

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 735
Committee Substitute Favorable 4/27/05
Senate Commerce Committee Substitute Adopted 8/11/05

Short Title: Accident & Health Insur./Rate Stabilization.-AB

(Public)

Sponsors:

Referred to:

March 17, 2005

A BILL TO BE ENTITLED

1 AN ACT TO REQUIRE ANNUAL FILING AND ACTUARIAL CERTIFICATION
2 OF RATES FOR INSURERS PROVIDING INDIVIDUAL ACCIDENT AND
3 HEALTH INSURANCE BENEFITS AND TO BETTER PROTECT CONSUMERS
4 FROM THE HARMFUL IMPACT OF BLOCKS OF BUSINESS BEING
5 CLOSED.
6

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.(a)** G.S. 58-51-95(f) reads as rewritten:

9 "**§ 58-51-95. Approval by Commissioner of forms, classification and rates;**
10 **hearing; exceptions.**

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

1 rating, or both; policy reserves used in rating; and other recognized actuarial principles
2 of the NAIC, the American Academy of Actuaries, and the Society of Actuaries."

3 **SECTION 1.(b)** G.S. 58-51-95 is amended by adding the following new
4 subsections to read:

5 "**§ 58-51-95. Approval by Commissioner of forms, classification and rates;
6 hearing; exceptions.**

7 ...

8 (g) Every policy that is subject to this section and that provides individual
9 accident and health insurance benefits to a resident of this State shall return to
10 policyholders benefits that are reasonable in relation to the premium charged. The
11 Commissioner may adopt rules or utilize existing rules to establish minimum standards
12 for loss ratios of policies on the basis of incurred claims experience and earned
13 premiums in accordance with accepted actuarial principles and practices to assure that
14 the benefits are reasonable in relation to the premium charged. Every insurer providing
15 policies in this State subject to this section shall not less than annually file for approval
16 its rates, rating schedules, and supporting documentation to demonstrate compliance
17 with the applicable loss ratio standards of this State as adopted by the Commissioner.
18 All filings of rates and rating schedules shall comply with the standards adopted by the
19 Commissioner. The filing shall include a certification by an individual who is either a
20 Fellow or an Associate of the Society of Actuaries or a Member of the American
21 Academy of Actuaries that the rates are not excessive, not inadequate, and not unfairly
22 discriminatory; and that the rates exhibit a reasonable relationship to the benefits
23 provided by the policy. Nothing in this subsection shall require an insurer to provide
24 certification with respect to a previous rate period, or to require an insurer to reduce
25 properly filed and approved rates before the end of a rate period. This subsection does
26 not apply to any long-term care policy issued in this State on or after February 1, 2003,
27 and noncancellable accident and health insurance.

28 (h) For any long-term care policy issued in this State on or after February 1,
29 2003, an insurer shall on or before March 15 of each year:

30 (1) Provide to the Commissioner an actuarial certification listing all of its
31 long-term care policy forms available for sale in this State as of
32 December 31 of the prior year, stating that the current premium rate
33 schedule for each form is sufficient to cover anticipated costs under
34 moderately adverse experience and stating that the premium rate
35 schedule is reasonably expected to be sustainable over the life of the
36 form with no future premium increases anticipated.

37 (2) For any policy form for which the statement in subdivision (1) of this
38 subsection cannot be made or is qualified, submit a plan of corrective
39 action to the Commissioner for approval.

40 (i) For purposes of this section, accident and health insurance means insurance
41 against death or injury resulting from accident or from accidental means and insurance
42 against disablement, disease, or sickness of the insured. This includes Medicare
43 supplemental insurance, long-term care, nursing home, or home health care insurance,
44 or any combination thereof, specified disease or illness insurance, hospital indemnity or

1 other fixed indemnity insurance, short-term limited duration health insurance, dental
2 insurance, vision insurance, and medical, hospital, or surgical expense insurance or any
3 combination thereof. Notwithstanding any other provision to the contrary, this section
4 does not apply to disability income insurance."

5 **SECTION 2.** Article 3 of Chapter 58 of the General Statutes is amended by
6 adding the following new section to read:

7 **"§ 58-3-275. Closure of a block of business.**

8 (a) An insurer that determines to create a closed block of business in this State
9 shall no later than 60 days prior to the closure date:

10 (1) Notify the Commissioner in writing of the insurer's decision to cease
11 sales of the policy form(s) and provide a reasonable estimate, based on
12 sound actuarial principles, of the expected impact on future premiums
13 of ceasing sales of the policy form(s). If the insurer's qualified actuary
14 estimates that the expected impact on future annual premiums of
15 ceasing sales of the policy form(s) exceeds five percent (5%) per
16 annum, then the insurer shall comply with the requirements of
17 subdivision (3) of this subsection. If each subsequent annual premium
18 rate filing results in an approved annual premium rate increase no
19 greater than the last premium rate increase approved when the block of
20 insurance was open, plus five percent (5%), then the insurer shall not
21 be required to comply with the requirements of subdivision (3) of this
22 subsection. If any subsequent annual premium rate filing results in an
23 approved premium rate increase in excess of five percent (5%) per
24 annum more than the last premium rate increase approved while the
25 block of insurance was open, then the insurer shall comply with the
26 requirements of subdivision (3) of this subsection at the time the filing
27 is approved.

28 (2) Inform each agent and broker selling the product of the decision and
29 the date of closure.

30 (3) If required pursuant to subdivision (1) of this subsection, notify all
31 affected policyholders of the determination and provide a statement of
32 the general effect that might be expected to result from the closure of
33 the block. Notice shall comply with any rules adopted pursuant to
34 subsection (b) of this section.

35 (b) The Commissioner may adopt rules to carry out the purposes and provisions
36 of this section, including rules establishing the language, content, format, and methods
37 of distribution of the notices required by this section.

38 (c) As used in this section, the term:

39 (1) 'Accident and health insurance' means insurance against death or
40 injury resulting from accident or from accidental means and insurance
41 against disablement, disease, or sickness of the insured. This includes
42 Medicare supplemental insurance, long-term care, nursing home, or
43 home health care insurance, or any combination thereof, specified
44 disease or illness insurance, hospital indemnity or other fixed

1 indemnity insurance, short-term limited duration health insurance,
 2 dental insurance, vision insurance, and medical, hospital, or surgical
 3 expense insurance or any combination thereof.

4 (2) 'Block of business' means a particular policy form or contract of
 5 individual accident and health insurance issued by an insurer.

6 (3) 'Closed block of business' means a block of business for which an
 7 insurer ceases to actively market, sell, and issue new contracts under a
 8 particular policy form in this State.

9 (4) 'Insurer' includes an insurance company subject to this Chapter, a
 10 service corporation organized under Article 65 of this Chapter, a health
 11 maintenance organization organized under Article 67 of this Chapter,
 12 or a multiple employer welfare arrangement subject to Article 49 of
 13 this Chapter.

14 (5) 'Closure date' means the effective date that no new insureds will be
 15 issued coverage of the particular policy form(s).

16 (6) 'Policyholders' includes those applicants for the particular policy form
 17 that is being closed and for which the policy is not yet issued.

18 (d) This section does not apply when an insurer makes a decision to discontinue a
 19 particular policy form or contract of accident and health insurance coverage subject to
 20 Article 68 of this Chapter, cancels or nonrenews the coverage, and offers replacement
 21 coverage pursuant to G.S. 58-68-65(c)(1)."

22 **SECTION 3.** G.S. 58-65-2 reads as rewritten:

23 **"§ 58-65-2. Other laws applicable to service corporations.**

24 The following provisions of this Chapter are applicable to service corporations that
 25 are subject to this Article:

- 26 G.S. 58-2-125. Authority over all insurance companies; no exemptions from
 27 license.
- 28 G.S. 58-2-155. Investigation of charges.
- 29 G.S. 58-2-160. Reporting and investigation of insurance and reinsurance
 30 fraud and the financial condition of licensees; immunity from
 31 liability.
- 32 G.S. 58-2-162. Embezzlement by insurance agents, brokers, or
 33 administrators.
- 34 G.S. 58-2-185. Record of business kept by companies and agents;
 35 Commissioner may inspect.
- 36 G.S. 58-2-190. Commissioner may require special reports.
- 37 G.S. 58-2-195. Commissioner may require records, reports, etc., for agencies,
 38 agents, and others.
- 39 G.S. 58-2-200. Books and papers required to be exhibited.
- 40 G.S. 58-3-50. Companies must do business in own name; emblems,
 41 insignias, etc.
- 42 G.S. 58-3-115. Twisting with respect to insurance policies; penalties.
- 43 G.S. 58-50-35. Notice of nonpayment of premium required before forfeiture.

1 G.S. 58-51-25. Policy coverage to continue as to mentally retarded or
2 physically handicapped children.

3 G.S. 58-51-95(g),(h).

4 (i). Approval by Commissioner of forms, classification and rates;
5 hearings; exceptions."

6 **SECTION 4.** This act becomes effective July 1, 2006.