

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 Committee on Banking and Insurance

BILL: SB 520

INTRODUCER: Senator Grimsley

SUBJECT: Long-term Care Insurance

DATE: February 16, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Knudson	Knudson	BI	Pre-meeting
2.			CF	
3.			FP	

I. Summary:

SB 520 allows an insurer to offer a nonforfeiture provision in a long-term care insurance policy that returns premium if the insured dies or the policy is completely surrendered or cancelled.

II. Present Situation:

Nonforfeiture Provision in Long-term Care Insurance Policies

A long-term care insurance policy is defined in law as:

Any insurance policy or rider ... designed to provide coverage on an expense-incurred, indemnity, prepaid, or other basis for one or more necessary or medically necessary diagnostic, preventive, therapeutic, curing, treating, mitigating, rehabilitative, maintenance, or personal care services provided in a setting other than an acute care unit of a hospital.¹

A long-term insurance policy may not be cancelled, nonrenewed, or terminated because of the age or health of the policyholder.² Policies may only be cancelled on a statewide basis if authorized by the OIR because renewal would jeopardize the insurer's solvency or that the insurer's loss experience is substantial, unexpected, and cannot reasonably be mitigated or remedied. A long-term care policy may also be cancelled for nonpayment of premium. The policyholder must be provided a grace period of at least 30 days to pay premium.³ The insurer must also, after the expiration of the grace period, provide at least 30-days written notice to the policyholder and a specified secondary addressee that coverage may lapse.⁴

¹ Section 627.9404(1), F.S.

² Section 627.9407(3)(a), F.S.

³ Section 627.94073(1), F.S.

⁴ Section 627.94073(2), F.S.

Insurers who offer long-term care policies must offer a nonforfeiture protection provision providing reduced paid-up insurance, extended term, shortened benefit period, or any other benefits approved by the OIR.⁵ For example, the nonforfeiture benefit may entitle the policyholder to receive policy benefits for a reduced period of time or receive fewer benefits. The policyholder has the option to purchase a nonforfeiture benefit for an additional premium, but is not required to do so.

Since the passage of the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), qualified long-term care insurance contract premiums may be included as a deductible medical expense on Schedule A of IRS Form 1040.⁶ A long-term care insurance contract does not qualify for preferred tax treatment unless any refund of premium is applied as a reduction in future premium or to increase future benefits.⁷ A premium refund may be made under HIPAA, however, on the death of the insured or the complete surrender or cancellation of the contract.⁸ At the time HIPAA was passed, Florida law did not restrict the return of premium to the death or complete surrender of the long term care contract.⁹ After the passage of HIPAA, Florida law was amended in 1997 to eliminate the return of premium as an available nonforfeiture protection.

III. Effect of Proposed Changes:

Current law requires insurers of long-term care policies to offer a nonforfeiture protection provision. The bill specifies that an insurer may offer a nonforfeiture provision in a long-term care insurance policy in the form of a return of premium in the event of the insured's death, or surrender or cancellation of the policy. The return of a premium is not currently identified as a benefit in a nonforfeiture provision. This change adds an additional option to nonforfeiture provisions.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁵ Section 627.94072(2), F.S.

⁶ See IRS Publication 502 (2014), Medical and Dental Expenses <http://www.irs.gov/publications/p502/index.html> (accessed on February 2, 2015).

⁷ 26 U.S.C. 7702B(b)(1)(E)

⁸ 26 U.S.C. 7702B(b)(2)(C)

⁹ See s. 19, ch. 97-179, L.O.F.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 627.94072 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.