

STORAGE NAME: h2221z.in  
DATE: June 27, 2000

**\*\*PASSED AS CS/SB 2478\*\***  
Chapter #: 2000-370, Laws of Florida

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
INSURANCE  
FINAL ANALYSIS**

**BILL #:** HB 2221  
**RELATING TO:** State agencies authority (RAB)  
**SPONSOR(S):** Representative Gottlieb  
**TIED BILL(S):**

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

- (1) INSURANCE YEAS 9 NAYS 0
  - (2) BUSINESS REGULATION & CONSUMER AFFAIRS
  - (3) GOVERNMENTAL RULES & REGULATION
  - (4)
  - (5)
- 

I. SUMMARY:

The 1999 Legislature amended the Administrative Procedure Act to provide that an agency may adopt only rules implementing or interpreting "specific powers and duties" granted by statute. On October 1, 1999, each agency submitted to the Joint Administrative Procedures Committee a list of rules adopted before June 18, 1999, which exceed the new standard for rulemaking authority. The Department of Insurance submitted a report identifying 124 rules or portions of rules needing additional statutory authority. By law, the Legislature is required to consider whether specific legislation authorizing the identified rules, or portions of these rules, should be enacted.

HB 2221 codifies the substance of a number of Department of Insurance rules, and in other instances, grants specific statutory authority to adopt certain rules currently in force.

This bill is not expected to have a fiscal impact on state government.

Amendment:

On April 24, 2000, the Committee on Insurance adopted a remove-everything amendment, which is traveling with the bill. See Amendments section of the analysis.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |                              |                             |   |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

**Rulemaking Authority**

In 1996, the Legislature significantly revised the Administrative Procedure Act (APA) to require executive branch agencies to adhere to statutory authority when adopting rules. The 1996 amendments created a new section, s. 120.536(1), F.S., requiring existing and proposed rules to "implement or interpret the specific powers and duties granted by the enabling statute."

The Legislature recognized that imposing a new statutory standard to determine the validity of rules might suddenly invalidate many rules which had previously been adopted by the agencies under the previous standard. Rather than immediately invalidate these rules, the 1996 reform legislation required each agency to examine all of its rules that had been adopted prior to the effective date of the 1996 amendments, in light of the new standard, and report to the Joint Administrative Procedures Committee (JAPC) the list of rules which exceeded the new standard.

Rules identified by the agencies were temporarily shielded from legal challenges on the grounds that they exceeded rulemaking authority under the new standard. This shield left these rules in place during the 1998 legislative session, allowing the Legislature to determine which policies established by these rules should be codified. If legislation enacted during the 1998 session provided statutory support for the rule, it remained in effect. If no such legislation was enacted, agencies were directed to initiate repeal of these rules by January 1, 1999.

In 1999, the Legislature again amended the APA standard authorizing an agency to adopt only rules that implement or interpret "specific powers and duties" granted by statute. The Legislature again recognized that revising the standard might invalidate rules which had been adopted or reviewed under a different interpretation of the 1996 standard.

The 1999 Legislature<sup>1</sup> provided for another round of rule review and authorization. Agencies were directed to submit to the JAPC a list of rules adopted before June 18, 1999,

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<sup>1</sup>Chapter 99-370, Laws of Florida.

which exceeded the new standards for rulemaking authority. The Legislature is required to consider in the 2000 Regular Session whether specific legislation authorizing the identified rules, or portions of these rules, should be enacted. For any rule not authorized, the agency must initiate proceedings by January 1, 2001, to repeal the rule. The JAPC or any substantially affected person may petition for repeal of an identified rule after July 1, 2001.

### **Rules Identified by the Department of Insurance**

Under the new standards enacted by the Legislature in 1999, the Department of Insurance (DOI) identified 124 rules as lacking the requisite statutory authority. See the Section-by-Section Analysis for a discussion of these rules.

#### **C. EFFECT OF PROPOSED CHANGES:**

Specific statutory authority would be granted to the DOI for various rules or portions of rules identified by the DOI as lacking the requisite statutory authority. Other DOI rules lacking the requisite statutory authority would be codified in statute.

For a detailed discussion of the DOI rules which have been provided specific statutory authority or which have been codified in statute, see the Section-by-Section Analysis.

#### **D. SECTION-BY-SECTION ANALYSIS:**

##### **Section 1:** Amends s. 386.205, F.S.

Present Situation - The DOI has rules prohibiting smoking tobacco in any DOI buildings (Rules 4E-3.001, 4E-3.002, 4E-3.003, 4E-3.004, 4E-3.005, 4E-3.006, 4E-3.007, and 4E-3.008, F.A.C.).

Effect of Bill - Any state agency would be given the authority to adopt rules implementing the provisions of the "Florida Clean Indoor Air Act."

##### **Section 2:** Amends s. 554.115, F.S.

Present Situation - The DOI has rules setting forth the conduct which could give rise to disciplinary proceedings by the State Fire Marshall against persons who operate a boiler in a manner contrary to Chapter 554, F.S., or to DOI rules (Rule 4A-51.040, F.A.C.). This conduct includes operating a boiler at a public assembly location without a valid certificate and giving false information to DOI or an inspector.

Effect of Section - The substance of the Rule 4A-51.040 would be codified in statute.

##### **Section 3:** Amends s. 624.3161, F.S.

Present Situation - The DOI has rules relating to insurer and agent conduct in handling and settling property insurance claims (Rules 4-166.023, 4-166.026, 4-166.027, and 4-166.028, F.A.C.).

Effect of Section - Rulemaking authority would be created allowing the DOI to adopt rules to administer market conduct examinations, including rules enabling the DOI to ascertain compliance with Chapters 624, 626, 627, and 635, F.S.

**Section 4:** Creates s. 624.4135, F.S.

Present Situation - The DOI has rules establishing forms, procedures, and fees relating to the redomestication of foreign insurers. "Redomestication" occurs when a foreign insurer becomes a Florida domestic insurer (Rule 4.143.061, F.A.C.).

Effect of Section - Rulemaking authority would be created allowing the DOI to adopt rules establishing procedures and forms for a foreign insurer to apply for a certificate of authority as a domestic insurer.

**Section 5:** Amends s. 624.424, F.S.

Present Situation - The DOI has a rule requiring disability insurers to file with their annual statement a questionnaire furnished by the DOI concerning the course of training and instruction (Rule 4-154.005, F.A.C.).

Effect of Section - Insurers writing health insurance would be required to complete and file a questionnaire concerning training and instruction that is provided to the insurer's agents. Rulemaking authority would be created allowing the DOI to adopt the questionnaire form by rule.

**Section 6:** Amends s. 625.305, F.S.

Present Situation - The DOI has a rule setting forth limitations which apply to a life insurer when investing money received from variable annuities in common stock (Rule 4-162.011, F.A.C.).

Effect of Section - Rulemaking authority would be created giving the DOI the authority to administer s. 625.305, F.S., including rules relating to the use of money by domestic life insurers received from variable annuity contracts.

**Section 7:** Creates s. 625.765, F.S.

Present Situation - The DOI has rules allowing persons to be exempt from the reporting requirements of ss. 625.75 and 625.76, F.S., (which require certain directors and officers of domestic stock insurers to report their ownership interests in equity securities) (Rules 4-143.006 - 4-143.018, F.A.C.).

Effect of Section - Rulemaking authority would be provided giving the DOI the authority to grant exemptions from ss. 625.75 and 625.76, F.S., in certain specified circumstances.

**Section 8:** Amends s. 626.171, F.S.

Present Situation - The DOI has a rule establishing standards to determine the effect of law enforcement records on applications for licensure by agents, service representatives, adjusters, managing general agents, and reinsurance intermediaries (Rule 4-211.031, F.A.C.).

Effect of Section - Rulemaking authority would be created allowing the DOI to enact rules to administer the license application process, including requirements for photo identification, character and credit reports, and prelicensing courses. Rulemaking authority would also be granted to determine the impact of an applicant's criminal

history check and to determine other information relevant in determining an applicant's fitness and trustworthiness to engage in the business of insurance.

**Section 9:** Creates s. 626.2817, F.S.

Present Situation - The DOI has rules establishing procedures and standards for insurance agent pre-licensing education courses, instructors, and schools (Rules 4-211.110 - 4-211.310, F.A.C.).

Effect of Section - Rulemaking authority would be created allowing the DOI to enact rules to regulate course providers, instructors, school officials, and monitor groups involved in prelicensure education for insurance agents and other licensees.

**Section 10:** Amends s. 626.7353, F.S.

Present Situation - The DOI has rules governing the procedures and forms relating to appointment of customer service representatives (Rule 4-213.060, F.A.C.).

Effect of Section - The DOI would be authorized to adopt by rule forms relating to the appointment of customer service representatives.

**Section 11:** Amends s. 626.748, F.S.

Present Situation - The DOI has a rule requiring insurers to maintain records of all insurance policies issued, including the name and address of the insureds, the beneficiaries, and the coverage provided (Rule 2-184.004, F.A.C.).

Effect of Section - The substance of Rule 2-184.004, F.A.C., would be codified in statute, but the recordkeeping requirements from the rule would be applied to "transacting agents" rather than insurers. See Other Comments.

**Section 12:** Amends s. 626.9541, F.S.

Present Situation - The DOI has several rules relating to unfair discrimination in premiums charged for private passenger motor vehicle insurance (Rules 4-175.007 (location of risk), 4-175.008 (accidents more than 3 years old), 4-175.009 (type of vehicle), 4-175.010 (years of driving experience)). The DOI also has a rule which requires certain disclosures to be made to persons buying health insurance coverage through a self-insured plan (which are not regulated by DOI) (Rule 4-230.030, F.A.C.).

Effect of Section - The substance of Rules 4-175.007-.010, F.A.C., would be codified in the unfair trade practice section of law. The failure of an agent, administrator, or insurer to make certain disclosures to persons buying insurance through a self-insured plan would be an unfair trade practice.

**Section 13:** Amends s. 626.9551, F.S.

Present Situation - The DOI has rules relating to the procedures and prohibitions against lenders requiring borrowers to purchase insurance from the lender's choice of insurer (Rules 4-124.002 - .026, F.A.C.). The DOI has rules relating to standards for the sale of insurance in connection with installment sales and requirements for the issuance of single interest insurance by a lender (Rules 4-184.015, .016, .019, and

.022, F.A.C.). The DOI has a rule relating to consumer protections for direct mail advertising in which a lender assists in the marketing of insurance.

Effect of Section - For the rules referenced in the present situation, the substance of the rules would be codified in statute and rulemaking authority would be provided.

**Section 14:** Creates s. 626.9881, F.S.

Present Situation - The DOI has rules relating to the relationship between insurance agents and financial institutions (Rules 4-223.006 - .037, F.A.C.).

Effect of Section - For the rules referenced in the present situation, rulemaking authority would be provided.

**Section 15:** Amends s. 627.062, F.S.

Present Situation - The DOI has a rule requiring insurers to consider the availability of water supplies in setting fire insurance rates (Rule 4-170.011, F.A.C.).

Effect of Section - The rule requirement that insurers consider the availability of water supplies in setting fire insurance rates would be codified in the rating law.

**Section 16:** Amends s. 627.0625, F.S.

Present Situation - The DOI has a rule establishing standards for deductibles in commercial motor vehicle liability policies (Rule 4-175.011, F.A.C.).

Effect of Section - Authority would be provided for the DOI to enact rules necessary to assure the proper administration of claims and protection of third-party claimants from unfair policy defenses not attributable to the third-party claimant.

**Section 17:** Creates s. 627.385, F.S.

Present Situation - The DOI has a rule governing the conduct of the members of the boards of the various joint underwriting associations (JUAs) -- Florida Medical Malpractice JUA, Florida Auto JUA, Florida Comprehensive Health Association, Florida Windstorm Underwriting Association, Florida Property and Casualty JUA, and Florida Residential Property and Casualty JUA (Rule 4J-4.002, F.A.C.).

Effect of Section - The substance of Rule 4J-4.002, F.A.C., would be codified in statute.

**Section 18:** Creates s. 627.4065, F.S.

Present Situation - The DOI has a rule requiring insurers issuing health insurance policies in this state to disclose to the insured that he or she has 10 days to return the policy for a full refund (4-154.003, F.A.C.).

Effect of Section - The substance of Rule 4-154.003, F.A.C., would be codified in statute.

**Section 19:** Creates s. 627.4086, F.S.

Present Situation - The DOI has a rule requiring insurers to include in disability policies a notice that the insured has 10 days to make any corrections to the application (Rule 4-154.001, F.A.C.).

Effect of Section - The substance of Rule 4-154.001, F.A.C., would be codified in statute.

**Section 20:** Creates s. 627.41335, F.S.

Present Situation - The DOI has a rule requiring the agent to obtain a signed statement from the applicant acknowledging that the insured understands that the health insurance policy may be cancelled for nonpayment of premium (Rule 4-154.002, F.A.C.).

Effect of Section - The substance of Rule 4-154.002, F.A.C., would be codified in statute.

**Section 21:** Creates s. 627.41337, F.S.

Present Situation - The DOI has a rule defining the terms "noncancellable" and "noncancellable and guaranteed renewable" and limiting the use of these terms to policies in which the insured has the right to continue in force by the timely payment of premiums until at least age 50, or in the case of policies issued after age 44, in which the insurer has no right to make any change in the policy for 5 years (Rule 4-154.004, F.A.C.).

Effect of Section - The substance of Rule 4-154.004, F.A.C., would be codified in statute.

**Section 22:** Amends s. 627.429, F.S.

Present Situation - The DOI has a rule requiring prepaid limited health service organizations to comply with the AIDS protection provisions of s. 627.429, F.S. (Rule 4.203.25, F.A.C.).

Effect of Section - Authority would be provided to the DOI to include prepaid limited health service organizations within the scope of its rulemaking under s. 627.429, F.S.

**Section 23:** Creates s. 627.4305, F.S.

Present Situation - The DOI has a rule providing that certain consumer protections contained in Rules 4-154.001 - .003 (e.g., the right to change information on application within 10 days; the requirement that certain disclosures about cancellation be made; and the right to return a policy within 10 days) do not apply to group, franchise, or blanket disability insurance (See Rule 4-154.006, F.A.C.).

Effect of Section - Statutory authority would be provided to the DOI for it to make distinctions in its rules between individual insurance policies and group, franchise, or blanket insurance policies. Such distinctions would be based on the "varying degrees of consumer protection that the DOI finds necessary."

**Section 24:** Amends s. 627.481, F.S.

Present Situation - The DOI has rules requiring issuers of donor annuity agreements to submit a sworn statement on a form prescribed by the DOI, attesting that the issuer has met all requirements of law (Rules 4-202.012, and 4-202.015, F.A.C.).

Effect of Section - Authority would be provided to the DOI for it to adopt forms and rules relating to the filing of annual statements and agreements pertaining to donor annuity organizations.

**Section 25:** Creates s. 627.7276, F.S.

Present Situation - The DOI has rules requiring automobile policies which do not contain bodily injury and property damage coverage to be clearly stamped or specifically printed on the declaration page of the policy that this coverage is not provided (Rules 4-184.011 and 4-184.012, F.A.C.).

Effect of Section - The substance of Rules 4-184.011 and 4-184.012, F.A.C., would be codified in statute.

**Section 26:** Amends s. 627.7282, F.S.

Present Situation - The DOI has rules requiring insurers issuing private passenger motor vehicle policies to complete the underwriting of the policy and make a final determination of the correct premium within 60 days after the effectuation of the coverage. If the insurer determines the insured has been charged the incorrect premium, the insurer is required to provide notice to the insured, which must include a period of time no less than 10 days and no more than 45 days for the insured to pay additional premium or to cancel the policy and demand a refund of unearned premiums. See Rule 167.002, F.A.C.).

Effect of Section - Authority would be provided for the DOI to adopt rules prescribing the format of the notice and the required time period for providing the notice.

**Section 27:** Creates s. 627.795, F.S.

Present Situation - The DOI has a rule requiring a title insurance commitment to be issued on all real estate closing transactions when a title insurance policy is to be issued, except when there are multiple conveyances on the same property (Rule 4-186.011, F.A.C.).

Effect of Section -The substance of Rule 4-186.011, F.A.C., would be codified in statute.

**Section 28:** Creates s. 627.796, F.S.

Present Situation - The DOI has a rule prohibiting the issuance of any title insurance policy based on a search performed by any person other than an employee of a title insurer or title insurance agency, unless that person has certain insurance coverage (Rule 4-186.012, F.A.C.).

Effect of Section - The substance of Rule 4-186.012, F.A.C., would be codified in statute.

**Section 29:** Creates s. 627.797, F.S.



Present Situation - The DOI has a rule requiring title insurers to file with the DOI the name and address of every appointed agent exempt from licensure under s. 626.8417(4), F.S., issuing or countersigning binders, commitments, title insurance policies, or guarantees of title. The rule also requires insurers to report to the DOI, on a monthly basis, the name and address of every non-licensed agent whose appointment is granted or terminated. (See Rule 4-186.014, F.A.C.).

Effect of Section - The substance of Rule 4-186.012, F.A.C., would be codified in statute.

**Section 30:** Creates s. 627.798, F.S.

Present Situation - The DOI has a rule requiring title insurers, business trust title insurers, agents of title insurers, and agents, employees, or officials of lending institutions to disclose to a purchaser-mortgagor that a mortgagee title insurance policy does not protect the purchaser as owner. The DOI also has a rule specifying the form which title insurers, business trust title insurers, agents of title insurers, and agents, employees, or officials of lending institutions must use when making the disclosure. (See Rules 4-186.001 and 4-186.002, F.A.C.).

Effect of Section - The DOI would be granted authority to adopt a form to be used in notifying a purchaser-mortgagor that the purchaser-mortgagor is not protected by the title policy of the mortgagee.

**Section 31:** Amends s. 627.8405, F.S.

Present Situation - The DOI has a rule requiring agents, whenever motor vehicle insurance is financed, to disclose any insurance coverages that are financed along with personal injury protection, other than property damage liability, bodily injury, collision, uninsured motorist, or comprehensive coverage. The rule also prescribes the form of the required disclosure and requires the disclosure to be signed by the insured. (See Rule 4-196.021, F.A.C.).

Effect of Section - Statutory authority would be provided for the DOI to prescribe the form of the disclosure.

**Section 32:** Amends s. 627.848, F.S.

Present Situation - The DOI has a rule requiring premium finance companies to use a specified form notifying the insured of certain rights and duties whenever it cancels an insurance contract pursuant to a premium finance agreement (Rule 4-196.001, F.A.C.).

Effect of Section - Statutory authority would be provided to the DOI for the purpose of adopting a standard cancellation notice for use by premium finance companies, including the color of the notice required to be used.

**Section 33:** Amends s. 627.918, F.S.

Present Situation - The DOI has a rule specifying how insurers are to report information in forms, including a provision authorizing insurers to make filings on computer-generated forms approved by the DOI (Rule 4-171.002, F.A.C.).

Effect of Section - Statutory authority would be provided allowing the DOI to establish by rule standards for approving forms.

**Section 34:** Creates s. 627.955, F.S.

Present Situation - The DOI has a rule prohibiting purchasing groups from purchasing insurance with a deductible or self-insured retention applicable to the group as a whole. The purchasing group, however, may provide for a deductible or self-insured retention applicable to individual members. (See Rule 4-136.033(2), F.A.C.).

Effect of Section - The substance of Rule 4-136.033(2), F.A.C., would be codified in statute.

**Section 35:** Amends s. 635.071, F.S.

Present Situation - The DOI has a rule prohibiting insurers from insuring mortgages offered for sale to the public by advertisement, where the advertisement stresses the value or worth of the mortgage by virtue of the proposed mortgage guaranty insurance or its regulation by an agency of the state or federal government (Rule 4-185.005, F.A.C.).

Effect of Section - The substance of Rule 4-185.005, F.A.C., would be codified in statute.

**Section 36:** Creates s. 636.0225, F.S.

Present Situation - The DOI has a rule requiring prepaid limited health service organizations to offer a "converted contract" to any subscriber or covered dependent, covered for at least 3 months prior to termination, whose coverage has been terminated for any reason. The rule also describes the circumstances in which a prepaid limited health service organization would not have to offer a converted contract. (See Rule 4-203.029, F.A.C.).

Effect of Section - The substance of Rule 4-203.029, F.A.C., would be codified in statute.

**Section 37:** Creates s. 636.0226, F.S.

Present Situation - See the Present Situation for Section 36.

Effect of Section - Statutory conditions would be created relating to the issuance of a converted prepaid limited health services contract, including conditions relating to the time limit for submitting an application; the evidence of insurability; the conversion premium; the effective date of coverage; the scope of coverage; optional coverage; reasons for cancellation; the benefits offered; preexisting conditions; additional persons entitled to conversion; availability of group coverage; and notification. Many of the provisions of this section are not contained in Rule 4-203.029, F.A.C. See Other Comments.

**Section 38:** Amends s. 648.4425, F.S.

Present Situation - Section 648.4425, F.S., requires bail bond agents, upon issuing a bond, to provide an informational notice to the principal and the party rendering

collateral. This notice must include a statement noting with particularity the restrictions placed on the principal, the bail bond agent's powers to cancel the bond, and the name, address, and telephone number of the DOI for complaints or inquiries.

The DOI has a rule establishing a form which sets forth the terms and conditions which must be in all bail bond contracts (Rule 4-221.100, F.A.C.).

Effect of Section - The DOI would be granted the authority to prescribe forms to administer s. 648.4425, F.S.

**Section 39:** Amends s. 651.033, F.S.

Present Situation - The DOI has a rule making the DOI a party-in-interest in relation to any escrow agreements or letters of credit pursuant to the provisions of chapter 651, F.S. (Rule 4-193.025, F.A.C.).

Effect of Section - The substance of Rule 4-193.025, F.A.C., would be codified in statute.

**Section 40:** Amends s. 791.015, F.S.

Present Situation - The DOI, Division of State Fire Marshall, has rules governing the registration requirements of persons wishing to engage in the manufacture, distribution, wholesale, retail, or seasonal retail of sparklers (Rules 4A-50.001 and 4A-50.005, F.A.C.).

Effect of Section - Statutory authority would be provided to the DOI to adopt rules establishing a form to be used by entities wishing to do business in Florida as a manufacturer, distributor, wholesaler, or retailer of sparklers.

**Section 41:** Provides that the bill takes effect upon becoming law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

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1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

N/A

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

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

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

This bill either establishes rulemaking authority for, or codifies in statute, existing rules of the Department of Insurance.

C. OTHER COMMENTS:

According to s. 120.536(2)(b), F.S., the Legislature is required to consider whether legislation should be enacted authorizing the rules identified by the agencies as lacking the requisite statutory authority. At least one section of the bill, however, appears to establish authority which does not currently exist in rule. Most of the language established in section

37 is not contained in Rule 4-221.100, F.A.C., the rule cited by the DOI as being authorized by this section.

Also, some of the provisions of the bill could substantively revise the intent of the rule sought to be authorized. For example, section 11 of the bill is cited by the DOI as providing authority for Rule 4-184.004, which requires a "company" (an insurer) to maintain complete records of policies issued. Section 11 adds the substance of Rule 4-184.004 to s. 626.748, F.S., relating to agent's records, but changes the language so the recordkeeping requirements apply to "transacting agents" (a term not found in the rule).

**VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:**

On April 24, 2000, the Committee on Insurance adopted a strike-everything amendment, which is traveling with the bill:

Amendment by Wiles (everything after the enacting clause): would remove everything after the enacting clause and propose to grant statutory authority to the DOI for various rules or portions of rules. The amendment would also codify in statute other rules of the DOI which lack the requisite statutory authority. The amendment would either authorize or codify 62 rules of the DOI -- instead of the 124 rules which would have been authorized or codified in the original bill.

The amendment includes the following sections of the original bill: 1, 2, 4, 9, 10, 22, 24, 28, 29, 30, 31, 32, 34, 35, 38, and 40.

The amendment includes a modified version of the following sections of the original bill: 6, 7, 25, and 26.

**VII. SIGNATURES:**

**COMMITTEE ON INSURANCE:**

Prepared by:

Staff Director:

Robert E. Wolfe, Jr.

Stephen Hogge

**FINAL ANALYSIS PREPARED BY THE COMMITTEE ON INSURANCE:**

Prepared by:

Staff Director:

Robert E. Wolfe, Jr.

Stephen Hogge