

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H.B. 233
Mar 5, 2013
HOUSE PRINCIPAL CLERK

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HOUSE DRH30107-MH-56 (02/22)

Short Title: Long-Term Care Insurance Changes.-AB

(Public)

Sponsors: Representative Dockham.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT UNREASONABLE PREMIUM RATE INCREASES FOR
LONG-TERM CARE INSURANCE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-51-95 reads as rewritten:

"§ 58-51-95. **Approval by Commissioner of forms, classification and rates; hearing; exceptions.**

(a) No policy of insurance against loss or expense from the sickness, or from the bodily injury or death by accident of the insured shall be issued or delivered to any person in this State nor shall any application, rider or endorsement be used in connection therewith until a copy of the form thereof and of the classification of risks and the premium rates, or, in the case of cooperatives or assessment companies the estimated cost pertaining thereto, have been filed with the Commissioner. The types of policies to which this section applies are listed in subsection (j) of this section.

...

(f) An insurer may revise rates chargeable on policies subject to this section, other than noncancellable policies, with the approval of the Commissioner if the Commissioner finds that the revised rates are not excessive, not inadequate, and not unfairly discriminatory; and exhibit a reasonable relationship to the benefits provided by the policies. The approved rates shall be guaranteed by the insurer, as to the policyholders affected by the rates, for a period of not less than 12 months; or as an alternative to the insurer giving the guarantee, the approved rates may be applicable to all policyholders at one time if the insurer chooses to apply for that relief with respect to those policies no more frequently than once in any 12-month period. The rates shall be applicable to all policies of the same type; provided that no rate revision may become effective for any policy unless the insurer has given the policyholder written notice of the rate revision 45 days before the effective date of the ~~revision~~-revision, including an explanation to the insured, approved by the Commissioner, of why the insurer requested the increase. The policyholder must then pay the revised rate in order to continue the policy in force. The Commissioner may adopt reasonable rules, after notice and hearing, to require the submission of supporting data and such information as the Commissioner considers necessary to determine whether the rate revisions meet these standards. In adopting the rules under this subsection, the Commissioner may require identification of the types of rating methodologies used by filers and may also address issue age or attained age rating, or both; policy reserves used in rating; and other recognized actuarial principles of the NAIC, the American Academy of Actuaries, and the Society of Actuaries.



- 1 (f1) For long-term care policy forms, rate revision requests must satisfy all of the
2 following:
- 3 (1) The rate revision shall not have the effect of transferring the lapse risk or
4 mortality risk to the policyholders.
- 5 (2) The maximum rate increase that may be implemented in any calendar year
6 for any policyholder is an increase of ten percent (10%) of the current policy
7 premium rate in effect prior to the increase.
- 8 (3) The cumulative effect of all approved rate increases for a long-term care
9 policy form shall not exceed one hundred percent (100%) of the original rate
10 in effect when the policy form was initially approved.
- 11 (4) If the insurer determines that additional rate increases in excess of ten
12 percent (10%) are required, and if a rate increase is approved by the
13 Commissioner, then the insurer shall clearly state in a notification letter to
14 the affected policyholders the insurer's current estimate of the amount of
15 additional rate increase needed in addition to the approved amount that the
16 insurer anticipates will be requested in future years.
- 17 (5) The notification letter required by subdivision (4) of this subsection shall be
18 submitted to the Commissioner for approval prior to being sent to the
19 policyholders.
- 20 (f2) For rate revisions intended to apply to long-term care policies issued prior to
21 February 1, 2003, the following requirements apply:
- 22 (1) The anticipated lifetime loss ratio must be at least sixty percent (60%) for
23 individual long-term care policies and at least seventy-five percent (75%) for
24 group long-term care policies in order for the proposed revised rate schedule
25 to be found reasonable by the Commissioner.
- 26 (2) The Commissioner shall deem excessive an insurer's proposed revised rate
27 schedule for a policy form if it exceeds the rate schedule that, if it had been
28 in place from inception of the policy form, would have generated an
29 anticipated lifetime loss ratio equal to the greater of (i) the minimum
30 required lifetime loss ratio in effect when the form was approved for sale or
31 (ii) the insurer's originally anticipated lifetime loss ratio based on the
32 original pricing assumptions.
- 33 (f3) For rate revisions intended to apply to long-term care policies issued after January
34 31, 2003, the Commissioner shall deem excessive an insurer's proposed revised rate schedule
35 for a policy form if it exceeds the rate schedule that, if it had been in place from inception of
36 the policy form, would have generated an anticipated lifetime loss ratio equal to the greater of
37 seventy-five percent (75%) or the insurer's originally anticipated lifetime loss ratio based on the
38 original pricing assumptions.
- 39 (f4) For purposes of subdivision (f2)(2) and subsection (f3) of this section, the
40 calculation of the anticipated lifetime loss ratio shall be based on the insurer's actual historical
41 incurred claims, and the currently anticipated future incurred claim experience for the form,
42 without inclusion of active life reserves. The interest rate to be used in calculating the
43 anticipated lifetime loss ratios referenced in subsections (f2) and (f3) of this section shall be the
44 average maximum valuation rate of interest permitted by this State to be used to calculate
45 policy reserves, as reported in the NAIC Annual Statement of the insurer for the affected
46 policies.
- 47 (f5) For rate revisions intended to apply to long-term care policies, a proposed rate
48 schedule shall be deemed to be excessive if it is in excess of the rate schedule applicable to
49 similar forms currently available for sale from the insurer or any affiliate of the insurer, after
50 taking into account differences in benefits and underwriting.

(f6) The Commissioner may waive the requirements of subsections (f1), (f3), and (f5) and subdivision (f2)(2) of this section if the Commissioner finds that the solvency of the insurer is threatened.

(f7) For rate revisions applicable to long-term care policies issued after January 1, 2014, if the nonforfeiture offer required to be made under G.S. 58-55-31 is rejected, a contingent nonforfeiture benefit on lapse shall be triggered whenever (i) an insurer increases the premium rates to a level which results in a cumulative increase of the annual premium equal to or exceeding the percentage of the insured's initial annual premium based on the insured's issue age, as set forth in the following table, and (ii) the policy or certificate lapses within 120 days of the due date of the increased premium:

<u>Triggers for Contingent Nonforfeiture Benefit</u>	
<u>Issue Age</u>	<u>Percent Increase Over Initial Premium</u>
<u>Under 55</u>	<u>100%</u>
<u>55-59</u>	<u>90%</u>
<u>60</u>	<u>70%</u>
<u>61</u>	<u>66%</u>
<u>62</u>	<u>62%</u>
<u>63</u>	<u>58%</u>
<u>64</u>	<u>54%</u>
<u>65</u>	<u>50%</u>
<u>66</u>	<u>48%</u>
<u>67</u>	<u>46%</u>
<u>68</u>	<u>44%</u>
<u>69</u>	<u>42%</u>
<u>70</u>	<u>40%</u>
<u>71</u>	<u>38%</u>
<u>72</u>	<u>36%</u>
<u>73</u>	<u>34%</u>
<u>74</u>	<u>32%</u>
<u>75</u>	<u>30%</u>
<u>76</u>	<u>28%</u>
<u>77</u>	<u>26%</u>
<u>78</u>	<u>24%</u>
<u>79</u>	<u>22%</u>
<u>80</u>	<u>20%</u>
<u>81</u>	<u>19%</u>
<u>82</u>	<u>18%</u>
<u>83</u>	<u>17%</u>
<u>84</u>	<u>16%</u>
<u>85</u>	<u>15%</u>
<u>86</u>	<u>14%</u>
<u>87</u>	<u>13%</u>
<u>88</u>	<u>12%</u>
<u>89</u>	<u>11%</u>
<u>90 and over</u>	<u>10%</u>

(f8) The contingent nonforfeiture benefit required by subsection (f7) of this section shall be of a shortened benefit period providing paid-up long-term care insurance coverage after lapse. The contingent nonforfeiture benefits may be used for all care and services qualifying for benefits under the terms of the policy or certificate, up to the limits specified in the policy or certificate. The same benefits will be payable for a qualifying claim at the amounts and

1 frequency in effect at the time of lapse but not increased thereafter, but the lifetime maximum
2 dollars or days of benefits shall be determined as follows, subject to the limitation that all
3 benefits paid by the insurer while the policy or certificate is in premium paying status and in
4 the paid up status will not exceed the maximum benefits which would be payable if the policy
5 or certificate had remained in premium paying status:

6 (1) The standard nonforfeiture credit shall be equal to one hundred percent
7 (100%) of the sum of all premiums paid, including the premiums paid prior
8 to any changes in benefits. The insurer may offer additional shortened
9 benefit period options as long as the benefits for each duration equal or
10 exceed the standard nonforfeiture credit for that duration.

11 (2) The minimum nonforfeiture credit shall not be less than 30 times the daily
12 nursing home benefit at the time of lapse.

13 (g) For policies subject to this section, an individual health insurer shall not increase an
14 individual's renewal premium for continued health insurance coverage under the terms of the
15 individual's health insurance policy based on any health status-related factors in relation to the
16 individual or a dependent of the individual, including:

- 17 (1) Health status.
- 18 (2) Medical condition (including physical and mental illnesses).
- 19 (3) Claims experience.
- 20 (4) Duration from issue.
- 21 (5) Receipt of health care.
- 22 (6) Medical history.
- 23 (7) Genetic information.

24 (h) Every policy that is subject to this section and that provides individual accident and
25 health insurance benefits to a resident of this State shall return to policyholders benefits that are
26 reasonable in relation to the premium charged. The Commissioner may adopt rules or utilize
27 existing rules to establish minimum standards for loss ratios of policies on the basis of incurred
28 claims experience and earned premiums in accordance with accepted actuarial principles and
29 practices to assure that the benefits are reasonable in relation to the premium charged. Every
30 insurer providing policies in this State subject to this section shall not less than annually file for
31 approval its rates, rating schedules, and supporting documentation to demonstrate compliance
32 with the applicable loss ratio standards of this State as adopted by the Commissioner. For
33 long-term care policies issued prior to February 1, 2003, the annual filing shall be submitted
34 before October 1 of each year. All filings of rates and rating schedules shall comply with the
35 standards adopted by the Commissioner. The filing shall include a certification by an individual
36 who is either a Fellow or an Associate of the Society of Actuaries or a Member of the
37 American Academy of Actuaries that the rates are not excessive, not inadequate, and not
38 unfairly discriminatory; and that the rates exhibit a reasonable relationship to the benefits
39 provided by the policy. If the current rates are limited by subsection (f1), (f3), (f5) or
40 subdivision (f2)(2) of this section, the actuary may modify the certification statement as
41 necessary to reflect such limits. Nothing in this subsection shall require an insurer to provide
42 certification with respect to a previous rate period, or to require an insurer to reduce properly
43 filed and approved rates before the end of a rate period. This subsection does not apply to any
44 long-term care policy issued in this State on or after February 1, 2003, and noncancellable
45 accident and health insurance.

46"

47 **SECTION 2.** This act becomes effective July 1, 2013, and applies to rate revisions
48 submitted to the Commissioner on or after that date.