HOUSE OF REPRESENTATIVES
COMMITTEE ON
INSURANCE
FINAL ANALYSIS

BILL #: SB 1832, 1st Engrossed

RELATING TO: Collateral protection insurance

SPONSOR(S): Senator Casas

COMPANION BILL(S): HB 789

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) BANKING AND INSURANCE YEAS 10 NAYS 0
(2) FISCAL POLICY (W/D)
(3)
(4)
(5)

I. FINAL ACTION STATUS:

SB 1832, 1st Engrossed, passed the Senate by a vote of 39-0 on April 22, 1999, and passed the House by a vote of 115-0 on April 28, 1999. On June 4, 1999, SB 1832 was approved by the Governor, and became Chapter 99-237, Laws of Florida.

The substance of this bill also passed in section 10 of CS/SB 312, 3rd Engrossed, which passed the Senate on April 30, 1999, by a vote of 40-0 and passed the House on April 30, 1999, by a vote of 115-0. On May 26, 1999, CS/SB 312 was approved by the Governor, and became Chapter 99-204, Laws of Florida.

II. SUMMARY:

Collateral protection insurance would be defined as a commercial property insurance rather than residential insurance. By defining collateral protection insurance as commercial property insurance, it would be excluded from the assessment base of the personal lines residential property insurance account of the Residential Property & Casualty Joint Underwriting Association (RPCJUA). Collateral protection insurance would be included in the assessment base of the commercial residential account of the RPCJUA. This would narrow the assessment base of the RPCJUA and reduce the amount of statewide premium that is assessed to cover a deficit.

Collateral protection insurance policies, as defined, would be excluded from mandatory participation in the Florida Hurricane Catastrophe Fund.

The bill does not appear to have a significant fiscal impact on state or local governments.

The bill is effective upon becoming a law.

III. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Collateral protection insurance is sold to lending institutions for the purposes of insuring the lending institution's interest in real property. When a borrower fails to secure or maintain homeowner's insurance on a property, even when required to do so by contract, collateral protection insurance automatically insures the lender's interest in the property. Collateral protection insurance is sold under a blanket policy to lending institutions. Properties covered under collateral protection insurance are covered under a basic policy, regardless of the location or condition of the property. This type of insurance is more expensive than conventional homeowner's insurance, and it is not marketed or made available to individuals.

Section 627.0625, F.S., defines commercial insurance as insurance that is limited to the coverage of commercial risks. According to s. 624.604, F.S., property insurance is defined as "insurance on real or personal property of every kind and of every interest."

Currently, collateral protection insurance is not defined by law. Section 631.52, F.S., specifically exempts collateral protection insurance from the Florida Insurance Guaranty Association, which is a non-profit corporation which provides for the payment of claims under property and casualty insurance policies and liability policies issued by insurers that have become insolvent.

When premium revenues and other resources are insufficient to pay claims, the Residential Property and Casualty Joint Underwriting Association (RPCJUA) and the Florida Windstorm Underwriting Association (FWUA) boards must levy assessments against property insurers in proportion to their market share. Generally, the assessments must be enough to recoup in one year the entire amount of the deficit. If the deficit is larger than 10 percent of total statewide premium, the board is required to levy assessments equal to the greater of 10 percent of the deficit or 10 percent of the total statewide written premium for property insurance for the prior calendar year. Any remaining deficit is recovered through the levy of emergency assessments. The current assessment base for the RPCJUA is $3.12 billion for combined personal lines residential property insurance and commercial lines residential property insurance.

Insurers that offer collateral protection insurance are subject to regular and emergency deficit assessments by the RPCJUA and the FWUA. According to the Department of Insurance, the amount of premium written for collateral protection insurance in Florida is difficult to calculate, as it is not reported to the department separately.

The Florida Hurricane Catastrophe Fund (Cat Fund), created in 1993 following Hurricane Andrew, is a state trust fund administered by the State Board of Administration (SBA) that reimburses insurers for a portion of their hurricane losses in the state (s. 215.555, F.S.) Each insurer that writes residential property insurance in Florida must enter into a contract with the State Board of Administration (SBA) each year to purchase reimbursement coverage from the Cat Fund. The definition of "covered policy" in s. 215.555 (2)(c), F.S., means "any insurance policy covering residential property in the state" and lists the types of policies included, including such commercial residential policies as condominium association and apartment building policies.

B. EFFECT OF PROPOSED CHANGES:

Collateral protection insurance would be defined as commercial property insurance for purposes of ss. 215.555, 627.311, and 627.351, F.S.

By defining collateral protection insurance as commercial property insurance, it would be excluded from the assessment base of the personal lines residential property insurance account of the RPCJUA. Collateral protection insurance would be included in the assessment base of the commercial residential account of the RPCJUA. This would narrow the assessment base of the RPCJUA and reduce the amount of statewide premium that is assessed to cover a deficit.

This definition of collateral protection insurance would not have an effect on the assessment base of the FWUA since the FWUA does maintain separate accounts for personal and commercial risks.

Collateral protection insurance would exempt from mandatory participation in the Cat Fund.

C. APPLICATION OF PRINCIPLES:

1. <u>Less Government:</u>

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

N/A

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

N/A

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. <u>Lower Taxes:</u>

a. Does the bill increase anyone's taxes?

N/A

b. Does the bill require or authorize an increase in any fees?

N/A

c. Does the bill reduce total taxes, both rates and revenues?

N/A

d. Does the bill reduce total fees, both rates and revenues?

N/A

e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

   a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

      N/A

   b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

      N/A

4. Individual Freedom:

   a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

      N/A

   b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

      N/A

5. Family Empowerment:

   a. If the bill purports to provide services to families or children:

      (1) Who evaluates the family's needs?

         N/A

      (2) Who makes the decisions?

         N/A

      (3) Are private alternatives permitted?

         N/A

      (4) Are families required to participate in a program?

         N/A

      (5) Are families penalized for not participating in a program?

         N/A

   b. Does the bill directly affect the legal rights and obligations between family members?

      N/A

   c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Creates s. 624.6085, F.S.

E. SECTION-BY-SECTION ANALYSIS:

N/A

IV. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

   By defining collateral protection insurance as commercial property insurance, it would be exempt from the personal lines residential property insurance account assessment base of the RPCJUA would be narrowed, thus making other insurers liable for more of the assessment.

2. Direct Private Sector Benefits:

   Those with collateral protection insurance policies would no longer be subject to assessments by the personal lines residential property insurance account of the RPCJUA under those policies.

3. Effects on Competition, Private Enterprise and Employment Markets:

   N/A

D. FISCAL COMMENTS:

N/A

V. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

N/A

VI. COMMENTS:

N/A

VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VIII. SIGNATURES:

COMMITTEE ON INSURANCE:

Prepared by:	Staff Director:
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FINAL ANALYSIS PREPARED BY THE COMMITTEE ON INSURANCE:

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