

HOUSE BILL No. 5295

January 26, 2012, Introduced by Reps. Dillon, Brunner, Hovey-Wright, Tlaib, Nathan, Stapleton, Lipton and Switalski and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending sections 3910a and 3927 (MCL 500.3910a and 500.3927),
section 3910a as added and section 3927 as amended by 2006 PA
442.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3910a. (1) This section does not apply to life
2 insurance policies or riders containing accelerated benefits for
3 long-term care.

4 (2) A policy or certificate offered with nonforfeiture
5 benefits shall have coverage elements, eligibility, benefit
6 triggers, and benefit length that are the same as coverage to be
7 issued without nonforfeiture benefits. The nonforfeiture benefit
8 included in the offer shall be the benefits described in

subsection (8).

(3) If the offer required to be made under section 3910 is rejected, the insurer shall provide a contingent benefit upon lapse as described in this section for individual and group policies without nonforfeiture benefits issued on and after June 1, 2007.

(4) If a group policyholder elects to make the nonforfeiture benefit an option to the certificateholder, a certificate shall provide either the nonforfeiture benefit or the contingent benefit upon lapse.

(5) Except as otherwise required, policyholders shall be notified not less than 45 days before the due date of a premium increase and of the amount of the increase.

(6) ~~The~~ **UNTIL JULY 1, 2012, THE** contingent benefit on lapse is triggered every time an insurer increases the premium rates to a level that results in a cumulative increase of the annual premium equal to or exceeding the percentage of the insured's initial annual premium as follows based on the insured's issue age, and the policy or certificate lapses within 120 days of the due date of the premium so increased:

TRIGGERS FOR A SUBSTANTIAL PREMIUM INCREASE

<u>Issue Age</u>	<u>Percent Increase Over Initial Premium</u>
29 and under	200%
30-34	190%

1	35-39	170%
2	40-44	150%
3	45-49	130%
4	50-54	110%
5	55-59	90%
6	60	70%
7	61	66%
8	62	62%
9	63	58%
10	64	54%
11	65	50%
12	66	48%
13	67	46%
14	68	44%
15	69	42%
16	70	40%
17	71	38%
18	72	36%
19	73	34%
20	74	32%
21	75	30%
22	76	28%
23	77	26%
24	78	24%
25	79	22%
26	80	20%
27	81	19%
28	82	18%
29	83	17%
30	84	16%
31	85	15%

1	86	14%
2	87	13%
3	88	12%
4	89	11%
5	90 and over	10%

6 (7) ~~On~~ **UNTIL JULY 1, 2012, ON** or before the effective date
7 of a substantial premium increase as ~~defined~~ **DESCRIBED** in
8 subsection (6), the insurer shall do all of the following:

9 (a) Offer to reduce policy benefits provided by the current
10 coverage without the requirement of additional underwriting so
11 that required premium payments are not increased.

12 (b) Offer to convert the coverage to a paid-up status with a
13 shortened benefit period as provided in subsection (8). This
14 option may be elected at any time during the 120-day period under
15 subsection (6).

16 (c) Notify the policyholder or certificateholder that a
17 default or lapse at any time during the 120-day period under
18 subsection (6) is considered to be the election of the offer to
19 convert under subdivision (b).

20 (8) Benefits continued as nonforfeiture benefits, including
21 contingent benefits upon lapse, are as follows:

22 (a) For purposes of this subsection, attained age rating is
23 defined as a schedule of premiums starting from the issue date
24 that increases age at least 1% per year prior to age 50 and at
25 least 3% per year beyond age 50.

26 (b) For purposes of this subsection, the nonforfeiture
27 benefit shall be of a shortened benefit period providing paid-up

1 long-term care insurance coverage after lapse. The same benefits
2 shall be payable for a qualifying claim, but the lifetime maximum
3 dollars or days of benefits shall be determined as provided in
4 subdivision (c). As used in this subdivision, "same benefits"
5 means amounts and frequency in effect at the time of lapse but
6 not increased thereafter.

7 (c) The standard nonforfeiture credit will be equal to 100%
8 of the sum of all premiums paid, including the premiums paid
9 prior to any changes in benefits. The insurer may offer
10 additional shortened benefit period options, as long as the
11 benefits for each duration equal or exceed the standard
12 nonforfeiture credit for that duration. However, the minimum
13 nonforfeiture credit shall not be less than 30 times the daily
14 nursing home benefit at the time of lapse. In either event, the
15 calculation of the nonforfeiture credit is subject to the
16 limitation of subsection (9).

17 (d) The nonforfeiture benefit shall begin not later than the
18 end of the third year following the policy or certificate issue
19 date. The contingent benefit upon lapse shall be effective during
20 the first 3 years as well as thereafter. However, for a policy or
21 certificate with attained age rating, the nonforfeiture benefit
22 shall begin on the earlier of the end of the tenth year following
23 the policy or certificate issue date or the end of the second
24 year following the date the policy or certificate is no longer
25 subject to attained age rating.

26 (e) Nonforfeiture credits may be used for all care and
27 services qualifying for benefits under the terms of the policy or

1 certificate, up to the limits specified in the policy or
2 certificate.

3 (9) All benefits paid by the insurer while the policy or
4 certificate is in premium paying status and in the paid-up status
5 shall not exceed the maximum benefits that would be payable if
6 the policy or certificate had remained in premium paying status.

7 (10) There shall be no difference in the minimum
8 nonforfeiture benefits as required under this section for group
9 and individual policies.

10 (11) This section is effective June 1, 2007 and shall apply
11 as follows:

12 (a) Except as otherwise provided in **SUBSECTION (15) AND**
13 subdivision (b), this section applies to any long-term care
14 policy issued in this state on or after June 1, 2007.

15 (b) ~~This~~ **EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (15),**
16 **THIS** section does not apply to certificates issued on or after
17 June 1, 2007, under a group long-term care insurance policy as
18 defined in section 3901(c)(i), which policy was in force ~~at the~~
19 ~~time this section became effective.~~ **ON JUNE 1, 2007.**

20 (12) Premiums charged for a policy or certificate containing
21 nonforfeiture benefits or a contingent benefit on lapse are
22 subject to the loss ratio requirements of section 3926a treating
23 the policy as a whole.

24 (13) To determine whether contingent nonforfeiture upon
25 lapse provisions are triggered under subsection (6), a replacing
26 insurer that purchased or otherwise assumed a block or blocks of
27 long-term care insurance policies from another insurer shall

1 calculate the percentage increase based on the initial annual
2 premium paid by the insured when the policy was first purchased
3 from the original insurer.

4 (14) For qualified long-term care insurance contracts that
5 are level premium contracts, an insurer shall offer a
6 nonforfeiture benefit that meets all of the following:

7 (a) Is appropriately captioned.

8 (b) Provides a benefit available in the event of a default
9 in the payment of any premiums and states that the amount of the
10 benefit may be adjusted subsequent to being initially granted
11 only as necessary to reflect changes in claims, persistency, and
12 interest as reflected in changes in rates for premium paying
13 contracts approved by the commissioner for the same contract
14 form.

15 (c) Provides at least 1 of the following:

16 (i) Reduced paid-up insurance.

17 (ii) Extended term insurance.

18 (iii) Shortened benefit period.

19 (iv) Other offerings approved by the commissioner that are
20 similar to subparagraphs (i) to (iii).

21 (15) BEGINNING JULY 1, 2012, AN INSURER SHALL NOT INCREASE A
22 PREMIUM RATE FOR ANY LONG-TERM CARE POLICY ISSUED IN THIS STATE
23 BY AN AMOUNT THAT IS MORE THAN THE CUMULATIVE CHANGE IN THE
24 CONSUMER PRICE INDEX FOR MEDICAL CARE, AS REPORTED BY THE UNITED
25 STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS, AND AS
26 CERTIFIED BY THE COMMISSIONER.

27 Sec. 3927. (1) ~~Benefits~~—SUBJECT TO SECTION 3910A(15),

BENEFITS under individual long-term care insurance policies shall be considered reasonable in relation to premiums ~~provided~~ **IF** the expected loss ratio is at least 60%, calculated in a manner that provides for adequate reserving of the long-term care insurance risk. In evaluating the expected loss ratio, due consideration shall be given to all relevant factors, including:

(a) Statistical credibility of incurred claims experience and earned premiums.

(b) The period for which rates are computed to provide coverage.

(c) Experienced and projected trends.

(d) Concentration of experience within early policy duration.

(e) Expected claim fluctuation.

(f) Experience refunds, adjustments, or dividends.

(g) Renewability features.

(h) All appropriate expense factors.

(i) Interest.

(j) Experimental nature of the coverage.

(k) Policy reserves.

(l) Mix of business by risk classification.

(m) Product features such as long elimination periods, high deductibles, and high maximum limits.

(n) Premiums charged and losses incurred for other similar policies.

(2) This section does not apply to fixed indivisible premium life insurance policies that fund long-term care benefits

1 entirely by accelerating the death benefit.

2 (3) This section applies to all long-term care insurance
3 policies or certificates except those described in sections
4 3926(1) and 3926a(1) and (2).