

Bill No. SB 2290

Barcode 953702

CHAMBER ACTION

Senate

House

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The Committee on General Government Appropriations (Baker)  
recommended the following amendment:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause

and insert:

Section 1. Section 409.9102, Florida Statutes, as  
created by section 2 of chapter 2005-252, Laws of Florida, is  
reenacted and amended to read:

(Substantial rewording of section. See  
s. 409.9102, F.S., for present text.)

409.9102 Florida Long-Term Care Partnership  
Program.--The Agency for Health Care Administration, in  
consultation with the Office of Insurance Regulation and the  
Department of Children and Family Services, is directed to  
establish the Florida Long-Term Care Partnership Program, in  
compliance with the requirements of s. 1917(b) of the Social  
Security Act, as amended.

(1) The program shall:

(a) Provide incentives for an individual to obtain or

Bill No. SB 2290

Barcode 953702

1 maintain insurance to cover the cost of long-term care.

2 (b) Provide a mechanism for an individual to qualify  
3 for coverage of the costs of long-term care needs under  
4 Medicaid without first being required to substantially exhaust  
5 his or her assets, including a provision for the disregard of  
6 any assets in an amount equal to the insurance benefit  
7 payments that are made to or on behalf of an individual who is  
8 a beneficiary under the Florida Long-Term Care Partnership  
9 Program.

10 (c) Alleviate the financial burden on the state's  
11 medical assistance program by encouraging the pursuit of  
12 private initiatives.

13 (2) The Agency for Health Care Administration, in  
14 consultation with the Office of Insurance Regulation and the  
15 Department of Children and Family Services, shall create  
16 standards for long-term care partnership plan information  
17 distributed to individuals through insurance companies  
18 offering approved partnership policies.

19 (3) The Agency for Health Care Administration is  
20 authorized to amend the Medicaid state plan and adopt rules  
21 pursuant to ss. 120.536(1) and 120.54 to implement this  
22 section.

23 (4) The Department of Children and Family Services,  
24 when determining eligibility for Medicaid long-term care  
25 services for an individual who is the beneficiary of an  
26 approved long-term care partnership policy, shall reduce the  
27 total countable assets of the individual by an amount equal to  
28 the insurance benefit payments that are made to or on behalf  
29 of the individual. The department is authorized to adopt rules  
30 pursuant to ss. 120.536(1) and 120.54 to implement this  
31 subsection.

Bill No. SB 2290

Barcode 953702

1 Section 2. Section 627.94075, Florida Statutes, is  
2 created to read:

3 627.94075 Florida Long-Term Care Partnership  
4 Program.--

5 (1) The office, in consultation with the Agency for  
6 Health Care Administration and the Department of Children and  
7 Family Services, is directed to develop standards for the  
8 designation of eligible long-term care policies to be issued  
9 in accordance with the Florida Long-Term Care Partnership  
10 Program as described in s. 409.9102 and a form or forms that  
11 shall be used by insurers to assist insureds and the program  
12 in making a determination of eligible policies. Insurers, upon  
13 request of the office, shall provide information necessary to  
14 determine the number of eligible policies, the amount of  
15 benefits paid, and the types and kinds of products offered in  
16 order to monitor the implementation of the program.

17 (2) The commission may adopt rules pursuant to ss.  
18 120.536(1) and 120.54 to implement applicable provisions of  
19 the Long-Term Care Partnership Program, establish standards  
20 for the determination of whether a policy is eligible for the  
21 program, establish the proper reporting of benefits paid under  
22 partnership-eligible insurance policies, adopt standardized  
23 forms to be used by insurers to provide information to  
24 insureds and the program regarding the eligibility of the  
25 insurer's long-term care policy as a qualifying or  
26 nonqualifying policy with the program, and adopt forms to be  
27 filed by insurers to report information requested by the  
28 office in connection with the program.

29 Section 3. Sections 1 and 2 of chapter 2005-252, Laws  
30 of Florida, are repealed.

31 Section 4. Section 4 of chapter 2005-252, Laws of

Bill No. SB 2290

Barcode 953702

1 Florida, is amended to read:

2           Section 4. This act shall take effect upon becoming a  
3 law, ~~except that the amendments to section 409.905, Florida~~  
4 ~~Statutes, and the newly created section 409.9102, Florida~~  
5 ~~Statutes, provided in this act shall take effect contingent~~  
6 ~~upon amendment to section 1917(b)(1)(c) of the Social Security~~  
7 ~~Act by the United States Congress to delete the "May 14,~~  
8 ~~1993," deadline for approval by states of long-term care~~  
9 ~~partnership plans.~~

10           Section 5. Section 627.94076, Florida Statutes, is  
11 created to read:

12           627.94076 Time limit on certain  
13 defenses.--Notwithstanding the provisions of s. 627.607, each  
14 long-term care insurance policy shall provide that the policy  
15 shall be incontestable after the policy has been in force  
16 during the lifetime of the insured for a period of 2 years  
17 from the date of issuance of the policy, except for nonpayment  
18 of premiums.

19           Section 6. Section 627.9403, Florida Statutes, is  
20 amended to read:

21           627.9403 Scope.--The provisions of this part shall  
22 apply to long-term care insurance policies delivered or issued  
23 for delivery in this state, and to policies delivered or  
24 issued for delivery outside this state to the extent provided  
25 in s. 627.9406, by an insurer, a fraternal benefit society as  
26 defined in s. 632.601, a health maintenance organization as  
27 defined in s. 641.19, a prepaid health clinic as defined in s.  
28 641.402, or a multiple-employer welfare arrangement as defined  
29 in s. 624.437. A policy which is advertised, marketed, or  
30 offered as a long-term care policy and as a Medicare  
31 supplement policy shall meet the requirements of this part and

Bill No. SB 2290

Barcode 953702

1 the requirements of ss. 627.671-627.675 and, to the extent of  
2 a conflict, be subject to the requirement that is more  
3 favorable to the policyholder or certificateholder. The  
4 provisions of this part shall not apply to a continuing care  
5 contract issued pursuant to chapter 651 and shall not apply to  
6 guaranteed renewable policies issued prior to October 1, 1988.  
7 Any limited benefit policy that limits coverage to care in a  
8 nursing home or to one or more lower levels of care required  
9 or authorized to be provided by this part or by commission  
10 rule is a type of long-term care insurance policy that must  
11 meet all requirements of this part that apply to long-term  
12 care insurance policies, except ss. 627.9407(3)(c), (9),  
13 (10)(f), and (12) and 627.94073(2). ~~If the limited benefit~~  
14 ~~policy does not provide coverage for care in a nursing home,~~  
15 ~~but does provide coverage for one or more lower levels of~~  
16 ~~care, the policy shall also be exempt from the requirements of~~  
17 ~~s. 627.9407(3)(d).~~

18 Section 7. Subsections (1) and (7) of section  
19 627.9404, Florida Statutes, are amended to read:

20 627.9404 Definitions.--For the purposes of this part:

21 (1) "Long-term care insurance policy" means any  
22 insurance policy or rider advertised, marketed, offered, or  
23 designed to provide coverage on an expense-incurred,  
24 indemnity, prepaid, or other basis for one or more necessary  
25 or medically necessary diagnostic, preventive, therapeutic,  
26 curing, treating, mitigating, rehabilitative, maintenance, or  
27 personal care services provided in a setting other than an  
28 acute care unit of a hospital. Long-term care insurance shall  
29 not include any insurance policy which is offered primarily to  
30 provide basic Medicare supplement coverage, basic hospital  
31 expense coverage, basic medical-surgical expense coverage,

Bill No. SB 2290

Barcode 953702

1 hospital confinement indemnity coverage, major medical expense  
 2 coverage, disability income protection coverage, accident only  
 3 coverage, specified disease or specified accident coverage, or  
 4 limited ~~benefit~~ health insurance coverage not otherwise  
 5 defined as long-term care insurance.

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

10 Section 8. Subsections (3) and (7) of section  
 11 627.9407, Florida Statutes, are amended to read:

12 627.9407 Disclosure, advertising, and performance  
 13 standards for long-term care insurance.--

14 (3) RESTRICTIONS.--A long-term care insurance policy  
 15 may not:

16 (a) Be canceled, nonrenewed, or otherwise terminated  
 17 on the grounds of the age or the deterioration of the mental  
 18 or physical health of the insured individual or  
 19 certificateholder; however, the office may authorize  
 20 nonrenewal for an insurer on a statewide basis on terms and  
 21 conditions determined to be necessary by the office to protect  
 22 the interests of the insureds, if the insurer demonstrates  
 23 that renewal will jeopardize the insurer's solvency or that  
 24 substantial and unexpected loss experience cannot reasonably  
 25 be mitigated or remedied.

26 (b) Contain a provision establishing a new waiting  
 27 period in the event existing coverage is converted to or  
 28 replaced by a new or other form within the same insurer or any  
 29 affiliated insurer, except with respect to an increase in  
 30 benefits voluntarily selected by the insured individual or  
 31 group policyholder.

Bill No. SB 2290

Barcode 953702

1           (c) Restrict its coverage to care only in a nursing  
 2 home licensed pursuant to part II of chapter 400 or provide  
 3 significantly more coverage for such care than coverage for  
 4 lower levels of care. The commission shall adopt rules  
 5 defining what constitutes significantly more coverage in  
 6 nursing homes licensed pursuant to part II of chapter 400 than  
 7 for lower levels of care.

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

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

14           (7) RATE STRUCTURE.--

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

18           (b) Any long-term care insurance policy or certificate  
 19 issued or renewed, at the option of the policyholder or  
 20 certificateholder, shall make available to the insured the  
 21 contingent benefit upon lapse as provided in the Long-Term  
 22 Care Insurance Model Regulation adopted by the National  
 23 Association of Insurance Commissioners in the second quarter  
 24 of the year 2000.

25           (c) Any premium increase for existing insureds shall  
 26 not result in a premium charged the insureds which would  
 27 exceed the premium charged to a newly issued insurance policy,  
 28 except to reflect benefit differences. If the insurer is not  
 29 currently issuing new coverage, the new business rate shall be  
 30 as published by the office at the rate representing the new  
 31 business rate of insurers representing 80 percent of the

Bill No. SB 2290

Barcode 953702

1 carriers currently issuing policies with similar coverage as  
2 determined by the prior calendar year earned premium.

3 (d) Compliance with the pooling provisions of s.  
4 627.410(6)(e)3. shall be determined by pooling the experience  
5 of all affiliated insurers.

6 Section 9. Subsection (3) of section 641.2018, Florida  
7 Statutes, is amended to read:

8 641.2018 Limited coverage for home health care  
9 authorized.--

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

14 Section 10. For fiscal year 2006-2007, the sum of  
15 \$72,500 is appropriated from the Insurance Regulatory Trust  
16 Fund to the Office of Insurance Regulation for the purpose of  
17 paying the salary and other administrative expenses for one  
18 full-time equivalent position to implement the provisions of  
19 this act.

20 Section 11. This act shall apply to long-term care  
21 insurance policies issued or renewed on or after July 1, 2006.  
22 For any long-term care insurance policy issued prior to July  
23 1, 2006, the provisions of section 1 of this act shall apply  
24 to such policy only upon renewal of such policy on or after  
25 July 1, 2008, and the policies shall so provide by endorsement  
26 to the policy.

27 Section 12. This act shall take effect July 1, 2006.

30 ===== T I T L E A M E N D M E N T =====

31 And the title is amended as follows:



Bill No. SB 2290

Barcode 953702

1 Delete everything before the enacting clause

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3 and insert:

4 A bill to be entitled

5 An act relating to long-term care insurance;

6 reenacting and amending s. 409.9102, F.S.;

7 directing the Agency for Health Care

8 Administration, in consultation with the Office

9 of Insurance Regulation and the Department of

10 Children and Family Services, to amend the

11 Medicaid state plan that established the

12 Florida Long-Term Care Partnership Program for

13 purposes of compliance with provisions of the

14 Social Security Act; providing duties of the

15 program; requiring consultation with the Office

16 of Insurance Regulation and the Department of

17 Children and Family Services for the creation

18 of standards for certain information; providing

19 rulemaking authority to the agency for

20 implementation of s. 409.9102, F.S.; providing

21 rulemaking authority to the department

22 regarding determination of eligibility for

23 certain services; creating s. 627.94075, F.S.;

24 requiring the office, in consultation with the

25 agency and the department, to develop standards

26 for designation of eligible long-term care

27 policies and related forms; providing

28 rulemaking authority to the Financial Services

29 Commission for the implementation of the

30 Long-Term Care Partnership Program; repealing

31 ss. 1 and 2 of ch. 2005-252, Laws of Florida,

Bill No. SB 2290

Barcode 953702

1 to delete conflicting provisions relating to  
2 determining eligibility for nursing and  
3 rehabilitative services and establishing a  
4 Long-Term Care Partnership Program which were  
5 contingent upon amendment to the Social  
6 Security Act; amending s. 4 of ch. 2005-252,  
7 Laws of Florida, to delete a contingency in an  
8 effective date; creating s. 627.94076, F.S.;  
9 requiring long-term care insurance policies to  
10 provide for policy incontestability after a  
11 certain time; providing an exception; amending  
12 s. 627.9403, F.S.; specifying that certain  
13 limited benefit policies are a type of  
14 long-term care insurance policy; deleting an  
15 exemption from a minimum time period coverage  
16 requirement for certain limited benefit  
17 policies; amending s. 627.9404, F.S.; revising  
18 certain definitions; amending s. 627.9407,  
19 F.S.; revising certain restrictions on  
20 long-term care insurance policies; providing  
21 additional rate structure requirements for  
22 long-term care insurance policies; amending s.  
23 641.2018, F.S.; correcting a cross-reference;  
24 providing an appropriation; providing  
25 application; providing an effective date.

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