SB-1046 Insurance: long-term care. (2017-2018)

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Senate Bill No. 1046

CHAPTER 352

An act to amend Section 10235.50 of the Insurance Code, relating to insurance.

[Approved by Governor September 11, 2018. Filed with Secretary of State September 11, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1046, Roth. Insurance: long-term care.

Existing law generally regulates long-term care insurance policies delivered or issued after January 1, 1990. As to these policies, existing law requires a policy or certificate to include a provision that gives the policyholder or certificate holder certain specified rights to reduce coverage and lower premiums.

This bill would provide that, if a premium increases, a policyholder or certificate holder has a right to retain a policy or certificate while reducing coverage and lowering the premium, and specifies options and information that an insurer would be required to provide under those circumstances. The bill would require an insurer offering a policy or certificate with an inflation protection provision to provide specified options if a policyholder or certificate holder opts to reduce coverage. The bill would provide that the premium for a reduced coverage policy or certificate shall be based on the issue age and underwriting class, as specified, and consistent with the approved rate table. The bill would require an insurer to provide specified options to retain a policy or certificate while reducing coverage and lowering the premium, including reducing or eliminating the benefit adjustments provided by an inflation protection provision for a policy issued or delivered on or after January 1, 2020.

Vote: majority   Appropriation: no   Fiscal Committee: yes   Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 10235.50 of the Insurance Code is amended to read:

10235.50. (a) A policy or certificate shall include a provision that gives the policyholder or certificate holder the right, exercisable any time after the first year, to retain the policy or certificate while reducing coverage and lowering the premium.

(1) The policyholder or certificate holder shall have the option to reduce coverage and lower the premium in the following ways:

(A) Reducing the lifetime maximum benefit.

(B) Reducing the daily, weekly, or monthly benefit amounts.

(C) Converting a “comprehensive long-term care” policy or certificate to a “Nursing Facility and Residential Care Facility Only” or a “Home Care Only” policy or certificate, if the insurer issues those policies or certificates for sale in the state.

(D) Reducing or eliminating the benefit adjustments provided by an inflation protection provision.

(2) Subparagraph (D) of paragraph (1) shall apply to a policy issued or delivered on or after January 1, 2020.

(3) The insurer may offer other reduction options in addition to those required by paragraph (1).

(4) For a policy issued or delivered on or after January 1, 2020, the provision shall include a description of the process for requesting and implementing a reduction in coverage. For a policy issued or delivered before January 1, 2020, an insurer shall notify the policyholder or certificate holder of the process to request and implement a reduction in coverage.

(b) (1) The premium for a policy or certificate that is reduced in coverage shall be both of the following:

(A) Based on the issue age and underwriting class used to determine the premium for the coverage currently in force.

(B) Consistent with the policy's approved rate table.

(2) This subdivision shall apply to any reduction in coverage, regardless of the original policy issue date.

(c) (1) If a policy or certificate contains an inflation protection provision, both of the following shall apply to a reduction in coverage:

(A) If a policyholder or certificate holder chooses to reduce a daily, weekly, monthly, or lifetime benefit amount, then he or she shall be given the option to continue inflation protection benefit adjustments in the same manner and in the same amount as the contract in force before the reduction in coverage.

(B) If a policyholder or certificate holder chooses to reduce or eliminate the benefit adjustments provided by an inflation protection provision, then he or she shall be given the option to continue the daily, weekly, monthly, and lifetime benefit amounts in effect at the time of the reduction.

(2) This subdivision shall apply to any reduction in coverage, regardless of the original policy issue date.

(d) If a policy or certificate is about to lapse, the insurer shall provide written notice to the insured of the options in subdivision (a) to lower the premium by reducing coverage and of the premiums applicable to the reduced coverage options. The insurer may include in the notice additional options to those required in subdivision (a). The notice shall provide the insured at least 30 days in which to elect to reduce coverage and the policy shall be reinstated without underwriting if the insured elects the reduced coverage.

(e) If a premium increases, the policyholder or certificate holder shall have the right to retain the policy or certificate while reducing coverage and lowering the premium.

(1) The policyholder or certificate holder shall be offered the option to reduce coverage as provided in subparagraphs (A), (B), and (D) of paragraph (1) of subdivision (a).

(A) At least one option to reduce coverage shall allow the policyholder or certificate holder to retain the policy for a premium reasonably equivalent to the one that was in effect before the rate increase.

(B) An insurer may offer other reduction options in addition to the option required by paragraph (1).

(C) An insurer's offer shall include a disclosure stating that all of the reduction options may not be of equal value.

(D) The policyholder or certificate holder of a policy or certificate offered under the California Partnership for Long-Term Care Program shall be offered options to reduce coverage that would maintain certification under the program. The insurer may also offer other reduction options that may result in a loss of partnership status, but the offer shall include a disclosure that identifies the benefit reduction options that may result in a loss of partnership status and explains that loss of partnership status may reduce or eliminate policyholder protections.

(2) This subdivision shall apply to any premium rate increase, regardless of the original policy issue date.