

Texas Premium Increase Example

In July 2001, former Attorney General John Cornyn (now US Senator) sued Conseco Health Insurance Company on behalf of the state of Texas for violating the Texas Deceptive Trade Practices Act (TDTPA) and the Texas Insurance Code (*State of Texas vs. Conseco* No. GV102103).

According to Cornyn, “Conseco... collected almost \$60 million from Texas consumers in premiums” with, “representations in its marketing materials that premiums would remain level and would not be raised because of age or health.” Additionally, Cornyn alleges the companies marketing violated the TDTPA because they, “stated that the policies were guaranteed renewable for life, suggesting that they would be affordable for life. Indeed, some marketing materials even went so far as to state the premiums would be level...These statements were grossly misleading to the average consumers...”

These rate increases were “substantial” and the policies “with [the] largest number of Texas policyholders...experienced a composite increase of 14% in 1997 and 25% two years later in 1999.” (*Texas v. Conseco*, No. GV102103). In the suit, Cornyn warned that “future rate increases are likely because Conseco has discontinued selling the policy series... and closed the blocks of business of which they are members. In doing so, Conseco...virtually assured that the blocks of business will enter into an ‘assessment spiral’ or ‘death spiral’... inevitably leading to a decrease in the size of the pool as healthy insureds switch to cheaper policies and persons who can no longer afford the premiums allow their policies to lapse.”

The lawsuit claimed that Conseco acted deliberately and that it knew, “raising its rates will cause policyholders to lapse their coverages.” In fact, Cornyn stated there was evidence to prove that, “Conseco factors this into their calculations, referring to this phenomena in memorandums regarding the increases as ‘shock lapse’.” (Quotes from *Texas v. Conseco*, No. GV102103).

In December 2003, Conseco agreed to sign an order of Assurance of Voluntary Compliance in order to settle the suit. It required Conseco to “reimburse the additional premiums from rate increases” for eligible policyholders who were affected by these rate increases. Additionally, the settlement established a “set aside fund” to be created if “any Conseco Senior Health Insurance Company long term care policy forms...issued in Texas to policyholders lapse within 60 days after the policyholder-specific effective date of any rate increase on said policies in Texas.” In total, Conseco was forced to pay \$199,470.13 to eligible policyholders and attorneys fees to the state of Texas.