

1 AN ACT concerning long-term care insurance.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Illinois Insurance Code is amended by
5 adding Sections 351A-12, 351A-13, 351A-14, 351A-15, 351A-16,
6 351A-17, and 351A-18 as follows:

7 (215 ILCS 5/351A-12 new)

8 Sec. 351A-12. Policies guaranteed renewable or
9 noncancelable.

10 (a) An individual and group long-term care policy and
11 certificate under a group long-term care policy shall be
12 either guaranteed renewable or noncancelable.

13 (b) "Guaranteed renewable" means that the insured has
14 the right to continue coverage in force if premiums are
15 timely paid during which period the insurer may not
16 unilaterally change the terms of coverage or decline to
17 renew, except that the insurer may, in accordance with
18 provisions in the policy, and in accordance with Section
19 351A-13, change the premium rates to all insureds in the same
20 class. The "class" is determined by the insurer for the
21 purpose of setting rates at the time the policy is issued.

22 "Noncancelable" means the insured has the right to
23 continue the coverage in force if premiums are timely paid
24 during which period the insurer may not unilaterally change
25 the terms of coverage, decline to renew, or change the
26 premium rate.

27 (c) A long-term care policy and certificate must contain
28 on page one an appropriately captioned renewability provision
29 that clearly describes the initial term of coverage, the
30 conditions for renewal and, if guaranteed renewable, a
31 description of the class and of each circumstance under which

1 the insurer may change the premium amount.

2 (215 ILCS 5/351A-13 new)

3 Sec. 351A-13. Relationship of benefits to premiums.

4 Benefits under individual long-term care insurance policies
5 issued before new premium rate schedules are approved under
6 Section 351A-14 shall be deemed reasonable in relation to
7 premiums if the expected loss ratio is at least 6%,
8 calculated in a manner that provides for adequate reserving
9 of the long-term care insurance risk. In evaluating the
10 expected loss ratio, due consideration must be given to all
11 relevant factors, including the following:

12 (1) statistical credibility of incurred claims
13 experience and earned premiums;

14 (2) the period for which rates are computed to
15 provide coverage;

16 (3) experienced and projected trends;

17 (4) concentration of experience within early policy
18 duration;

19 (5) expected claim fluctuation;

20 (6) experience refunds, adjustments, or dividends;

21 (7) renewability features;

22 (8) all appropriate expense factors;

23 (9) interest;

24 (10) experimental nature of the coverage;

25 (11) policy reserves;

26 (12) mix of business by risk classification; and

27 (13) product features, such as long elimination
28 periods, high deductibles, and high maximum limits.

29 (215 ILCS 5/351A-14 new)

30 Sec. 351A-14. Rate schedules.

31 (a) The premium rate schedules for all individual and
32 group long-term care insurance policies issued in this State

1 shall be filed with and receive the prior approval of the
2 Director before the policy may be offered, sold, issued, or
3 delivered to a resident of this State. All initial rate
4 filings shall be subject to the requirements of this Section.

5 (b) An approval for an initial premium schedule may not
6 be granted unless the actuary performing the review for the
7 Director certifies that the initial premium rate schedule is
8 sufficient to cover anticipated costs under moderately
9 adverse experience and that the premium rate schedule is
10 reasonably expected to be sustainable over the life of the
11 form with no future premium increases anticipated. The
12 certification may rely on supporting data in the filing. The
13 actuary performing the review may request an actuarial
14 demonstration that the assumptions the insurer has used are
15 reasonable. The actuarial demonstration must include either
16 premium and claim experience on similar policy forms,
17 adjusted for any premium or benefit differences, relevant and
18 credible data from other studies, or both.

19 (c) The insurer must submit to the Director for approval
20 a rate filing for each policy form that includes at least all
21 of the following information:

22 (1) An actuarial memorandum that describes the
23 assumptions the insurer used to develop the premium rate
24 schedule. The actuarial assumptions must include, but
25 not be limited to, a sufficiently detailed description of
26 morbidity assumptions, voluntary lapse rates, mortality
27 assumptions, asset investment yield rates, a description
28 of all expense components, and plan and option mix
29 assumptions. The memorandum must also include the
30 expected lifetime loss ratio and projections of yearly
31 earned premiums, incurred claims, incurred claim loss
32 ratios, and changes in contract reserves.

33 (2) An actuarial certification consisting of at
34 least all of the following:

1 (A) A statement that the initial premium rate
2 schedule is sufficient to cover anticipated costs
3 under moderately adverse experience and that the
4 premium rate schedule is reasonably expected to be
5 sustainable over the life of the form with no future
6 premium increases anticipated.

7 (B) A statement that the policy design and
8 coverage provided have been reviewed and taken into
9 consideration.

10 (C) A statement that the underwriting and
11 claims adjudication processes have been reviewed and
12 taken into consideration.

13 (D) A complete description of the basis for
14 contract reserves that are anticipated to be held
15 under the form, to include all of the following:

16 (i) Sufficient detail or sample
17 calculations provided so as to have a complete
18 depiction of the reserve amounts to be held.

19 (ii) A statement that the assumptions
20 used for reserves contain reasonable margins
21 for adverse experience.

22 (iii) A statement that the net valuation
23 premium for renewal years does not increase
24 (except for attained-age rating where
25 permitted).

26 (iv) A statement that the difference
27 between the gross premium and the net valuation
28 premium for renewal years is sufficient to
29 cover expected renewal expenses, or if that
30 statement cannot be made, a complete
31 description of the situations in which this
32 does not occur and the type and level of change
33 in the reserve assumptions that would be
34 necessary for the difference to be sufficient.

1 An aggregate distribution of anticipated issues
2 may be used as long as the underlying gross
3 premiums maintain a reasonably consistent
4 relationship. If the gross premiums for
5 certain age groups appear to be inconsistent
6 with this requirement, the Director may request
7 a demonstration under subsection (b) based on a
8 standard age distribution.

9 (E) A statement that the premium rate schedule
10 is not less than the premium rate schedule for
11 existing similar policy forms also available from
12 the insurer except for reasonable differences
13 attributable to benefits or a comparison of the
14 premium schedules for similar policy forms that are
15 currently available from the insurer with an
16 explanation of the differences.

17 (d) Premium rate schedules and new policy forms must be
18 filed by July 1, 2002 for all group long-term care insurance
19 policies that an insurer will offer, sell, issue, or deliver
20 on or after January 1, 2003 and for all previously approved
21 individual long-term care insurance policies that an insurer
22 will offer, sell, issue, or deliver on or after January 1,
23 2003, unless the July 1, 2002, deadline is extended by the
24 Director. Insurers may continue to offer and market
25 long-term care insurance policies approved prior to July 1,
26 2002, until the earlier of (1) 90 days after approval of both
27 the premium rate schedules and new policy forms filed
28 pursuant to this Section or (2) January 1, 2003.

29 (215 ILCS 5/351A-15 new)

30 Sec. 351A-15. Actuary qualifications. All actuaries used
31 by the Director to review rate applications submitted by
32 insurers pursuant to this Article, whether employed by the
33 Department or secured by contract, must be members of the

1 American Academy of Actuaries with at least 5 years' relevant
2 experience in long-term care insurance industry pricing. If
3 the Department does not have actuaries with the experience
4 required by this Section, the Director shall contract with
5 actuaries to review all rate applications submitted by
6 insurers pursuant to this Article. If the Department has
7 actuaries that have experience required by this Section, but
8 not enough of those experienced actuaries to perform the
9 volume of work required by this Article, the Director may
10 contract with independent actuaries, as necessary.

11 If the Director contracts with independent actuaries, the
12 Director shall promulgate rules no later than July 1, 2002,
13 to maintain the confidentiality of rate filings and
14 proprietary insurer information and to avoid conflicts of
15 interest.

16 (215 ILCS 5/351A-16 new)

17 Sec. 351A-16. No premium increase without approval.

18 (a) An insurer may not increase the premium for an
19 individual or group long-term care insurance policy or
20 certificate approved for sale under this Article unless the
21 insurer has received prior approval for the increase from the
22 Director. The insurer must submit to the Director for
23 approval all proposed premium rate schedule increases,
24 including at least all of the information required by this
25 Section.

26 (b) An insurer must submit a certification by an
27 actuary, who is a member in good standing of the American
28 Society of Actuaries, that:

29 (1) if the requested premium rate schedule increase
30 is implemented and the underlying assumptions, which
31 reflect moderately adverse conditions, are realized, no
32 further premium rate schedule increases are anticipated;
33 and

1 (2) the premium rate filing is in compliance with
2 the provisions of this Section.

3 (c) An insurer must submit an actuarial memorandum
4 justifying the rate schedule change request that includes all
5 of the following:

6 (1) Lifetime projections of earned premiums and
7 incurred claims based on the filed premium rate schedule
8 increase, and the method and assumptions used in
9 determining the projected values, including reflection of
10 any assumptions that deviate from those used for pricing
11 other forms currently available for sale.

12 (A) Annual values for the 5 years preceding
13 and the 3 years following the valuation date shall
14 be provided separately.

15 (B) The projections must include the
16 development of the lifetime loss ratio.

17 (C) For policies issued with premium rate
18 schedules approved under Section 351A-14, the
19 projections must demonstrate compliance with
20 subsection (b) of Section 351A-17. For all other
21 policies, the projections must demonstrate
22 compliance with Section 351A-13.

23 (D) If the Director determines that a premium
24 rate increase is justified due to changes in laws or
25 regulations that are retroactively applicable to
26 long-term care insurance previously sold in this
27 State, then:

28 (i) the projected experience should be
29 limited to the increases in claims expenses
30 attributable to the changes in law or
31 regulations; and

32 (ii) if the Director determines that
33 potential offsets to higher claims costs may
34 exist, the insurer must be required to use

1 appropriate net projected experience.

2 (2) Disclosure of how reserves have been
3 incorporated in this rate increase.

4 (3) Disclosure of the analysis performed to
5 determine why a rate adjustment is necessary, which
6 pricing assumptions were not realized and why, and what
7 other actions taken by the company have been relied on by
8 the actuary.

9 (4) A statement that policy design, underwriting,
10 and claims adjudication practices have been taken into
11 consideration.

12 (5) If it is necessary to maintain consistent
13 premium rates for new certificates and certificates
14 receiving a rate increase, the insurer must file
15 composite rates reflecting projections of new
16 certificates.

17 (d) An insurer must submit a statement that renewal
18 premium rate schedules are not greater than new business
19 premium rate schedules except for differences attributable to
20 benefits, unless sufficient justification is provided to the
21 Director.

22 (e) An insurer must submit sufficient information for
23 approval of the premium rate schedule increase by the
24 Director.

25 (f) The provisions of this Section are applicable to all
26 individual and group policies issued in this State on or
27 after January 1, 2003.

28 (215 ILCS 5/351A-17 new)

29 Sec. 351A-17. Requirements for rate approval.

30 (a) Approval of all premium rate schedule increases are
31 subject to the requirements of this Section.

32 (b) Premium rate schedule increases must demonstrate
33 that the sum of the accumulated value of incurred claims,

1 without the inclusion of active life reserves, and the
2 present value of future projected incurred claims, without
3 the inclusion of active life reserves, will not be less than
4 the sum of the all of the following:

5 (1) The accumulated value of the initial earned
6 premium times 58%.

7 (2) 85% of the accumulated value of prior premium
8 rate schedule increases on an earned basis.

9 (3) The present value of future projected initial
10 earned premiums times 58%.

11 (4) 85% of the present value of future projected
12 premiums not in item (3) on an earned basis.

13 (c) If the Director determines that a premium rate
14 increase is justified due to changes in laws or rules that
15 are retroactively applicable to long-term care insurance
16 previously sold in this State, a premium rate schedule
17 increase may be approved if the increase provides that 70% of
18 the present value of projected additional premiums shall be
19 returned to policyholders in benefits and the other
20 requirements applicable to other premium rate schedule
21 increases are met.

22 (d) All present and accumulated values used to determine
23 rate increases must use the maximum valuation interest rate
24 for contract reserves. The actuary must disclose as part of
25 the actuarial memorandum the use of any appropriate averages.

26 (e) If the requested premium rate schedule increase on
27 any new policy form approved under Section 351A-14 exceeds
28 15% or if the requested premium rate schedule increase on any
29 policy form approved under Section 351A-14 plus all increases
30 occurring after January 1, 2003, in the premium rate schedule
31 for the same policy form exceed 15%, no request for a rate
32 increase on any policy form may be approved by the Director
33 except as follows: all the insurer's individual experience on
34 long-term care policy forms issued in this State that have

1 been approved pursuant to Section 351A-14 are pooled together
2 to project future claims experience and the combined
3 experience satisfies the requirements in subsection (b). An
4 insurer is not precluded from filing requests for premium
5 rate schedule increases on all of its policy forms if the
6 combined experiences after pooling all applicable policy
7 forms satisfies the requirements of subsection (b).

8 (f) An approval for an increase in the premium schedule
9 may not be granted unless the actuary performing the review
10 for the Director certifies that if the requested premium rate
11 schedule increase is implemented and the underlying
12 assumptions, which reflect moderately adverse conditions, are
13 realized, no further premium rate schedule increases are
14 anticipated. The certification may rely on supporting data
15 in the filing.

16 (g) The provisions of this Section are applicable to all
17 individual and group policies issued in this State on or
18 after January 1, 2003.

19 (215 ILCS 5/351A-18 new)
20 Sec. 351A-18. Requirements with respect to approved
21 increases.

22 (a) Premium rate schedule increases that have been
23 approved are subject to the requirements of this Section.

24 (b) For each rate increase that is implemented, the
25 insurer must file for approval by the Director updated
26 projections, as defined in paragraph (1) of subsection (c) of
27 Section 351A-16, annually for the next 3 years and include a
28 comparison of actual results to projected values. The
29 Director may extend the period to greater than 3 years.

30 (c) If the Director determines that the actual
31 experience following a rate increase does not adequately
32 match the projected experience and that the current
33 projections under moderately adverse conditions demonstrate

1 that incurred claims will not exceed proportions of premiums
2 specified in subsection (b), the Director may require the
3 insurer to implement any of the following:

4 (1) Premium rate schedule adjustments.

5 (2) Other measures to reduce the difference between
6 the projected and actual experience.

7 In determining whether the actual experience adequately
8 matches the projected experience, consideration must be given
9 to paragraph (5) of subsection (c) of Section 351A-16, if
10 applicable.

11 (d) If the Director demonstrates, based upon credible
12 evidence, that an insurer has engaged in a persistent
13 practice of filing inadequate premium schedules, the Director
14 may, in addition to any other authority of the Director under
15 this Code, and after the insurer is afforded proper notice
16 and due process, prohibit the insurer from filing and
17 marketing comparable coverage for a period of up to 5 years
18 or from offering all other similar coverages, and may limit
19 marketing of new applications to the products subject to
20 recent premium rate schedule increases.

21 (e) This Section does not apply to life insurance
22 policies and certificates that accelerate benefits for
23 long-term care.

24 (f) The provisions of this Section are applicable to all
25 individual and group policies issued in this State on or
26 after January 1, 2003.

27 Section 99. Effective date. This Act takes effect January
28 1, 2002.