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HOUSE BILL NO. 719

Offered January 8, 2014

Prefiled January 7, 2014

A *BILL to amend the Code of Virginia by adding a section numbered 38.2-5202.2, relating to long-term care insurance; notice of lapse or termination of policy; reinstatement.*

Patrons—McClellan, Spruill and Ward

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 38.2-5202.2 as follows:

§ 38.2-5202.2. Notice of lapse or termination; right to reinstatement.

A. Each insurer offering long-term care insurance shall, as a protection against unintentional lapse, comply with the following:

1. No individual long-term care policy or certificate shall 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 or a written waiver dated and signed by the applicant electing not to designate additional persons to receive notice. 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 shall not constitute acceptance of any liability on the third party for services provided to the insured. The form used for the written designation shall provide space clearly designated for listing at least one person. The designation shall 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 shall 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 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 in writing of the right to change this written designation, no less often than once every two years;

2. When the policyholder or certificateholder pays the premium for a long-term care insurance policy or certificate through a payroll or pension deduction plan, the requirements contained in subdivision 1 need not be met until 60 days after the policyholder or certificateholder is no longer on such a payment plan. The application or enrollment form for such policies or certificates shall clearly indicate whether payments are to be made through a payroll or pension deduction plan; and

3. No individual long-term care policy or certificate shall lapse or be terminated for nonpayment of premium unless the insurer has given notice to the insured and to those persons designated pursuant to subdivision 1, at the address provided by the insured for purposes of receiving notice of lapse or termination. The notice (i) shall be given by certified mail or commercial delivery service and (ii) shall not be given until 30 days after a premium is due and unpaid. The policy or certificate shall not lapse or be terminated earlier than 60 days after the date of mailing of the notice.

B. A long-term care insurance policy or certificate shall include a provision that provides for reinstatement of coverage in the event of lapse if the insurer is provided proof that, during the period preceding the expiration of the minimum 60-day grace period following the mailing of the notice as required by subdivision A 3, the policyholder or certificateholder was cognitively impaired or had a loss of functional capacity. This ability to reinstate a policy or certificate shall be available to the insured if requested within five months after termination and shall allow for the collection of past due premium, where appropriate. The standard of proof of cognitive impairment or loss of functional capacity shall not be more stringent than the benefit eligibility criteria on cognitive impairment or the loss of functional capacity contained in the policy or certificate.

C. The provisions of subsections A and B shall apply to any long-term care insurance policy or certificate issued, reissued, or renewed on or after July 1, 2014.

INTRODUCED

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