

HOUSE MESSAGE SUMMARY

Date: May 1, 1998

Bill Subject: Insurance

Prepared By: Senate Committee on Banking and Insurance

I. Amendments Contained in Message

House Amendment 1-104751 (body with title)

House Amendment 2-841385 (body with title)

House Amendment 3-665475 (body with title)

House Amendment 4-753791 (body with title)

House Amendment 5-370137 (body with title)

House Amendment 6-140933 (body with title)

II. Summary of Amendments Contained in Message

House Amendment 1 (104751)

Adds the provisions contained in SB 1316 (by Sen. Holzendorf), as passed by the Senate, which provides that only those surplus lines insurers that have an application on file with the Department of Insurance before February 28, 1998, may elect to be subject to the lower, alternative surplus requirements previously authorized by 1997 legislation. The 1997 legislation authorized surplus lines insurers meeting certain criteria to have and maintain a \$4 million surplus, rather than be subject to the general requirement of having a \$15 million surplus or, for insurers licensed on or before December 31, 1993, a \$4.5 million surplus at the end of 1997 and specified annual increases reaching \$15 million at the end of 2004. The 1997 act applied only to those surplus lines insurers that (1) are a member of an insurance holding company that also owns a Florida domestic insurer and (2) are in compliance with the requirements of chapter 625, F.S., relating to accounting and investment restrictions of authorized insurers. The department reports that one surplus lines insurer has filed an application for election of the lower surplus requirements by the date specified in SB 1316.

House Amendment 2 (841385)

Inserts the provisions of SB 1416 (by Sen. Gutman), as amended by the Banking and Insurance Committee, which provides that health insurance policies delivered or issued for delivery in Florida to residents of foreign countries would not be subject to regulation by the Department of Insurance as to policy terms or premiums.

House Amendment 3 (665475)

Inserts the provisions of SB 1946, as amended by Senate Banking and Insurance Committee. This amendment requires employers and employee leasing companies to obtain workers' compensation coverage for leased employees and pay premiums commensurate with the exposure and claims experience of the employer. The amendment also requires employee leasing companies to provide certain information to the insurer or the residual market when obtaining workers' compensation coverage. Insurers are required to conduct annual audits of payroll and classifications of employee leasing companies and may conduct more frequent audits. Specifically, the amendment: 1) defines the terms, employee leasing, experience rating modification, leased employee, lessee, lessor, and premium subject to dispute; 2) authorizes an employee leasing company/lessor to obtain coverage in the voluntary market on leased employees through a workers' compensation policy issued to the lessor; 3) authorizes the insurer of the lessor to request specific information from the lessor to ascertain the exposure under the policy and to collect the appropriate premium; 4) requires the lessor that applies for coverage or is covered through the voluntary market to furnish certain information to the insurer, on an annual basis, to permit the calculation of an experience modification for each lessee upon termination of the leasing arrangement; 5) requires the information accrued during the term of a leasing arrangement which is used to calculate the experience modification rating for a lessee upon the termination of the arrangement to be used in the future experience ratings of the employee leasing company; 6) provides for the cancellation or nonrenewal of an employee leasing company's policy if there is an uncured violation of this section; 7) requires the insurer to assign an experience modification factor to a lessee/employer after a leasing arrangement is terminated, including the experience incurred for any leased employees during the leasing arrangement; 8) requires the employee leasing company to notify its insurer within 5 working days following actual termination of the leasing arrangement; 9) provides that this section does not affect the requirement that a lessee provide workers' compensation coverage for a non-leased employee; 10) provides that an employer shall not enter into an employee leasing relationship or be eligible for workers' compensation coverage in the voluntary market, if the employer owes its current or previous insurer any premium or if the lessee owes any amounts under a current or previous employee leasing arrangement; 11) requires an insurer to conduct annual audits of payroll and classifications of employee leasing companies.

House Amendment 4 (753791)

Amends the provisions of the section in the bill (CS/SB 1372 as passed by the Senate) which provides a 5-year exemption from premium taxation and regular assessments from the Residential Property and Casualty Joint Underwriting Association and the Florida Windstorm Underwriting Association for residential property insurance policies issued by a minority-owned insurer that obtains its certificate of authority after May 1, 1998. The Senate Bill required that at least 20 percent of the insurer's policies be written and located in urban and inner-city areas that are located in a metropolitan statistical area. The House amendment revises this condition to require that the insurer write at least 10 percent of its policies in enterprise zones designated pursuant to s. 290.0065, F.S.

House Amendment 5 (370137)

The amendment provides a mechanism to create a financing corporation for the purpose of transferring and privatizing the liabilities of the Special Disability Trust Fund to a *qualified entity*. This financing mechanism would be used if the Special Disability Trust Fund Commission determined that the state could realize savings by privatizing the responsibilities and liabilities of the Fund. (Similar Special Disability Trust Fund amendment to SB 1946 was adopted by the Banking and Insurance Committee on 4/20/98.)

The amendment would create a Special Disability Trust Fund Privatization Commission comprised of the following officials or their designees: Governor, Insurance Commissioner, and the Comptroller that would be charged with the responsibility of evaluating the feasibility of privatizing the Fund as well as selecting and contracting with an administrator to review, allow, deny, compromise, controvert, and litigate claims, if it is determined to be more cost efficient than the current administration of the Fund. *The commission may adopt rules necessary for the performance of its assigned duties and responsibilities.* If the Fund is privatized, a financing corporation would be created to issue the debt in order to use the proceeds to privatize the Fund. *The corporation is exempt from the provisions of chapter 287, F.S., relating to procurement of goods and services.*

The corporation, under the control of a three-member board comprised of the following officials or their designees: Governor, Treasurer, and Comptroller, is authorized to issue notes, bonds, and other forms of indebtedness and has all of the powers of a corporation authorized by law.

House Amendment 6 (140933)

The amendment adds the provisions of CS/SB 994, as passed by the Banking and Insurance Committee, which (1) deletes the requirement that the Department of Insurance promulgate rules to establish criteria for determining if an insurer has demonstrated sufficient compliance with the various provisions of the Insurance Code; (2) allows motor vehicle policyholders credit for prepaid premiums that they may otherwise lose under certain circumstances; (3) removes the countersignature requirement by the agent of record when an insurance policy is transferred from one company in an insurance company group to another company in the same group; (4) provides that the Department of Insurance may, rather than shall, annually conduct a sampling of claims or actions for damages as to personal injury or property damage reports which are maintained by liability insurers; and (5) provides that the Department of Insurance may, rather than shall, annually require that an insurer report certain information relating to product liability insurance.

The amendment also add two provisions (not contained in any other Senate bill): (1) The amendment would provide that the board of the Florida Hurricane Catastrophe Fund may reimburse a limited apportionment company in advance if the board determines that the fund's assets are sufficiently, liquid to permit an advance. Currently, the Florida Hurricane Catastrophe Fund reimburse insurers after the end of the calendar year after an accounting is made of all claims for that year. However, the Cat Fund is currently authorized to reimburse a "limited apportionment company" the lesser of 90 percent of the board's estimate of the reimbursement

due, or 90 percent of the company's share of the total fund premiums applied to the board's currently available liquid assets, if the company demonstrates immediate receipt is essential to permit it to pay claims and the board determines that the fund's assets are sufficiently liquid to permit an advance. A limited apportionment company is defined as having a surplus of \$20 million or less writing 25% or more of its premiums in Florida. (2) This amendment revises the law that specifies the types of reinsurance for which an insurer may obtain credit under their financial statements. Currently certain forms of reinsurance are permitted if a trust fund is established for the payment of claims, subject to certain requirements (must be in a bank or trust company subject to the supervision by a state or is a member of the Federal Reserve System, in an amount not less than the reinsurer's U.S. liabilities plus at least \$20,000,000 in admitted assets, etc.). The amendment changes the cross-reference to the types of reinsurance trust accounts that must meet these conditions. By doing so, the amendment applies these requirements to the Lloyd's-type reinsurance (a group of alien insurers with \$50 million in a trust account), but deletes the requirements for reinsurance obtained from other types of alien reinsurers (like Zurich, CNA Re.). The amendment also repeals s. 624.22, F.S., related to the purpose of chapter 624 and moves the language to the reinsurance statute (s. 624.610, F.S.).