

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

Senate Bill 46

(Chair, Finance Committee)(By Request - Departmental -
Maryland Insurance Administration)

Finance

Health and Government Operations

Long-Term Care Insurance - Contingent Benefit Upon Lapse - Application

This departmental bill specifies that statutory provisions requiring long-term care insurance carriers to provide a contingent benefit upon lapse under specified circumstances apply only to policies or contracts of long-term care insurance issued or delivered in the State before April 1, 2003, for which rate increase filings have been approved by the Insurance Commissioner on or after June 1, 2019. **The bill takes effect June 1, 2019.**

Fiscal Summary

State Effect: None. The bill clarifies current law.

Local Effect: None.

Small Business Effect: The Maryland Insurance Administration (MIA) has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment. (This assessment does not reflect any amendments to the bill.)

Analysis

Current Law: Under Maryland regulations, an insurer may not deliver or issue a long-term care insurance policy in Maryland unless the option of purchasing a nonforfeiture benefit has been offered. A nonforfeiture benefit allows a consumer to retain some value of the policy should the policy lapse due to nonpayment of premiums. If an applicant rejects the offer of a nonforfeiture benefit at time of application or if, for specified

products, the applicant accepts the nonforfeiture benefit on a policy with a fixed or limited premium paying period, the carrier must provide for a contingent benefit upon lapse.

A contingent benefit on lapse must be triggered each time (1) an insurer increases the premium rates to a level that results in a cumulative increase of the annual premium equal to or exceeding a specified percentage of the insured's initial annual premium based on the insured's issue age and (2) the policy or certificate lapses within 120 days of the due date of the premium increase. Maryland regulations specify the percentage increase over the initial premium that triggers a substantial premium increase. The amount is based on age: for example, a 200% increase for an individual age 29 and younger; a 70% increase for an individual age 60; a 40% increase for an individual age 70; and a 20% increase for an individual age 80.

A contingent benefit on lapse must also be triggered for policies with a fixed or limited premium paying period each time (1) an insurer increases the premium rates to a level that results in a cumulative increase of the annual premium equal to or exceeding a specified percentage of the insured's initial annual premium, based on the insured's age; (2) the policy or certificate lapses within 120 days of the due date of the premium that was increased; and (3) a specified ratio is 40% or greater.

Chapter 508 of 2018 requires a long-term care insurance carrier to provide to an insured a contingent benefit upon lapse under additional circumstances. Specifically, if (1) the carrier increases the premium rate for the insured; (2) the insured has maintained the policy or contract for at least 20 years; and (3) the insured terminates the policy or contract within 120 days after the premium increase becomes effective. The contingent benefit upon lapse must be a paid-up coverage with no additional premiums due and with a reduced lifetime maximum benefit equal to the sum of all premiums paid minus any claims paid. All other benefits of the policy or contract in effect on the date of the lapse must remain unchanged and may not be increased after the date of the lapse. Chapter 508 applies to all policies, contracts, or certificates of long-term care insurance issued or delivered in the State and rate increase filings approved by the Insurance Commissioner on or after October 1, 2018.

Background: MIA advises that the contingent benefit upon lapse provisions in Maryland regulations are more generous than those under Chapter 508 for policies issued on or after April 1, 2003. Therefore, the bill is intended to clarify that Chapter 508 does not nullify the contingent benefit upon lapse provisions in regulations for specified policies.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Insurance Administration; Department of Legislative Services

Fiscal Note History: First Reader - January 18, 2019
mm/jc Third Reader - February 1, 2019
Enrolled - April 8, 2019
Revised - Amendment(s) - April 8, 2019

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TITLE OF BILL: Insurance – Contingent Benefit Upon Lapse – Technical Correction

BILL NUMBER: SB 46

PREPARED BY:
(Dept./Agency) Maryland Insurance Administration

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

 X WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

 WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

In the 2018 session, House Bill 946 Long-Term Care Insurance – Contingent Benefit Upon Lapse, passed the General Assembly. The bill that was enacted was more narrowly tailored than the existing COMAR 31.14.01.13. This proposal serves to clarify that the statutory change last year does not nullify the more protective contingent benefit upon lapse provision that already existed in regulation for certain policies.

The contingent benefit referenced in COMAR 31.14.01.13 is more generous than the benefit currently described in § 18-116.1. The contingent benefit upon lapse described in COMAR 31.14.01.13, which is based on the NAIC Long Term Care Insurance Model Regulation, first became effective on April 1, 2003. Based on subsequent changes to the NAIC Model, the benefit in COMAR 31.14.01.13 was revised in 2007, and then again in 2017. Although the benefit in COMAR 31.14.01.13 has changed over the years, each of its iterations is more generous than the benefit described currently in § 18-116.1 in certain respects. This legislation will enhance the benefit that already existed in regulation, which was inadvertently missed when HB946 was passed last session.

Minimal administrative compliance efforts may be required of insurance carriers to ensure compliance with this proposal.