

By the Committees on Health Policy; Banking and Insurance; and
Senator Deutch

587-05950-08

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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 confinement in a hospital, skilled nursing facility, or
9 assisted living facility; providing for application;
10 providing an effective date.

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

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

16 627.94073 Notice of cancellation; grace period.--

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

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

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

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58 premium is due and unpaid. Notice shall be deemed to have been
59 given as of 5 days after the date of mailing.

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

83 (4) When the policyholder or certificateholder pays premium
84 for a long-term care insurance policy or certificate policy
85 through a payroll or pension deduction plan, the requirements in
86 subsection (2) need not be met until 60 days after the

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87 | policyholder or certificateholder is no longer on such a payment
88 | plan. The application or enrollment form for such policies or
89 | certificates shall clearly indicate the payment plan selected by
90 | the applicant.

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