

STORAGE NAME: h0385s1.ccc.doc
DATE: February 27, 2002

HOUSE OF REPRESENTATIVES
COUNCIL FOR COMPETITIVE COMMERCE
ANALYSIS

BILL #: CS/HB 385
RELATING TO: Property and Casualty Insurers
SPONSOR(S): Council for Competitive Commerce and Rep. Lee
TIED BILL(S):

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

- (1) ECONOMIC DEVELOPMENT AND INTERNATIONAL TRADE YEAS 7 NAYS 0
 - (2) FISCAL POLICY AND RESOURCES YEAS 13 NAYS 0
 - (3) COUNCIL FOR COMPETITIVE COMMERCE YEAS 10 NAYS 0
 - (4)
 - (5)
-

I. SUMMARY:

In 1998, the Legislature created a 5-year exemption from certain taxes and assessments for new minority-owned property and casualty insurance companies. The availability of the exemption expires on July 1, 2003. The exemption applies to premium taxes on property insurance policies, municipal excise taxes on property insurance and casualty insurance, and "regular" assessments (but not "emergency" assessments) of the Residential Property and Casualty Joint Underwriting Association and the Florida Windstorm Underwriting Association.

The bill extends the period of the exemption to 10 years (instead of the current 5 years), and provides a sunset date of December 31, 2010 (instead of the current July 1, 2003 date).

The Revenue Impact Conference reviewed this bill on December 14, 2001, and estimated it would have a \$100,000 negative effect in fiscal year 2002-2003 on the General Revenue.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|-----------------------------------------|-----------------------------|-----------------------------------------|
| 1. <u>Less Government</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Section 624.4072, Florida Statutes, exempts property insurance policies issued by minority-owned property and casualty insurers from:

- the insurance premium tax imposed by s. 624.509, F.S.;
- regular assessments (but not emergency assessments) by the Residential Property and Casualty Joint Underwriting Association (RPCJUA) and the Florida Windstorm Underwriting Association (FWUA) for residential insurance policies;
- excise taxes imposed on property insurance premiums by a municipality or other entity that has a lawfully established pension fund or other means of providing pension benefits to firefighters (s. 175.191, F.S.); and,
- excise taxes imposed on casualty insurance premiums by a municipality or other entity that has a lawfully established police officers' retirement trust fund or other means of providing pension or relief benefits to police officers (s. 184.108, F.S.).

In order to qualify for the exemptions, the insurer must be 51 percent owned by minority persons, as defined in s. 288.703(3), F.S.,¹ and must have:

- received its initial certificate of authority to do business in Florida after May 1, 1998;
- a home office or regional office in Florida;
- employees in Florida; and,
- an average, in any given tax year or assessment year, of at least ten percent of its in-force Florida residential policies in enterprise zones designated under s. 290.0065, F.S.

¹ Under s. 288.703(3), a minority person is an African American, a Hispanic American, an Asian American, a Native American, or an American Woman.

Insurers qualifying under this section are eligible for an exemption for a period not to exceed 5 years from the date of receiving a certificate of authority. The statutory section creating the exemption has a repeal date of July 1, 2003, and any active exemption under the section expires on that date.

According to the Department of Insurance only one insurer, which received its certificate of authority on January 29, 1999, has qualified for the exemption. Under current law other eligible insurers could qualify for the exemption until July 1, 2003.

C. EFFECT OF PROPOSED CHANGES:

House Bill 385 extends the period of tax and assessment exemptions for new minority-owned property and casualty insurers to 10 years (instead of the current 5 years) and provides a sunset date of December 31, 2010 (instead of July 1, 2003).

D. SECTION-BY-SECTION ANALYSIS:

See Effect of Proposed Changes.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Impact Conference reviewed this bill on December 14, 2001, and estimated it would have a \$100,000 negative effect in fiscal year 2002-2003 on the General Revenue Fund. The estimate is based on the assumptions that:

- Only one insurance company would continue to qualify for the exemptions under this section; and
- The insurance company would have premiums of \$10 million for the 2003 tax year, taxable at 1%.

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Certain minority-owned insurers could qualify for exemptions from excise taxes, premium taxes, and RPCJUA and FWUA assessments under this bill. This could create more of a burden on other

insurers for regular assessments levied by the Residential Property and Casualty Joint Underwriting Association and the Florida Windstorm Underwriting Association.

D. FISCAL COMMENTS:

Since the bill extends the tax exemptions for residential property insurance policies issued by minority-owned insurance companies, the impact of the bill would depend both on the number of eligible minority-owned insurers that might be formed between the time the exemptions take effect and the proposed December 31, 2010 expiration date and on the premium volume of residential property insurance policies written by these companies.

The bill could negatively affect the amount of excise taxes collected and deposited in the Firefighters' Pension Trust Fund and the Municipal Police Officers' Retirement Trust Fund (ss. 175.101 and 185.08, F.S.)

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 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.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None

B. RULE-MAKING AUTHORITY:

None

C. OTHER COMMENTS:

The Department of Revenue advises there is no fiscal impact on the agency to administer the bill. The Department feels that they do not have the expertise to determine an individual's minority status. The Department suggests that another agency certify to the Department an individual's minority status.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Council Substitute narrows the scope of the bill to minority-owned property and casualty insurers, but does not change the substance of the bill.

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VII. SIGNATURES:

COUNCIL FOR COMPETITIVE COMMERCE:

Prepared by:

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Prepared by:

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