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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/27/2017	.	
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The Committee on Banking and Insurance (Farmer) recommended the following:

1 **Senate Amendment to Amendment (767012) (with title**
2 **amendment)**

3
4 Delete line 260
5 and insert:

6 Section 8. Effective July 1, 2017, section 626.99289,
7 Florida Statutes, is created to read:

8 626.99289 Mandatory disclosure of alternatives to lapse or
9 surrender.—

10 (1) As used in this section, the term:



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11 (a) "Agent" means a person who is the agent of record of a
12 policy or who has a business relationship with the policyholder
13 or insured.

14 (b) "Insured" means an individual who is covered by a
15 policy.

16 (c) "Insurer" means the insurance company that issued or
17 currently insures the policy.

18 (d) "Person" has the same meaning as provided in s. 1.01.

19 (e) "Policy" means an individual life insurance policy
20 owned by an individual who is a resident of this state,
21 regardless of whether such policy has been issued, delivered, or
22 renewed in this state.

23 (2) The commissioner shall develop, and the commission
24 shall adopt by rule, a written notice to inform a policyholder
25 of alternatives to the lapse or surrender of a policy, and of
26 the policyholder's rights, as an owner of the policy, which are
27 related to the disposition of a policy. The notice must be
28 developed at no cost to insurers, agents, or other licensees and
29 must be written in lay terms.

30 (3) The written notice must contain all of the following:

31 (a) A statement explaining that life insurance is a
32 critical part of a broader financial plan.

33 (b) A statement explaining that life insurance offers a
34 future death benefit.

35 (c) A statement explaining that life insurance may offer
36 current living benefits.

37 (d) A statement explaining that there are alternatives to
38 the lapse or surrender of a policy.

39 (e) A general description of the following alternatives to



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40 the lapse or surrender of a policy:

41 1. Accelerated death benefits available under the policy or
42 as a rider to the policy.

43 2. The assignment of the policy as a gift.

44 3. The sale and assignment of the policy pursuant to a
45 viatical settlement contract, including:

46 a. A statement that a viatical settlement is a regulated
47 transaction in this state pursuant to part X of chapter 626;

48 b. A statement that a viatical settlement provider must be
49 licensed in this state to transact a viatical settlement with a
50 resident of this state; and

51 c. A statement that a life agent, as defined in s. 626.015,
52 may represent the policyholder as a viatical settlement broker
53 pursuant to s. 626.9916(2) if the policyholder decides to
54 explore the feasibility of selling or assigning the policy
55 pursuant to a viatical settlement contract.

56 4. The replacement of the policy pursuant to part III of
57 chapter 627.

58 5. The maintenance of the policy pursuant to the terms of
59 the policy or a rider to the policy, or through a viatical
60 settlement contract.

61 6. The maintenance of the policy through loans issued by an
62 insurer or a third party, using the policy or the cash surrender
63 value of the policy as collateral for the loan.

64 7. Conversion of the policy from a term policy to a
65 permanent policy.

66 8. Conversion of the policy in order to obtain long-term
67 care health insurance coverage or a long-term care benefit plan.

68 (f) A statement explaining that life insurance, viatical



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69 settlements, or other alternatives to the lapse or surrender of
70 the policy described in the notice may not be available to a
71 particular policyholder depending on a number of circumstances,
72 including the age and health status of the insured or the terms
73 of a life insurance policy, and that the policyholder should
74 contact his or her financial advisor, insurance agent, broker,
75 or attorney to obtain further advice and assistance.

76 (4) An insurer, an agent, or an insurer and its agent must
77 provide the written notice required under subsections (2) and
78 (3) to a policyholder if an insured under the policy is 60 years
79 of age or older or is known by the insurer or agent to be
80 terminally ill or chronically ill, and:

81 (a) If the policyholder requests the surrender, in whole or
82 in part, of the policy;

83 (b) If the policyholder requests a loan against, or
84 withdrawal of cash value from, the policy;

85 (c) If the policyholder requests an accelerated death
86 benefit, nursing home benefit, critical illness benefit, or any
87 other living benefit under the policy;

88 (d) If the policyholder requests a reduction in the face
89 amount of the policy;

90 (e) If the policyholder requests, or the policy
91 automatically enters, an extended term;

92 (f) If the policyholder requests a waiver of premium;

93 (g) If a term policy is within 6 months before the end of
94 the term of the policy and the policyholder has the right to
95 convert the term policy to permanent insurance;

96 (h) If the insurer sends a notice to the policyholder that
97 the policy may lapse; however, the insurer is not required to



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98 send such notice more than once within the 12-month period after
99 the date of its first notice of lapse of the policy; or

100 (i) At any other time that the commission may prescribe by
101 rule.

102 (5) A person may not prohibit, terminate, fine, or
103 otherwise deter an agent from or penalize an agent for:

104 (a) At any time, informing a policyholder or his or her
105 designee of the options under the policy terms or the
106 alternatives described in this section to the lapse or surrender
107 of a policy, or of a policyholder's rights related to the
108 disposition of a policy; or

109 (b) Assisting a policyholder with securing any benefit or
110 alternative described in this section or under the policy terms.

111 (6) A violation of this section is deemed an unfair trade
112 practice under s. 626.9927.

113 Section 9. Except as otherwise expressly provided in this
114 act, this act shall take effect upon becoming a law.

115
116 ===== T I T L E A M E N D M E N T =====

117 And the title is amended as follows:

118 Delete line 289

119 and insert:

120 practices; creating s. 626.99289, F.S.; defining
121 terms; requiring the commissioner of the Office of
122 Insurance Regulation to develop, and the Financial
123 Services Commission to adopt by rule, a written notice
124 informing a policyholder of a life insurance policy of
125 alternatives to the lapse and surrender of the policy
126 and the policyholder's rights related to the policy's



127 disposition; requiring such notice to be developed at
128 no cost to certain entities and to be written in lay
129 terms; specifying requirements for the notice;
130 requiring an insurer or an agent to provide the notice
131 to a policyholder under certain circumstances;
132 prohibiting a person from taking certain actions
133 against an agent who informs or assists a policyholder
134 in a specified manner; providing that a violation of
135 the section is deemed an unfair trade practice;
136 providing effective dates.