COMMITTEE REPORT

May 20, 2014

**H. 4916**

Introduced by Reps. Long, Sandifer, Felder, Erickson, Southard, Allison, Spires, McCoy, Whipper, R.L. Brown, Limehouse, Bedingfield, Burns, Chumley, Gagnon, George, Hamilton, Hayes, Horne, Loftis, V.S. Moss, Munnerlyn, Murphy, Norrell, Pitts, Pope, Ryhal, Simrill, G.R. Smith, Sottile, Stringer, Willis and Wood

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Read the first time April 15, 2014.

**THE COMMITTEE ON BANKING AND INSURANCE**

To whom was referred a Bill (H. 4916) to amend the Code of Laws of South Carolina, 1976, by adding Section 38‑72‑66 so as to provide specific notice requirements of an insurer before it may, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass:

ROBERT W. HAYES, JR. for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 38‑72‑66 SO AS TO PROVIDE SPECIFIC NOTICE REQUIREMENTS OF AN INSURER BEFORE IT MAY CONSIDER A LONG‑TERM CARE INSURANCE POLICY THAT IT HAS WRITTEN TO BE TERMINATED AT THE REQUEST OF THE POLICYHOLDER OR CERTIFICATE HOLDER OR LAPSED OR TERMINATED FOR NONPAYMENT OF PREMIUM.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 72, Title 38 of the 1976 Code is amended to read:

“Section 38‑72‑66. Each insurer offering long term care insurance shall, as a protection against unintentional lapse, comply with the following:

(1)(a)(i) No individual long term care policy or certificate may be issued until the insurer has received from the applicant either a written designation of at least one person, in addition to the applicant, who is to receive notice of lapse or termination of the policy or certificate for nonpayment of premium. The applicant has the right to designate at least one person who is to receive the notice of termination, in addition to the insured. Designation must not constitute acceptance of any liability on the third party for services provided to the insured. The form used for the written designation must provide space clearly designated for listing at least one person. The designation must include each person’s full name and home address. In the case of an applicant who elects not to designate an additional person, the waiver must state: ‘Protection against unintended lapse. I understand that I have the right to designate at least one person other than myself to receive notice of lapse or termination of this long term care insurance policy for nonpayment of premium. I understand that notice will not be given until thirty (30) days after a premium is due and unpaid. I elect NOT to designate a person to receive this notice.’ The insurer shall notify the insured of the right to change this written designation no less often than once every two years.

(ii) For existing long term care policies, the insurer must provide written notice to the insured that they may make a written designation of a least one person, in addition to the insured, who is to receive notice of lapse or termination of the policy or certificate. The notice called for in this subsection must be provided to the insured within ninety days of the effective date of this section. As provided in this subitem, the insurer shall notify the insured of the right to change this written designation no less often than once every two years.

(b) When the policyholder or certificate holder pays a premium for a long term care insurance policy or certificate through a payroll or pension deduction plan, the requirements contained in sub‑subitem (i) of item (a) need not be met until sixty days after the policyholder or certificate holder is no longer on such a payment plan. The application or enrollment form for such policies or certificates must clearly indicate the payment plan selected by the applicant.

(c) Lapse or termination for nonpayment of a premium. No individual long term care policy or certificate shall lapse or be terminated for nonpayment of a premium unless the insurer, at least thirty days before the effective date of the lapse or termination, has given notice to the insured and to those persons designated pursuant to sub‑subitem (i) of item (a), at the address provided by the insured for purposes of receiving notice of lapse or termination. Notice must be given by first class United States mail, postage prepaid, and notice may not be given until thirty days after a premium is due and unpaid. Notice must be considered to have been given as of five days after the date of mailing.

(2) In addition to the requirement in item (1), a long term care insurance policy or certificate shall include a provision that provides for reinstatement of coverage in the event of lapse or termination if the insurer is provided proof that the policyholder or certificate holder was cognitively impaired or had a loss of functional capacity before the grace period contained in the policy expired. This option must be available to the insured if requested within five months after termination and must allow for the collection of the past due premium, where appropriate. The standard of proof of cognitive impairment or loss of functional capacity must not be more stringent than the benefit eligibility criteria on cognitive impairment or the loss of functional capacity contained in the policy and certificate.”

SECTION 2. This act takes effect upon approval by the Governor.

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