

STORAGE NAME: h1655.in

DATE: March 17, 2000

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
INSURANCE
ANALYSIS**

BILL #: HB 1655

RELATING TO: Insurance Adjusters

SPONSOR(S): Representative Patterson

TIED BILL(S):

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

(1) INSURANCE

(2)

(3)

(4)

(5)

I. SUMMARY:

Currently, insurance adjusters in Florida are regulated under Part VI, Chapter 626, Florida Statutes, the "Insurance Adjusters Law" (ss. 626.851-626.878, F.S.).

Adjusters are professionally trained to evaluate, investigate and settle insurance claims. There are three types of adjusters licensed by the Department of Insurance: company adjusters, independent adjusters, and public adjusters.

Employees or agents of a governmental entity who adjust claims for government entities which retain risk through a self-insurance program would be exempt from Part VI of Chapter 626, Florida Statutes.

This bill would not have a fiscal impact on state or local government.

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 type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" 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"/> |

B. PRESENT SITUATION:

Insurance Adjusters

Currently, insurance adjusters in Florida are regulated under Part VI of the Florida Insurance Code, the "Insurance Adjusters Law" (ss. 626.851-626.878, F.S.).

An adjuster is professionally trained to evaluate, investigate and settle insurance claims. 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 him or her with their claim with an insurer. Public adjusters are paid a percentage of the claims settlement.

All three of these types of adjusters must be at least 18 years old, a resident of the state (although the Department of Insurance (DOI) does license non-resident adjusters) and trustworthy, and have a good business reputation, have had sufficient training and experience, and have passed a written exam. In addition, a public adjuster must have a \$50,000 bond. Each adjuster must be licensed by the DOI and appointed by an insurer.

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

Adjusters are licensed by the DOI to assure that those who evaluate, investigate, and settle claims on behalf of insurers or insureds are professionally trained.

Self-insurance Programs by Governmental Entities

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

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

Under Chapter 284, Florida Statutes, the State Property Insurance Trust Fund is established as a self-insurance program under the DOI to insure property which is owned by the state or its agencies, boards or bureaus. In addition, the Florida Casualty Insurance Risk Management Trust Fund also is established as a self-insurance program under the DOI 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 of the DOI, 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 DOI that adjust claims under these programs are not licensed as adjusters in the state.

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 who are not employees of Shands HealthCare to carry medical malpractice coverage with limits of \$1 million per claim / \$3 million in the aggregate, rather than the minimum statutory requirements of \$250,000 per claim / \$750,000 in the aggregate. The Shands Physician Advantage Program 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 Program participants. These adjusters are employed by the University of Florida Self-insurance Program and are not licensed by the DOI.

Employees who adjust claims for these self-insurance programs created by governmental entities are held accountable for their actions by their overseeing governmental agency. The difference between those adjusters and adjusters who are licensed by the state is that the governmental employees are adjusting claims for a self-insurance program created by the governmental entity. The governmental entity owns the property which incurred the damage and acts as its own insurer, whereas in the case of an insurance company, the property is owned by a policyholder and is insured by an insurance company. The amount of the claim could be disputed between the insurer and the policyholder. For example, in the case of State Property Insurance Trust Fund, the state is both the insured and the insurer.

C. EFFECT OF PROPOSED CHANGES:

Section 626.852, Florida Statutes, would be amended to exempt certain employees or agents of a governmental entity from the "Insurance Adjusters Law" (Part VI of the Florida Insurance Code).

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 DOI.

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 DOI. At times, the University of Florida Self-insurance Program might use independent contractors to adjust claims. These independent contractors would be considered to be agents of the University of Florida Self-insurance Program and would therefore not be required to be licensed adjusters. However, employees or agents of the University of Florida Self-insurance Program could not adjust other claims for MAG Mutual Insurance Company.

D. SECTION-BY-SECTION ANALYSIS:

N/A

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The claims of a self-insurance program adopted by a governmental entity could be adjusted by a person not licensed by the DOI, provided that person is an employee or agent of the governmental entity.

D. FISCAL COMMENTS:

None

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IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require a city or county to spend funds or to take any action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the revenue raising authority of any city or county.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not reduce the amount of state tax shared with counties and municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON INSURANCE:

Prepared by:

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