

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 7, 1998 Revised: _____

Subject: Insurance

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

I. Summary:

Committee Substitute for Senate Bill 994 amends various provisions of the Insurance Code. The changes to current law are the following:

- ◆ Deletes the requirement that the Department of Insurance promulgate rules to establish criteria for determining if an insurer has demonstrated sufficient compliance with the various provisions of the Insurance Code.
- ◆ Allows motor vehicle policyholders credit for prepaid premiums that they may otherwise lose under certain circumstances.
- ◆ Removes the countersignature requirement by the agent of record when an insurance policy is transferred from one company in an insurance company group to another company in the same group.
- ◆ Provides that the Department of Insurance may, rather than shall, annually conduct a sampling of claims or actions for damages as to personal injury or property damage reports which are maintained by liability insurers.
- ◆ Provides that the Department of Insurance may, rather than shall, annually require that an insurer report certain information relating to product liability insurance.

The bill substantially amends the following sections of the Florida Statutes: 624.316, 627.7275, 627.426, 627.9126, and 627.913.

II. Present Situation:

The Department of Insurance may conduct a financial examination of a domestic insurer as often as may be warranted in the public interest, and must conduct an examination at least once every 3 years (s. 624.316(2)(a), F.S.). However, the department must conduct a financial examination at least once a year with respect to a domestic insurer that has continuously held a certificate of authority for less than 3 years, and must conduct a financial examination at least once every 5 years with respect to an insurer that has continuously held a certificate of authority for more than 15 years and has demonstrated “sufficient compliance” as determined under s. 624.316(2)(f)3., F.S. The department is authorized to limit the scope of these annual and 5-year examinations if the insurer has “demonstrated sufficient compliance” under the provision that requires the department to adopt rules, procedures and criteria for determining whether an insurer has demonstrated sufficient compliance with the Insurance Code and cooperation with the department. According to representatives with the department, they have held several workshops with insurers and have tried unsuccessfully to promulgate rules since this provision was enacted in 1993 (ch. 93-410, Laws of Florida). The difficulty in achieving consensus is due to defining the various “ambiguous” criteria under s. 624.316(2)(f)3, F.S., which constitute an insurer’s “sufficient compliance,” i.e., economic and community contributions and support, consumer service, timeliness, financial strength.

Under s. 627.7275, F.S, when a person obtains a private passenger motor vehicle policy in order to reinstate driving privileges that had been suspended or revoked for failure to maintain required insurance, the policy must be for a term of at least 6 months and may not be canceled by the insured for any reason. If, during the pendency of the 2-year proof of insurance requirements of s. 627.733(7), F.S., the insured obtains additional coverage or coverage for an additional risk, the insured must obtain a new 6-month noncancellable policy. However, if the insured should move, change vehicles or do anything which would cause the current policy to cancel, then the insured may lose that portion of the prepaid premium.

Pursuant to current law, when an insurance policy is being transferred from one company in an insurance group to another company in the same group, the agent must countersign the new policy, even if the agent is not changing companies. Representatives with agents associations and insurers believe that this is a needless delay in getting the new policy to the policyholder and an unnecessary expense.

Insurers transacting liability insurance are mandated to maintain certain information so that the department may review claims or actions for damages for personal injury or property damage claimed to have been caused by the negligence of the insured under s. 627.9126, F.S. Similarly, under s. 627.913, F.S., insurers authorized to write product liability insurance are required to report certain premium, loss, and claims data to the department.

III. Effect of Proposed Changes:

Section 1. Amends s. 624.316(2), F.S., to delete the provision of law that requires the Department of Insurance to adopt rules and regulations to determine whether each company is in “substantial compliance” with various provisions which, according to both industry and departmental representatives, are ambiguous and highly subjective requirements. As a result, any domestic insurer that has had a certificate of authority for at least 15 years would be subject to a mandatory financial examination at least once every 5 years.

Section 2. Amends s. 627.7275(2), F.S., to allow a motor vehicle policyholder credit for prepaid premiums that may be lost if the policyholder moves, changes vehicles, or does anything that would cause the current policy to be canceled and thus require the issuance of a new policy. This provision would allow the policyholder to transfer any unused funds from the one nonrefundable policy to another policy, assuming the policy is obtained from the same insurer.

Section 3. Amends s. 624.426, F.S., to delete the countersignature requirement by the agent of record when an insurance policy is transferred from one company in an insurance company group to another company in the same group.

Section 4. Amends s. 627.9126, F.S., to provide that the Department of Insurance may, rather than shall, annually conduct a sampling of claims or actions for damages as to personal injury or property damage reports which are maintained by insurers transacting liability insurance.

Section 5. Amends s. 627.913, F.S., to provide that the Department of Insurance may, rather than shall, annually require an insurer to report certain premium, loss and claims data relating to product liability insurance.

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:

Both consumers and insurers (agents) will benefit in time savings and costs by removing the requirement of having the agent countersign new policies. Consumers who purchase automobile insurance will benefit financially in the case where there is a need to terminate a “non-cancelable” policy and have a new policy reissued. They will receive credit from a previous policy for any prepaid premiums.

C. Government Sector Impact:

The Department of Insurance would realize certain cost savings and workload reductions because of the elimination of liability reporting requirements. Deletion of the rule requirements as to substantial compliance by an insurer will give the department more flexibility as to company examinations.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.