Committee on Banking and Insurance

CS/HB 941 — Insurance

by Economic Affairs Committee and Rep. Holder (CS/CS/SB 1428 by Budget Subcommittee on General Government Appropriations; Banking and Insurance Committee; and Senator Smith)

The bill amends various provisions relating to commercial lines insurance.

The bill provides that upon the expiration of the term of a commercial lines insurance policy, the insurer may transfer the policy to another authorized insurer that is a member of the same group or owned by the same holding company. This type of transfer would be treated as a renewal of the policy, rather than a cancellation or nonrenewal. The insurer is required to provide at least 45 days' notice of its intent to transfer, along with the financial rating of the insurer to which the policy is being transferred. The notice may be provided in the notice of renewal premium.

The bill creates a streamlined exemption process for construction and non-construction corporate officers and members of a limited liability company (LLC) by requiring both to elect to be exempt (opt-out) from consideration as an employee for workers' compensation purposes. Presently, under ch. 440, F.S., Florida employers are required to maintain workers' compensation coverage for "employees." In the construction industry, corporate officers and members of a LLC who are at least 10 percent owners of the corporation or LLC may elect to be exempt (opt-out). In contrast, full-time sole proprietors or partners not engaged in the construction industry may include themselves in the definition of "employee" by mailing a notice of election (opt-in) as provided in s. 440.05(2), F.S. There is no ownership requirement for non-construction industry exemptions. If no notice is made, the sole proprietor or partner engaged in a non-construction business is not considered an employee and is not eligible for workers' compensation benefits. Current law also provides that full-time members of a non-construction LLC are not currently afforded such an opt-in provision.

The bill removes requirement for workers' compensation insurers to refund excess profits to businesses they insure in the form of cash or credit, as determined by the Office of Insurance Regulation (OIR). Under current law, an excess profit is triggered when an insurer's underwriting gain is greater than the anticipated profit, plus 5 percent, for the 3 most recent calendar years.

The bill eliminates the mandatory onsite premium audits of policyholders if a workers' compensation insurer meets certain financial requirements. This change will provide insurers with flexibility to implement risk-based audits.

The bill authorizes the Office of Insurance Regulation to expend funds within existing resources for professional development of its employees.

If approved by the Governor, these provisions take effect July 1, 2012, except as otherwise expressly provided in this act.
Vote: Senate 40-0; House 99-16