

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2538 Session of 2010

INTRODUCED BY MUNDY, BELFANTI, BOBACK, BRENNAN, CALTAGIRONE, COHEN, D. COSTA, DALEY, DePASQUALE, FRANKEL, GEORGE, GIBBONS, GINGRICH, GOODMAN, HARKINS, JOHNSON, JOSEPHS, KIRKLAND, MANDERINO, MIRABITO, MURPHY, M. O'BRIEN, PASHINSKI, READSHAW, SEIP, SIPTROTH, SOLOBAY, STABACK, J. TAYLOR, THOMAS, WATSON, WHITE, YOUNGBLOOD AND YUDICHAK, MAY 25, 2010

REFERRED TO COMMITTEE ON INSURANCE, MAY 25, 2010

AN ACT

1 Amending the act of May 17, 1921 (P.L.682, No.284), entitled "An
 2 act relating to insurance; amending, revising, and
 3 consolidating the law providing for the incorporation of
 4 insurance companies, and the regulation, supervision, and
 5 protection of home and foreign insurance companies, Lloyds
 6 associations, reciprocal and inter-insurance exchanges, and
 7 fire insurance rating bureaus, and the regulation and
 8 supervision of insurance carried by such companies,
 9 associations, and exchanges, including insurance carried by
 10 the State Workmen's Insurance Fund; providing penalties; and
 11 repealing existing laws," providing for rates.

12 The General Assembly of the Commonwealth of Pennsylvania
 13 hereby enacts as follows:

14 Section 1. The act of May 17, 1921 (P.L.682, No.284), known
 15 as The Insurance Company Law of 1921, is amended by adding a
 16 section to read:

17 Section 1104.2. Rates.--(a) A long-term care insurance
 18 policy may not be issued if the premiums to be charged are
 19 calculated to increase based solely on the duration of the
 20 policy.

1 (b) Except as provided in subsection (c), a long-term care
2 insurance policy may not be delivered or issued for delivery in
3 this Commonwealth unless the policyholder or certificateholder
4 has been offered the option of purchasing a policy or
5 certificate including a nonforfeiture benefit. The offer of a
6 nonforfeiture benefit may be in the form of a rider that is
7 attached to the policy. In the event the policyholder or
8 certificateholder declines the nonforfeiture benefit, the
9 insurer shall provide a contingent nonforfeiture benefit upon
10 lapse that shall be available for a specified period of time
11 following a substantial increase in premium rates.

12 (c) When a group long-term care insurance policy is issued,
13 the offer required in subsection (b) shall be made to the group
14 policyholder. However, if the policy is issued as group long-
15 term care insurance other than to a continuing care retirement
16 community or other similar entity, the offering shall be made to
17 each proposed certificateholder.

18 (d) The commissioner shall promulgate regulations specifying
19 the types of nonforfeiture benefits to be offered as a part of
20 long-term care insurance policies and certificates, the
21 standards for nonforfeiture benefits and the rules regarding
22 contingent nonforfeiture benefit upon lapse including
23 determination of the specified period of time during which a
24 contingent nonforfeiture benefit upon lapse will be available
25 and the substantial premium rate increase that triggers a
26 contingent benefit upon lapse as described in subsection (b).

27 (e) A premium increase for existing insureds shall not
28 result in a premium charged to the insureds that would exceed
29 the premium charged on a newly issued insurance policy except to
30 reflect benefit differences.

1 (f) Rates shall be determined by pooling the experience of
2 the affiliated insurers, including the experience of the policy
3 forms providing similar benefits.

4 (g) As used in this section, the term "group long-term care
5 insurance" means a long-term care insurance policy that is
6 delivered or issued for delivery in this State and issued to:

7 (1) one or more employers or labor organizations, or to a
8 trust or to the trustees of a fund established by one or more
9 employers or labor organizations, or a combination thereof, for
10 employees or former employees or a combination thereof or for
11 members or former members or a combination thereof, of the labor
12 organizations; or

13 (2) a professional, trade or occupational association for
14 its members or former or retired members, or combination
15 thereof, if the association:

16 (i) is composed of individuals all of whom are or were
17 actively engaged in the same profession, trade or occupation;

18 (ii) has been maintained in good faith for purposes other
19 than obtaining insurance; or

20 (iii) an association or a trust or the trustees of a fund
21 established, created or maintained for the benefit of members of
22 one or more associations. Prior to advertising, marketing or
23 offering the policy within this State, the association or
24 associations, or the insurer of the association or associations,
25 shall file evidence with the commissioner that the association
26 or associations have at the outset a minimum of twenty-five (25)
27 persons and have been organized and maintained in good faith for
28 purposes other than that of obtaining insurance; have been in
29 active existence for at least one year; and have a constitution
30 and bylaws that provide that:

1 (A) The association or associations hold regular meetings
2 not less than annually to further purposes of the members.

3 (B) Except for credit unions, the association or
4 associations collect dues or solicit contributions from members.

5 (C) The members have voting privileges and representation on
6 the governing board and committees.

7 (3) Forty-five (45) days days after the filing the
8 association will be deemed to satisfy the organizational
9 requirements, unless the commissioner makes a finding the
10 association does not satisfy the organizational requirements.

11 (4) A group other than as described in paragraphs (1), (2)
12 and (3) subject to a finding by the commissioner that:

13 (i) The issuance of the group policy is not contrary to the
14 best interest of the public.

15 (ii) The issuance of the group policy would result in
16 economies of the acquisition or administration.

17 (iii) The benefits are reasonable in relation to the
18 premiums charged.

19 Section 2. This act shall take effect in 60 days.