

**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: Judiciary Committee

BILL: CS/SB 1782

INTRODUCER: Banking and Insurance Committee and Senator Baker

SUBJECT: Marine Insurance/Disputed Claims

DATE: April 9, 2007

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Deffenbaugh	BI	<b>Fav/CS</b>
2.	Merlin	Maclure	JU	<b>Favorable</b>
3.			GA	
4.				
5.				
6.				

**I. Summary:**

The bill requires the Department of Financial Services to expand an existing property insurance mediation program to include mediation of marine insurance claims. The bill also requires that such mediators be civil circuit mediators who are certified by The Florida Bar in admiralty and maritime law or who are qualified by education, experience, and training.

This bill substantially amends section 627.7015, Florida Statutes.

**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.<sup>1</sup>

**Regulation of Marine Insurance**

In Florida, the Office of Insurance Regulation is responsible for all activities concerning insurers, including policies, rates, forms, and property claims. 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 insures against any kinds of loss or damage to:

<sup>1</sup> FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION, REPORTABLE BOATING ACCIDENTS, BOATING ACCIDENTS 2005 STATISTICAL REPORT at 20, 23, and 26, available at <http://myfwc.com/law/boating/2005Stats/2005BoatAccidents Part3.pdf> (last visited March 29, 2007).

- 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 other property and interests; 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.<sup>2</sup>

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;
- 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.<sup>3</sup>

Lastly, s. 624.607(3), F.S., provides that “inland marine insurance” is established by general custom of the insurance business and adopted by rule of the Financial Services Commission (FSC). This form of coverage does not involve ocean transport but protects goods that are in transit through other means such as bridges, tunnels, and communication networks.<sup>4</sup>

### **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.<sup>5</sup> 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 requires 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 not binding on the parties.<sup>6</sup>

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<sup>2</sup> Section 624.607(1)(a), F.S.

<sup>3</sup> Section 624.607(2), F.S.

<sup>4</sup> FLA. ADMIN. CODE ANN. R. 69O-167.022

<sup>5</sup> FLORIDA SENATE, COMMITTEE ON BANKING AND INSURANCE, WHETHER FLORIDA’S INSURANCE LAWS ARE ADEQUATE TO RESPOND TO THE NEXT MAJOR HURRICANE, INTERIM PROJECT REPORT 2001-001, at 18-19 (October 2000).

<sup>6</sup> *Id.* at 19.

The mediation program under s. 627.7015, F.S., is administered by the Collins Center for Public Policy. Under the program, 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.<sup>7</sup> Of these cases, 89 percent were settled and 11 percent were not resolved.<sup>8</sup>

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.<sup>9</sup> 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.<sup>10</sup>

### **III. Effect of Proposed Changes:**

The bill expands an existing mediation program for property insurance to include marine insurance claims. Currently, the program is administered by the Collins Center for Public Policy on behalf of the Department of Financial Services. 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 bill takes effect upon becoming a 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.

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<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> Conversation with staff of the Senate Committee on General Government Appropriations, April 2007.

**B. Private Sector Impact:**

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

Insurers may 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 uncertain because the 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.

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

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