

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 2158

SPONSOR: Banking and Insurance Committee and Senator Holzendorf

SUBJECT: Insurance

DATE: March 20, 2000

REVISED: _____

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

I. Summary:

Committee Substitute for Senate Bill 2158 provides for the following:

- ◆ The licensure and regulation of adjusters by the Department of Insurance *would not apply* to employees or agents of a governmental entity providing adjusting services in support of any self-insurance program adopted by such governmental entity.
- ◆ Motor vehicle insurance policyholders *would be exempt* from the requirement of making a down payment equal to at least 2 months' premium if they purchase additional coverage or add coverage for an additional vehicle.

Under present law, insurance adjusters are licensed and regulated by the Department of Insurance and must meet certain background qualifications, education, training and licensure requirements.

Under the current motor vehicle law, policyholders are required to pay in advance 2 months' premium if they purchase additional insurance coverage or add coverage for an additional vehicle.

This CS amends the following sections of the Florida Statutes: 626.852 and 627.7295

II. Present Situation:

Insurance Adjusters

In general, an adjuster is a person who is involved in the investigation, adjustment, and negotiation of claims arising under insurance policies. Insurance adjusters are licensed and regulated by the Department of Insurance pursuant to Part VI of the Florida Insurance Code, the "Insurance Adjuster Law," and must meet certain background qualifications, education, training and licensure requirements (ss. 626.851 through 626.878, F.S.).

A qualified person may be licensed and appointed as one of three types of adjusters:

- ◆ A company adjuster, who is an employee of the insurer;
- ◆ An independent adjuster, who is employed by an independent adjusting firm, which may contract with one or more insurers to adjust claims; or
- ◆ A public adjuster, who contracts with an insured to assist that person with their claim with an insurer. Public adjusters are paid a percentage of the claims settlement.

All three types of adjusters must be at least 18 years old, a resident of the state (although the Department of Insurance also issues nonresident adjuster licenses), be “trustworthy,” have had sufficient training and experience, and have passed a written exam. Each adjuster must be licensed by the Department of Insurance and appointed by an insurer. In addition, a public adjuster must carry a \$50,000 bond.

An attorney, licensed to practice law in the state and a member of The Florida Bar is exempt from the licensing provisions. Additionally, a licensed and appointed insurance agent may adjust losses for another agent if authorized to do so by an insurer.

The department may designate catastrophe or emergency adjusters, who are not licensed adjusters, but are certified by the department to carry out the duties of a licensed adjuster in the event of a catastrophe or emergency.

Self-insurance Programs by Governmental Entities

Section 768.28(15)(a), F.S., authorizes the state and its agencies and subdivisions to be self-insured, to enter into risk management programs, purchase liability coverage, or to have any combination of these programs.

State Property Insurance Trust Fund/Florida Casualty Insurance Risk Management Trust Fund

Under chapter 284, F.S., the State Property Insurance Trust Fund is established as a self-insurance program under the Department of Insurance to insure state property which is owned by the state or its agencies, boards or bureaus. In addition, the Florida Casualty Insurance Risk Management Trust Fund is established as a self-insurance program under the department to provide insurance for workers’ compensation, general liability, fleet automotive liability, federal civil rights actions and court-awarded attorney’s fees.

According to the Division of Risk Management within the department, claims under these two self-insurance programs are adjusted in a way similar to claims adjusted for a private self-insurance fund or a fully-funded insurance program. Employees of the department that adjust claims under these programs are not licensed as adjusters by the department.

University of Florida Self-Insurance Program

Under s. 240.213, F.S., the Board of Regents has created the University of Florida Self-insurance Program, which offers comprehensive general liability insurance for the Board of Regents. Shands HealthCare is statutorily authorized to participate in the program.

The University of Florida Self-insurance Program assisted Shands HealthCare in creating the Shands Physician Advantage Program, which encourages physicians with medical privileges at Shands HealthCare facilities to carry medical malpractice coverage with limits of \$1 million/\$3 million, rather than the minimum statutory requirements of \$250,000 / \$750,000. The Shands HealthCare Insurance Program has selected MAG Mutual Insurance Company to be its insurance carrier, and in order to contain costs, the University of Florida Self-insurance Program agreed to provide underwriting, risk management, and claims services to MAG Mutual Insurance Company for Shands Physician Advantage Insurance Program participants. These adjusters are employed by the University of Florida Self-insurance Program and are not licensed by the Department of Insurance.

Motor Vehicle Insurance

Current law provides for compulsory purchase of no-fault coverage, referred to as personal injury protection (PIP), which compensates the policyholder directly up to \$10,000 without regard to fault for bodily injury sustained in a motor vehicle accident (s. 627.736, F.S.). Personal injury protection insurance reimburses 80 percent of all medical expenses, 60 percent of any loss of income, and funeral expenses up to \$5,000. Personal injury protection benefits cover the named insured, any relatives that live with the insured, and occupants of a vehicle that do not have their own PIP insurance. This coverage also provides the policyholder with immunity from liability for economic damages up to the policy limits and for non-economic damages (pain and suffering) for most injuries. Property damage liability coverage of \$10,000 is also required which pays for the physical damage expenses caused by the insured to third parties in the accident.

Section 627.7295, F.S., provides that an applicant for a new private passenger motor vehicle insurance policy is required to make a down payment equal to at least 2 months' premium on the policy. This section also prohibits the insurer from canceling policy for non-payment of premium during the first 60 days after the effective date of the policy, with certain exceptions. These provisions are intended to help enforce mandatory insurance requirements, by preventing persons from binding coverage merely to show proof of insurance at the time of registration of a vehicle. The requirement of advance payment has several exceptions, some of which include when a policyholder's insurance is renewed, when replacement insurance is obtained, when the policyholder is on active duty in the military, or when premiums are paid through a payroll deduction plan or through an automatic electronic funds transfer plan.

At least some insurers issue a new policy of insurance if there is a substantial change in coverage, risk or premium. For example, if a policyholder or family member purchases an additional vehicle or additional coverage, the policyholder must make a down payment of at least 2 months' premium on the policy because those changes necessitate a new policy of insurance.

III. Effect of Proposed Changes:

Section 1. Amends s. 626.852, F.S., to provide that part VI of the Insurance Code which regulates insurance adjusters, does *not apply* to employees or agents of a governmental entity providing services in support of any self-insurance program adopted by such governmental entity.

The effect of this provision would be that an employee or agent of a governmental entity who services the claims of a self-insurance program adopted by a governmental entity would not have to be licensed as an adjuster by the Department of Insurance. These employees are held accountable for their actions by their overseeing governmental agency.

For example, those employees of the department who adjust claims for the State Property Insurance Trust Fund would not have to be licensed by the department. In contrast, if the State Property Insurance Trust Fund contracts with a private firm to handle claims adjustment, those adjusters would be required to be licensed by the department, as they are not employees of the department.

Using the relationship of University of Florida Self-insurance Program with MAG Mutual Insurance Company as an example, those employees of the University of Florida Self-insurance Program who adjust the claims of Shands Physician Advantage Program participants would not be required to be licensed by the department. However, University of Florida Self-insurance Program employees could not adjust other claims for MAG Mutual Insurance Company unless they were licensed adjusters.

Section 2. Amends s. 627.7295, F.S., to provide an exception to the requirement of making a down payment equal to at least 2 months' premium for motor vehicle insurance. That exception would apply if an insured or family member has previously purchased and has in effect a policy of private passenger motor vehicle insurance, and purchases either additional coverage or adds coverage for an additional vehicle, with such coverage written by the same insurer or a member of the same insurer group.

Section 3. Provides that the act will take effect July 1, 2000.

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:

Policyholders of motor vehicle insurance policies and their family members would benefit by not being required to pay in advance 2 months' premium if they purchase additional coverage or add coverage for an additional vehicle.

C. Government Sector Impact:

Adjusters employed by governmental self-insurance programs will benefit because they will not have to meet the licensure mandates under current law which are administered by the Department of Insurance. According to the Department of Insurance, any loss of revenue to the department from the adjuster license/appointment fees would be minimal.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.