” has the option to apply for an exemption from the premium tax. Note that once the employee is determined to be exempt, they may not later apply to become a qualified individual or eligible beneficiary - they are permanently ineligible for coverage under the program.

- The employment security department will accept applications for the exemption **only from October 1, 2021 through December 31, 2022.**
- Only employees aged 18 and older can apply for the exemption
- As the tax is assessed through payroll deduction, it is the responsibility of the exempt employee to provide written notification to all current and future employers of an approved exemption.

## What qualifies as “long-term care insurance” in the state of Washington?

RCW 48.83.020<sup>1</sup> enacted by the Washington State Legislature currently defines “long-term care insurance” for Washington state (not federal) purposes. Included in the definition are the following types of insurance:

- Long-term care riders on life insurance and annuities
- Qualified long-term care insurance contracts
- The long-term care riders or policies purchased under group coverage
- While not called out specifically in RCW 48.83.020, the general definition might include some chronic illness riders, depending on their structure

For information regarding potential qualification of insurance company LTC and chronic illness products, please contact the insurance company of issue. Individuals should consult their own legal or tax professional for information regarding potential qualification for the tax exemption.

## Nationwide LTC Solutions

RCW 48.83.020 enacted by the Washington State Legislature defines “long-term care insurance” for purposes of the State of Washington. It is Nationwide’s position that the following Nationwide solutions meet the Washington State definition of long-term care insurance per RCW 48.83.020. This would include but may not be limited to:

- LTC Rider or LTC Rider II attached to a Nationwide life insurance policy
- YourLife CareMatters or Nationwide CareMatters II policy
- LTC Rider on a Nationwide survivorship policy. Please note that for both spouses/partners to be exempt from the premium tax, both individuals must have an LTC rider issued with the policy. If only one spouse/partner has the LTC rider, then only the individual with the LTC Rider will qualify to apply for the exemption.

For further information on the trust act, you can refer to the Nationwide white paper “The Long-Term Care Trust Act”, NFM-20005AO. You can also refer to the State of Washington Second Substitute House Bill 1087<sup>2</sup> and Substitute Senate Bill 6267<sup>3</sup>.

Please note that Nationwide does not provide legal, tax advice or specific recommendations on how to qualify or apply for the exemption. Individuals should consult their own legal or tax professional for more information.

<sup>1</sup> <https://app.leg.wa.gov/RCW/default.aspx?cite=48.83.020>. Washington State Legislature, Title 48, Chapter 48.3, Section 48.83.020 (5)

<sup>2</sup> <http://lawfilesexxt.leg.wa.gov/biennium/2019-20/Pdf/Bills/House%20Passed%20Legislature/1087-S2.PL.pdf>

<sup>3</sup> <http://lawfilesexxt.leg.wa.gov/biennium/2019-20/Pdf/Bills/Senate%20Passed%20Legislature/6267-S.PL.pdf?q=20200729150140>



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