

Chapter 672

(House Bill 493)

AN ACT concerning

Long-Term Care Insurance – Premium Rates

FOR the purpose of requiring the Maryland Insurance Commissioner to ~~establish by regulation, and post~~ provide information on the Maryland Insurance Administration's Web ~~site, site~~ describing certain factors and a certain process relating to premium rates for policies or contracts of long-term care insurance ~~certain rate tables to be used by certain carriers that offer, issue, or deliver policies, contracts, or certificates of long term care insurance in the State to determine certain premium rates; prohibiting a carrier from imposing certain premium rate increases under certain circumstances; prohibiting a carrier from charging a premium to an insured or changing a premium before the applicable premium rate or premium rate change is filed with and approved by the Commissioner; requiring any applicable premium rate or premium rate change of a carrier to be filed with the Commissioner in accordance with certain regulations; requiring the Commissioner to disapprove or modify a proposed premium rate filing under certain circumstances; requiring the Commissioner to consider, to the extent appropriate, certain factors in determining whether to disapprove or modify a premium rate filing; requiring each premium rate filing and certain supporting information to be open to public inspection; authorizing a carrier to request a certain finding by the Commissioner; authorizing a person to obtain copies of a premium rate filing and any supporting information under certain circumstances; authorizing the Commissioner to require a carrier to demonstrate that, based on certain analysis and assumptions, its premium rates for a policy or contract of long term care insurance are not inadequate, unfairly discriminatory, or excessive in relation to benefits, notwithstanding the Commissioner's previous approval of the carrier's premium rate filing; requiring the Commissioner to issue a certain order to a carrier under certain circumstances; requiring the Commissioner to hold a hearing before issuing a certain order and to provide written notice of the hearing; providing that an order does not affect a certain policy, contract, or certificate of long term care insurance; requiring the Commissioner, at certain intervals and with a certain exception, to hold a public hearing for a certain purpose; requiring the Commissioner to provide certain individuals an opportunity to testify at certain hearings, subject to a certain limitation; providing that each decision or finding of the Commissioner about certain premium rates is subject to judicial review; requiring a carrier to provide a certain notice to its insureds each year; requiring a carrier to post a certain notice on the carrier's Web site; requiring an insurance producer who offers or sells policies or contracts of long-term care insurance in the State to advise certain individuals about the availability and benefits of certain policies that qualify under the Qualified State Long-Term Care Insurance Partnership; requiring the insurance producer to maintain certain statements in a certain location and make the statements available to the Commissioner for inspection~~ provide a certain statement to each applicant for

~~long-term care insurance; authorizing the Commissioner to take certain actions for a violation of a certain provision of this Act; requiring a carrier to provide an insured a certain nonforfeiture benefit under certain circumstances requiring the Administration to make a certain assessment and a certain determination relating to nonforfeiture benefits and to report on its assessment and determination to certain legislative committees on or before a certain date; defining certain terms; providing for the application of this Act; and generally relating to premium rates for long-term care insurance.~~

BY adding to

Article – Insurance

Section 11–701 through 11–704 to be under the new subtitle “Subtitle 7. Long-Term Care Insurance Premium Rate Review”; and 18–103(d) ~~and 18–116.1~~

Annotated Code of Maryland

(2011 Replacement Volume and 2016 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Insurance

SUBTITLE 7. LONG-TERM CARE INSURANCE PREMIUM RATE REVIEW.

11–701.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “CARRIER” MEANS AN INSURER, A NONPROFIT HEALTH SERVICE PLAN, ~~A HEALTH MAINTENANCE ORGANIZATION,~~ OR A PREFERRED PROVIDER ORGANIZATION THAT OFFERS, ISSUES, OR DELIVERS A POLICY, CONTRACT, OR CERTIFICATE OF LONG-TERM CARE INSURANCE IN THE STATE.

(C) “CERTIFICATE” HAS THE MEANING STATED IN § 18–101 OF THIS ARTICLE.

(D) “LONG-TERM CARE INSURANCE” HAS THE MEANING STATED IN § 18–101 OF THIS ARTICLE.

11–702.

~~(A) THE COMMISSIONER SHALL ESTABLISH BY REGULATION A STANDARD MORTALITY RATE TABLE AND A STANDARD MORBIDITY RATE TABLE A CARRIER MUST USE TO DETERMINE PREMIUM RATES FOR POLICIES OR CONTRACTS OF LONG TERM CARE INSURANCE.~~

~~(B) THE COMMISSIONER SHALL POST THE STANDARD RATE TABLES ESTABLISHED UNDER SUBSECTION (A) OF THIS SECTION ON THE ADMINISTRATION'S WEB SITE.~~

~~(C) A CARRIER MAY NOT:~~

~~(1) WITHIN ANY 10 YEAR PERIOD OF COVERAGE UNDER A POLICY OR CONTRACT OF LONG TERM CARE INSURANCE, INCREASE THE PREMIUM RATE FOR THE POLICY OR CONTRACT BY MORE THAN 50% OF THE INITIAL PREMIUM RATE FOR THAT PERIOD; OR~~

~~(2) IMPOSE A PREMIUM RATE INCREASE FOR A POLICY OR CONTRACT OF LONG TERM CARE INSURANCE THAT EXCEEDS 15% WITHIN A 12 MONTH PERIOD.~~

THE COMMISSIONER SHALL PROVIDE INFORMATION ON THE ADMINISTRATION'S WEB SITE DESCRIBING:

(1) THE FACTORS THAT CARRIERS USE TO DETERMINE PREMIUM RATES FOR POLICIES OR CONTRACTS OF LONG-TERM CARE INSURANCE; AND

(2) THE PROCESS AND FACTORS THAT THE ADMINISTRATION USES IN REVIEWING AND APPROVING PREMIUM RATES FOR POLICIES OR CONTRACTS OF LONG-TERM CARE INSURANCE.

11-703.

(A) A CARRIER MAY NOT CHARGE A PREMIUM TO AN INSURED UNDER A POLICY OR CONTRACT OF LONG-TERM CARE INSURANCE BEFORE THE APPLICABLE PREMIUM RATE IS FILED WITH AND APPROVED BY THE COMMISSIONER.

(B) A CARRIER MAY NOT CHANGE THE PREMIUM CHARGED TO AN INSURED UNDER A POLICY OR CONTRACT OF LONG-TERM CARE INSURANCE UNTIL THE APPLICABLE PREMIUM RATE CHANGE HAS BEEN FILED WITH AND APPROVED BY THE COMMISSIONER.

(C) (1) ANY APPLICABLE PREMIUM RATE OR PREMIUM RATE CHANGE OF A CARRIER SHALL BE FILED WITH THE COMMISSIONER IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE COMMISSIONER.

(2) (I) THE COMMISSIONER SHALL DISAPPROVE OR MODIFY A PROPOSED PREMIUM RATE FILING IF THE PROPOSED PREMIUM RATES APPEAR, BASED ON ~~STATISTICAL~~ ACTUARIAL ANALYSIS AND REASONABLE ASSUMPTIONS, TO

BE INADEQUATE, UNFAIRLY DISCRIMINATORY, OR EXCESSIVE IN RELATION TO BENEFITS.

(II) IN DETERMINING WHETHER TO DISAPPROVE OR MODIFY A PREMIUM RATE FILING OF A CARRIER, THE COMMISSIONER SHALL CONSIDER, TO THE EXTENT APPROPRIATE:

1. PAST AND PROSPECTIVE LOSS EXPERIENCE IN AND OUTSIDE THE STATE;
2. UNDERWRITING PRACTICE AND JUDGMENT;
3. A REASONABLE MARGIN FOR RESERVE NEEDS;
4. PAST AND PROSPECTIVE EXPENSES, BOTH COUNTRYWIDE AND THOSE SPECIFICALLY APPLICABLE TO THE STATE; AND
5. ANY OTHER RELEVANT FACTORS IN AND OUTSIDE THE STATE.

(3) (I) EACH PREMIUM RATE FILING AND ANY SUPPORTING INFORMATION FILED UNDER THIS SUBTITLE SHALL BE OPEN TO PUBLIC INSPECTION AS SOON AS FILED.

(II) A CARRIER MAY REQUEST A FINDING BY THE COMMISSIONER THAT CERTAIN INFORMATION FILED WITH THE COMMISSIONER BE CONSIDERED CONFIDENTIAL COMMERCIAL INFORMATION UNDER § 4-335 OF THE GENERAL PROVISIONS ARTICLE AND NOT SUBJECT TO PUBLIC INSPECTION.

(III) ON REQUEST AND PAYMENT OF A REASONABLE FEE, A PERSON MAY OBTAIN COPIES OF A PREMIUM RATE FILING AND ANY SUPPORTING INFORMATION.

~~(D) NOTWITHSTANDING THE COMMISSIONER'S PREVIOUS APPROVAL OF A PREMIUM RATE FILING OF A CARRIER, THE COMMISSIONER, AT ANY TIME, MAY REQUIRE THE CARRIER TO DEMONSTRATE THAT, BASED ON STATISTICAL ANALYSIS AND REASONABLE ASSUMPTIONS AND CONSIDERING THE FACTORS LISTED IN SUBSECTION (C)(2) OF THIS SECTION, ITS PREMIUM RATES FOR A POLICY OR CONTRACT OF LONG TERM CARE INSURANCE ARE NOT INADEQUATE, UNFAIRLY DISCRIMINATORY, OR EXCESSIVE IN RELATION TO BENEFITS.~~

~~(E) (1) IF, AFTER THE APPLICABLE REVIEW PERIOD, THE COMMISSIONER FINDS THAT THE PREMIUM RATES IN A PREMIUM RATE FILING OF A CARRIER ARE~~

~~INADEQUATE, UNFAIRLY DISCRIMINATORY, OR EXCESSIVE, AS DETERMINED UNDER SUBSECTION (C)(2) OF THIS SECTION, THE COMMISSIONER SHALL ISSUE TO THE CARRIER AN ORDER THAT:~~

~~(I) SPECIFIES THE REASONS WHY THE PREMIUM RATE FILING IS INADEQUATE, UNFAIRLY DISCRIMINATORY, OR EXCESSIVE IN RELATION TO BENEFITS; AND~~

~~(II) STATES WHEN, WITHIN A REASONABLE PERIOD OF TIME AFTER THE ORDER, THE PREMIUM RATE FILING WILL NO LONGER BE EFFECTIVE.~~

~~(2) (I) THE COMMISSIONER SHALL HOLD A HEARING BEFORE ISSUING AN ORDER UNDER PARAGRAPH (1) OF THIS SUBSECTION.~~

~~(II) THE COMMISSIONER SHALL GIVE WRITTEN NOTICE OF THE HEARING TO THE CARRIER AT LEAST 10 DAYS BEFORE THE HEARING.~~

~~(III) THE WRITTEN NOTICE SHALL SPECIFY THE MATTERS TO BE CONSIDERED AT THE HEARING.~~

~~(3) AN ORDER ISSUED UNDER PARAGRAPH (1) OF THIS SUBSECTION DOES NOT AFFECT A POLICY, CONTRACT, OR CERTIFICATE OF LONG TERM CARE INSURANCE ISSUED OR DELIVERED BEFORE THE EXPIRATION OF THE PERIOD STATED IN THE ORDER.~~

~~(F) (D)~~ (1) AT EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AT LEAST QUARTERLY, THE COMMISSIONER SHALL HOLD A PUBLIC HEARING TO REVIEW LONG-TERM CARE INSURANCE RATE FILINGS RECEIVED BY THE COMMISSIONER DURING THE PRECEDING 3-MONTH PERIOD.

(2) A PUBLIC HEARING IS NOT REQUIRED IF THE COMMISSIONER HAS NOT RECEIVED A LONG-TERM CARE INSURANCE RATE FILING DURING THE PRECEDING 3-MONTH PERIOD.

~~(G) (E)~~ THE COMMISSIONER SHALL PROVIDE ALL INDIVIDUALS PRESENT AT A PUBLIC HEARING HELD UNDER THIS SUBTITLE WHO WISH TO TESTIFY AN OPPORTUNITY TO DO SO, BUT MAY LIMIT REPETITIOUS TESTIMONY.

~~(H) (F)~~ EACH DECISION OR FINDING OF THE COMMISSIONER ABOUT PREMIUM RATES MADE UNDER THIS SUBTITLE IS SUBJECT TO JUDICIAL REVIEW IN ACCORDANCE WITH SUBTITLE 5 OF THIS TITLE.

11-704.

~~(A) A CARRIER SHALL PROVIDE NOTICE TO ITS INSURED EACH YEAR, AND POST A NOTICE ON THE CARRIER'S WEB SITE, THAT AN INSURED MAY ACCESS INFORMATION ABOUT PROPOSED RATE INCREASES AND SUBMIT COMMENTS REGARDING PROPOSED RATE INCREASES ON THE ADMINISTRATION'S WEB SITE.~~

~~(B) (1) AT LEAST 30 DAYS BEFORE A PUBLIC HEARING HELD IN ACCORDANCE WITH § 11-703(F) OF THIS SUBTITLE, A CARRIER SHALL PROVIDE A WRITTEN NOTICE TO EACH INSURED OF THE FILING OF ANY PROPOSED PREMIUM INCREASE APPLICABLE TO THE INSURED.~~

~~(2) THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE:~~

~~(I) THE AMOUNT OR PERCENTAGE OF THE PROPOSED PREMIUM INCREASE;~~

~~(II) THE DATE OF THE PUBLIC HEARING; AND~~

~~(III) A STATEMENT THAT THE INSURED MAY:~~

~~1. TESTIFY AT THE HEARING ON THE PROPOSED PREMIUM INCREASE; OR~~

~~2. SUBMIT COMMENTS REGARDING THE PROPOSED RATE INCREASE ON THE ADMINISTRATION'S WEB SITE.~~

(A) A CARRIER SHALL PROVIDE A ONE-TIME WRITTEN NOTICE TO ITS INSURED THAT AN INSURED MAY ACCESS INFORMATION ABOUT PROPOSED RATE INCREASES ON THE ADMINISTRATION'S WEB SITE.

(B) (1) FOR A POLICY OR CONTRACT ISSUED OR DELIVERED ON OR AFTER JANUARY 1, 2018, THE ONE-TIME WRITTEN NOTICE SHALL BE PROVIDED AT THE TIME THE POLICY OR CONTRACT IS ISSUED OR DELIVERED.

(2) FOR A POLICY OR CONTRACT ISSUED OR DELIVERED BEFORE JANUARY 1, 2018, THE ONE-TIME WRITTEN NOTICE SHALL BE PROVIDED NO LATER THAN THE NEXT POLICY OR CONTRACT ANNIVERSARY DATE AFTER JANUARY 1, 2018.

18-103.

~~(D) (1)~~ AN INSURANCE PRODUCER WHO OFFERS OR SELLS POLICIES OR CONTRACTS OF LONG-TERM CARE INSURANCE IN THE STATE SHALL:

~~(H)~~ (1) ADVISE AN INDIVIDUAL CONSIDERING THE PURCHASE OF A LONG-TERM CARE INSURANCE POLICY OR CONTRACT ABOUT THE AVAILABILITY AND BENEFITS OF A POLICY THAT QUALIFIES UNDER THE QUALIFIED STATE LONG-TERM CARE INSURANCE PARTNERSHIP ESTABLISHED UNDER TITLE 15, SUBTITLE 4 OF THE HEALTH – GENERAL ARTICLE;

~~(H)~~ ~~MAINTAIN IN AN OFFICE THAT IS GENERALLY ACCESSIBLE TO THE PUBLIC DURING NORMAL BUSINESS HOURS A DISCLOSURE STATEMENT SIGNED BY THE INDIVIDUAL ATTESTING THAT THE INSURANCE PRODUCER HAS ADVISED THE INDIVIDUAL IN ACCORDANCE WITH ITEM (I) OF THIS PARAGRAPH; AND~~

(2) PROVIDE A DISCLOSURE STATEMENT, APPROVED BY THE COMMISSIONER, TO EACH APPLICANT FOR LONG-TERM CARE INSURANCE ABOUT THE QUALIFIED STATE LONG-TERM CARE INSURANCE PARTNERSHIP; AND

~~(HH)~~ (3) MAKE THE DISCLOSURE ~~STATEMENTS~~ STATEMENT REQUIRED UNDER ITEM ~~(H)~~ (2) OF THIS SUBSECTION AVAILABLE TO THE COMMISSIONER FOR INSPECTION.

~~(2) IF AN INSURANCE PRODUCER VIOLATES PARAGRAPH (1) OF THIS SUBSECTION, THE COMMISSIONER MAY TAKE ANY ACTION AUTHORIZED UNDER § 10-126 OF THIS ARTICLE.~~

~~18-116.1.~~

~~A CARRIER SHALL PROVIDE AN INSURED WHO HAS MAINTAINED A CONTRACT OR POLICY OF LONG-TERM CARE INSURANCE THROUGH THE CARRIER FOR AT LEAST 10 YEARS AND HAS PAID ALL PREMIUMS FOR THE CONTRACT OR POLICY IN FULL, A NONFORFEITURE BENEFIT THAT IS:~~

~~(1) EQUIVALENT TO AT LEAST THE ACCUMULATED VALUE OF ALL PREMIUMS PAID BY THE INSURED; AND~~

~~(2) ADJUSTED FOR INFLATION BASED ON THE CONSUMER PRICE INDEX FOR THE WASHINGTON-BALTIMORE METROPOLITAN AREA, AS COMPUTED BY THE U.S. DEPARTMENT OF LABOR'S BUREAU OF LABOR STATISTICS.~~

SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland Insurance Administration shall:

(1) assess the impact on long-term care insurance policyholders and carriers of the existing regulation requiring carriers to offer a nonforfeiture benefit;

(2) based on its assessment and any other relevant factors, determine whether expanding the nonforfeiture benefit requirement may be desirable; and

(3) on or before January 1, 2018, report, in accordance with § 2-1246 of the State Government Article, on its assessment and determination to the Senate Finance Committee and the House Health and Government Operations Committee.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall apply to all:

(1) policies, contracts, or certificates of long-term care insurance issued, delivered, or ~~renewed~~ in effect in the State on or after the effective date of this Act; and

(2) rate filings submitted to the Maryland Insurance Commissioner on or after the effective date of this Act.

SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 25, 2017.