

The Florida Senate
HOUSE MESSAGE SUMMARY

[s1748.hms]

BILL: SB 1748
INTRODUCER: Senators Gaetz, Baker, Bennett and Lynn
SUBJECT: Insurance Contracts/Workers' Compensation
PREPARED BY: Senate Committee on Banking and Insurance
DATE: May 4, 2007

I. Amendments Contained in Message:

House Amendment 1-- 523233 (body with title)

II. Summary of Amendments Contained in Message:

The amendment revises the formula established in s. 627.215, F.S., used to determine when a workers' compensation insurer is required to refund "excess profits" to policyholders. Under the current law, an excess profit is realized when the actual underwriting gain exceeds the anticipated gain plus five percent of the earned premiums for the 3 most recent calendar years for which data is filed. The amendment would revise the formula by extending the look back period from 3 to 10 years.

The workers' compensation insurance excess profits law was created in 1979 to address concerns of the Florida Legislature that, due to changes in the insurance law, some insurers would benefit greatly and earn profits far in excess of what was anticipated when their rates were approved. The excess profit law is a mechanism to protect policyholders from paying exorbitantly high rates.

Although the amendment does not impact pending excess profit refunds to policyholders, the extension of the look back period for calculating the excess profits refund to policyholders would likely result in a reduction of returned excess profits to employers for future years, based on the recent trends in refunds. According to the Office of Insurance Regulation, for reporting year 2005, six companies/groups paid a total of \$917,693 and there are 5 companies/groups with pending cases totaling \$4,051,919. For reporting year 2006, one company paid \$16,436,140 and there are 18 companies/groups with pending cases totaling \$36,674,259.

The Office of Insurance Regulation has expressed concerns regarding the constitutionality of the retroactive application of this amendment to 1996-2002, since these years have already been reconciled by the office.