

# HOUSE BILL 493

C4

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By: **Delegates Kramer, Aumann, Barkley, Carey, Chang, Fennell, Fraser-Hidalgo, Frush, Krimm, Morales, Stein, and Valderrama**

Introduced and read first time: January 27, 2017

Assigned to: Health and Government Operations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Long-Term Care Insurance – Premium Rates**

3 FOR the purpose of requiring the Maryland Insurance Commissioner to establish by  
4 regulation, and post on the Maryland Insurance Administration's Web site, certain  
5 rate tables to be used by certain carriers that offer, issue, or deliver policies,  
6 contracts, or certificates of long-term care insurance in the State to determine  
7 certain premium rates; prohibiting a carrier from imposing certain premium rate  
8 increases under certain circumstances; prohibiting a carrier from charging a  
9 premium to an insured or changing a premium before the applicable premium rate  
10 or premium rate change is filed with and approved by the Commissioner; requiring  
11 any applicable premium rate or premium rate change of a carrier to be filed with the  
12 Commissioner in accordance with certain regulations; requiring the Commissioner  
13 to disapprove or modify a proposed premium rate filing under certain circumstances;  
14 requiring the Commissioner to consider, to the extent appropriate, certain factors in  
15 determining whether to disapprove or modify a premium rate filing; requiring each  
16 premium rate filing and certain supporting information to be open to public  
17 inspection; authorizing a carrier to request a certain finding by the Commissioner;  
18 authorizing a person to obtain copies of a premium rate filing and any supporting  
19 information under certain circumstances; authorizing the Commissioner to require  
20 a carrier to demonstrate that, based on certain analysis and assumptions, its  
21 premium rates for a policy or contract of long-term care insurance are not  
22 inadequate, unfairly discriminatory, or excessive in relation to benefits,  
23 notwithstanding the Commissioner's previous approval of the carrier's premium rate  
24 filing; requiring the Commissioner to issue a certain order to a carrier under certain  
25 circumstances; requiring the Commissioner to hold a hearing before issuing a certain  
26 order and to provide written notice of the hearing; providing that an order does not  
27 affect a certain policy, contract, or certificate of long-term care insurance; requiring  
28 the Commissioner, at certain intervals, to hold a public hearing for a certain purpose;  
29 requiring the Commissioner to provide certain individuals an opportunity to testify  
30 at certain hearings, subject to a certain limitation; providing that each decision or

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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; 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; 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.**

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

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

8       **(C) A CARRIER MAY NOT:**

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

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

15 **11-703.**

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

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

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

26               **(2) (I) THE COMMISSIONER SHALL DISAPPROVE OR MODIFY A**  
27 **PROPOSED PREMIUM RATE FILING IF THE PROPOSED PREMIUM RATES APPEAR,**  
28 **BASED ON STATISTICAL ANALYSIS AND REASONABLE ASSUMPTIONS, TO BE**  
29 **INADEQUATE, UNFAIRLY DISCRIMINATORY, OR EXCESSIVE IN RELATION TO**  
30 **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:

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

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

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

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

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

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

16                  (F)    AT LEAST QUARTERLY, THE COMMISSIONER SHALL HOLD A PUBLIC  
17 HEARING TO REVIEW LONG-TERM CARE INSURANCE RATE FILINGS RECEIVED BY  
18 THE COMMISSIONER DURING THE PRECEDING 3-MONTH PERIOD.

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

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

25   11-704.

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

30                  (B)    (1)   AT LEAST 30 DAYS BEFORE A PUBLIC HEARING HELD IN  
31 ACCORDANCE WITH § 11-703(F) OF THIS SUBTITLE, A CARRIER SHALL PROVIDE A

1 WRITTEN NOTICE TO EACH INSURED OF THE FILING OF ANY PROPOSED PREMIUM  
2 INCREASE APPLICABLE TO THE INSURED.

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

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

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

8 (III) A STATEMENT THAT THE INSURED MAY:

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

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

13 18-103.

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

16 (I) ADVISE AN INDIVIDUAL CONSIDERING THE PURCHASE OF A  
17 LONG-TERM CARE INSURANCE POLICY OR CONTRACT ABOUT THE AVAILABILITY  
18 AND BENEFITS OF A POLICY THAT QUALIFIES UNDER THE QUALIFIED STATE  
19 LONG-TERM CARE INSURANCE PARTNERSHIP ESTABLISHED UNDER TITLE 15,  
20 SUBTITLE 4 OF THE HEALTH - GENERAL ARTICLE;

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

25 (III) MAKE THE DISCLOSURE STATEMENTS REQUIRED UNDER  
26 ITEM (II) OF THIS SUBSECTION AVAILABLE TO THE COMMISSIONER FOR  
27 INSPECTION.

28 (2) IF AN INSURANCE PRODUCER VIOLATES PARAGRAPH (1) OF THIS  
29 SUBSECTION, THE COMMISSIONER MAY TAKE ANY ACTION AUTHORIZED UNDER §  
30 10-126 OF THIS ARTICLE.

31 18-116.1.

1       **A CARRIER SHALL PROVIDE AN INSURED WHO HAS MAINTAINED A CONTRACT**  
2       **OR POLICY OF LONG-TERM CARE INSURANCE THROUGH THE CARRIER FOR AT LEAST**  
3       **10 YEARS AND HAS PAID ALL PREMIUMS FOR THE CONTRACT OR POLICY IN FULL, A**  
4       **NONFORFEITURE BENEFIT THAT IS:**

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

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

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

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

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

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