

HB 1349

2006
CS

CHAMBER ACTION

1 The Insurance Committee recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to long-term care insurance; creating s.
7 627.94075, F.S.; requiring long-term care insurance
8 policies to provide for policy incontestability after a
9 certain time; providing an exception; amending s.
10 627.9403, F.S.; specifying that certain limited benefit
11 policies are a type of long-term care insurance policy;
12 deleting an exemption from a minimum time period coverage
13 requirement for certain limited benefit policies; amending
14 s. 627.9404, F.S.; revising certain definitions; amending
15 s. 627.9407, F.S.; revising certain restrictions on long-
16 term care insurance policies; providing additional rate
17 structure requirements for long-term care insurance
18 policies; amending s. 641.2018, F.S.; correcting a cross-
19 reference; providing an appropriation; providing
20 application; providing an effective date.

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

HB 1349

2006
CS

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
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

Page 2 of 6

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb1349-01-c1

HB 1349

2006
CS

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.

HB 1349

2006
CS

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.

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

HB 1349

2006
CS

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

HB 1349

2006
CS

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.

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) of section 641.2018, Florida
 143 Statutes, is amended to read:

144 641.2018 Limited coverage for home health care
 145 authorized.--

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

150 Section 6. For fiscal year 2006-2007, the sum of \$72,500
 151 is appropriated from the Insurance Regulatory Trust Fund to the
 152 Office of Insurance Regulation for the purpose of paying the
 153 salary and other administrative expenses for one full-time
 154 equivalent position to implement the provisions of this act.

155 Section 7. This act shall apply to long-term care
 156 insurance policies issued or renewed on or after July 1, 2006.
 157 For any long-term care insurance policy issued prior to July 1,
 158 2006, the provisions of section 1 of this act shall apply to
 159 such policy only upon renewal of such policy on or after July 1,
 160 2008, and the policies shall so provide by endorsement to the
 161 policy.

162 Section 8. This act shall take effect July 1, 2006.