HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1431 Long-Term Care Policies
SPONSOR(S): Schwartz
TIED BILLS: **IDEN./SIM. BILLS:** CS/CS/SB 2012

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Jobs & Entrepreneurship Council		Reilly/Topp	Thorn
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

HB 1431 revises the requirement for an insurer to notify long-term care insurance policyholders of the right to designate a secondary addressee to receive a notice of possible lapse in coverage or termination due to nonpayment of premium. The revisions require that the notice be provided annually, rather than every 2 years, and require the notice to inform the policyholder to update any change made to the address of the secondary addressee. The bill also requires that any notice of possible lapse in coverage or termination must be sent by United States Postal Service proof of mailing, certified mail, or registered mail.

The bill also changes the requirement for an insurer to allow a policyholder to reinstate a long-term care policy that has been cancelled for non-payment of premium to include persons whose failure to pay the premium was due to continuous hospital confinement of longer than 60 days.

This bill has an effective date of July 1, 2008.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Florida law establishes the requirements for long-term care policies in Part XVIII of chapter 627, F.S. Long-term care refers to a broad range of supportive medical and personal services needed by people who are unable to meet their basic living needs for an extended period of time. Long-term care policies generally provide coverage for care in a nursing home and for specified lower levels of care, such as home health care.

Section 627.9403, F.S., includes requirements for long-term care policies regarding grace periods for late payment and notice of cancellation. It also provides protections against a policyholder unknowingly missing a payment or failing to read a notice by giving the policyholder an option to designate a second person to notify, as well as the opportunity to pay overdue premiums and reinstate a canceled policy, under certain conditions. These requirements are as follows:

Grace Period – A long term-care policy must provide a grace period of at least 30 days within which the premium may be paid after its due date. The insurer may impose an interest charge of up to 8 percent per year for the number of days the payment is late.

Notice of Cancellation: Right to Designate Secondary Addressee

- After expiration of the grace period, an insurer must provide at least 30 days notice of cancellation for non-payment of premium.
- Notice of cancellation must be given by first class mail, postage prepaid, and may not be given until 30 days after a premium is due and unpaid. Notice is deemed to have been given as of 5 days after the date of mailing.
- The insurer must give applicants and policyholders the right to designate at least one person who is to receive notice of termination, in addition to the insured. The insurer must notify the policyholder of this option at least once every 2 years and provide a form that must be executed by the policyholder.
- If the policyholder does not elect to designate a secondary addressee, a waiver of this right must be signed by the policyholder, as specified by law.

HB 1431 changes the requirement for an insurer to notify a long-term care insurance policyholder of the right to designate a secondary addressee, by requiring annual notice, rather than notice every 2 years, and requires the form designating the secondary addressee to inform the policyholder to update any change made to the address of the secondary addressee.

Further, the bill requires the notice of possible lapse in coverage or termination for non-payment of premium to be given by United States Postal Service proof of mailing or certified or registered mail, rather than first class United States mail, postage prepaid.

Reinstatement of a Policy Canceled Due to Nonpayment

- If a policy is canceled due to nonpayment of premium, the policyholder is entitled to have the policy reinstated if, within a period of not less than 5 months after the date of cancellation, the policyholder or any secondary addressee demonstrates that the failure to pay the premium when due was unintentional and due to the cognitive impairment or loss of functional capacity of the policyholder.

- The standard of proof of cognitive impairment or loss of functional capacity may not be more stringent than the benefit eligibility criteria in the long-term care policy for cognitive impairment or the loss of functional capacity. A definition of cognitive impairment is provided.
- The policyholder must pay the overdue premiums in order to reinstate the policy. The insurer may impose an interest charge of not more than 8 percent per year for the number of days the payment is late. During this period the policy coverage continues if the demonstration of cognitive impairment is made.
- If the policy becomes a claim during the 180-day period (apparently referring to the 30-day grace period plus the 5 month period to reinstate) before the overdue premium is paid, the amount of the premium, plus allowable interest, may be deducted in any settlement under the policy.

The bill expands the list of those who are allowed to reinstate the policy within a 5-month period of cancellation to persons whose unintentional failure to pay the premium was due to continuous hospital confinement for a period in excess of 60 days. Current law allows such reinstatement only for persons whose unintentional non-payment was due to cognitive impairment or loss of functional capacity.

C. SECTION DIRECTORY:

Section 1. Amends 627.9403 relating to notice of cancellation and the grace period for long-term care insurance policyholders.

Section 2. Provides an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Long-term care policyholders may benefit if the bill's requirement for more frequent notice to designate a secondary addressee helps prevent cancellation due to nonpayment of premium, and by expanding the circumstances for which a policyholder may reinstate a cancelled policy.

Insurers will be subject to increased costs of mailing for annual, rather than biannual notice of the right to designate a secondary addressee; and for sending notice of possible termination of coverage by U.S. postal proof of mailing or certified registered mail. Current law requires that notice be sent by first class mail that costs $0.41 per envelope. Proof of mailing or a "certificate of mailing" costs $1.51 per envelope. Certified mail costs $5.21 per envelope and registered mail costs $10.15 per envelope.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision does not apply because this bill does not: require counties or municipalities to spend funds or to take an action requiring the expenditure of funds; reduce the authority that municipalities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

None.