62A.135 FIXED INDEMNITY POLICIES; MINIMUM LOSS RATIOS.

Subdivision 1. **Definitions.** For purposes of this section, the following terms have the meanings given them:

(a) "fixed indemnity policy" is a policy form, other than an accidental death and dismemberment policy, a disability income policy, or a long-term care policy as defined in section 62A.46, subdivision 2, that pays a predetermined, specified, fixed benefit for services provided. Claim costs under these forms are generally not subject to inflation, although they may be subject to changes in the utilization of health care services. For policy forms providing both expense-incurred and fixed benefits, the policy form is a fixed indemnity policy if 50 percent or more of the total claims are for predetermined, specified, fixed benefits;

(b) "guaranteed renewable" means that, during the renewal period (to a specified age) renewal cannot be declined nor coverage changed by the insurer for any reason other than nonpayment of premiums, fraud, or misrepresentation, but the insurer can revise rates on a class basis upon approval by the commissioner;

(c) "noncancelable" means that, during the renewal period (to a specified age) renewal cannot be declined nor coverage changed by the insurer for any reason other than nonpayment of premiums, fraud, or misrepresentation and that rates cannot be revised by the insurer. This includes policies that are guaranteed renewable to a specified age, such as 60 or 65, at guaranteed rates; and

(d) "average annualized premium" means the average of the estimated annualized premium per covered person based on the anticipated distribution of business using all significant criteria having a price difference, such as age, sex, amount, dependent status, mode of payment, and rider frequency. For filing of rate revisions, the amount is the anticipated average assuming the revised rates have fully taken effect.

Subd. 2. **Applicability.** This section applies to individual or group policies, certificates, or other evidence of coverage meeting the definition of a fixed indemnity policy, offered, issued, or renewed, to provide coverage to a Minnesota resident.

Subd. 3. **Minimum loss ratio standards.** Notwithstanding section 62A.02, subdivision 3, relating to loss ratios, the minimum loss ratios for fixed indemnity policies are:

(1) as shown in the following table:

Type of Coverage	Renewal Provision	
	Guaranteed Renewable	Noncancelable
Group	75%	70%
Individual	65%	60%

or

(2) for policies or certificates where the average annualized premium is less than $1,000, the average annualized premium less $30, multiplied by the required loss ratio in clause (1), divided by the average annualized premium. However, in no event may the minimum loss ratio be less than the required loss ratio from clause (1) minus ten percent.

The commissioner of commerce may adjust the constant dollar amounts provided in clause (2) on January 1 of any year, based upon changes in the CPI-U, the Consumer Price Index for all urban consumers, published by the United States Department of Labor, Bureau of Labor Statistics. Adjustments must be in increments of $5 and must not be made unless at least that amount of adjustment is required to each amount.

All rate filings must include a demonstration that the rates are not excessive. Rates are not excessive if the anticipated loss ratio and the lifetime anticipated loss ratio meet or exceed the minimum loss ratio standard in this subdivision.

Subd. 4. **Renewal provision.** An insurer may only issue or renew an individual policy on a guaranteed renewable or noncancelable basis.

Subd. 5. **Supplemental filings.** Each insurer that has fixed indemnity policies in force in this state shall, upon request by the commissioner, submit, in a form prescribed by the commissioner, experience data showing its incurred claims, earned premiums, incurred to earned loss ratio, and the ratio of the actual loss ratio to the expected loss ratio for each fixed indemnity policy form in force in Minnesota. The experience data must be provided on both a Minnesota only and a national basis. If in the opinion of the company's actuary, the deviation of the actual loss ratio from the expected loss ratio for a policy form is due to unusual reserve fluctuations, economic conditions, or other nonrecurring conditions, the insurer should also file that opinion with appropriate justification.

If the data submitted does not confirm that the insurer has satisfied the loss ratio requirements of this section, the commissioner shall notify the insurer in writing of the deficiency. The insurer shall have 30 days from the date of receipt of the commissioner's notice to file amended rates that comply with this section or a request for an exemption with appropriate justification. If the insurer fails to file amended rates within the prescribed time and the commissioner does not exempt the policy form from the need for a rate revision, the commissioner shall order that the insurer's filed rates for the nonconforming policy be reduced to an amount that would have resulted in a loss ratio that complied with this section had it been in effect for the reporting period of the supplement. The insurer's failure to file amended rates within the specified time of the issuance of the commissioner's order amending the rates does not preclude the insurer from filing an amendment of its rates at a later time.

Subd. 6. **Penalties.** Each sale of a policy that does not comply with the loss ratio requirements of this section is subject to the penalties in sections 72A.17 to 72A.32.

Subd. 7. **Solicitations by mail or media advertisement.** For purposes of this section, fixed indemnity policies issued without the use of an agent as a result of solicitations of individuals through the mail or mass media advertising, including both print and broadcast advertising, must be treated as group policies.

History: *1991 c 325 art 21 s 5; 1995 c 258 s 24; 1996 c 446 art 1 s 26; 1999 c 177 s 38*