

**STORAGE NAME:** h1597.in.doc  
**DATE:** April 9, 2001

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
INSURANCE  
ANALYSIS**

**BILL #:** HB 1597  
**RELATING TO:** Insurance  
**SPONSOR(S):** Representative(s) Peterman

**TIED BILL(S):**

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

- (1) INSURANCE
  - (2) AGRICULTURES & CONSUMER AFFAIRS
  - (3) COUNCIL FOR COMPETITIVE COMMERCE
  - (4)
  - (5)
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I. SUMMARY:

Life insurance is a death benefit contract: it pays a benefit to survivors upon the death of the insured. Florida law regulates both the insurers selling life insurance and the life insurance product itself. Life insurance is sold as individual or group policies.

Ordinary life insurance includes term and whole life products and their many permutations. Ordinary life insurance policies issued in Florida are regulated under Part III, Chapter 627, F.S.

Industrial life insurance is defined in s. 627.502, F.S., as a form of life insurance under which premiums, which usually are collected directly by an insurance agent, are paid monthly or more often. These types of life insurance policies are subject to the requirements of Part IV, Chapter 627, F.S. (ss. 627.501 - 627.522).

HB 1597 would require insurers having life insurance policies in force with a death benefit of \$15,000 or less, or industrial life insurance policies, annually to notify policyholders or premium payors of the total premiums paid, the cash value, and the amount of death benefits available. Insurers unable to locate policyholders would be required to convert these policies to full paid-up status.

Insurers would be required to offer enhanced benefits for life insurance policies with death benefits of less than \$15,000, issued after July 1, 2001, in certain situations.

Insurers would be prohibited from issuing new industrial life insurance policies after July 1, 2001.

Life insurance policies under which premiums are paid monthly or more often, and issued after July 1, 2001, would no longer be exempt from the secondary notice provision.

This bill would take effect upon becoming a law.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

1. Less Government                      Yes       No       N/A

This bill would require insurers issuing industrial life insurance policies and life insurance policies with a death benefit of \$15,000 or less to disclose annually to the premium payor or the policyholder the total amount of premiums paid, the cash value, and the amount of death benefits payable under the policy. Insurers unable to locate policyholders would be required to convert those policies to full paid-up status. The disclosure would not be required for policies in full paid-up status or these policies converted to full paid-up status.

Insurers also would be required to pay enhanced benefits for certain life insurance policies issued after July 1, 2001, in which the cumulative premium paid exceeds the death benefit.

Insurers also would be prohibited from selling industrial life insurance policies after July 1, 2001.

2. Lower Taxes                              Yes       No       N/A

3. Individual Freedom                      Yes       No       N/A

Insurers also would be prohibited from selling industrial life insurance policies after July 1, 2001.

4. Personal Responsibility                      Yes       No       N/A

5. Family Empowerment                      Yes       No       N/A

B. PRESENT SITUATION:

**Life Insurance Products**

Life insurance is a death benefit contract: it pays a benefit to survivors upon the death of the insured. Florida law regulates both the insurers selling life insurance and the life insurance product itself. Life insurance is sold as individual or group policies. Life insurers doing business in Florida reported \$5.2 billion in premium for calendar year 1999, with over 10 million policies in force as of December 31, 1999. Industrial life accounted for just \$7.7 million, or just less than 1.5 percent, of the reported \$5.2 billion in premium for all life insurance products.

**Types of Life Insurance Contracts**

Life insurance policies come in many different forms, although they generally are classified as ordinary, industrial, and credit life.

ORDINARY LIFE INSURANCE

Ordinary life insurance includes term and whole life products and their many permutations, in addition to variable life and endowment contracts. It also includes accidental death benefit (i.e., "double indemnity") coverage, typically provided in the form of a rider attached to a life or health policy. Ordinary life insurance accounted for 6.8 million individual policies and 218,000 group policies, or 70 percent of all life insurance policies as of December 31, 1999. Premium volume for

individual and group policies combined totaled nearly \$5.1 billion, or almost 97 percent of total direct written premium for that same year.

*Term life* is a form of life insurance providing protection for a specified period of time with no cash surrender or loan value. These are generally employee plans. If the insured survives the term, no benefits are paid. The premium generally increases with the age of the insured. Variations include level, increasing, and decreasing term policies.

*Whole life* is a form of cash value life insurance. It pays the face value of the policy upon the death of the insured, regardless of when the insured dies. It also accumulates a cash value against which the insured may withdraw or borrow. *Universal life* is a type of whole life policy in which an insured may vary the amount and timing of premium payments, plus increase or decrease the death benefit.

Ordinary life insurance policies issued in Florida are regulated under Part III, Chapter 627, F.S.<sup>1</sup> Ordinary life insurance policies issued in Florida are required to include a grace period of 30 days for the payment of premium, and are required to include a secondary notice provision which provides that a life insurance policy issued to a person 64 years of age or older on or after October 1, 1997, that has been in effect for at least one year, cannot be lapsed for nonpayment of premium unless the insurer has notified the policyholder or a specified secondary addressee, if one has been named by the policyholder, before the expiration of a grace period.

#### INDUSTRIAL LIFE INSURANCE POLICIES

Industrial life insurance is defined in s. 627.502, F.S., as a form of life insurance under which premiums, which usually are collected directly by an insurance agent, are paid monthly or more often. These types of life insurance policies are subject to the requirements of Part IV, Chapter 627, F.S. (ss. 627.501 - 627.522). Under these sections, an insured is allowed a 30-day grace period for the payment of premiums and may name a beneficiary. Insurers that issue this type of insurance must report to the Department of Insurance all annual statement data regarding industrial life insurance.

Industrial life insurance policies are exempt from the secondary notice provisions of s. 627.5045, F.S. This means the insurer is not required to notify the policyholder or specified secondary addressee prior to lapsing the policy for nonpayment of premium. Secondary notice is required only for those industrial life insurance policies issued after October 1, 1997. Since virtually all of the 1.2 million policies in force were issued before October 1, 1997, secondary notice is generally not applicable.

According to the Insurance Consumer Advocate within the DOI, there have been no industrial life insurance policies sold in Florida in the last 6 years, except for those sold by Conger Life Insurance Company, which went into receivership on November 18, 1997.

According to the Insurance Consumer Advocate, a typical industrial life insurance policy would pay a benefit of approximately \$750, with the average premiums being \$2.60 per month. The average age of an industrial life insurance policy is not reported to the DOI. According to the National Funeral Directors' Association, the national average cost of a funeral for 1999 was \$5,778.16 for a funeral held at a funeral home. This figure includes items such as professional services, embalming, visitation, some transportation, vault, and casket, and is based on the national average price of commonly selected items. This figure does not include certain charges, such as cemetery space, opening or closing the grave, or markers.

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<sup>1</sup> Sections 627.451 – 627.482, F.S.

The states of New York (1980) and Arkansas (1988) have prohibited the sale of industrial life insurance policies.

*DIFFERENCES BETWEEN ORDINARY LIFE AND INDUSTRIAL LIFE*

Some of the differences between ordinary life insurance and industrial life insurance include:

- Under s. 626.790, F.S., insurance agents who sell industrial life policies may work for up to 6 months without meeting full licensure requirements. Ordinary life insurance agents must meet full licensure requirements prior to selling life insurance.
- Unlike whole life insurance, term life insurance policyholders and industrial life insurance policyholders may not borrow against the cash value of the policy. Under s. 627.458, F.S., whole life insurance policyholders may do so.
- Some term insurance policies may be renewed or may be converted to whole life insurance, while industrial life insurance policies may not.
- Section 625.121(5)(b), F.S., requires that the price of industrial life insurance policies be based on the 1961 Mortality Table, while whole life and term insurance are priced according to the 1980 Mortality Table.<sup>2</sup> Using an older mortality table may result in higher rates because life expectancies were not as long.

**C. EFFECT OF PROPOSED CHANGES:**

HB 1597 would require insurers having life insurance policies in force with a death benefit of \$15,000 or less, or industrial life insurance policies, to notify policyholders or premium payors annually of the total premiums paid, the cash value, and the amount of death benefits available. Insurers unable to locate policyholders would be required to convert these policies to full paid-up status.

Insurers would be required to offer enhanced benefits for life insurance policies with death benefits of less than \$15,000 issued after July 1, 2001, in certain situations. When the total premiums paid exceed 250 percent of the death benefit, the insurer would be required to enhance the death benefit by \$0.50 percent for each premium dollar paid in excess of 250 percent of the death benefit. When the total premiums paid exceed 500 percent of the death benefit, the insurer would be required to enhance the death benefit by \$1.50 for each premium dollar paid in excess of 500 percent of the death benefit.

Insurers would be prohibited from issuing new industrial life insurance policies after July 1, 2001.

Life insurance policies under which premiums are paid monthly or more often issued after July 1, 2001, would no longer be exempt from the secondary notice provision. The issuing insurer would be required to notify the policyholder and a secondary addressee (if one has been designated by the policyholder) before lapsing the life insurance policy for nonpayment of premium.

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<sup>2</sup> A mortality table is a statistical table used by the industry to identify death probabilities by age.

D. SECTION-BY-SECTION ANALYSIS:

**Section 1.** Creates s. 627.4553, F.S., to require insurers in the state having life insurance policies in force with death benefits of \$15,000 or less to send each policyholder or premium payor an annual statement on the policy anniversary date disclosing the total amount of premiums paid, the cash value, and the amount of death benefits payable. Insurers unable to locate policyholders would be required to convert the policy to full paid-up status, and the disclosure notice would not be required for policies that are in full paid-up status or policies that are converted to full paid-up status.

Some whole life insurance policies with an initial death benefit exceeding the \$15,000 threshold could fall under this provision if the policyholder has borrowed against the policy, thereby lowering the death benefit to \$15,000 or less.

Policyholders having life insurance policies with death benefits of \$15,000 or less, having moved and failed to notify their insurers, could have their life policies converted to paid-up status.

Current Law: Under current law, insurers are not required annually to disclose to insureds the total cumulative amount of premiums paid, the cash value of the policy, and the amount of death benefits payable. Information on the cash value of the policy and the amount of death benefit payable is contained in the initial life insurance contract.

**Section 2.** Amends s. 627.4555, F.S., regarding secondary notices on life insurance policies. This section would be amended to apply to life insurance contracts under which premiums are paid monthly or more often issued after July 1, 2001.

Current Law: Secondary notice, or notice of impending termination sent to a secondary addressee designated by the policyholder, is required before a life insurer can terminate a policy for nonpayment of premium for policyholders 64 years of age or older.

**Section 3.** Creates s. 627.4587, F.S., to require all life insurance policies issued after July 1, 2001 with a death benefit of less than \$15,000 would be required to offer the following enhanced benefits in the following situations:

- When the cumulative premiums paid exceed 250 percent of the death benefit, the insurer would be required to enhance the death benefit by \$0.50 for each premium dollar paid in excess of 250 percent of the death benefit.
- When the cumulative premiums paid exceed 500 percent of the death benefit, the insurer would be required to enhance the death benefit by \$1.50 for each premium dollar paid in excess of 500 percent of the death benefit.

Current Law: Florida law does not speak to enhanced benefits for life insurance policies where the cumulative amount of premium paid exceeds the amount of death benefits available under the policy.

**Section 4.** Creates s. 627.5015, F.S., to prohibit the sale of industrial life insurance policies in the state after July 1, 2001. Insurers having industrial life insurance policies in force in the state would be required to send each policyholder or premium payor an annual statement on the policy anniversary date disclosing the total amount of premiums paid, the cash value, and the amount of death benefits payable. Insurers unable to locate policyholders would be required to convert the

policy to full paid-up status. The disclosure notice would not be required for policies that are in full paid-up status or policies that are converted to full paid-up status.

Current Law: Florida law does not require insurers annually to disclose to insureds the total cumulative amount of premiums paid, the cash value of the policy, and the amount of death benefits payable. Information on the cash value of the policy and the amount of death benefit payable is contained in the initial life insurance contract.

**Section 5.** Provides that this bill would take 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:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

HB 1597 would require insurers to convert policies with a death benefit of \$15,000 or less to full paid-up status if the insurer is unable to locate the policyholder through annual disclosure of the total amount of premiums paid, the cash value of the policy, and death benefits available under the policy. This provision could financially benefit policyholders when insurers are unable to locate them.

Life insurers would be prohibited from marketing a product they now sell.

Life insurers would be subject to the expense of annually mailing notice of certain information to all policyholders who have policies with a death benefit of \$15,000 or less. Such insurers would also be subject to the expense of converting policies to full paid-up status if the insurer is unable to locate the policyholder.

D. FISCAL COMMENTS:

None

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 municipalities or counties 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:

HB 1597 could require insurers to provide disclosures to their policyholders that they may not be currently required to provide under existing policy contracts. Additionally, insurers would be required to convert in-force policies to full paid-up status if the insurer is unable to locate the policyholder to provide the disclosures required by the bill. These provisions may raise questions regarding an unconstitutional impairment of the rights and obligations of existing contracts in violation of Article I, section 10, of the Florida Constitution.

Article I, section 10 of the Florida Constitution provides that "No . . . law impairing the obligation of contracts shall be passed." A leading court case on impairment of insurance contracts, *State Farm Automobile Insurance Company v. Hassen*, 650 So.2d 128 (Fla. 2d DCA 1995), held that a statute violates the constitution if it changes the substantive rights or obligations of the parties to an existing contract. The constitutional determination may turn on whether or not the changes impose a new substantive obligation or are merely procedural in nature.

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

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VII. SIGNATURES:

COMMITTEE ON INSURANCE:

Prepared by:

Staff Director:

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Meredith Woodrum Snowden

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Stephen T. Hogge