

The Florida Senate
HOUSE MESSAGE SUMMARY

Prepared By: The Professional Staff of the Banking and Insurance Committee

[2008s2012.hms]

BILL: CS/CS/SB 2012

INTRODUCER: Health Policy Committee and Banking and Insurance Committee and Senator Deutch

SUBJECT: Relating to Insurance Policies

DATE: May 1, 2008

I. Amendments Contained in Message:

House Amendment 1 – 613621 (body with title)
House Amendment 2 – 003745 (body)
House Amendment 3 – 944233 (body with title)
House Amendment 4 – 961399 (body with title)
House Amendment 5 – 988445 (body with title)
House Amendment 6 – 916039 (body with title)
House Amendment 7 – 758247 (body with title)
House Amendment 8 – 824245 (body with title)
House Amendment 9 – 794475 (body with title)
House Amendment 10 – 320751 (body with title)
House Amendment 11 – 389549 (body with title)

II. Summary of Amendments Contained in Message:

House Amendment 1 amends s. 624.443, F.S., to allow the Office of Insurance Regulation to waive the requirement that each multiple-employer welfare arrangement (MEWA) maintain its principal place of business in this state if the MEWA has been operating in another state for at least 25 years, has been licensed in such state for at least 10 years, and has a minimum fund balance of \$25 million at the time of licensure. This identical language has passed the Senate and the House in CS/CS/SB 1012, Section 1.

House Amendment 2 amends s. 627.94073 F.S., which pertains to long-term care or limited benefit insurance policies, to require that the notice of possible lapse in coverage due to nonpayment of premium be sent to the policyholder and the secondary designee at the address shown in the policy or the last known address provided to the insurer.

House Amendment 3 amends s. 627.736, F.S., pertaining to motor vehicle personal injury protection (PIP) insurance. Under current law, insurers are allowed to limit reimbursement for PIP benefits to 80 percent of 200 percent of the Medicare Part B fee schedule for specified medical services. The amendment clarifies that PIP reimbursement for medical services would be based on 200 percent of the allowable amount under the “participating physicians” schedule of Medicare Part B for 2007. Participating physicians accept Medicare’s allowed charges as payment in full for all their Medicare patients. This identical language passed the Senate (CS/CS/SB 2174, Section 1) and is in messages to the House.

House Amendment 4 amends s. 395.106, F.S., pertaining to risk pooling by certain hospitals and hospital systems. Under current law, any two or more hospitals may form a self-insurance alliance to pool and spread liabilities for property insurance coverage. If a hospital alliance purchases “excess” insurance it is subject to the premium tax. The amendment would allow such alliances to be considered “insurers” only for the purpose of purchasing reinsurance coverage which would not be subject to the premium tax. The amendment clarifies that contracts of reinsurance issued to a hospital alliance shall receive the same tax treatment as reinsurance contracts issued to insurers.

House Amendment 5 amends s. 627.351, F.S., pertaining to Citizens Property Insurance Corporation. This amendment gives a policyholder (and his attorney) who has filed suit against Citizens access to his or her own claim file to the same extent that discovery would be available from a private insurer in litigation as provided by the Florida Rules of Civil Procedure. This same right of access to claim files is provided to a third party in litigation pursuant to subpoena. Access to such files is subject to any confidentiality protections requested by Citizens. The amendment authorizes Citizens to release confidential underwriting and claims file contents as it deems necessary to underwrite or service insurance policies and claims, subject to confidentiality protections deemed necessary. It also allows Citizens to release confidential underwriting file records to other governmental agencies upon written request and demonstration of need, which records remain confidential. This language has passed the Senate as a floor amendment in CS/CS/SB 2860 and 1196, 1st Engrossed, section 13.

House Amendment 6 amends s. 624.46226, F.S., pertaining to self-insurance funds for public housing authorities. Current law allows public housing authorities to self-insure to pool and spread liabilities of its members for property and casualty insurance. The amendment provides criteria that authorities must follow in forming self-insurance funds which includes having annual premiums in excess of \$5 million; using a qualified actuary to determine rates and who must annually certify to the Office of Insurance Regulation (OIR) that the rates are actuarially sound and not inadequate; using such actuary to establish reserves for loss and loss adjustment expenses and who must annually certify to the OIR that the reserves are adequate; maintaining excess insurance coverage; submitting annual audited financial statements to the OIR; having a governing body comprised of commissioners of public housing authorities; using persons knowledgeable in specified areas; and certifying to the OIR that the fund meets the above provisions. The amendment clarifies that the public housing authority self-insurance funds are not covered by the insurance guaranty association, but are subject to the premium tax. Should a self-insurance fund not meet the above requirements, then the fund is subject to the requirements under general law for commercial self-insurance funds, or if the fund provides only workers’ compensation coverage, the general law for group (employer) self-insurance funds.

House Amendment 7 amends various provisions of the Insurance Code relating to public adjusters, the substance of which is contained in CS/HB 1098 which is currently in the Senate General Government Appropriations Committee. The amendment is the product of recommendations from the Task Force on Citizens Claims Handling and Resolution and provides for limiting fees adjusters can charge insureds; prohibits certain solicitation practices; establishes guidelines and practice parameters; provides for licensure qualifications, examination and continuing education requirements for public adjusters. The amendment also establishes a public adjuster apprenticeship program and license. The provisions in this amendment, which differ from CS/HB 1098, pertain to fees public adjusters can charge insureds; solicitation and contract cancellation provisions; and provisions pertaining to examination and continuing education requirements for public adjusters.

House Amendment 8 provides that title insurers may petition the Office of Insurance Regulation (OIR) for a rate deviation under s. 627.783, F.S., for personal property title insurance, a Uniform Commercial Code insurance product. The amendment requires that the OIR, in determining whether to approve a rate deviation for a personal property title insurance product, must be guided by “standards for national rates for the product being offered in other states.” The amendment does not amend a section of the Florida Statutes.

House Amendment 9 requires the Florida Hurricane Catastrophe Fund to offer \$10 million of additional coverage to qualified insurers in 2008, as was required in 2006 and 2007. This coverage would again be made available to limited apportionment companies (having \$25 million in surplus or less and writing at least 25 percent of its premiums in Florida), insurers approved to participate in the Insurance Capital Build-Up Incentive Program, and insurers that purchased the supplemental coverage in 2007. This coverage would reimburse the insurer for up to \$10 million in losses, for each of two hurricanes. The coverage will again be priced at a 50 percent rate on line (e.g., \$5 million premium for \$10 million in coverage) with a free reinstatement for a second storm. The insurer’s retention for such coverage remains at 30 percent of the company’s surplus. The bill would provide that the coverage expires on May 31, 2009.

House Amendment 10 amends several provisions of the Insurance Code pertaining to insurance agents and continuing education requirements. The amendment is the substance of CS/CS/SB 2528 which is currently in the Senate General Government Appropriations Committee. The amendment allows applicants to be exempt from the customer representative licensing examination if they have earned a specified degree and have completed at least 9 academic hours in property and casualty insurance; prohibits insurers, including Citizens Property Insurance Corporation (Citizens), from requiring appointees (agents) to complete specified continuing education (CE) courses offered by such insurers and Citizens, in order for the appointment to be issued or renewed; allows insurers, including Citizens, to require appointees to attend non-CE training and education programs offered by such insurers and Citizens, in order for the appointment to be issued or renewed; allows Citizens to require its employees to take training relevant to his or her employment and to require appointees to take CE courses which pertain solely to its internal procedures or products; and authorizes independent study programs offering CE courses through correspondence to allow students to take a final closed book examination without being monitored provided that the student submits a sworn affidavit attesting he or she did not receive assistance while taking the exam.

House Amendment 11 requires Citizens Property Insurance Corp. to electronically report claims data and histories to a consumer reporting agency upon the request of such agency. A consumer reporting agency, as defined by the federal Fair Credit Reporting Act (Act) and which is in compliance with the confidentiality requirements of the Act, maintains claims data and histories for use in connection with the underwriting of insurance involving a consumer. Insurers are able to review the claims history of insureds using the service provided by a consumer reporting agency.