

**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 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.

- (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