

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1695 Dept. of Financial Services; Office of Ins. Regulation; Public Adjusters
SPONSOR(S): Negron
TIED BILLS: None **IDEN./SIM. BILLS:** SB 2994

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Insurance Regulation (Sub)	8 Y, 0 N	Tinney	Cooper
2) Insurance			
3) State Administration			
4) Commerce & Local Affairs Approp. (Sub)			
5) Appropriations			

SUMMARY ANALYSIS

The bill is primarily a technical "glitch" bill sought by the Department of Financial Services (DFS) to correct statutory references and to conform current law to the assignment of responsibilities within DFS. The bill renumbers and transfers various statutory sections.

The bill transfers regulation of insurance adjusters from the Office of Insurance Regulation (OIR) to DFS. It reassigns various duties and responsibilities among DFS, OIR, and the Financial Services Commission to conform. Similarly, duties and responsibilities are reallocated between the director of OIR and the Chief Financial Officer to conform. The bill specifies the transfers do not affect the regulation of insurance adjusters in administrative or judicial proceedings.

The bill is effective upon becoming law.

DFS reports it will experience minimal fiscal impact as a result of the bill.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1695a.in.doc
DATE: March 30, 2004

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | 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. EFFECT OF PROPOSED CHANGES:

Background

In November 1998, the voters of Florida amended the Florida Constitution, in s. 4 of Article IV, to merge two former cabinet positions, the Comptroller and the Treasurer, into a single cabinet officer, the Chief Financial Officer. Prior to the amendment, the Comptroller was responsible for payment of debts on behalf of executive agencies, along with the regulation of banking within Florida. The former Treasurer was responsible for management of the state's cash assets, including investment of those monies to maximize interest income. The Treasurer also was designated by law as the State Fire Marshal and as head of the former Department of Insurance.

In the 2002 Regular Legislative Session, the Legislature combined the responsibilities of the former Departments of Insurance and Banking and Finance into the present Department of Financial Services (DFS). DFS is headed by the Chief Financial Officer (CFO), a member of Florida's three-member Cabinet. Provisions creating DFS and its organizational structure are codified in s. 20.121, F.S.

The Department of Financial Services and the Office of Insurance Regulation

The law creating DFS also designates the Governor, CFO, Commissioner of Agriculture, and Attorney General, i.e., the Governor and Cabinet, as the Financial Services Commission (the Commission.) The Commission is a separate, independent budget entity within DFS. Action of the Commission occurs by vote of at least three members. The Commission administers both the Office of Insurance Regulation (OIR) and the Office of Financial Regulation (OFR). Both OIR and OFR are headed by a director appointed by three affirmative votes of the Commission, including a requirement that both the Governor and the CFO vote on the prevailing side.

Twelve divisions are established within DFS: (1) Accounting and Auditing, (2) State Fire Marshal, (3) Risk Management, (4) Treasury, (5) Insurance Fraud, (6) Rehabilitation and Liquidation, (7) Insurance Agents and Agency Services, (8) Consumer Services, (9) Workers' Compensation, (10) Administration, (11) Legal Services, and (12) Information Services.

The bill amends various sections of the Florida Insurance Code to comply with the governmental reorganization that combined the former Department of Insurance with the Department of Banking and Finance. The bill is mostly technical, as it corrects statutory references, conforms language, and renumbers and transfers sections.

Regulation of Insurance Adjusters

Prior to the passage of the Cabinet Reorganization bill, insurance adjusters (adjusters employed by insurers and public insurance adjusters) were regulated by the Division of Agent and Agency Services of the former Department of Insurance; those duties now are assigned by law to DFS. As part of the organization of DFS, regulation of adjusters was included in the scope of regulatory matters assigned to the OIR, effectively moving the regulation of adjusters from DFS to the new OIR.

The creation and organization of DFS assigns to OIR the regulation of "risk bearing entities" i.e., insurance companies and entities. DFS administers and enforces the licensing and regulation of individuals authorized to transact insurance business in Florida. As such, DFS, rather than OIR, generally possesses the infrastructure, technology, and institutional expertise associated with regulating individuals licensed as insurance agents and insurance adjusters. For this reason, DFS suggests that it, rather than OIR, is the most appropriate agency to manage the licensing program, continuing education program, and licensure compliance requirements of the more than 30,000 adjusters currently licensed in Florida.

Changes Proposed by HB 1695

The bill removes the reference to the regulation of adjusters by OIR in s. 20.121, F.S., and conforms laws regulating adjusters in chapter 626, F.S., to regulation by the "department," i.e., DFS.

Adjuster Regulation:

- Amends 20.121 to strike the word "adjuster" from the scope of responsibilities assigned to the OIR.
- Amends various sections of chapter 626, F.S., to conform to adjuster regulation by DFS.
- Transfers and renumbers s. 627.879, F.S., related to adjuster pools, to s. 626.879, F.S.
- Provides for the transition of rules and authorities related to matters in current action by the OIR or DFS that may result from the transfer of adjuster regulation to DFS.

"Glitch" Provisions:

- Amends s. 501.212, F.S., to clarify a reference to DFS.
- Amends s. 516.35, F.S., to correct a reference to a person duly licensed to market credit insurance as a person licensed by DFS, rather than by OIR.
- Amends s. 626.9543, F.S., to delete the definition of "department" as the "Department of Insurance."
- Amends s. 626.989, F.S., to correct a reference to "bureau, rather than "office," within the Division of Insurance Fraud.
- Amends s. 627.285, F.S., to clarify that OIR shall contract for independent actuarial peer review for ratemaking in workers compensation insurance.

Appointments:

- Amends s. 110.1227, F.S., to provide that the director of OIR, rather than the CFO, will make the OIR Actuary appointment to the Florida Employee Long Term Care Plan Board.
- Amends s. 408.05, F.S., to provide that the director of OIR, rather than the CFO, will make the OIR employee appointment to the State Comprehensive Health Information System Advisory Council.
- Amends s. 627.0628, F.S., to provide that the director of OIR, rather than the CFO, will make the OIR Actuary appointment to the Hurricane Loss Projection Methodology Commission.
- Amends s. 627.6699, F.S., to provide that the director of OIR, rather than the CFO, shall appoint members to the Board of the Small Employer Health Reinsurance Program.

C. SECTION DIRECTORY:

Section 1 amends s. 20.121, F.S., to repeal a reference to the regulation of insurance adjusters by OIR.

Section 2 amends s. 110.1227, F.S., to provide that the director of OIR, rather than the CFO, will make the OIR Actuary appointment to the Florida Employee Long Term Care Plan Board.

Section 3 amends s. 408.05, F.S., to provide that the director of OIR, rather than the CFO, will make the OIR employee appointment to the State Comprehensive Health Information System Advisory Council.

Section 4 amends s. 501.212, F.S., to clarify a reference to DFS.

Section 5 amends s. 516.35, F.S., to correct a reference to a person duly licensed to market credit insurance as person licensed by DFS, rather than by OIR.

Section 6 amends s. 634.313, F.S., to specify that DFS may prepare and publish various pamphlets and other brochures as needed.

Section 7 amends s. 624.317, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 8 amends s. 624.501, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 9 amends s. 626.016, F.S., to clarify that DFS and the CFO are responsible for the regulation of insurance adjusters.

Section 10 amends s. 626.112, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 11 amends s. 626.161, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 12 amends s. 626.171, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 13 amends s. 626.181, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 14 amends s. 626.191, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 15 amends s. 626.211, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 16 amends s. 626.221, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 17 amends s. 626.231, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 18 amends s. 626.241, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 19 amends s. 626.251, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 20 amends s. 626.261, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 21 amends s. 626.266, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 22 amends s. 626.271, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 23 amends s. 626.281, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 24 amends s. 626.2817, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 25 amends s. 626.291, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 26 amends s. 626.301, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 27 amends s. 626.371, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 28 amends s. 626.381, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 29 amends s. 626.431, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 30 amends s. 626.461, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 31 amends s. 626.471, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 32 amends s. 626.521, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 33 amends s. 626.541, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 34 amends s. 626.551, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 35 amends s. 626.611, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 36 amends s. 626.621, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 37 amends s. 626.631, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 38 amends s. 626.641, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 39 amends s. 626.661, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 40 amends s. 626.681, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 41 amends s. 626.691, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 42 amends s. 626.692, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 43 amends s. 626.8582, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 44 amends s. 626.8584, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 45 amends s. 626.859, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 46 amends s. 626.863, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 47 amends s. 626.865, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 48 amends s. 626.866, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 49 amends s. 626.867, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 50 amends s. 626.869, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 51 amends s. 626.8695, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 52 amends s. 626.8696, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 53 amends s. 626.8697, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 54 amends s. 626.8698, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 55 amends s. 626.870, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 56 amends s. 626.871, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 57 amends s. 626.872, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 58 amends s. 626.873, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 59 amends s. 626.8732, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 60 amends s. 626.8734, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 61 amends s. 626.8736, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 62 amends s. 626.8738, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 63 amends s. 626.874, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 64 amends s. 626.878, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 65 transfers s. 627.7012, F.S., and renumbers it as s. 626.879, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 66 amends s. 626.9543, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 67 amends s. 626.989, F.S., to clarify that DFS, rather than OIR, is responsible for the regulation of insurance adjusters.

Section 68 amends s. 627.0628, F.S., to clarify that the CFO appoints five, rather than six, members to the Florida Commission on Hurricane Loss Projection Methodology and that an employee of OIR, who is an actuary, also sits on the commission.

Section 69 amends s. 627.285, F.S., to clarify that OIR, rather than DFS, shall contract for independent actuarial peer review for ratemaking in workers' compensation insurance.

Section 70 amends s. 627.6699, F.S., to clarify that the director of OIR, rather than the CFO, serves as chair of the Small Employer Health Reinsurance Program and, as such, is responsible for appointing the 13 members of the board of the program.

Section 71 states that the transfer of the regulation of insurance adjusters from OIR to DFS does not affect any ongoing administrative or judicial proceedings affecting adjusters.

Section 72 clarifies that any license, form, or action that was in effect or approved prior to this bill becoming law will be unaffected by the provisions of this bill.

Section 73 states that rules regulating insurance adjusters adopted by the Financial Services Commission in effect before this bill becomes law remain in effect as rules of DFS until such rules are specifically amended or repealed.

Section 74 provides the provisions of the bill are effective upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None. DFS indicates the changes in the bill are administrative only and will require no additional funding.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None. Regulation of insurance adjusters continues under the bill; primary responsibility for regulation of adjusters is transferred from OIR to DFS.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

DFS reports it has sufficient authority to adopt any rules necessary to implement the bill. HB 1695 also provides a savings clause for existing rules under lines 1862-1868.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 30, 2004, the Subcommittee on Insurance Regulation adopted two amendments as follows:

Amendment 1: Adds s. 17.16, F.S., to the bill for amendment to clarify that the state's Chief Financial Officer may establish an official seal for use on official acts and documents.

Authorizes the CFO to be referred to as the Treasurer and authorizes the Director of the Office of Insurance Regulation and the Director of the Office of the Office of Financial Regulation to be referred to as the Commissioner of Insurance Regulation and the Commissioner of Financial Regulation, respectively.

Amendment 2: Amends s. 215.31, F.S., to require every state agency and other state affiliate to deposit the proceeds from any claim brought on behalf of the state into the State Treasury unless the proceeds are designated as restitution.

Adds ss. 215.95 and 215.96 F.S., to the bill to add the Commissioner of Agriculture to the membership of the Florida Financial Management Information Board (FFMIB) and the FFMIB Coordinating Council, respectively. The Commissioner of Agriculture is the only member of the Cabinet not currently on this Board and Council. Postpones the July 1, 2004 "sunset" date for the Enterprise Resource Planning Integration Task Force, to July 1, 2008. This change is needed because the functions of this Task Force are integral to the success of coordinating the state's financial and accounting information systems. The work of the task force is expected to last for several more years.