

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Commerce Committee

BILL: SB 1364

INTRODUCER: Senator Thrasher

SUBJECT: Life Insurance

DATE: April 12, 2010

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Messer	Burgess	BI	Favorable
2.	O'Callaghan	Cooper	CM	Favorable
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Florida law requires that an insurer notify a client's current insurer before replacing the client's existing life insurance policy with a new life insurance policy. This bill provides that an insurer is not required to send notice to the current insurer when the replacement policy is issued by the same insurer or an affiliated insurer of the policy being replaced. Specifically, this bill creates three situations where notice is not required:

- An application to the existing insurer when a contractual change or conversion privilege is exercised;
- A replacement of a policy by the same insurer pursuant to a program approved by the Office of Insurance Regulation (office); or
- A term conversion privilege exercised among corporate affiliates.

These changes are consistent with the National Association of Insurance Commissioners' model law.

Under current law, an employee covered by a group life insurance policy may insure their spouse or dependent children under the policy for up to 50 percent of the amount for which the employee is insured. The bill removes this cap, and 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.

This bill creates s. 627.4605, F.S., and amends s. 627.5575, F.S.

II. Present Situation:

National Association of Insurance Commissioners (NAIC) Model Law

The NAIC, based in Washington D.C., is an organization that assists all 50 state insurance regulators in serving the public interest on insurance related issues.¹ One of the ways that the NAIC achieves this mission is by drafting model laws for the states. These model laws are enacted all over the country and many of them have been enacted in Florida. The language for this bill comes directly from NAIC model law volume IV, 613-1.

Notice Requirements

Presently, Rule 69O-151.007, F.A.C., requires certain notice to be given to a life insurer when an agent is replacing an existing life insurance policy with a new one.

This notice requirement guards against agent “churning.” Churning is a fraudulent practice where agents mislead consumers into giving up the cash value of their current life policies in order to buy a new policy.² Agents use churning in order to accumulate higher commissions, which are earned each time a new policy is created.

By requiring notice to the previous life insurance company the current law gives the previous insurer an opportunity to contact their insured and determine whether the new policy is truly in the best interest of the insured or if the new agent is engaging in churning. Although this arrangement protects against churning, there has been some concern that such notice is unnecessary when the new policy is being issued by the original insurer or its corporate affiliate. If an insured wishes to replace a life insurance policy with a new policy from the same insurer, there is no need for notification, because the original insurer is already on notice.

The NAIC model law requires notice and includes exclusions for replacement policies that are written by the original insurer or its corporate affiliates. However, the Florida notice requirement in Rule 69O-151.007, F.A.C., lacks these exclusions. By adopting these exclusions, insurers in Florida would be relieved of sending unnecessary notices to themselves when writing new insurance policies for current clients. Additionally, these exclusions will not subject consumers to a higher risk of churning because there is no incentive for an insurance company to prevent churning when the new policy is being written by the same insurer.

Group Life Insurance for Dependents

Currently, group life insurance for a group member’s spouse or dependant is statutorily limited to 50 percent of the coverage provided for the group member.³ This statutory limitation has been in place for over 15 years, and there does not appear to be a clear reason for such a limitation. Industry participants have indicated that the only rationale for such a limitation is that group underwriting is based on the health of the group members; it cannot be assumed that if the

¹ National Association of Insurance Commissioners; *About the NAIC*; available at http://www.naic.org/index_about.htm.

² See Florida Department of Financial Services; *Life Insurance and Annuities: A Guide for Consumers*; available at http://www.myfloridacfo.com/Consumers/Guides/Life/docs/life_annuities_2008.pdf.

³ Section 627.5575(3), F.S.

covered person is healthy, then the spouse and dependants are also healthy. By limiting spousal and dependant life insurance coverage employers are unable to provide a life insurance benefit that they may otherwise be able to provide.

III. Effect of Proposed Changes:

Section 1 creates s. 627.4605, F.S., to provide three situations whereby notice to the insurer of a replacement life insurance policy is not needed: (1) when a contractual change or conversion privilege is exercised; (2) when writing a replacement for a policy by the same insurer pursuant to a program approved by the office; and (3) when exercising a term conversion privilege with an insurer that is a corporate affiliate of the original insurer. These changes are consistent with the National Association of Insurance Commissioners' model law. Further, these scenarios all present situations where notification to the original insurer would be unnecessary, because the original insurer would have prior knowledge of the transaction.

Section 2 amends s. 627.5575, F.S., to delete a limitation on the amount of life insurance that may be purchased to cover a spouse or dependent child. In current practice some insureds will purchase individual policies for their family members. This practice is presently limited to 50 percent of the amount of insurance for the primary insured in the group policy arena. This bill will permit spouses and dependent children to be covered under a group life insurance policy up to the amount for which the employee is insured under the policy.

Section 3 provides that the act shall 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. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

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

This bill will relieve life insurance companies from the current requirement that they must send notice to themselves when issuing a new policy to a current policyholder.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

On line 24, “Office of Insurance Regulation” should be deleted and “office” should be inserted in its place.⁴

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

⁴ “Office” is defined in the Insurance Code as the “Office of Insurance Regulation of the Financial Services Commission.”