

**STORAGE NAME:** h1933.fs  
**DATE:** April 7, 1997

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
FINANCIAL SERVICES  
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

**BILL #:** HB 1933 (PCB FS 97-05)  
**RELATING TO:** The Florida Workers' Compensation Insurance Guaranty Association  
**SPONSOR(S):** Committee on Financial Services, Representative Safley & others  
**STATUTE(S) AFFECTED:** Chapter 624, F.S., and Chapter 631, F.S.  
**COMPANION BILL(S):**

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

- (1) FINANCIAL SERVICES YEAS 10 NAYS 0
- (2)
- (3)
- (4)
- (5)

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**I. SUMMARY:**

The Florida Insurance Guaranty Association (FIGA) provides a payment mechanism for covered claims under certain lines of insurance in cases of insurer insolvency. Self-insurance is not covered under the FIGA. The Florida Self-Insurance Fund Guaranty Association, Inc. (FSIFGA), effective January 1, 1994, was created to serve as a temporary banking mechanism to ensure continuation of claim payments in the event of a self-insurance fund failure.

Over 600 claimants from insolvent funds were statutorily barred from coverage under the FSIFGA because their respective insurable events occurred prior to January 1, 1994 -- FSIFGA's enactment date, and because self-insurance is excluded from the FIGA. These pre-1994 claimants are unable to recover from either the insolvent insurer or the FSIFGA.

This bill merges the FSIFGA and the workers' compensation insurance account from the FIGA. The merged entity will be named the Florida Workers' Compensation Insurance Guaranty Association, Inc. From 7/1/97 to 6/30/98, the maximum assessment rates for private carriers (2 percent) and self-insurance funds (1 percent) will remain in effect. This bill establishes a surcharge on private carriers and group self-insurance funds to pay the pre-1994 claims not covered by the FSIFGA and the current obligations of the FSIFGA. Effective July 1, 1998, both private carriers and self-insurance funds will be assessed a rate not to exceed 1.5 percent, and a surcharge if the assessments wwhich are not adequate to pay claims on a current basis. This bill includes an election of remedies option for pre-1994 claimants, which includes claims under insolvent successors of self-insurance funds. Self-insurance funds are required to maintain a positive surplus and may record future investment income which is based on real assets and multiplied by the 3 year Treasury Note rate.

This bill provides that pending and future receivership hearings on a Petition to Show Cause are not de novo proceedings, but are limited to the record before the court, and provides for the appointment of a Special Master.

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This bill preserves the authority of the Board of Directors to collect money due from group self-insurance fund members before any surcharge is levied against members of the FWCIGA as a whole.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Chapter 631, F.S, concerns insurer solvency and guaranty of payment in cases of insurer insolvency. Several guaranty associations have been legislatively created to provide payments of covered claims for various "lines" of insurance.

The Florida Insurance Guaranty Association (FIGA) was created to provide a mechanism for the payment of covered claims under certain insurance policies to avoid excessive delays in payment and to avoid financial loss to claimants because of insolvencies. The FIGA is funded by assessing conventional insurance companies, and property and casualty stock companies a percentage of premiums written on various lines of insurance (e.g., property and casualty, workers' compensation). The FIGA cannot assess across its various lines of insurance accounts. Member insurers for the workers' compensation account, for example, may be assessed at a rate not to exceed 2 percent of direct written premium. In the preceding 5 years (1992-1996), the FIGA has imposed only one assessment, for 1 percent, on writers of workers' compensation insurance, in 1994. If the FIGA had imposed a maximum 2 percent assessment in 1995, for example, when approximately \$1.25 billion was written in workers' compensation premiums, approximately \$25 million would have been generated. The FIGA's assessment income is not taxed by the federal government.

Several types of insurance are statutorily excluded from the provisions of FIGA, self-insurance being one such type.

The Legislature created the Florida Self-Insurance Fund Guaranty Association, Inc., (FSIFGA) as of January 1, 1994, to serve as a temporary banking mechanism to ensure continuation of claim payments in the event of a self-insurance fund failure. Individual self-insurers are not included, but group self-insurance members such as Florida Citrus Self Insurance Fund and the Florida Roofing, Sheetmetal & Air Conditioning Contractors Self Insurance Fund, are assessed at a rate not to exceed 1 percent of net direct written premium for the prior calendar year. The FSIFGA recently achieved tax-free status so its assessment income also is no longer taxed by the federal government.

At the time of the FSIFGA's inception there were 33 member funds in operation. To date, there are 18 funds left in the FSIFGA. Of those 18, 1 is in receivership, 2 are running-off claims, 6 are in the process of converting to other types of insurers, and 9 have not yet indicated any change in their operation. Insolvencies and conversions continue to shrink an ever-dwindling assessment base.

Two large self-insurance groups, the United States Employers Consumers Self Insurance Fund (USEC), and the Florida Employers Safety Association Self Insurers Fund (FESA), were the subject of Department of Insurance (DOI) action in 1995 and 1996, respectively. The USEC is in liquidation receivership and the FESA is subject to an Order to Show Cause as to why the Department should not also be appointed receiver for purposes of liquidation. Over 600 claimants, whose accident dates occurred prior to January 1, 1994, are unable to recover from either their insolvent insurer, or from the FSIFGA.

Most recently, the Physician's Corporation of America Property and Casualty, Inc. (PCA P&C), which is a commercial carrier (not a self-insurer) writing workers' compensation, has been subject to regulatory action due to fiscal impairment. Currently, PCA P&C is subject to an Order to Show Cause as to why the DOI should not be appointed Receiver for purposes of rehabilitation. The DOI has no estimate of the number of claims this receivership will generate. PCA P&C has approximately \$398 million in assets (\$333 million of those assets are liquid) and approximately \$534 million in known liabilities.

PCA P&C is a unique situation which may affect both the FSIFGA as well as the FIGA. PCA P&C contracted with several self-insurance funds (SIF). Some contracts appear to be reinsurance and some appear to assume the SIFs' "book of business" going forward. These contracts are now being evaluated by the DOI. The outcome of the contract evaluation may determine which claims are paid by the FSIFGA, and which are paid by the FIGA.

The regulation of self-insurance funds had been under the Department of Labor and Employment Security (FDLES), which issued its first license to a self-insurance fund in 1952. On July 1, 1994, the Department of Insurance (DOI) assumed regulation of the group self-insurance funds. Prior to 1994, the funds had not received a comprehensive financial audit. Determining the financial condition of the funds has been difficult because, in part, the funds recently have been required to convert from filing the FDLES forms to forms endorsed by the National Association of Insurance Commissioners (NAIC). Although NAIC forms were more detailed and comprehensive when compared to the FDLES forms, certain statutory accounting deviations were permitted. For instance, pre-paid expenses, equipment, deferred taxes, and future investment income were allowed as admitted assets.

From a statutory accounting perspective, allowing the future investment income asset in filed financial statements may have distorted the true surplus of a fund and allowed it to operate close to the edge of insolvency while appearing to be solvent. Furthermore, the lack of a statutory minimum surplus requirement offered no incentive for the fund to build up a surplus, which exacerbated the problem when a fund was found to be financially impaired. Most funds have large recoverables in their financial statements due to the Special Disability Trust Fund, whose financial condition has been determined to be in a deficit.

On July 1, 1994, the Florida Workers Compensation Joint Underwriting Association was created, which effectively replaced the assigned risk pool for workers' compensation coverage. Since insurance carriers were required to fund the assigned risk pool, and self-insured employers were not so required, the elimination of the assigned risk pool opened up the Florida market to carriers. At that time, the self-insured funds held a substantial share of the workers' compensation market in Florida, based upon gross premium written.

From a regulatory standpoint, self-insured funds differ from commercial carriers on several important points:

| <u>Requirements</u>               | <u>SIF</u>                | <u>Carrier</u>            |
|-----------------------------------|---------------------------|---------------------------|
| NAIC 4th<br>Quarter Statement?    | Yes                       | No                        |
| Due date of<br>Annual Statement   | 6 months<br>after yr. end | 2 months<br>after yr. end |
| Future Investment<br>Income Asset | Yes                       | No                        |
| Reserve Discounting               | No                        | No                        |
| Surplus Requirement               | No                        | Yes                       |

Since its inception on January 1, 1994, the FSIFGA has handled over approximately 1,900 claims for three liquidation funds: the Certified Pulpwood Dealers Association Self-Insurers Fund (CPD); the United States Employers Safety Association Self Insurers Fund (USEC), as of May 16, 1995; and the Florida Employers Safety Association Self Insurers Fund (FESA), as of October 22, 1996. FSIFGA has paid approximately \$6.7 million for these three funds with outstanding case reserves of approximately \$16 million. Its current status is as follows:

From May 1, 1994 to December 31, 1996:

|   |                   |
|---|-------------------|
| Assets  | \$ 27, 168,087.22 |
| Liabilities   | \$ 27, 168,087.22 |
| Total expenditures<br>(includes USEC, FESA and CPD) | \$ 5,439,782.12   |
| Assessment and investment income:                   | \$ 32,434,453.07  |
| Receipts in excess of expenditures:                 | \$ 26, 994,670.95 |

The DOI's collection efforts in the USEC receivership are in progress in the following categories: Various causes of action have been brought against Cohig & Associates, a brokerage firm, Debenture Guaranty, a Wilson company, and various individual defendants for the loss of \$3.5 million in assets through a transaction between USEC and a Mr. Robert Wilson (who has consented to judgment). Trial is scheduled in federal court for January 1998. Other collections are in progress and include: reinsurance (under review by Chiltington Inc., a reinsurance and insurance consulting firm in Orlando, Florida, the amount conservatively estimated at this time to be approximately \$3.5 million); unearned premium collections (conservatively estimated to be approximately \$1.5 million); subrogation and lien recoveries (still under review); and, assessment of members of USEC (employers). Of the 1139 members, 391 have not made full payment. The members with the 20 highest bills owe approximately \$29 million, or 78% of the assessment. Only 83 members owe more than \$25,000. The highest amounts are owed by employee leasing firms.

FESA is subject to an Order to Show Cause and is litigating with the DOI on issues ranging from the constitutional authority for the DOI to regulate SIFs, to whether the Receivership Court may appoint a Special Master to hear objections to the assessments ordered by the Department, due to the crowded civil docket. The average "life" of a civil receivership proceeding is 7 years.

**B. EFFECT OF PROPOSED CHANGES:**

**THE FWCIGA**

FWCIGA will be formed from the merger of FSIFGA and the Worker's Compensation account within FIGA. The direct insurance (commercial) line of worker's compensation, currently under FIGA, will be removed from the purview of FIGA and merged with the remaining group self-insurance funds under FSIFGA and re-named the Florida Workers' Compensation Insurance Guaranty Association, Inc. (FWCIGA).

**GOVERNANCE**

The Board of Directors of the FWCIGA will consist of 11 members, including representatives from self-insurance funds, domestic and foreign commercial carriers, and the Insurance Consumer Advocate and one member selected by the Insurance Commissioner. The Board is required to submit a Plan of Operation which will outline the Board's practices and procedures to the Department of Insurance.

**ACCOUNTABILITY**

The Board is authorized to investigate the practices of service companies of insolvent self-insurance funds, and to assist the DOI in the investigation and prevention of insolvencies. All reports and recommendations to the Department of Insurance continue to be exempt from public disclosure until the termination of insolvency proceedings. The Board is granted standing to appear in court receivership proceedings.

**FUNDING MECHANISM**

From July 1, 1997 to June 30, 1998, assessments will be capped at their present levels. Self-insurance funds will be assessed at a rate not to exceed 1 percent of net direct written premium. In the case of a self-insurance fund insolvency, if the assessment of self-insurance funds is not enough to retire the outstanding pre-1994 claims liability not covered by the FSIFGA, and the existing FSIFGA liability, a uniform percentage surcharge will be assessed against all self insurance funds and commercial carriers in the FWCIGA to retire fully the liability. If there is an insolvency involving private carriers, an assessment will be levied on all private carriers, not to exceed 2 percent of net direct written premium. If the assessment of commercial carriers is not enough to pay claims, a uniform percentage surcharge will be assessed against all private carriers and self-insurance funds in the FWCIGA.

After July 1, 1998, assessments for both private carriers and self-insurance funds in the FWCIGA will be capped at a maximum rate not to exceed 1.5 percent of net direct written premiums. The maximum assessment for private carriers now in the FIGA will be reduced from 2 percent of net written premium to 1.5 percent. The maximum

assessment for self-insurance funds now in the FSIFGA will be increased from 1 percent to 1.5 percent.

The surcharge assessed against all members of the FWCIGA will be "below-the-line." This bill preserves the authority of the Board to assess self-insurance fund members before any surcharge is levied against members of the FWCIGA as a whole.

### **ELECTION OF REMEDIES**

All pre-1994 claimants, including those claimants of insolvent successors of self-insurance funds, must choose to seek benefits either from the FWCIGA corporation, or from the employer or the insolvent self-insurance fund. Claimants electing to seek remedies through the corporation may be required to obtain medical care through a managed care plan. Such an election will not include any entitlement to attorneys fees, penalties, interests or costs to be paid on the claim. This election of remedies provision does not create an independent cause of action against employers which have purchased workers' compensation insurance pursuant to s. 440.38, F.S.

### **SOLVENCY**

Self-insurance funds and assessable mutual insurers are required to maintain a positive surplus. Future investment income, reported after January 1, 1998, may be reflected on annual and quarterly financial statements, and must be tied to admitted assets of the fund. Future investment income may be reflected as the sum of asset values of lines 1 (bonds) and 6 (cash and short-term investments) as reported on page 2 of the annual and quarterly financial statements, and multiplied 3 times the 3 year treasury note rate (allowing a future investment income for 3 years in to the future). However, only those self-insurance funds and assessable mutual insurers which report future investment income prior to December 31, 1997, in the manner described above, may continue to book that future investment income.

### **REHABILITATION AND LIQUIDATION**

In present and future receivership proceedings, the hearing on a Petition to Show Cause as to why the Department of Insurance should not be appointed receiver shall not be *de novo*, but shall be limited to the documents supplied by the company to the Department, pursuant to s. 631.181(2), and the Department's record. Furthermore, in the interests of judicial economy, the Receivership Court will be given the express authority to appoint a Special Master in pending and future receivership proceedings. Unlawful refusal by any person referred to in s. 631.391(1) to provide documents requested by the department in any proceeding under Chapter 631 or any investigation preliminary or incidental to the proceeding, is grounds for revocation of any insurance related license. The department may require a self-insurance fund to consent to administrative supervision if that fund levies an assessment pursuant to s. 624.476(1), F.S.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Payment of workers' compensation claims of insolvent workers compensation insurers will now be the handled by the Florida Workers' Compensation Insurance Guaranty Association, Inc.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

The responsibility for collecting assessments, surcharges, and payment of both pre-1994, and post-1994, workers' compensation claims of insolvent workers' compensation insurers will now be the handled by the Florida Workers' Compensation Insurance Guaranty Association, Inc., rather than the FSIFGA and the FIGA.

(2) what is the cost of such responsibility at the new level/agency?

Indeterminate. Costs will be funded by annual assessments to the Association member body and through a surcharge to retire liabilities which exceed annual assessments.

(3) how is the new agency accountable to the people governed?

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

No.

- b. Does the bill require or authorize an increase in any fees?

No.

- c. Does the bill reduce total taxes, both rates and revenues?

No.

- d. Does the bill reduce total fees, both rates and revenues?

Between July 1, 1997 and June 30, 1998, assessments will be capped at current levels; not to exceed 2 percent for commercial carriers, and not to exceed 1 percent for group self-insurance funds. Beginning July 1, 1998, assessments will be capped for both commercial carriers and group self-insurance funds at a maximum rate not to exceed 1.5 percent of net written premiums. The maximum assessment for private carriers now in the FIGA will be reduced from 2 percent of net written premium to 1.5 percent. The maximum assessment for self-insurance funds now in the FSIFGA will be increased from one percent to 1.5 percent.

All members of the newly formed Association will be assessed a "below-the-line" surcharge to retire the outstanding pre-1994 claims liability and the existing liability of the FSIFGA. The surcharge also may be imposed whenever claims resulting from insolvencies in the broad workers' compensation insurance marketplace cannot be paid on a current basis from annual assessments.

- e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

No.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

**D. SECTION-BY-SECTION RESEARCH:**

Section 1. Amends s. 624.4621, F.S., providing for surplus requirements for group self-insurance funds.

Section 2. Amends s. 624.468, F.S., providing for surplus requirements for commercial self-insurance funds.

Section 3. Amends s. 624.470, F.S., providing a formula for group self-insurance funds reporting future investment income.

Section 4. Amends s. 624.476, F.S., providing for administrative supervision.

Section 5. Creates s. 624.477, F.S., providing for department of insurance regulatory authority over group self-insurance funds.

Section 6. Amends s. 624.488, F.S., providing for applicability of related laws.

Section 7. Amends s. 624.6014, F.S., providing a formula for assessable mutual insurers reporting future investment income.

Section 8. Amends s. 631.021, F.S., providing for delinquency proceeding; venue; remedy, appeal; and notice.

Section 9. Amends s. 631.182, F.S., providing for claims reports and objections procedure.

Section 10. Amends s. 631.331, F.S., providing for notice, payment, and collection procedure.

Section 11. Amends s. 632.391, F.S., providing for cooperation of officers and employees of companies with the department of insurance.

Section 12. Amends s. 631.52, F.S., reducing the scope of the Florida Insurance Guaranty Association to exclude workers' compensation insurance.

Section 13. Amends s. 631.54, F.S., providing for definitions.

Section 14. Amends s. 631.55, F.S., enumerating the accounts within the association.

Section 15. Amends s. 631.57, F.S., providing for powers and duties of the association.

Section 16. Creates s. 631.901, F.S., establishing a title for the act.

Section 17. Creates s. 631.902, F.S., establishing the purpose and intent of the act.

Section 18. Creates s. 631.903, F.S., providing the standard for construing the statute.

Section 19. Creates s. 631.904, F.S., providing definitions.

Section 20. Creates s. 631.911, F.S., providing for the merger of the Florida Self Insurance Fund Guaranty Association and the workers' compensation account from Florida Insurance Guaranty Association, and re-naming as the Florida Workers' Compensation Insurance Guaranty Association, Inc.

Section 21. Creates s. 631.912, F.S., providing for a Board of Directors for the Florida Workers' Compensation Insurance Guaranty Association, Inc., a non-profit corporation.

Section 22. Creates s. 631.913, F.S., providing for the powers and duties of corporation.

Section 23. Creates s. 631.914, F.S., providing for the imposition, collection, exemptions, maximum rate, and reporting of assessments and surcharges.

Section 24. Creates s. 631.916, F.S., providing for requirements for the Board to create a plan of operation and timely submit same to the Department of Insurance.

Section 25. Creates s. 631.917, F.S., providing for the prevention of insolvencies.

Section 26. Creates s. 631.918, F.S., providing for immunity of board members.

Section 27. Creates s. 631.919, F.S., providing for advertisement/solicitation prohibitions.

Section 28. Creates s. 631.921, F.S., providing for annual review of the Association's books and records by the Department of Insurance.

Section 29. Creates s. 631.922, F.S., providing for liability of members of an impaired fund for unpaid claims.

Section 30. Creates s. 631.923, F.S., providing for assignment of rights for recovery under the policy; establishing duty of Association to file statements to the receiver.

Section 31. Creates s. 631.924, F.S., providing for a stay of proceedings.

Section 32. Creates s. 631.926, F.S., providing for attorney's fees.

Section 33. Creates s. 631.927, F.S., providing for assumption of liability of Certified Pulpwood Dealers Self-Insurers Fund.

Section 34. Renumbers s. 631.996, F.S., as s. 631.928, F.S., modifying the Florida Self Insurance Guaranty Fund Account and re-naming it the Florida Workers' Compensation Insurance Guaranty Association Account

Section 35. Creates s. 631.929, F.S., providing for election of remedies.

Section 36. Renumbers s. 631.997, F.S., as s. 631.931, F.S., modifying the public records exemption for reports and recommendations by the board of directors of the Florida Self Insurance Guaranty Fund Association, as it will now exist as the Florida Workers Compensation Insurance Guaranty Association.

Section 37. Renumbers s. 631.998, F.S., 1996 Supplement, as s. 631.932, F.S., modifying the public records exemption for negotiations between an insurer and the Florida Self Insurance Guaranty Fund Association, as it will now exist as the Florida Workers Compensation Insurance Guaranty Association.

Section 38. Repeals former sections regarding the Florida Self Insurance Fund Guaranty Association.

Section 39. Provides for an effective date - July 1, 1997.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

See III. A., above.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

If there is a need to assess members of the Florida Workers Compensation Insurance Guaranty Association, municipalities and other governmental bodies which are members of any group self-insurance fund, may experience an indeterminate increase in premiums.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Commercial carriers, previously in the FIGA and writing workers' compensation insurance, were assessed at a rate which did not exceed 2 percent of net direct written premium. As members of the FWCIGA, commercial carriers will be assessed annually at a rate not to exceed 1.5 percent beginning July 1, 1998.

Group self-insurance funds, previously in the FSIFGA and writing workers' compensation insurance, were assessed annually at a rate which did not exceed 1 percent. As members of the FWCIGA, group self-insurance funds will be assessed annually at a rate not to exceed 1.5 percent beginning July 1, 1998.

All members of the newly formed Association will be assessed a "below-the-line" surcharge to retire the outstanding pre-1994 claims liability and existing liability of the FSIFGA. The surcharge also may be imposed whenever claims resulting from insolvencies in the broad workers' compensation insurance marketplace cannot be paid on a current basis from annual assessments.

2. Direct Private Sector Benefits:

The Board of Directors of the Florida Workers Compensation Insurance Guaranty Association, Inc., is empowered to investigate the practices of third party administrators and service companies of insolvent group self-insurance funds to determine proper handling of claims. The Board is also encouraged to work closely with the Department of Insurance to help prevent insurer insolvencies. The Board is empowered to bring civil suits to collect assessments, and has standing to appear before the receivership court. The assessment rate will be capped, not to exceed 1.5 percent of net written premium beginning July 1, 1998.

3. Effects on Competition, Private Enterprise and Employment Markets:

D. FISCAL COMMENTS:

The fiscal impact of this bill is indeterminate for the following reasons:

Although the group self-insurance funds will be assessed at a rate not to exceed 1.5 percent of net direct written premium, it is difficult to estimate the amount that assessment will generate given the fluid nature of the group self-insurance base, as evidenced by recent insolvencies.

FSIFGA - The Florida Self-Insurance Fund Guaranty Association has levied three assessments against all self-insurance funds at the maximum amount permitted by statute - 1 percent of net written premium for the prior calendar year.

| <u>Date</u>   | <u>Total Assessment Collected</u> |
|---------------|-----------------------------------|
| June 30, 1994 | \$16,139,730.43                   |
| June 30, 1995 | \$10,406,414.26                   |
| June 30, 1996 | \$5,199,033.35 <sup>1</sup>       |

The Florida Self-Insurance Fund Guaranty Association, Inc., case reserves, as of December 31, 1996, were as follows:

|                                |                 |
|--------------------------------|-----------------|
| Certified Pulpwood Dealers SIF | \$2,479,870.93  |
| USEC SIF                       | \$1,285,822.00  |
| FESA SIF                       | \$21,457,792.00 |
|                                | _____           |
| Total - Case Reserves          | \$25,223,484.93 |

USEC - According to the Department of Insurance there is an estimated \$12 million worth of pre-1994 claims attributed to the USEC insolvency which are not covered under FSIFGA, and approximately \$13 million worth of post-1994 claims. Most of the post-1994 claims have settled at significantly less than the reserve amount. The pre-1994 claims have not settled because there are insufficient assets in the estate to pay all of the loss claims having the same priority in accordance with the priority guidelines of Chapter 631. There are \$11 million in loss claims filed in the receivership, and \$3.5 million in general creditor claims. The assessment was billed in accordance with an Order of the Circuit Court dated July 15, 1996. The total amount assessed against members was \$38 million. Members have until April 15, 1997 to submit arguments in support of their objections to the assessments.

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<sup>1</sup>Receipts through January 29, 1997.

FESA - According to the Department of Insurance there are 418 open claims which arose prior to 1994 and are therefore not covered by the FSIFGA. The reserve on those claims are still being calculated, but are estimated to be between \$25 million and \$35 million. There are 570 claims which arose after 1994. The reserve on those claims is estimated to be over \$21 million.

PCA P&C - The Physician's Corporation of America Property and Casualty proceeding carries implications for both the FSIFGA and the FIGA, depending upon the interpretation of certain reinsurance contracts between PCA P&C and several group self-insurance funds. PCA P&C has approximately \$398 million in assets (\$333 million of those assets are liquid) and approximately \$534 million in known liabilities. Claim numbers and amounts are as yet indeterminate.

ABO - The American Business Owners consented to liquidation March 25, 1997. There are 63 pre-1994 claims and 802 post-1994 claims. Reserves for that company are conservatively estimated to be \$14 million.

FIGA - In contrast with the FSIFGA, the Florida Insurance Guaranty Association, Inc., or the FIGA, has levied only one assessment in the past 5 years to its members in its workers' compensation insurance line. The FIGA's assessment rate is capped not to exceed 2 percent, yet the FIGA assessed only a 1 percent assessment in 1994. Although FIGA did not levy an assessment in 1995, if it had imposed a maximum 2 percent assessment that year, when approximately \$1.25 billion was written in workers' compensation premiums, approximately \$25 million would have been generated.

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.

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V. COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VII. SIGNATURES:

COMMITTEE ON FINANCIAL SERVICES:

Prepared by:

Legislative Research Director:

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Michael A. Kliner

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Stephen T. Hogge