

By Senator Deutch

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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 an effective date.

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

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12 Section 1. Section 627.94073, Florida Statutes, is amended
13 to read:

14 627.94073 Notice of cancellation; grace period.--

15 (1) A long-term care policy shall provide that the insured
16 is entitled to a grace period of not less than 30 days, within
17 which payment of any premium after the first may be made. The
18 insurer may require payment of an interest charge not in excess
19 of 8 percent per year for the number of days elapsing before the
20 payment of the premium, during which period the policy shall
21 continue in force. If the policy becomes a claim during the grace
22 period before the overdue premium is paid, the amount of such
23 premium or premiums with interest not in excess of 8 percent per
24 year may be deducted in any settlement under the policy.

25 (2) A long-term care policy may not be canceled for
26 nonpayment of premium unless, after expiration of the grace
27 period in subsection (1), and at least 30 days prior to the
28 effective date of such cancellation, the insurer has mailed a
29 notification of possible lapse in coverage to the policyholder

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30 | and to a specified secondary addressee if such addressee has been
31 | designated in writing by name and address by the policyholder.
32 | For policies issued or renewed on or after October 1, 1996, the
33 | insurer shall notify the policyholder, at least once annually
34 | ~~every 2 years~~, of the right to designate a secondary addressee.
35 | The applicant has the right to designate at least one person who
36 | is to receive the notice of termination, in addition to the
37 | insured. Designation shall not constitute acceptance of any
38 | liability on the third party for services provided to the
39 | insured. The form used for the written designation must provide
40 | space clearly designated for listing at least one person. The
41 | form must also inform the policyholder to update any change made
42 | to the address of the secondary addressee. The designation shall
43 | include each person's full name and home address. In the case of
44 | an applicant who elects not to designate an additional person,
45 | the waiver shall state: "Protection against unintended lapse.--I
46 | understand that I have the right to designate at least one person
47 | other than myself to receive notice of lapse or termination of
48 | this long-term care or limited benefit insurance policy for
49 | nonpayment of premium. I understand that notice will not be given
50 | until 30 days after a premium is due and unpaid. I elect NOT to
51 | designate any person to receive such notice." Notice shall be
52 | given by United States Postal Service proof of mailing or
53 | certified or registered mail to the policyholder at the address
54 | shown in the policy. ~~first class United States mail, postage~~
55 | ~~prepaid, and~~ Notice may not be given until 30 days after a
56 | premium is due and unpaid. Notice shall be deemed to have been
57 | given as of 5 days after the date of mailing.

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58 (3) If a policy is canceled due to nonpayment of premium,
59 the policyholder is ~~shall be~~ entitled to have the policy
60 reinstated if, within a period of not less than 5 months after
61 the date of cancellation, the policyholder or any secondary
62 addressee designated pursuant to subsection (2) demonstrates that
63 the failure to pay the premium when due was unintentional and due
64 to the policyholder's cognitive impairment, or loss of functional
65 capacity, or continuous hospital confinement of the policyholder
66 for a period in excess of 60 days. Policy reinstatement shall be
67 subject to payment of overdue premiums. The standard of proof of
68 cognitive impairment or loss of functional capacity shall not be
69 more stringent than the benefit eligibility criteria for
70 cognitive impairment or the loss of functional capacity, if any,
71 contained in the policy and certificate. The insurer may require
72 payment of an interest charge not in excess of 8 percent per year
73 for the number of days elapsing before the payment of the
74 premium, during which period the policy shall continue in force
75 if the demonstration of cognitive impairment is made. If the
76 policy becomes a claim during the 180-day period before the
77 overdue premium is paid, the amount of the premium or premiums
78 with interest not in excess of 8 percent per year may be deducted
79 in any settlement under the policy.

80 (4) When the policyholder or certificateholder pays premium
81 for a long-term care insurance policy or certificate policy
82 through a payroll or pension deduction plan, the requirements in
83 subsection (2) need not be met until 60 days after the
84 policyholder or certificateholder is no longer on such a payment
85 plan. The application or enrollment form for such policies or

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86 | certificates shall clearly indicate the payment plan selected by
87 | the applicant.

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