

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 562 Session of 2013

INTRODUCED BY MUNDY, D. COSTA, GINGRICH, HAGGERTY, O'BRIEN, V. BROWN, READSHAW, KORTZ, BROWNLEE, KAVULICH, YOUNGBLOOD, HARKINS, KINSEY, DELUCA, COHEN, FREEMAN AND MCCARTER, FEBRUARY 8, 2013

REFERRED TO COMMITTEE ON INSURANCE, FEBRUARY 8, 2013

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," in long-term care, providing for  
 12 rates.

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

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

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

22 (b) Except as provided in subsection (c), a long-term care

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

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

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

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

30 (f) Rates shall be determined by pooling the experience of

1 the affiliated insurers, including the experience of the policy  
2 forms providing similar benefits.

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

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

20 (3) 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. The following apply:

23 (i) Prior to advertising, marketing or offering the policy  
24 within this Commonwealth, the association or associations, or  
25 the insurer of the association or associations, shall file  
26 evidence with the commissioner that the association or  
27 associations have at the outset a minimum of twenty-five (25)  
28 persons and have been organized and maintained in good faith for  
29 purposes other than that of obtaining insurance; have been in  
30 active existence for at least one year; and have a constitution

1 and bylaws that provide that:

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

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

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

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

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

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

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

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

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