

STORAGE NAME: h0789a.brc

DATE: March 22, 1999

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
BUSINESS REGULATION AND CONSUMER AFFAIRS
ANALYSIS**

BILL #: HB 789

RELATING TO: Collateral protection insurance

SPONSOR(S): Representative Dockery

COMPANION BILL(S): SB 1832(s)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) INSURANCE YEAS 11 NAYS 0
 - (2) BUSINESS REGULATION AND CONSUMER AFFAIRS YEAS 10 NAYS 0
 - (3) REAL PROPERTY & PROBATE
 - (4) GENERAL GOVERNMENT APPROPRIATIONS
 - (5)
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I. SUMMARY:

On March 22, 1999, the Business Regulation and Consumer Affairs Committee adopted an amendment, without objection, to clarify the intent of the bill.

Collateral protection insurance would be defined as a commercial insurance product rather than a residential insurance product. By defining collateral protection insurance as commercial, it would be exempt from regular and emergency deficit assessments levied by the Residential Property and Casualty Joint Underwriting Association (RPCJUA) and the Florida Windstorm Underwriting Association (FWUA). This would narrow the assessment base for the two residual market entities and reduce the amount of statewide premium that is assessed to cover a deficit.

The bill would not have a fiscal impact.

II. 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 this type of 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.

B. EFFECT OF PROPOSED CHANGES:

Collateral protection insurance would be defined as commercial insurance rather than be treated as residential insurance. By defining collateral protection insurance as commercial, it would be exempt from regular and emergency deficit assessments by the RPCJUA and the FWUA. This would reduce the amount of statewide premium that is assessed to cover a deficit.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

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

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

No

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

No

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

No

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. Lower Taxes:

a. Does the bill increase anyone's taxes?

No

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

No

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

No

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

No

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

No

3. Personal Responsibility:

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

No

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

No

4. Individual Freedom:

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

No

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

No

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:

This section need be completed only in the discretion of the Committee.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None

2. Recurring Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

4. Total Revenues and Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None

2. Recurring Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

By defining collateral protection insurance as commercial insurance, the assessment base of the RPCJUA and the FWUA 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 RPCJUA and FWUA assessments under those policies.

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

Unknown

D. FISCAL COMMENTS:

Defining collateral protection insurance as a commercial insurance product will reduce the amount of statewide premium that is assessed to cover a deficit.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

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

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

None

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 22, 1999, the Business Regulation and Consumer Affairs Committee adopted, without objection, an amendment that would clarify the intent of the bill. The amendment is traveling with the bill.

VII. SIGNATURES:

COMMITTEE ON INSURANCE:

Prepared by:

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