GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

SESSION LAW 2005-412
HOUSE BILL 735

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

The General Assembly of North Carolina enacts:

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

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

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

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

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

…

(h) Every policy that is subject to this section and that provides individual accident and health insurance benefits to a resident of this State shall return to policyholders benefits that are reasonable in relation to the premium charged. The Commissioner may adopt rules or utilize existing rules to establish minimum standards for loss ratios of policies on the basis of incurred claims experience and earned premiums in accordance with accepted actuarial principles and practices to assure that the benefits are reasonable in relation to the premium charged. Every insurer providing policies in this State subject to this section shall not less than annually file for approval its rates, rating schedules, and supporting documentation to demonstrate compliance with the applicable loss ratio standards of this State as adopted by the Commissioner.

All filings of rates and rating schedules shall comply with the standards adopted by the Commissioner. The filing shall include a certification by an individual who is either a Fellow or an Associate of the Society of Actuaries or a Member of the American Academy of Actuaries that the rates are not excessive, not inadequate, and not unfairly discriminatory; and that the rates exhibit a reasonable relationship to the benefits provided by the policy. Nothing in this subsection shall require an insurer to provide certification with respect to a previous rate period, or to require an insurer to reduce properly filed and approved rates before the end of a rate period. This subsection does not apply to any long-term care policy issued in this State on or after February 1, 2003, and noncancellable accident and health insurance.

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

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

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

(j) For purposes of this section, accident and health insurance means insurance against death or injury resulting from accident or from accidental means and insurance against disablement, disease, or sickness of the insured. This includes Medicare supplemental insurance, long-term care, nursing home, or home health care insurance, or any combination thereof, specified disease or illness insurance, hospital indemnity or other fixed indemnity insurance, short-term limited duration health insurance, dental insurance, vision insurance, and medical, hospital, or surgical expense insurance or any combination thereof. Notwithstanding any other provision to the contrary, subsection (h) of this section does not apply to disability income insurance."

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

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

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

(1) Notify the Commissioner in writing of the insurer's decision to cease sales of the policy form(s) and provide a reasonable estimate, based on sound actuarial principles, of the expected impact on future premiums of ceasing sales of the policy form(s). If the insurer's qualified actuary estimates that the expected impact on future annual premiums of ceasing sales of the policy form(s) exceeds five percent (5%) per annum, then the insurer shall comply with the requirements of subdivision (3) of this subsection. If each subsequent annual premium rate filing results in an approved annual premium rate increase no greater than the last premium rate increase approved when the block of insurance was open, plus five percent (5%) per annum, then the insurer shall not be required to comply with the requirements of subdivision (3) of this subsection. If any subsequent annual premium rate filing results in an approved premium rate increase in excess of five percent (5%) per annum more than the last premium rate increase approved while the block of insurance was open, then the insurer shall comply with the requirements of subdivision (3) of this subsection at the time the filing is approved, unless the insurer can demonstrate to the satisfaction

of the Commissioner that the portion of the increase that is due to the closing of the block is not more than five percent (5%) per annum.

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

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

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

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

(1) 'Accident and health insurance' means insurance against death or injury resulting from accident or from accidental means and insurance against disablement, disease, or sickness of the insured. This includes Medicare supplemental insurance, long-term care, nursing home, or home health care insurance, or any combination thereof, specified disease or illness insurance, hospital indemnity or other fixed indemnity insurance, short-term limited duration health insurance, dental insurance, vision insurance, and medical, hospital, or surgical expense insurance or any combination thereof.

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

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

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

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

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

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

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

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

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

G.S. 58-2-125.	Authority over all insurance companies; no exemptions from license.
G.S. 58-2-155.	Investigation of charges.
G.S. 58-2-160.	Reporting and investigation of insurance and reinsurance fraud and the financial condition of licensees; immunity from liability.
G.S. 58-2-162.	Embezzlement by insurance agents, brokers, or administrators.
G.S. 58-2-185.	Record of business kept by companies and agents; Commissioner may inspect.
G.S. 58-2-190.	Commissioner may require special reports.

G.S. 58-2-195.	Commissioner may require records, reports, etc., for agencies, agents, and others.
G.S. 58-2-200.	Books and papers required to be exhibited.
G.S. 58-3-50.	Companies must do business in own name; emblems, insignias, etc.
G.S. 58-3-115.	Twisting with respect to insurance policies; penalties.
G.S. 58-50-35.	Notice of nonpayment of premium required before forfeiture.
G.S. 58-51-25.	Policy coverage to continue as to mentally retarded or physically handicapped children.
G.S. 58-51-95(h), (i),(j).	Approval by Commissioner of forms, classification and rates; hearings; exceptions."

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

In the General Assembly read three times and ratified this the 23rd day of August, 2005.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 1:23 p.m. this 20th day of September, 2005