

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative Farkas offered the following:

2  
3 **Amendment (with title amendment)**

4 Between lines 116 and 117, insert:

5 Section 6. Section 627.94076, Florida Statutes, is created  
6 to read:

7 627.94076 Time limit on certain defenses.--Notwithstanding  
8 the provisions of s. 627.607, each long-term care insurance  
9 policy shall provide that the policy shall be incontestable  
10 after it has been in force during the lifetime of the insured  
11 for a period of 2 years after its date of issue except for  
12 nonpayment of premiums.

13 Section 7. Section 627.9403, Florida Statutes, is amended  
14 to read:

15 627.9403 Scope.--The provisions of this part shall apply  
16 to long-term care insurance policies delivered or issued for  
17 delivery in this state, and to policies delivered or issued for  
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18 delivery outside this state to the extent provided in s.  
19 627.9406, by an insurer, a fraternal benefit society as defined  
20 in s. 632.601, a health maintenance organization as defined in  
21 s. 641.19, a prepaid health clinic as defined in s. 641.402, or  
22 a multiple-employer welfare arrangement as defined in s.  
23 624.437. A policy which is advertised, marketed, or offered as a  
24 long-term care policy and as a Medicare supplement policy shall  
25 meet the requirements of this part and the requirements of ss.  
26 627.671-627.675 and, to the extent of a conflict, be subject to  
27 the requirement that is more favorable to the policyholder or  
28 certificateholder. The provisions of this part shall not apply  
29 to a continuing care contract issued pursuant to chapter 651 and  
30 shall not apply to guaranteed renewable policies issued prior to  
31 October 1, 1988. Any limited benefit policy that limits coverage  
32 to care in a nursing home or to one or more lower levels of care  
33 required or authorized to be provided by this part or by  
34 commission rule is a type of long-term care insurance policy  
35 that must meet all requirements of this part that apply to long-  
36 term care insurance policies, except ss. 627.9407(3)(c), (9),  
37 (10)(f), and (12) and 627.94073(2). ~~If the limited benefit~~  
38 ~~policy does not provide coverage for care in a nursing home, but~~  
39 ~~does provide coverage for one or more lower levels of care, the~~  
40 ~~policy shall also be exempt from the requirements of s.~~  
41 ~~627.9407(3)(d).~~

42 Section 8. Subsections (1) and (7) of section 627.9404,  
43 Florida Statutes, are amended to read:

44 627.9404 Definitions.--For the purposes of this part:

45 (1) "Long-term care insurance policy" means any insurance  
46 policy or rider advertised, marketed, offered, or designed to  
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47 provide coverage on an expense-incurred, indemnity, prepaid, or  
48 other basis for one or more necessary or medically necessary  
49 diagnostic, preventive, therapeutic, curing, treating,  
50 mitigating, rehabilitative, maintenance, or personal care  
51 services provided in a setting other than an acute care unit of  
52 a hospital. Long-term care insurance shall not include any  
53 insurance policy which is offered primarily to provide basic  
54 Medicare supplement coverage, basic hospital expense coverage,  
55 basic medical-surgical expense coverage, hospital confinement  
56 indemnity coverage, major medical expense coverage, disability  
57 income protection coverage, accident only coverage, specified  
58 disease or specified accident coverage, or limited benefit  
59 health insurance coverage not otherwise defined as long-term  
60 care insurance.

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

65 Section 9. Subsections (3) and (7) of section 627.9407,  
66 Florida Statutes, are amended to read:

67 627.9407 Disclosure, advertising, and performance  
68 standards for long-term care insurance.--

69 (3) RESTRICTIONS.--A long-term care insurance policy may  
70 not:

71 (a) Be canceled, nonrenewed, or otherwise terminated on  
72 the grounds of the age or the deterioration of the mental or  
73 physical health of the insured individual or certificateholder;  
74 however, the office may authorize nonrenewal for an insurer on a  
75 statewide basis on terms and conditions determined to be

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76 necessary by the office to protect the interests of the  
77 insureds, if the insurer demonstrates that renewal will  
78 jeopardize the insurer's solvency or that substantial and  
79 unexpected loss experience cannot reasonably be mitigated or  
80 remedied.

81 (b) Contain a provision establishing a new waiting period  
82 in the event existing coverage is converted to or replaced by a  
83 new or other form within the same insurer or any affiliated  
84 insurer, except with respect to an increase in benefits  
85 voluntarily selected by the insured individual or group  
86 policyholder.

87 (c) Restrict its coverage to care only in a nursing home  
88 licensed pursuant to part II of chapter 400 or provide  
89 significantly more coverage for such care than coverage for  
90 lower levels of care. The commission shall adopt rules defining  
91 what constitutes significantly more coverage in nursing homes  
92 licensed pursuant to part II of chapter 400 than for lower  
93 levels of care.

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

96 (d)~~(e)~~ Contain an elimination period in excess of 180  
97 days. As used in this paragraph, the term "elimination period"  
98 means the number of days at the beginning of a period of  
99 confinement for which no benefits are payable.

100 (7) RATE STRUCTURE.--

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

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104       (b) Any long-term care insurance policy or certificate  
105 issued or renewed, at the option of the policyholder or  
106 certificateholder, shall make available to the insured the  
107 contingent benefit upon lapse as provided in the Long-Term Care  
108 Insurance Model Regulation adopted by the National Association  
109 of Insurance Commissioners in the second quarter of the year  
110 2000.

111       (c) Any premium increase for existing insureds shall not  
112 result in a premium charged to the insureds that would exceed  
113 the premium charged on a newly issued insurance policy, except  
114 to reflect benefit differences. If the insurer is not currently  
115 issuing new coverage, the new business rate shall be as  
116 published by the office at the rate representing the new  
117 business rate of insurers representing 80 percent of the  
118 carriers currently issuing policies with similar coverage as  
119 determined by the prior calendar year earned premium.

120       (d) Compliance with the pooling provisions of s.  
121 627.410(6)(e)3. shall be determined by pooling the experience of  
122 all affiliated insurers.

123       Section 10. Subsection (3) of section 641.2018, Florida  
124 Statutes, is amended to read:

125       641.2018 Limited coverage for home health care  
126 authorized.--

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

131       Section 11. This act shall apply to long-term care  
132 insurance policies issued or renewed on or after July 1, 2006.

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133 For any long-term care insurance policy issued prior to July 1,  
134 2006, the provisions of section 6 shall apply to such policy  
135 only upon renewal of such policy on or after July 1, 2008, and  
136 the policy shall so provide by endorsement to the policy.  
137

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

139 Remove line 38 and insert:

140 and Legislature; creating s. 627.94076, F.S.; requiring  
141 long-term care insurance policies to provide  
142 incontestability after a certain time period; providing an  
143 exception; amending s. 627.9403, F.S.; specifying that  
144 certain limited benefit policies are a type of long-term  
145 care insurance policy; deleting an exemption from a  
146 minimum time period coverage requirement for certain  
147 limited benefit policies; amending s. 627.9404, F.S.;  
148 revising definitions; amending s. 627.9407, F.S.; revising  
149 certain restrictions on long-term care insurance policies;  
150 providing additional rate structure requirements for long-  
151 term care insurance policies; amending s. 641.2018, F.S.;  
152 correcting a cross-reference; providing application;  
153 providing an effective date.