**20:06:21:67.  Premium rate schedule increases - Policies to which does not apply.** Sections 20:06:21:63 to 20:06:21:66, inclusive, shall not apply to policies for which the long-term care benefits provided by the policy are incidental, as defined in subdivision 20:06:21:01(13), if the policy complies with all of the following provisions:

(1)  The interest credited internally to determine cash value accumulations, including long-term care, if any, are guaranteed not to be less than the minimum guaranteed interest rate for cash value accumulations without long-term care set forth in the policy;

(2)  The portion of the policy that provides insurance benefits other than long-term care coverage meets the nonforfeiture requirements as applicable in SDCL 58-15-31 and 58-15-72, and for variable annuities those nonforfeiture requirements as may be approved by the director;

(3)  The policy meets the disclosure requirements of §§ 20:06:21:44, 20:06:21:47, and 20:06:21:48;

(4)  The portion of the policy that provides insurance benefits other than long-term care coverage meets the requirements as applicable in the following:

(a)  Policy illustrations as required by chapter 20:06:38;

(b)  If long-term care benefits are funded through an annuity, the disclosure requirements are:

(i)    The insurer must provide to all prospective purchasers a Buyer's Guide to Annuities and a Contract Summary, prior to accepting the applicants initial consideration, unless the annuity contract or associated life insurance policy provides for an unconditional refund period of at least ten days or unless the Contract Summary contains an unconditional refund offer;

(ii)   The insurer shall provide a Buyer's Guide to Annuities and a Contract Summary to any prospective purchaser upon request;

(iii)  A preneed funeral contract or prearrangement which is funded by an annuity contract shall be adequately disclosed at the time of application, prior to accepting the initial consideration. All relevant information shall be disclosed, including but not limited to merchandise, services, penalties or restrictions, impact of any changes in the annuity contract, relationship among agent(s), provider, and administrator; and

(c)  Disclosure requirements in § 20:06:07:05;

(5)  An actuarial memorandum is filed with the insurance department that includes:

(a)  A description of the basis on which the long-term care rates were determined;

(b)  A description of the basis for the reserves;

(c)  A summary of the type of policy, benefits, renewability, general marketing method, and limits on ages of issuance;

(d)  A description and a table of each actuarial assumption used. For expenses, an insurer must include percent of premium dollars per policy and dollars per unit of benefits, if any;

(e)  A description and a table of the anticipated policy reserves and additional reserves to be held in each future year for active lives;

(f)  The estimated average annual premium per policy and the average issue age;

(g)  A statement as to whether underwriting is performed at the time of application. The statement shall indicate whether underwriting is used and, if used, the statement shall include a description of the type or types of underwriting used, such as medical underwriting or functional assessment underwriting. Concerning a group policy, the statement shall indicate whether the enrollee or any dependent will be underwritten and when underwriting occurs; and

(h)  A description of the effect of the long-term care policy provision on the required premiums, nonforfeiture values and reserves on the underlying insurance policy, both for active lives and those in long-term care claim status.

**Source:** 28 SDR 157, effective May 19, 2002; 36 SDR 209, effective July 1, 2010; 44 SDR 184, effective June 25, 2018.

**General Authority:** SDCL 58-17B-4.

**Law Implemented:** SDCL 58-17B-4.