

1 A bill to be entitled
 2 An act relating to long-term care insurance; creating s.
 3 627.94075, F.S.; requiring long-term care insurance
 4 policies to provide for policy incontestability after a
 5 certain time; providing an exception; amending s.
 6 627.9403, F.S.; specifying that certain limited benefit
 7 policies are a type of long-term care insurance policy;
 8 deleting an exemption from a minimum time period coverage
 9 requirement for certain limited benefit policies; amending
 10 s. 627.9404, F.S.; revising certain definitions; amending
 11 s. 627.9407, F.S.; revising certain restrictions on long-
 12 term care insurance policies; providing additional rate
 13 structure requirements for long-term care insurance
 14 policies; amending s. 627.9408, F.S.; requiring the
 15 Financial Services Commission to adopt by rule a
 16 standardized core benefit plan required for long-term care
 17 insurers to offer insureds; providing rule criteria and
 18 requirements; amending s. 641.2018, F.S.; correcting a
 19 cross-reference; providing an appropriation; providing
 20 application; providing an effective date.

21
 22 Be It Enacted by the Legislature of the State of Florida:

23
 24 Section 1. Section 627.94075, Florida Statutes, is created
 25 to read:

26 627.94075 Time limit on certain defenses.--Notwithstanding
 27 the provisions of s. 627.607, each long-term care insurance
 28 policy shall provide that the policy shall be incontestable

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29 after the policy has been in force during the lifetime of the
30 insured for a period of 2 years from the date of issuance of the
31 policy, except for nonpayment of premiums.

32 Section 2. Section 627.9403, Florida Statutes, is amended
33 to read:

34 627.9403 Scope.--The provisions of this part shall apply
35 to long-term care insurance policies delivered or issued for
36 delivery in this state, and to policies delivered or issued for
37 delivery outside this state to the extent provided in s.
38 627.9406, by an insurer, a fraternal benefit society as defined
39 in s. 632.601, a health maintenance organization as defined in
40 s. 641.19, a prepaid health clinic as defined in s. 641.402, or
41 a multiple-employer welfare arrangement as defined in s.
42 624.437. A policy which is advertised, marketed, or offered as a
43 long-term care policy and as a Medicare supplement policy shall
44 meet the requirements of this part and the requirements of ss.
45 627.671-627.675 and, to the extent of a conflict, be subject to
46 the requirement that is more favorable to the policyholder or
47 certificateholder. The provisions of this part shall not apply
48 to a continuing care contract issued pursuant to chapter 651 and
49 shall not apply to guaranteed renewable policies issued prior to
50 October 1, 1988. Any limited benefit policy that limits coverage
51 to care in a nursing home or to one or more lower levels of care
52 required or authorized to be provided by this part or by
53 commission rule is a type of long-term care insurance policy
54 that must meet all requirements of this part that apply to long-
55 term care insurance policies, except ss. 627.9407(3)(c), (9),
56 (10)(f), and (12) and 627.94073(2). ~~If the limited benefit~~

57 ~~policy does not provide coverage for care in a nursing home, but~~
 58 ~~does provide coverage for one or more lower levels of care, the~~
 59 ~~policy shall also be exempt from the requirements of s.~~
 60 ~~627.9407(3)(d).~~

61 Section 3. Subsections (1) and (7) of section 627.9404,
 62 Florida Statutes, are amended to read:

63 627.9404 Definitions.--For the purposes of this part:

64 (1) "Long-term care insurance policy" means any insurance
 65 policy or rider advertised, marketed, offered, or designed to
 66 provide coverage on an expense-incurred, indemnity, prepaid, or
 67 other basis for one or more necessary or medically necessary
 68 diagnostic, preventive, therapeutic, curing, treating,
 69 mitigating, rehabilitative, maintenance, or personal care
 70 services provided in a setting other than an acute care unit of
 71 a hospital. Long-term care insurance shall not include any
 72 insurance policy which is offered primarily to provide basic
 73 Medicare supplement coverage, basic hospital expense coverage,
 74 basic medical-surgical expense coverage, hospital confinement
 75 indemnity coverage, major medical expense coverage, disability
 76 income protection coverage, accident only coverage, specified
 77 disease or specified accident coverage, or limited ~~benefit~~
 78 health insurance coverage not otherwise defined as long-term
 79 care insurance.

80 (7) "Limited benefit policy" means any long-term care
 81 insurance policy that limits coverage to care in a nursing home
 82 or to one or more lower levels of care required or authorized to
 83 be provided by this part or by commission rule.

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84 Section 4. Subsections (3) and (7) of section 627.9407,
85 Florida Statutes, are amended to read:

86 627.9407 Disclosure, advertising, and performance
87 standards for long-term care insurance.--

88 (3) RESTRICTIONS.--A long-term care insurance policy may
89 not:

90 (a) Be canceled, nonrenewed, or otherwise terminated on
91 the grounds of the age or the deterioration of the mental or
92 physical health of the insured individual or certificateholder;
93 however, the office may authorize nonrenewal for an insurer on a
94 statewide basis on terms and conditions determined to be
95 necessary by the office to protect the interests of the
96 insureds, if the insurer demonstrates that renewal will
97 jeopardize the insurer's solvency or that substantial and
98 unexpected loss experience cannot reasonably be mitigated or
99 remedied.

100 (b) Contain a provision establishing a new waiting period
101 in the event existing coverage is converted to or replaced by a
102 new or other form within the same insurer or any affiliated
103 insurer, except with respect to an increase in benefits
104 voluntarily selected by the insured individual or group
105 policyholder.

106 (c) Restrict its coverage to care only in a nursing home
107 licensed pursuant to part II of chapter 400 or provide
108 significantly more coverage for such care than coverage for
109 lower levels of care. The commission shall adopt rules defining
110 what constitutes significantly more coverage in nursing homes

111 licensed pursuant to part II of chapter 400 than for lower
 112 levels of care.

113 ~~(d) Provide coverage for less than 24 consecutive months~~
 114 ~~for nursing home care for each covered person.~~

115 (d)(e) Contain an elimination period in excess of 180
 116 days. As used in this paragraph, the term "elimination period"
 117 means the number of days at the beginning of a period of
 118 confinement for which no benefits are payable.

119 (7) RATE STRUCTURE.--

120 (a) A long-term care insurance policy may not be issued if
 121 the premiums to be charged are calculated to increase based
 122 solely on the age of the insured.

123 (b) Any long-term care insurance policy or certificate
 124 issued or renewed, at the option of the policyholder or
 125 certificateholder, shall make available to the insured the
 126 contingent benefit upon lapse as provided in the Long-Term Care
 127 Insurance Model Regulation adopted by the National Association
 128 of Insurance Commissioners in the second quarter of the year
 129 2000.

130 (c) Any premium increase for existing insureds shall not
 131 result in a premium charged the insureds which would exceed the
 132 premium charged to a newly issued insurance policy, except to
 133 reflect benefit differences. If the insurer is not currently
 134 issuing new coverage, the new business rate shall be as
 135 published by the office at the rate representing the new
 136 business rate of insurers representing 80 percent of the
 137 carriers currently issuing policies with similar coverage as
 138 determined by the prior calendar year earned premium.

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139 (d) Compliance with the pooling provisions of s.
140 627.410(6)(e)3. shall be determined by pooling the experience of
141 all affiliated insurers.

142 Section 5. Subsection (3) is added to section 627.9408,
143 Florida Statutes, to read:

144 627.9408 Rules.--

145 (3) In order for consumers to be able to more
146 appropriately compare products and prices between insurers, the
147 commission shall adopt by rule, pursuant to ss. 120.536(1) and
148 120.54, a standardized core benefit plan that all insurers
149 offering long-term care insurance coverage in this state shall
150 make available to all prospective insureds. In adopting the
151 standardized core benefit plan rule, the commission shall
152 consider coverage and other plan provisions which provide
153 benefit levels consistent with those generally available in the
154 long-term care insurance market in this state, including those
155 applicable to nursing home health care, assisted living facility
156 care, and home care and that provide coverage for basic care.
157 The rule shall provide that the standardized core benefit plan
158 must meet the standards of a qualified long-term care insurance
159 policy. Any marketing material for any product shall include
160 reference to the availability of the standardized core benefit
161 plan.

162 Section 6. Subsection (3) of section 641.2018, Florida
163 Statutes, is amended to read:

164 641.2018 Limited coverage for home health care
165 authorized.--

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166 (3) Any contract that limits coverage to home health care
167 benefits as provided in this section must also meet all of the
168 requirements of ss. 627.9403-627.9408 of the Long-Term Care
169 Insurance Act, except s. 627.9407(3)(c), ~~(d)~~, and (9).

170 Section 7. For fiscal year 2006-2007, the sum of \$72,500
171 is appropriated from the Insurance Regulatory Trust Fund to the
172 Office of Insurance Regulation for the purpose of paying the
173 salary and other administrative expenses for one full-time
174 equivalent position to implement the provisions of this act.

175 Section 8. This act shall apply to long-term care
176 insurance policies issued or renewed on or after July 1, 2006.
177 For any long-term care insurance policy issued prior to July 1,
178 2006, the provisions of section 1 of this act shall apply to
179 such policy only upon renewal of such policy on or after July 1,
180 2008, and the policies shall so provide by endorsement to the
181 policy.

182 Section 9. This act shall take effect July 1, 2006.