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FLORIDA LEGISLATURE

FINAL LEGISLATIVE BILL INFORMATION

1997 Regular Session



prepared by:

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HISTORY OF SENATE BILLS

S 838 (CONTINUED)

of tax loss required as qualification for such payments Amends 259 032, 373 59 Effective Date 07/01/1997
 02/21/97 SENATE Prefiled
 03/04/97 SENATE Introduced, referred to Community Affairs, Natural Resources, Ways and Means—SJ 00084
 04/04/97 SENATE On Committee agenda—Community Affairs, 04/08/97, 9 00 am, Room—1C(309)
 04/08/97 SENATE Comm Action Favorable with 3 amendment(s) by Community Affairs—SJ 00448
 04/09/97 SENATE Now in Natural Resources—SJ 00448
 04/11/97 SENATE On Committee agenda—Natural Resources, 04/15/97, 2 00 pm, Room—A(LL-37)
 04/15/97 SENATE Comm Action Favorable with 1 amendment(s) by Natural Resources—SJ 00521
 04/16/97 SENATE Now in Ways and Means—SJ 00521
 04/24/97 SENATE Withdrawn from Ways and Means—SJ 00535, Placed on Calendar
 04/30/97 SENATE Placed on Special Order Calendar—SJ 01096
 05/01/97 SENATE Placed on Special Order Calendar—SJ 00957, —SJ 01096
 05/02/97 SENATE Placed on Special Order Calendar—SJ 01105, Died on Special Order Calendar

S 840 GENERAL BILL/1ST ENG by Holzendorf (Similar 2ND ENG/H 1943, S 0620, Compare H 0251, 1ST ENG/H 0743, H 1941, S 0276, CS/S 0770, CS/3RD ENG/S 0794, S 0898, CS/1ST ENG/S 0904, CS/S 1346, CS/S 1456, S 1886, S 2490)

Insurance/Risk Based Capital, requires certain insurers to file reports concerning their risk based capital, requires Insurance Dept to request such reports under certain circumstances, requires certain insurers to file reports of material transactions concerning their assets or their ceded reinsurance agreements, authorizes persons who hold limited license for credit insurance to hold certain additional licenses, etc Amends Chs 624, 626, 625, 627, 628 801 Effective Date 07/01/1997 except as otherwise provided
 02/21/97 SENATE Prefiled
 03/04/97 SENATE Introduced, referred to Banking and Insurance—SJ 00084
 04/11/97 SENATE On Committee agenda—Banking and Insurance, 04/18/97, 9 00 am, Room—EL
 04/18/97 SENATE Comm Action—Favorable with 1 amendment(s) by Banking and Insurance—SJ 00584
 04/21/97 SENATE Placed on Calendar—SJ 00584
 04/29/97 SENATE Placed on Special Order Calendar—SJ 00938
 04/30/97 SENATE Placed on Special Order Calendar—SJ 00938, —SJ 01096
 05/01/97 SENATE Placed on Special Order Calendar—SJ 00957, —SJ 01096, Read second time—SJ 01222, Amendment(s) adopted—SJ 01222, Read third time—SJ 01229, Passed as amended, YEAS 36 NAYS 0—SJ 01229
 05/01/97 HOUSE In Messages
 05/02/97 HOUSE Received—HJ 01788, Read second and third times—HJ 01788, Passed, YEAS 113 NAYS 0—HJ 01788
 05/02/97 SENATE Ordered enrolled—SJ 01843
 05/16/97 Signed by Officers and presented to Governor
 06/01/97 Became Law without Governor's Signature, Chapter No 97-292, See also HB 743 (Ch 97-214), CS/SB 794 (Ch 97-55), CS/SB 904 (Ch 97-293)

S 842 GENERAL BILL/CS by Judiciary; Dudley (Similar CS/2ND ENG/H 0889)

Liens/Construction, includes unpaid finance charges due under claimant's contract among charges which may be assessed against certain contractors' bonds, provides for time period for notice of nonpayment, provides for service of notice of commencement rather than mailing re liens of persons not in privity, provides for issuance of permits & for inspections for certain temporary or preliminary work, etc Amends 255 05, 713 06, 132, 135 Effective Date 10/01/1997
 02/21/97 SENATE Prefiled
 03/04/97 SENATE Introduced, referred to Judiciary—SJ 00084
 03/10/97 SENATE On Committee agenda—Judiciary, 03/12/97, 2 00 pm, Room—1C(309)
 03/12/97 SENATE Comm Action—CS by Judiciary—SJ 00236, CS read first time on 03/19/97—SJ 00243
 03/14/97 SENATE Placed on Calendar—SJ 00236
 04/16/97 SENATE Placed on Special Order Calendar—SJ 00500
 04/17/97 SENATE Placed on Special Order Calendar—SJ 00500
 04/24/97 SENATE Placed on Special Order Calendar—SJ 00583
 04/25/97 SENATE Placed on Special Order Calendar—SJ 00583
 04/28/97 SENATE Placed on Special Order Calendar—SJ 00651, Read second time—SJ 00707 Amendment(s) adopted—SJ 00707, House Bill substituted—SJ 00707, Laid on Table. Ident/Sim/Compare Bill(s) passed, refer to CS/HB 889 (Ch 97-219)

S 844 JOINT RESOLUTION by Gutman, (CO-SPONSORS) Silver (Similar H 0969, Compare H 0967, S 1174)

Ad Valorem Tax/Historic Properties, constitutional amendment to remove requirement re historic property granted ad val tax exemption by county or municipality that owner be renovating property to authorize Legislature to allow

S 844 (CONTINUED)

counties or municipalities, by ordinance, to assess historic properties solely on basis of character or use for ad val tax purposes, subject to eligibility requirements specified by general law Amends ss 3 & 4, Art VII, creates s 22, Art XII
 02/21/97 SENATE Prefiled
 03/04/97 SENATE Introduced referred to Community Affairs, Ways and Means, Rules and Calendar—SJ 00085
 03/13/97 SENATE On Committee agenda—Community Affairs, 03/17/97, 3 00 pm, Room—1C(309)
 03/17/97 SENATE Comm. Action Favorable by Community Affairs—SJ 00235
 03/18/97 SENATE Now in Ways and Means—SJ 00235
 04/24/97 SENATE Withdrawn from Ways and Means—SJ 00535, Now in Rules and Calendar
 04/25/97 SENATE Withdrawn from Rules and Calendar—SJ 00604, Placed on Calendar
 04/30/97 SENATE Placed on Special Order Calendar—SJ 01096
 05/01/97 SENATE Placed on Special Order Calendar—SJ 00957, —SJ 01096, House Bill substituted—SJ 01222, Laid on Table. Ident/Sim/Compare Bill(s) passed, refer to HJR 969 (Filed with Secretary of State), See also HB 967 (Ch 97-117)

S 846 RESOLUTION by Forman

Osteopathic Medicine Day, commends osteopathic physicians of this state for their contributions to health & welfare of residents of this state & recognizes March 26, 1997, as Osteopathic Medicine Day
 02/21/97 SENATE Prefiled
 03/26/97 SENATE Introduced—SJ 00268, Adopted—SJ 00268

S 848 GENERAL BILL by Campbell (Identical H 0781, Compare CS/H 0453, CS/1ST ENG/S 0530)

Mastectomies/Insurance Coverage, (THIS BILL COMBINED IN CS/S530,848) requires health insurance policies & contracts to provide coverage for mastectomies, prohibits such policies & contracts from imposing certain limitations on coverage for hospital stays under certain circumstances, provides requirements & prohibitions for insurers & HMO's re breast cancer coverage, conforms application provisions to include certain cross-references Amends Chs 627, 641 Effective Date 10/01/1997
 02/21/97 SENATE Prefiled
 03/04/97 SENATE Introduced, referred to Banking and Insurance, Ways and Means—SJ 00085
 03/21/97 SENATE On Committee agenda—Banking and Insurance, 03/25/97, 9 00 am, Room—EL
 03/25/97 SENATE CS combines this bill with 530, Comm Action CS by Banking and Insurance—SJ 00363, Original bill laid on Table, refer to combined CS/SB 530 (Ch 97-48)

S 850 GENERAL BILL/CS by Criminal Justice; Campbell

Evidence of Prejudice/Offenses, provides enhanced penalties for offenses that show evidence of prejudice against victim, based on victim's mental or physical disability, or advanced age, provides definitions Amends 775 085 Effective Date 10/01/1997
 02/21/97 SENATE Prefiled
 03/04/97 SENATE Introduced, referred to Criminal Justice, Ways and Means—SJ 00085
 03/07/97 SENATE On Committee agenda—Criminal Justice, 03/11/97, 9 00 am, Room—A(LL-37)
 03/11/97 SENATE Comm Action CS by Criminal Justice—SJ 00200; CS read first time on 03/13/97—SJ 00208
 03/13/97 SENATE Now in Ways and Means—SJ 00200
 03/26/97 SENATE Withdrawn from Ways and Means—SJ 00269, Placed on Calendar
 04/16/97 SENATE Placed on Special Order Calendar—SJ 00500, Read second time—SJ 00493
 04/17/97 SENATE Read third time—SJ 00514, CS passed, YEAS 40 NAYS 0—SJ 00514, Immediately certified—SJ 00514
 04/17/97 HOUSE In Messages
 05/02/97 HOUSE Died in Messages

S 852 GENERAL BILL/CS by Health Care; Childers (Similar CS/H 0227, S 1922, Compare H 1935, 1ST ENG/S 0326, S 1474, S 1482)

Designations/Pensacola & UCF, designates & names Children's Medical Services facility currently under construction at 5192 Bayou Boulevard in Pensacola, Escambia County, as "Dr Reed Bell & Dr John H Whitcomb Building", names president's residence at University of Central Florida the "Burnett House", names School of Communications at University of Central Florida the "Anthony J Nicholson School of Communications", etc Effective Date Upon becoming law
 02/21/97 SENATE Prefiled
 03/04/97 SENATE Introduced referred to Health Care—SJ 00085
 03/07/97 SENATE On Committee agenda—Health Care 03/11/97, 2 00 pm, Room—EL
 03/11/97 SENATE Comm Action—CS by Health Care—SJ 00200, CS read first time on 03/13/97—SJ 00208
 03/14/97 SENATE Placed on Calendar—SJ 00200

HISTORY OF SENATE BILLS

S 896 (CONTINUED)

- day, amends provisions to conform, requires office of supervisor of elections & any branch office to be open on Saturday prior to any statewide election or other election held in conjunction therewith, for purpose of allowing early in-person absentee voting for that election. Amends Chs 97, 98, 101. Effective Date 01/01/1998
- 02/25/97 SENATE Prefiled
- 03/04/97 SENATE Introduced, referred to Executive Business, Ethics and Elections—SJ 00089
- 04/14/97 SENATE Withdrawn from Executive Business, Ethics and Elections—SJ 00472, Withdrawn from further consideration—SJ 00472

S 898 GENERAL BILL by Holzendorf (Compare 2ND ENG/H 1943, 1ST ENG/S 0840)

- Insurance Policies/Lapse Notice, revises provisions requiring notice to policyowners & secondary addressees of impending lapse of certain insurance policies under certain circumstances, provides procedures & application. Amends 627 4555, 5045. Effective Date 10/01/1997
- 02/25/97 SENATE Prefiled
- 03/04/97 SENATE Introduced, referred to Banking and Insurance—SJ 00089
- 03/21/97 SENATE On Committee agenda—Banking and Insurance, 03/25/97, 9 00 am, Room—EL
- 03/25/97 SENATE Comm Action—Favorable by Banking and Insurance—SJ 00315
- 03/26/97 SENATE Placed on Calendar—SJ 00315
- 04/16/97 SENATE Placed on Special Order Calendar—SJ 00500
- 04/17/97 SENATE Placed on Special Order Calendar—SJ 00500
- 04/24/97 SENATE Placed on Special Order Calendar—SJ 00583, Read second and third times—SJ 00543, Passed, YEAS 34 NAYS 0—SJ 00543, Immediately certified—SJ 00543
- 04/24/97 HOUSE In Messages
- 05/02/97 HOUSE Died in Messages, Iden./Sim./Compare Bill(s) passed, refer to SB 840 (Ch 97—292)

S 900 GENERAL BILL by Holzendorf (Identical H 0733)

- Collective Bargaining/Impasses, revises procedures for resolving certain impasses, provides duties of parties, requires special master to hold public hearings under certain circumstances, requires legislative body to hold public hearing under certain circumstances, provides duties of Public Employees Relations Commission. Amends 447 403. Effective Date 10/01/1997
- 02/25/97 SENATE Prefiled
- 03/04/97 SENATE Introduced, referred to Governmental Reform and Oversight, Rules and Calendar—SJ 00089
- 04/24/97 SENATE Withdrawn from Governmental Reform and Oversight, Rules and Calendar—SJ 00535, Withdrawn from further consideration—SJ 00535

S 902 GENERAL BILL/1ST ENG by Silver (Similar H 1333, Compare H 1157, CS/H 1319, CS/CS/S 0722)

- County Article V/TF/Supreme Court, creates said trust fund to be administered by Supreme Court, provides for future review & termination or re-creation of fund. Effective Date 07/01/1998
- 02/25/97 SENATE Prefiled
- 03/04/97 SENATE Introduced, referred to Judiciary, Community Affairs, Ways and Means—SJ 00089
- 03/28/97 SENATE On Committee agenda—Judiciary, 04/02/97, 2 30 pm, Room—1C(309)
- 04/02/97 SENATE Comm Action Favorable with 3 amendment(s) by Judiciary—SJ 00362
- 04/03/97 SENATE Now in Community Affairs—SJ 00362
- 04/04/97 SENATE On Committee agenda—Community Affairs, 04/08/97, 9 00 am, Room—1C(309)
- 04/08/97 SENATE Comm Action Favorable by Community Affairs—SJ 00449
- 04/09/97 SENATE Now in Ways and Means—SJ 00449
- 04/16/97 SENATE Withdrawn from Ways and Means—SJ 00481, Placed on Calendar
- 04/24/97 SENATE Placed on Special Order Calendar—SJ 00583; Read second time—SJ 00538, Amendment(s) adopted—SJ 00538, Read third time—SJ 00538, Passed as amended, YEAS 39 NAYS 0—SJ 00538, Immediately certified—SJ 00538
- 04/24/97 HOUSE In Messages
- 04/25/97 HOUSE Received—HJ 00953, Placed on Consent Calendar, Substituted for HB 1333—HJ 00953, Read second and third times—HJ 00953, Passed, YEAS 115 NAYS 0—HJ 00953
- 04/25/97 SENATE Ordered enrolled—SJ 00721
- 04/30/97 Signed by Officers and presented to Governor—SJ 01103
- 05/16/97 Became Law without Governor's Signature, Chapter No 97—64, See also CS/HB 1319 (Ch 97—235)

S 904 GENERAL BILL/CS/1ST ENG by Banking and Insurance; Grant; (CO-SPONSORS) Holzendorf (Similar H 1941, Compare 1ST ENG/S 0840)

- Risk based capital info/Confidential affords confidentiality to risk-based capital information, provides confidentiality & public meetings & records ex-

S 904 (CONTINUED)

- emption for certain information re risk-based capital, provides for termination of exemption, provides for legislative review & future repeal, provides public necessity statement, provides exemption from public records requirements for local Commission on Ethics & Public Trust. Effective Date 07/01/1997
- 02/25/97 SENATE Prefiled
- 03/04/97 SENATE Introduced, referred to Banking and Insurance, Governmental Reform and Oversight—SJ 00089
- 03/28/97 SENATE On Committee agenda—Banking and Insurance, 04/01/97, 9 00 am, Room—EL—Temporarily postponed
- 04/04/97 SENATE On Committee agenda—Banking and Insurance, 04/08/97, 9 00 am, Room—EL—Not considered
- 04/11/97 SENATE On Committee agenda—Banking and Insurance, 04/15/97, 9 00 am, Room—EL
- 04/15/97 SENATE Comm Action CS by Banking and Insurance—SJ 00521, CS read first time on 04/17/97—SJ 00522
- 04/17/97 SENATE Now in Governmental Reform and Oversight—SJ 00521
- 04/29/97 SENATE Withdrawn from Governmental Reform and Oversight—SJ 00724, Placed on Calendar
- 04/30/97 SENATE Placed on Special Order Calendar—SJ 01096
- 05/01/97 SENATE Placed on Special Order Calendar—SJ 00957, —SJ 01096
- 05/02/97 SENATE Placed on Consent Calendar—SJ 01843, Read second time—SJ 01349, Amendment(s) adopted—SJ 01349, Read third time—SJ 01350, CS passed as amended, YEAS 39 NAYS 0—SJ 01350
- 05/02/97 HOUSE In Messages, Received—HJ 02004, Read second and third times—HJ 02004, CS passed, YEAS 114 NAYS 0—HJ 02004
- 05/02/97 SENATE Ordered enrolled—SJ 01843
- 05/16/97 Signed by Officers and presented to Governor
- 06/01/97 Became Law without Governor's Signature, Chapter No 97—293, See also SB 840 (Ch 97—292)

S 906 LOCAL BILL by Dudley, (CO-SPONSORS) McKay (Similar 1ST ENG/H 0927, Compare H 0421, H 0423, 2ND ENG/H 0425, H 0429, H 0567, 1ST ENG/H 0619, 1ST ENG/H 1741, S 0740, S 0742, S 0744, S 0994, CS/S 1248, S 1894, S 1896)

- Independent Fire Control Districts, (Lee Co.) prescribes uniform criteria for operation of independent special fire-control districts, preempts certain special acts & general acts of local application, provides for district boards of commissioners & for their election, provides for ad valorem taxes, non-ad valorem assessments, user charges, bonds, & impact fees, provides for intergovernmental coordination, provides for expansion, merger, & dissolution of districts, etc. Effective Date Upon becoming law
- 02/25/97 SENATE Prefiled
- 03/04/97 SENATE Introduced, referred to Community Affairs, Rules and Calendar—SJ 00089
- 03/13/97 SENATE On Committee agenda—Community Affairs, 03/17/97, 3 00 pm, Room—1C(309)
- 03/17/97 SENATE Comm Action Favorable with 3 amendment(s) by Community Affairs—SJ 00235
- 03/18/97 SENATE Now in Rules and Calendar—SJ 00235
- 05/02/97 SENATE Died in Committee on Rules and Calendar, Iden./Sim./Compare Bill(s) passed, refer to HB 927 (Ch 97—340), HB 1741 (Ch 97—256)

S 908 GENERAL BILL/CS/1ST ENG by Banking and Insurance; Grant; (CO-SPONSORS) Holzendorf (Similar CS/1ST ENG/H 0269)

- Surplus Lines Ins/Dana Roehrig Act, creates nonprofit association named "Florida Surplus Lines Service Office", requires office to collect service fee from surplus lines agents, requires plan of operation to be submitted to Insurance Dept., requires such agents to pay surplus lines tax to office, imposes service fee on premiums charged for surplus lines insurance, revises surplus & trust fund requirements for alien surplus lines insurers, etc. Amends 626 918, 921, 931 932, creates 626 9325. Effective Date 10/01/1997
- 02/25/97 SENATE Prefiled
- 03/04/97 SENATE Introduced, referred to Banking and Insurance, Governmental Reform and Oversight, Ways and Means—SJ 00089
- 03/28/97 SENATE On Committee agenda—Banking and Insurance, 04/01/97, 9 00 am, Room—EL
- 04/01/97 SENATE Comm Action CS by Banking and Insurance—SJ 00362, CS read first time on 04/03/97—SJ 00373
- 04/03/97 SENATE Now in Governmental Reform and Oversight—SJ 00363
- 04/10/97 SENATE On Committee agenda—Governmental Reform and Oversight, 04/14/97, 1 00 pm Room—1C(309)
- 04/14/97 SENATE Comm Action Favorable with 1 amendment(s) by Governmental Reform and Oversight—SJ 00500
- 04/15/97 SENATE Now in Ways and Means—SJ 00500
- 04/16/97 SENATE Withdrawn from Ways and Means—SJ 00481, Placed on Calendar
- 04/21/97 SENATE Placed on Special Order Calendar—SJ 00583, Read second time—SJ 00554, Amendment(s) adopted—SJ 00554, Ordered engrossed—SJ 00555

HISTORY OF HOUSE BILLS

H 1933 (CONTINUED)

04/09/97 HOUSE Introduced -HJ 00480
 04/14/97 HOUSE In Economic Impact Council, pending ranking -HJ 00559
 04/18/97 HOUSE Placed on Economic Impact Council Calendar -HJ 00665
 04/24/97 HOUSE Read second time -HJ 00733, Amendment(s) adopted -HJ 00734
 04/28/97 HOUSE Read third time -HJ 01096, Amendment(s) adopted -HJ 01097, Amendment(s) failed -HJ 01097, Passed as amended, YEAS 115 NAYS 0 -HJ 01097
 04/28/97 SENATE In Messages
 04/29/97 SENATE Received, referred to Banking and Insurance, Ways and Means -SJ 00951, Immediately withdrawn from Banking and Insurance, Ways and Means -SJ 00729, Substituted for CS/SB 1464 -SJ 00729, Read second time -SJ 00729
 04/30/97 SENATE Read third time -SJ 01027, Passed, YEAS 39 NAYS 0 -SJ 01028
 04/30/97 HOUSE Ordered enrolled -HJ 01347
 05/14/97 Signed by Officers and presented to Governor
 05/30/97 Became Law without Governor's Signature, Chapter No 97-262

H 1935 GENERAL BILL by Colleges & Universities (AEC); Casey; (CO-SPONSORS) Bloom (Similar 1ST ENG/S 0326, Compare CS/H 0227, CS/S 0852, S 1474, S 1482, S 1528, S 1922)

Building Designation/Universities, designates buildings on specified university campuses as "The Sanford & Dolores Ziff & Family Education Building", "Anthony J. Nicholson School of Communication", "The Burnett House", "J. Brooks Brown Hall", "Bob Johnson Residence Hall", "Elaine & Harvey Rothenberg Residence Hall", & "Ann & Alfred Goldstein Residence Hall", authorizes respective universities to erect suitable markers, etc Effective Date Upon becoming law
 04/07/97 HOUSE Filed
 04/09/97 HOUSE Introduced -HJ 00481
 04/14/97 HOUSE In Academic Excellence Council, pending ranking -HJ 00559
 04/17/97 HOUSE Placed on Academic Excellence Council Calendar -HJ 00656
 04/23/97 HOUSE Senate Bill substituted, Laid on Table, Iden /Sim / Compare Bill(s) passed, refer to SB 326 (Ch 97-315), See also CS/HB 227 (Ch 97-317) -HJ 00692

H 1937 GENERAL BILL by Stafford

Railroad-highway Grade Crossings, prohibits train, railroad car, or engine from blocking railroad-highway grade crossing for certain time Amends 351.034 Effective Date 10/01/1997
 04/07/97 HOUSE Filed
 04/09/97 HOUSE Introduced -HJ 00481
 04/14/97 HOUSE Referred to Transportation (EIC), Governmental Rules & Regulations (GRC) -HJ 00559
 05/02/97 HOUSE Carried over to 1998 Session pursuant to House Rule 96, In House Committee on Transportation (EIC)

H 1939 GENERAL BILL by Governmental Operations (GRC); Posey (Similar S 1010)

Public Records/Credit & Debit Cards, provides exemption from public records requirements for bank account numbers & debit, charge, & credit card numbers in possession of agency of state or local government, provides for future review & repeal, provides finding of public necessity Amends 119.07 Effective Date Upon becoming law
 04/07/97 HOUSE Filed
 04/09/97 HOUSE Introduced -HJ 00481
 04/14/97 HOUSE In Governmental Responsibility Council, pending ranking -HJ 00559
 04/17/97 HOUSE Placed on Governmental Responsibility Council Calendar -HJ 00664
 04/24/97 HOUSE Read second time -HJ 00804
 04/28/97 HOUSE Read third time -HJ 01113, Passed, YEAS 113 NAYS 1 -HJ 01113
 04/28/97 SENATE In Messages
 04/29/97 SENATE Received, referred to Governmental Reform and Oversight -SJ 00942
 05/02/97 SENATE Upon adjournment in Senate Governmental Reform and Oversight, Carried over to 1998 Session pursuant to House Rule 96, Placed on House Consent Calendar

H 1941 GENERAL BILL by Mackenzie; (CO-SPONSORS) Bainter; Lippman (Similar CS/1ST ENG/S 0904, Compare 2ND ENG/H 1943, S 0620, 1ST ENG/S 0840)

Risk-based Capital Info/Confidential, provides legislative intent re confidentiality of risk-based capital information, provides legislative intent & declaration of public purpose, provides confidentiality & public meetings & records exemption for certain information re risk-based capital, provides for termination of exemption, provides for legislative review & future repeal Effective Date Contingent
 04/07/97 HOUSE Filed

H 1941 (CONTINUED)

04/09/97 HOUSE Introduced -HJ 00481
 04/14/97 HOUSE Referred to Governmental Operations (GRC) -HJ 00559
 05/01/97 HOUSE Withdrawn from Governmental Operations (GRC) -HJ 01351 Placed on Calendar
 05/02/97 HOUSE Carried over to 1998 Session pursuant to House Rule 96 Placed on Governmental Responsibility Council Calendar
 05/15/97 HOUSE Withdrawn from Governmental Responsibility Council Calendar, Withdrawn from further consideration, Iden/Sim/Compare Bill(s) passed refer to CS/SB 904 (Ch 97-293), SB 840 (Ch 97-292)

H 1943 GENERAL BILL/2ND ENG by Mackenzie; (CO-SPONSORS) Bainter; Lippman (Similar S 0620, 1ST ENG/S 0840, Compare H 0251, 1ST ENG/H 0743, H 1941, S 0276, CS/S 0770, S 0898, CS/S 1346, CS/S 1456, S 1866, S 2490)

Insurance/Risk Based Capital, requires certain insurers to file reports concerning their risk based capital, requires Insurance Dept to request such reports under certain circumstances, requires certain insurers to file reports of material transactions concerning their assets or their ceded reinsurance agreements authorizes persons who hold limited license for credit insurance to hold certain additional licenses, etc Amends Chs 624, 626, 625, 627, 628 Effective Date Upon becoming law except as otherwise provided
 04/07/97 HOUSE Filed
 04/09/97 HOUSE Introduced -HJ 00481
 04/14/97 HOUSE Referred to Financial Services (EIC) -HJ 00559, On Committee agenda -Financial Services (EIC), 04/16/97, 3 00 pm, Morris Hall
 04/16/97 HOUSE Comm Action -Unanimously Favorable with 2 amendment(s) by Financial Services (EIC) -HJ 00700
 04/24/97 HOUSE Pending Consent Calendar -HJ 00700
 04/25/97 HOUSE Fiscal Responsibility Council in Daily Folder -HJ 01080, Temporarily postponed, on Second Reading -HJ 01011 Read second time -HJ 01028, Amendment(s) adopted -HJ 01028
 04/29/97 HOUSE Read third time -HJ 01177, Amendment(s) adopted -HJ 01177, Passed as amended, YEAS 118 NAYS 0 -HJ 01177
 04/29/97 SENATE In Messages
 05/01/97 SENATE Received, referred to Banking and Insurance, Ways and Means -SJ 01303
 05/02/97 SENATE Upon adjournment in Senate Banking and Insurance, Carried over to 1998 Session pursuant to House Rule 96, Placed on House Consent Calendar
 05/15/97 HOUSE Withdrawn from Consent Calendar, Withdrawn from further consideration, Iden/Sim/Compare Bill(s) passed, refer to SB 840 (Ch 97-292), HB 743 (Ch 97-214)

H 1945 GENERAL BILL by Education Innovation (AEC); Melvin; (CO-SPONSORS) Wise (Similar S 1812, Compare H 1901, S 1810)

Public Records/Fla Graduates Prog., provides exemption from public records requirements for identity of donors to Florida Endowment Foundation for Florida's Graduates, provides for future review & repeal, provides finding of public necessity, takes effect on same date as HB 1901 or similar legislation creating Jobs for Florida's Graduates Act, takes effect, if such legislation is adopted in same legislative session or extension thereof Amends 446.609 Effective Date Contingent
 04/07/97 HOUSE Filed
 04/09/97 HOUSE Introduced -HJ 00481
 04/14/97 HOUSE In Academic Excellence Council, pending ranking -HJ 00559
 04/17/97 HOUSE Placed on Academic Excellence Council Calendar -HJ 00656
 04/23/97 HOUSE Read second time -HJ 00689
 04/28/97 HOUSE Read third time -HJ 01091, Passed, YEAS 116 NAYS 1 -HJ 01091
 04/28/97 SENATE In Messages
 04/29/97 SENATE Received, referred to Education, Commerce and Economic Opportunities -SJ 00942
 05/02/97 SENATE Upon adjournment in Senate Education, Carried over to 1998 Session pursuant to House Rule 96, Placed on House Consent Calendar

H 1947 GENERAL BILL by Wiles (Similar S 1278)

Workers' Comp/Employee Leasing Co., provides for calculation of workers compensation premiums for clients of employee leasing companies, requires employee leasing companies to maintain & make available specified information, clarifies that contracts between leasing companies & their clients involve the sale of insurance, provides for limited insurance agent license for certain workers' compensation insurance coverage Creates 627.0917, amends 626.022, 321 Effective Date 01/01/1998
 04/08/97 HOUSE Filed
 04/09/97 HOUSE Introduced -HJ 00482
 04/14/97 HOUSE Referred to Financial Services (EIC), Governmental Operations (GRC), Transportation & Economic Development Appropriations -HJ 00559

CITATOR—BILLS INTRODUCED AND PASSED

(Citator reflects Florida Statute numbers listed in final passed bill—not necessarily final statutory placement. Verify with F.S. tracing tables.)

FLORIDA STATUTE CHAPTER 626 (CONT.)		FLORIDA STATUTE CHAPTER 627 (CONT.)		FLORIDA STATUTE CHAPTER 627 (CONT.)				
626 944	S 770, H 349	S 2142,	627 4301	S 138, H 127	H 37(97-182),	627 6675	<u>S 438</u> (97-102), H 1967	S 1682(97-179),
626 945	<u>S 438</u> (97-102), H 349	S 2142,	627 4555	<u>S 840</u> (97-292), H 1943	S 898,	627 668	S 274, H 41,	S 1590, H 1925
626 9541	<u>S 438</u> (97-102),	S 2196	627 476	<u>S 840</u> (97-292),	H 1943	627 6681	S 274,	H 41
626 9571	<u>S 438</u> (97-102)		627 481	<u>S 416</u> (97-93)		627 6692	<u>S 438</u> (97-102)	
626 9581	<u>S 438</u> (97-102)		627 5045	<u>S 840</u> (97-292), H 1943	S 898,	627 6699	<u>S 438</u> (97-102), S 848,	<u>S 530</u> (97-48), S 916,
626 9641	S 286		627 553	<u>S 438</u> (97-102)		627 6755	<u>S 1682</u> (97-179), S 2304,	S 1772, H 453,
626 988	S 426,	<u>S 438</u> (97-102)	627 555	<u>S 438</u> (97-102)		627 560	H 573, H 1701,	H 781,
626 989	<u>S 438</u> (97-102), S 2352,	S 1172, H 1081	627 561	<u>S 438</u> (97-102)		627 562	H 1701, H 1967	<u>H 1785</u> (97-166),
626 9891	S 1172,	H 1081	627 562	<u>S 438</u> (97-102)		627 566	<u>S 438</u> (97-102)	
626 99	<u>S 438</u> (97-102)		627 567	<u>S 438</u> (97-102)		627 568	<u>S 438</u> (97-102)	
626 9911	<u>S 416</u> (97-93)		627 571	<u>S 438</u> (97-102)		627 6044	<u>S 438</u> (97-102)	
626 9912	S 816, H 1921	S 1636,	627 619	<u>S 438</u> (97-102)		627 619	<u>S 438</u> (97-102)	
626 9913	S 1636,	H 1921	627 621	<u>S 438</u> (97-102)		627 621	<u>S 438</u> (97-102)	
626 9916	<u>S 416</u> (97-93),	S 816	627 624	<u>S 438</u> (97-102)		627 624	<u>S 438</u> (97-102)	
626 9923	S 1636,	H 1921	627 6401	<u>S 438</u> (97-102)		627 6401	<u>S 438</u> (97-102)	
626 9924	S 1636,	H 1921	627 6406	<u>S 1682</u> (97-179),		627 6406	<u>S 1682</u> (97-179),	
626 993	S 1636,	H 1921	627 6416	S 2346,		627 6416	S 2346,	
FLORIDA STATUTE CHAPTER 627			627 6417	<u>S 530</u> (97-48),		627 6417	<u>S 530</u> (97-48),	
627 041	<u>S 438</u> (97-102)		627 6417S	<u>S 530</u> (97-48),		627 6417S	<u>S 530</u> (97-48),	
627 062	S 668,	H 893	627 64185	S 530,	H 1967	627 64185	S 530,	
627 0628	<u>S 794</u> (97-55),	H 1815	627 6419	S 138,	H 1785(97-166)	627 6419	S 138,	
627 0629	<u>S 794</u> (97-55),	H 1815	627 6419S	S 552,	S 848,	627 6419S	S 552,	
627 065	H 1549		627 64195S	S 1890	S 1150,	627 64195S	S 1890	
627.06501	<u>S 1286</u> (97-178), H 1549	S 1446,	627 6425	<u>S 1682</u> (97-179),	H 573,	627 6425	<u>S 1682</u> (97-179),	
627.066	<u>S 438</u> (97-102)		627 646	<u>S 436</u> (97-102)	H 453,	627 646	<u>S 436</u> (97-102)	
627.072	<u>S 438</u> (97-102),	S 840	627 6471	S 1070,	H 689	627 6471	S 1070,	
627.0917	S 1278,	H 1947	627 6472	<u>S 244</u> (97-171),	<u>S 530</u> (97-48),	627 6472	<u>S 244</u> (97-171),	
627.092	<u>S 416</u> (97-93)		627 6472S	S 1070,	H 37(97-182)	627 6472S	S 1070,	
627.162	<u>S 438</u> (97-102)		627 6475	<u>S 1652</u> (97-179),	H 1967	627 6475	<u>S 1652</u> (97-179),	
627.215	<u>S 438</u> (97-102), H 1089	<u>S 840</u> (97-292),	627 6482	S 1814,	H 2013(97-264)	627 6482	S 1814,	
627.291	<u>S 438</u> (97-102)		627 6486	<u>S 438</u> (97-102)		627 6486	<u>S 438</u> (97-102)	
627.31	H 41		627 6487	<u>S 1682</u> (97-179),	H 1967	627 6487	<u>S 1682</u> (97-179),	
627 311	<u>S 416</u> (97-93), <u>S 438</u> (97-102), S 1714, H 743(97-214),	<u>S 428</u> (VETOED), S 1456, H 155, H 1887	627 6488	<u>S 438</u> (97-102)		627 6488	<u>S 438</u> (97-102)	
627 351	<u>S 418</u> (97-94), <u>S 794</u> (97-55), S 1814, H 743, H 2013(97-264)	<u>S 438</u> (97-102), S 1456, H 155, H 1815,	627 6489	<u>S 1682</u> (97-179),	H 1967	627 6489	<u>S 1682</u> (97-179),	
627 3511	<u>S 416</u> (97-93), H 1815	<u>S 794</u> (97-55),	627 651	<u>S 530</u> (97-48), S 916, H 781	H 453,	627 651	<u>S 530</u> (97-48), S 916, H 781	
627 3512	<u>S 794</u> (97-55),	H 1815	627 6512	<u>S 1682</u> (97-179),	H 1967	627 6512	<u>S 1682</u> (97-179),	
627 3513	<u>S 794</u> (97-55),	H 1815	627 6515	S 274, S 848,	H 41,	627 6515	S 274, S 848,	
627 3516	<u>S 794</u> (97-55), H 1779,	S 1744, H 1815	627 6516	<u>S 438</u> (97-102)	H 781	627 6516	<u>S 438</u> (97-102)	
627 357	S 1814,	<u>H 2013</u> (97-264)	627 6561	<u>S 1682</u> (97-179),	H 1967	627 6561	<u>S 1682</u> (97-179),	
627 371	<u>S 438</u> (97-102)		627 65615	<u>S 1682</u> (97-179),	H 1967	627 65615	<u>S 1682</u> (97-179),	
627 401	S 138, H 127	H 37,	627 65625	<u>S 1682</u> (97-179),	H 1967	627 65625	<u>S 1682</u> (97-179),	
627 4025	S 390, S 1596, H 1815	<u>S 794</u> (97-55), H 457,	627 657	<u>S 438</u> (97-102)		627 657	<u>S 438</u> (97-102)	
627 406	<u>S 438</u> (97-102)		627 6571	<u>S 1682</u> (97-179),	H 1967	627 6571	<u>S 1682</u> (97-179),	
627 407	<u>S 438</u> (97-102)		627 6574	<u>S 1682</u> (97-179),	H 1967	627 6574	<u>S 1682</u> (97-179),	
627 410	<u>S 438</u> (97-102)		627 6576	<u>S 1682</u> (97-179),	H 1967	627 6576	<u>S 1682</u> (97-179),	
627 4132	<u>S 438</u> (97-102)		627 6577	S 1298		627 6577	S 1298	
627 4134	H 1859		627 6579	S 2346,	<u>H 1785</u> (97-166)	627 6579	S 2346, <u>H 1785</u> (97-166)	
627 41341	S 1800		627 659	<u>S 416</u> (97-93)		627 659	<u>S 416</u> (97-93)	
627 4137	<u>S 438</u> (97-102)		627 6612	<u>S 530</u> (97-48),	S 848,	627 6612	<u>S 530</u> (97-48), S 916, H 781	
627 4143	<u>S 438</u> (97-102)		627 6612S	S 530	H 453,	627 6612S	S 530	
627 4147	<u>S 438</u> (97-102)		627 66125	S 530	H 781	627 66125	S 530	
627 418	<u>S 438</u> (97-102)		627 6612S	S 530	H 689	627 6612S	S 530	
627 419	S 350, S 1298, H 1549	<u>S 1286</u> (97-178), <u>H 7</u> (97-5),	627 6612S	S 530	H 453,	627 6612S	S 530	
627 4236	S 552,	<u>H 1357</u> (97-237)	627 6614	S 848, H 781		627 6614	S 848, H 781	
627 4237	<u>S 438</u> (97-102)		627 664	<u>S 438</u> (97-102)		627 664	<u>S 438</u> (97-102)	
627 429	<u>S 416</u> (97-93)		627 6645	<u>S 438</u> (97-102)		627 6645	<u>S 438</u> (97-102)	
627 4291	S 1890							

(BILLS UNDERLINED HAVE PASSED BOTH CHAMBERS)
(CITATOR INCLUDES COMMITTEE SUBS & AMENDED BILLS)

(CONTINUED ON NEXT PAGE)

By Senator Holzendorf

2-703-97

1 A bill to be entitled
2 An act relating to workers' compensation and
3 employer's liability insurance; amending s.
4 627.072, F.S.; prescribing a minimum value that
5 may be placed on margin for profit and
6 contingencies when determining and fixing rates
7 for such insurance; providing an effective
8 date.

9
10 Be It Enacted by the Legislature of the State of Florida:

11
12 Section 1. Subsection (1) of section 627.072, Florida
13 Statutes, is amended to read:

14 627.072 Making and use of rates.--

15 (1) As to workers' compensation and employer's
16 liability insurance, the following factors shall be used in
17 the determination and fixing of rates:

18 (a) The past loss experience and prospective loss
19 experience within and outside this state;

20 (b) The conflagration and catastrophe hazards;

21 (c) A reasonable margin, that may not be less than
22 zero, for underwriting profit and contingencies;

23 (d) Dividends, savings, or unabsorbed premium deposits
24 allowed or returned by insurers to their policyholders,
25 members, or subscribers;

26 (e) Investment income on unearned premium reserves and
27 loss reserves;

28 (f) Past expenses and prospective expenses, both those
29 countrywide and those specifically applicable to this state;
30 and

31

1 (g) All other relevant factors, including judgment
2 factors, within and outside this state.

3 Section 2. This act shall take effect July 1, 1997.

4 *****

5 SENATE SUMMARY

6 Provides that the margin for underwriting profit and
7 contingencies used to fix workers' compensation insurance
8 and employer's liability insurance may not be less than
9 zero.

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SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below)

Date April 13, 1997 Revised 04/21/97 _____

Subject Workers' Compensation

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Johnson</u>	<u>Deffenbaugh</u>	<u>BI</u>	<u>Fav/1 amendment</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

The bill would prescribe a minimum value on the margin (of not less than zero) for the underwriting profit and contingencies factor to be used in determining workers' compensation insurance rates. This would prohibit the Department of Insurance from requiring a negative (less than zero) underwriting profit and contingency factor

This bill substantially amends section 627 072 of the Florida Statutes

II. Present Situation:

Pursuant to s. 627 062, F S , the standard governing the regulation of insurance rates, including workers' compensation, requires that rates shall not be excessive, inadequate, or unfairly discriminatory. Workers' compensation insurance is subject to prior approval of rates in Florida under the provisions of s. 627.101, F S. Under the workers' compensation law, the rate filings by the National Council on Compensation Insurance, a rating organization which makes filings on behalf of insurers, contains a profit and contingency factor. This factor is an estimate of the anticipated underwriting profit that the insurer will earn

The profit and contingency factor also applies in the determination of whether a workers' compensation insurer has earned an excessive profit, as defined in s 627 215, F S. Beginning on July 1, 1991, an excessive profit is realized by an insurer or insurer group for all lines combined for workers' compensation, employer's liability, commercial property, and commercial casualty insurance, if the (actual) net aggregate underwriting gain is greater than the net aggregate anticipated underwriting profit for these lines, plus 5 percent of earned premiums for the 3 most recent calendar years. Therefore, if a negative profit and contingency factor is used in the rate filing (the anticipated factor), as approved by the department, then it makes it more likely that an

excessive profit will be triggered than if a positive underwriting profit factor is used. If an excessive profit is realized, the insurer must provide refunds or credits upon renewal to affected policyholders.

Section 627.072, F.S., authorizes the Department of Insurance to use certain factors in the determination and fixing of workers' compensation insurance rates. These factors include (1) the past loss experience and prospective loss experience within and outside of Florida, (2) the conflagration and catastrophe hazard, (3) a reasonable profit margin, (4) dividends, savings, or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members, or subscribers, (5) investment income on unearned premium reserves and loss reserves, (6) past expenses and prospective expenses, both those countrywide and those specifically applicable to Florida, and (7) all other relevant factors, including judgment factors, within and outside this state.

According to the Department of Insurance, the current workers' compensation rates include a profit and contingencies factor of (negative) 4.1 percent. Workers' compensation insurance realizes a significant amount of investment income over the long-term because premiums are received immediately, but, any losses are not completely paid for many years due to the long tail on workers' compensation claims.

III. Effect of Proposed Changes:

Section 1. Amends s. 627.072, F.S., relating to factors to be used in the determination of workers' compensation rates, to allow a reasonable margin, that may not be less than zero, for underwriting profits and contingencies.

Section 2. Provides that the act will take effect July 1, 1997.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions

None

B. Public Records/Open Meetings Issues:

None

C. Trust Funds Restrictions:

None

V. Economic Impact and Fiscal Note:**A Tax/Fee Issues:**

None.

B Private Sector Impact.

The Department of Insurance estimates that the implementation of the bill would result in an increase in workers' compensation rates by 5.9 percent

It would also be less likely that a workers' compensation insurer would trigger an excess profit since the approved must may not have a negative profit and contingency factor, as explained above

C. Government Sector Impact:

None

VI. Technical Deficiencies:

None.

VII. Related Issues:

None

VIII. Amendments:

#1 by Banking and Insurance

Prohibits the use of a negative underwriting profit by requiring the use of a profit and contingencies factor that is not less than zero in the calculation of workers' compensation excess profits. The amendment deletes the provisions of the bill that would have prohibited the use of a negative profit and contingencies factor in determining workers' compensation insurance rates

Clarifies that the application of the excess profit laws to commercial property and casualty business, which expired January 1, 1997, included commercial umbrella liability insurance, as a part of casualty commercial insurance. (WITH TITLE AMENDMENT)



Journal of the Senate

Number 22—Regular Session

Thursday, May 1, 1997

With respect to historic property granted ad valorem tax exemption by a county or municipality, removes a requirement that the owner be engaged in renovating the property

Authorizes the Legislature to allow counties or municipalities, by ordinance, to assess historic properties solely on the basis of character or use for ad valorem tax purposes, subject to eligibility requirements specified by general law

—a companion measure, was substituted for SJR 844 and read the second time in full On motion by Senator Gutman, by two-thirds vote HJR 969 was read the third time by title, passed by the required constitutional three-fifths vote of the membership and was certified to the House The vote on passage was

Yeas—36

Bankhead	Dantzer	Horne	Meadows
Bronson	Diaz-Balart	Jenne	Myers
Brown-Waite	Dudley	Jones	Ostalkiewicz
Burt	Dyer	Kirkpatrick	Rossin
Campbell	Forman	Klein	Scott
Casas	Grant	Kurth	Silver
Childers	Gutman	Latvala	Thomas
Cowin	Hargrett	Lee	Turner
Crist	Harris	McKay	Williams

Nays—None

Vote after roll call

Yea—Madam President, Clary, Sullivan

Consideration of CS for SB 2086, CS for SB 1760 and CS for CS for SB 1412 was deferred

On motion by Senator Jones—

CS for CS for SB 546—A bill to be entitled An act relating to tax credits for charitable contributions to state contract providers, creating s 624 5104, F S , providing a credit against the insurance premium tax for charitable contributions to not-for-profit state contract provider organizations, providing for a reduction in state funding of recipient organizations, providing for contributions to be made through an intermediary organization, providing an effective date

—was read the second time by title

Pursuant to Rule 4 19, CS for CS for SB 546 was placed on the calendar of Bills on Third Reading

THE PRESIDENT PRESIDING

On motion by Senator Holzendorf—

SB 840—A bill to be entitled An act relating to workers' compensation and employer's liability insurance, amending s 627 072, F S , prescribing a minimum value that may be placed on margin for profit and contingencies when determining and fixing rates for such insurance, providing an effective date

—was read the second time by title

The Committee on Banking and Insurance recommended the following amendment which was moved by Senator Holzendorf

Amendment 1 (with title amendment)—On page 1, line 12 through page 2, line 3, delete those lines and insert

Section 1 Subsection (8) of section 627 215, Florida Statutes, is amended to read

627 215 Excessive profits for workers' compensation employer's liability, commercial property, and commercial casualty insurance prohibited —

(8) As used in this section with respect to any 3-year period, or with respect to any 10-year period in the case of commercial umbrella liability insurance, "anticipated underwriting profit" means the sum of the dollar amounts obtained by multiplying, for each rate filing of the insurer group in effect during such period, the earned premiums applicable to such rate filing during such period by the percentage factor included in such rate filing for profit and contingencies, such percentage factor having been determined with due recognition to investment income from funds generated by Florida business, *except that the anticipated underwriting profit for the purposes of this section shall be calculated using a profit and contingencies factor that is not less than zero* Separate calculations need not be made for consecutive rate filings containing the same percentage factor for profits and contingencies

Section 2 Subsection (14) of section 627 215, Florida Statutes, is amended to read

627 215 Excessive profits for workers' compensation, employer's liability, commercial property, and commercial casualty insurance prohibited —

(14) The application of this law to commercial property and commercial casualty insurance, which includes commercial umbrella liability insurance, ceases on January 1, 1997 The Department of Insurance shall, no later than October 1, 1995, provide a report on this law to the President of the Senate and the Speaker of the House of Representatives, which report includes a history of the excess profits law and a year-by-year listing of excess profits returned to policyholders as refunds or credits

Section 3. This act shall take effect July 1, 1997

And the title is amended as follows

On page 1, lines 4-8, delete those lines and insert 627 215, F S , prescribing a minimum value for profit and contingencies factor for the purpose of calculating the anticipated underwriting profit, providing clarification on the application of excess profits, providing an effective date

Senator Holzendorf moved the following amendment to Amendment 1 which was adopted

Amendment 1A (with title amendment)—On page 2, delete line 23 and insert

Section 3 *Risk based capital requirements for insurers* —

(1) As used in this section, the term

(a) "Adjusted risk based capital report" means a risk based capital report that has been adjusted by the department in accordance with this section

(b) "Authorized control level risk based capital" means the number determined under the risk based capital formula in the risk based capital instructions

(c) "Company action level risk based capital" means the product of 2 0 and an insurer's authorized control level risk based capital

(d) "Corrective order" means an order issued by the department specifying corrective actions that the department has determined are required

(e) "Department" means the Department of Insurance

(f) "Domestic insurer" means any insurer domiciled in this state

(g) "Foreign insurer" means any insurer that is authorized or eligible to do business in this state but that is not domiciled in this state

(h) "Life and health insurer" means any insurer authorized or eligible under the Florida Insurance Code to underwrite life or health insurance The term includes a property and casualty insurer that writes accident and health insurance only

(i) "Mandatory control level risk based capital" means the product of 0 70 and the authorized control level risk based capital

(j) "Negative trend" means, with respect to a life and health insurer, a negative trend over a period of time as determined in accordance with the trend test calculation included in the risk based capital instructions

(k) "Property and casualty insurer" means any insurer licensed under the Florida Insurance Code, but does not include a single-line mortgage guaranty insurer, financial guaranty insurer, or title insurer or a life and health insurer

(l) "Regulatory action level risk based capital" means the product of 1.5 and an insurer's authorized control level risk based capital

(m) "Revised risk based capital plan" means the revision of the risk based capital plan which is prepared by an insurer after the department rejects the original plan

(n) "Risk based capital instructions" means the instructions for preparing a risk based capital report as adopted by the National Association of Insurance Commissioners

(o) "Risk based capital level" means an insurer's company action level risk based capital, regulatory action level risk based capital, authorized control level risk based capital, or mandatory control level risk based capital

(p) "Risk based capital plan" means a comprehensive financial plan specified in paragraph (4)(b)

(q) "Risk based capital report" means the report required in subsection (2)

(r) "Total adjusted capital" means the sum of

- 1 An insurer's statutory capital and surplus, and
- 2 Any other item required by the risk based capital instructions

(2)(a) Each domestic insurer that is subject to this section shall, on or before March 1 of each year, prepare and file with the National Association of Insurance Commissioners a report of its risk based capital levels as of the end of the calendar year just ended, in a form and containing the information required in the risk based capital instructions. In addition, each domestic insurer shall file a printed copy of its risk based capital report

1 With the department on or before March 1 of each year.

2 With the insurance department in any other state in which the insurer is authorized to do business, if that department has notified the insurer of its request in writing, in which case the insurer shall file its risk based capital report not later than the later of

a Fifteen days after the receipt of notice to file its risk based capital report with that state, or

b March 1

(b) The comparison of an insurer's total adjusted capital to any of its risk based capital levels is a regulatory tool that may indicate the need for possible corrective action with respect to the insurer, and may not be used as a means to rank insurers generally. Therefore, except as otherwise required under this section, the making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement, announcement, or statement containing an assertion, representation, or statement with regard to the risk based capital levels of any insurer, or of any component derived in the calculation, by any insurer, agent, broker, or other person engaged in any manner in the insurance business would be misleading and is therefore prohibited, however, if any materially false statement with respect to the comparison regarding an insurer's total adjusted capital to its risk based capital levels (or any of them) or an inappropriate comparison of any other amount to the insurer's risk based capital levels is published in any written publication and the insurer is able to demonstrate to the commissioner with substantial proof the falsity or inappropriateness of the statement, the insurer may publish in a written publication an announcement the sole purpose of which is to rebut the materially false statement

(c) The department shall use the risk based capital instructions, risk based capital reports, adjusted risk based capital reports, risk based

capital plans, and revised risk based capital plans solely for monitoring the solvency of insurers and assessing the need for corrective action with respect to insurers. The department may not use that information for ratemaking, as evidence in any rate proceeding, or for calculating or deriving any elements of an appropriate premium level or rate of return for any line of insurance which an insurer or an affiliate of such insurer is authorized to write

(d) A life and health insurer's risk based capital is determined in accordance with the formula set forth in the risk based capital instructions. The formula takes into account and may adjust for the covariance between

- 1 The risk with respect to the insurer's assets,
- 2 The risk of adverse insurance experience with respect to the insurer's liabilities and obligations,
- 3 The interest rate risk with respect to the insurer's business, and
- 4 Any other business or other relevant risk set out in the risk based capital instructions,

determined in each case by applying the factors in the manner set forth in the risk based capital instructions.

(e) A property and casualty insurer's risk based capital is determined in accordance with the formula set forth in the risk based capital instructions. The formula takes into account and may adjust for the covariance between

- The asset risk,
- 2 The credit risk,
 - 3 The underwriting risk, and
 - 4 Any other business or other relevant risk set out in the risk based capital instructions,

determined in each case by applying the factors in the manner set forth in the risk based capital instructions.

(f) The Legislature finds that an excess of capital over the amount produced by the risk based capital requirements and the formulas, schedules, and instructions specified in this section is a desirable goal with respect to the business of insurance. Accordingly, insurers should seek to maintain capital above the risk based capital levels required by this section. Additional capital is used and useful in the insurance business and helps to secure an insurer against various risks inherent in, or affecting, the business of insurance and not accounted for or only partially measured by the risk based capital requirements contained in this section.

(g) If a domestic insurer files a risk based capital report that the department finds is inaccurate, the department shall adjust the risk based capital report to correct the inaccuracy and shall notify the insurer of the adjustment. The notice must state the reason for the adjustment. A risk based capital report that is so adjusted is referred to as the adjusted risk based capital report. The adjusted risk based capital report must also be filed by the insurer with the National Association of Insurance Commissioners.

(3)(a) A company action level event includes

1 The filing of a risk based capital report by an insurer which indicates that

a The insurer's total adjusted capital is greater than or equal to its regulatory action level risk based capital but less than its company action level risk based capital, or

b If a life and health insurer, the insurer has total adjusted capital that is greater than or equal to its company action level risk based capital, but is less than the product of its authorized control level risk based capital and 2.5, and has a negative trend,

2 The notification by the department to the insurer of an adjusted risk based capital report that indicates an event in subparagraph 1, unless the insurer challenges the adjusted risk based capital report under subsection (7), or

3 If, under subsection (7), an insurer challenges an adjusted risk based capital report that indicates an event in subparagraph 1, the notification by the department to the insurer that the department has, after a hearing, rejected the insurer's challenge

(b) If a company action level event occurs, the insurer shall prepare and submit to the department a risk based capital plan, which must

1 Identify the conditions that contribute to the company action level event,

2 Contain proposals of corrective actions that the insurer intends to take and that are reasonably expected to result in the elimination of the company action level event,

3 Provide projections of the insurer's financial results in the current year and at least the 4 succeeding years, both in the absence of proposed corrective actions and giving effect to the proposed corrective actions, including projections of statutory operating income, net income, capital, and surplus. The projections for both new and renewal business may include separate projections for each major line of business and, if separate projections are provided, must separately identify each significant income, expense, and benefit component,

4 Identify the key assumptions affecting the insurer's projections and the sensitivity of the projections to the assumptions, and

5 Identify the quality of, and problems associated with, the insurer's business, including, but not limited to, its assets, anticipated business growth and associated surplus strain, extraordinary exposure to risk, mix of business, and any use of reinsurance

(c) The risk based capital plan must be submitted

1 Within 45 days after the company action level event, or

2 If the insurer challenges an adjusted risk based capital report under subsection (7), within 45 days after notification to the insurer that the department has, after a hearing, rejected the insurer's challenge

(d) Within 60 days after the submission by an insurer of a risk based capital plan to the department, the department shall notify the insurer whether the risk based capital plan must be implemented or is, in the judgment of the department, unsatisfactory. If the department determines that the risk based capital plan is unsatisfactory, the notification to the insurer must set forth the reasons for the determination and may set forth proposed revisions. Upon notification from the department, the insurer shall prepare a revised risk based capital plan, which may incorporate by reference any revisions proposed by the department, and shall submit the revised risk based capital plan to the department

1. Within 45 days after the notification from the department, or

2 If the insurer challenges the notification from the department under subsection (7), within 45 days after a notification to the insurer that the department has, after a hearing, rejected the insurer's challenge

(e) If the department notifies an insurer that the insurer's risk based capital plan or revised risk based capital plan is unsatisfactory, the department may, at its discretion and subject to the insurer's right to a hearing under subsection (7), specify in the notification that the notification is a regulatory action level event

(f) Each domestic insurer that files a risk based capital plan or a revised risk based capital plan with the department shall file a copy of the risk based capital plan or the revised risk based capital plan with the insurance department in any other state in which the insurer is authorized to do business if

1 That state has a risk based capital law that is substantially similar to paragraph (8)(a), and

2 The insurance department of that state has notified the insurer of its request for the filing in writing, in which case the insurer shall file a copy of the risk based capital plan or the revised risk based capital plan in that state no later than the later of

a Fifteen days after the receipt of notice to file a copy of its risk based capital plan or revised risk based capital plan with the state, or

b The date on which the risk based capital plan or the revised risk based capital plan is filed under paragraph (c) or paragraph (d)

(4)(a) A regulatory action level event includes

1 The filing of a risk based capital report by the insurer which indicates that the insurer's total adjusted capital is greater than or equal to its authorized control level risk based capital but is less than its regulatory action level risk based capital,

2 The notification by the department to the insurer of an adjusted risk based capital report that indicates the event described in subparagraph 1, unless the insurer challenges the adjusted risk based capital report under subsection (7),

3 If, under subsection (7), the insurer challenges an adjusted risk based capital report that indicates the event described in subparagraph 1, the notification by the department to the insurer that the department has, after a hearing, rejected the insurer's challenge,

4 The failure of the insurer to file a risk based capital report by the filing date, unless the insurer provides an explanation for such failure which is satisfactory to the department and cures the failure within 10 days after the filing date,

5 The failure of the insurer to submit a risk based capital plan to the department within the time period set forth in paragraph (3)(c),

6 Notification by the department to the insurer that

a The risk based capital plan or the revised risk based capital plan submitted by the insurer is, in the judgment of the department, unsatisfactory, and

b This notification constitutes a regulatory action level event with respect to the insurer, unless the insurer challenges the determination under subsection (7),

7 If, under subsection (7), the insurer challenges a determination by the department under subparagraph 6, the notification by the department to the insurer that the department has, after a hearing, rejected the challenge,

8 Notification by the department to the insurer that the insurer has failed to adhere to its risk based capital plan or revised risk based capital plan, but only if this failure has a substantial adverse effect on the ability of the insurer to eliminate the company action level event in accordance with its risk based capital plan or revised risk based capital plan and the department has so stated in the notification, unless the insurer challenges the determination under subsection (7), or

9 If, under subsection (7), the insurer challenges a determination by the department under subparagraph 8, the notification by the department to the insurer that the department has, after a hearing, rejected the challenge

(b) If a regulatory action level event occurs, the department shall

1 Require the insurer to prepare and submit a risk based capital plan or, if applicable, a revised risk based capital plan,

2 Perform an examination pursuant to section 624.316, Florida Statutes, or an analysis, as the department considers necessary, of the assets, liabilities, and operations of the insurer, including a review of the risk based capital plan or the revised risk based capital plan, and

3 After the examination or analysis, issue a corrective order specifying such corrective actions as the department determines are required

(c) In determining corrective actions, the department shall consider any factor relevant to the insurer based upon the department's examination or analysis of the assets, liabilities, and operations of the insurer, including, but not limited to, the results of any sensitivity tests undertaken as provided in the risk based capital instructions. The risk based capital plan or the revised risk based capital plan must be submitted

1 Within 45 days after the occurrence of the regulatory action level event

2 If the insurer challenges an adjusted risk based capital report under subsection (7), within 45 days after the notification to the insurer that the department has, after a hearing, rejected the insurer's challenge, or

3 If the insurer challenges a revised risk based capital plan under subsection (7), within 45 days after the notification to the insurer that the department has, after a hearing, rejected the insurer's challenge

(d) The department may retain actuaries, investment experts, and other consultants to review an insurer's risk based capital plan or revised risk based capital plan, examine or analyze the assets, liabilities, and operations of an insurer, and formulate the corrective order with respect to the insurer. The fees, costs, and expenses relating to consultants must be borne by the affected insurer or by any other party as directed by the department

(5)(a) An authorized control level event includes

1 The filing of a risk based capital report by the insurer which indicates that the insurer's total adjusted capital is greater than or equal to its mandatory control level risk based capital but is less than its authorized control level risk based capital,

2 The notification by the department to the insurer of an adjusted risk based capital report that indicates the event in subparagraph 1, unless the insurer challenges the adjusted risk based capital report under subsection (7),

3 If, under subsection (7), the insurer challenges an adjusted risk based capital report that indicates the event in subparagraph 1, notification by the department to the insurer that the department has, after a hearing, rejected the insurer's challenge,

4 The failure of the insurer to respond, in a manner satisfactory to the department, to a corrective order, unless the insurer challenges the corrective order under subsection (7), or

5 If the insurer challenges a corrective order under subsection (7) and the department has, after a hearing, rejected the challenge or modified the corrective order, the failure of the insurer to respond, in a manner satisfactory to the department, to the corrective order after rejection or modification by the department

(b) If an authorized control level event occurs, the department shall

Take any action required under subsection (4) regarding the insurer with respect to which a regulatory action level event has occurred, or

2 If the department considers it to be in the best interests of the policyholders and creditors of the insurer and of the public, take any action as necessary to cause the insurer to be placed under regulatory control under chapter 631, Florida Statutes. An authorized control level event is sufficient ground for the department to be appointed as receiver as provided in chapter 631, Florida Statutes

(6)(a) A mandatory control level event includes

1 The filing of a risk based capital report that indicates that the insurer's total adjusted capital is less than its mandatory control level risk based capital,

2 Notification by the department to the insurer of an adjusted risk based capital report that indicates the event in subparagraph 1, unless the insurer challenges the adjusted risk based capital report under subsection (7), or

3 If, under subsection (7), the insurer challenges an adjusted risk based capital report that indicates the event in subparagraph 1, notification by the department to the insurer that the department has, after a hearing, rejected the insurer's challenge

(b) If a mandatory control level event occurs

With respect to a life and health insurer, the department shall, after due consideration of s 624 408, Florida Statutes, take any action necessary to place the insurer under regulatory control, including any remedy available under chapter 631, Florida Statutes. A mandatory control level event is sufficient ground for the department to be appointed

as receiver as provided in chapter 631, Florida Statutes. The department may forego taking action for up to 90 days after the mandatory control level event if the department finds there is a reasonable expectation that the mandatory control level event may be eliminated within the 90-day period

2 With respect to a property and casualty insurer, the department shall, after due consideration of s 624 408, Florida Statutes, take any action necessary to place the insurer under regulatory control, including any remedy available under chapter 631, Florida Statutes, or, in the case of an insurer that is not writing new business, may allow the insurer to continue to operate under the supervision of the department. In either case, the mandatory control level event is sufficient ground for the department to be appointed as receiver as provided in chapter 631, Florida Statutes. The department may forego taking action for up to 90 days after the mandatory control level event if the department finds there is a reasonable expectation that the mandatory control level event will be eliminated within the 90-day period

(7)(a) An insurer has a right to a hearing before the department upon

Notification to an insurer by the department of an adjusted risk based capital report,

2 Notification to an insurer by the department that the insurer's risk based capital plan or revised risk based capital plan is unsatisfactory, and that the notification constitutes a regulatory action level event with respect to such insurer,

3 Notification to any insurer by the department that the insurer has failed to adhere to its risk based capital plan or revised risk based capital plan and that the failure has a substantial adverse effect on the ability of the insurer to eliminate the company action level event in accordance with its risk based capital plan or its revised risk based capital plan, or

4 Notification to an insurer by the department of a corrective order with respect to the insurer

(b) At such hearing the insurer may challenge any determination or action by the department. The insurer shall notify the department of its request for a hearing within 5 days after receipt of the notification by the department under this subsection. Upon receipt of the request for a hearing, the department shall set a date for the hearing, which date must be no fewer than 10 nor more than 30 days after the date the department receives the insurer's request. The hearing must be conducted as provided in section 624 324, Florida Statutes, with the right to appellate review under section 120 68, Florida Statutes

(8)(a) Any foreign insurer shall, upon the written request of the department, submit to the department a risk based capital report, as of the end of the calendar year just ended, no later than the later of

1 The date a risk based capital report is required to be filed by a domestic insurer under this section, or

2 Fifteen days after the request is received by the foreign insurer

(b) Any foreign insurer shall, upon the written request of the department, promptly submit to the department a copy of any risk based capital plan that is filed with the insurance department of another state

(c) The department may require a foreign insurer to file a risk based capital plan if

1 A company action level event, regulatory action level event, or authorized control level event occurs with respect to any foreign insurer as determined under the risk based capital law of the state of domicile of the insurer, or, if there is no risk based capital law in that state, under this section

2 The insurance department of the state of domicile of the foreign insurer fails to require the foreign insurer to file a risk based capital plan in the manner specified under the risk based capital law of that state, or, if there is no risk based capital law in that state, under subsection (3)

The failure of the foreign insurer to file a risk based capital plan with the department when required under this paragraph is a ground for the department to take any action under section 624 418, Florida Statutes, which it determines is necessary

(d) If a mandatory control level event occurs with respect to any foreign insurer and a domiciliary receiver has not been appointed with respect to the foreign insurer under the rehabilitation and liquidation law of the state of domicile of the foreign insurer, the department may apply to the Circuit Court of Leon County and such event constitutes grounds for the department to be appointed as receiver as provided in chapter 631, Florida Statutes, with respect to the liquidation of property of foreign insurers found in this state. The occurrence of a mandatory control level event is a ground for such application

(9) There shall be no liability on the part of, and no cause of action shall arise against, the commissioner, the department, or its employees or agents for any action taken by them in the performance of their powers and duties under this section

(10) The department shall transmit any notice that may result in regulatory action by registered mail, certified mail, or any other method of transmission. Notice is effective when the insurer receives it

(11) For the purposes of the risk based capital reports required to be filed by life and health insurers with respect to their 1997 annual statement data and the risk based capital reports required to be filed by property and casualty insurers with respect to their 1997 annual statement data, the following requirements apply in lieu of the provisions of subsections (3), (4), (5), and (6)

(a) If a company action level event occurs with respect to a domestic insurer, the department may not take any regulatory action

(b) If a regulatory action level event occurs under subparagraph 1, subparagraph 2, or subparagraph 3 of paragraph (4)(a), the department shall take the actions required under subsection (3)

(c) If a regulatory action level event occurs under subparagraph 4, subparagraph 5, subparagraph 6, subparagraph 7, subparagraph 8, or subparagraph 9 of paragraph (4)(a), or an authorized control level event occurs, the department shall take the actions required under subsection (4)

(d) If a mandatory control level event occurs with respect to an insurer, the department shall take the actions required under subsection (5)

(12) This section is supplemental to the other laws of this state and does not preclude or limit any power or duty of the department under those laws or under the rules adopted under those laws

(13) This section does not apply to a domestic property and casualty insurer that meets all of the following conditions

- (a) Writes direct business only in this state,
- (b) Writes direct annual premiums of \$2 million or less, and
- (c) Assumes no reinsurance in excess of 5 percent of direct premiums written.

(14) The department may adopt rules to administer this section, including, but not limited to, those regarding risk based capital reports, adjusted risk based capital reports, risk based capital plans, corrective orders and procedures to be followed in the event of a triggering of a company action level event, a regulatory action level event, an authorized control level event, or a mandatory control level event

Section 4 Assets of insurers, reporting requirements —

(1) As used in this section, the term

(a) "Material acquisition of assets" or "material disposition of assets" means one or more transactions occurring during any 30-day period which are nonrecurring and not in the ordinary course of business and involve more than 5 percent of the reporting insurer's total admitted assets as reported in its most recent statutory statement filed with the insurance department of the insurer's state of domicile

(b) "Material nonrenewal, cancellation, or revision of a ceded reinsurance agreement" is one that affects

With respect to property and casualty business, including accident and health business written by a property and casualty insurer

a More than 50 percent of the insurer's total ceded written premium, or

b More than 50 percent of the insurer's total ceded indemnity and loss-adjustment reserves

2 With respect to life, annuity, and accident and health business, more than 50 percent of the total reserve credit taken for business ceded, on an annualized basis, as indicated in the insurer's most recent annual statement

3 With respect to property and casualty business or life, annuity, and accident and health business, a material revision includes

a The replacement of an authorized reinsurer representing more than 10 percent of a total cession by one or more unauthorized reinsurers, or

b The reduction or waiver, with respect to one or more unauthorized insurers, of previously established collateral requirements representing more than 10 percent of a total cession

(2) Each domestic insurer shall file a report with the Department of Insurance disclosing a material acquisition of assets, a material disposition of assets, or a material nonrenewal, cancellation, or revision of a ceded reinsurance agreement, unless the material acquisition or disposition of assets or the material nonrenewal, cancellation, or revision of a ceded reinsurance agreement has been submitted to the department for review, approval, or informational purposes under another section of the Florida Insurance Code or a rule adopted thereunder. A copy of the report and each exhibit or other attachment must be filed by the insurer with the National Association of Insurance Commissioners. The report required in this section is due within 15 days after the end of the calendar month in which the transaction occurs

(3) An immaterial acquisition or disposition of assets need not be reported under this section

(4)(a) Acquisitions of assets which are subject to this section include each purchase, lease, exchange, merger, consolidation, succession, or other acquisition of assets. Asset acquisitions for the construction or development of real property by or for the reporting insurer and the acquisition of construction materials for this purpose are not subject to this section

(b) Dispositions of assets which are subject to this section include each sale, lease, exchange, merger, consolidation, mortgage, hypothecation, assignment for the benefit of a creditor or otherwise, abandonment, destruction, or other disposition of assets

(5)(a) The following information must be disclosed in any report of a material acquisition or disposition of assets

- The date of the transaction,
- 2 The manner of acquisition or disposition,
- 3 The description of the assets involved,
- 4 The nature and amount of the consideration given or received,
- 5 The purpose of, or reason for, the transaction,
- 6 The manner by which the amount of consideration was determined,
- 7 The gain or loss recognized or realized as a result of the transaction, and
- 8 The name of the person from whom the assets were acquired or to whom they were disposed

(b) Insurers must report material acquisitions or dispositions on a nonconsolidated basis unless the insurer is part of a consolidated group of insurers which uses a pooling arrangement or a 100-percent reinsurance agreement that affects the solvency and integrity of the insurer's reserves and the insurer has ceded substantially all of its direct and assumed business to the pool. An insurer is deemed to have ceded substantially all of its direct and assumed business to a pool if the insurer has less than \$1 million in total direct and assumed written premiums during a calendar year which are not subject to a pooling arrangement and if the net income of the business which is not subject to the pooling arrangement represents less than 5 percent of the insurer's capital and surplus.

(6) *The nonrenewal, cancellation, or revision of a ceded reinsurance agreement need not be reported if the renewal or the revision is not material or if*

(a) *With respect to property and casualty business, including accident and health business written by a property and casualty insurer, the insurer's total ceded written premium represents, on an annualized basis, less than 10 percent of its total written premium for direct and assumed business, or*

(b) *With respect to life, annuity, and accident and health business, the total reserve credit taken for business ceded represents, on an annualized basis, less than 10 percent of the statutory reserve requirement before the cession*

(7)(a) *The following information must be disclosed in any report of a material nonrenewal, cancellation, or revision of a ceded reinsurance agreement*

The effective date of the nonrenewal, cancellation, or revision,

2 *The description of the transaction and the identification of the initiator of the transaction,*

3 *The purpose of, or reason for, the transaction, and*

4 *If applicable, the identity of each replacement reinsurer*

(b) *Insurers shall report the material nonrenewal, cancellation, or revision of a ceded reinsurance agreement on a nonconsolidated basis unless the insurer is part of a consolidated group of insurers which uses a pooling arrangement or a 100-percent reinsurance agreement that affects the solvency and integrity of the insurer's reserves and the insurer has ceded substantially all of its direct and assumed business to the pool. An insurer is deemed to have ceded substantially all of its direct and assumed business to a pool if the insurer has less than \$1 million in total direct and assumed written premiums during a calendar year which are not subject to a pooling arrangement and if the net income of the business not subject to the pooling arrangement represents less than 5 percent of the insurer's capital and surplus*

Section 5 Section 624 3161, Florida Statutes, is amended to read

624 3161 Market conduct examinations —

(1) *As often as it deems necessary, and not less frequent than each 6 years, the department shall examine each licensed rating organization, each advisory organization, each group, association, or other organization of insurers which engages in joint underwriting or joint reinsurance, and each authorized insurer transacting in this state any class of insurance to which the provisions of part I of chapter 627 are applicable. The examination shall be for the purpose of ascertaining compliance by the person examined with the applicable provisions of chapters 624, 626, 627, and 635*

(2) *In lieu of any such examination, the department may accept the report of a similar examination made by the insurance supervisory official of another state*

(3) *Upon agreement between the department and the insurer, such examination may be conducted by an independent professional examiner under contract to the department, in which case payment shall be made directly to the contracted examiner by the insurer examined in accordance with the rates and terms agreed to by the department, the insurer, and the examiner*

(4) *The reasonable cost of the examination shall be paid by the person examined, and such person shall be subject, as though an insurer, to the provisions of s 624 320*

(5) *Such examinations shall also be subject to the applicable provisions of ss 624 318, 624 319, 624 321, and 624 322*

Section 6 Paragraph (d) of subsection (8) of section 624 424, Florida Statutes, is amended to read

624 424 Annual statement and other information —

(8)

(d) *An insurer may not use the same accountant or partner of an accounting firm responsible for preparing the report required by this subsection for more than 7 6 consecutive years. Following this period, the insurer may not use such accountant or partner for a period of 2 years but may use another accountant or partner of the same firm. An insurer may request the department to waive this prohibition based upon an unusual hardship to the insurer and a determination that the accountant is exercising independent judgment that is not unduly influenced by the insurer considering such factors as the number of partners, expertise of the partners or the number of insurance clients of the accounting firm, the premium volume of the insurer, and the number of jurisdictions in which the insurer transacts business*

Section 7 Section 624 5094, Florida Statutes, is created to read

624 5094 *Casualty insurance premiums—Notwithstanding any statutory provision to the contrary, for the purposes of calculating the annual assessments for the Special Disability Trust Fund under s 440 49 and expense of administration under s 440 51, any amount paid or credited as dividends or premium refunds in the same calendar year by the insurer to its policyholders must be deducted from "net premium," "net premiums written," "direct premium," and "net premium collected" for the calendar year. Such offset for dividends or premium refunds paid or credited for the current year must be applied against the current year's net premium for that year's assessment regardless of the policy year for which the dividends or premium refunds are being reimbursed*

Section 8 Paragraph (i) is added to subsection (5) of section 625 121, Florida Statutes, 1996 Supplement, to read

625 121 Standard Valuation Law, life insurance —

(5) *MINIMUM STANDARD FOR VALUATION OF POLICIES AND CONTRACTS ISSUED ON OR AFTER OPERATIVE DATE OF STANDARD NONFORFEITURE LAW—Except as otherwise provided in paragraph (h) and subsections (6), (11), and (14), the minimum standard for the valuation of all such policies and contracts issued on or after the operative date of s 627 476 (Standard Nonforfeiture Law for Life Insurance) shall be the commissioners' reserve valuation method defined in subsections (7), (11), and (14); 5 percent interest for group annuity and pure endowment contracts and 3 5 percent interest for all other such policies and contracts, or in the case of life insurance policies and contracts, other than annuity and pure endowment contracts, issued on or after July 1, 1973, 4 percent interest for such policies issued prior to October 1, 1979, and 4 5 percent interest for such policies issued on or after October 1, 1979, and the following tables*

(i) *In lieu of the mortality tables specified in this subsection, and subject to rules adopted by the department, the insurance company may, at its option*

Substitute the applicable 1958 CSO or CET Smoker and Non-smoker Mortality Tables, in lieu of the 1980 CSO or CET mortality table standard, for policies issued on or after the operative date of s 627 476(9) and before January 1, 1989

2 *Substitute the applicable 1980 CSO or CET Smoker and Non-smoker Mortality Tables in lieu of the 1980 CSO or CET mortality table standard,*

3 *Use the Annuity 2000 Mortality Table for determining the minimum standard of valuation for individual annuity and pure endowment contracts issued on or after the operative date of this section until the department, on a date certain that is on or after January 1, 1998, adopts by rule that table for determining the minimum standard for valuation purposes*

4 *Use the 1994 GAR Table for determining the minimum standard of valuation for annuities and pure endowments purchased on or after the operative date of this section under group annuity and pure endowment contracts until the department, on a date certain that is on or after January 1, 1998, adopts by rule that table for determining the minimum standard for valuation purposes*

Section 9 Paragraph (e) of subsection (1) of section 626 321, Florida Statutes, is amended to read

626 321 Limited licenses —

(1) The department shall issue to a qualified individual, or a qualified individual or entity under paragraphs (d) and (e), a license as agent authorized to transact a limited class of business in any of the following categories

(e) Credit life or disability insurance —License covering only credit life or disability insurance. The license may be issued only to an individual employed by a life or health insurer as an officer or other salaried or commissioned representative, or to an individual employed by or associated with a lending or financing institution or creditor, and may authorize the sale of such insurance only with respect to borrowers or debtors of such lending or financing institution or creditor. However, only the individual or entity whose tax identification number is used in receiving or is credited with receiving the commission from the sale of such insurance shall be the licensed agent of the insurer. No individual while so licensed shall hold a license as an agent or solicitor as to any other or additional kind or class of life or health insurance coverage. *An entity other than a lending or financial institution defined in s 626.988 holding a limited license under this subsection (1)(e) shall also be authorized to sell credit property insurance.*

Section 10 Paragraph (h) of subsection (9) of section 627.476, Florida Statutes, is amended to read

627.476 Standard Nonforfeiture Law for Life Insurance —

(9) CALCULATION OF ADJUSTED PREMIUMS AND PRESENT VALUES FOR POLICIES ISSUED AFTER OPERATIVE DATE OF THIS SUBSECTION —

(h) All adjusted premiums and present values referred to in this section shall for all policies of ordinary insurance be calculated on the basis of the Commissioners' 1980 Standard Ordinary Mortality Table or, at the election of the insurer for any one or more specified plans of life insurance, the Commissioners' 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors, shall for all policies of industrial insurance be calculated on the basis of the Commissioners' 1961 Standard Industrial Mortality Table, and shall for all policies issued in a particular calendar year be calculated on the basis of a rate of interest not exceeding the nonforfeiture interest rate as defined in this subsection for policies issued in that calendar year. However

At the option of the insurer, calculations for all policies issued in a particular calendar year may be made on the basis of a rate of interest not exceeding the nonforfeiture interest rate, as defined in this subsection, for policies issued in the immediately preceding calendar year

2 Under any paid-up nonforfeiture benefit, including any paid-up dividend additions, any cash surrender value available, whether or not required by subsection (2), shall be calculated on the basis of the mortality table and rate of interest used in determining the amount of such paid-up nonforfeiture benefit and paid-up dividend additions, if any

3 An insurer may calculate the amount of any guaranteed paid-up nonforfeiture benefit, including any paid-up additions under the policy, on the basis of an interest rate no lower than that specified in the policy for calculating cash surrender values

4 In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioners' 1980 Extended Term Insurance Table for policies of ordinary insurance and not more than the Commissioners' 1961 Industrial Extended Term Insurance Table for policies of industrial insurance

5 In lieu of the mortality tables specified in this section, at the option of the insurance company and subject to rules adopted by the department, the insurance company may substitute

a The 1958 CSO or CET Smoker and Nonsmoker Mortality Tables, whichever is applicable, for policies issued on or after the operative date of this subsection and before January 1, 1989,

b The 1980 CSO or CET Smoker and Nonsmoker Mortality Tables, whichever is applicable, for policies issued on or after the operative date of this subsection,

c A mortality table that is a blend of the sex-distinct 1980 CSO or CET mortality table standard, whichever is applicable or a mortality

table that is a blend of the sex-distinct 1980 CSO or CET smoker and nonsmoker mortality table standards, whichever is applicable, for policies that are subject to the United States Supreme Court decision in *Arizona Governing Committee v Norris* to prevent unfair discrimination in employment situations

6 For insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on appropriate modifications of the aforementioned tables

Section 11 Effective October 1, 1997, section 627.4555, Florida Statutes, is amended to read

627.4555 Secondary notice —*Except as provided in this section, a no contract for life insurance issued or issued for delivery in this state on or after October 1, 1997, covering a natural person 64 years of age or older or owned by a natural person 64 years of age or older, which has been in force for at least 1 year, may not shall be lapsed canceled for nonpayment of premium unless, after expiration of the grace period, and at least 21 days before prior to the effective date of any such lapse cancellation, the insurer has mailed a notification of the impending possible lapse in coverage to the policyowner or ner of the policy, and to a specified secondary addressee if such addressee has been designated in writing by name and address by the policyowner. An insurer issuing a life insurance contract on or after October 1, 1997 1995, shall notify the applicant of the right to designate a secondary addressee at the time of application for the policy, on a form provided by the insurer, and at any time the policy is in force, by submitting a written notice to the insurer containing the name and address of the secondary addressee. For purposes of any life insurance policy that provides a grace period of more than 51 days for nonpayment of premiums, the notice of impending lapse in coverage required by this section must be mailed to the policyowner and the secondary addressee at least 21 days before the expiration of the grace period provided in the policy. This section does not apply to any life insurance contract under which premiums are payable monthly or more frequently and are regularly collected by a licensed agent or are paid by credit card or any preauthorized check processing or automatic debit service of a financial institution. For policies of life insurance issued or renewed on or after October 1, 1995, the insurer shall notify the or ner, at least annually, of the right to designate a secondary addressee.*

Section 12 Effective October 1, 1997, section 627.5045, Florida Statutes, is amended to read

627.5045 Secondary notice —*Except as provided in this section, a no contract for an industrial life insurance policy issued or issued for delivery in this state on or after October 1, 1997, for which premiums are paid monthly, covering a natural person 64 years of age or older or owned by a natural person 64 years of age or older, which has been in force for at least 1 year, may not shall be lapsed canceled for nonpayment of premium unless, after expiration of the grace period, and at least 21 days before prior to the effective date of such lapse cancellation, the insurer has mailed a notification of the impending possible lapse in coverage to the policyowner or ner of the policy and to a specified secondary addressee if such addressee has been designated in writing by name and address by the policyowner. An insurer issuing an industrial life insurance contract on or after October 1, 1997 1995, shall notify the applicant of the right to designate a secondary addressee at the time of application for the policy on a form provided by the insurer and at any time the policy is in force by submitting a written notice to the insurer containing the name and address of the secondary addressee. This section does not apply to any life insurance contract under which premiums are payable monthly or more frequently and are regularly collected by a licensed agent. For policies of industrial life insurance issued or renewed on or after October 1, 1995, the insurer shall notify the or ner, at least annually, of the right to designate a secondary addressee.*

Section 13 Effective October 1, 1997, section 628.801, Florida Statutes, is amended to read

628.801 Insurance holding companies, registration, regulation — Every insurer which is authorized to do business in this state and which is a member of an insurance holding company shall register with the department and be subject to regulation with respect to its relationship to such holding company as provided by rule or statute. The department shall adopt rules establishing the information and form required for registration and the manner in which registered insurers and their affiliates shall be regulated. The rules shall apply to domestic insurers,

foreign insurers, and commercially domiciled insurers, except a foreign insurer domiciled in states that are accredited by the National Association of Insurance Commissioners by December 31, 1995. Except to the extent of any conflict with this code, the rules must include all requirements and standards of ss 4 and 5 of the Insurance Holding Company System Regulatory Act and the Insurance Holding Company System Model Regulation of the National Association of Insurance Commissioners, as the Regulatory Act and the Model Regulation existed on January 1, 1997 1993, and may include a prohibition on oral contracts between affiliated entities. Upon request, the department may waive filing requirements under this section for a domestic insurer that is the subsidiary of an insurer that is in full compliance with the insurance holding company registration laws of its state of domicile, which state is accredited by the National Association of Insurance Commissioners.

Section 14 Except as otherwise expressly provided in this act, this act shall take effect July 1, 1997

And the title is amended as follows

On page 2, line 28 through page 3, line 5, delete those lines from the amendment and insert On page 1, lines 2-8, delete those lines from the bill and insert A bill to be entitled An act relating to insurance, 627 215, F S , prescribing a minimum value for profit and contingencies factor for the purpose of calculating the anticipated underwriting profit, providing clarification on the application of excess profits, requiring certain insurers to file reports concerning their risk based capital, requiring the Department of Insurance to request such reports under certain circumstances, providing for hearings, providing definitions and reporting requirements, requiring certain insurers to file reports of material transactions concerning their assets or their ceded reinsurance agreements, providing definitions and reporting requirements, prescribing authority of the Department of Insurance with respect to such reports, amending s 624 3161, F S , deleting a limitation on frequency of certain market conduct examinations, deleting requirement for mutual agreement by department and insurer for an independent examination, amending s 626 321, F S , authorizing persons who hold a limited license for credit insurance to hold certain additional licenses, amending s 624 424, F S , increasing the time limitation on insurers using certain accounting services for certain purposes, creating s 624 5094, F S , providing for offset of dividends or premium refunds in calculating the annual assessment for the Special Disability Trust Fund and expenses of administration, amending s 625 121, F S , providing for the use of additional mortality tables, amending s 627 476, F S , providing for the use of additional mortality tables, amending ss 627 4555 and 627 5045, F S , revising provisions requiring notice to policyowners and secondary addressees of impending lapse of certain insurance policies under certain circumstances, providing procedures, providing application, amending s 628 801, F S , updating a reference to the Insurance Holding Company System Regulatory Act, providing effective dates

Amendment 1 as amended was adopted

On motion by Senator Holzendorf, by two-thirds vote SB 840 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was

Yeas—36

Madam President	Dantzler	Holzendorf	Meadows
Bankhead	Diaz-Balart	Horne	Myers
Bronson	Dudley	Jenne	Ostalkiewicz
Brown-Waite	Dyer	Jones	Rossin
Burt	Forman	Kirkpatrick	Silver
Campbell	Grant	Klein	Sullivan
Casas	Gutman	Kurth	Thomas
Childers	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

Vote after roll call

Yea—Crist

The Senate resumed consideration of—

CS for SB 584—A bill to be entitled An act relating to mining amending s 378 601, F S , providing that certain heavy mineral mining opera-

tions are not required to undergo development-of-regional-impact review, amending s 378 901, F S , providing conditions when a life-of-the-mine permit for sand mines may be issued, providing an effective date

—which was previously considered and amended this day

Pending further consideration of CS for SB 584 as amended, on motion by Senator Kirkpatrick, by two-thirds vote HB 1073 was withdrawn from the Committees on Natural Resources, and Ways and Means

On motion by Senator Kirkpatrick—

HB 1073—A bill to be entitled An act relating to land reclamation, amending s 378 601, F S , exempting certain heavy mineral mining operations from requirements for development of regional impact review, requiring certain permits or plan approvals, amending s 378 035, F S , providing for use of Nonmandatory Land Reclamation Trust Fund moneys for reclamation and management of phosphate lands, providing for liens, requiring a report, amending s 378 901, F S , providing conditions when a life-of-the-mine permit for sand mines may be issued, providing an effective date

—a companion measure, was substituted for CS for SB 584 as amended and read the second time by title

Senator Kirkpatrick moved the following amendment

Amendment 1 (with title amendment)—Delete everything after the enacting clause and insert

Section 1 Subsection (5) is added to section 378 601, Florida Statutes, to read

378 601 Heavy minerals —

(5) Any heavy mineral mining operation which annually mines less than 500 acres and whose proposed consumption of water is 3 million gallons per day or less shall not be required to undergo development of regional impact review pursuant to s 380 06, provided permits and plan approvals pursuant to either this section and part IV of chapter 373, or s 378 901, are issued. This subsection applies only in the following circumstances

(a) Mining is conducted in counties where the operator has conducted heavy mineral mining activities prior to March 1, 1997, and

(b) The operator of the heavy mineral mining operation has executed a developer agreement pursuant to s 380 032 as of March 1, 1997. Lands mined pursuant to this section need not be the subject of the developer agreement

Section 2 Paragraph (b) of subsection (1) of section 373 414, Florida Statutes, 1996 Supplement, is amended to read

373 414 Additional criteria for activities in surface waters and wetlands —

(1) As part of an applicant's demonstration that an activity regulated under this part will not be harmful to the water resources or will not be inconsistent with the overall objectives of the district, the governing board or the department shall require the applicant to provide reasonable assurance that state water quality standards applicable to waters as defined in s 403 031(13) will not be violated and reasonable assurance that such activity in, on, or over surface waters or wetlands, as delineated in s 373 421(1), is not contrary to the public interest. However, if such an activity significantly degrades or is within an Outstanding Florida Water, as provided by department rule, the applicant must provide reasonable assurance that the proposed activity will be clearly in the public interest

(b) If the applicant is unable to otherwise meet the criteria set forth in this subsection, the governing board or the department, in deciding to grant or deny a permit, shall consider measures proposed by or acceptable to the applicant to mitigate adverse effects that may be caused by the regulated activity. Such measures may include, but are not limited to, onsite mitigation, offsite mitigation, offsite regional mitigation, and the purchase of mitigation credits from mitigation banks permitted under s 373 4136. It shall be the responsibility of the applicant to choose

By Senator Holzendorf

2-994-97

1 A bill to be entitled
2 An act relating to secondary notice of lapse of
3 insurance policies; amending ss. 627.4555 and
4 627.5045, F.S.; revising provisions requiring
5 notice to policyowners and secondary addressees
6 of impending lapse of certain insurance
7 policies under certain circumstances; providing
8 procedures; providing application; providing an
9 effective date.

10
11 Be It Enacted by the Legislature of the State of Florida:

12
13 Section 1. Section 627.4555, Florida Statutes, is
14 amended to read:

15 627.4555 Secondary notice.--Except as provided in this
16 section, no contract for life insurance issued or issued for
17 delivery in this state on or after October 1, 1997, covering a
18 natural person 64 years of age or older or-owned-by-a-natural
19 person-64-years-of-age-or-older, which has been in force for
20 at least 1 year, shall be lapsed canceled for nonpayment of
21 premium unless, after expiration of the grace period, and at
22 least 21 days prior to the effective date of any such lapse
23 cancellation, the insurer has mailed a notification of such
24 impending possible lapse in coverage to the policyowner owner
25 of-the-policy and to a specified secondary addressee if such
26 addressee has been designated in writing by name and address
27 by the policyowner. An insurer issuing a life insurance
28 contract on or after October 1, 1997 +995, shall notify the
29 applicant of the right to designate a secondary addressee at
30 the time of application for the policy, on a form provided by
31 the insurer, and at any time the policy is in force, by

1 submitting a written notice to the insurer containing the name
 2 and address of the secondary addressee. For purposes of any
 3 life insurance policy which provides a grace period of more
 4 than 51 days for nonpayment of premiums, the notice of
 5 impending lapse in coverage required by this section shall be
 6 mailed to the policyowner and the secondary addressee at least
 7 21 days prior to the expiration of the grace period provided
 8 in such policy. This section does not apply to any life
 9 insurance contract under which premiums are payable monthly or
 10 more frequently and are regularly collected by a licensed
 11 agent or are paid by credit card or any preauthorized check
 12 processing or automatic debit service of a financial
 13 institution. For policies of life insurance issued or renewed
 14 ~~on or after October 1, 1995, the insurer shall notify the~~
 15 ~~owner, at least annually, of the right to designate a~~
 16 ~~secondary addressee.~~

17 Section 2. Section 627.5045, Florida Statutes, is
 18 amended to read:

19 627.5045 Secondary notice. Except as provided in this
 20 section, no contract for an industrial life insurance policy
 21 issued or issued for delivery in this state on or after
 22 October 1, 1997, for which premiums are paid monthly, covering
 23 a natural person 64 years of age or older or owned by a
 24 natural person 64 years of age or older, which has been in
 25 force for at least 1 year, shall be lapsed canceled for
 26 nonpayment of premium unless, after expiration of the grace
 27 period, and at least 21 days prior to the effective date of
 28 such lapse cancellation, the insurer has mailed a notification
 29 of such impending possible lapse in coverage to the
 30 policyowner ~~owner of the policy~~ and to a specified secondary
 31 addressee if such addressee has been designated in writing by

1 name and address by the policyowner. An insurer issuing an
 2 industrial life insurance contract on or after October 1, 1997
 3 1995, shall notify the applicant of the right to designate a
 4 secondary addressee at the time of application for the policy
 5 on a form provided by the insurer and at any time the policy
 6 is in force by submitting a written notice to the insurer
 7 containing the name and address of the secondary addressee.
 8 This section does not apply to any life insurance contract
 9 under which premiums are payable monthly or more frequently
 10 and are regularly collected by a licensed agent. For policies
 11 ~~of industrial life insurance issued or renewed on or after~~
 12 ~~October 1, 1995, the insurer shall notify the owner, at least~~
 13 ~~annually, of the right to designate a secondary addressee.~~

14 Section 3. This act shall take effect October 1, 1997.

15 *****

16 HOUSE SUMMARY

17
18 Revises provisions requiring notice to policyowners and
19 secondary addressees of impending lapse of life insurance
20 policies. See bill for details.
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SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below)

Date: March 22, 1997 Revised _____

Subject Insurance Policies/Lapse Notice

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Deffenbaugh</u>	<u>Deffenbaugh</u>	<u>BI</u>	<u>Favorable</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

This bill revises the requirements for life insurers to provide notice of impending lapse or cancellation for nonpayment of premiums. Legislation in 1995 required insurers that sell individual and industrial life policies to persons 64 years of age and older, to send an additional notice of impending lapse for nonpayment after expiration of any grace period (which, by law, must be a minimum of 30 days), and at least 21 days prior to the lapse. The 1995 law also required notice to be sent to a secondary addressee designated by the policyowner.

The bill provides that if a policy provides more than a 51-day grace period to pay a late premium, the notice of impending lapse be mailed to the policyholder and the secondary addressee at least 21 days prior to the expiration of the grace period specified in the policy.

The bill exempts from the secondary notice requirements any life insurance policy under which premiums are paid monthly or more frequently and are regularly collected by a licensed agent. The bill also exempts policies that are paid by credit card or any preauthorized check processing or automatic debit service of a financial institution.

The bill makes more specific the requirement for life insurers to notify applicants of the right to designate a secondary addressee, specifying that the notice must be provided at the time of application, on a form provided by the insurer, informing the applicant of the right to make this designation at any time the policy is in force.

This bill substantially amends sections 627.4555 and 627.5045 of the Florida Statutes.

II. Present Situation:

Chapter 95-142, Laws of Florida, created sections 627.4555 and 627.5045, F.S., relating to notice of cancellation or lapse for late payment of premiums in individual life insurance policies, as summarized below.

Section 627.4555, created in 1995, requires insurers that issue individual life insurance policies that have been in force for at least 1 year and that cover, or are owned by, persons 64 years of age or older to provide notice of cancellation or possible lapse in coverage, after expiration of the grace period (which must be at least 30 days pursuant to s. 627.453), and at least 21 days prior to canceling a policy for late payment of premiums. This section further requires insurers to send notice to any secondary addressee designated by the policyowner, and requires insurers to notify applicants of the right to designate a secondary addressee.

Section 627.5045, F.S., also created in 1995, requires that industrial life insurance policies for which premiums are paid monthly, which have been in force for at least 1 year, and that cover or are owned by persons 64 years of age or older, must provide the same notice requirements as required for life insurance policies described above, including notice to any secondary addressee designated by the policyowner.

Section 627.453, F.S., requires that every individual life insurance policy allow the policyowner a grace period of not less than 30 days after a premium due date within which to pay any premium due after the first premium. Since section 627.4555 requires an additional 21-day notice after the expiration of the grace period, lapse, or cancellation of a policy cannot occur unless at least 51 (30 plus 21) days after the premium is due.

Section 627.504, F.S., similarly requires that industrial life insurance policies provide the insured with a grace period of 4 weeks after any premium due date, subsequent to the first, within which the payment of any premiums due after the first may be made. If premiums are paid monthly, then the grace period shall be 1 month, but not less than 30 days. An "industrial life policy" is defined in s. 627.502, F.S., as that form of life insurance for which premiums are payable monthly or more often, bearing the words "industrial policy" or "weekly premium policy," and issued under a system of debit collection by an agent.

III. Effect of Proposed Changes:

The bill revises the notice requirements that apply when an insurer intends to cancel or "lapse" a policy due to nonpayment of premiums for an individual or industrial life insurance policy.

The bill maintains the basic requirement that for life insurance policies covering persons age 64 or older, the insurer must notify the policyowner of impending lapse in coverage, after expiration of the grace period for late payment of premium, at least 21 days prior to such lapse, including notice to any secondary addressee designated by the policyowner.

One change by the bill is to allow the 21-day notice be made within the grace period if the policy contains a grace period of more than 51 days. For such policies, the notice of impending lapse must be at least 21 days prior to the expiration of the grace period. This change would not effect notice of lapse for a policy that has the minimum 30-day grace period required by law, in which case 51 days notice would still effectively be required (21-days notice after expiration of the grace period). However, for policies with at least 51-day grace periods, the notice period is effectively shortened by 21 days, since the secondary notice could be within the first 51-day period

The bill exempts life insurance policies from the secondary notice requirements if premiums are payable monthly or more frequently and are regularly collected by a licensed agent or are paid by credit card or any preauthorized check processing or automatic debit service of a financial institution. Therefore, the effect of the bill, in general, would limit the secondary notice requirements to individual life insurance policies for which premiums are paid by check through the mail

The exemption described above is added by the bill in Section 1 for individual life insurance and the same exemption is added in Section 2 for industrial life insurance. This would appear to be a substantial repeal of the secondary notice requirements for industrial life insurance in s. 627.5045, since industrial life insurance is defined (s. 627.502, F.S.) as that form of life insurance for which premiums are payable monthly or more often, bearing the words "industrial policy" or "weekly premium policy," and issued under a system of debit collection by an agent

The bill replaces references to "cancel" with "lapse" in the notice provisions to denote the end of coverage for nonpayment of premiums. This change clarifies that the notice requirements apply to an action by the insurer other than cancellation that may occur upon lapse of a policy, such as invoking a nonforfeiture loan or an automatic premium loan to pay past due premiums

The bill makes more specific the requirement for life insurers to provide notice of the right of policy owners to designate a secondary addressee. The bill provides that the notice must be on a form provided by the insurer at the time of application for the policy, informing the policyowner that this right may be exercised at any time the policy is in force by submitting a written notice to the insurer containing the name and address of the secondary addressee

The bill specifies that the requirements apply to policies covering persons age 64 or older, but no longer apply to policies *owned* by persons age 64 or older. A person can own and pay premiums on a policy covering the life of another person, so the secondary notice requirements would no longer apply to a policy owned by a person 64 or older covering a person younger than 64

The bill specifies that the amended requirements apply to insurance issued or issued for delivery in this state after October 1, 1997

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None

B. Private Sector Impact

The bill makes the secondary notice requirements administratively easier for life insurers due to the exemptions and limitations analyzed above. By the same token, policyholders of certain life insurance policies would no longer be entitled to the secondary notice requirements or may obtain shorter notice, as also analyzed above

C. Government Sector Impact:

None

VI. Technical Deficiencies:

None

VII. Related Issues:

None

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate

Florida House of Representatives - 1997

By Representatives Mackenzie and Bainter

A bill to be entitled

2 An act relating to insurance; requiring certain
3 insurers to file reports concerning their risk
4 based capital; requiring the Department of
5 Insurance to request such reports under certain
6 circumstances, providing for hearings;
7 providing definitions and reporting
8 requirements; requiring certain insurers to
9 file reports of material transactions
10 concerning their assets or their ceded
11 reinsurance agreements; providing definitions
12 and reporting requirements; prescribing
13 authority of the Department of Insurance with
14 respect to such reports; amending s. 624.3161,
F.S.; deleting a limitation on frequency of
16 certain market conduct examinations; amending
17 s. 624.424, F.S.; increasing the time
18 limitation on insurers using certain accounting
19 services for certain purposes; amending ss.
20 625.121 and 627.476, F.S.; authorizing
21 insurance companies to use alternative
22 mortality tables for certain purposes; amending
23 ss. 627.4555 and 627.5045, F.S.; revising
24 provisions requiring notice to policyowners and
25 secondary addressees of impending lapse of
26 certain insurance policies under certain
27 circumstances; providing procedures, providing
28 application; amending s. 628.801, F.S.;
updating a reference for certain purposes;
providing effective dates.

31

1 Be It Enacted by the Legislature of the State of Florida:

2
3 Section 1. Risk based capital requirements for
4 insurers.--

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

6 (a) "Adjusted risk based capital report" means a risk
7 based capital report that has been adjusted by the department
8 in accordance with this section.

9 (b) "Authorized control level risk based capital"
10 means the number determined under the risk based capital
11 formula in the risk based capital instructions.

12 (c) "Company action level risk based capital" means
13 the product of 2.0 and an insurer's authorized control level
14 risk based capital.

15 (d) "Corrective order" means an order issued by the
16 department specifying corrective actions that the department
17 has determined are required.

18 (e) "Department" means the Department of Insurance.

19 (f) "Domestic insurer" means any insurer domiciled in
20 this state.

21 (g) "Foreign insurer" means any insurer that is
22 authorized or eligible to do business in this state but that
23 is not domiciled in this state.

24 (h) "Life and health insurer" means any insurer
25 authorized or eligible under the Florida Insurance Code to
26 underwrite life or health insurance. The term includes a
27 property and casualty insurer that writes accident and health
28 insurance only.

29 (i) "Mandatory control level risk based capital" means
30 the product of 0.70 and the authorized control level risk
31 based capital.

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2 (i) "Negative trend" means, with respect to a life and
3 health insurer, a negative trend over a period of time, as
4 determined in accordance with the trend test calculation
5 included in the risk based capital instructions.

6 (k) "Property and casualty insurer" means any insurer
7 licensed under the Florida Insurance Code, but does not
8 include a single-line mortgage guaranty insurer, financial
9 guaranty insurer, or title insurer or a life and health
10 insurer.

11 (l) "Regulatory action level risk based capital" means
12 the product of 1.5 and an insurer's authorized control level
13 risk based capital.

14 (m) "Revised risk based capital plan" means the
15 revision of the risk based capital plan which is prepared by
16 an insurer after the department rejects the original plan.

17 (n) "Risk based capital instructions" means the
18 instructions for preparing a risk based capital report as
19 adopted by the National Association of Insurance
20 Commissioners.

21 (o) "Risk based capital level" means an insurer's
22 company action level risk based capital, regulatory action
23 level risk based capital, authorized control level risk based
24 capital, or mandatory control level risk based capital.

25 (p) "Risk based capital plan" means a comprehensive
26 financial plan specified in paragraph (4)(b).

27 (q) "Risk based capital report" means the report
28 required in subsection (2).

29 (r) "Total adjusted capital" means the sum of:
30 1. An insurer's statutory capital and surplus; and
31 2. Any other item required by the risk based capital
instructions.

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1 (2)(a) Each domestic insurer that is subject to this
2 section shall, on or before March 1 of each year, prepare and
3 file with the National Association of Insurance Commissioners
4 a report of its risk based capital levels as of the end of the
5 calendar year just ended, in a form and containing the
6 information required in the risk based capital instructions.
7 In addition, each domestic insurer shall file a printed copy
8 of its risk based capital report:

9 1. With the department on or before March 1 of each
10 year.

11 2. With the insurance department in any other state in
12 which the insurer is authorized to do business, if that
13 department has notified the insurer of its request in writing,
14 in which case the insurer shall file its risk based capital
15 report not later than the later of:

16 a. Fifteen days after the receipt of notice to file
17 its risk based capital report with that state; or

18 b. March 1.

19 (b) The comparison of an insurer's total adjusted
20 capital to any of its risk-based capital levels is a
21 regulatory tool which may indicate the need for possible
22 corrective action with respect to the insurer and, except as
23 otherwise required under this section, the making, publishing,
24 disseminating, circulating, or placing before the public, or
25 causing, directly or indirectly, to be made, published,
26 disseminated, circulated, or placed before the public in a
27 newspaper, magazine, or other publication, or in the form of a
28 notice, circular, pamphlet, letter, or poster or over any
29 radio or television station, or in any other way, an
30 advertisement, announcement, or statement containing an
31 assertion, representation, or statement with regard to the

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2 risk-based capital levels of any insurer, or of any component
3 derived in the calculation, by any insurer, agent, broker, or
4 other person engaged in any manner in the insurance business,
5 would be misleading and is therefore prohibited, provided, if
6 any materially false statement with respect to the comparison
7 regarding an insurer's total adjusted capital to its
8 risk-based capital levels or an inappropriate comparison of
9 any other amount to the insurer's risk-based capital levels is
10 published in any written publication and the insurer is able
11 to demonstrate to the commissioner with substantial proof the
12 falsity or inappropriateness of such statement, the insurer
13 may publish an announcement in a written publication if the
14 sole purpose of the announcement is to rebut the materially
15 false or inappropriate statement.

16 (c) The department shall use the risk based capital
17 instructions, risk based capital reports, adjusted risk based
18 capital reports, risk based capital plans, and revised risk
19 based capital plans solely for monitoring the solvency of
20 insurers and assessing the need for corrective action with
21 respect to insurers. The department may not use that
22 information for ratemaking, as evidence in any rate
23 proceeding, or for calculating or deriving any elements of an
24 appropriate premium level or rate of return for any line of
25 insurance which an insurer or an affiliate of such insurer is
26 authorized to write.

27 (d) A life and health insurer's risk based capital is
28 determined in accordance with the formula set forth in the
29 risk based capital instructions. The formula takes into
30 account and may adjust for the covariance between:

1. The risk with respect to the insurer's assets;

31

1 2. The risk of adverse insurance experience with
2 respect to the insurer's liabilities and obligations;

3 3. The interest rate risk with respect to the
4 insurer's business; and

5 4. Any other business or other relevant risk set out
6 in the risk based capital instructions.

7
8 determined in each case by applying the factors in the manner
9 set forth in the risk based capital instructions.

10 (e) A property and casualty insurer's risk based
11 capital is determined in accordance with the formula set forth
12 in the risk based capital instructions. The formula takes
13 into account and may adjust for the covariance between:

14 1 The asset risk;

15 2 The credit risk;

16 3. The underwriting risk; and

17 4 Any other business or other relevant risk set out
18 in the risk based capital instructions.

19
20 determined in each case by applying the factors in the manner
21 set forth in the risk based capital instructions.

22 (f) The Legislature finds that an excess of capital
23 over the amount produced by the risk based capital
24 requirements and the formulas, schedules, and instructions
25 specified in this section is a desirable goal with respect to
26 the business of insurance. Accordingly, insurers should seek
27 to maintain capital above the risk based capital levels
28 required by this section. Additional capital is used and
29 useful in the insurance business and helps to secure an
30 insurer against various risks inherent in, or affecting, the
31 business of insurance and not accounted for or only partially

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1 measured by the risk based capital requirements contained in
2 this section.

3 (g) If a domestic insurer files a risk based capital
4 report that the department finds is inaccurate, the department
5 shall adjust the risk based capital report to correct the
6 inaccuracy and shall notify the insurer of the adjustment.
7 The notice must state the reason for the adjustment. A risk
8 based capital report that is so adjusted is referred to as the
9 adjusted risk based capital report. The adjusted risk based
10 capital report must also be filed by the insurer with the
11 National Association of Insurance Commissioners.

12 (3)(a) A company action level event includes.

13 1. The filing of a risk based capital report by an
insurer which indicates that.

14 a. The insurer's total adjusted capital is greater
15 than or equal to its regulatory action level risk based
16 capital but less than its company action level risk based
17 capital; or
18 capital; or

19 b. If a life and health insurer, the insurer has total
20 adjusted capital that is greater than or equal to its company
21 action level risk based capital, but is less than the product
22 of its authorized control level risk based capital and 2.5,
23 and has a negative trend;

24 2. The notification by the department to the insurer
25 of an adjusted risk based capital report that indicates an
26 event in subparagraph 1., unless the insurer challenges the
27 adjusted risk based capital report under subsection (7); or

28 3. If, under subsection (7), an insurer challenges an
29 adjusted risk based capital report that indicates an event in
30 subparagraph 1., the notification by the department to the
31

1 insurer that the department has, after a hearing, rejected the
2 insurer's challenge.

3 (b) If a company action level event occurs, the
4 insurer shall prepare and submit to the department a risk
5 based capital plan, which must:

6 1. Identify the conditions that contribute to the
7 company action level event;

8 2. Contain proposals of corrective actions that the
9 insurer intends to take and that are reasonably expected to
10 result in the elimination of the company action level event;

11 3. Provide projections of the insurer's financial
12 results in the current year and at least the 4 succeeding
13 years, both in the absence of proposed corrective actions and
14 giving effect to the proposed corrective actions, including
15 projections of statutory operating income, net income,
16 capital, and surplus. The projections for both new and
17 renewal business may include separate projections for each
18 major line of business and, if separate projections are
19 provided, must separately identify each significant income,
20 expense, and benefit component;

21 4. Identify the key assumptions affecting the
22 insurer's projections and the sensitivity of the projections
23 to the assumptions; and

24 5. Identify the quality of, and problems associated
25 with, the insurer's business, including, but not limited to,
26 its assets, anticipated business growth and associated surplus
27 strain, extraordinary exposure to risk, mix of business, and
28 any use of reinsurance.

29 (c) The risk based capital plan must be submitted:

30 1. Within 45 days after the company action level
31 event; or

4 2. If the insurer challenges an adjusted risk based
5 capital report under subsection (7), within 45 days after
6 notification to the insurer that the department has, after a
7 hearing, rejected the insurer's challenge.

8 (d) Within 60 days after the submission by an insurer
9 of a risk based capital plan to the department, the department
10 shall notify the insurer whether the risk based capital plan
11 must be implemented or is, in the judgment of the department,
12 unsatisfactory. If the department determines that the risk
13 based capital plan is unsatisfactory, the notification to the
14 insurer must set forth the reasons for the determination and
15 may set forth proposed revisions. Upon notification from the
16 department, the insurer shall prepare a revised risk based
17 capital plan, which may incorporate by reference any revisions
18 proposed by the department, and shall submit the revised risk
19 based capital plan to the department.

20 1. Within 45 days after the notification from the
21 department; or

22 2. If the insurer challenges the notification from the
23 department under subsection (7), within 45 days after a
24 notification to the insurer that the department has, after a
25 hearing, rejected the insurer's challenge.

26 (e) If the department notifies an insurer that the
27 insurer's risk based capital plan or revised risk based
28 capital plan is unsatisfactory, the department may, at its
29 discretion and subject to the insurer's right to a hearing
30 under subsection (7), specify in the notification that the
31 notification is a regulatory action level event.

(f) Each domestic insurer that files a risk based
capital plan or a revised risk based capital plan with the
department shall file a copy of the risk based capital plan or

1 the revised risk based capital plan with the insurance
2 department in any other state in which the insurer is
3 authorized to do business if:

4 1. That state has a risk based capital law that is
5 substantially similar to paragraph (8)(a); and

6 2. The insurance department of that state has notified
7 the insurer of its request for the filing in writing, in which
8 case the insurer shall file a copy of the risk based capital
9 plan or the revised risk based capital plan in that state no
10 later than the later of:

11 a. Fifteen days after the receipt of notice to file a
12 copy of its risk based capital plan or revised risk based
13 capital plan with the state; or

14 b. The date on which the risk based capital plan or
15 the revised risk based capital plan is filed under paragraph
16 (c) or paragraph (d).

17 (4)(a) A regulatory action level event includes:

18 1. The filing of a risk based capital report by the
19 insurer which indicates that the insurer's total adjusted
20 capital is greater than or equal to its authorized control
21 level risk based capital but is less than its regulatory
22 action level risk based capital;

23 2. The notification by the department to the insurer
24 of an adjusted risk based capital report that indicates the
25 event described in subparagraph 1., unless the insurer
26 challenges the adjusted risk based capital report under
27 subsection (7);

28 3. If, under subsection (7), the insurer challenges an
29 adjusted risk based capital report that indicates the event
30 described in subparagraph 1., the notification by the
31

1 department to the insurer that the department has, after a
2 hearing, rejected the insurer's challenge;

3 4. The failure of the insurer to file a risk based
4 capital report by the filing date, unless the insurer provides
5 an explanation for such failure which is satisfactory to the
6 department and cures the failure within 10 days after the
7 filing date;

8 5. The failure of the insurer to submit a risk based
9 capital plan to the department within the time period set
10 forth in paragraph (3)(c);

11 6. Notification by the department to the insurer that:

12 a. The risk based capital plan or the revised risk
13 based capital plan submitted by the insurer is, in the
14 judgment of the department, unsatisfactory; and

15 b. This notification constitutes a regulatory action
16 level event with respect to the insurer, unless the insurer
17 challenges the determination under subsection (7);

18 7. If, under subsection (7), the insurer challenges a
19 determination by the department under subparagraph 6., the
20 notification by the department to the insurer that the
21 department has, after a hearing, rejected the challenge;

22 8. Notification by the department to the insurer that
23 the insurer has failed to adhere to its risk based capital
24 plan or revised risk based capital plan, but only if this
25 failure has a substantial adverse effect on the ability of the
26 insurer to eliminate the company action level event in
27 accordance with its risk based capital plan or revised risk
28 based capital plan and the department has so stated in the
29 notification, unless the insurer challenges the determination
30 under subsection (7); or

1 9. If, under subsection (7), the insurer challenges a
2 determination by the department under subparagraph 8., the
3 notification by the department to the insurer that the
4 department has, after a hearing, rejected the challenge.

5 (b) If a regulatory action level event occurs, the
6 department shall:

7 1. Require the insurer to prepare and submit a risk
8 based capital plan or, if applicable, a revised risk based
9 capital plan;

10 2. Perform an examination pursuant to section 624.316,
11 Florida Statutes, or an analysis as the department considers
12 necessary of the assets, liabilities, and operations of the
13 insurer, including a review of the risk based capital plan or
14 the revised risk based capital plan; and

15 3. After the examination or analysis, issue a
16 corrective order specifying such corrective actions as the
17 department determines are required.

18 (c) In determining corrective actions, the department
19 shall consider any factor relevant to the insurer based upon
20 the department's examination or analysis of the assets,
21 liabilities, and operations of the insurer, including, but not
22 limited to, the results of any sensitivity tests undertaken as
23 provided in the risk based capital instructions. The risk
24 based capital plan or the revised risk based capital plan must
25 be submitted;

26 1. Within 45 days after the occurrence of the
27 regulatory action level event;

28 2. If the insurer challenges an adjusted risk based
29 capital report under subsection (7), within 45 days after the
30 notification to the insurer that the department has, after a
31 hearing, rejected the insurer's challenge; or

1 3. If the insurer challenges a revised risk based
2 capital plan under subsection (7), within 45 days after the
3 notification to the insurer that the department has, after a
4 hearing, rejected the insurer's challenge.

5 (d) The department may retain actuaries, investment
6 experts, and other consultants to review an insurer's risk
7 based capital plan or revised risk based capital plan, examine
8 or analyze the assets, liabilities, and operations of an
9 insurer, and formulate the corrective order with respect to
10 the insurer. The fees, costs, and expenses relating to
11 consultants must be borne by the affected insurer or by any
12 other party as directed by the department.

13 (5)(a) An authorized control level event includes:

14 1. The filing of a risk based capital report by the
15 insurer which indicates that the insurer's total adjusted
16 capital is greater than or equal to its mandatory control
17 level risk based capital but is less than its authorized
18 control level risk based capital;

19 2. The notification by the department to the insurer
20 of an adjusted risk based capital report that indicates the
21 event in subparagraph 1., unless the insurer challenges the
22 adjusted risk based capital report under subsection (7);

23 3. If, under subsection (7), the insurer challenges an
24 adjusted risk based capital report that indicates the event in
25 subparagraph 1., notification by the department to the insurer
26 that the department has, after a hearing, rejected the
27 insurer's challenge;

28 4. The failure of the insurer to respond, in a manner
29 satisfactory to the department, to a corrective order, unless
30 the insurer challenges the corrective order under subsection
31 (7); or

1 5. If the insurer challenges a corrective order under
2 subsection (7) and the department has, after a hearing,
3 rejected the challenge or modified the corrective order, the
4 failure of the insurer to respond, in a manner satisfactory to
5 the department, to the corrective order after rejection or
6 modification by the department.

7 (b) If an authorized control level event occurs, the
8 department shall:

9 1. Take any action required under subsection (4)
10 regarding the insurer with respect to which a regulatory
11 action level event has occurred; or

12 2. If the department considers it to be in the best
13 interests of the policyholders and creditors of the insurer
14 and of the public, take any action as necessary to cause the
15 insurer to be placed under regulatory control under chapter
16 631, Florida Statutes. An authorized control level event is
17 sufficient ground for the department to be appointed as
18 receiver as provided in chapter 631, Florida Statutes.

19 (6)(a) A mandatory control level event includes:

20 1. The filing of a risk based capital report that
21 indicates that the insurer's total adjusted capital is less
22 than its mandatory control level risk based capital;

23 2. Notification by the department to the insurer of an
24 adjusted risk based capital report that indicates the event in
25 subparagraph 1., unless the insurer challenges the adjusted
26 risk based capital report under subsection (7); or

27 3. If, under subsection (7), the insurer challenges an
28 adjusted risk based capital report that indicates the event in
29 subparagraph 1., notification by the department to the insurer
30 that the department has, after a hearing, rejected the
31 insurer's challenge.

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1 (b) If a mandatory control level event occurs:

2 1. With respect to a life and health insurer, the
3 department shall, after due consideration of s. 624.408,
4 Florida Statutes, take any action necessary to place the
5 insurer under regulatory control, including any remedy
6 available under chapter 631, Florida Statutes. A mandatory
7 control level event is sufficient ground for the department to
8 be appointed as receiver as provided in chapter 631, Florida
9 Statutes. The department may forego taking action for up to
10 90 days after the mandatory control level event if the
11 department finds there is a reasonable expectation that the
12 mandatory control level event may be eliminated within the
13 90-day period.

14 2. With respect to a property and casualty insurer,
15 the department shall, after due consideration of s. 624.408,
16 Florida Statutes, take any action necessary to place the
17 insurer under regulatory control, including any remedy
18 available under chapter 631, Florida Statutes, or, in the case
19 of an insurer that is not writing new business, may allow the
20 insurer to continue to operate under the supervision of the
21 department. In either case, the mandatory control level event
22 is sufficient ground for the department to be appointed as
23 receiver as provided in chapter 631, Florida Statutes. The
24 department may forego taking action for up to 90 days after
25 the mandatory control level event if the department finds
26 there is a reasonable expectation that the mandatory control
27 level event will be eliminated within the 90-day period.

28 (7)(a) An insurer has a right to a hearing before the
29 department upon:

30 1. Notification to an insurer by the department of an
31 adjusted risk based capital report;

1 2. Notification to an insurer by the department that
2 the insurer's risk based capital plan or revised risk based
3 capital plan is unsatisfactory, and that the notification
4 constitutes a regulatory action level event with respect to
5 such insurer;

6 3. Notification to any insurer by the department that
7 the insurer has failed to adhere to its risk based capital
8 plan or revised risk based capital plan and that the failure
9 has a substantial adverse effect on the ability of the insurer
10 to eliminate the company action level event in accordance with
11 its risk based capital plan or its revised risk based capital
12 plan; or

13 4. Notification to an insurer by the department of a
14 corrective order with respect to the insurer.

15 (b) At such hearing the insurer may challenge any
16 determination or action by the department. The insurer shall
17 notify the department of its request for a hearing within 5
18 days after receipt of the notification by the department under
19 this subsection. Upon receipt of the request for a hearing,
20 the department shall set a date for the hearing, which date
21 must be no less than 10 nor more than 30 days after the date
22 the department receives the insurer's request. The hearing
23 must be conducted as provided in section 624.324, Florida
24 Statutes, with the right to appellate review under section
25 120.68, Florida Statutes.

26 (8)(a) Any foreign insurer shall, upon the written
27 request of the department, submit to the department a risk
28 based capital report, as of the end of the calendar year just
29 ended, no later than the later of:

30 1. The date a risk based capital report is required to
31 be filed by a domestic insurer under this section; or

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1 2. Fifteen days after the request is received by the
2 foreign insurer.

3 (b) Any foreign insurer shall, upon the written
4 request of the department, promptly submit to the department a
5 copy of any risk based capital plan that is filed with the
6 insurance department of another state.

7 (c) The department may require a foreign insurer to
8 file a risk based capital plan if:

9 1. A company action level event, regulatory action
10 level event, or authorized control level event occurs with
11 respect to any foreign insurer as determined under the risk
12 based capital law of the state of domicile of the insurer, or,
13 if there is no risk based capital law in that state, under
4 this section.

5 2. The insurance department of the state of domicile
16 of the foreign insurer fails to require the foreign insurer to
17 file a risk based capital plan in the manner specified under
18 the risk based capital law of that state, or, if there is no
19 risk based capital law in that state, under subsection (3).

20
21 The failure of the foreign insurer to file a risk based
22 capital plan with the department when required under this
23 paragraph is a ground for the department to take any action
24 under section 624.416, Florida Statutes, which it determines
25 is necessary.

26 (d) If a mandatory control level event occurs with
27 respect to any foreign insurer and a domiciliary receiver has
28 not been appointed with respect to the foreign insurer under
9 the rehabilitation and liquidation law of the state of
30 domicile of the foreign insurer, the department may apply to
31 the Circuit Court of Leon County and such event constitutes

1 grounds for the department to be appointed as receiver as
2 provided in chapter 631, Florida Statutes, with respect to the
3 liquidation of property of foreign insurers found in this
4 state. The occurrence of a mandatory control level event is a
5 ground for such application.

6 (9) There shall be no liability on the part of, and no
7 cause of action shall arise against, the commissioner, the
8 department, or its employees or agents for any action taken by
9 them in the performance of their powers and duties under this
10 section.

11 (10) The department shall transmit any notice that may
12 result in regulatory action by registered mail, certified
13 mail, or any other method of transmission. Notice is
14 effective when the insurer receives it.

15 (11) For the purposes of the risk based capital
16 reports required to be filed by life and health insurers with
17 respect to their 1997 annual statement data and the risk based
18 capital reports required to be filed by property and casualty
19 insurers with respect to their 1997 annual statement data, the
20 following requirements apply in lieu of the provisions of
21 subsections (3), (4), (5), and (6):

22 (a) If a company action level event occurs with
23 respect to a domestic insurer, the department may not take any
24 regulatory action.

25 (b) If a regulatory action level event occurs under
26 subparagraph 1., subparagraph 2., or subparagraph 3. of
27 paragraph (4)(a), the department shall take the actions
28 required under subsection (3).

29 (c) If a regulatory action level event occurs under
30 subparagraph 4., subparagraph 5., subparagraph 6.,
31 subparagraph 7., subparagraph 8., or subparagraph 9. of

1 paragraph (4)(a), or an authorized control level event occurs,
2 the department shall take the actions required under
3 subsection (4).

4 (d) If a mandatory control level event occurs with
5 respect to an insurer, the department shall take the actions
6 required under subsection (5).

7 (12) This section is supplemental to the other laws of
8 this state and does not preclude or limit any power or duty of
9 the department under those laws or under the rules adopted
10 under those laws.

11 (13) This section does not apply to a domestic
12 property and casualty insurer that meets all of the following
13 conditions:

14 (a) Writes direct business only in this state;

15 (b) Writes direct annual premiums of \$2 million or
16 less; and

17 (c) Assumes no reinsurance in excess of 5 percent of
18 direct premium written.

19 (14) The department may adopt rules to administer this
20 section, including, but not limited to, those regarding risk
21 based capital reports, adjusted risk based capital reports,
22 risk based capital plans, corrective orders and procedures to
23 be followed in the event of a triggering of a company action
24 level event, a regulatory action level event, an authorized
25 control level event, or a mandatory control level event.

26 Section 2. Assets of insurers; reporting
27 requirements.--

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

9 (a) "Material acquisition of assets" or "material
30 disposition of assets" means one or more transactions
31 occurring during any 30-day period which are nonrecurring and

1 not in the ordinary course of business and involve more than 5
2 percent of the reporting insurer's total admitted assets as
3 reported in its more recent statutory statement filed with the
4 insurance department of the insurer's state of domicile.

5 (b) "Material nonrenewal, cancellation, or revision of
6 a ceded reinsurance agreement" is one that affects:

7 1. With respect to property and casualty business,
8 including accident and health business written by a property
9 and casualty insurer:

10 a. More than 50 percent of the insurer's total ceded
11 written premium; or

12 b. More than 50 percent of the insurer's total ceded
13 indemnity and loss-adjustment reserves.

14 2. With respect to life, annuity, and accident and
15 health business, more than 50 percent of the total reserve
16 credit taken for business ceded, on an annualized basis, as
17 indicated in the insurer's most recent annual statement.

18 3. With respect to property and casualty business or
19 life, annuity, and accident and health business, a material
20 revision includes:

21 a. The replacement of an authorized reinsurer
22 representing more than 10 percent of a total cession by one or
23 more unauthorized reinsurers; or

24 b. The reduction or waiver, with respect to one or
25 more unauthorized insurers, of previously established
26 collateral requirements representing more than 10 percent of a
27 total cession.

28 (2) Each domestic insurer shall file a report with the
29 Department of Insurance disclosing a material acquisition of
30 assets, a material disposition of assets, or a material
31 nonrenewal, cancellation, or revision of a ceded reinsurance

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1 agreement, unless the material acquisition or disposition of
2 assets or the material nonrenewal, cancellation, or revision
3 of a ceded reinsurance agreement has been submitted to the
4 department for review, approval, or informational purposes
5 under another section of the Florida Insurance Code or a rule
6 adopted thereunder. A copy of the report and each exhibit or
7 other attachment must be filed by the insurer with the
8 National Association of Insurance Commissioners. The report
9 required in this section is due within 15 days after the end
10 of the calendar month in which the transaction occurs.

11 (3) An immaterial acquisition or disposition of assets
12 need not be reported under this section.

13 (4)(a) Acquisitions of assets which are subject to
14 this section include each purchase, lease, exchange, merger,
15 consolidation, succession, or other acquisition of assets.
16 Asset acquisitions for the construction or development of real
17 property by or for the reporting insurer and the acquisition
18 of construction materials for this purpose are not subject to
19 this section.

20 (b) Dispositions of assets which are subject to this
21 section include each sale, lease, exchange, merger,
22 consolidation, mortgage, hypothecation, assignment for the
23 benefit of a creditor or otherwise, abandonment, destruction,
24 or other disposition of assets.

25 (5)(a) The following information must be disclosed in
26 any report of a material acquisition or disposition of assets:

- 27 1. The date of the transaction;
- 28 2. The manner of acquisition or disposition;
- 29 3. The description of the assets involved;
- 30 4. The nature and amount of the consideration given or
31 received;

1 5. The purpose of, or reason for, the transaction;

2 6. The manner by which the amount of consideration was
3 determined;

4 7. The gain or loss recognized or realized as a result
5 of the transaction; and

6 8. The name of the person from whom the assets were
7 acquired or to whom they were disposed.

8 (b) Insurers must report material acquisitions or
9 dispositions on a nonconsolidated basis unless the insurer is
10 part of a consolidated group of insurers which uses a pooling
11 arrangement or a 100-percent reinsurance agreement that
12 affects the solvency and integrity of the insurer's reserves
13 and the insurer has ceded substantially all of its direct and
14 assumed business to the pool. An insurer is deemed to have
15 ceded substantially all of its direct and assumed business to
16 a pool if the insurer has less than \$1 million in total direct
17 and assumed written premiums during a calendar year which are
18 not subject to a pooling arrangement and if the net income of
19 the business which is not subject to the pooling arrangement
20 represents less than 5 percent of the insurer's capital and
21 surplus.

22 (6) The nonrenewal, cancellation, or revision of a
23 ceded reinsurance agreement need not be reported if the
24 renewal or the revision is not material or if;

25 (a) With respect to property and casualty business,
26 including accident and health business written by a property
27 and casualty insurer, the insurer's total ceded written
28 premium represents, on an annualized basis, less than 10
29 percent of its total written premium for direct and assumed
30 business; or

1 (b) With respect to life, annuity, and accident and
2 health business, the total reserve credit taken for business
3 ceded represents, on an annualized basis, less than 10 percent
4 of the statutory reserve requirement before the cession.

5 (7)(a) The following information must be disclosed in
6 any report of a material nonrenewal, cancellation, or revision
7 of a ceded reinsurance agreement:

8 1. The effective date of the nonrenewal, cancellation,
9 or revision;

10 2. The description of the transaction and the
11 identification of the initiator of the transaction;

12 3. The purpose of, or reason for, the transaction; and

13 4. If applicable, the identity of each replacement
14 reinsurer.

15 (b) Insurers shall report the material nonrenewal,
16 cancellation, or revision of a ceded reinsurance agreement on
17 a nonconsolidated basis unless the insurer is part of a
18 consolidated group of insurers which uses a pooling
19 arrangement or a 100-percent reinsurance agreement that
20 affects the solvency and integrity of the insurer's reserves
21 and the insurer has ceded substantially all of its direct and
22 assumed business to the pool. An insurer is deemed to have
23 ceded substantially all of its direct and assumed business to
24 a pool if the insurer has less than \$1 million in total direct
25 and assumed written premiums during a calendar year which are
26 not subject to a pooling arrangement and if the net income of
27 the business not subject to the pooling arrangement represents
28 less than 5 percent of the insurer's capital and surplus.

9 Section 3. Subsection (1) of section 624.3161, Florida
30 Statutes, is amended to read:

31 624.3161 Market conduct examinations.--

1 (1) As often as it deems necessary, and-not-less
2 frequently-than-each-5-years; the department shall examine
3 each licensed rating organization, each advisory organization,
4 each group, association, or other organization of insurers
5 which engages in joint underwriting or joint reinsurance, and
6 each authorized insurer transacting in this state any class of
7 insurance to which the provisions of ~~part I of~~ chapter 627 are
8 applicable. The examination shall be for the purpose of
9 ascertaining compliance by the person examined with the
10 applicable provisions of chapters 624, 626, 627, and 635.

11 Section 4. Paragraph (d) of subsection (8) of section
12 624.424, Florida Statutes, is amended to read:

13 624.424 Annual statement and other information.--

14 (8)

15 (d) An insurer may not use the same accountant or
16 partner of an accounting firm responsible for preparing the
17 report required by this subsection for more than 7 5
18 consecutive years. Following this period, the insurer may not
19 use such accountant or partner for a period of 2 years, but
20 may use another accountant or partner of the same firm. An
21 insurer may request the department to waive this prohibition
22 based upon an unusual hardship to the insurer and a
23 determination that the accountant is exercising independent
24 judgment that is not unduly influenced by the insurer
25 considering such factors as the number of partners, expertise
26 of the partners or the number of insurance clients of the
27 accounting firm; the premium volume of the insurer; and the
28 number of jurisdictions in which the insurer transacts
29 business.

30 Section 5. Subsection (5) of section 625.121, Florida
31 Statutes, is amended to read:

625.121 Standard Valuation Law; life insurance.--

(5) MINIMUM STANDARD FOR VALUATION OF POLICIES AND
CONTRACTS ISSUED ON OR AFTER OPERATIVE DATE OF STANDARD
NONFORFEITURE LAW.--

(a) Except as otherwise provided in subparagraph 8.
paragraph-(h) and subsections (6), (11), and (14), the minimum
standard for the valuation of all such policies and contracts
issued on or after the operative date of s. 627.476 (Standard
Nonforfeiture Law for Life Insurance) shall be the
commissioners' reserve valuation method defined in subsections
(7), (11), and (14); 5 percent interest for group annuity and
pure endowment contracts and 3 5 percent interest for all
other such policies and contracts, or in the case of life
insurance policies and contracts, other than annuity and pure
endowment contracts, issued on or after July 1, 1973, 4
percent interest for such policies issued prior to October 1,
1979, and 4 5 percent interest for such policies issued on or
after October 1, 1979; and the following tables:

1.(a) For all ordinary policies of life insurance
issued on the standard basis, excluding any disability and
accidental death benefits in such policies:

a.1: For policies issued prior to the operative date
of s. 627.476(9), the commissioners' 1958 Standard Ordinary
Mortality Table; except that, for any category of such
policies issued on female risks, modified net premiums and
present values, referred to in subsection (7), may be
calculated according to an age not more than 6 years younger
than the actual age of the insured; and

b.2: For policies issued on or after the operative
date of s. 627.476(9), the commissioners' 1980 Standard
Ordinary Mortality Table or, at the election of the insurer

1 for any one or more specified plans of life insurance, the
2 commissioners' 1980 Standard Ordinary Mortality Table with
3 Ten-Year Select Mortality Factors.

4 2.(b) For all industrial life insurance policies
5 issued on the standard basis, excluding any disability and
6 accidental death benefits in such policies:

7 a.1: For policies issued prior to the first date to
8 which the commissioners' 1961 Standard Industrial Mortality
9 Table is applicable according to s. 627.476, the 1941 Standard
10 Industrial Mortality Table; and

11 b.2: For such policies issued on or after that date,
12 the commissioners' 1961 Standard Industrial Mortality Table.

13 3.(c) For individual annuity and pure endowment
14 contracts, excluding any disability and accidental death
15 benefits in such policies, the 1937 Standard Annuity Mortality
16 Table or, at the option of the insurer, the Annuity Mortality
17 Table for 1949, Ultimate, or any modification of either of
18 these tables approved by the department.

19 4.(d) For group annuity and pure endowment contracts,
20 excluding any disability and accidental death benefits in such
21 policies, the Group Annuity Mortality Table for 1951; any
22 modification of such table approved by the department, or, at
23 the option of the insurer, any of the tables or modifications
24 of tables specified for individual annuity and pure endowment
25 contracts.

26 5.(e) For total and permanent disability benefits in
27 or supplementary to ordinary policies or contracts.

28 a.1: For policies or contracts issued on or after
29 January 1, 1966, the tables of period 2 disablement rates and
30 the 1930 to 1950 termination rates of the 1952 disability
31

1 study of the Society of Actuaries, with due regard to the type
2 of benefit;

3 b.2: For policies or contracts issued on or after
4 January 1, 1961, and prior to January 1, 1966, either those
5 tables or, at the option of the insurer, the class three
6 disability table (1926); and

7 c.3: For policies issued prior to January 1, 1961, the
8 class three disability table (1926).

9
10 Any such table for active lives shall be combined with a
11 mortality table permitted for calculating the reserves for
12 life insurance policies.

13 6.(f) For accidental death benefits in or
14 supplementary to policies:

15 a.1: For policies issued on or after January 1, 1966,
16 the 1959 Accidental Death Benefits Table;

17 b.2: For policies issued on or after January 1, 1961,
18 and prior to January 1, 1966, either that table or, at the
19 option of the insurer, the Intercompany Double Indemnity
20 Mortality Table; and

21 c.3: For policies issued prior to January 1, 1961, the
22 Intercompany Double Indemnity Mortality Table.

23
24 Either table shall be combined with a mortality table
25 permitted for calculating the reserves for life insurance
26 policies.

27 7.(g) For group life insurance, life insurance issued
28 on the substandard basis, and other special benefits, such
29 tables as may be approved by the department as being
30 sufficient with relation to the benefits provided by such
31 policies.

1 g.1h) Except as provided in subsection (6), the
2 minimum standard for the valuation of all individual annuity
3 and pure endowment contracts issued on or after the operative
4 date of this paragraph and for all annuities and pure
5 endowments purchased on or after such operative date under
6 group annuity and pure endowment contracts shall be the
7 commissioners' reserve valuation method defined in subsection
8 (7) and the following tables and interest rates:

9 g.1: For individual annuity and pure endowment
10 contracts issued prior to October 1, 1979, excluding any
11 disability and accidental death benefits in such contracts,
12 the 1971 Individual Annuity Mortality Table, or any
13 modification of this table approved by the department, and 6
14 percent interest for single-premium immediate annuity
15 contracts and 4 percent interest for all other individual
16 annuity and pure endowment contracts.

17 g.2: For individual single-premium immediate annuity
18 contracts issued on or after October 1, 1979, and prior to
19 October 1, 1986, excluding any disability and accidental death
20 benefits in such contracts, the 1971 Individual Annuity
21 Mortality Table, or any modification of this table approved by
22 the department, and 7.5 percent interest. For such contracts
23 issued on or after October 1, 1986, the 1983 Individual Annual
24 Mortality Table, or any modification of such table approved by
25 the department, and the applicable calendar year statutory
26 valuation interest rate as described in subsection (6).

27 g.3: For individual annuity and pure endowment
28 contracts issued on or after October 1, 1979, and prior to
29 October 1, 1986, other than single-premium immediate annuity
30 contracts, excluding any disability and accidental death
31 benefits in such contracts, the 1971 Individual Annuity

1 Mortality Table, or any modification of this table approved by
2 the department, and 5.5 percent interest for single-premium
3 deferred annuity and pure endowment contracts and 4.5 percent
4 interest for all other such individual annuity and pure
5 endowment contracts. For such contracts issued on or after
6 October 1, 1986, the 1983 Individual Annual Mortality Table,
7 or any modification of such table approved by the department,
8 and the applicable calendar year statutory valuation interest
9 rate as described in subsection (6)

10 d.4: For all annuities and pure endowments purchased
11 prior to October 1, 1979, under group annuity and pure
12 endowment contracts, excluding any disability and accidental
13 death benefits purchased under such contracts, the 1971 Group
14 Annuity Mortality Table, or any modification of this table
15 approved by the department, and 6 percent interest.

16 e.5: For all annuities and pure endowments purchased
17 on or after October 1, 1979, and prior to October 1, 1986,
18 under group annuity and pure endowment contracts, excluding
19 any disability and accidental death benefits purchased under
20 such contracts, the 1971 Group Annuity Mortality Table, or any
21 modification of this table approved by the department, and 7.5
22 percent interest For such contracts purchased on or after
23 October 1, 1986, the 1983 Group Annuity Mortality Table, or
24 any modification of such table approved by the department, and
25 the applicable calendar year statutory valuation interest rate
26 as described in subsection (6).

27
28 After July 1, 1973, any insurer may file with the department a
29 written notice of its election to comply with the provisions
30 of this paragraph after a specified date before January 1,
31 1979, which shall be the operative date of this paragraph for

1 such insurer. However, an insurer may elect a different
2 operative date for individual annuity and pure endowment
3 contracts from that elected for group annuity and pure
4 endowment contracts. If an insurer makes no such election,
5 the operative date of this paragraph for such insurer shall be
6 January 1, 1979.

7 (b) In lieu of the mortality tables specified in this
8 subsection, and subject to rules adopted by the department, an
9 insurance company:

10 1. May substitute the commissioner's 1958 Standard
11 Ordinary Smoker and Nonsmoker Mortality Table or the
12 commissioner's 1958 Extended Term Insurance Smoker and
13 Nonsmoker Mortality Table, whichever is applicable, in lieu of
14 the commissioner's 1980 Standard Ordinary Mortality Table
15 standards or the commissioner's 1980 Extended Term Insurance
16 Mortality Table standards, for policies issued on or after the
17 effective date of s. 627.476(9)(h)2, and before January 1,
18 1989.

19 2. May substitute the commissioner's 1980 Standard
20 Ordinary Smoker and Nonsmoker Mortality Table or the
21 commissioner's 1980 Extended Term Insurance Smoker and
22 Nonsmoker Mortality Table, whichever is applicable, in lieu of
23 the commissioner's 1980 Standard Ordinary Mortality Table
24 standards or the commissioner's 1980 Extended Term Insurance
25 Mortality Table standards.

26 3. May use the Annuity 2000 Mortality Table on an
27 optional basis for determining the minimum standard of
28 valuation for individual annuity and pure endowment contracts
29 issued on or after the effective date of this section until
30 the department, on a date certain on or after January 1, 1998.

1 adopts by rule such table for determining the minimum standard
2 for valuation purposes

3 4 May use the 1994 Group Annuity Reserves Table on an
4 optional basis for determining the minimum standard of
5 valuation for annuities and pure endowments purchased on or
6 after the effective date of this section under group annuity
7 and pure endowment contracts until the department, on a date
8 certain after January 1, 1998, adopts by rule such table for
9 determining the minimum standard for valuation purposes.

10 Section 6 Paragraph (h) of subsection (9) of section
11 627.476, Florida Statutes, is amended to read:

12 627 476 Standard Nonforfeiture Law for Life
13 Insurance.--

14 (9) CALCULATION OF ADJUSTED PREMIUMS AND PRESENT
15 VALUES FOR POLICIES ISSUED AFTER OPERATIVE DATE OF THIS
16 SUBSECTION.--

17 (h)1. All adjusted premiums and present values
18 referred to in this section shall for all policies of ordinary
19 insurance be calculated on the basis of the Commissioners'
20 1980 Standard Ordinary Mortality Table or, at the election of
21 the insurer for any one or more specified plans of life
22 insurance, the Commissioners' 1980 Standard Ordinary Mortality
23 Table with Ten-Year Select Mortality Factors; shall for all
24 policies of industrial insurance be calculated on the basis of
25 the Commissioners' 1961 Standard Industrial Mortality Table;
26 and shall for all policies issued in a particular calendar
27 year be calculated on the basis of a rate of interest not
28 exceeding the nonforfeiture interest rate as defined in this
29 subsection for policies issued in that calendar year. However:

30 a.4: At the option of the insurer, calculations for
31 all policies issued in a particular calendar year may be made

1 on the basis of a rate of interest not exceeding the
2 nonforfeiture interest rate, as defined in this subsection,
3 for policies issued in the immediately preceding calendar
4 year.

5 b.2: Under any paid-up nonforfeiture benefit,
6 including any paid-up dividend additions, any cash surrender
7 value available, whether or not required by subsection (2),
8 shall be calculated on the basis of the mortality table and
9 rate of interest used in determining the amount of such
10 paid-up nonforfeiture benefit and paid-up dividend additions,
11 if any.

12 c.3: An insurer may calculate the amount of any
13 guaranteed paid-up nonforfeiture benefit, including any
14 paid-up additions under the policy, on the basis of an
15 interest rate no lower than that specified in the policy for
16 calculating cash surrender values.

17 d.4: In calculating the present value of any paid-up
18 term insurance with accompanying pure endowment, if any,
19 offered as a nonforfeiture benefit, the rates of mortality
20 assumed may be not more than those shown in the Commissioners'
21 1980 Extended Term Insurance Table for policies of ordinary
22 insurance and not more than the Commissioners' 1961 Industrial
23 Extended Term Insurance Table for policies of industrial
24 insurance.

25 e.5: For insurance issued on a substandard basis, the
26 calculation of any such adjusted premiums and present values
27 may be based on appropriate modifications of the
28 aforementioned tables.

29 2. In lieu of the mortality tables specified in this
30 section, an insurance company may substitute, subject to rules
31 adopted by the department:

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1 a. The commissioner's 1958 Standard Ordinary Smoker
2 and Nonsmoker Mortality Table or the commissioner's 1958
3 Extended Term Insurance Smoker and Nonsmoker Mortality Table,
4 whichever is applicable, for policies issued on or after the
5 effective date of this subparagraph and before January 1,
6 1989.

7 b. The commissioner's 1980 Standard Ordinary Smoker
8 and Nonsmoker Mortality Table or the commissioner's 1980
9 Extended Term Insurance Smoker and Nonsmoker Mortality Table,
10 whichever is applicable, for policies issued on or after the
11 effective date of this subparagraph.

12 c. A mortality table which is a blend of the
13 commissioner's sex-distinct 1980 Standard Ordinary Mortality
14 Table standards or the commissioner's sex-distinct 1980
15 Extended Term Insurance Mortality Table standards, whichever
16 is applicable, or a mortality table which is a blend of the
17 commissioner's sex-distinct 1980 Standard Ordinary Smoker and
18 Nonsmoker Mortality Table standards or the commissioner's
19 sex-distinct 1980 Extended Term Insurance Smoker and Nonsmoker
20 Mortality Table standards, whichever is applicable, for
21 policies subject to the United States Supreme Court decision
22 in Arizona Governing Committee v. Norris to prevent unfair
23 discrimination in employment situations.

24 Section 7. Effective October 1, 1997, section
25 627.4555, Florida Statutes, is amended to read:

26 627.4555 Secondary notice --Except as provided in this
27 section, no contract for life insurance issued or issued for
28 delivery in this state on or after October 1, 1997, covering a
29 natural person 64 years of age or older or-owned-by-a-natural
30 person-64-years-of-age-or-older, which has been in force for
31 at least 1 year, shall be ~~lapsed~~ canceled for nonpayment of

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1 premium unless, after expiration of the grace period, and at
2 least 21 days prior to the effective date of any such lapse
3 cancellation, the insurer has mailed a notification of such
4 impending possible lapse in coverage to the policyowner owner
5 of-the-policy and to a specified secondary addressee if such
6 addressee has been designated in writing by name and address
7 by the policyowner. An insurer issuing a life insurance
8 contract on or after October 1, ~~1997~~ 1995, shall notify the
9 applicant of the right to designate a secondary addressee at
10 the time of application for the policy, on a form provided by
11 the insurer, and at any time the policy is in force, by
12 submitting a written notice to the insurer containing the name
13 and address of the secondary addressee. For purposes of any
14 life insurance policy which provides a grace period of more
15 than 51 days for nonpayment of premiums, the notice of
16 impending lapse in coverage required by this section shall be
17 mailed to the policyowner and the secondary addressee at least
18 21 days prior to the expiration of the grace period provided
19 in such policy. This section does not apply to any life
20 insurance contract under which premiums are payable monthly or
21 more frequently and are regularly collected by a licensed
22 agent or are paid by credit card or any preauthorized check
23 processing or automatic debit service of a financial
24 institution. For policies of life insurance issued or renewed
25 on or after October 1, 1995, the insurer shall notify the
26 owner, at least annually, of the right to designate a
27 secondary addressee:

28 Section 8. Effective October 1, 1997, section
29 627.5045, Florida Statutes, is amended to read:

30 627.5045 Secondary notice.--Except as provided in this
31 section, no contract for an industrial life insurance policy

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1 issued or issued for delivery in this state on or after
2 October 1, 1997, for which premiums are paid monthly, covering
3 a natural person 64 years of age or older or owned by a
4 natural person 64 years of age or older, which has been in
5 force for at least 1 year, shall be lapsed canceled for
6 nonpayment of premium unless, after expiration of the grace
7 period, and at least 21 days prior to the effective date of
8 such lapse cancellation, the insurer has mailed a notification
9 of such impending possible lapse in coverage to the
10 policyowner owner-of-the-policy and to a specified secondary
11 addressee if such addressee has been designated in writing by
12 name and address by the policyowner. An insurer issuing an
13 industrial life insurance contract on or after October 1, 1997
14 1995, shall notify the applicant of the right to designate a
15 secondary addressee at the time of application for the policy
16 on a form provided by the insurer and at any time the policy
17 is in force by submitting a written notice to the insurer
18 containing the name and address of the secondary addressee.
19 This section does not apply to any life insurance contract
20 under which premiums are payable monthly or more frequently
21 and are regularly collected by a licensed agent. For policies

22 of industrial life insurance issued or renewed on or after
23 ~~October 1, 1995~~; the insurer shall notify the owner; at least
24 annually; of the right to designate a secondary addressee:

25 Section 9 Effective October 1, 1997, section 628.801,
26 Florida Statutes, is amended to read

27 628.801 Insurance holding companies; registration;
28 regulation.--Every insurer which is authorized to do business
29 in this state and which is a member of an insurance holding
30 company shall register with the department and be subject to
31 regulation with respect to its relationship to such holding

1 company as provided by rule or statute. The department shall
2 adopt rules establishing the information and form required for
3 registration and the manner in which registered insurers and
4 their affiliates shall be regulated. The rules shall apply to
5 domestic insurers, foreign insurers, and commercially
6 domiciled insurers, except a foreign insurer domiciled in
7 states that are accredited by the National Association of
8 Insurance Commissioners by December 31, 1995. Except to the
9 extent of any conflict with this code, the rules must include
10 all requirements and standards of ss. 4 and 5 of the Insurance
11 Holding Company System Regulatory Act and the Insurance
12 Holding Company System Model Regulation of the National
13 Association of Insurance Commissioners, as the Regulatory Act
14 and the Model Regulation existed on January 1, 1997 1993, and
15 may include a prohibition on oral contracts between affiliated
16 entities. Upon request, the department may waive filing
17 requirements under this section for a domestic insurer that is
18 the subsidiary of an insurer that is in full compliance with
19 the insurance holding company registration laws of its state
20 of domicile, which state is accredited by the National
21 Association of Insurance Commissioners.

22 Section 10. Except as otherwise provided herein, this
23 act shall take effect upon becoming a law.
24
25
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HOUSE SUMMARY

Requires domestic insurers, including property and casualty insurers and life and health insurers, and foreign insurers to submit to the Department of Insurance, upon request, a report relating to their risk based capital. Requires domestic insurers to file with the department a report of their assets or their ceded reinsurance agreements. Provides exceptions. Provides definitions and reporting requirements. Prescribes authority of the department and authorizes the department to adopt rules. Deletes a limitation on the frequency of specified market conduct examinations. Increases time limitations on insurers for preparing annual reports and other information. Specifies application of dividends or premium refunds for purposes of calculating annual assessments for the Special Disability Trust Fund and expenses of administration. Authorizes insurance companies to use substitute mortality tables for purposes of valuation of insurance policies. Revises provisions requiring notice to policyowners and secondary addressees of impending lapse of life insurance policies. See bill for details.

STORAGE NAME: h1943 fs
DATE April 9, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
FINANCIAL SERVICES
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL # HB 1943

RELATING TO: Insurance

SPONSOR(S): Representative Mackenzie

STATUTE(S) AFFECTED: 624.3161, 624.424, 625 121, 627.476, 627 4555, 627.5045, and
628 801, F S

COMPANION BILL(S): SB 620 (c), CS/2nd ENG/SB 794 (c), CS/S 1456 (c)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) FINANCIAL SERVICES
 - (2)
 - (3)
 - (4)
 - (5)
-

I SUMMARY:

The National Association of Insurance Commissioners (NAIC) requires states that subscribe to its accreditation program to adopt two additional solvency-related model acts in order to maintain accreditation: (1) the Risk-Based Capital for Insurers Act requires domestic insurers to annually calculate certain capital levels for the company, based on a NAIC formula. The insurer is then monitored by comparing its actual capital level and its risk-based capital levels; (2) the Material Transactions Act defines "material" acquisitions and disposition of assets, and certain reinsurance transactions, for which insurers must file reports to disclose the context of the underlying transactions. Florida has not adopted these requirements, which may jeopardize its accreditation. The bill would adopt both acts.

The bill contains a series of revisions affecting the DOI's regulatory authority over insurers. Additionally, revisions are included that are intended as clarifying changes in notice requirements for life insurance policies that cover persons 64 years of age and older, to ensure that these policies do not lapse simply because premium payments were missed.

II. SUBSTANTIVE RESEARCH

A PRESENT SITUATION.

Accreditation

In response to concerns over the fiscal stability of insurance companies, the National Association of Insurance Commissioners (NAIC) implemented an accreditation system for states. The NAIC accreditation process prescribes a system of laws and regulations, regulatory practices, and insurer organizational standards which states should use in regulating insurers. The goal is to strengthen state regulation of insurer solvency.

Because Florida is accredited with the NAIC, the examination reports and other filings by insurers domiciled in this state are accepted to meet the jurisdictional requirements in other accredited states. Florida also accepts similar reports of insurers domiciled outside of the state, if originally filed in accredited states. Additionally, regulatory exemptions granted to insurers domiciled in accredited states may be reciprocal, for example, Florida's insurance holding company law applies to Florida domestics and to insurers domiciled in non-accredited states

The accreditation process also gives the DOI a level of assurance that insurers domiciled in other accredited states are solvent, because the process acts as a type of national review of these interstate companies. Each accredited state relies on sister states to regulate the solvency of insurers domiciled in their respective state, consistent with national standards. In the last several years, accreditation has been viewed as an alternative to a program of federal regulation of insurer solvency, as proposed by the former chair of the U.S. House Committee on Energy and Commerce, Rep. John Dingell. The NAIC reports that 32 states have adopted the Risk-Based Capital Act in some form and 28 states have adopted the Disclosure of Material Transactions Act in some form

The NAIC accreditation standards require states to adopt two additional solvency-related model acts in order to maintain accreditation. States were required to adopt the Risk-based Capital for Insurers Act by the end of 1996, and the Material Transactions Act by the end of 1995. According to a letter from the accreditation manager of the NAIC, "failure to adopt these two acts or provide substantially similar protection through some alternative means by the due date could result in suspension of [Florida's] accreditation." Because of extensions granted to the DOI by the NAIC, Florida remains accredited despite the fact that the deadlines for adoption of these standards have not been met. According to the Department of Insurance (DOI), the oversight tools provided by these model acts would greatly enhance regulation, even if accreditation were not conditioned upon their enactment.

--Risk-based Capital

Risk-Based Capital (RBC) is a method of financial review of insurance companies which measures the minimum amount of capital necessary to support their overall business operations, given the size and risk profile of the respective companies. The capital requirements generally are assessed against four types of risk: (1) asset risk, (2) credit risk; (3) underwriting risk; and (4) off-balance sheet risk.

--Disclosure of Material Transactions

Material transactions disclosure is a tracking process which requires insurers to disclose major transactions involving the acquisition or disposition of corporate assets. One

recent insolvency is cited by the DOI to illustrate the need for this type of oversight. The DOI recently reached a settlement with Guaranty Security Life Insurance Company in which the company paid a fine of \$20 million. A principal allegation against the company was that, prior to submitting one of its annual reports to DOI, the company completed accounting transactions which misrepresented ownership of certain assets, and distorted the company's financial condition. After the report was filed, the transactions were reversed. The disclosure required under the model act would have aided the DOI in assessing the company's true condition, and allowed an earlier response.

Market Conduct Examinations and Financial Reports

The DOI is required to conduct compliance examinations of insurers who operate in Florida and transact business under Part I of Chapter 627, F.S. Currently, the market conduct examination requirement applies only to insurers governed by Part I of Chapter 627, which covers property, casualty, and surety insurance and specifically does not cover health insurance. However, the department has stated that it relies on the general examination authority of s. 624.316 to perform market conduct examinations of health insurers.

Insurers must file annual financial reports with the DOI, and must sanction an annual financial audit to be conducted by an independent certified public accountant. Section 624.424(8)(d), F.S., restricts use of the same accountant or partner in the same accounting firm for more than 5 years in succession to conduct the financial audit, unless there is a two-year break in the use of the accountant or accounting firm. This requirement was adopted in 1991 for the purpose of limiting any undue influence an insurer might have over the independent audit. The NAIC Model Rule Requiring Annual Audited Financial Reports contains a similar provision, but the NAIC model allows an insurer to use the same accountant for 7 consecutive years.

Life Insurance Valuation

Section 627.476, F.S., is the Standard Nonforfeiture Law for Life Insurance. Pursuant to this statute, a default of premium payments under a life insurance policies sold in Florida, after at least one year in force, cannot result in forfeiture of policy benefits. Instead, a paid-up benefit must be paid to the policyholder in default, calculated as provided in this section. Section 625.121, F.S., requires the DOI to annually value the reserve liabilities for all outstanding life insurance policies, annuities and endowment contracts covered by insurers doing business in Florida. The calculation of the nonforfeiture benefit, and of the reserve requirements is based on a valuing of a company's book of business using a series of industry actuarial tables which relate to risk factors that apply to the insured. These tables are generally established through industry practice and adopted by reference in the DOI's regulation.

The U.S. Supreme Court in *Arizona Governing Committee v Norris*, 103 S.Ct 3492 (1983), prohibited insurance practices that unreasonably discriminate on the basis of gender. The DOI has adhered to actuarial tables which comply with this Supreme Court decision, and that allow rate distinctions between smokers and nonsmokers. However, the department's authority to approve products using these tables is uncertain.

Life Insurance Lapse Notice

Chapter 95-142, Laws of Florida, created sections 627.4555, 627.4556 and 627.5045, F.S., relating to secondary notices for late payment of premiums in life policies. Pursuant

to section 627.4555, F.S., insurers must include in individual life insurance contracts that cover or are owned by natural persons 64 years of age or older, and have been in force for at least one year, a requirement for 21 days advance notice prior to canceling a policy for late payment of premiums. This is in addition to the 30-day grace period current law provides for late payments. Section 627.5045, F.S., imposes similar requirements on industrial life insurance contracts which bill for premiums monthly, that cover or are owned by natural persons 64 years of age or older, and have been in force for at least one year.

Insurers are required to mail a notice of this additional time for payment to the policy owner after the expiration of the grace period and a minimum of 21 days before the lapse becomes effective. Present law establishes a right on behalf of a policy owner who qualifies for the notice, to designate a secondary recipient of the lapse notice. Insurers offering individual and industrial life insurance contracts must provide notice to applicants of the right to designate a secondary addressee in policies issued on or after October 1, 1995, and to annually notify policy owners of this right for policies issued or renewed on or after October 1, 1995.

Holding Company Reporting

Section 628.801, F.S., requires insurance holding companies all insurers operating in Florida who are members of an insurance holding company to file a registration with the DOI. The DOI is required to adopt rules establishing the form and substance of the registration, with minimum requirements as specified in the statute. Currently, the registration minimum requirements must include sections of NAIC-approved Insurance Holding Company System Act and the Insurance Holding Company System Model Regulations, as they existed on January 1, 1993.

B EFFECT OF PROPOSED CHANGES:

Risk-Based Capital

Insurers will be subject to reporting and disclosure requirements for risk-based capital. Domestic insurers will be required annually to calculate certain risk-based capital levels based on a formula adopted by NAIC. The insurer will be required to monitor internally the trigger levels and respond as required. A comparison of the insurer's actual capital level and its risk-based capital levels may trigger any of several levels of regulatory action by the DOI, or DOI supervision of corrective actions by the insurer.

Disclosure of Material Transactions

Insurers will be subject to reporting and disclosure requirements consistent with the NAIC model Material Transactions Act. This bill adopts a definition of "material" which includes acquisitions and disposition of assets not within the ordinary course of the insurer's business and which involve more than 5 percent of the insurer's admitted assets. Disclosure is also required of certain reinsurance transactions. Insurers will be required to file reports of qualifying transactions with the DOI.

Market Conduct Examinations and Financial Reports

Companies formerly excluded from market conduct examinations will be examined under the bill, which extends the scope of the department's authority to all insurers governed by Chapter 627. In addition, the bill removes the requirement that the DOI perform market conduct examinations every 5 years.

The bill will lengthen the period of time in succession that a single accountant or accounting firm may be used to conduct the financial audit of an insurer from 5 to 7 years. This will bring Florida law into conformity with audit requirements in the NAIC's Model Rule on this issue.

Life Insurance Valuation

The bill would authorize the DOI to accept, approve and value life insurance and annuity products where the insurer supports valuation using industry accepted gender "blended" actuarial tables, and smoker/nonsmoker tables, in lieu of currently applied tables.

Life Insurance Lapse Notice

The bill would apply the secondary cancellation notice requirement to policies issued on or after October 1, 1997, and remove the requirement from policies that are owned by persons 64 and older, but do not cover persons age 64 or older. A technical revision replaces "cancel" with "lapse" in the notice provisions to denote the end of coverage for nonpayment of premiums. Under any individual life policy which allows more than 51 days to pay past due premiums, the insurer would be required to mail notice of possible lapse to the policyowner and the secondary addressee, at least 21 days prior to the expiration of the grace period defined in the policy.

The bill would revise the obligation of individual and industrial insurers to provide a secondary lapse notice and the right of policy owners to designate a secondary addressee. For individual and industrial life policy issued or renewed on or after October 1, 1997, the insurer will be required to notify the applicant of the option to designate a secondary addressee at the time of application, and allow the applicant to exercise the option any time while the policy is in force by filing a written notice with the insurer designating same. Existing law requires the insurer to give this notice annually. None of the provisions above apply to policies under which premiums are payable monthly or more frequently, are collected by a licensed agent, or paid by credit card

Insurance Holding Company Reporting

The bill will adopt, by reference, the version of NAIC model statutes and regulations for regulation of insurance holding company systems that were in existence and current on January 1, 1997

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly

(1) any authority to make rules or adjudicate disputes?

Yes The DOI is granted authority in the bill to adopt rules implementing the risk-based capital requirements

STORAGE NAME: h1943.fs

DATE: April 9, 1997

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- (2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Yes. The bill reduces frequency of DOI examinations of insurers

- (3) any entitlement to a government service or benefit?

Not applicable

- b. If an agency or program is eliminated or reduced:

Not applicable.

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

None

- (2) what is the cost of such responsibility at the new level/agency?

Not applicable.

- (3) how is the new agency accountable to the people governed?

Not applicable.

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

No

- b. Does the bill require or authorize an increase in any fees?

No.

- c. Does the bill reduce total taxes, both rates and revenues?

No.

- d. Does the bill reduce total fees, both rates and revenues?

No.

- e. Does the bill authorize any fee or tax increase by any local government?

No

3. Personal Responsibility

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Yes

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment

- a. If the bill purports to provide services to families or children

- (1) Who evaluates the family's needs?

Not applicable.

- (2) Who makes the decisions?

Not applicable

- (3) Are private alternatives permitted?

Not applicable.

(4) Are families required to participate in a program?

Not applicable.

(5) Are families penalized for not participating in a program?

Not applicable.

b. Does the bill directly affect the legal rights and obligations between family members?

No.

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority.

Not applicable.

(1) parents and guardians?

Not applicable

(2) service providers?

Not applicable

(3) government employees/agencies?

Not applicable

D. SECTION-BY-SECTION RESEARCH

Section 1. Creates an unnumbered section adopting the substance of the NAIC Risk-Based Capital Act. The bill requires each domestic insurer to calculate, according to the model NAIC instructions, its "authorized control level risk-based capital" (ACL). This is an approximate minimum operating capital requirement used to assess solvency. Property and casualty insurers with direct written premium of \$2 million or less a year are exempt from risk-based capital examination if they write direct business only in Florida and if they do not assume reinsurance in excess of 5 percent of premium. The department is allowed to examine foreign insurers under risk-based capital requirements and may take the corrective actions authorized with respect to domestic insurers, if the insurance regulator in the foreign insurer's state of domicile has not taken such actions.

The actual dollar amount of the ACL is derived from formulas in instructions established by the NAIC. The bill provides legislative findings that the degree to which insurers maintain operating capital over the various risk-based capital thresholds is indicative of the health of their insurance businesses. Therefore, the ACL is imputed into each of the risk-based capital tests as a base requirement. Various regulatory actions are prompted as the insurer's capital on-hand drops to the level of the ACL, or falls below the ACL.

The calculation of the ACL must incorporate both the instructions in effect on the effective date of the act, and any amendments that may be prospectively adopted by the NAIC (see "Comments," below). Complex worksheets and schedules (more than 50 pages for property and casualty insurers) must accompany the insurer's reported ACL.

The NAIC instructions for calculating the ACL of *life and health insurers* must take into account the insurer's risk with respect to assets, the risk of adverse insurance experience relating to the insurer's liabilities and obligations, the interest rate risk with respect to the insurer's business, and all other business risks and such other relevant risks as are set forth in the instructions. Similarly, the NAIC instructions for calculation of ACL for *property and casualty insurers* takes into account the asset risk, the credit risk, the underwriting risk, and all other business risks and such other relevant risks as are set forth in the instructions.

Each domestic insurer would be required to file a risk-based capital report with the DOI, the NAIC, and the insurance regulators of other states where the insurer is authorized to do business on March 1 of each year. Insurers would be prohibited from advertising the results of these calculations, and the DOI would be prohibited from using the information in ratemaking. The DOI would use the reports "solely for monitoring the solvency of insurers and assessing the need for corrective action..."

The bill provides for a comparison of an insurer's ACL to its capital on-hand (referred to as "total adjusted capital") which includes statutory capital and surplus, plus other items specified in the instructions. The results of the comparison, combined with information and events relating to the insurer's risk-based capital report, may prompt one of four levels of regulatory involvement (referred to as an "event") and trigger a series of regulatory responses and corrective actions as the margin between capital on-hand and the ACL decreases, or falls below the ACL.

- A "**company action level event**" occurs when the insurer's risk-based capital report indicates that the insurer's total adjusted capital falls between (greater than or equal to) 1.5 times ACL -- the threshold for a regulatory action level risk-based capital -- and 2 times ACL (but less than) --the threshold for a company action level risk-based capital. For life and health insurers, a company action level event also occurs when their total adjusted capital is greater than or equal to 2.0 times ACL (company action risk-based capital level), but less than 2.5 times its ACL, if the insurer shows a negative trend, which is a trend test calculation included in the instructions.

In response to a *company action level event*, the bill would require the first and least intrusive form of regulatory intervention. The insurer would have to submit a risk-based capital plan to the DOI. The plan would: (i) identify the conditions that contributed to the company action level event, (ii) propose corrective action; (iii) provide a 5-year projection of the insurer's finances; (iv) identify the assumptions supporting the projections, and (v) identify the quality of, and the problems associated with, the insurer's business. If the DOI was not satisfied, it could require revisions to the plan. A determination that the plan was unsatisfactory might constitute a regulatory action level event (see below). The plan would also be submitted to the insurance regulators in other states where the insurer is authorized to do business.

- A "**regulatory action level event**" occurs when the risk-based capital report indicates that the total adjusted capital falls between (is greater than or equal to) the insurer's ACL and (less than) 1.5 times ACL – the regulatory action level risk-based capital. In addition, the following are also regulatory action level events: (i) failure to timely file a risk-based capital report; (ii) failure to submit a risk-based capital plan, (iii) DOI notice to the insurer that the risk-based capital plan is not satisfactory; and (iv) failure to adhere to an approved risk-based capital plan.

In response to a *regulatory action level event*, the DOI would: (i) require the insurer to submit a new or revised risk-based capital plan; (ii) conduct a financial examination of the insurer; and (iii) order the insurer to take specified corrective actions.

- An "**authorized control level event**" occurs when the risk-based capital report indicates that the insurer's total adjusted capital is greater than or equal to 0.7 times ACL (mandatory control level risk based capital), but less than its ACL. The failure to comply with ordered corrective action is also an authorized control level event.

In response to an *authorized control level event*, the department would have to either take the actions authorized with respect to a regulatory action level event, or assert its jurisdiction under Chapter 631, F.S. (i.e., rehabilitation and liquidation), by placing the insurer under regulatory control.

- A "**mandatory control level event**" occurs when the risk-based capital report indicates that the insurer's total adjusted capital is less than 0.7 times ACL – the threshold for mandatory control level risk based capital. In response to a *mandatory control level event*, the DOI would be required to assert its jurisdiction under Chapter 631; however, the DOI may allow a property and casualty insurer to continue a run-off of existing business. The DOI could forgo action for 90 days if it finds that the situation may be corrected within that period.

The would bill authorize hearings and proceedings to resolve disputes relating to the contents of the risk-based capital reports, and would grant rulemaking authority necessary for the DOI to administer the act. The risk-based capital requirements are declared to be supplemental to existing law. The department and its employees and agents are given civil immunity with respect to actions taken under this law.

Risk-based capital requirements would first apply with respect to the 1997 annual statement filed by insurers. In the first reporting year, the bill would prohibit DOI from taking any action in response to a company action level event. After specified regulatory action level events in the first reporting year, the bill would require the DOI to respond by taking the actions associated with a company action level event.

Section 2. Creates an unnumbered section adopting the substance of the NAIC model Material Transactions Act. Insurers are required to disclose the acquisition or disposition of assets, including a series of related acquisitions or dispositions occurring within a 30-day period. The bill defines "material acquisition of assets" or "material disposition of assets" as nonrecurring transactions, not in the ordinary course of business, involving more than 5 percent of the insurer's admitted assets.

A "material nonrenewal, cancellation, or revision of a ceded reinsurance agreement," in the case of property and casualty insurers, would be one that involves more than 50 percent of the insurer's total ceded written premium or more than 50 percent of the insurer's total ceded indemnity and loss adjustment reserves. In the case of life and health insurers, it would be one that involves more than 50 percent of the total reserve credit taken for business ceded. For all insurers, the replacement of an authorized reinsurer representing more than 10 percent of a total cession with one or more unauthorized reinsurers, or the reduction or waiver of previously established collateral requirements with respect to one or more unauthorized reinsurers representing more than 10 percent of a total cession would constitute a material nonrenewal, cancellation or revision

Domestic insurers would be required to file a report of material transactions within 15 days after the end of the month in which the transaction occurred, describing the date of the transaction, the manner of acquisition or disposition, the description of the assets involved, the nature and amount of consideration given or received, the purpose of or reason for the transaction, the manner by which the amount of consideration was determined, the gain or loss recognized or realized as a result of the transaction, and the name of the person from whom the assets were acquired or to whom they were disposed. The reporting requirement would not apply if the transaction had been submitted to the department for prior review and approval, or for informational purposes.

The formal report for disclosure of a material nonrenewal, cancellation, or revision of a ceded reinsurance agreement would be required to include the effective date of the transaction, the description of the transaction with an identification of the initiator of the transaction, the purpose of or reason for the transaction, and the identity of replacement reinsurers.

Section 3. Amends subsection (1) of s. 624.3161, F.S., relating to market conduct examinations. The bill would remove a requirement that market conduct examinations of an insurer or rating organization be conducted once every 5 years, but retain the general authority of the DOI to perform a market conduct examination whenever it deems necessary. The bill also expands the scope of the DOI's market conduct examination authority to all insurers governed by Chapter 627. According to the DOI, this change brings the statute in line with current practice.

Section 4. Amends paragraph (d) in subsection (8) of s. 624.424, F.S., relating to annual statements of insurers to increase to 7 years the time period during which an insurer may use the same accountant or partner in an accounting firm to prepare the insurer's audited financial statements

Section 5. Amends subsection (5) of s. 625.121, F.S., relating to valuation of life insurance policies, to authorize the DOI to approve life insurance products where the insurer has chosen, at its option, to use distinct smoker and nonsmoker actuarial tables, in lieu of a combined table. The DOI is also authorized to approve annuity products where the insurer has chosen to use specified annuity actuarial tables, pending adoption of rules by DOI on or after January 1, 1998.

Section 6. Amends subsection (9) of s. 627.476, F.S., relating to valuation of life insurance policies in the determination of the nonforfeiture benefit. The bill would authorize the DOI to accept and value insurance products where the insurer has chosen,

at its option, to use smoker and nonsmoker actuarial tables, in lieu of a combined table. The DOI is also authorized to approve life insurance products where the insurer has chosen to use gender blended tables, as opposed to tables distinguished on gender.

Section 7. Amends s. 627.4555, F.S., to revise the secondary notice requirements for individual life policies. The bill would amend the application of these requirements to include policies issued directly or issued for delivery in this state, which would cover persons 64 or older. Presently, the section applies to policies which cover or are owned by persons 64 and older. Existing law requires that the policies be in force at least 1 year. The bill provides that the policy would not "lapse" (amended terminology from prior use of "cancel") without the proper notification of the end of coverage for nonpayment of premiums.

The bill would require insurers to include in any policy which allows more than 51 days to pay past due premiums, a notice requirement announcing the possible lapse, mailed to the policyowner and to the secondary addressee at least 21 days prior to the expiration of the grace period defined in the policy.

The bill would require insurers who issue qualifying individual life policies on or after October 1, 1997, to notify applicants of the right to designate a secondary addressee at the time of application. For policies issued directly in Florida, issued in another state for delivery in Florida or renewed in Florida, on or after October 1, 1997, the insurer would be required to allow the policy owner to designate a secondary addressee at any time that the policy is in force, by written notice submitted to the insurer. Specifically exempted from this section are those policies under which premiums are payable monthly or more frequently and collected by a licensed agent, or for which premiums are paid by credit card, by preauthorized check processing or by automatic debit with a financial institution.

Section 8. Amends s. 627.5045, F.S., to revise the notice requirements for late payment of premiums for industrial life policies in a manner similar to that specified for individual policies in section 7 above. For industrial life policies, the requirements apply to policies issued or issued for delivery in this state, under which premiums are paid monthly, and which cover or are owned by persons age 64 or older.

The bill would require insurers who sell industrial life policies on or after October 1, 1997, to notify every applicant of the right to designate a secondary addressee, at the time of application. The bill further would provide that in each industrial life policy issued directly or issued for delivery in Florida, on or after October 1, 1997, the insurer would be required to allow the policy owner to designate a secondary addressee at any time that the policy is in force, by written notice submitted to the insurer. The bill specifically exempts from this section those policies under which premiums are payable monthly or more frequently and collected by a licensed agent.

Section 9. Amends s. 628.801, F.S., to revise a reference to NAIC model regulations relating to insurance holding companies. The bill would require that the DOI rules adopted to establish the information and form used for registration of insurance holding companies specifically include requirements and standards contained in the versions of the NAIC Insurance Holding Company System Regulatory Act and the Insurance Holding Company System Model Regulations, that were current on January 1, 1997.

Section 10. Provides that the bill takes effect upon becoming a law unless provided otherwise herein.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS.

1. Non-recurring Effects:

The DOI would be authorized to adopt rules implementing the risk-based capital requirements. This would have an undetermined impact on the DOI of a minimal amount

2. Recurring Effects:

The recurring effects of the bill are associated with DOI oversight of the risk-based capital and material assets sections of the bill. The costs are independent of one another and should be minimal. The DOI will continue to perform market conduct examinations to address major compliance issues. Thus, the removal of the requirement that market conduct examinations be done once every five years will not have a significant recurring effect on the DOI.

3. Long Run Effects Other Than Normal Growth

The DOI should be able to more actively scrutinize the market practices of insurers because of the broader authority and discretion to conduct examinations provided in the bill.

4. Total Revenues and Expenditures

See A.1 and A.2 above.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR.

1. Direct Private Sector Costs.

The requirements of sections 1 and 2 will impose additional administrative costs on domestic insurers, which costs may be passed on to policyholders as part of the premium. Sections 7 and 8 will impose costs on insurers to revise forms for individual and industrial life insurance policies, or to develop and seek approval for amendments to forms in order to conform with the provisions of this bill. These costs are unknown.

2. Direct Private Sector Benefits.

Sections 1 and 2 will benefit policyholders of insurance companies, and the industry as a whole, by detecting and addressing the concerns of unstable insurance companies. Section 3 removes a requirement that the department perform a market conduct examination on each insurer at least once every 5 years. Since the costs of an examination are borne by the insurer, these provisions may reduce insurers' regulatory costs. These provisions should also allow the DOI to more effectively use its examination resources.

Sections 7 and 8 will benefit policy owners in the state who may avoid lapse of life insurance coverage due to a short-term failure to pay premiums.

3. Effects on Competition, Private Enterprise and Employment Markets.

None.

D. FISCAL COMMENTS:

IV CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

B. REDUCTION OF REVENUE RAISING AUTHORITY:

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

V. COMMENTS.

The provision of the bill which incorporates by reference future amendments to the NAIC risk-based capital instructions is probably an unconstitutional delegation of legislative authority. The Legislature is not prohibited from incorporating documents, actions, or decisions of other entities into the statutes, however, the Legislature is prohibited from incorporating documents that do not yet exist, such as future amendments to an existing document.

A related bill, HB 1941, provides public records exemptions for certain risk based capital-related information.

VI AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VII SIGNATURES:

COMMITTEE ON FINANCIAL SERVICES
Prepared by:

Legislative Research Director

E. LEON JACOBS, JR

STEPHEN HOGGE

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[Including a record of transmittal of Acts subsequent to *sine die* adjournment]

(b) Effective July 1, 1997, the millage rate levied pursuant to this subsection may exceed the rate levied in 1996-1997 only for the purpose of providing new classrooms for students. For purposes of this subsection, "new classrooms" are defined as instructional space for students in prekindergarten through grade 12 that is new construction of a building or a unit of a building in which the work is new or an entirely new addition connected to an existing building. If a complete new school is being constructed, "new classrooms" includes all of the standard space required at the school site. The classrooms may be acquired by lease, lease-purchase, contract, or purchase and may include new relocatable classrooms. The limitation to "new classrooms" does not apply to the proceeds from the first 20 of the 25 mills.

2 Each district school board that levied millage pursuant to paragraph (a) prior to July 1, 1997, and transferred funds from the capital improvement budget to the operating budget shall review the expenditures of the transferred funds and shall develop a plan for reducing the amount of the proceeds from the capital improvement millage that is transferred to the operating budget. The amount of the reduction shall be not less than 10 percent per year. Reductions made prior to July 1, 1997, may be credited toward this requirement. If, in any year, a school board finds that a reduction of 10 percent will cause an unreasonable adverse impact on the district's operations, the school board may request the Commissioner of Education to review its financial status and, if the commissioner concurs, the commissioner may waive all or part of the reduction for that year.

Violations of these expenditure provisions of this subsection shall result in an equal dollar reduction in the Florida Education Finance Program (FEFP) funds for the violating district in the fiscal year following the audit citation.

Rep Wasserman Schultz moved the adoption of the amendment, which failed of adoption. The vote was

Yeas—42

Arnold	Eggelston	Lippman	Ritter
Betancourt	Fischer	Logan	Roberts-Burke
Bloom	Frankel	Mackenzie	Silver
Brennan	Geller	Martinez	Stafford
Brown	Hafner	Meek	Sublette
Bush	Heyman	Miller	Tobin
Cosgrove	Hill	Murman	Turnbull
Dawson-White	Horan	Prewitt, D	Wasserman Schultz
Dennis	Jacobs	Rayson	Wiles
Edwards	Kosmas	Reddick	
Effman	Lawson	Ritchie	

Nays—66

The Chair	Crady	Laurent	Saunders
Albright	Crist	Lynn	Sembler
Andrews	Crow	Mackey	Sundier
Argenziano	Culp	Maygarden	Smith
Arnall	Diaz de la Portilla	Melvin	Spratt
Bainter	Dockery	Merchant	Stabins
Ball	Fasano	Minton	Starks
Barreiro	Feeney	Morrison	Thrasher
Bitner	Flanagan	Morse	Valdes
Boyd	Fuller	Ogles	Villalobos
Bronson	Gay	Peaden	Wallace
Burroughs	Goode	Posey	Warner
Byrd	Harrington	Pruitt, K	Westbrook
Carlton	Jones	Putnam	Wise
Casey	Kelly	Rodriguez-Chomat	Ziebarth
Clemons	King	Safley	
Constantine	Lacasa	Sanderson	

Excused from time to time for Conference Committee—Albright, Bainter, Bradley, Bronson, Chestnut, Constantine, Crady, Culp, Dennis, Edwards, Feeney, Flanagan, Garcia, Gay, Hafner, Horan, Jones, Lawson, Littlefield, Logan, Lynn, Mackenzie, Mackey, Meek, Merchant, Minton, Morse, Posey, K. Pruitt, Reddick, Sanderson,

Sembler, Smith, Stabins, Starks, Sublette, Thrasher, Valdes, Villalobos, Wasserman Schultz, Wise

Votes after roll call

Yeas—Healey
Nays—Rojas
Yeas to Nays—Turnbull

The question recurred on the adoption of Amendment 4, which was withdrawn.

Under Rule 127, the bill was referred to the Engrossing Clerk.

HB 1943—A bill to be entitled An act relating to insurance, requiring certain insurers to file reports concerning their risk based capital, requiring the Department of Insurance to request such reports under certain circumstances, providing for hearings, providing definitions and reporting requirements, requiring certain insurers to file reports of material transactions concerning their assets or their ceded reinsurance agreements, providing definitions and reporting requirements, prescribing authority of the Department of Insurance with respect to such reports, amending s 624 3161, F S, deleting a limitation on frequency of certain market conduct examinations, amending s 624 424, F S, increasing the time limitation on insurers using certain accounting services for certain purposes, amending ss 625 121 and 627 476, F S, authorizing insurance companies to use alternative mortality tables for certain purposes, amending ss 627 4555 and 627 5045, F S, revising provisions requiring notice to policyowners and secondary addressees of impending lapse of certain insurance policies under certain circumstances, providing procedures, providing application, amending s 628 801, F S, updating a reference for certain purposes, providing effective dates.

—was read the second time by title.

Representative(s) Mackenzie and Bainter offered the following

Amendment 1 (with title amendment)—On page 2, line 2, remove from the bill everything after the enacting clause

and insert in lieu thereof

Section 1 Risk based capital requirements for insurers —

(1) As used in this section, the term

(a) "Adjusted risk based capital report" means a risk based capital report that has been adjusted by the department in accordance with this section.

(b) "Authorized control level risk based capital" means the number determined under the risk based capital formula in the risk based capital instructions.

(c) "Company action level risk based capital" means the product of 20 and an insurer's authorized control level risk based capital.

(d) "Corrective order" means an order issued by the department specifying corrective actions that the department has determined are required.

(e) "Department" means the Department of Insurance.

(f) "Domestic insurer" means any insurer domiciled in this state.

(g) "Foreign insurer" means any insurer that is authorized or eligible to do business in this state but that is not domiciled in this state.

(h) "Life and health insurer" means any insurer authorized or eligible under the Florida Insurance Code to underwrite life or health insurance. The term includes a property and casualty insurer that writes accident and health insurance only.

(i) "Mandatory control level risk based capital" means the product of 0.70 and the authorized control level risk based capital.

(j) "Negative trend" means, with respect to a life and health insurer, a negative trend over a period of time, as determined in accordance with the trend test calculation included in the risk based capital instructions.

(k) "Property and casualty insurer" means any insurer licensed under the Florida Insurance Code, but does not include a single-line mortgage guaranty insurer, financial guaranty insurer, or title insurer or a life and health insurer

(l) "Regulatory action level risk based capital" means the product of 1.5 and an insurer's authorized control level risk based capital

(m) "Revised risk based capital plan" means the revision of the risk based capital plan which is prepared by an insurer after the department rejects the original plan

(n) "Risk based capital instructions" means the instructions for preparing a risk based capital report as adopted by the National Association of Insurance Commissioners

(o) "Risk based capital level" means an insurer's company action level risk based capital, regulatory action level risk based capital, authorized control level risk based capital, or mandatory control level risk based capital.

(p) "Risk based capital plan" means a comprehensive financial plan specified in paragraph (4)(b)

(q) "Risk based capital report" means the report required in subsection (2)

(r) "Total adjusted capital" means the sum of

- 1 An insurer's statutory capital and surplus, and
- 2 Any other item required by the risk based capital instructions

(2)(a) Each domestic insurer that is subject to this section shall, on or before March 1 of each year, prepare and file with the National Association of Insurance Commissioners a report of its risk based capital levels as of the end of the calendar year just ended, in a form and containing the information required in the risk based capital instructions. In addition, each domestic insurer shall file a printed copy of its risk based capital report

1 With the department on or before March 1 of each year

2 With the insurance department in any other state in which the insurer is authorized to do business, if that department has notified the insurer of its request in writing, in which case the insurer shall file its risk based capital report not later than the later of

- a Fifteen days after the receipt of notice to file its risk based capital report with that state, or
- b March 1

(b) The comparison of an insurer's total adjusted capital to any of its risk based capital levels is a regulatory tool that may indicate the need for possible corrective action with respect to the insurer, and may not be used as a means to rank insurers generally. Therefore, except as otherwise required under this section, the making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement, announcement, or statement containing an assertion, representation, or statement with regard to the risk based capital levels of any insurer, or of any component derived in the calculation, by any insurer, agent, broker, or other person engaged in any manner in the insurance business would be misleading and is therefore prohibited, however, if any materially false statement with respect to the comparison regarding an insurer's total adjusted capital to its risk based capital levels (or any of them) or an inappropriate comparison of any other amount to the insurer's risk based capital levels is published in any written publication and the insurer is able to demonstrate to the commissioner with substantial proof the falsity or inappropriateness of the statement, the insurer may publish in a written publication an announcement the sole purpose of which is to rebut the materially false statement

(c) The department shall use the risk based capital instructions, risk based capital reports, adjusted risk based capital reports, risk based capital plans, and revised risk based capital plans solely for monitoring the solvency of insurers and assessing the need for corrective action with respect to insurers. The department may not use that information for ratemaking, as evidence in any rate proceeding, or for calculating or deriving any elements of an appropriate premium level or rate of return for any line of insurance which an insurer or an affiliate of such insurer is authorized to write

(d) A life and health insurer's risk based capital is determined in accordance with the formula set forth in the risk based capital instructions. The formula takes into account and may adjust for the covariance between

- 1 The risk with respect to the insurer's assets,
- 2 The risk of adverse insurance experience with respect to the insurer's liabilities and obligations,
- 3 The interest rate risk with respect to the insurer's business, and
- 4 Any other business or other relevant risk set out in the risk based capital instructions,

determined in each case by applying the factors in the manner set forth in the risk based capital instructions

(e) A property and casualty insurer's risk based capital is determined in accordance with the formula set forth in the risk based capital instructions. The formula takes into account and may adjust for the covariance between

- 1 The asset risk,
- 2 The credit risk,
- 3 The underwriting risk, and
- 4 Any other business or other relevant risk set out in the risk based capital instructions,

determined in each case by applying the factors in the manner set forth in the risk based capital instructions

(f) The Legislature finds that an excess of capital over the amount produced by the risk based capital requirements and the formulas, schedules, and instructions specified in this section is a desirable goal with respect to the business of insurance. Accordingly, insurers should seek to maintain capital above the risk based capital levels required by this section. Additional capital is used and useful in the insurance business and helps to secure an insurer against various risks inherent in, or affecting, the business of insurance and not accounted for or only partially measured by the risk based capital requirements contained in this section

(g) If a domestic insurer files a risk based capital report that the department finds is inaccurate, the department shall adjust the risk based capital report to correct the inaccuracy and shall notify the insurer of the adjustment. The notice must state the reason for the adjustment. A risk based capital report that is so adjusted is referred to as the adjusted risk based capital report. The adjusted risk based capital report must also be filed by the insurer with the National Association of Insurance Commissioners

(3)(a) A company action level event includes

1 The filing of a risk based capital report by an insurer which indicates that

a The insurer's total adjusted capital is greater than or equal to its regulatory action level risk based capital but less than its company action level risk based capital, or

b If a life and health insurer, the insurer has total adjusted capital that is greater than or equal to its company action level risk based capital, but is less than the product of its authorized control level risk based capital and 2.5, and has a negative trend,

2 The notification by the department to the insurer of an adjusted risk based capital report that indicates an event in subparagraph 1, unless the insurer challenges the adjusted risk based capital report under subsection (7), or

3 If, under subsection (7), an insurer challenges an adjusted risk based capital report that indicates an event in subparagraph 1, the notification by the department to the insurer that the department has, after a hearing, rejected the insurer's challenge

(b) If a company action level event occurs, the insurer shall prepare and submit to the department a risk based capital plan, which must

1 Identify the conditions that contribute to the company action level event,

2 Contain proposals of corrective actions that the insurer intends to take and that are reasonably expected to result in the elimination of the company action level event,

3 Provide projections of the insurer's financial results in the current year and at least the 4 succeeding years, both in the absence of proposed corrective actions and giving effect to the proposed corrective actions, including projections of statutory operating income, net income, capital, and surplus. The projections for both new and renewal business may include separate projections for each major line of business and, if separate projections are provided, must separately identify each significant income, expense, and benefit component,

4 Identify the key assumptions affecting the insurer's projections and the sensitivity of the projections to the assumptions, and

5 Identify the quality of, and problems associated with, the insurer's business, including, but not limited to, its assets, anticipated business growth and associated surplus strain, extraordinary exposure to risk, mix of business, and any use of reinsurance

(c) The risk based capital plan must be submitted

1 Within 45 days after the company action level event, or

2 If the insurer challenges an adjusted risk based capital report under subsection (7), within 45 days after notification to the insurer that the department has, after a hearing, rejected the insurer's challenge

(d) Within 60 days after the submission by an insurer of a risk based capital plan to the department, the department shall notify the insurer whether the risk based capital plan must be implemented or is, in the judgment of the department, unsatisfactory. If the department determines that the risk based capital plan is unsatisfactory, the notification to the insurer must set forth the reasons for the determination and may set forth proposed revisions. Upon notification from the department, the insurer shall prepare a revised risk based capital plan, which may incorporate by reference any revisions proposed by the department, and shall submit the revised risk based capital plan to the department

1. Within 45 days after the notification from the department, or

2 If the insurer challenges the notification from the department under subsection (7), within 45 days after a notification to the insurer that the department has, after a hearing, rejected the insurer's challenge

(e) If the department notifies an insurer that the insurer's risk based capital plan or revised risk based capital plan is unsatisfactory, the department may, at its discretion and subject to the insurer's right to a hearing under subsection (7), specify in the notification that the notification is a regulatory action level event

(f) Each domestic insurer that files a risk based capital plan or a revised risk based capital plan with the department shall file a copy of the risk based capital plan or the revised risk based capital plan with the insurance department in any other state in which the insurer is authorized to do business if

1 That state has a risk based capital law that is substantially similar to paragraph (8)(a), and

2 The insurance department of that state has notified the insurer of its request for the filing in writing, in which case the insurer shall file a copy of the risk based capital plan or the revised risk based capital plan in that state no later than the later of

a Fifteen days after the receipt of notice to file a copy of its risk based capital plan or revised risk based capital plan with the state, or

b The date on which the risk based capital plan or the revised risk based capital plan is filed under paragraph (c) or paragraph (d)

(4)(a) A regulatory action level event includes

1 The filing of a risk based capital report by the insurer which indicates that the insurer's total adjusted capital is greater than or equal to its authorized control level risk based capital but is less than its regulatory action level risk based capital,

2 The notification by the department to the insurer of an adjusted risk based capital report that indicates the event described in subparagraph 1, unless the insurer challenges the adjusted risk based capital report under subsection (7),

3 If, under subsection (7), the insurer challenges an adjusted risk based capital report that indicates the event described in subparagraph 1, the notification by the department to the insurer that the department has, after a hearing, rejected the insurer's challenge;

4 The failure of the insurer to file a risk based capital report by the filing date, unless the insurer provides an explanation for such failure which is satisfactory to the department and cures the failure within 10 days after the filing date,

5 The failure of the insurer to submit a risk based capital plan to the department within the time period set forth in paragraph (3)(c),

6 Notification by the department to the insurer that

a The risk based capital plan or the revised risk based capital plan submitted by the insurer is, in the judgment of the department, unsatisfactory, and

b This notification constitutes a regulatory action level event with respect to the insurer, unless the insurer challenges the determination under subsection (7),

7. If, under subsection (7), the insurer challenges a determination by the department under subparagraph 6, the notification by the department to the insurer that the department has, after a hearing, rejected the challenge;

8 Notification by the department to the insurer that the insurer has failed to adhere to its risk based capital plan or revised risk based capital plan, but only if this failure has a substantial adverse effect on the ability of the insurer to eliminate the company action level event in accordance with its risk based capital plan or revised risk based capital plan and the department has so stated in the notification, unless the insurer challenges the determination under subsection (7), or

9 If, under subsection (7), the insurer challenges a determination by the department under subparagraph 8, the notification by the department to the insurer that the department has, after a hearing, rejected the challenge

(b) If a regulatory action level event occurs, the department shall:

1 Require the insurer to prepare and submit a risk based capital plan or, if applicable, a revised risk based capital plan,

2 Perform an examination pursuant to section 624.316, Florida Statutes, or an analysis, as the department considers necessary, of the assets, liabilities, and operations of the insurer, including a review of the risk based capital plan or the revised risk based capital plan, and

3 After the examination or analysis, issue a corrective order specifying such corrective actions as the department determines are required

(c) In determining corrective actions, the department shall consider any factor relevant to the insurer based upon the department's examination or analysis of the assets, liabilities, and operations of the insurer, including, but not limited to, the results of any sensitivity tests undertaken as provided in the risk based capital instructions. The risk based capital plan or the revised risk based capital plan must be submitted

1 Within 45 days after the occurrence of the regulatory action level event,

2 If the insurer challenges an adjusted risk based capital report under subsection (7), within 45 days after the notification to the insurer that the department has, after a hearing, rejected the insurer's challenge, or

3 If the insurer challenges a revised risk based capital plan under subsection (7), within 45 days after the notification to the insurer that the department has, after a hearing, rejected the insurer's challenge

(d) The department may retain actuaries, investment experts, and other consultants to review an insurer's risk based capital plan or revised risk based capital plan, examine or analyze the assets, liabilities, and operations of an insurer, and formulate the corrective order with respect to the insurer. The fees, costs, and expenses relating to consultants must be borne by the affected insurer or by any other party as directed by the department

(5)(a) An authorized control level event includes

1 The filing of a risk based capital report by the insurer which indicates that the insurer's total adjusted capital is greater than or equal to its mandatory control level risk based capital but is less than its authorized control level risk based capital,

2 The notification by the department to the insurer of an adjusted risk based capital report that indicates the event in subparagraph 1, unless the insurer challenges the adjusted risk based capital report under subsection (7),

3 If, under subsection (7), the insurer challenges an adjusted risk based capital report that indicates the event in subparagraph 1, notification by the department to the insurer that the department has, after a hearing, rejected the insurer's challenge,

4 The failure of the insurer to respond, in a manner satisfactory to the department, to a corrective order, unless the insurer challenges the corrective order under subsection (7), or

5 If the insurer challenges a corrective order under subsection (7) and the department has, after a hearing, rejected the challenge or modified the corrective order, the failure of the insurer to respond, in a manner satisfactory to the department, to the corrective order after rejection or modification by the department

(b) If an authorized control level event occurs, the department shall

1 Take any action required under subsection (4) regarding the insurer with respect to which a regulatory action level event has occurred, or

2 If the department considers it to be in the best interests of the policyholders and creditors of the insurer and of the public, take any action as necessary to cause the insurer to be placed under regulatory control under chapter 631, Florida Statutes. An authorized control level event is sufficient ground for the department to be appointed as receiver as provided in chapter 631, Florida Statutes

(6)(a) A mandatory control level event includes

1 The filing of a risk based capital report that indicates that the insurer's total adjusted capital is less than its mandatory control level risk based capital,

2 Notification by the department to the insurer of an adjusted risk based capital report that indicates the event in subparagraph 1, unless the insurer challenges the adjusted risk based capital report under subsection (7) or

3 If, under subsection (7), the insurer challenges an adjusted risk based capital report that indicates the event in subparagraph 1, notification by the department to the insurer that the department has, after a hearing, rejected the insurer's challenge

(b) If a mandatory control level event occurs

1 With respect to a life and health insurer, the department shall, after due consideration of s 624 408, Florida Statutes, take any action necessary to place the insurer under regulatory control, including any remedy available under chapter 631, Florida Statutes. A mandatory control level event is sufficient ground for the department to be appointed as receiver as provided in chapter 631, Florida Statutes. The department may forego taking action for up to 90 days after the mandatory control level event if the department finds there is a reasonable expectation that the mandatory control level event may be eliminated within the 90-day period

2 With respect to a property and casualty insurer, the department shall, after due consideration of s 624 408, Florida Statutes, take any action necessary to place the insurer under regulatory control, including any remedy available under chapter 631, Florida Statutes, or, in the case of an insurer that is not writing new business, may allow the insurer to continue to operate under the supervision of the department. In either case, the mandatory control level event is sufficient ground for the department to be appointed as receiver as provided in chapter 631, Florida Statutes. The department may forego taking action for up to 90 days after the mandatory control level event if the department finds there is a reasonable expectation that the mandatory control level event will be eliminated within the 90-day period

(7)(a) An insurer has a right to a hearing before the department upon

1 Notification to an insurer by the department of an adjusted risk based capital report,

2 Notification to an insurer by the department that the insurer's risk based capital plan or revised risk based capital plan is unsatisfactory, and that the notification constitutes a regulatory action level event with respect to such insurer,

3 Notification to any insurer by the department that the insurer has failed to adhere to its risk based capital plan or revised risk based capital plan and that the failure has a substantial adverse effect on the ability of the insurer to eliminate the company action level event in accordance with its risk based capital plan or its revised risk based capital plan, or

4 Notification to an insurer by the department of a corrective order with respect to the insurer

(b) At such hearing the insurer may challenge any determination or action by the department. The insurer shall notify the department of its request for a hearing within 5 days after receipt of the notification by the department under this subsection. Upon receipt of the request for a hearing, the department shall set a date for the hearing, which date must be no fewer than 10 nor more than 30 days after the date the department receives the insurer's request. The hearing must be conducted as provided in section 624 324, Florida Statutes, with the right to appellate review under section 120 68, Florida Statutes

(8)(a) Any foreign insurer shall, upon the written request of the department, submit to the department a risk based capital report, as of the end of the calendar year just ended, no later than the later of

1 The date a risk based capital report is required to be filed by a domestic insurer under this section, or

2 Fifteen days after the request is received by the foreign insurer

(b) Any foreign insurer shall, upon the written request of the department, promptly submit to the department a copy of any risk based capital plan that is filed with the insurance department of another state

(c) The department may require a foreign insurer to file a risk based capital plan if

1 A company action level event, regulatory action level event, or authorized control level event occurs with respect to any foreign insurer as determined under the risk based capital law of the state of domicile of the insurer, or, if there is no risk based capital law in that state, under this section

2 The insurance department of the state of domicile of the foreign insurer fails to require the foreign insurer to file a risk based capital plan in the manner specified under the risk based capital law of that state, or, if there is no risk based capital law in that state, under subsection (3)

The failure of the foreign insurer to file a risk based capital plan with the department when required under this paragraph is a ground for the department to take any action under section 624.418, Florida Statutes, which it determines is necessary

(d) If a mandatory control level event occurs with respect to any foreign insurer and a domiciliary receiver has not been appointed with respect to the foreign insurer under the rehabilitation and liquidation law of the state of domicile of the foreign insurer, the department may apply to the Circuit Court of Leon County and such event constitutes grounds for the department to be appointed as receiver as provided in chapter 631, Florida Statutes, with respect to the liquidation of property of foreign insurers found in this state. The occurrence of a mandatory control level event is a ground for such application

(9) There shall be no liability on the part of, and no cause of action shall arise against, the commissioner, the department, or its employees or agents for any action taken by them in the performance of their powers and duties under this section

(10) The department shall transmit any notice that may result in regulatory action by registered mail, certified mail, or any other method of transmission. Notice is effective when the insurer receives it

(11) For the purposes of the risk based capital reports required to be filed by life and health insurers with respect to their 1997 annual statement data and the risk based capital reports required to be filed by property and casualty insurers with respect to their 1997 annual statement data, the following requirements apply in lieu of the provisions of subsections (3), (4), (5), and (6)

(a) If a company action level event occurs with respect to a domestic insurer, the department may not take any regulatory action

(b) If a regulatory action level event occurs under subparagraph 1, subparagraph 2, or subparagraph 3 of paragraph (4)(a), the department shall take the actions required under subsection (3)

(c) If a regulatory action level event occurs under subparagraph 4, subparagraph 5, subparagraph 6, subparagraph 7, subparagraph 8, or subparagraph 9 of paragraph (4)(a), or an authorized control level event occurs, the department shall take the actions required under subsection (4)

(d) If a mandatory control level event occurs with respect to an insurer, the department shall take the actions required under subsection (5)

(12) This section is supplemental to the other laws of this state and does not preclude or limit any power or duty of the department under those laws or under the rules adopted under those laws

(13) This section does not apply to a domestic property and casualty insurer that meets all of the following conditions.

(a) Writes direct business only in this state,

(b) Writes direct annual premiums of \$2 million or less, and

(c) Assumes no reinsurance in excess of 5 percent of direct premiums written

(14) The department may adopt rules to administer this section, including, but not limited to, those regarding risk based capital reports, adjusted risk based capital reports, risk based capital plans, corrective orders and procedures to be followed in the event of a triggering of a

company action level event, a regulatory action level event, an authorized control level event, or a mandatory control level event

Section 2 Assets of insurers, reporting requirements —

(1) As used in this section the term

(a) "Material acquisition of assets" or "material disposition of assets" means one or more transactions occurring during any 30-day period which are nonrecurring and not in the ordinary course of business and involve more than 5 percent of the reporting insurer's total admitted assets as reported in its most recent statutory statement filed with the insurance department of the insurer's state of domicile

(b) "Material nonrenewal, cancellation, or revision of a ceded reinsurance agreement" is one that affects

1 With respect to property and casualty business, including accident and health business written by a property and casualty insurer

a More than 50 percent of the insurer's total ceded written premium, or

b More than 50 percent of the insurer's total ceded indemnity and loss-adjustment reserves

2 With respect to life, annuity, and accident and health business, more than 50 percent of the total reserve credit taken for business ceded, on an annualized basis, as indicated in the insurer's most recent annual statement

3 With respect to property and casualty business or life, annuity, and accident and health business, a material revision includes

a The replacement of an authorized reinsurer representing more than 10 percent of a total cession by one or more unauthorized reinsurers, or

b The reduction or waiver, with respect to one or more unauthorized insurers, of previously established collateral requirements representing more than 10 percent of a total cession

(2) Each domestic insurer shall file a report with the Department of Insurance disclosing a material acquisition of assets, a material disposition of assets, or a material nonrenewal, cancellation, or revision of a ceded reinsurance agreement, unless the material acquisition or disposition of assets or the material nonrenewal, cancellation, or revision of a ceded reinsurance agreement has been submitted to the department for review, approval, or informational purposes under another section of the Florida Insurance Code or a rule adopted thereunder. A copy of the report and each exhibit or other attachment must be filed by the insurer with the National Association of Insurance Commissioners. The report required in this section is due within 15 days after the end of the calendar month in which the transaction occurs.

(3) An immaterial acquisition or disposition of assets need not be reported under this section

(4)(a) Acquisitions of assets which are subject to this section include each purchase, lease, exchange, merger, consolidation, succession, or other acquisition of assets. Asset acquisitions for the construction or development of real property by or for the reporting insurer and the acquisition of construction materials for this purpose are not subject to this section

(b) Dispositions of assets which are subject to this section include each sale, lease, exchange, merger, consolidation, mortgage, hypothecation, assignment for the benefit of a creditor or otherwise, abandonment, destruction, or other disposition of assets

(5)(a) The following information must be disclosed in any report of a material acquisition or disposition of assets

1 The date of the transaction,

2 The manner of acquisition or disposition,

3 The description of the assets involved.

- 4 The nature and amount of the consideration given or received,
5. The purpose of, or reason for, the transaction,
- 6 The manner by which the amount of consideration was determined,
- 7 The gain or loss recognized or realized as a result of the transaction, and
8. The name of the person from whom the assets were acquired or to whom they were disposed

(b) Insurers must report material acquisitions or dispositions on a nonconsolidated basis unless the insurer is part of a consolidated group of insurers which uses a pooling arrangement or a 100-percent reinsurance agreement that affects the solvency and integrity of the insurer's reserves and the insurer has ceded substantially all of its direct and assumed business to the pool. An insurer is deemed to have ceded substantially all of its direct and assumed business to a pool if the insurer has less than \$1 million in total direct and assumed written premiums during a calendar year which are not subject to a pooling arrangement and if the net income of the business which is not subject to the pooling arrangement represents less than 5 percent of the insurer's capital and surplus

(6) The nonrenewal, cancellation, or revision of a ceded reinsurance agreement need not be reported if the renewal or the revision is not material or if

(a) With respect to property and casualty business, including accident and health business written by a property and casualty insurer, the insurer's total ceded written premium represents, on an annualized basis, less than 10 percent of its total written premium for direct and assumed business, or

(b) With respect to life, annuity, and accident and health business, the total reserve credit taken for business ceded represents, on an annualized basis, less than 10 percent of the statutory reserve requirement before the cession

(7)(a) The following information must be disclosed in any report of a material nonrenewal, cancellation, or revision of a ceded reinsurance agreement

- 1 The effective date of the nonrenewal, cancellation, or revision,
- 2 The description of the transaction and the identification of the initiator of the transaction,
- 3 The purpose of, or reason for, the transaction, and
- 4 If applicable, the identity of each replacement reinsurer

(b) Insurers shall report the material nonrenewal, cancellation, or revision of a ceded reinsurance agreement on a nonconsolidated basis unless the insurer is part of a consolidated group of insurers which uses a pooling arrangement or a 100-percent reinsurance agreement that affects the solvency and integrity of the insurer's reserves and the insurer has ceded substantially all of its direct and assumed business to the pool. An insurer is deemed to have ceded substantially all of its direct and assumed business to a pool if the insurer has less than \$1 million in total direct and assumed written premiums during a calendar year which are not subject to a pooling arrangement and if the net income of the business not subject to the pooling arrangement represents less than 5 percent of the insurer's capital and surplus

Section 3 Subsection (1) of section 624 3161, Florida Statutes, is amended to read

624 3161 Market conduct examinations —

(1) As often as it deems necessary, ~~and not less frequently than each 5-year~~, the department shall examine each licensed rating organization, each advisory organization, each group, association, or other organization of insurers which engages in joint underwriting or joint reinsurance, and each authorized insurer transacting in this state

any class of insurance to which the provisions of ~~part I~~ of chapter 627 are applicable. The examination shall be for the purpose of ascertaining compliance by the person examined with the applicable provisions of chapters 624, 626, 627, and 635

Section 4 Paragraph (d) of subsection (8) of section 624 424, Florida Statutes, is amended to read

624 424 Annual statement and other information —

(8)

(d) An insurer may not use the same accountant or partner of an accounting firm responsible for preparing the report required by this subsection for more than 7 6 consecutive years. Following this period, the insurer may not use such accountant or partner for a period of 2 years, but may use another accountant or partner of the same firm. An insurer may request the department to waive this prohibition based upon an unusual hardship to the insurer and a determination that the accountant is exercising independent judgment that is not unduly influenced by the insurer considering such factors as the number of partners, expertise of the partners or the number of insurance clients of the accounting firm, the premium volume of the insurer, and the number of jurisdictions in which the insurer transacts business

Section 5 Section 624 5094, Florida Statutes, is created to read

624 5094 Casualty insurance premiums—Notwithstanding any statutory provision to the contrary for the purposes of calculating the annual assessments for the Special Disability Trust Fund under s 440 49 and expenses of administration under s 440 51 any amount paid or credited as dividends or premium refunds in the same calendar year by the insurer to its policyholders must be deducted from "net premium," "net premiums written," "direct premium," and "net premium collected" for the calendar year. Such offset for dividends or premium refunds paid or credited for the current year must be applied against the current year's net premium for that year's assessment regardless of the policy year for which the dividends or premium refunds are being reimbursed

Section 6 Paragraph (1) is added to subsection (5) of section 625 121, Florida Statutes, 1996 Supplement, to read

625 121 Standard Valuation Law, life insurance —

(5) MINIMUM STANDARD FOR VALUATION OF POLICIES AND CONTRACTS ISSUED ON OR AFTER OPERATIVE DATE OF STANDARD NONFORFEITURE LAW—Except as otherwise provided in paragraph (h) and subsections (6), (11), and (14), the minimum standard for the valuation of all such policies and contracts issued on or after the operative date of s 627 476 (Standard Nonforfeiture Law for Life Insurance) shall be the commissioners' reserve valuation method defined in subsections (7), (11), and (14), 5 percent interest for group annuity and pure endowment contracts and 3 5 percent interest for all other such policies and contracts, or in the case of life insurance policies and contracts, other than annuity and pure endowment contracts, issued on or after July 1, 1973, 4 percent interest for such policies issued prior to October 1, 1979, and 4 5 percent interest for such policies issued on or after October 1, 1979, and the following tables

(i) In lieu of the mortality tables specified in this subsection, and subject to rules adopted by the department, the insurance company may, at its option

1 Substitute the applicable 1958 CSO or CET Smoker and Nonsmoker Mortality Tables, in lieu of the 1980 CSO or CET mortality table standard, for policies issued on or after the operative date of s 627 476(9) and before January 1, 1989

2 Substitute the applicable 1980 CSO or CET Smoker and Nonsmoker Mortality Tables in lieu of the 1980 CSO or CET mortality table standard,

3 Use the Annuity 2000 Mortality Table for determining the minimum standard of valuation for individual annuity and pure endowment contracts issued on or after the operative date of this section until the department, in a date certain that is on or after January 1,

1998, adopts by rule that table for determining the minimum standard for valuation purposes

4 Use the 1994 GAR Table for determining the minimum standard of valuation for annuities and pure endowments purchased on or after the operative date of this section under group annuity and pure endowment contracts until the department, on a date certain that is on or after January 1, 1998, adopts by rule that table for determining the minimum standard for valuation purposes

Section 7 Paragraph (e) of subsection (1) of section 626 321, Florida Statutes, is amended to read

626 321 Limited licenses —

(1) The department shall issue to a qualified individual, or a qualified individual or entity under paragraphs (d) and (e), a license as agent authorized to transact a limited class of business in any of the following categories

(e) Credit life or disability insurance — License covering only credit life or disability insurance. The license may be issued only to an individual employed by a life or health insurer as an officer or other salaried or commissioned representative, or to an individual employed by or associated with a lending or financing institution or creditor, and may authorize the sale of such insurance only with respect to borrowers or debtors of such lending or financing institution or creditor. However, only the individual or entity whose tax identification number is used in receiving or is credited with receiving the commission from the sale of such insurance shall be the licensed agent of the insurer. No individual while so licensed shall hold a license as an agent or solicitor as to any other or additional kind or class of life or health insurance coverage. An entity other than a lending or financial institution defined in s. 626 988 holding a limited license under this subsection (1)(e) shall also be authorized to sell credit property insurance

Section 8 Paragraph (h) of subsection (9) of section 627 476, Florida Statutes, is amended to read

627 476 Standard Nonforfeiture Law for Life Insurance —

(9) CALCULATION OF ADJUSTED PREMIUMS AND PRESENT VALUES FOR POLICIES ISSUED AFTER OPERATIVE DATE OF THIS SUBSECTION —

(h) All adjusted premiums and present values referred to in this section shall for all policies of ordinary insurance be calculated on the basis of the Commissioners' 1980 Standard Ordinary Mortality Table or, at the election of the insurer for any one or more specified plans of life insurance, the Commissioners' 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors, shall for all policies of industrial insurance be calculated on the basis of the Commissioners' 1961 Standard Industrial Mortality Table, and shall for all policies issued in a particular calendar year be calculated on the basis of a rate of interest not exceeding the nonforfeiture interest rate as defined in this subsection for policies issued in that calendar year. However

1 At the option of the insurer, calculations for all policies issued in a particular calendar year may be made on the basis of a rate of interest not exceeding the nonforfeiture interest rate, as defined in this subsection, for policies issued in the immediately preceding calendar year

2 Under any paid-up nonforfeiture benefit, including any paid-up dividend additions, any cash surrender value available, whether or not required by subsection (2), shall be calculated on the basis of the mortality table and rate of interest used in determining the amount of such paid-up nonforfeiture benefit and paid-up dividend additions, if any

3 An insurer may calculate the amount of any guaranteed paid-up nonforfeiture benefit, including any paid-up additions under the policy, on the basis of an interest rate no lower than that specified in the policy for calculating cash surrender values

4 In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture

benefit the rates of mortality assumed may be not more than those shown in the Commissioners' 1980 Extended Term Insurance Table for policies of ordinary insurance and not more than the Commissioners' 1961 Industrial Extended Term Insurance Table for policies of industrial insurance

5 In lieu of the mortality tables specified in this section, at the option of the insurance company and subject to rules adopted by the department, the insurance company may substitute

a The 1958 CSO or CET Smoker and Nonsmoker Mortality Tables, whichever is applicable, for policies issued on or after the operative date of this subsection and before January 1, 1989,

b The 1980 CSO or CET Smoker and Nonsmoker Mortality Tables, whichever is applicable, for policies issued on or after the operative date of this subsection,

c A mortality table that is a blend of the sex-distinct 1980 CSO or CET mortality table standard, whichever is applicable, or a mortality table that is a blend of the sex-distinct 1980 CSO or CET smoker and nonsmoker mortality table standards, whichever is applicable, for policies that are subject to the United States Supreme Court decision in Arizona Governing Committee v. Norris to prevent unfair discrimination in employment situations

6 For insurance issued on a substandard basis the calculation of any such adjusted premiums and present values may be based on appropriate modifications of the aforementioned tables

Section 9 Section 627 4555, Florida Statutes, is amended to read

627 4555 Secondary notice — Except as provided in this section, a ~~no~~ contract for life insurance issued or issued for delivery in this state on or after October 1, 1997, covering a natural person 64 years of age or older ~~or owned by a natural person 64 years of age or older~~, which has been in force for at least 1 year, ~~may not shall be lapsed canceled~~ for nonpayment of premium unless, after expiration of the grace period, and at least 21 days before ~~prior to~~ the effective date of any such lapse ~~cancellation~~, the insurer has mailed a notification of the impending ~~possible~~ lapse in coverage to the ~~policyowner owner of the policy~~ and to a specified secondary addressee if such addressee has been designated in writing by name and address by the policyowner. An insurer issuing a life insurance contract on or after October 1, 1997 ~~1995~~, shall notify the applicant of the right to designate a secondary addressee at the time of application for the policy, on a form provided by the insurer, and at any time the policy is in force, by submitting a written notice to the insurer containing the name and address of the secondary addressee. For purposes of any life insurance policy that provides a grace period of more than 51 days for nonpayment of premiums, the notice of impending lapse in coverage required by this section must be mailed to the policyowner and the secondary addressee at least 21 days before the expiration of the grace period provided in the policy. This section does not apply to any life insurance contract under which premiums are payable monthly or more frequently and are regularly collected by a licensed agent or are paid by credit card or any preauthorized check processing or automatic debit service of a financial institution. ~~For policies of life insurance issued or renewed on or after October 1, 1995, the insurer shall notify the owner, at least annually, of the right to designate a secondary addressee.~~

Section 10 Section 627 5045, Florida Statutes, is amended to read

627 5045 Secondary notice — Except as provided in this section, a ~~no~~ contract for an industrial life insurance policy issued or issued for delivery in this state on or after October 1, 1997, for which premiums are paid monthly, covering a natural person 64 years of age or older or owned by a natural person 64 years of age or older, which has been in force for at least 1 year, ~~may not shall be lapsed canceled~~ for nonpayment of premium unless, after expiration of the grace period, and at least 21 days before ~~prior to~~ the effective date of such lapse ~~cancellation~~, the insurer has mailed a notification of the impending ~~possible~~ lapse in coverage to the ~~policyowner owner of the policy~~ and to a specified secondary addressee if such addressee has been designated in writing by name and address by the policyowner. An insurer issuing an industrial life insurance contract on or after October 1, 1997 ~~1995~~,

shall notify the applicant of the right to designate a secondary addressee at the time of application for the policy on a form provided by the insurer and at any time the policy is in force by submitting a written notice to the insurer containing the name and address of the secondary addressee. This section does not apply to any life insurance contract under which premiums are payable monthly or more frequently and are regularly collected by a licensed agent. ~~For policies of industrial life insurance issued or renewed on or after October 1, 1995, the insurer shall notify the owner, at least annually, of the right to designate a secondary addressee.~~

Section 11 Section 628 801, Florida Statutes, is amended to read

628 801 Insurance holding companies, registration, regulation— Every insurer which is authorized to do business in this state and which is a member of an insurance holding company shall register with the department and be subject to regulation with respect to its relationship to such holding company as provided by rule or statute. The department shall adopt rules establishing the information and form required for registration and the manner in which registered insurers and their affiliates shall be regulated. The rules shall apply to domestic insurers, foreign insurers, and commercially domiciled insurers except a foreign insurer domiciled in states that are accredited by the National Association of Insurance Commissioners by December 31, 1995. Except to the extent of any conflict with this code, the rules must include all requirements and standards of ss 4 and 5 of the Insurance Holding Company System Regulatory Act and the Insurance Holding Company System Model Regulation of the National Association of Insurance Commissioners, as the Regulatory Act and the Model Regulation existed on January 1, 1997 ~~1993~~, and may include a prohibition on oral contracts between affiliated entities. Upon request, the department may waive filing requirements under this section for a domestic insurer that is the subsidiary of an insurer that is in full compliance with the insurance holding company registration laws of its state of domicile, which state is accredited by the National Association of Insurance Commissioners.

Section 12 This act shall take effect upon becoming a law, except that sections 9, 10, and 11 shall take effect October 1, 1997

And the title is amended as follows

On page 1, lines 1-31, remove from the title of the bill all of said lines,

and insert in lieu thereof A bill to be entitled An act relating to insurance, requiring certain insurers to file reports concerning their risk based capital, requiring the Department of Insurance to request such reports under certain circumstances, providing for hearings, providing definitions and reporting requirements, requiring certain insurers to file reports of material transactions concerning their assets or their ceded reinsurance agreements, providing definitions and reporting requirements, prescribing authority of the Department of Insurance with respect to such reports, amending s 624 3161, F S, deleting a limitation on frequency of certain market conduct examinations, amending s 626 321, F S, authorizing persons who hold a limited license for credit insurance to hold certain additional licenses, amending s 624 424, F S, increasing the time limitation on insurers using certain accounting services for certain purposes, creating s 624 5094, F S, providing for offset of dividends or premium refunds in calculating the annual assessment for the Special Disability Trust Fund and expenses of administration, amending s 625 121, F S, providing for the use of additional mortality tables, amending s 627 476, F S, providing for the use of additional mortality tables, amending ss 627 4555 and 627 5045, F S, revising provisions requiring notice to policyowners and secondary addressees of impending lapse of certain insurance policies under certain circumstances, providing procedures, providing application, amending s 628 801, F S, updating a reference to the Insurance Holding Company System Regulatory Act, providing effective dates

Rep Mackenzie moved the adoption of the amendment, which was adopted

The Committee on Financial Services offered the following

Amendment 2—On page 2, line(s) 29 & 30, remove from the bill all of said lines

and insert in lieu thereof Subsections (1) and (3) of section 624 3161, Florida Statutes, are amended to read

Rep Safley moved the adoption of the amendment. Subsequently, **Amendment 2** was withdrawn

The Committee on Financial Services offered the following

Amendment 3 (with title amendment)—On page 24, between line(s) 10 & 11, of the bill

insert (3) ~~Upon agreement between the department and the insurer, such~~ The examination may be conducted by an independent professional examiner under contract to the department, in which case payment shall be made directly to the contracted examiner by the insurer examined in accordance with the rates and terms agreed to by the department ~~the insurer, and the examiner~~

And the title is amended as follows

On page 1, line(s) 16,

after the semicolon insert revising contract specifications for independent examiners,

Rep Safley moved the adoption of the amendment. Subsequently, **Amendment 3** was withdrawn

Under Rule 127, the bill was referred to the Engrossing Clerk

Continuation of Economic Impact Council Calendar

CS/HB 1145—A bill to be entitled An act relating to professional sports franchises, amending s 298 1162, F S, revising the definition of the term "new professional sports franchise", authorizing certain applicants to be certified more than once under certain circumstances, providing requirements for certain applicants, conforming dates to comply with the act, providing that an applicant applying for certification for more than one franchise, after a certain date, is required to have a contract with the Department of Labor and Employment Security for the hiring of WAGES participants, providing contract requirements, providing for an annual report to the Governor and specified legislative leaders on the extent of WAGES hiring by the applicant, providing an effective date

--was taken up, having been read the second time earlier today, now pending on motion by Rep Logan to adopt Substitute Amendment 2

The question recurred on the adoption of **Substitute Amendment 2**.

Rep Starks moved to lay the bill on the table, which was not agreed to. The vote was

Yeas—31

Ball	Fischer	Lacasa	Stabins
Betancourt	Frankel	Martinez	Stafford
Burroughs	Geller	Posey	Starks
Carlton	Healey	Rodriguez-Chomat	Villalobos
Casey	Hill	Rojas	Wallace
Clemons	Horan	Safley	Warner
Cosgrove	Kelly	Silver	Wiles
Diaz de la Portilla	Kosmas	Sundler	

Nays—71

The Chair	Boyd	Effman	Jacobs
Albright	Bradley	Eggelton	Jones
Andrews	Brennan	Fasano	King
Argenziano	Byrd	Feenev	Laurent
Arnall	Constantine	Fuller	Lippman
Arnold	Crady	Futch	Littlefield
Baunter	Crist	Gay	Logan
Barreiro	Culp	Goode	Lynn
Bitner	Dawson-White	Harrington	Mackenzie
Bloom	Dockery	Heyman	Mickey

to nonconformity of motor vehicles, providing additional timeframes with respect to recreational vehicles, amending s 681 109, F S, relating to the Florida New Motor Vehicle Arbitration Board and dispute eligibility, revising procedures for dispute, providing for rules, amending s 681 1095, F S, increasing membership on the board, providing for hearings by panels of three board members providing timeframes for hearings, creating s 681 1096, F S, providing for a Pilot RV Mediation and Arbitration Program, providing for creation and qualifications, creating s 681 1097, F S, providing for dispute eligibility and program functions, providing for mediation, providing for arbitration, amending s 681 113, F S, revising language with respect to dealer liability, amending s 681 114, F S, revising language with respect to resale of returned vehicles, amending s 319.14, F S, redefining the term "settlement", providing for the application of the act; providing an effective date

--was read the third time by title On passage, the vote was

Yeas--118

The Chair	Crow	Kosmas	Roberts-Burke
Albright	Culp	Lacasa	Rodriguez-Chomat
Andrews	Dawson-White	Laurent	Rojas
Argenziano	Dennis	Lawson	Safley
Arnall	Diaz de la Portilla	Lippman	Sanderson
Arnold	Dockery	Littlefield	Saunders
Baunter	Edwards	Livingston	Sembler
Ball	Effman	Logan	Silver
Barreiro	Eggelletion	Lynn	Sundler
Betancourt	Fasano	Mackenzie	Smith
Bitner	Feenev	Mackey	Spratt
Bloom	Fischer	Martinez	Stabins
Boyd	Flanagan	Maygarden	Stafford
Bradley	Frankel	Meek	Starks
Brennan	Fuller	Melvin	Sublette
Bronson	Futch	Merchant	Thrasher
Brooks	Gay	Mirton	Tobin
Brown	Geller	Morrone	Trovilhon
Bullard	Goode	Morse	Turnbull
Burroughs	Greene	Murman	Valdes
Bush	Hafner	Ogles	Villalobos
Byrd	Harrington	Peaden	Wallace
Carlton	Healey	Posey	Warner
Casey	Heyman	Prewitt, D	Wasserman Schultz
Chestnut	Hill	Pruitt, K	Westbrook
Clemons	Horan	Putnam	Wiles
Constantine	Jacobs	Rayson	Wise
Cosgrove	Jones	Reddick	Ziebarth
Crady	Kelly	Ritchie	
Crist	King	Ritter	

Nays--None

So the bill passed, as amended, and was immediately certified to the Senate

HB 1943—A bill to be entitled An act relating to insurance, requiring certain insurers to file reports concerning their risk based capital, requiring the Department of Insurance to request such reports under certain circumstances, providing for hearings, providing definitions and reporting requirements, requiring certain insurers to file reports of material transactions concerning their assets or their ceded reinsurance agreements, providing definitions and reporting requirements, prescribing authority of the Department of Insurance with respect to such reports, amending s 624 3161, F S, deleting a limitation on frequency of certain market conduct examinations, amending s 626 321, F S, authorizing persons who hold a limited license for credit insurance to hold certain additional licenses, amending s 624 424, F S, increasing the time limitation on insurers using certain accounting services for certain purposes, creating s 624 5094 F S, providing for offset of dividends or premium refunds in calculating the annual assessment for the Special Disability Trust Fund and expenses of administration, amending s 625 121, F S, providing for the use of

additional mortality tables, amending s. 627 476, F S, providing for the use of additional mortality tables, amending ss 627 4555 and 627 5045, F S, revising provisions requiring notice to policyowners and secondary addressees of impending lapse of certain insurance policies under certain circumstances, providing procedures, providing application, amending s 628 801, F S, updating a reference to the Insurance Holding Company System Regulatory Act, providing effective dates

--was read the third time by title

Representative(s) Mackenzie and Baunter offered the following

Amendment 4 (with title amendment)—On page 24, line(s) 13-25, remove from the bill all of said lines,

and insert in lieu thereof

Section 3 Subsections (1) and (3) of section 624 3161, Florida Statutes, are amended to read

624 3161 Market conduct examinations —

(1) As often as it deems necessary, ~~and not less frequently than each 5-year~~, the department shall examine each licensed rating organization, each advisory organization, each group, association, or other organization of insurers which engages in joint underwriting or joint reinsurance, and each authorized insurer transacting in this state any class of insurance to which the provisions of ~~part I~~ of chapter 627 are applicable. The examination shall be for the purpose of ascertaining compliance by the person examined with the applicable provisions of chapters 624, 626, 627, and 635

(3) ~~Upon agreement between the department and the insurer,~~ Such examination may be conducted by an independent professional examiner under contract to the department, in which case payment shall be made directly to the contracted examiner by the insurer examined in accordance with the rates and terms agreed to by the department ~~the insurer,~~ and the examiner

And the title is amended as follows

On page 1, line(s) 16, of the bill

insert, after the semicolon revising contract specifications for independent examiners,

Rep Mackenzie moved the adoption of the amendment, which was adopted by the required two-thirds vote

The question recurred on the passage of HB 1943 The vote was

Yeas--118

The Chair	Carlton	Fuller	Littlefield
Albright	Casey	Futch	Livingston
Andrews	Chestnut	Garcia	Logan
Argenziano	Clemons	Gay	Lynn
Arnall	Constantine	Geller	Mackenzie
Arnold	Cosgrove	Goode	Mackey
Baunter	Crady	Greene	Martinez
Ball	Crist	Hafner	Maygarden
Barreiro	Crow	Harrington	Meek
Betancourt	Culp	Healey	Melvin
Bitner	Dawson-White	Heyman	Merchant
Bloom	Dennis	Hill	Mirton
Boyd	Diaz de la Portilla	Horan	Morrone
Bradley	Dockery	Jacobs	Morse
Brennan	Edwards	Jones	Murman
Bronson	Effman	Kelly	Ogles
Brooks	Eggelletion	King	Posey
Brown	Fasano	Kosmas	Prewitt, D
Bullard	Feenev	Lucasa	Pruitt, K
Burroughs	Fischer	Laurent	Putnam
Burn	Flanagan	Lawson	Rayson
Byrd	Frankel	Lippman	Reddick

Ritchie	Sembler	Sublette	Warner
Rutler	Silver	Thrasher	Wasserman Schultz
Roberts-Burke	Sindler	Tobin	Westbrook
Rodriguez-Chomat	Smith	Trovillion	Wiles
Rojas	Spratt	Turnbull	Wise
Safley	Stabins	Valdes	Ziebarth
Sanderson	Stafford	Villalobos	
Saunders	Starks	Wallace	

Nays—None

So the bill passed, as amended, and was immediately certified to the Senate after engrossment

Consideration of CS/HB 1549 was temporarily postponed under Rule 147 and the third reading nullified

CS/HB 1631—A bill to be entitled An act relating to Challenger license plates, amending s 320 08058, F S , revising language with respect to the distribution of the Challenger license plate funds, providing for the use of such funds, providing for the expiration of authority for issuance of such license plates, amending s 320 08056, F S , authorizing a reduction in the annual use fee for bulk purchasers of such license plates, providing an effective date

—was read the third time by title On passage, the vote was

Yeas—111

The Chair	Crist	King	Reddick
Albright	Crow	Kosmas	Ritchie
Andrews	Culp	Lacasa	Ritter
Argenziano	Dawson-White	Laurent	Roberts-Burke
Arnall	Dennis	Lawson	Rodriguez-Chomat
Arnold	Diaz de la Portilla	Lippman	Sanderson
Bainter	Dockery	Littlefield	Saunders
Ball	Edwards	Livingston	Sembler
Barreiro	Effman	Logan	Silver
Betancourt	Eggelletion	Lynn	Sindler
Bitner	Fasano	Mackenzie	Smith
Bloom	Feeney	Mackey	Spratt
Boyd	Fischer	Martinez	Stabins
Bradley	Flanagan	Maygarden	Stafford
Brennan	Frankel	Meek	Starks
Bronson	Fuller	Melvin	Sublette
Brooks	Geller	Merchant	Thrasher
Brown	Goode	Minton	Tobin
Bullard	Greene	Morrison	Trovillion
Burroughs	Hafner	Morse	Turnbull
Bush	Harrington	Murman	Valdes
Byrd	Healey	Ogles	Villalobos
Carlton	Heyman	Peaden	Wallace
Casey	Hill	Posey	Warner
Chestnut	Horan	Prewitt, D	Westbrook
Clemons	Jacobs	Pruitt, K	Wiles
Cosgrove	Jones	Putnam	Wise
Crady	Kelly	Rayson	

Nays—2

Rojas Wasserman Schultz

Votes after roll call

Yeas—Constantine, Gay, Ziebarth

So the bill passed and was immediately certified to the Senate

On motion by Rep Edwards—

CS for SB's 1286 & 1446—A bill to be entitled An act relating to insurance, creating s 627 06501, F S , authorizing motor vehicle insurers to offer premium reductions when the principal driver of an insured vehicle has completed an approved driver improvement course, prescribing conditions and limits on such offer, amending s 318 1451, F S , providing for an assessment fee to be paid by persons taking such

a course amending s 627 419, F S , specifying that advertisements by insurers in a language other than English do not modify a policy in English, providing limitations, amending s 627 727, F S , providing a presumption in favor of insurers and their agents and employees that coverage has been rejected or reduced by an insured who signs a form prescribed by the Department of Insurance, amending s 627 728, F S , providing for electronic notice of cancellation and nonrenewals, allowing notice of cancellation by postal proof of mailings, amending s 627 7288, F S , providing that deductibles in a policy that provides comprehensive coverage provided to an insured by an authorized insurer do not apply to motor vehicle glass deductibles, creating s 627 72951, F S , permitting temporary binding of coverage, providing an effective date

—was substituted for CS/HB 1549 and read the second time by title Under Rule 99, the House bill was laid on the table

On motion by Rep Edwards, the rules were suspended and CS for SB's 1286 & 1446 was read the third time by title On passage, the vote was

Yeas—118

The Chair	Crow	Kosmas	Roberts-Burke
Albright	Culp	Lacasa	Rodriguez-Chomat
Andrews	Dawson-White	Laurent	Rojas
Argenziano	Dennis	Lawson	Safley
Arnall	Diaz de la Portilla	Lippman	Sanderson
Arnold	Dockery	Littlefield	Saunders
Bainter	Edwards	Livingston	Sembler
Ball	Effman	Logan	Silver
Barreiro	Eggelletion	Lynn	Sindler
Betancourt	Fasano	Mackenzie	Smith
Bitner	Feeney	Mackey	Spratt
Bloom	Fischer	Martinez	Stabins
Boyd	Flanagan	Maygarden	Stafford
Bradley	Frankel	Meek	Starks
Brennan	Fuller	Melvin	Sublette
Bronson	Futch	Merchant	Thrasher
Brooks	Gav	Minton	Tobin
Brown	Geller	Morrison	Trovillion
Bullard	Goode	Morse	Turnbull
Burroughs	Greene	Murman	Valdes
Bush	Hafner	Ogles	Villalobos
Byrd	Harrington	Peaden	Wallace
Carlton	Healey	Posey	Warner
Casey	Heyman	Prewitt, D	Wasserman Schultz
Chestnut	Hill	Pruitt, K	Westbrook
Clemons	Horan	Putnam	Wiles
Constantine	Jacobs	Rayson	Wise
Cosgrove	Jones	Reddick	Ziebarth
Crady	Kelly	Ritchie	
Crist	King	Ritter	

Nays—None

So the bill passed and was immediately certified to the Senate

On motion by Rep Starks, HB 2109 was temporarily postponed under Rule 147 and the third reading nullified

CS/HBs 1309, 1143, 847, 697, 1391 & 203—A bill to be entitled An act relating to student discipline and school safety, amending s 232.09, F S , revising provisions relating to student attendance responsibility and policy, creating s 232 0205, F S , requiring certain disclosure at school registration and providing penalties for willful nondisclosure, amending s 232 01, F S , revising compulsory school attendance requirements to require children over age 16 to file a formal declaration of intent to terminate school enrollment in order to be exempt from compulsory school attendance requirements, amending s 39 01, F S , revising provisions regarding habitual truancy, amending s 228 041, F S , revising the definitions of the terms "habitual truant" and "dropout", amending s 232 2462, F S , conforming provisions, amending s 414 125, F S , providing Learnfare program requirements, amending

STORAGE NAME: h1943a fs
DATE: April 16, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
FINANCIAL SERVICES
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 1943

RELATING TO Insurance

SPONSOR(S): Representative Mackenzie

STATUTE(S) AFFECTED: 624.3161, 624.424, 625 121, 627 476, 627.4555, 627 5045, and 628.801, F.S.

COMPANION BILL(S): SB 620 (c), CS/2nd ENG/SB 794 (c), CS/S 1456 (c)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE

- (1) FINANCIAL SERVICES YEAS 13 NAYS 0
- (2)
- (3)
- (4)
- (5)

I SUMMARY:

The National Association of Insurance Commissioners (NAIC) requires states that subscribe to its accreditation program to adopt two additional solvency-related model acts in order to maintain accreditation: (1) the Risk-Based Capital for Insurers Act requires domestic insurers to annually calculate certain capital levels for the company, based on a NAIC formula. The insurer is then monitored by comparing its actual capital on-hand against several risk-based capital levels, (2) the Material Transactions Act defines "material" acquisitions and disposition of assets, and certain reinsurance transactions, for which insurers must file reports to disclose the context of the underlying transactions. Florida has not adopted these requirements, which may jeopardize its accreditation. The bill would adopt both acts.

The bill contains a series of revisions affecting the DOI's regulatory authority over insurers. Additionally, revisions are included that are intended as clarifying changes in notice requirements for life insurance policies that cover persons 64 years of age and older, to ensure that these policies do not lapse simply because premium payments were missed.

The Committee on Financial Services adopted two amendments that are more fully described below in Section VI.

II. SUBSTANTIVE RESEARCH:

A PRESENT SITUATION:

Accreditation

In response to concerns over the fiscal stability of insurance companies, the National Association of Insurance Commissioners (NAIC) implemented an accreditation system for states. The NAIC accreditation process prescribes a system of laws and regulations, regulatory practices, and insurer organizational standards which states should use in regulating insurers. The goal is to strengthen state regulation of insurer solvency

Because Florida is accredited with the NAIC, the examination reports and other filings by insurers domiciled in this state are accepted to meet the jurisdictional requirements in other accredited states. Florida also accepts similar reports of insurers domiciled outside of the state, if originally filed in accredited states. Additionally, regulatory exemptions granted to insurers domiciled in accredited states may be reciprocal, for example, Florida's insurance holding company law applies to Florida domestics and to insurers domiciled in non-accredited states

The accreditation process also gives the DOI a level of assurance that insurers domiciled in other accredited states are solvent, because the process acts as a type of national review of these interstate companies. Each accredited state relies on sister states to regulate the solvency of insurers domiciled in their respective state, consistent with national standards. In the last several years, accreditation has been viewed as an alternative to a program of federal regulation of insurer solvency, as proposed by the former chair of the U.S. House Committee on Energy and Commerce, Rep. John Dingell. The NAIC reports that 32 states have adopted the Risk-Based Capital Act in some form and 28 states have adopted the Disclosure of Material Transactions Act in some form.

The NAIC accreditation standards require states to adopt two additional solvency-related model acts in order to maintain accreditation. States were required to adopt the Risk-based Capital for Insurers Act by the end of 1996, and the Material Transactions Act by the end of 1995. According to a letter from the accreditation manager of the NAIC, "failure to adopt these two acts or provide substantially similar protection through some alternative means by the due date could result in suspension of [Florida's] accreditation." Because of extensions granted to the DOI by the NAIC, Florida remains accredited despite the fact that the deadlines for adoption of these standards have not been met. According to the Department of Insurance (DOI), the oversight tools provided by these model acts would greatly enhance regulation, even if accreditation were not conditioned upon their enactment

--Risk-based Capital

Risk-Based Capital (RBC) is a method of financial review of insurance companies which measures the minimum amount of capital necessary to support their overall business operations, given the size and risk profile of the respective companies. The capital requirements generally are assessed against four types of risk: (1) asset risk, (2) credit risk, (3) underwriting risk, and (4) off-balance sheet risk.

--Disclosure of Material Transactions

Material transactions disclosure is a tracking process which requires insurers to disclose major transactions involving the acquisition or disposition of corporate assets. One

recent insolvency is cited by the DOI to illustrate the need for this type of oversight. The DOI recently reached a settlement with Guaranty Security Life Insurance Company in which the company paid a fine of \$20 million. A principal allegation against the company was that, prior to submitting one of its annual reports to DOI, the company completed accounting transactions which misrepresented ownership of certain assets, and distorted the company's financial condition. After the report was filed, the transactions were reversed. The disclosure required under the model act would have aided the DOI in assessing the company's true condition, and allowed an earlier response.

Market Conduct Examinations and Financial Reports

The DOI is required to conduct compliance examinations of insurers who operate in Florida and transact business under Part I of Chapter 627, F.S. Currently, the market conduct examination requirement applies only to insurers governed by Part I of Chapter 627, which covers property, casualty, and surety insurance and specifically does not cover health insurance. However, the department has stated that it relies on the general examination authority of s. 624.316 to perform market conduct examinations of health insurers.

Insurers must file annual financial reports with the DOI, and must sanction an annual financial audit to be conducted by an independent certified public accountant. Section 624.424(8)(d), F.S., restricts use of the same accountant or partner in the same accounting firm for more than 5 years in succession to conduct the financial audit, unless there is a two-year break in the use of the accountant or accounting firm. This requirement was adopted in 1991 for the purpose of limiting any undue influence an insurer might have over the independent audit. The NAIC Model Rule Requiring Annual Audited Financial Reports contains a similar provision, but the NAIC model allows an insurer to use the same accountant for 7 consecutive years.

Life Insurance Valuation

Section 627.476, F.S., is the Standard Nonforfeiture Law for Life Insurance. Pursuant to this statute, a default of premium payments under a life insurance policy sold in Florida, after at least one year in force, cannot result in forfeiture of policy benefits. Instead, a paid-up benefit must be paid to the policyholder in default, calculated as provided in this section. Section 625.121, F.S., requires the DOI to annually value the reserve liabilities for all outstanding life insurance policies, annuities and endowment contracts covered by insurers doing business in Florida. The calculation of the nonforfeiture benefit, and of the reserve requirements is based on a valuing of a company's book of business using a series of industry actuarial tables which relate to risk factors that apply to the insured. These tables are generally established through industry practice and adopted by reference in the DOI's regulation.

The U.S. Supreme Court in *Arizona Governing Committee v. Norris*, 103 S.Ct. 3492 (1983), prohibited insurance practices that unreasonably discriminate on the basis of gender. The DOI has adhered to actuarial tables which comply with this Supreme Court decision, and that allow rate distinctions between smokers and nonsmokers. However, the department's authority to approve products using these tables is uncertain.

Life Insurance Lapse Notice

Chapter 95-142, Laws of Florida, created sections 627.4555, 627.4556 and 627.5045, F.S., relating to secondary notices for late payment of premiums in life policies. Pursuant

to section 627.4555, F.S., insurers must include in individual life insurance contracts that cover or are owned by natural persons 64 years of age or older, and have been in force for at least one year, a requirement for 21 days advance notice prior to canceling a policy for late payment of premiums. This is in addition to the 30-day grace period current law provides for late payments. Section 627.5045, F.S., imposes similar requirements on industrial life insurance contracts which bill for premiums monthly, that cover or are owned by natural persons 64 years of age or older, and have been in force for at least one year.

Insurers are required to mail a notice of this additional time for payment to the policy owner after the expiration of the grace period and a minimum of 21 days before the lapse becomes effective. Present law establishes a right on behalf of a policy owner who qualifies for the notice, to designate a secondary recipient of the lapse notice. Insurers offering individual and industrial life insurance contracts must provide notice to applicants of the right to designate a secondary addressee in policies issued on or after October 1, 1995, and to annually notify policy owners of this right for policies issued or renewed on or after October 1, 1995.

Holding Company Reporting

Section 628.801, F.S., requires insurance holding companies all insurers operating in Florida who are members of an insurance holding company to file a registration with the DOI. The DOI is required to adopt rules establishing the form and substance of the registration, with minimum requirements as specified in the statute. Currently, the registration minimum requirements must include sections of NAIC-approved Insurance Holding Company System Act and the Insurance Holding Company System Model Regulations, as they existed on January 1, 1993.

B. EFFECT OF PROPOSED CHANGES

Risk-Based Capital

Insurers will be subject to reporting and disclosure requirements for risk-based capital. Domestic insurers will be required annually to calculate certain risk-based capital levels based on a formula adopted by NAIC. The insurer will be required to monitor internally the trigger levels and respond as required. A comparison of the insurer's actual capital level and its risk-based capital levels may trigger any of several levels of regulatory action by the DOI, or DOI supervision of corrective actions by the insurer.

Disclosure of Material Transactions

Insurers will be subject to reporting and disclosure requirements consistent with the NAIC model Material Transactions Act. This bill adopts a definition of "material" which includes acquisitions and disposition of assets not within the ordinary course of the insurer's business and which involve more than 5 percent of the insurer's admitted assets. Disclosure is also required of certain reinsurance transactions. Insurers will be required to file reports of qualifying transactions with the DOI.

Market Conduct Examinations and Financial Reports

Companies formerly excluded from market conduct examinations will be examined under the bill, which extends the scope of the department's authority to all insurers governed by Chapter 627. In addition, the bill removes the requirement that the DOI perform market conduct examinations every 5 years.

The bill will lengthen the period of time in succession that a single accountant or accounting firm may be used to conduct the financial audit of an insurer from 5 to 7 years. This will bring Florida law into conformity with audit requirements in the NAIC's Model Rule on this issue

Life Insurance Valuation

The bill would authorize the DOI to accept, approve and value life insurance and annuity products where the insurer supports valuation using industry accepted gender "blended" actuarial tables, and smoker/nonsmoker tables, in lieu of currently applied tables

Life Insurance Lapse Notice

The bill would apply the secondary cancellation notice requirement to policies issued on or after October 1, 1997, and remove the requirement from policies that are owned by persons 64 and older, but do not cover persons age 64 or older. A technical revision replaces "cancel" with "lapse" in the notice provisions to denote the end of coverage for nonpayment of premiums. Under any individual life policy which allows more than 51 days to pay past due premiums, the insurer would be required to mail notice of possible lapse to the policyowner and the secondary addressee, at least 21 days prior to the expiration of the grace period defined in the policy.

The bill would revise the obligation of individual and industrial insurers to provide a secondary lapse notice and the right of policy owners to designate a secondary addressee. For individual and industrial life policy issued or renewed on or after October 1, 1997, the insurer will be required to notify the applicant of the option to designate a secondary addressee at the time of application, and allow the applicant to exercise the option any time while the policy is in force by filing a written notice with the insurer designating same. Existing law requires the insurer to give this notice annually. None of the provisions above apply to policies under which premiums are payable monthly or more frequently, are collected by a licensed agent, or paid by credit card.

Insurance Holding Company Reporting

The bill will adopt, by reference, the version of NAIC model statutes and regulations for regulation of insurance holding company systems that were in existence and current on January 1, 1997.

C APPLICATION OF PRINCIPLES:

1 **Less Government:**

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

Yes The DOI is granted authority in the bill to adopt rules implementing the risk-based capital requirements.

- (2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Yes. The bill reduces frequency of DOI examinations of insurers.

- (3) any entitlement to a government service or benefit?

Not applicable.

- b. If an agency or program is eliminated or reduced:

Not applicable.

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

None.

- (2) what is the cost of such responsibility at the new level/agency?

Not applicable

- (3) how is the new agency accountable to the people governed?

Not applicable

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

No.

- b. Does the bill require or authorize an increase in any fees?

No

- c. Does the bill reduce total taxes, both rates and revenues?

No

- d. Does the bill reduce total fees, both rates and revenues?

No

e Does the bill authorize any fee or tax increase by any local government?

No

3. Personal Responsibility.

a Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4 Individual Freedom:

a Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Yes.

b Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment.

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

Not applicable.

(2) Who makes the decisions?

Not applicable

(3) Are private alternatives permitted?

Not applicable.

(4) Are families required to participate in a program?

Not applicable.

(5) Are families penalized for not participating in a program?

Not applicable

b. Does the bill directly affect the legal rights and obligations between family members?

No.

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

Not applicable.

(1) parents and guardians?

Not applicable.

(2) service providers?

Not applicable

(3) government employees/agencies?

Not applicable

D. SECTION-BY-SECTION RESEARCH

Section 1. Creates an unnumbered section adopting the substance of the NAIC Risk-Based Capital Act. The bill requires each domestic insurer to calculate, according to the model NAIC instructions, its "authorized control level risk-based capital" (ACL). This is an approximate minimum operating capital requirement used to assess solvency. Property and casualty insurers with direct written premium of \$2 million or less a year are exempt from risk-based capital examination if they write direct business only in Florida and if they do not assume reinsurance in excess of 5 percent of premium. The department is allowed to examine foreign insurers under risk-based capital requirements and may take the corrective actions authorized with respect to domestic insurers, if the insurance regulator in the foreign insurer's state of domicile has not taken such actions.

The actual dollar amount of the ACL is derived from formulas in instructions established by the NAIC. The bill provides legislative findings that the degree to which insurers maintain operating capital over the ACL and the various risk-based capital thresholds is indicative of the health of their insurance businesses. Therefore, the ACL is imputed into each of the risk-based capital tests as a base requirement. Various regulatory actions are prompted as the insurer's capital on-hand drops to the level of the ACL, or

falls below the ACL. The calculation of the ACL must incorporate both the instructions in effect on the effective date of the act, and any amendments that may be prospectively adopted by the NAIC (see "Comments," below). Complex worksheets and schedules (more than 50 pages for property and casualty insurers) must accompany the insurer's reported ACL

The NAIC instructions for calculating the ACL of *life and health insurers* must take into account the insurer's risk with respect to assets, the risk of adverse insurance experience relating to the insurer's liabilities and obligations, the interest rate risk with respect to the insurer's business, and all other business risks and such other relevant risks as are set forth in the instructions. Similarly, the NAIC instructions for calculation of ACL for *property and casualty insurers* takes into account the asset risk, the credit risk, the underwriting risk, and all other business risks and such other relevant risks as are set forth in the instructions.

Each domestic insurer would be required to file a risk-based capital report with the DOI, the NAIC, and the insurance regulators of other states where the insurer is authorized to do business on March 1 of each year. Insurers would be prohibited from advertising the results of these calculations, and the DOI would be prohibited from using the information in ratemaking. The DOI would use the reports "solely for monitoring the solvency of insurers and assessing the need for corrective action. ."

The bill provides for a comparison of an insurer's ACL to its capital on-hand (referred to as "total adjusted capital") which includes statutory capital and surplus, plus other items specified in the instructions. The results of the comparison, combined with information and events relating to the insurer's risk-based capital report, may prompt one of four levels of regulatory involvement (referred to as an "event") and trigger a series of regulatory responses and corrective actions as the margin between capital on-hand and the ACL decreases, or falls below the ACL

- A "**company action level event**" occurs when the insurer's risk-based capital report indicates that the insurer's total adjusted capital falls between (greater than or equal to) 1.5 times ACL -- the threshold for a regulatory action level risk-based capital -- and 2 times ACL (but less than) --the threshold for a company action level risk-based capital. For life and health insurers, a company action level event also occurs when their total adjusted capital is greater than or equal to 2.0 times ACL (company action risk-based capital level), but less than 2.5 times its ACL, if the insurer shows a negative trend, which is a trend test calculation included in the instructions

In response to a *company action level event*, the bill would require the first and least intrusive form of regulatory intervention. The insurer would have to submit a risk-based capital plan to the DOI. The plan would: (i) identify the conditions that contributed to the company action level event; (ii) propose corrective action, (iii) provide a 5-year projection of the insurer's finances; (iv) identify the assumptions supporting the projections; and (v) identify the quality of, and the problems associated with, the insurer's business. If the DOI was not satisfied, it could require revisions to the plan. A determination that the plan was unsatisfactory might constitute a regulatory action level event (see below). The plan would also be submitted to the insurance regulators in other states where the insurer is authorized to do business.

- A "**regulatory action level event**" occurs when the risk-based capital report indicates that the total adjusted capital falls between (is greater than or equal to) the insurer's ACL and (less than) 1.5 times ACL -- the regulatory action level risk-based capital. In addition, the following are also regulatory action level events. (i) failure to timely file a risk-based capital report, (ii) failure to submit a risk-based capital plan; (iii) DOI notice to the insurer that the risk-based capital plan is not satisfactory; and (iv) failure to adhere to an approved risk-based capital plan.

In response to a *regulatory action level event*, the DOI would: (i) require the insurer to submit a new or revised risk-based capital plan; (ii) conduct a financial examination of the insurer; and (iii) order the insurer to take specified corrective actions.

- An "**authorized control level event**" occurs when the risk-based capital report indicates that the insurer's total adjusted capital is greater than or equal to 0.7 times ACL (mandatory control level risk based capital), but less than its ACL. The failure to comply with ordered corrective action is also an authorized control level event.

In response to an *authorized control level event*, the department would have to either take the actions authorized with respect to a regulatory action level event, or assert its jurisdiction under Chapter 631, F S (i.e., rehabilitation and liquidation), by placing the insurer under regulatory control

- A "**mandatory control level event**" occurs when the risk-based capital report indicates that the insurer's total adjusted capital is less than 0.7 times ACL -- the threshold for mandatory control level risk based capital. In response to a *mandatory control level event*, the DOI would be required to assert its jurisdiction under Chapter 631, however, the DOI may allow a property and casualty insurer to continue a run-off of existing business. The DOI could forgo action for 90 days if it finds that the situation may be corrected within that period

The bill would authorize hearings and proceedings to resolve disputes relating to the contents of the risk-based capital reports, and would grant rulemaking authority necessary for the DOI to administer the act. The risk-based capital requirements are declared to be supplemental to existing law. The department and its employees and agents are given civil immunity with respect to actions taken under this law.

Risk-based capital requirements would first apply with respect to the 1997 annual statement filed by insurers. In the first reporting year, the bill would prohibit DOI from taking any action in response to a company action level event. After specified regulatory action level events in the first reporting year, the bill would require the DOI to respond by taking the actions associated with a company action level event.

Section 2. Creates an unnumbered section adopting the substance of the NAIC model Material Transactions Act. Insurers are required to disclose the acquisition or disposition of assets, including a series of related acquisitions or dispositions occurring within a 30-day period. The bill defines "material acquisition of assets" or "material disposition of assets" as nonrecurring transactions, not in the ordinary course of business, involving more than 5 percent of the insurer's admitted assets.

A "material nonrenewal, cancellation, or revision of a ceded reinsurance agreement," in the case of property and casualty insurers, would be one that involves more than 50 percent of the insurer's total ceded written premium or more than 50 percent of the insurer's total ceded indemnity and loss adjustment reserves. In the case of life and health insurers, it would be one that involves more than 50 percent of the total reserve credit taken for business ceded. For all insurers, the replacement of an authorized reinsurer representing more than 10 percent of a total cession with one or more unauthorized reinsurers, or the reduction or waiver of previously established collateral requirements with respect to one or more unauthorized reinsurers representing more than 10 percent of a total cession would constitute a material nonrenewal, cancellation or revision.

Domestic insurers would be required to file a report of material transactions within 15 days after the end of the month in which the transaction occurred, describing the date of the transaction, the manner of acquisition or disposition, the description of the assets involved, the nature and amount of consideration given or received, the purpose of or reason for the transaction, the manner by which the amount of consideration was determined, the gain or loss recognized or realized as a result of the transaction, and the name of the person from whom the assets were acquired or to whom they were disposed. The reporting requirement would not apply if the transaction had been submitted to the department for prior review and approval, or for informational purposes.

The formal report for disclosure of a material nonrenewal, cancellation, or revision of a ceded reinsurance agreement would be required to include the effective date of the transaction, the description of the transaction with an identification of the initiator of the transaction, the purpose of or reason for the transaction, and the identity of replacement reinsurers

Section 3. Amends subsection (1) of s. 624.3161, F S , relating to market conduct examinations. The bill would remove a requirement that market conduct examinations of an insurer or rating organization be conducted once every 5 years, but retain the general authority of the DOI to perform a market conduct examination whenever it deems necessary. The bill also expands the scope of the DOI's market conduct examination authority to all insurers governed by Chapter 627 According to the DOI, this change brings the statute in line with current practice

Section 4. Amends paragraph (d) in subsection (8) of s. 624 424, F.S., relating to annual statements of insurers to increase to 7 years the time period during which an insurer may use the same accountant or partner in an accounting firm to prepare the insurer's audited financial statements.

Section 5. Amends subsection (5) of s. 625 121, F S., relating to valuation of life insurance policies, to authorize the DOI to approve life insurance products where the insurer has chosen, at its option, to use distinct smoker and nonsmoker actuarial tables, in lieu of a combined table. The DOI is also authorized to approve annuity products where the insurer has chosen to use specified annuity actuarial tables, pending adoption of rules by DOI on or after January 1, 1998.

Section 6. Amends subsection (9) of s 627 476, F.S , relating to valuation of life insurance policies in the determination of the nonforfeiture benefit. The bill would authorize the DOI to accept and value insurance products where the insurer has chosen,

at its option, to use smoker and nonsmoker actuarial tables, in lieu of a combined table. The DOI is also authorized to approve life insurance products where the insurer has chosen to use gender blended tables, as opposed to tables distinguished on gender.

Section 7. Amends s. 627 4555, F.S., to revise the secondary notice requirements for individual life policies. The bill would amend the application of these requirements to include policies issued directly or issued for delivery in this state, which would cover persons 64 or older. Presently, the section applies to policies which cover or are owned by persons 64 and older. Existing law requires that the policies be in force at least 1 year. The bill provides that the policy would not "lapse" (amended terminology from prior use of "cancel") without the proper notification of the end of coverage for nonpayment of premiums.

The bill would require insurers to include in any policy which allows more than 51 days to pay past due premiums, a notice requirement announcing the possible lapse, mailed to the policyowner and to the secondary addressee at least 21 days prior to the expiration of the grace period defined in the policy.

The bill would require insurers who issue qualifying individual life policies on or after October 1, 1997, to notify applicants of the right to designate a secondary addressee at the time of application. For policies issued directly in Florida, issued in another state for delivery in Florida or renewed in Florida, on or after October 1, 1997, the insurer would be required to allow the policy owner to designate a secondary addressee at any time that the policy is in force, by written notice submitted to the insurer. Specifically exempted from this section are those policies under which premiums are payable monthly or more frequently and collected by a licensed agent, or for which premiums are paid by credit card, by preauthorized check processing or by automatic debit with a financial institution.

Section 8. Amends s. 627 5045, F.S., to revise the notice requirements for late payment of premiums for industrial life policies in a manner similar to that specified for individual policies in section 7 above. For industrial life policies, the requirements apply to policies issued or issued for delivery in this state, under which premiums are paid monthly, and which cover or are owned by persons age 64 or older.

The bill would require insurers who sell industrial life policies on or after October 1, 1997, to notify every applicant of the right to designate a secondary addressee, at the time of application. The bill further would provide that in each industrial life policy issued directly or issued for delivery in Florida, on or after October 1, 1997, the insurer would be required to allow the policy owner to designate a secondary addressee at any time that the policy is in force, by written notice submitted to the insurer. The bill specifically exempts from this section those policies under which premiums are payable monthly or more frequently and collected by a licensed agent.

Section 9. Amends s. 628 801, F.S., to revise a reference to NAIC model regulations relating to insurance holding companies. The bill would require that the DOI rules adopted to establish the information and form used for registration of insurance holding companies specifically include requirements and standards contained in the versions of the NAIC Insurance Holding Company System Regulatory Act and the Insurance Holding Company System Model Regulations, that were current on January 1, 1997.

Section 10. Provides that the bill takes effect upon becoming a law unless provided otherwise herein.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS.

1. Non-recurring Effects:

The DOI would be authorized to adopt rules implementing the risk-based capital requirements. This would have an undetermined impact on the DOI of a minimal amount

2. Recurring Effects:

The recurring effects of the bill are associated with DOI oversight of the risk-based capital and material assets sections of the bill. The costs are independent of one another and should be minimal. The DOI will continue to perform market conduct examinations to address major compliance issues. Thus, the removal of the requirement that market conduct examinations be done once every five years will not have a significant recurring effect on the DOI.

3. Long Run Effects Other Than Normal Growth:

The DOI should be able to more actively scrutinize the market practices of insurers because of the broader authority and discretion to conduct examinations provided in the bill.

4. Total Revenues and Expenditures.

See A.1 and A.2 above.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1 Direct Private Sector Costs:

The requirements of sections 1 and 2 will impose additional administrative costs on domestic insurers, which costs may be passed on to policyholders as part of the premium. Sections 7 and 8 will impose costs on insurers to revise forms for individual and industrial life insurance policies, or to develop and seek approval for amendments to forms in order to conform with the provisions of this bill. These costs are unknown.

2. Direct Private Sector Benefits:

Sections 1 and 2 will benefit policyholders of insurance companies, and the industry as a whole, by detecting and addressing the concerns of unstable insurance companies. Section 3 removes a requirement that the department perform a market conduct examination on each insurer at least once every 5 years. Since the costs of an examination are borne by the insurer, these provisions may reduce insurers' regulatory costs. These provisions should also allow the DOI to more effectively use its examination resources.

Sections 7 and 8 will benefit policy owners in the state who may avoid lapse of life insurance coverage due to a short-term failure to pay premiums.

3 Effects on Competition, Private Enterprise and Employment Markets.

None.

D. FISCAL COMMENTS.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION

A APPLICABILITY OF THE MANDATES PROVISION.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES

V. COMMENTS.

The provision of the bill which incorporates by reference future amendments to the NAIC risk-based capital instructions may be an unconstitutional delegation of legislative authority. The Legislature is not prohibited from incorporating documents, actions, or decisions of other entities into the statutes; however, the Legislature is prohibited from incorporating documents that do not yet exist, such as future amendments to an existing document.

A related bill, HB 1941, provides public records exemptions for certain risk based capital-related information.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

At its meeting on April 16, 1997, the Committee on Financial Services adopted two amendments which accomplish the following:

Amendment #1 removes the condition that the DOI approve the agreement between an insurer and an independent examiner to perform the market conduct examination.

Amendment #2 is a technical amendment. It revises section description to specify that subsections (1) and (3) of s. 624.3161 are amended.

VII SIGNATURES.

COMMITTEE ON FINANCIAL SERVICES:
Prepared by:

Legislative Research Director:

E. LEON JACOBS, JR

STEPHEN HOGGE

STORAGE NAME s0840za fs
DATE August 6, 1997

****AS PASSED BY THE LEGISLATURE****
CHAPTER # 97-292, Laws of Florida

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
FINANCIAL SERVICES
FINAL BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL # SB 840, 1ST ENGROSSED

RELATING TO Insurance

SPONSOR(S) Sen Holzendorf

STATUTE(S) AFFECTED ss 624 3161, 624 424, 626 321, 624 5094, 625 121, 627 215, 627 476, 627 4555, 627 5045, and 628 801, F S

COMPANION BILL(S). HB 1089 (c), HB 1943, 2ND ENG (c). HB 251 (c)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) BANKING & INSURANCE YEAS 7 NAYS 0
- (2)
- (3)
- (4)
- (5)

I SUMMARY

The bill includes the Risk-Based Capital for Insurers Act and the Material Transactions Act--two solvency-related model acts necessary for the Department of Insurance's (DOI) to maintain accreditation with the National Association of Insurance Commissioners (NAIC)

Additionally, the bill

- requires the use of a profit and contingencies factor of not less than zero in calculating the anticipated underwriting profit for purposes of determining the existence of excess profits,
- revises the timing of and procedural requirements for market conduct examinations conducted to determine insurer compliance with the state insurance code,
- extends from 5 to 7 the number of consecutive years that an insurer may use the same accountant to prepare the financial audit required by the insurance code,
- requires the Division of Workers' Compensation, in calculating the annual assessments for insurers under the Special Disability Trust Fund and the Worker's Compensation (Administrative) Trust Fund, to deduct amounts paid or credited as dividends or premium refunds by insurers,
- permits certain entities to sell credit property insurance,
- authorizes the DOI to review and approve certain insurance filings which incorporate updated, industry-recognized actuarial tables, and,
- revises certain procedures pertaining to notice of impending lapse in life insurance coverage for nonpayment of premium

II SUBSTANTIVE RESEARCH

A PRESENT SITUATION.

Excess Profits

The excess profits law, s. 627.215, F.S., was enacted in 1979, when general reforms to the worker's compensation statutes were adopted. The Legislature enacted s. 627.215, in an effort to return to policyholders any windfall profits insurers might realize as a result of those reforms. Anticipated underwriting profits, which are derived by multiplying a profit and contingencies factor by earned premiums, are compared against actual profits or losses from operations, to determine if excess profits were earned. If so, the law requires the insurer to refund or credit those earnings that exceed the excess profits threshold.

The Department of Insurance has discretion to modify the profit and contingencies factor, in the insurer's rate review, to a fractional or to negative value, and can thus influence whether or not the insurer will show excess profits.

Commercial casualty insurance is presently exempted from the excess profits law. In industry practice, umbrella policies (providing blanket liability insurance for all business purposes to one policyowner) are considered a subset of commercial casualty. There is no explicit reference to commercial umbrella liability in s. 627.215(14), as a separate, and distinct form of commercial casualty insurance.

Accreditation

The National Association of Insurance Commissioners (NAIC) administers an accreditation program for state insurance departments. The NAIC program requires states to adopt a specific set of laws, regulatory practices, and organizational standards designed primarily to strengthen insurer solvency.

Insurers licensed and domiciled in a NAIC-accredited state may submit the reports and other filings required of the state of domicile and any other accredited states to meet the regulatory requirements of each state. For instance, Florida accepts similar reports of insurers domiciled outside of the state, if originally filed in another accredited state. Additionally, regulatory exemptions granted to insurers domiciled in accredited states may be reciprocal, for example, Florida's insurance holding company law applies to Florida domestics and to insurers domiciled in non-accredited states.

According to the DOI, the accreditation process gives regulators a level of assurance that insurers domiciled in other accredited states are solvent, because the process acts as a type of national review of these interstate companies. Each accredited state relies on sister states to regulate the solvency of insurers domiciled in their respective state, consistent with national standards. In the last several years, accreditation has been viewed as an alternative to a program of federal regulation of insurer solvency.

The NAIC accreditation standards require states to adopt two solvency-related model acts in order to maintain accreditation -- the Risk-based Capital for Insurers Act was proposed for adoption by the end of 1996, and the Material Transactions Act by the end of 1995. According to a letter from the accreditation manager of the NAIC, "failure to adopt these two acts or provide substantially similar protection through some alternative means by the due date could result in suspension of [Florida's] accreditation." The

NAIC reports that 32 states have adopted the Risk-Based Capital Act in some form and 28 states have adopted the Disclosure of Material Transactions Act in some form. Because of extensions granted to the DOI by the NAIC, Florida remains accredited despite the fact that the deadlines for adoption of these standards have not been met. According to the Department of Insurance (DOI), the oversight tools provided by these model acts would greatly enhance regulation, even if accreditation were not conditioned upon their enactment.

--Risk-based Capital

Risk-Based Capital (RBC) is a method of financial review of insurance companies which measures the minimum amount of capital necessary to support their overall business operations, given the size and risk profile of the respective companies. The capital requirements generally are assessed against four types of risk: (1) asset risk, (2) credit risk, (3) underwriting risk, and (4) off-balance sheet risk.

--Disclosure of Material Transactions

Material transactions disclosure is a tracking process which requires insurers to disclose major transactions involving the acquisition or disposition of corporate assets. One recent insolvency is cited by the DOI to illustrate the need for this type of oversight. The DOI recently reached a settlement with Guaranty Security Life Insurance Company in which the company paid a fine of \$20 million. A principal allegation against the company was that, prior to submitting one of its annual reports to DOI, the company completed accounting transactions which misrepresented ownership of certain assets, and distorted the company's financial condition. After the report was filed, the transactions were reversed. The disclosure required under the model act would have aided the DOI in assessing the company's true condition, and allowed an earlier response.

Market Conduct Examinations and Financial Reports

The DOI is required to conduct compliance examinations of insurers who operate in Florida and transact business under Part I of Chapter 627, F.S. Currently, the market conduct examination requirement applies only to insurers governed by Part I of Chapter 627, which covers property, casualty, and surety insurance and specifically does not cover health insurance. However, the department has stated that it relies on the general examination authority of s. 624.316 to perform market conduct examinations of health insurers. Insurers may select private examiners to conduct the market conduct examination in lieu of the DOI. In that case, the DOI must agree on the selection of the independent examiner. The terms and standards of the examination must be agreed to by the DOI, the insurer/examinee, and the examiner.

Insurers must file annual financial reports with the DOI, and must sanction an annual financial audit to be conducted by an independent certified public accountant. Section 624.424(8)(d), F.S., restricts use of the same accountant or partner in the same accounting firm for more than 5 years in succession to conduct the financial audit, unless there is a two-year break in the use of the accountant or accounting firm. This requirement was adopted in 1991 for the purpose of limiting any undue influence an insurer might have over the independent audit. The NAIC Model Rule Requiring Annual Audited Financial Reports contains a similar provision, but the NAIC model allows an insurer to use the same accountant for 7 consecutive years.

Life Insurance Valuation

Section 627.476, F.S., is the Standard Nonforfeiture Law for Life Insurance. Pursuant to this statute, a default of premium payments under life insurance policies sold in Florida cannot result in forfeiture of policy benefits, if the policy has been in force for at least one year. Instead, a paid-up benefit must be paid to the policyholder in default, calculated as provided in this section. Section 625.121, F.S., requires the DOI to annually value the reserve liabilities for all outstanding life insurance policies, annuities and endowment contracts covered by insurers doing business in Florida. The calculation of the nonforfeiture benefit, and of the reserve requirements is based on a valuing of a company's book of business using a series of industry actuarial tables which relate to risk factors that apply to the insured. These tables are generally established through industry practice and adopted by reference in the DOI's regulation.

The U.S. Supreme Court in Arizona Governing Committee v. Norris, 103 S.Ct. 3492 (1983), prohibited insurance practices that unreasonably discriminate on the basis of gender. The DOI has adhered to actuarial tables which blend the risk projections for male and female to comply with this Supreme Court decision. The DOI also allows use of actuarial tables that distinguish risk between smokers and nonsmokers. The department's authority to approve products using these tables is uncertain.

Life Insurance Lapse Notice

Chapter 95-142, Laws of Florida, created sections 627.4555, 627.4556 and 627.5045, F.S., relating to secondary notices for late payment of premiums in life policies. Pursuant to section 627.4555, F.S., insurers must include in individual life insurance contracts that cover or are owned by natural persons 64 years of age or older, and have been in force for at least one year, a requirement for 21 days advance notice prior to canceling a policy for late payment of premiums. This is in addition to the 30-day grace period current law provides for late payments. Section 627.5045, F.S., imposes similar requirements on industrial life insurance contracts which bill for premiums monthly, that cover or are owned by natural persons 64 years of age or older, and have been in force for at least one year.

Insurers are required to mail notice of this additional time for payment to the policy owner after the expiration of the grace period and a minimum of 21 days before the lapse becomes effective. Present law establishes a right on behalf of a policy owner who qualifies for the notice, to designate a secondary recipient of the lapse notice. Insurers offering individual and industrial life insurance contracts must provide notice to applicants of the right to designate a secondary addressee in policies issued on or after October 1, 1995, and to annually notify policy owners of this right for policies issued or renewed on or after October 1, 1995.

Holding Company Reporting

Section 628.801, F.S., requires insurance holding companies all insurers operating in Florida who are members of an insurance holding company to file a registration with the DOI. The DOI is required to adopt rules establishing the form and substance of the registration, with minimum requirements as specified in the statute. Currently, the registration minimum requirements must include sections of NAIC-approved Insurance Holding Company System Act and the Insurance Holding Company System Model Regulations, as they existed on January 1, 1993.

B EFFECT OF PROPOSED CHANGES

Excess Profits

Insurers who are subject to the excess profits law are less likely to be responsible for refunds inasmuch as the DOI will no longer have the discretion to set a value for the profits and contingencies factor that is below zero, for purposes of determining the existence of excess profits. Companies that sell commercial umbrella liability policies will be expressly excluded from the application of the excess profits law.

Risk Based Capital

Insurers will be subject to reporting and disclosure requirements for risk-based capital under the Risk-Based Capital for Insurers Act. Domestic insurers will be required annually to calculate certain risk-based capital levels based on a formula adopted by NAIC. The insurer will be required to monitor internally the trigger levels and respond as required. A comparison of the insurer's actual capital level and its risk-based capital levels may trigger any of several levels of regulatory action by the DOI, or DOI supervision of corrective actions by the insurer.

Disclosure of Material Transactions

Insurers will be subject to reporting and disclosure requirements consistent with the NAIC model Material Transactions Act. This bill adopts a definition of "material" which includes acquisitions and disposition of assets not within the ordinary course of the insurer's business and which involve more than 5 percent of the insurer's admitted assets. Disclosure is also required of certain reinsurance transactions. Insurers will be required to file reports of qualifying transactions with the DOI.

Licensing, Market Conduct Examinations and Financial Reports

Companies not formerly required to submit to market conduct examinations will be examined under the bill, which extends the scope of the department's authority to all insurers governed by Chapter 627. The examinations can be conducted less often than once every 5 years, and the insurer will not need to consult with the DOI in the selection of a private examiner to conduct the examination. The DOI will continue to oversee the terms and conditions of the agreement with the examiner, however, the insurer will no longer be involved in this oversight under the bill.

An insurer will be able to use one accountant to prepare its financial audit for a longer period of time in succession (7 years instead of 5 years). This will bring Florida law into conformity with audit requirements in the NAIC's Model Rule on this issue.

Businesses that presently hold limited licenses to sell various insurance products, with the exception of lending or financial institutions, will now be authorized to obtain a limited license to sell credit property insurance.

Life Insurance Valuation

Insurers that elect to offer life insurance and annuity products using industry accepted gender "blended" actuarial tables, or distinct actuarial tables for smokers and nonsmokers to estimate value and risk, can seek approval for such products in Florida, and the DOI is authorized to accept and approve these insurance filings, where appropriate.

Assessments

Certain insurers will pay reduced assessments to the Special Disability Trust Fund and the Worker's Compensation (Administrative) Trust Fund as a result of offsets from their net or direct premiums, as authorized in the bill, in the amounts of dividends or premium refunds disbursed to consumers

Life Insurance Lapse Notice

Insurers will be required to offer the option for the secondary cancellation notice only in policies issued on or after October 1, 1997, and only for policies covering persons age 64 and older, rather than in all policies that are owned by persons age 64 or older. A technical revision replaces "cancel" with "lapse" in the notice provisions to denote the end of coverage for nonpayment of premiums. Policyholders and secondary addressees in individual life policies that allow more than 51 days for payment of past due premiums, must receive notice from the insurer of a pending lapse at least 21 days prior to the expiration of the grace period defined in the policy.

Consumers who apply for, or are covered under individual or industrial life policies that qualify under this section, provided the policies are issued or renewed on or after October 1, 1997, must be notified by the insurer of the option to designate a secondary addressee at the time of application, and also allowed the option at any time while the policy is in force to designate a secondary addressee by filing a written notice with the insurer. Existing law requires the insurer to give this notice and option annually. None of the provisions above apply to policies under which premiums are payable monthly or more frequently, collected by a licensed agent, or paid by credit card.

Insurance Holding Company Reporting

The DOI regulation of insurance holding companies in Florida will be upgraded to be in accordance with the applicable sections of the NAIC model statutes and regulations for insurance holding company systems that were in existence and current on January 1, 1997.

C APPLICATION OF PRINCIPLES.

1 Less Government.

a Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

Yes. The DOI is granted authority in the bill to adopt rules implementing the risk-based capital requirements.

- (2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Yes Although existing law allows private examiners to conduct market conduct examinations of insurers, the bill would allow a more direct contracting arrangement between the insurer and the examiner

- (3) any entitlement to a government service or benefit?

No

- b If an agency or program is eliminated or reduced

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

Not applicable

- (2) what is the cost of such responsibility at the new level/agency?

Not applicable

- (3) how is the new agency accountable to the people governed?

Not applicable

2 Lower Taxes

- a Does the bill increase anyone's taxes?

No

- b. Does the bill require or authorize an increase in any fees?

No

- c. Does the bill reduce total taxes, both rates and revenues?

No

- d Does the bill reduce total fees, both rates and revenues?

No

e Does the bill authorize any fee or tax increase by any local government?

No.

3 Personal Responsibility.

a Does the bill reduce or eliminate an entitlement to government services or subsidy?

No

b Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No

4 Individual Freedom

a Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Yes The bill lessens the prospect that the application of the excess profits law will result in refunds by insurers of excess profits

b Does the bill prohibit, or create new government interference with, any presently lawful activity?

Yes The bill reduces the frequency of insurer market conduct examinations

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

Not applicable

(2) Who makes the decisions?

Not applicable

(3) Are private alternatives permitted?

Not applicable

(4) Are families required to participate in a program?

Not applicable

(5) Are families penalized for not participating in a program?

Not applicable

b Does the bill directly affect the legal rights and obligations between family members?

No

c If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority

(1) parents and guardians?

Not applicable.

(2) service providers?

Not applicable

(3) government employees/agencies?

Not applicable

D SECTION-BY-SECTION RESEARCH

Section 1. Amends subsection (8) of s 627 215, F S , to preclude the use of a profit and contingencies factor that is less than zero for purposes of calculating the existence of excess profits

Section 2. Amends subsection (14) of s 627 215, F S , to expressly exclude commercial umbrella liability policies from the application of the excess profits law

Section 3. Creates an unnumbered section adopting the substance of the NAIC Risk-Based Capital Act. The bill requires each domestic insurer to calculate, according to the model NAIC instructions, its "authorized control level risk-based capital" (ACL). This is an approximate minimum operating capital requirement used to assess solvency. Property and casualty insurers with direct written premium of \$2 million or less a year are exempt from risk-based capital examination if they write direct business only in Florida and if they do not assume reinsurance in excess of 5 percent of premium. The department is allowed to examine foreign insurers under risk-based capital requirements and may take the corrective actions authorized with respect to domestic insurers, if the insurance regulator in the foreign insurer's state of domicile has not taken such actions.

The actual dollar amount of the ACL is derived from formulas in instructions established by the NAIC. The bill provides legislative findings that the degree to which insurers maintain operating capital over the ACL and the various risk-based capital thresholds is indicative of the health of their insurance businesses. Therefore, the ACL is imputed into each of the risk-based capital tests as a base requirement. Various regulatory actions are prompted as the insurer's capital on-hand drops to the level of the ACL, or falls below the ACL. The calculation of the ACL must incorporate both the instructions in effect on the effective date of the act, and any amendments that may be prospectively adopted by the NAIC (see "Comments," below). Complex worksheets and schedules (more than 50 pages for property and casualty insurers) must accompany the insurer's reported ACL.

The NAIC instructions for calculating the ACL of *life and health insurers* must take into account the insurer's risk with respect to assets, the risk of adverse insurance experience relating to the insurer's liabilities and obligations, the interest rate risk with respect to the insurer's business, and all other business risks and such other relevant risks as are set forth in the instructions. Similarly, the NAIC instructions for calculation of ACL for *property and casualty insurers* takes into account the asset risk, the credit risk, the underwriting risk, and all other business risks and such other relevant risks as are set forth in the instructions.

Each domestic insurer would be required to file a risk-based capital report with the DOI, the NAIC, and the insurance regulators of other states where the insurer is authorized to do business on March 1 of each year. Insurers would be prohibited from advertising the results of these calculations, and the DOI would be prohibited from using the information in ratemaking. The DOI would use the reports "solely for monitoring the solvency of insurers and assessing the need for corrective action."

The bill provides for a comparison of an insurer's ACL to its capital on-hand (referred to as "total adjusted capital") which includes statutory capital and surplus, plus other items specified in the instructions. The results of the comparison, combined with information and events relating to the insurer's risk-based capital report, may prompt one of four levels of regulatory involvement (referred to as an "event") and trigger a series of regulatory responses and corrective actions as the margin between capital on-hand and the ACL decreases, or falls below the ACL.

- A "**company action level event**" occurs when the insurer's risk-based capital report indicates that the insurer's total adjusted capital falls between (greater than or equal to) 1.5 times ACL -- the threshold for a regulatory action level risk-based capital -- and (less than) 2 times ACL -- the threshold for a company action level

risk-based capital For life and health insurers, a company action level event also occurs when their total adjusted capital is greater than or equal to 2.0 times ACL (company action risk-based capital level), but less than 2.5 times its ACL, if the insurer shows a negative trend, which is a trend test calculation included in the instructions

In response to a *company action level event*, the bill would require the first and least intrusive form of regulatory intervention. The insurer would have to submit a risk-based capital plan to the DOI. The plan would (i) identify the conditions that contributed to the company action level event, (ii) propose corrective action, (iii) provide a 5-year projection of the insurer's finances, (iv) identify the assumptions supporting the projections, and (v) identify the quality of, and the problems associated with, the insurer's business. If the DOI was not satisfied, it could require revisions to the plan. A determination that the plan was unsatisfactory might constitute a regulatory action level event (see below). The plan would also be submitted to the insurance regulators in other states where the insurer is authorized to do business.

- A "**regulatory action level event**" occurs when the risk-based capital report indicates that the total adjusted capital falls between (is greater than or equal to) the insurer's ACL and (less than) 1.5 times ACL -- the regulatory action level risk-based capital. In addition, the following are also regulatory action level events: (i) failure to timely file a risk-based capital report, (ii) failure to submit a risk-based capital plan, (iii) DOI notice to the insurer that the risk-based capital plan is not satisfactory, and (iv) failure to adhere to an approved risk-based capital plan.

In response to a *regulatory action level event*, the DOI would (i) require the insurer to submit a new or revised risk-based capital plan, (ii) conduct a financial examination of the insurer, and (iii) order the insurer to take specified corrective actions.

- An "**authorized control level event**" occurs when the risk-based capital report indicates that the insurer's total adjusted capital is greater than or equal to 0.7 times ACL (mandatory control level risk based capital), but less than its ACL. The failure to comply with ordered corrective action is also an authorized control level event.

In response to an *authorized control level event*, the department would have to either take the actions authorized with respect to a regulatory action level event, or assert its jurisdiction under Chapter 631, F.S. (i.e., rehabilitation and liquidation), by placing the insurer under regulatory control.

- A "**mandatory control level event**" occurs when the risk-based capital report indicates that the insurer's total adjusted capital is less than 0.7 times ACL -- the threshold for mandatory control level risk based capital. In response to a *mandatory control level event*, the DOI would be required to assert its jurisdiction under Chapter 631, however, the DOI may allow a property and casualty insurer to continue a run-off of existing business. The DOI could forgo action for 90 days if it finds that the situation may be corrected within that period.

The bill would authorize hearings and proceedings to resolve disputes relating to the contents of the risk-based capital reports, and would grant rulemaking authority.

necessary for the DOI to administer the act. The risk-based capital requirements are declared to be supplemental to existing law. The department and its employees and agents are given civil immunity with respect to actions taken under this law.

Risk-based capital requirements would first apply with respect to the 1997 annual statement filed by insurers. In the first reporting year, the bill would prohibit DOI from taking any action in response to a company action level event. After specified regulatory action level events in the first reporting year, the bill would require the DOI to respond by taking the actions associated with a company action level event.

Section 4. Creates an unnumbered section adopting the substance of the NAIC model Material Transactions Act. Insurers are required to disclose the acquisition or disposition of assets, including a series of related acquisitions or dispositions occurring within a 30-day period. The bill defines "material acquisition of assets" or "material disposition of assets" as nonrecurring transactions, not in the ordinary course of business, involving more than 5 percent of the insurer's admitted assets.

A "material nonrenewal, cancellation, or revision of a ceded reinsurance agreement," in the case of property and casualty insurers, would be one that involves more than 50 percent of the insurer's total ceded written premium or more than 50 percent of the insurer's total ceded indemnity and loss adjustment reserves. In the case of life and health insurers, it would be one that involves more than 50 percent of the total reserve credit taken for business ceded. For all insurers, the replacement of an authorized reinsurer representing more than 10 percent of a total cession with one or more unauthorized reinsurers, or the reduction or waiver of previously established collateral requirements with respect to one or more unauthorized reinsurers representing more than 10 percent of a total cession would constitute a material nonrenewal, cancellation or revision.

Domestic insurers would be required to file a report of material transactions within 15 days after the end of the month in which the transaction occurred, describing the date of the transaction, the manner of acquisition or disposition, the description of the assets involved, the nature and amount of consideration given or received, the purpose of or reason for the transaction, the manner by which the amount of consideration was determined, the gain or loss recognized or realized as a result of the transaction, and the name of the person from whom the assets were acquired or to whom they were disposed. The reporting requirement would not apply if the transaction had been submitted to the department for prior review and approval, or for informational purposes.

The formal report for disclosure of a material nonrenewal, cancellation, or revision of a ceded reinsurance agreement would be required to include the effective date of the transaction, the description of the transaction with an identification of the initiator of the transaction, the purpose of or reason for the transaction, and the identity of replacement reinsurers.

Section 5. Amends subsection (1) of s. 624.3161, F.S., relating to market conduct examinations. The bill would remove a requirement that market conduct examinations of an insurer or rating organization be conducted once every 5 years, but retain the general authority of the DOI to perform a market conduct examination whenever it deems necessary. The bill also expands the scope of the DOI's market conduct

examination authority to all insurers governed by Chapter 627. According to the DOI, this change brings the statute in line with current practice.

Section 6. Amends paragraph (d) in subsection (8) of s. 624.424, F.S., relating to annual statements of insurers to increase to 7 years the time period during which an insurer may use the same accountant or partner in an accounting firm to prepare the insurer's audited financial statements.

Section 7. Creates section 624.5094, F.S., relating to assessments against insurers based on casualty insurance premiums. The bill authorizes insurers, notwithstanding the provisions of any other statutes, to deduct dividends and premium refunds from their "net premiums," "net premiums written," "net premium collected," or "direct premiums," for the purpose of calculating annual assessments for the Special Disability Trust Fund and the Worker's Compensation (Administrative) Trust Fund. The bill authorizes the offsets only in the year that the dividends or premium refunds are disbursed.

Section 8. Amends subsection (5) of s. 625.121, F.S., relating to valuation of life insurance policies, to authorize the DOI to approve life insurance products where the insurer has chosen, at its option, to use distinct smoker and nonsmoker actuarial tables, in lieu of a combined table. The DOI is also authorized to approve annuity products where the insurer has chosen to use specified annuity actuarial tables, pending adoption of rules by DOI on or after January 1, 1998.

Section 9. Amends paragraph (e) of subsection (1) of s. 626.121, F.S., to authorize the DOI to issue a limited license for sale of credit property insurance to qualified applicants other than lending or financial institutions, who presently hold a limited license to sell credit life and disability insurance.

Section 10. Amends subsection (9) of s. 627.476, F.S., relating to valuation of life insurance policies in the determination of the nonforfeiture benefit. The bill would authorize the DOI to accept and value insurance products where the insurer has chosen, at its option, to use smoker and nonsmoker actuarial tables, in lieu of a combined table. The DOI is also authorized to approve life insurance products where the insurer has chosen to use gender blended tables, as opposed to tables distinguished on gender.

Section 11. Amends s. 627.4555, F.S., to revise the secondary notice requirements for individual life policies. The bill would amend the application of these requirements to include policies issued directly or issued for delivery in this state, which would cover persons 64 or older. Presently, the section applies to policies which cover or are owned by persons 64 and older. Existing law requires that the policies be in force at least 1 year. The bill provides that the policy would not "lapse" (amended terminology from prior use of "cancel") without the proper notification of the end of coverage for nonpayment of premiums.

The bill would require insurers to include in any policy which allows more than 51 days to pay past due premiums, a notice requirement announcing the possible lapse, mailed to the policyowner and to the secondary addressee at least 21 days prior to the expiration of the grace period defined in the policy.

The bill would require insurers who issue qualifying individual life policies on or after October 1, 1997, to notify applicants of the right to designate a secondary addressee at

the time of application. For policies issued directly in Florida, issued in another state for delivery in Florida or renewed in Florida, on or after October 1, 1997, the insurer would be required to allow the policy owner to designate a secondary addressee at any time that the policy is in force, by written notice submitted to the insurer. Specifically exempted from this section are those policies under which premiums are payable monthly or more frequently and collected by a licensed agent, or for which premiums are paid by credit card, by preauthorized check processing or by automatic debit with a financial institution.

Section 12. Amends s. 627.5045, F.S., to revise the notice requirements for late payment of premiums for industrial life policies in a manner similar to that specified for individual policies in section 7 above. For industrial life policies, the requirements apply to policies issued or issued for delivery in this state, under which premiums are paid monthly, and which cover or are owned by persons age 64 or older.

The bill would require insurers who sell industrial life policies on or after October 1, 1997, to notify every applicant of the right to designate a secondary addressee, at the time of application. The bill further would provide that in each industrial life policy issued directly or issued for delivery in Florida, on or after October 1, 1997, the insurer would be required to allow the policy owner to designate a secondary addressee at any time that the policy is in force, by written notice submitted to the insurer. The bill specifically exempts from this section those policies under which premiums are payable monthly or more frequently and collected by a licensed agent.

Section 13. Amends s. 628.801, F.S., effective October 1, 1997, to revise a reference to NAIC model regulations relating to insurance holding companies. The bill would require that the DOI rules adopted to establish the information and form used for registration of insurance holding companies specifically include requirements and standards contained in the versions of the NAIC Insurance Holding Company System Regulatory Act and the Insurance Holding Company System Model Regulations, that were current on January 1, 1997.

Section 14. Provides that the bill takes effect on July 1, 1997, unless otherwise provided in the bill.

III FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1 Non-recurring Effects:

The DOI would be authorized to adopt rules implementing the risk-based capital requirements. This would have an undetermined impact on the DOI of a minimal amount.

2 Recurring Effects

The recurring effects of the bill are associated with DOI oversight of the risk-based capital and material assets sections of the bill. The costs are independent of one another and should be minimal. The DOI will continue to perform market conduct examinations to address major compliance issues. Thus, the removal of the requirement that market conduct examinations be done once every five years will not have a significant recurring effect on the DOI.

3 Long Run Effects Other Than Normal Growth:

The DOI should be able to more actively scrutinize the market practices of insurers because of the broader authority and discretion to conduct examinations provided in the bill.

4 Total Revenues and Expenditures

See A 1 and A 2 above

B FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE.

1 Non-recurring Effects

None

2 Recurring Effects:

None

3 Long Run Effects Other Than Normal Growth

None.

C DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR

1 Direct Private Sector Costs

Policyholders are not likely to lose refunds based on excess profits they might have otherwise received because no refunds or credits have been made in recent years. The requirements of the risk-based capital and material transactions model acts will impose additional administrative costs on domestic insurers, which costs may be passed on to policyholders as part of the premium.

The revised notice requirements for life policies will impose costs on insurers to revise forms for individual and industrial life insurance policies, or to develop and seek approval for amendments to forms in order to conform with the provisions of this bill. These costs are unknown.

The offsets allowed in calculating assessments in the Worker's Compensation (Administrative) Trust Fund will cause insurers who cannot take advantage of the

assessments to incur a higher assessment rate Assessment rates in the Special Disability Trust Fund are subject to a cap

2 Direct Private Sector Benefits

Insurers would gain only minimal benefits from the revisions to excess profits provisions because no refunds or credits have been made in recent years

The requirements of the risk-based capital and material transactions model acts will benefit policyholders of insurance companies, and the industry as a whole, by detecting and addressing the concerns of unstable insurance companies Reduced frequency of market conduct examinations removes will reduce to total costs to insurers who bear these costs, and may reduce insurers' regulatory costs. These provisions should also allow the DOI to more effectively use its examination resources for oversight of trends in the marketplace

The revised notice requirements for life policies will benefit policy owners in the state who may avoid lapse of life insurance coverage due to a short-term failure to pay premiums

The offsets allowed against assessments will result in reduced assessments primarily for insurers obligated to the Worker's Compensation (Administrative) Trust Fund. Insurers obligated to the Special Disability Trust Fund are presently subject to a cap on the assessment rate The reduced costs for assessments are of an undetermined amount

3 Effects on Competition, Private Enterprise and Employment Markets.

None

D FISCAL COMMENTS.

IV CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION

B REDUCTION OF REVENUE RAISING AUTHORITY

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES

V COMMENTS

The provision of the bill which incorporates by reference future amendments to the NAIC risk-based capital instructions may be an unconstitutional delegation of legislative authority. The Legislature is not prohibited from incorporating documents, actions, or decisions of other entities into the statutes, however, the Legislature is prohibited from incorporating documents that do not yet exist, such as future amendments to an existing document.

VI AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES

SB 840 (1ST ENG) is substantially the same as HB 1943 (1ST ENG) and HB 1089, as amended in the House Financial Services Committee, except that the repeal of the excess profits law is excluded.

VII SIGNATURES

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