

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 2190

SPONSOR: Senator Margolis

SUBJECT: Continuing Education for Public Adjusters

DATE: March 25, 2003 REVISED: 04/03/03 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Knudson</u>	<u>Deffenbaugh</u>	<u>BI</u>	<u>Fav/1 amendment</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill will require licensed public adjusters to complete 24 hours of continuing education courses, 2 of which relate to ethics, every 2 years. The courses will cover subjects designed to inform the licensee regarding current Florida law pertaining to all lines of insurance other than life and annuity insurance. The bill specifies that the Office of Insurance Regulation shall adopt the rules necessary to implement and administer the continuing education requirements of section 626.869(5), Florida Statutes.

Currently, continuing education requirements for adjusters apply only to adjusters who work on behalf of worker's compensation insurers. The bill would apply only to public adjusters who, by definition, work on behalf of a claimant, not an insurance company. The bill would not apply to a "company employed adjuster" (employed by an insurer or insurer's subsidiary) or to an "independent adjuster," (a person who is self-employed or is associated with or employed by an independent adjusting firm or other independent adjusters, and who acts on behalf of an insurer).

This bill substantially amends section 626.869 of the Florida Statutes.

II. Present Situation:

Chapter 626, Florida Statutes, provides for the licensure and regulation of insurance agents and certain other types of individuals by the Office of Insurance Regulation.

There are three types of licensed adjusters in Florida: public adjusters, independent adjusters, and company employee adjusters. (s. 626.864, F.S.) A fourth type, catastrophe and emergency adjusters, are unlicensed and only used in emergency situations.

A "company employee adjuster" is an adjuster who is employed by an insurer or insurer's subsidiary, and who undertakes on behalf of an insurer to ascertain and determine the amount of any claim payable under an insurance contract or undertakes to effect settlement of a claim. (s. 626.856, F.S.)

An "independent adjuster" is any person who is self-employed or is associated with or employed by an independent adjusting firm or other independent adjusters, and who undertakes on behalf of an insurer to ascertain and determine the amount of any claim payable under an insurance contract or undertakes to effect settlement of a claim. (s. 626.855, F.S.)

A "public adjuster" is an adjuster who works on behalf of a claimant, not an insurance company. Public adjusters aid claimants in filing insurance claims, investigating claims, and negotiating the settlement of a claim. (s. 626.854, F.S.) Licensed attorneys are not considered public adjusters and are exempt from the requirements placed upon such adjusters. (s. 626.860, F.S.) The definition of "licensed adjuster" also does not include a licensed health care provider or employee thereof who prepares or files a health insurance claim form on behalf of a patient. (s. 626.854(2), F.S.) A person who files a health claim on behalf of another and does so without compensation also is not considered a public adjuster.

Adjusters who work on behalf of worker's compensation insurers are required to take courses in continuing education. Section 626.869(5), F.S., states that any person holding an adjuster's license for 24 consecutive months or longer and who engages in adjusting workers' compensation claims must, beginning in their birth month and every 2 years thereafter, complete 24 hours of courses regarding workers' compensation laws, 2 hours of which are related to ethics. The continuing education requirement ensures that worker's compensation adjusters keep up to date with the current state of law and are able to competently and fairly adjust workers' compensation claims.

The requirements for continuing education courses are stated in s. 626.869, F.S. All courses must have a course outline that is approved by the department, and must be taught at a location approved by the department. The course instructor must have at least 5 years of workers' compensation or general lines experience, or be a member of The Florida Bar, or be approved by the department. Also, the course provider must provide the attendee with a certificate of completion, and must send a roster to the department in a form approved by the department. The Office of Insurance regulation states that it currently is responsible for regulating the requirements of subsection 5.

III. Effect of Proposed Changes:

The bill will require licensed public adjusters to complete 24 hours of continuing education courses every 2 years. The courses will cover subject areas designed to inform the licensee regarding current Florida law pertaining to all lines of insurance except for life and annuity insurance. Two out of the 24 course hours must relate to ethics. The purpose of the bill is to ensure that public adjusters will have the necessary knowledge to adjust claims in accordance with the given policy or contract, and with the laws of Florida.

The bill also specifies that the Office of Insurance Regulation shall adopt rules necessary to implement and administer the continuing education requirements of s. 626.869(5), F.S. (See Related Issues, below, regarding the appropriate agency for rulemaking.)

The bill will take effect upon becoming a law.

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:

The bill will require public adjusters to attend educational classes, likely at a personal expense. However, mandating continuing education for public adjusters should improve the skills of public adjusters and thus provide consumers with more skilled representation.

C. Government Sector Impact:

The Office of Insurance Regulation states that it does not foresee the bill having any negative fiscal impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill requires the Office of Insurance Regulation to adopt rules necessary to implement and administer the continuing education requirements of the act. However, this is inconsistent with the provisions of the 2002 act that transferred the Department of Insurance to the Department of Financial Services and to the Office of Insurance Regulation of the Financial Services Commission. (ch. 2002-404, L.O.F.) The 2002 act provided that the Office of Insurance Regulation is responsible for all activities regarding adjusters, but further provided that the

Financial Services Commission is responsible for all rulemaking for matters within the jurisdiction of the Office of Insurance Regulation.

VIII. Amendments:

Amendment #1 by Banking and Insurance Committee:

States that the Financial Services Commission shall adopt the rules necessary to implement subsection (5) of s. 626.869, F.S. (WITH TITLE AMENDMENT)

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