

By the Committee on Banking and Insurance; and 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 for application; providing
9 an 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. Section 627.94073, Florida Statutes, is amended
14 to read:

15 627.94073 Notice of cancellation; grace period.--

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

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

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

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

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

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

89 | Section 2. This act shall take effect January 1, 2009, and
90 | applies to policies issued or renewed on or after that date.