

1 A bill to be entitled
 2 An act relating to long-term care policies; amending s.
 3 627.94073, F.S.; revising provisions requiring that
 4 insurers notify policyholders of the right to designate a
 5 secondary addressee to receive a notice of termination;
 6 requiring that a canceled policy be reinstated if the
 7 policyholder failed to pay the premium due to an extended
 8 hospital confinement; providing construction; providing an
 9 effective date.

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11 Be It Enacted by the Legislature of the State of Florida:

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13 Section 1. Subsections (2) and (3) of section 627.94073,
 14 Florida Statutes, are amended, and subsection (5) is added to
 15 that section, to read:

16 627.94073 Notice of cancellation; grace period.--

17 (2) A long-term care policy may not be canceled for
 18 nonpayment of premium unless, after expiration of the grace
 19 period in subsection (1), and at least 30 days prior to the
 20 effective date of such cancellation, the insurer has mailed a
 21 notification of possible lapse in coverage to the policyholder
 22 and to a specified secondary addressee if such addressee has
 23 been designated in writing by name and address by the
 24 policyholder. For policies issued or renewed on or after October
 25 1, 1996, the insurer shall notify the policyholder, at least
 26 once annually ~~every 2 years~~, of the right to designate a
 27 secondary addressee. The applicant has the right to designate at
 28 least one person who is to receive the notice of termination, in

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29 | addition to the insured. Designation shall not constitute
30 | acceptance of any liability on the third party for services
31 | provided to the insured. The form used for the written
32 | designation must provide space clearly designated for listing at
33 | least one person. The form must also inform the policyholder to
34 | update any change made to the address of the secondary
35 | addressee. The designation shall include each person's full name
36 | and home address. In the case of an applicant who elects not to
37 | designate an additional person, the waiver shall state:
38 | "Protection against unintended lapse.--I understand that I have
39 | the right to designate at least one person other than myself to
40 | receive notice of lapse or termination of this long-term care or
41 | limited benefit insurance policy for nonpayment of premium. I
42 | understand that notice will not be given until 30 days after a
43 | premium is due and unpaid. I elect NOT to designate any person
44 | to receive such notice." Notice shall be given by United States
45 | Postal Service proof of mailing or certified or registered mail
46 | to the policyholder and the secondary addressee at the addresses
47 | provided to the insurer. ~~first class United States mail, postage~~
48 | ~~prepaid,~~ and Notice may not be given until 30 days after a
49 | premium is due and unpaid. Notice shall be deemed to have been
50 | given as of 5 days after the date of mailing.

51 | (3) If a policy is canceled due to nonpayment of premium,
52 | the policyholder is ~~shall be~~ entitled to have the policy
53 | reinstated if, within a period of not less than 5 months after
54 | the date of cancellation, the policyholder or any secondary
55 | addressee designated pursuant to subsection (2) demonstrates
56 | that the failure to pay the premium when due was unintentional

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57 and due to the policyholder's cognitive impairment, ~~or~~ loss of
58 functional capacity, or continuous hospital confinement of the
59 policyholder for a period in excess of 60 days. Policy
60 reinstatement shall be subject to payment of overdue premiums.
61 The standard of proof of cognitive impairment or loss of
62 functional capacity shall not be more stringent than the benefit
63 eligibility criteria for cognitive impairment or the loss of
64 functional capacity, if any, contained in the policy and
65 certificate. The insurer may require payment of an interest
66 charge not in excess of 8 percent per year for the number of
67 days elapsing before the payment of the premium, during which
68 period the policy shall continue in force if the demonstration
69 of cognitive impairment is made. If the policy becomes a claim
70 during the 180-day period before the overdue premium is paid,
71 the amount of the premium or premiums with interest not in
72 excess of 8 percent per year may be deducted in any settlement
73 under the policy.

74 (5) For purposes of this section, the terms
75 "policyholder," "applicant," and "insured" are interchangeable.

76 Section 2. This act shall take effect July 1, 2008.