

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.)

BILL: CS/SB 2404

SPONSOR: Banking and Insurance Committee and Senator Grant

SUBJECT: Certified Public Accountants Providing Insurance Advice

DATE: April 19, 1999 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Woodham	Deffenbaugh	BI	Favorable/CS
2.			FP	
3.				
4.				
5.				

I. Summary:

The Committee Substitute for Senate Bill 2404 amends s. 626.022, F.S., to exempt certified public accountants (CPAs) from the licensing and regulatory provisions for insurance agents, customer representatives, solicitors, adjusters, insurance agencies, services representatives, and claims investigators, under certain conditions. This exemption would allow a CPA to provide specified insurance services, to the extent that the services are within the scope of the practice of accounting, pursuant to the regulatory provisions of chapter 473, F.S., without being licensed as an insurance agent, if the CPA does not directly or indirectly receive or share in any commission, referral fee, or solicitor's fee. The insurance activities allowed to be engaged in by the CPA, without an insurance license, are limited to advising a client of the necessity of obtaining insurance, the amount of insurance needed, or the line of coverage needed.

Certified public accountants are routinely asked to coordinate many financial related activities for individuals, partnerships and corporations. In that role, CPAs are often asked to objectively evaluate the risk and liability of exposure for these individuals and entities. The evaluation of the adequacy and appropriateness of insurance coverage includes disability, property, casualty, health or life insurance.

This bill amends section 626.022 of the Florida Statutes.

II. Present Situation:

Chapter 473, F.S., provides for the regulation of certified public accountants (CPAs) under the jurisdiction of the Board of Accountancy within the Department of Business and Professional Regulation, Division of Certified Public Accountants. The practice of public accounting is defined in s. 473.302, F.S., to include offering or performing services using accounting skills, as well as, services related to financial statements, and “. . . tax management advisory or consulting services . . .” A CPA is licensed under s. 473.306, F.S. Qualifications include meeting the requirements for good moral character, formal education, and successful completion of the licensure examination.

This chapter further provides standards for operating as a CPA, such as limitations on commissions or referral fees, contingent fees, client privileged communications, and prohibited activities, generally. Disciplinary proceedings and penalties are also provided. With exceptions, an accountant is limited to conducting accounting services under the license issued by the Board.

Chapter 517, F.S., addresses securities transactions and provides for the regulation of securities dealers and investment advisors by the Department of Banking and Finance. "Investment advisor" is defined as a person who for compensation engages in the business of advising others regarding buying, selling or investing in securities. Exemptions from the definition of "investment advisor" are provided for various entities including "any licensed certified public accountant whose performance of such [investment advisory] services is solely incidental to the practice of his profession; . . ." s. 517.021(11)(b)(2), F.S.

Real estate brokers and salespersons are licensed and regulated pursuant to chapter 475, F.S., part I. Regulation is administered by the Florida Real Estate Commission and the Division of Real Estate under the Department of Business and Professional Regulation. Several exemptions from the regulatory scheme of this chapter are provided, including for "any person acting. . . as a certified public accountant, as defined in chapter 473, within the scope of her or his duties as such. . . ." s. 475.011(1), F.S.

In general, only a licensed insurance agent can lawfully transact insurance on behalf of an insurance company. Part I of chapter 626, F.S., with exception, "applies as to insurance agents, solicitors, service representatives, adjusters, and insurance agencies; as to any and all kinds of insurance; and as to stock insurers, mutual insurers, reciprocal insurers, and all other types of insurers . . ." This part excludes reinsurance, fraternal benefit societies, or bail bond agents.

Under Florida law, an insurance agent is defined as a "general lines agent, title agent, life agent, or health agent" as defined in chapter 626, F.S. Each of these areas of agent qualifications and expertise, except title agent, are also defined in the chapter to further identify each area of responsibility. In order to conduct the business of an insurance agent, a license must be obtained from the Department of Insurance.

Certified public accountants (CPAs) are routinely asked to coordinate many financial related activities for individuals, partnerships and corporations. In that role, CPAs are often asked to objectively evaluate the risk and liability of exposure for these individuals and entities. The evaluation of the adequacy and appropriateness of insurance coverage includes disability, property, casualty, health or life insurance. According to the Florida Institute of Certified Public Accountants, the department's licensing division has recently stated that a CPA needs an insurance license if any insurance advice is given to a client, even within the scope of the practice of public accounting.

III. Effect of Proposed Changes:

Section 1. Adds paragraph (d) to subsection (1) of s. 626.022, F.S., to exempt a CPA, licensed under chapter 473, who is acting within the scope of the practice of public accounting, from being licensed as an insurance agent, so long as the activities of the CPA are limited to advising a client of the necessity of obtaining insurance, the amount of insurance needed, or the line of coverage

needed. The CPA may not directly or indirectly receive or share in any commission, referral fee, or solicitor's fee without an insurance license.

Section 2. Provides for an effective date of July 1, 1999.

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:

Currently, a CPA is prohibited from providing insurance services without first obtaining an appropriate insurance license. Due to the provisions of the bill, accountants who are currently certified and also hold an insurance license may choose not to renew the insurance license. The CPA would be allowed to continue to provide certain insurance services under the exemptions provided in the bill.

Many advisory services currently provided by CPAs as a part of their normal business practices do not come under the umbrella of insurance regulation. However, it has been recognized that some services provided by a CPA could be considered providing insurance services under certain circumstances. The bill is designed to allow CPAs to provide certain insurance-related services without meeting the requirements for licensure and regulation under part I of chapter 626, F.S. The bill allows a CPA to expand services which may be offered to clients without the requirements associated with qualification and licensure under portions of the insurance code.

C. Government Sector Impact:

None.

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.
