

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 885

Insurance

SPONSOR(S): Rules & Calendar Council, General Government Policy Council, Tobia

TIED BILLS:

IDEN./SIM. BILLS:

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Insurance, Business & Financial Affairs Policy Committee	11 Y, 0 N	Reilly	Cooper
2)	Policy Council	15 Y, 0 N	Liepshutz	Cicccone
3)	General Government Policy Council	12 Y, 3 N, As CS	Reilly	Hamby
4)	Rules & Calendar Council	14 Y, 0 N, As CS	Hassell	Birtman
5)				

SUMMARY ANALYSIS

The bill makes changes to various aspects of life insurance.

In summary, the bill:

- Specifies circumstances under which an insurer is not required to send notice of replacement of a life insurance policy to the current insurer.
- Allows coverage of spouses and dependent children under a group life insurance policy up to the amount for which the employee is insured under the policy.
- Bars the sale or transfer of annuities, which were purchased as part of a settlement to satisfy Medicare secondary payer requirements, to third parties that are not connected with the settlement.
- For purposes of group life insurance, prohibits creation of a class of employees consisting solely of employees covered under the employer's group health plan.

The bill takes effect upon becoming law.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Replacement of Life Insurance

An insurer that sells a life insurance policy that will replace an existing policy owned by a person must send notice of the replacement policy to the current insurer, among other responsibilities.¹ The notice is intended to give the current insurer the opportunity to contact the policyholder to discuss the current policy before it is canceled.²

CS/HB Bill 885 creates s. 627.4605, F.S. The section provides that an insurer is not required to send notice of replacement life insurance to the current insurer when the replacement policy is issued by the same insurer or an affiliate of the insurer of the policy that is to be replaced. Specifically, notice of replacement life insurance does not need to be sent to the current insurer for transactions involving:

- An application to the current insurer that issued the current policy when a contractual change or conversion privilege is being exercised.
- A current policy is being replaced by the same insurer pursuant to a program approved by the Office of Insurance Regulation.
- A term conversion privilege is being exercised among corporate affiliates.

This section is consistent with model standards adopted by the National Association of Insurance Commissioners (NAIC).³

Dependent Coverage under Group Life Insurance Policies

Thirty-five states have statutory provisions relating to coverage of spouses and dependent children under group life insurance policies.⁴ Twenty of these states do not specify a coverage limitation;⁵ 12 allow coverage

¹ Rule 690-151.007, F.A.C., implementing ss. 624.307(1), 626.9521, 626.9541, 626.9641, 626.99, F.S. The insurer is also required to provide certain information to the prospective purchaser of the replacement policy.

² Correspondence between representatives of the life insurance industry (Paul Sanford) and staff of the Insurance, Business & Financial Affairs (IBFA) Policy Committee. On file with the IBFA Policy Committee.

³ National Association of Insurance Commissioners, "Life Insurance and Annuities Replacement Regulation" (July 2006). Available from the NAIC website: <http://www.naic.org>.

⁴ See American Council of Life Insurers, "Law Survey: Dependent Caps on Group Life Insurance" (July 2009). A copy of the survey is on file with the IBFA Policy Committee.

up to the amount for which the employee is insured under the group policy;⁶ and three states, including Florida under s. 627.5575(3), F.S.,⁷ allow coverage of up to 50% of the amount for which the employee is insured under the group life insurance policy. The NAIC model, which was adopted in the 1980s, limits coverage for spouses and dependent children under group life insurance policies to 50% of the amount for which the employee is insured.⁸

The bill removes the 50% cap, and allows spouses and dependent children to be insured under a group life insurance policy up to the amount for which the employee is insured.

Secondary Payer Rule

42 U.S.C. 1395y(b)(2) sets forth Medicare secondary payer (MSP) requirements.⁹ Annuities may be purchased as part of a settlement to satisfy MSP requirements. The bill bars the sale or transfer of such annuities to third parties that are not connected with the settlement.

Group Life Insurance

Section 627.552, F.S., governs employee groups for purposes of group life insurance policies. The bill prohibits employers from creating a class of employees eligible for such insurance that consists solely of employees covered under the employer's group health plan.

B. SECTION DIRECTORY:

- Section 1.** Creates s. 627.4605, F.S., relating to notice replacement life insurance.
- Section 2.** Amends s. 627.464, F.S., relating to annuity contracts.
- Section 3.** Amends s. 627.552, F.S., relating to group life insurance policies.
- Section 4.** Amends s. 627.5575, F.S., relating to group life insurance for dependents.
- Section 5.** Provides for the bill to become effective upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

See notes in "Fiscal Comments" section.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

⁵ Arkansas, Delaware, Georgia, Idaho, Indiana, Iowa, Kentucky, Louisiana, Maine, Missouri, Montana, New Hampshire, New Mexico, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, and Utah.

⁶ Arizona, California, Hawaii, Illinois, Maryland, New Jersey, Texas, Vermont, Virginia, Washington, and West Virginia. New York permits the spouse to be insured for up to 100% of the amount for which the employee is insured under the group life policy, but limits coverage for a dependent child to a maximum of \$25,000.

⁷ Kansas and Nebraska also provide a 50% limitation.

⁸ Correspondence between representatives of the life insurance industry (Paul Sanford) and IBFA Policy Committee staff. On file with the IBFA Policy Committee.

⁹ The term Medicare secondary payer refers to situations in which Medicare is not responsible for paying first.

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may make increased coverage available to spouses and dependent children under group life insurance policies.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. The bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On April 9, 2010, the General Government Policy Council adopted four amendments, which made the following changes:

- Changes the title of the bill to an act relating to insurance.
- Bars the sale or transfer of annuities, which were purchased as part of a settlement to satisfy Medicare secondary payer requirements, to third parties that are not connected with the settlement.
- Excludes specified supplemental or limited benefit insurance policies from providing coverage of certain mandatory health benefits.
- Specifies that continuation or renewal of a guaranteed renewable long-term care policy through timely payment of premiums does not constitute the issuance of a new policy for any purpose, including for purposes of incorporating into the policy changes in regulations or legislation governing insurance policies.
- Codifies that an insurer may revise long-term care insurance rates on a class basis.

- Provides that, for motor vehicle service agreements (a type of warranty agreement), there is no violation of knowingly over or undercharging, if the motor vehicle service agreement company refunds the excess premium within 45 days, or if the licensed sales representative's commission is reduced by the amount of any premium undercharge.
- For purposes of group life insurance, prohibits creation of a class of employees consisting solely of employees covered under the employer's group health plan.
- Provides that granting premium credits to insureds under Medicare supplement policies does not constitute an unfair method of competition or unfair or deceptive act or practice.
- Permits insurers that offer Medicare supplement policies to enter into agreements with in-patient facility networks that agree to waive the Medicare Part A deductible in whole or in part.
- Provides that a person is not liable for any penalty for failure to obtain health insurance coverage
- Authorizes the Attorney General to pursue litigation on behalf of any persons that are penalized for failure to obtain or maintain health insurance coverage.

On April 15, 2010, the Rules & Calendar Council adopted two amendments:

- A strike-all amendment consisting of the content of the original HB 885 (amending s. 627.4605, F.S., regarding the requirement of providing notice of a replacement of a current life insurance policy; and s. 627.5575, F.S., revising the limitation on the amount of insurance for spouses of dependent children of employees of members under a group life insurance policy) and Amendment 33130 which was adopted in the General Government Policy Council on April 9, 2010 (amending s. 627.552, F.S., prohibiting the creating or permitting of certain classes of employees for group health insurance policy purposes, and preserving an employer's authority to require certain plan participation as a condition of employment).
- An amendment to the strike-all amendment, amending s. 627.464, F.S., providing a limitation on the resale of certain annuities to third parties.

The analysis is drawn to the bill as amended.