

# 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.)

BILL: CS/SB 1744

SPONSOR: Banking and Insurance Committee and Senator McKay

SUBJECT: Florida Statutes/Repeals & Deletions

DATE: March 14, 2000 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Emrich</u>	<u>Deffenbaugh</u>	<u>BI</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>RC</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

## I. Summary:

Several sections in the Florida Statutes relating to activities pertaining to insurance contain dated or obsolete provisions. Committee Substitute for Senate Bill 1744 would remove these provisions from law.

The CS would have no fiscal impact on state or local government and takes effect upon becoming a law.

This CS substantially amends the following sections of the Florida Statutes: 624.408, 624.515, 626.9929, 627.0628, 627.072, 627.215, 627.3511, 627.706, 627.990, 627.991, 627.992, 629.520, and 633.41.

## II. Present Situation:

During the 1999-2000 legislative session interim, staff of the House of Representatives reviewed each chapter of the five volumes of the Florida Statutes to find provisions which were outdated or obsolete. Upon completion of the first draft, staff of Senate counterpart committees reviewed the work product to further refine the sections identified. The final list of some one thousand original sections of Florida law contained an identification of statutory sections which shared one or more of the following characteristics:

1. A reference to a dormant board, council or other non-governing authority.
2. A provision rendered obsolete due to the passage of time.
3. A requirement which was nonrecurring due to the completion of the activity.
4. A statement of legislative intent, findings or purpose so generalized as to provide no specific interpretive guidance on the context or particularity of the statute or its application.
5. A cross-reference to another section which was otherwise repealed.

6. The use of boilerplate language, such as a severability clause, which is assumed as part of legislative style and drafting or of judicial interpretation.
7. The creation of a short title, or popular name, unrelated to the purpose of the statute.
8. The use of archaic language or descriptions.
9. A redundancy in text or reference no longer needed.

Various provisions of the Insurance Code (Chapters 624 through 632, 634, 635, 641, 648 and 651, F.S.) contain a number of these obsolete or dated insurance provisions. For a discussion as to each pertinent provision, see Effect of Proposed Changes, below.

### III. Effect of Proposed Changes:

**Section 1.** Amends s. 624.408, F.S., relating to surplus provisions. The amount of surplus-as-to-policyholders required for a property and casualty insurer is set forth under this statutory provision. This amount is being phased-in over a 6-year period, which began December 31, 1998. Dates that have passed would be removed from that section.

**Section 2.** Amends s. 624.515, F.S., relating to the State Fire Marshall Regulatory Assessment and Surcharge provision. Each insurer authorized to transact insurance in this state is required to collect an annual surcharge of 0.1 percent from each holder of a policy of fire, allied lines, or multi-peril insurance covering commercial property in this state. The surcharge is remitted to the Department of Revenue and deposited in the Fire College Trust Fund administered by the State Fire Marshal. Under s. 624.515(2)(b), F.S., the surcharge applies to policies issued or renewed on or after July 1, 1992. Since all policies are now subject to the surcharge, the July 1, 1992, provision is repealed.

**Section 3.** Repeals s. 626.9929, F.S., pertaining to the grace period for viatical agents. Viatical settlement sales agents transacting business in the state on June 30, 1999, were allowed a grace period until November 1, 1999, to comply with changes in licensing requirements. Since the grace period expired on November 1, 1999, all viatical settlement sales agents are required to meet licensing requirements, and the grace period is no longer relevant.

**Section 4.** Amends s. 627.0628, F.S., relating to the Florida Commission on Hurricane Loss Projection Methodology. Created in 1995, this Commission was given a deadline of December 31, 1995, to adopt its "initial actuarial methods, principles, standards, models, or output ranges" and a deadline of July 1, 1996, to adopt revised actuarial methods, principles, standards, models, or output ranges. Since the Commission has complied with this section of the law, these dates are no longer relevant and would be removed from statute.

**Section 5.** Amends s. 627.072, F.S., pertaining to the making and use of rates in workers' compensation and employer's liability insurance. Section 627.072(4)(a), F.S., sets forth a methodology that the Department of Insurance could use in making rate determinations. The Commissioner of Insurance was directed to consider using this methodology prior to March 30, 1980, and was required to report to the Legislature the reasons for not using this methodology by March 30, 1980. Since the date has passed, and it applies to a requirement enacted nearly two decades ago, paragraph (c) of subsection (4) of s. 627.072, F.S., is obsolete and would be removed.

**Section 6.** Amends s. 627.215, F.S. The Department of Insurance was required to submit to the Legislature by October 1, 1995, a history of the excess profits law and a year-by-year listing of the excess profits returned to policyholders. Since this date has passed, and the report has been completed, s. 627.215(14), F.S., is amended to remove this provision.

**Section 7.** Amends s. 627.3511, F.S. Under this statutory provision, the Residential Property and Casualty Joint Underwriting Association (RPCJUA) is allowed to enact depopulation programs in an effort to reduce its size. According to the legislative findings and intent provision under subsection (1), the RPCJUA had become “by virtue of its size, a significant impediment to the restoration of a stable and competitive residential property insurance market in this state” and that “extraordinary measures” are required to reduce the number of policies within the RPCJUA. At the time these legislative findings were codified in law in June 1995, the RPCJUA had approximately 768,000 policies representing exposures of roughly \$75 billion (ch. 95-276, Laws of Florida). Since the implementation of that depopulation statute, the number of RPCJUA policies has substantially declined. As of February 29, 2000, the RPCJUA had 66,009 policies representing exposures of \$11.1 billion. While the language regarding legislative findings noted above would be removed, the legislative intent language stating that the public policy of this state requires the maintenance of a residual market for residential property insurance is preserved as is the language authorizing the use of financial incentives to encourage the depopulation of the RPCJUA. These legislative findings are still true because the RPCJUA currently has 66,009 residential and commercial policies and receives approximately 2,000 to 3,000 new policies every month.

**Section 8.** Amends s. 627.706, F.S., relating to sinkhole insurance, to require insurers in the state to offer sinkhole insurance to new and renewal policies issued on or after October 1, 1981. Since, all policies must now meet this requirement, the distinction based on the date of issuance is of no effect. Therefore, subsection (5) of this section is repealed.

**Section 9.** Amends s. 629.520, F.S. The Department of Insurance was prohibited by this section from issuing certificates of authority for limited reciprocal insurers after October 1, 1991. Limited reciprocal insurers were granted until October 1, 1992, to convert their certificate of authority by meeting the requirements for a certificate of authority as another type of insurer authorized under the Insurance Code. The date by which limited reciprocal insurers were given to convert their certificates of authority has expired and therefore the conversion provision is deleted.

**Section 10.** Amends s. 633.41, F.S. Firefighters who were employed on July 5, 1969, were allowed until June 30, 1990, to apply for a certificate of tenure under this statutory provision. The date by which a firefighter, employed on July 5, 1969, was required to apply for a certificate of tenure has expired. Therefore, this option no longer exists for those firefighters.

**Section 11.** Repeals ss. 627.990, 627.991, and 627.992, F.S., relating to the Workers’ Compensation Insurance Purchasing Alliance. The Alliance has not met in 3 years and performs essentially the same functions as the market assistance plan of the Workers’ Compensation Joint Underwriting Association.

**Section 12.** This CS would take effect upon becoming law.

**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:

None.

## C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.