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 Children, Families, and Elder Affairs

BILL: SB 520

INTRODUCER: Senator Grimsley

SUBJECT: Long-term Care Insurance

DATE: March 16, 2015 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Knudson	Knudson	BI	**Favorable**
2.	Hendon	Hendon	CF	**Pre-meeting**
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. The bill is not expected to have a fiscal impact on the state and has an effective date of July 1, 2015.

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 Office of Insurance Regulation (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]

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[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:

Section 1 of the bill amends s. 627.94072, F.S. 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.

Section 2 of the bill provides an effective date of July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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[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. s. 7702B(b)(1)(E)
[8] 26 U.S.C. s. 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.