The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Banking and Insurance Committee

BILL: CS/SB 2012

INTRODUCER: Banking and Insurance Committee and Senator Deutch

SUBJECT: Long-term Care Policies

DATE: March 11, 2008 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Mays	Deffenbaugh	BI	**Fav/CS**
2.			HP	
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... [X] Statement of Substantial Changes
B. AMENDMENTS........................ [ ] Technical amendments were recommended
[ ] Amendments were recommended
[ ] Significant amendments were recommended

I. Summary:

Senate Bill 2012 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.

This 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 substantially amends s. 627.94073 of the Florida Statutes.

II. Present Situation:

Long-term Care Policies

Florida law establishes 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 627.94073, 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 it is due. The insurer may impose an interest charge of up to 8 percent per year for the number of days 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 the 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 in the law.

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 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.

III. Effect of Proposed Changes:

Section 1 amends 627.94073, F.S., to change 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.

This bill requires the form designating the secondary addressee to inform the policyholder to update any change made to the address of the secondary addressee.

This 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.

This 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.

Section 2 states that this act shall take effect January 1, 2009, and applies to policies issued or renewed on or after that date.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Long-term care policyholders may benefit if the bill's requirement for more frequent notice to designate a secondary beneficiary helps prevent cancellation due to non-payment 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 or registered mail. Current law requires the notice to be sent by first class mail that costs $0.41 per envelope. Proof of mailing or a "certificate of mailing" cost $1.51 per envelope. Certified mail costs $5.21 per envelope and registered mail costs $10.15 per envelope.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

Changed effective date to January 1, 2009 and applies to policies issued or renewed on or after that date.

B. Amendments:

None.