

The Florida Senate
PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Banking and Insurance Committee

BILL: CS/SB 1782

INTRODUCER: Banking and Insurance Committee and Senator Baker

SUBJECT: Marine Insurance/Disputed Claims

DATE: March 20, 2007

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Deffenbaugh	BI	Fav/CS
2.			JU	
3.			GA	
4.				
5.				
6.				

I. Summary:

The committee substitute establishes an alternative dispute resolution procedure for mediating marine insurance claims; requires the Department of Financial Services (DFS) to adopt by rule a marine insurance mediation program to be administered by the DFS or its designee; and requires that such mediators be civil circuit mediators who are also certified by the The Florida Bar in admiralty and maritime law or meet other requirements established by the DFS. There is no cost to the policyholder for this mediation; the insurance company incurs the cost. This nonbinding, alternative dispute resolution process would provide a means to resolve disputes, prior to commencing litigation, in a cost effective and expeditious manner.

The DFS currently administers two mediation programs for property insurance claims: one program for hurricane claims and one for all other property claims. The DFS contracts with the Collins Center for Public Policy to administer the hurricane mediation program.

This bill substantially amends the following sections of the Florida Statutes: 627.7015, F.S.

II. Present Situation:

Boating Activity in Florida

In 2005, there were 973,859 registered recreational vessels in Florida. During this same period, there were 666 total accidents involving 936 vessels, which resulted in an estimated \$6.7 million in vessel damage and \$671,000 in property damage.¹

¹ Florida Fish and Wildlife Conservation Commission, *Reportable Boating Accidents, Boating Accidents 2005 Statistical Report*. 2006.

Regulation of Marine Insurance

The Office of Insurance Regulation is responsible for the regulation of insurance, including marine insurance policies, rates, and forms. Section 624.607, F.S., defines the terms, “marine insurance,” “wet marine and transportation insurance,” and “inland marine insurance.” The term, “marine insurance,” includes, marine protection and indemnity insurance and insurance against any kinds of loss or damage to:

- Vessels, craft, aircraft, cars, automobiles, and vehicles of every kind, as well as all goods, freights, cargoes, merchandise, effects, disbursements, profits, moneys, bullion, precious stones, securities; and
- Person or property in connection with or appertaining to a marine, inland marine, transit, or transportation insurance, including liability for loss of or damage to either, arising out of or in connection with the construction, repair, operation, maintenance, or use of the subject matter of such insurance, but not including life insurance or surety bonds nor insurance against loss by reason of bodily injury to the person arising out of the ownership, maintenance, or use of automobiles.

The term, “wet marine and transportation insurance” is defined to mean that part of marine insurance which includes only:

- Insurance upon vessels, crafts, and hulls and of interests;
- Insurance of marine builders' risks, marine war risks, and contracts of marine protection and indemnity insurance;
- Insurance of freights and disbursements pertaining to a subject of insurance coming within this definition; and
- Insurance of personal property and interests therein, in course of exportation from or importation into any country, or in course of transportation coastwise or on inland waters.

Lastly, the section provides that “inland marine insurance” is established by general custom of the insurance business and adopted by rule of the Financial Services Commission.

Resolution of Disputed Property Insurance Claims

Section 627.7015, F.S., provides an alternative procedure for the resolution of disputed property insurance claims. This section was enacted during the Special Legislative Session in November 1993, in response to claims arising from Hurricane Andrew, allowing the policyholder to demand mediation of a property claims under certain conditions. The mediation process is available with respect to claims under personal lines and commercial residential policies for all claimants and insurers prior to commencing litigation. The law authorizes the Department of Financial Services (DFS) to adopt by rule the mediation program and to establish qualifications of mediators, who are deemed to be agents of the department. Subject to such rules, insurers must participate and pay for the mediation, if requested by an insured, but the decision of the mediator is nonbinding on the parties.

Under the hurricane claims mediation program, administered by the Collins Center for Public Policy, an insurance company pays a fee of \$350 per mediation request. Mediations are scheduled within three to six weeks, contingent on the location. There are currently five

mediation offices located in the state. As of January 10, 2007, the Collins Center had received 20,985 mediation requests and closed 19,980 cases. Of these cases, 89 percent were settled and 11 percent were not resolved.

The current hurricane mediation program requires no annual funding or positions by the DFS. It is funded entirely by fees paid by the insurance companies to the Collins Center, which has administered the program since its inception in November 2004. A nonrecurring appropriation was authorized to cover start-up costs associated with the hurricane program in late 2004, but no subsequent funding has been provided by the state to the Collins Center.

Mediators for the program for all other disputed property insurance claims are randomly selected by the insurance company from a list approved by the DFS, unless the consumer or the insurance company requests that the Division of Consumer Services make the selection. The mediation program does not have a specific appropriations or positions associated with it. One position at the DFS provides administrative support for the program, but that position is funded by the Division of Consumer Services.

III. Effect of Proposed Changes:

Section 1 expands the current mediation program for property insurance to include marine insurance claims. The DFS is required to adopt by rule a marine insurance mediation program to be administered by DFS or its designee. The bill prescribes that the mediators for marine claims must be certified civil circuit mediators who are certified by The Florida Bar in admiralty and maritime law or experienced admiralty practitioners who are qualified by education, training, or experience, as the department determines to be appropriate.

The definition of the term, "marine insurance," for purposes of the mediation program is defined to mean "marine insurance," and "wet marine and transportation insurance," as defined in s. 624.607, F.S. Since s. 627.021, F.S., provides that ch. 627, F.S, does not apply to marine insurance, the section excludes the application of s. 627.021, F.S., to s. 627.7015, F.S., which is amended in this bill to establish the marine insurance mediation program.

Section 2 of the bill provides that the bill takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

A mediation program for the resolution of disputed marine insurance claims would assist consumers in settling claims without incurring the expense of hiring an attorney or a public adjuster to settle the claim.

Insurers would incur indeterminate mediation costs associated with disputed marine insurance claims. However, if the disputes are resolved during mediation, the amount of litigation fees associated with disputed claims could be reduced.

C. Government Sector Impact:

The bill may cause an indeterminate increase in workload for the Department of Financial Services associated with the startup and administration of this program. The increase is indeterminate since number of marine insurance claims filed and disputed in any given year is indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
