

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7023 PCB IBFA 10-03 Repeal of Obsolete Insurance Provisions

SPONSOR(S): Insurance, Business & Financial Affairs Policy Committee, Patterson

TIED BILLS: **IDEN./SIM. BILLS:**

| | REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|--------------|---|------------------|-----------------|-----------------------|
| Orig. Comm.: | <u>Insurance, Business & Financial Affairs Policy Committee</u> | <u>14 Y, 0 N</u> | <u>Callaway</u> | <u>Cooper</u> |
| 1) | <u>General Government Policy Council</u> | <u></u> | <u>Callaway</u> | <u>Hamby</u> |
| 2) | <u></u> | <u></u> | <u></u> | <u></u> |
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SUMMARY ANALYSIS

This bill deletes outdated or obsolete language relating to the following insurance topics:

- the Florida Automobile Joint Underwriting Association pre-suit notice,
- a report on private insurers issuing and servicing wind-only policies of Citizens Property Insurance Corporation,
- a form filing for catastrophic ground cover collapse coverage,
- a report on the sinkhole database,
- a Florida Sinkhole Insurance Facility study, and
- the effective date for the exclusion of windstorm and contents coverage in property insurance policies.

The effect of this bill is of a technical, non-substantive nature.

The bill has no fiscal impact and is effective on July 1, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

The effect of this bill is of a technical, non-substantive nature. This bill deletes outdated or obsolete language relating to various insurance topics as follows:

Florida Automobile Joint Underwriting Association Pre-Suit Notice

Section 627.311(3), F.S., allows the Office of Insurance Regulation to approve a joint underwriting plan for purposes of equitable apportionment or sharing among insurers of automobile liability insurance and other motor vehicle insurance. The Florida Automobile Joint Underwriting Association (FAJUA) is created under the plan. Requirements of the plan are contained in s. 627.311(3), F.S. Section 627.311(3)(k)2., F.S., specifies that before a legal action may be brought against the FAJUA for certain violations by the FAJUA, the Department of Financial Services and the FAJUA must be given 90 days' written notice of the violation giving rise to the lawsuit.¹ Typically, a 60 day pre-suit notice, rather than a 90 day pre-suit notice, is required for actions taken against insurance companies for certain violations.² In the 2004 Session, however, the pre-suit notice requirement that applies to the FAJUA was lengthened from 60 days to 90 days to give the FAJUA more time to investigate alleged violations.

By statute, the 90 day pre-suit notice period for the FAJUA expired on October 1, 2007 unless it was reenacted by the Legislature. The statute was not reenacted by the Legislature before the October 1, 2007 deadline. Thus, this bill repeals the 90 day pre-suit notice period as it is obsolete due to the expiration of the October 1, 2007 deadline.

Report On Private Insurers Issuing and Servicing Wind-Only Policies of Citizens Property Insurance Corporation

Section 627.351(6)(cc), F.S., requires Citizens Property Insurance Corporation (Citizens) to submit a report to the Legislature on the feasibility of requiring insurance companies providing non-wind property coverage to issue and service Citizens' wind-only property insurance policies which are located only in the high risk account of Citizens. The report was due by February 1, 2007 and was submitted on this

¹ Section 624.155, F.S., specifies the insurer violations which require pre-suit notice to DFS and to the insurer. These violations include: unfair claim settlement practices, illegal dealings in premiums, refusal to insure, favored agent or insurer, illegal dealings for life or disability insurance, life or disability insurance discrimination based on policyholder having the sickle cell trait, return of auto insurance premium upon cancellation of the policy by the policyholder, not settling claims in good faith, claims payments made to policyholders without an accompanying statement relating to the coverage, and failure to settle a claim under one portion of an insurance policy in order to influence settlement under other portions of the policy.

² s. 624.155(3)(a), F.S.

date. The bill repeals s. 627.351(6)(cc), F.S., because the deadline date for the report submission has passed.

Form Filing for Catastrophic Ground Cover Collapse Coverage

Under current law, every property insurance company must cover “catastrophic ground cover collapse” in the property insurance policy. Property insurance coverage for catastrophic ground cover collapse was made mandatory and added to the law in the 2007 Special Session. Catastrophic ground cover collapse coverage pays the homeowner for property damage caused from the abrupt collapse of the ground cover with a visible ground cover depression resulting in structural damage to the home to the extent that the home is condemned and ordered to be vacated. Structural damage to a home due to settling or cracking of a foundation is not catastrophic ground cover collapse and is not paid for under catastrophic ground cover collapse coverage. Damage of this type, however, may be covered under “sinkhole coverage” which can be purchased for an additional premium. All property insurers must make sinkhole coverage available for homeowners to purchase.

When coverage for catastrophic ground cover collapse was added to the law in 2007 as a mandatory coverage, insurers were required to make a form filing with the Office of Insurance Regulation (OIR) by June 1, 2007 to implement this coverage requirement. This bill repeals s. 627.706(3), F.S., the statutory provision added in 2007 requiring insurers to make the catastrophic ground cover collapse form filing by June 1, 2007 because the filing deadline has passed.

Report on the Sinkhole Database

Section 627.7065(5), F.S., requires the Department of Environmental Protection, in consultation with the Department of Financial Services, to submit a report of activities by December 31, 2005 to the Governor, the Chief Financial Officer, and the Legislative presiding officers about the sinkhole database implemented by the Department of Financial Services. The report was submitted on March 10, 2006. The bill repeals s. 627.7065(5), F.S., because the deadline for the report submission has passed.

Florida Sinkhole Insurance Facility Study

Section 627.7077, F.S., requires the Florida State University College of Business Department of Risk Management and Insurance to conduct a feasibility and cost-benefit study of a potential Florida Sinkhole Insurance Facility and of other matters related to the affordability and availability of sinkhole insurance. A preliminary report was due to the presiding officers of the Legislature and the Financial Services Commission by February 1, 2005 with a final report due April 1, 2005. The final report was submitted in April 2005 by FSU. The bill repeals s. 627.7077, F.S., because the deadline for the report on the sinkhole study has passed.

Effective Date for the Exclusion of Windstorm and Contents Coverage In Property Insurance Policies

Section 627.712, F.S., requires property insurers to provide windstorm coverage in residential property insurance policies but allows a policyholder to exclude windstorm coverage if specified requirements are met. The statute also allows a policyholder to exclude contents coverage if specified requirements are met. The statute was first enacted in the 2007 Special Session. Section 627.712(7), F.S., provides an effective date of June 1, 2007 for the statute but allows the OIR to extend the effective date until October 1, 2007 at the latest with approval of the Financial Services Commission. The bill repeals s. 627.712(7), F.S., which provides the effective date of the statute as the deadlines of June 1, 2007 and October 1, 2007 contained in the statute have passed.

B. SECTION DIRECTORY:

Section 1: Amends s. 627.311, F.S., relating to the Florida Automobile Joint Underwriting Association.

Section 2: Deletes s. 627.351(6)(cc), F.S., relating to a report by Citizens Property Insurance Corporation.

Section 3: Deletes s. 627.706(3), F.S., relating to a property insurance filing for catastrophic ground cover collapse coverage.

Section 4: Deletes s. 627.7065(5), F.S., relating to a report of activities relating to the sinkhole database.

Section 5: Repeals s. 627.7077, F.S., relating to a Florida Sinkhole Insurance Facility Study.

Section 6: Deletes s. 627.712(7), F.S., relating to the effective date of the statute relating to the exclusion of windstorm and contents coverage in property insurance policies.

Section 7: Provides an effective date of July 1, 2010.

II. 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:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None provided in the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

None.