

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Banking and Insurance

BILL: SB 356

INTRODUCER: Senator Abruzzo

SUBJECT: Financial Guaranty Insurance Corporations

DATE: March 16, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Knudson	Burgess	BI	Favorable
2.			CM	
3.				
4.				
5.				
6.				

I. Summary:

SB 356 allows a financial guaranty insurance corporation to be organized as a mutual insurance company.

This bill substantially amends the following sections of the Florida Statutes: 627.971 and 627.972

II. Present Situation:

Organization of Insurance Companies

A prerequisite for authorization to transact insurance in this state is that an insurer must be an incorporated stock insurer, an incorporated mutual insurer, or a reciprocal insurer.¹ Florida law provides the following definitions for these three types of insurers:

- Stock insurer – An incorporated insurer with its capital divided into shares and owned by its stockholders.
- Mutual insurer – An incorporated insurer without permanent capital stock, the governing body of which is elected in accordance with part I of ch. 628, F.S. A mutual insurance company is owned by its policyholders.
- Reciprocal insurer² – An unincorporated aggregation of subscribers operating individually and collectively through an attorney in fact to provide reciprocal insurance³ among themselves.

¹ Section 624.404, F.S.

Financial Guaranty Insurance

Financial guaranty insurance⁴ is a surety bond, insurance policy, and indemnity contract issued by an insurer, or a similar guaranty, under which loss is payable once the insured claimant, obligee, or indemnitee provides proof of an occurrence of:

- The failure, as a result of a financial default or insolvency of an obligor on a debt instrument or other monetary obligation⁵ to make principal, interest, premium, dividend, or purchase price payments when due;
- Changes in interest rate levels or the differential in interest rates between various markets or products;
- Changes in currency exchange rates;
- Changes in the value of specific assets or commodities, financial or commodity indices, or price levels in general; or
- Other events which the Office of Insurance Regulation (Office or OIR) determines are substantially similar to any of the foregoing.

A financial guaranty insurance company may only be organized as a stock insurer, in the same manner as a stock property and casualty insurer.⁶ To transact financial guaranty insurance in Florida, the insurer must have an initial surplus to policyholders of \$50 million when initially licensed and maintains a surplus of at least \$35 million. The insurer must also establish a specified contingency reserve, and meet other requirements. Financial guaranty insurance corporations are subject to all provisions of the Florida Insurance Code applicable to property and casualty insurance, to the extent they are not inconsistent with Part XX, Ch. 627, F.S. An authorized property and casualty insurer may also transact such insurance if it has a total policyholder surplus of greater than \$100 million, not more than 20 percent of its total net premiums and policyholder surplus is used to transact financial guaranty insurance, and other conditions are met.

III. Effect of Proposed Changes:

Section 1. Amends s. 627.971, F.S., to amend the definition of “financial guaranty insurance corporation” to include a mutual insurance company that is licensed to transact financial guaranty insurance business in this state.

Section 2. Amends s. 627.972, F.S., to allow a financial guaranty insurance corporation to be organized as a mutual insurance company. If the corporation is organized as a mutual insurer, it must be organized and licensed in the manner prescribed for mutual property and casualty

² Section 629.031, F.S.

³ Reciprocal insurance consists of interexchange among persons (subscribers) of reciprocal agreements of indemnity that is effectuated through an attorney in fact common to all subscribers.

⁴ See Section 627.971, F.S.

⁵ An “other monetary obligation” includes common or preferred stock guaranteed under a surety bond, insurance policy, or indemnity contract. The insurance is available whether the obligation is incurred directly or as guarantor by or on behalf of another obligor who also defaulted.

⁶ Section 627.972(1), F.S.

insurers, with exceptions. The requirements applicable to stock insurance companies are unchanged by the bill.

Section 3. 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. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The Office of Insurance Regulation has expressed support for the legislation in the interest of bringing new insuring entities to Florida.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The provisions of this bill are also included within SB 1046.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

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