

## SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Date: March 17, 1998 Revised: \_\_\_\_\_

Subject: Commercial Inland Marine Insurance

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Emrich</u>	<u>Deffenbaugh</u>	<u>BI</u>	<u>Favorable/CS</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

### I. Summary:

Committee Substitute for Senate Bill 1108 makes the following changes related to insurance: (1) exempts commercial inland marine insurance policies from rate and form approval by the Department of Insurance; (2) exempts payroll deduction plans or transfer payment plans from the requirement that private passenger motor vehicle insurance policies may be initially issued only if the insurer has collected from the insured an amount equal to 2 months premium; (3) revises the composition and tenure of the Board of Governors of the Workers' Compensation Joint Underwriting Association (JUA) and prohibits insurers in the voluntary insurance market from providing workers' compensation insurance to persons who are delinquent in their payment of premiums to the JUA.

This bill amends the following sections of the Florida Statutes: 627.021, 627.0651, 627.311, 627.410, and 627.7295.

### II. Present Situation:

Commercial inland marine insurance policies are unique in character and generally include risks of actual or technical transportation on land. Such policies are defined under Rule 4-167.024, F.A.C., of the Department of Insurance, as insurance covering "commercial or industrial property, often but not always of a portable or movable nature or instrumentalities of transportation or communication, that would typically be included in or with a commercial lines policy or written in a separate policy insuring one or more such items of property, including, but not limited to, commercial goods in transit, traffic signals, bridges, and tunnels."

Historically the Department of Insurance has not construed these policies or rates to be subject to department approval based on the exclusion provision under s. 627.062(3), F.S., which provides

and exemption from rate and form approval for individual risks that are not rated in accordance with the insurer's rates or rating manuals. Also, s. 627.0651(13)(c), F.S., provides that the requirement for filing underwriting rules do not apply to commercial inland marine risks. Under s. 627.410(1), F.S., *pecially rated* inland marine insurance policy forms do not have to be filed with and approved by the department. This exemption does not clearly exempt all inland marine policies if they are not specially rated. The department has recently determined that such forms must be filed if the policy is rated in accordance with an approved rating manual.

Under current law, in s. 627.7295, F.S., private passenger motor vehicle insurance policies may be issued only if the insurer or agent has received from the insured an amount equal to 2 months premium as a minimum down payment. There are certain exceptions to this provision, i.e., if the policy is being renewed or replaced by the same insurer, if the insurer issues such policies to active duty or former military personnel or their dependents, or if the policy is in effect for 6 months, the agent is terminated and the insured obtains coverage on the policy's renewal date with a new company through the terminated agent.

The Florida Workers' Compensation Joint Underwriting Association (JUA) was created by the Legislature during the 1993 Special Session (ch .93-415, Laws of Florida) and operates via a 13-member Board of Governors which is composed of five domestic insurers, five of the 20 foreign insurers with the largest voluntary written premium in this state for workers' compensation and employer liability insurance, an appointee of the Insurance Commissioner to serve as chair, one representative appointed by the largest property and casualty insurance agents' association, and the Insurance Consumer Advocate. Included within the five domestic insurer designees must be one representative of an assessable mutual insurer or other domestic insurer, one representative of a commercial self-insurance fund and three representatives of the five group self-insurers' funds. Included within this section are provisions for companies who decline to serve on, or resign from, the board.

In the past several years, the corporate structure of several assessable mutual insurers and commercial self-insurance funds, and group self-insurance funds has changed and the result is that there are not enough such assessable or commercial insurers to serve on the JUA board. Members of the board serve for 4 years, however, there is no specific provision for members to serve consecutive terms.

Under the current law, the JUA is precluded from writing workers' compensation and employer liability insurance for persons who are delinquent in their premium payments to insurers in the voluntary market, however, there is not a reciprocal arrangement for the JUA. Uncollectible premiums have been a problem for the JUA because over the past several years, the JUA has experienced as high as a 26 percent uncollectible premium rate.

### III. Effect of Proposed Changes:

**Section 1.** Amends s. 627.021, F.S., to specify that commercial inland marine insurance is not subject to the requirements of chapter 627, F.S. which includes all rate and form approval requirements and certain other general requirements.

**Section 2.** Amends s. 627.0651, F.S., to delete the provision that the filing requirements relating to underwriting rules for auto and homeowners' insurance do not apply to commercial inland marine risks. (This exemption would be provided by the bill's amendment to s. 627.021, F.S.)

**Section 3.** Amends s. 627.311, F.S., to revise the composition of the Board of Governors of the Workers' Compensation Joint Underwriting Association (JUA) to include representatives of five of the 20 domestic insurers and five of the 20 foreign insurers, with the largest voluntary direct premiums written in this state for workers' compensation and employer's liability insurance, which shall be elected, respectively, by the 20 domestic and 20 foreign insurers, eliminating the requirement that a certain number be representative of assessable mutual insurers, commercial self-insurance funds, and group self-insurance funds. However, the term *domestic insurer*, as defined in s. 624.06(1), means an insurer formed under the laws of this state, which includes authorized insurers, assessable mutual insurers, commercial self-insurance funds, and group self-insurance funds, formed under Florida law. One person, appointed by the Insurance Commissioner's would serve as the chair, and the bill maintains board membership for the Insurance Consumer Advocate and one representative of the largest property and casualty insurance agents' association in the state. The bill allows members of the board to serve consecutive terms.

Additionally, the bill prohibits insurers in the voluntary market from providing workers' compensation insurance and employer liability insurance to persons who are delinquent in their payment of premiums to the JUA.

**Section 4.** Amends s. 627.410, F.S., to delete the provision that exempts specially rated inland marine risks from a requirement that policy forms be filed with the Department of Insurance. As amended by the bill in Section 1, s. 627.021 would exempt commercial inland marine insurance from all requirement of the chapter, including the form filing requirements. As for certain personal lines marine insurance risks, an exemption would continue to apply under current law, in s. 627.062(3), F.S.

**Section 5.** Amends s. 627.7295, F.S., to exempt payroll deduction plans or automatic electronic funds transfer payment plans from the requirement under the private passenger motor vehicle insurance provision that policies may be initially issued only if the insurer has collected from the insured an amount equal to 2 months premium.

**Section 6.** Provides that this act shall take effect July 1, 1998.

**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:

By clearly exempting commercial inland marine policies from filing requirements, insurers will be saved the costs of filing and potential penalties for failure to file.

Employers who are delinquent in the premium payments to the JUA will be precluded from purchasing workers' compensation and employer liability insurance in the voluntary market. The uncollectible premium rate for the JUA may be reduced because of this provision.

C. Government Sector Impact:

The bill may lessen the number of policy forms filed with the department, but the impact would be minimal due to the historical interpretation that commercial inland marine policies are exempt.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

---

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

---