

AMENDED IN SENATE JUNE 2, 1999  
AMENDED IN SENATE APRIL 14, 1999

**SENATE BILL**

**No. 898**

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**Introduced by Senator Dunn  
(Coauthor: Senator Sher)**

February 25, 1999

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An act to amend Section 10236 of, *and to add Sections 10236.1 and 10236.2 to*, the Insurance Code, relating to long-term care insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 898, as amended, Dunn. Long-term care renewal provisions.

Existing law provides that every *individual* long-term care insurance policy shall contain a renewal provision that is either guaranteed renewable or noncancelable.

This bill would ~~delete the reference to "guaranteed renewable"~~ and would also require ~~every~~ group long-term care ~~policy policies~~ and ~~certificate certificates~~ to be either *guaranteed renewable* or noncancelable.

*This bill would require approval of the Insurance Commissioner before individual or group long-term care insurance may be offered, sold, issued, or delivered in this state, and would specify the duties of insurers and the commissioner in this regard. This bill would limit premium increases for these policies, as specified, and would provide for a contingent nonforfeiture benefit. The bill would enact other related provisions.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. It is the intent of the Legislature that ~~the~~  
2 ~~premium of every long-term care policy shall be~~  
3 ~~calculated so as to be level over the life of the policy, and~~  
4 ~~that annual premium shall be level over the lifetime of~~  
5 ~~the insured.~~ *certain premiums and conditions for*  
6 *long-term care insurance will be subject to the prior*  
7 *approval of the Insurance Commissioner.*

8 SEC. 2. Section 10236 of the Insurance Code is  
9 ~~amended to read:~~

10 ~~10236. Every long-term care policy and certificate~~  
11 ~~shall contain a renewal provision that is noncancelable.~~

12 ~~(a) "Noncancelable" means the insured has the right~~  
13 ~~to continue the coverage in force if premiums are timely~~  
14 ~~paid during which period the insurer may not unilaterally~~  
15 ~~change the terms of coverage, decline to renew, or~~  
16 ~~change the premium rate.~~

17 ~~(b) Every long-term care policy and certificate shall~~  
18 ~~contain an appropriately captioned renewability~~  
19 ~~provision on page one, which shall clearly describe the~~  
20 ~~initial term of coverage and the conditions for renewal.~~  
21 ~~amended to read:~~

22 ~~10236. Every long-term care policy issued to an~~  
23 ~~individual shall contain a renewal provision that is~~ *and*  
24 ~~certificate shall be~~ either guaranteed renewable or  
25 noncancelable.

26 ~~(a) "Guaranteed renewable" means that the insured~~  
27 ~~has the right to continue coverage in force if premiums~~  
28 ~~are timely paid during which period the insurer may not~~  
29 ~~unilaterally change the terms of coverage or decline to~~  
30 ~~renew, except that the insurer may, in accordance with~~  
31 ~~provisions in the policy, and in accordance with Section~~  
32 ~~10236.1, change the premium rates to all insureds in the~~  
33 ~~same class. The "class" is determined by the insurer for~~  
34 ~~the purpose of setting rates at the time the policy is issued.~~



1 (b) “Noncancelable” means the insured has the right  
2 to continue the coverage in force if premiums are timely  
3 paid during which period the insurer may not unilaterally  
4 change the terms of coverage, decline to renew, or  
5 change the premium rate.

6 (c) Every long-term care policy and certificate shall  
7 contain an appropriately captioned renewability  
8 provision on page one, which shall clearly describe the  
9 initial term of coverage, the conditions for renewal and,  
10 if guaranteed renewable, a description of the class and of  
11 each circumstance under which the insurer may change  
12 the premium amount.

13 *SEC. 2. Section 10236.1 is added to the Insurance*  
14 *Code, to read:*

15 *10236.1. (a) (1) No individual or group long-term*  
16 *care insurance coverage may be offered, sold, issued, or*  
17 *delivered to a resident of this state without the prior*  
18 *approval of the commissioner pursuant to the provisions*  
19 *of this chapter. The commissioner shall review and*  
20 *approve individual and group policy forms and*  
21 *certificates, outlines of coverage, advertising materials to*  
22 *be used in this state, and rates and premiums for policies*  
23 *and certificates.*

24 *(2) The insurer shall submit to the commissioner an*  
25 *initial rate filing that discloses the assumptions the insurer*  
26 *has used to develop its premium schedule. No approval*  
27 *for a premium schedule shall be granted unless the*  
28 *commissioner certifies that, based upon the assumptions*  
29 *contained in the rate filing and relevant experience data,*  
30 *no rate increase for that policy form will be required. The*  
31 *commissioner, prior to certification, shall utilize an*  
32 *independent actuarial consultant pursuant to subdivision*  
33 *(c) to review the assumptions the insurer has used to*  
34 *develop its premium schedule. Group policy forms as*  
35 *defined in subdivisions (a), (b), and (c) of Section 10231.6*  
36 *shall not be subject to the pooling of experience required*  
37 *by paragraph (2) of subdivision (b).*

38 *(3) Any insurer offering long-term care insurance for*  
39 *sale in California on a “guaranteed renewable” basis shall*  
40 *also offer for sale in this state at least one plan of long-term*



1 care insurance on a “noncancelable basis.” The  
2 requirements of Sections 10235.22 and 10236.2 shall not  
3 apply to noncancelable plans.

4 (4) The contingent nonforfeiture benefit shall be a  
5 fully paid-up shortened benefit period. The nonforfeiture  
6 benefit shall be no less than 100 percent of the cumulative  
7 premium paid plus no less than 5 percent compounded  
8 interest.

9 (b) No insurer may increase the premium for a  
10 long-term care insurance policy or certificate approved  
11 for sale under this chapter unless the insurer has received  
12 prior approval for the increase from the commissioner, as  
13 follows:

14 (1) The premium schedule may be subject to one  
15 increase upon a determination by the commissioner that  
16 the increase is necessary based on the experience of the  
17 insurer with the individuals in the class. No approval for  
18 an increase shall be granted unless the commissioner  
19 certifies that no further rate increase will be required.  
20 The insurer may not file for an increase unless the initial  
21 premium schedule and the new premium schedule  
22 together produce a lifetime loss ratio consistent with  
23 Section 10236.2.

24 The contingent nonforfeiture benefit, provided  
25 pursuant to paragraph (4) of subdivision (a), shall be  
26 triggered each time an insurer increases the premium  
27 rates. Unless otherwise required, policyholders shall be  
28 notified at least 30 days prior to the due date of the  
29 premium reflecting the rate increase. The notice shall  
30 include a referral to the local Health Insurance  
31 Counseling and Advocacy Program.

32 (2) After the premium has been increased in  
33 accordance with paragraph (1), or after any rate increase  
34 that occurs after February 25, 1999, and before January 1,  
35 2001, further premium increases are subject to a  
36 determination by the commissioner that the increase  
37 satisfies the requirements of paragraph (1), that the  
38 increase is necessary based on a review of the relevant  
39 experience of the insurer, and that the relevant  
40 experience is reflected in the assumptions for policy



1 forms currently being marketed. The relevant  
2 experience of the insurer shall consist of all of the insurer's  
3 individual long-term care policies issued in this state for  
4 purposes of developing future morbidity assumptions.

5 (3) Beginning on January 1, 2002, the commissioner  
6 shall only approve a rate increase in the same percentage  
7 amount as the increase in the index compiled pursuant to  
8 subdivision (e). An insurer may choose to increase its loss  
9 ratio instead, if that results in a rate increase that is less  
10 than the indexed percentage.

11 (4) If the commissioner demonstrates, based upon  
12 credible evidence, that an insurer has engaged in a  
13 persistent practice of filing inadequate initial premium  
14 schedules, the commissioner may, in addition to any other  
15 authority of the commissioner under this chapter,  
16 prohibit the insurer from filing and marketing  
17 comparable coverage for a period of up to five years or  
18 from offering all other similar policy forms, and may limit  
19 marketing of new applications to the policy forms subject  
20 to recent rate increases.

21 (c) The commissioner shall contract with  
22 independent actuarial consultants to review rate  
23 applications submitted by insurers pursuant to this  
24 section. The commissioner shall issue no more than four  
25 contracts to secure these independent actuarial  
26 consultants. The actuarial consultants shall be members  
27 of the American Society of Actuaries with at least five  
28 years' experience in long-term care insurance industry  
29 pricing, and be or have been active participants in  
30 long-term care insurance actuarial task forces within the  
31 last five years.

32 The department shall randomly select from the  
33 actuarial consultants secured by the commissioner a  
34 consultant to review each rate application submitted by  
35 an insurer pursuant to this section. No firm or actuarial  
36 consultant randomly selected shall have been involved in  
37 any prior consulting and shall not be involved in any  
38 concurrent consulting on any actuarial work of any filings  
39 of the company whose policies have been submitted for  
40 rate review. If that is the case, the department shall



1 randomly select another actuarial consultant to perform  
2 the rate review. No firm or actuarial consultant with  
3 whom the commissioner has secured a contract may  
4 enter into a consulting relationship with the company  
5 whose policies it has reviewed pursuant to this section for  
6 two years after the termination of the contract issued by  
7 the commissioner.

8 (d) The commissioner shall promulgate regulations  
9 that establish (1) confidentiality for all information  
10 submitted by a long-term insurer in connection with rate  
11 applications submitted pursuant to this section, (2)  
12 reasonable fees permitted to be charged to a long-term  
13 care insurer by an authorized independent actuarial  
14 consultant to review and opine on the insurer's rate  
15 filings, (3) reporting requirements for long-term care  
16 insurers, and (4) definitions of any relevant terms.

17 (e) The commissioner shall collect the experience for  
18 all companies selling long-term care insurance in  
19 California reported to the National Association of  
20 Insurance Commissioners since 1991, and annually after  
21 January 1, 2000. The commissioner in consultation with  
22 the American Academy of Actuaries shall develop an  
23 index to be used to limit rate increases.

24 (f) (1) The provisions of this section are applicable to  
25 all policies and certificates issued on or after January 1,  
26 2000.

27 (2) With respect to forms approved prior to January 1,  
28 2000, only those rules in effect prior to January 1, 2000,  
29 shall apply, except as provided in paragraph (2) of  
30 subdivision (b). However, beginning January 1, 2001, the  
31 provisions of this section shall also apply to the forms  
32 approved prior to January 1, 2000.

33 (g) This section shall not apply to life insurance  
34 policies and certificates that accelerate benefits for  
35 long-term care.

36 SEC. 3. Section 10236.2 is added to the Insurance  
37 Code, to read:

38 10236.2. (a) Relative to premiums increased  
39 pursuant to subdivision (b) of Section 10236.1, benefits  
40 under individual long-term care insurance policies and



1 *certificates shall be deemed reasonable in relation to*  
2 *increased premiums if the lifetime loss ratio is at least 60*  
3 *percent of the initial premium schedule plus 80 percent*  
4 *of all additions to the initial premium schedule, calculated*  
5 *in a manner that provides for adequate reserving of the*  
6 *long-term care insurance risk. In evaluating the lifetime*  
7 *loss ratio, due consideration shall be given to all relevant*  
8 *factors, including the following:*

9 (1) *Statistical credibility of incurred claims experience*  
10 *and earned premiums.*

11 (2) *The period for which rates are computed to*  
12 *provide coverage.*

13 (3) *Experienced and projected trends.*

14 (4) *Concentration of experience within early policy*  
15 *duration.*

16 (5) *Expected claim fluctuation.*

17 (6) *Experience refunds, adjustments, or dividends.*

18 (7) *Renewability features.*

19 (8) *All appropriate expense factors.*

20 (9) *Interest.*

21 (10) *Experimental nature of the coverage.*

22 (11) *Policy reserves.*

23 (12) *Mix of business by risk classification.*

24 (13) *Product features, such as long elimination*  
25 *periods, high deductibles, and high maximum limits.*

26 (b) *The insurer shall file lifetime projections of earned*  
27 *premiums and incurred claims based on the filed rate*  
28 *increase. Annual values for the five years preceding and*  
29 *the three years following the valuation date shall be*  
30 *provided separately. If the filed rate increase is*  
31 *implemented, the insurer shall file updated projections*  
32 *annually for the next three years and include a*  
33 *comparison of actual results to projected values. The*  
34 *commissioner may extend the period to greater than*  
35 *three years if actual results are not consistent with*  
36 *projected values from prior projections. If the*  
37 *commissioner has determined that the actual experience*  
38 *does not adequately match the projected experience and*  
39 *that the incurred claims will not exceed proportions of*



- 1 *premiums specified in this section, the commissioner may*  
2 *require the insurer to implement any of the following:*
- 3 *(1) Benefit modifications.*
  - 4 *(2) Premium rate schedule adjustments.*
  - 5 *(3) Other measures to reduce the difference between*  
6 *the projected and actual experience.*

