

# 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: CS/SB 2038

SPONSOR: Banking and Insurance Committee and Senator Fasano

SUBJECT: Consumers' Insurance Rights

DATE: April 1, 2004                      REVISED: \_\_\_\_\_

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

**I. Summary:**

Committee Substitute for Senate Bill 2038 establishes broad consumer protection provisions pertaining to property and casualty insurance and motor vehicle insurance. The legislation also changes other provisions relating to insurance.

Changes regarding property and casualty insurance:

- Requires the Division of Consumer Services to designate an employee as a primary contact for consumers on sinkhole issues;
- Requires the F.S.U. Department of Risk Management and Insurance to conduct a feasibility and cost-benefit study for a potential Florida Sinkhole Insurance Facility and other matters related to the affordability and availability of sinkhole insurance;
- Provides that an insurance policy mandating arbitration does not override the policyholder's right to mediation under s.;
- Forbids an insurer from canceling or non-renewing a policy because of a single claim on a property insurance policy resulting from water damage, unless the insurer can demonstrate that the insured policyholder failed to take reasonable action to prevent a recurrence of damages as requested by the insurance company;
- Reporting requirements related to loss underwriting mandates that when an insurer refuses to provide coverage due to adverse underwriting information, the insurer must provide the applicant specific information on the reasons for the refusal to insure and inform the applicant how to obtain the loss underwriting if it is a basis for a refusal to insure;
- Requires a lender to reimburse the property owner for any penalty or fees imposed by the insurer and paid by the property owner to reinstate the policy, if a lender fails to timely pay a premium. If the payment is not over 90 days overdue, the insurer must reinstate the

insurance policy retroactive to the day of cancellation. If the premium payment is more than 90 days overdue or if the insurer refuses to reinstate the policy, the lender must pay the difference between the cost of the previous insurance policy and a comparable, new policy for 2 years.

- Requires the insurer to pay for any consequential physical damage that is the result of repairs undertaken to repair or replace damage that was covered under the policy, unless the insurance policy says otherwise;
- When a portion of a home must be repaired or replaced, the repair or replacement must include adjoining areas as necessary.

#### Changes related to Auto Insurance:

- Allows businesses that sell personal accident and motor vehicle excess liability insurance to submit one application to the Department in order to obtain licenses for each location of the business.
- Establishes guidelines to apply to the adjustment and settlement of personal and commercial motor vehicle insurance claims;
- Provides specified consumer protections pertaining to: third-party claimants; motor vehicle repairs; replacement parts; adjustment and settlement of first-party motor vehicle total losses; settlements; partial losses; storage charges; and, sales taxes.

#### Changes related to credit life and disability insurance:

- Allows credit life and disability insurers to use newly adopted disability and mortality tables to set reserves, and repeals the previous requirement that the minimum reserve for credit life and disability policies be the unearned gross premium.

#### Changes involving premium finance companies:

- Eliminates the filing fee specified in s. 627.849, F.S. for submission of premium finance forms.
- Requires that when a financed insurance contract is canceled an insurer must return the unpaid balance due under the finance contract to the premium finance company and any remaining unearned premium to the agent or insured, within 30 days of the requested cancellation date. In turn, the bill places a time requirement on the premium finance company to refund to the insured any refund due on the account within 30 days of the account being overpaid or, if the refund is sent to the agent within 15 days of the overpayment, shall notify the insured of the refunded amount.

#### Changes the means by which mortality tables are adopted:

- Allows the Financial Services Commission to adopt by rule the latest revisions to the minimum standards for valuation of life insurance policies, produced by the National Association of Insurance Commissioners, by rule rather than having to do so by legislation.

The bill states that any provisions of the act that are found invalid are severable from the rest of the act.

This bill amends the following sections of the Florida Statutes: 20.121, 501.137, 624.4622, 625.081, 625.121, 626.321, 627.476, 627.4091, 627.4133, 627.7015, 627.838, 627.848, and 627.849.

This bill creates the following sections of the Florida Statutes: 625.9743, 626.9744, and 627.7077, and repeals the following section of the Florida Statutes: s. 625.131.

## II. Present Situation:

### Unfair Trade Practices

Part IX of ch. 626, F.S., contains the Unfair Insurance Trade Practices Act. The act defines and provides for the determination of all unfair methods of competition as well as what acts constitute unfair or deceptive trade practices. Violators of the act are subject to a maximum fine of \$2,500 for an unwillful violation up to \$10,000 for all unwillful violations arising out of the same action, and a maximum \$20,000 fine for each willful violation not to exceed \$100,000 for all willful violations arising out of the same action. A multitude of unfair trade practices or unfair modes of competition are identified in the act including making misrepresentations regarding an insurance policy, engaging in unfair claim settlement practices such as denying claims without conducting a reasonable investigation, engaging in unfair discrimination, and more.<sup>1</sup> The act also contains a “policyholders bill of rights” that mandates that policyholders have the right to competitive pricing practices by insurers, the right to obtain comprehensive coverage, to an insurance company that is financially stable, and other rights.<sup>2</sup>

### Insurance Contracts

Part II of ch. 627, F.S., contains the statutory regulations in Florida for what may be included in an insurance contract, defines certain types of coverages, provides the requirements for filing of insurance policies with the office for approval, requires an insurer to provide a notice of cancellation, nonrenewal, or of the renewal premium, along with a variety of other provisions.

### Alternative Dispute Resolution and Arbitration

Mediation is a “private, informal dispute resolution process in which a neutral third person, the mediator, helps disputing parties to reach an agreement.”<sup>3</sup> In mediation, the mediator has no authority to impose a resolution on the parties. Mediation is designed as an informal, inexpensive, and non-threatening forum where parties can attempt to resolve disputes. The Florida statutes give insureds that have disputes regarding property insurance and auto insurance the right to engage in a non-binding meditation conference with insurers. Property insurance mediation is set forth in s. 627.7015, F.S., whereby first party claimants have the right to a mediated claim resolution conference for claims under personal lines policies prior to the commencement of the appraisal process or the start of litigation. Additionally, a court may refer litigants to mediation. Auto insurance mediation is governed by s. 627.745, F.S. Mediation is available to the insurer or the insured for any claim filed with an insurer for personal injury

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<sup>1</sup> Section 626.9521, F.S.

<sup>2</sup> Section 626.9641, F.S.

<sup>3</sup> BLACK'S LAW DICTIONARY 981 (6<sup>th</sup> ed. 1990).

damages of \$10,000 or less. For both types of mediation, the department selects a qualified mediator at random and the parties must negotiate in good faith and have full authority to settle the claim.

Arbitration is “a process of dispute resolution in which a neutral third party (arbitrator) renders a decision after a hearing at which both parties have an opportunity to be heard.”<sup>4</sup> Arbitration is designed as an inexpensive and quicker alternative to a traditional legal trial. The Office of Insurance Regulation prohibits insurers from requiring mandatory, binding arbitration in insurance policies, on the grounds that arbitration can place financial and time burdens on consumers and interferes with the policyholder’s right to engage in non-binding mediation.

### **Mold Related Claims and Litigation**

Beginning in the 1990’s, claims and litigation involving toxic mold infestation in homes and other dwellings has presented greater challenges for both consumers and insurers. Generally, situations involving mold arise when a flood, leak, or water overflow within a home results in the growth of mold within the home. Most claims involving mold center on contentions that the mold causes illnesses such as skin rashes, lung problems and even brain damage.<sup>5</sup> The amount of mold claims and losses has increased greatly in recent years. For instance, a 2002 study by the Texas Department of Insurance shows that the number of mold claims in that state increased from 1,050 in the first quarter of the year 2000, to 14,704 in the fourth quarter of 2001. During that time, the estimated incurred loss increased from over \$14 million in the first quarter of 2000, to over \$187 million in the fourth quarter of 2001. As a result of increased costs and litigation, customers have found it increasingly difficult to obtain insurance coverage if their home has sustained water damage in the past.

### **Mortality and Disability Tables for Life Insurance and Annuities**

Under current law, new mortality and disability tables for life insurance and annuities are required to be adopted by statute under s. 625.121, F.S. Every state except Florida permits their insurance department to adopt these mortality and disability tables by rule rather than enacting a law every time the tables are updated. The National Association of Insurance Commissioners (NAIC) adopts and updates periodically the mortality and disability tables pertaining to life insurance and annuities. According to representatives with the Office of Insurance Regulation (Office), allowing the Office to adopt the NAIC tables by rule would facilitate the adoption of such tables and aid insurers in complying with Florida’s regulations.

### **Motor Vehicle Consumer Protections**

The Division of Consumer Services (division) within the Department of Financial Services (department) has several functions such as receiving inquiries and complaints from consumers, disseminating information, and providing assistance. According to representatives with the division, in 1992, the then-Department of Insurance promulgated Rule 4-166.027, F.A.C., which provided protections for motor vehicle consumers by establishing broad standards for the prompt, fair, and equitable settlement of first-party and third-party personal and commercial motor vehicle insurance claims. This rule established the following:

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<sup>4</sup> BLACK’S LAW DICTIONARY 105 (6<sup>th</sup> ed. 1990).

<sup>5</sup> See *Ballard v. Fire Insurance Exchange*, Cause No. 99-05252, 345<sup>th</sup> Judicial District Court, Travis County Texas. In *Ballard*, a jury returned with a \$32 million verdict against an insurer for failure to remedy a mold growth problem in an insured’s home. The verdict was later reduced to \$4 million on appeal.

- guidelines for insurers to follow in adjusting and settling claims;
- prohibitions for insurers as to actions regarding third-party claimants, e.g., urging such claimants to use their own policy (even though the claimant's vehicle was damaged by the negligent actions of the company's insured), thus avoiding paying the claim under the policy issued by that insurer;
- standards for vehicle repairs;
- provisions as to partial and total loss value; and
- provisions for replacement parts.

In 2002, this rule was removed because its terms were found to extend beyond the jurisdiction of the department. According to department officials, the rule provisions provided a standard for fair and equitable auto claims handling that both consumers and insurance companies could use. Last year, the division received approximately 500,000 phone calls from consumers and 40,000 written complaints. Division representatives state that 30 to 40 percent of these complaints involve motor vehicle insurance. Many times consumers are in need of special attention as to motor vehicle claims procedures, according to these representatives.

Consumers are currently afforded protection under the unfair and deceptive claims practices provisions in the Insurance Code. These practice provisions prohibit insurers from engaging in specified unfair claim settlement practices as to their insureds and in specified cases, third-parties.<sup>6</sup> These provisions prohibit the making of material misrepresentations in order to effect a settlement; making misrepresentations as to pertinent facts or insurance policy provisions relating to coverages; failing to act promptly with respect to claims; and, failing to affirm or deny full or partial coverage of claims, among other provisions.

### **Motor Vehicle Crash Parts**

Motor vehicle crash parts, sometimes referred to as cosmetic parts, are the sheet metal components of vehicles. These are the most frequently damaged parts in auto accidents, such as the fenders, hoods and doors panels. There are two sources for these parts: auto manufacturers, who sell these parts under their own names, also known as original-equipment manufacturers (OEMs), and generic or aftermarket crash parts suppliers. Before generic parts existed, creating competition in the marketplace, OEMs were able to sell their parts at much higher prices than they can today. According to the Insurance Institute for Highway Safety (IIHS), the introduction of aftermarket parts forced the price of OEM parts down by an average of 30 percent.

In the continuing debate about whether generic parts are as good as parts from OEMs, the issue of safety is in the forefront. Critics claim that using parts from sources other than OEMs could compromise safety. However, the IIHS says that with the possible exception of hoods, there are no safety implications of using cosmetic crash parts from any source. This has been demonstrated by crash tests conducted at the IIHS. In addition, an independent, third-party nonprofit organization, Certified Automotive Parts Association (CAPA), inspects generic automotive parts and guarantees the quality of those that meet its high standards. Generic crash parts do not interfere with a vehicle's existing warranty and are often manufactured by the same supplier and in the same manner as OEM parts.

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<sup>6</sup> Section 626.9541, F.S.

Many states have enacted laws that dictate to insurers and auto body shops when and how they must disclose the use of aftermarket parts to their customers. The majority of these states, including Florida, require repair estimates to identify non-OEM parts and specify that warranties on such parts are the responsibility of the part manufacturer, not the manufacturer of the vehicle itself. Under part III of ch. 501, F.S., an insurer or repair facility must clearly identify in the written estimate for repairs, in 10-point type, each such part in all instances where nonoriginal equipment manufacturer aftermarket crash parts are used. A violation of part III constitutes a violation of the unfair insurance trade practices act under part IX of ch. 626, F.S.

Some insurers restricted their use of generic crash parts or stopped using them altogether after litigation involving State Farm Mutual Auto Insurance company.<sup>7</sup> According to IIHS representatives, this has contributed to the increase in the cost of repairing cars after collisions.

### **Diminished Value**

During the past several years, litigation has occurred involving diminished market value which is the value of a vehicle above the repair value. According to representatives with IIHS, trends in recent court decisions nationwide have deemed that diminished value is not recoverable under policies, limiting insurer liability to the cost of repairs. State supreme and appellate courts in Maine, Delaware, Florida, Alabama, Louisiana, Missouri and Wisconsin have recently addressed the issue and ruled that diminished value is not recoverable.

In March 2003, the South Carolina Supreme Court ruled that insurance companies are not obligated to pay for the diminished value of a vehicle that was damaged in a crash, and are only required to pay for the cost of repairs. It ruled unanimously that State Farm does not have to make up the difference in diminished value of a wrecked car as well as pay for repairs.

### **Motor Vehicle Claim Settlement Issues**

Officials with the Department of Financial Services state that it is important to codify the provisions of Rule 4-166.027, F.A.C., into law in order to establish uniform standards in the adjustment of auto losses. While most insurers adhere to this rule, its incorporation into state law will help maintain consumer protections as well as avoid potential disputes and litigation in the future.

## **III. Effect of Proposed Changes:**

**Section 1.** Amends s. 20.121, F.S., to require that the Division of Consumer Services of the Department of Financial Services shall designate an employee of the Division as a primary

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<sup>7</sup> In 1999, generic replacement part suppliers and users experienced a major setback. In October of that year, in the case of *Avery vs. State Farm*, a southern Illinois jury found State Farm Mutual Auto Insurance Co. liable for \$456 million in damages and an additional \$730 million in punitive damages in a class action lawsuit involving the use of generic auto parts. The total award was reduced to \$1.05 billion. The plaintiffs argued that the company had failed to tell its policyholders about the use of aftermarket parts in auto repairs, violating the state's consumer fraud laws, and that their use did not restore the automobile to its original condition, which was a breach of contract. In its April 5, 2001, decision, the appellate court left standing nearly all of the trial court's findings, and affirmed the judgment. State Farm has appealed the judgment, which has the potential to affect policyholders everywhere, to the state's high court. If it is allowed to stand, the verdict could allow automakers to arguably charge more for replacement parts.

contact for consumers on issues relating to sinkholes. The designated employee is to serve as a source for consumers for information regarding sinkhole-related insurance issues.

**Section 2.** Amends s. 501.137, F.S., which contains consumer protection provisions that require mortgage lenders to pay taxes or insurance premiums when receiving funds for the payment of property taxes or hazard insurance premiums. If the lender neglects to timely pay a tax or premium when escrow funds are available and the property owner suffers a loss, the lender is liable for a loss that would have been insured up to policy limits. The bill adds to these requirements that if a lender fails to timely pay a premium, and the payment is not over 90 days overdue, the insurer must reinstate the insurance policy retroactive to the day of cancellation, and the lender must reimburse the property owner for any penalty or fees imposed by the insurer and paid by the property owner to reinstate the policy. If the premium payment is more than 90 days overdue or if the insurer refuses to reinstate the policy, the lender must pay the difference between the cost of the previous insurance policy and a comparable, new policy for 2 years.

**Section 3.** Creates subsections (3) and (4) of s. 624.4622, F.S. The section contains requirements for the creation of self insurance funds by two or more local governmental entities for paying workers compensation benefits.

Subsection (3) requires local government self-insurance funds created after October 1, 2004, to be initially organized as a commercial self-insurance fund under s. 624.462, F.S., or as a group self-insurance fund under s. 624.4621, F.S. Subsection (4) mandates that for the first 5 years of its existence, the fund shall be subject to all requirements applied to commercial self-insurance funds or group self-insurance funds. Local government self-insurance funds formed after January 1, 2005, must file full financial statements, including a statement of opinion on loss and loss adjustment expense reserves by a qualified actuary, with the Office of Insurance Regulation for their first 5 years of existence. The fiscal statement must be filed within 60 days after the end of the fund's fiscal year, and quarterly statements must be filed within 45 days after the end of the quarter. The office may grant filing extensions for good cause.

The changes created by this section requires a local government self insurance fund to maintain a surplus. Currently, such funds are permitted to be insolvent, likely because governmental entities can exercise their taxing power to raise funds.

**Section 4.** Amends s. 625.081, F.S., and exempts credit disability insurance from the requirement that the insurer maintain an active life reserve that is less in the aggregate than the pro rata gross unearned premiums for such policies. The exemption will allow reserves to be set using new mortality and disability tables adopted by section 5 of this bill. Use of these tables should enable insurers to set more accurate reserves.

**Section 5.** Amends 625.121, F.S., relating to the standard valuation law pertaining to life insurance policies, to permit the Financial Services Commission (commission) to adopt the National Association of Insurance Commissioner's (NAIC) mortality and disability tables by rule. Under current law, mortality and disability tables are periodically updated and adopted for use by all states. This provision permits the commission to adopt updated tables by rule of the Financial Services Commission for policies issued on or after July 1, 2004. The provision applies

to ordinary life, disability in or supplemental to ordinary life, accidental death benefits in or supplemental to policies, annuities and pure endowments.

The bill also allows insurers to use the minimum reserve requirements for single-premium credit disability insurance, monthly premium credit life insurance and monthly premium credit disability insurance established by the National Association of Insurance Commissioners. This provision applies to policies issued prior to January 1, 2004.

**Section 6.** Amends s. 626.321, F.S., pertaining to limited licenses for baggage and motor vehicle excess liability insurance. The bill provides that an entity applying for a license under this section is required to submit only one application for a license; is required to obtain a license for each office; and is required to pay applicable license fees. The bill further provides that for limited licenses for baggage and motor vehicle excess liability insurance, a business entity offering this type of insurance may use part-time, as opposed to full-time employees, to offer such insurance. The measure also corrects a statutory cross-reference.

**Section 7.** Amends s. 627.476, F.S., to permit an insurance company to substitute the ordinary mortality tables adopted after 1980 by the National Association of Insurance Commissioners for use in determining the minimum nonforfeiture standard.

**Section 8.** Creates s. 626.9743, F.S., which applies to adjustment and settlement of personal and commercial motor vehicle insurance claims. The bill codifies many of the provisions under Rule 4-116.027, F.A.C. pertaining to motor vehicle consumer protections (*See*, discussion under Present Situation section, above.) The bill provides for the following:

- an insurance company may not, when liability and damages owed under the policy are reasonably clear, recommend that a third-party claimant make a claim under his or her own policy solely to avoid having to pay the claim under the policy issued by that insurer.
- an insurer that elects to repair a vehicle, and requires a specific repair shop for vehicle repairs, shall cause the damaged vehicle to be restored to its physical condition as to performance and appearance prior to the loss at no additional cost to the insured or third-party claimant other than as stated in the policy.
- an insurer may not require the use of replacement parts in the repair of a motor vehicle which are not at least equal in kind and quality to the damaged parts prior to the loss in terms of fit, appearance, and performance.
- describes the methods that insurers must use when an insurance policy provides for the adjustment and settlement of first-party motor vehicle total losses on the basis of actual cash value or replacement provisions.
- when the amount offered in settlement reflects a reduction by the insurer because of betterment or depreciation, the information relating to the reduction must be maintained with the insurer's claim file.
- an insurer shall, if partial losses are settled on the basis of a written estimate, supply the insured with a copy of the estimate upon which the settlement is based.
- an insurer shall provide notice to an insured before termination of payment for previously authorized storage charges and such notice shall provide 72 hours for the insured to remove the vehicle from storage.



- an insurer may defer payment of the sales tax (unless and until the obligation has been incurred), if such tax will be incurred by a claimant upon replacement of a total loss or upon repair of a partial loss.

Nothing in this section shall be construed to preclude enforcement of policy provisions relating to settlement disputes.

**Section 9.** Creates s. 626.9744, F.S., mandating that insurers follow two new requirements, unless the insurance policy provides otherwise, when a homeowner's insurance policy provides for the adjustment and settlement of first-party losses based on repair or settlement cost. First, when a loss requires repair or replacement of an item or part, any physical damage that occurs as a result of the repair or replacement work and is covered by the policy shall be included in the loss to the extent of any applicable limits. The insured cannot be required to pay for betterment required by ordinance or code or any other cost except the applicable deductible, unless the policy specifically excludes such coverage.

The second requirement is that when a loss requires the repair or replacement of portions of a home, and the replaced items do not match in quality, color, or size, the insurer must make reasonable repairs or replacement of items in adjoining areas of the home. In determining the extent of repairs or making replacements to adjoining areas, the insurer may consider cost, the remaining useful life of the undamaged portion, and other relevant factors. This requirement does not make the insurer a warrantor of repairs, and does not preclude enforcement of policy provisions relating to settlement disputes.

**Section 10.** Adds s. 627.4091(5), F.S., which states that when an insurer refuses to provide coverage to an applicant due to adverse underwriting information, the insurer must provide to the applicant specific information regarding the reasons for the refusal to insure. If the refusal to insure is based on a loss underwriting history or report from a consumer reporting agency, the insurer must identify the loss underwriting history and notify the applicant of his or her right to obtain a copy of the report from the consumer reporting agency.

**Section 11.** Adds subsections (4) and (5) to s. 627.4133, F.S., which requires that an insurer provide notice for cancellation, non-renewal, or regarding a renewal premium. An insurer that cancels a property insurance policy on property secured by a mortgage due to the failure of the lender to timely pay the premium when due, shall reinstate the policy once payments are made as required by s. 501.137, F.S. (see section 2 of this bill).

The bill provides that an insurer cannot use a single claim on a property insurance policy which is the result of water damage to cancel or non-renew coverage, unless the insured failed to take action (as requested by the insurer) to prevent a future similar occurrence of damage to the insured property.

**Section 12.** Adds subsection (10) to 627.7015, F.S., to state that an arbitration clause in an insurance policy cannot preclude the insured from using the mediation provisions of s. 627.7015, F.S.

**Section 13.** Creates s. 627.7077, F.S., which requires the FSU Department of Risk Management and Insurance to conduct a feasibility and cost-benefit study of a potential Florida Sinkhole Insurance Facility and other matters related to the affordability and availability of sinkhole insurance.

**Section 14.** Deletes subsection (3) of s. 627.838, F.S., which mandates that a filing with the office of a premium finance form must be accompanied with the filing fee specified in s. 627.849, F.S.

**Section 15.** Amends s. 627.848(1)(e), F.S., which provides the requirements for canceling an insurance contract when a premium finance agreement contains a power of attorney or other authority enabling the premium finance company to cancel any insurance contract listed in the agreement. The bill adds a time requirement that when a financed insurance contract is canceled, the insurer must return the unpaid balance due under the finance contract to the premium finance company and any remaining unearned premium to the agent or insured, within 30 days of the requested cancellation date. In turn, the bill places a time requirement on the premium finance company to refund to the insured any refund due on the account within 30 days of the account being overpaid or, if the refund is sent to the agent within 15 days of the overpayment, shall notify the insured of the refunded amount.

**Section 16.** Amends s. 627.849, F.S., to delete the \$10 form filing fee for filing with the Department regarding premium financing.

**Section 17.** Repeals s. 625.131, F.S., which requires the minimum reserve for credit life and disability policies to be the unearned gross premium, and contains reserve requirements. The section is repealed due to the adoption of new standard ordinary mortality tables in s. 625.121(13), F.S. (section 5 of this bill), which will be used to set reserves. The new mortality tables should enable insurers to set more accurate reserves.

**Section 18.** States that if any provision or application of SB 2038 is held invalid, the rest of the act is severable, and the invalidity does not affect other provisions or applications of the bill that can be given effect without the invalid provision or application.

**Section 19.** Except as otherwise provided in the act, it will take effect July 1, 2004.

#### **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:**

**Prohibition on an Insurer Refusing to Insure a Residence Due to One Occurrence of Water Damage that was Incurred and Repaired**—The provision will help homeowners to maintain coverage despite an occurrence of water damage in a home if steps are taken to prevent an additional event as requested by an insurer.

**Requirement for Property Insurance that Consequential Damages Resulting from a Repair or Replacement be Included in the Loss**—This provision would ensure that policyholders do not have to pay to repair damage that is incurred as a result of a repair or replacement that was covered by the insurance policy, and will benefit consumers. However, the bill provides that the provision does not apply if an insurance policy provides otherwise.

**Requirement that Repairs to a Home Create a Reasonably Uniform Appearance**—Consumers will benefit from the repairs done to a home that will restore it aesthetically to the appearance it enjoyed before damage was incurred without further cost to the policyholder. However, the bill provides that this provision is not applicable if an insurance policy provides otherwise.

**Requirement that Insurers Reinstate Coverage when a Policy is Cancelled Due to Non-Payment by a Mortgage Company**—Property owners would be afforded greater protections to either reinstate a property insurance policy that has been canceled due to nonpayment of premium by the mortgage lender or to be reimbursed for the additional cost of obtaining replacement coverage. State regulated financial institutions and mortgage lenders would be subject to any policy reinstatement fees or additional costs for replacement coverage for two years. The bill may expose insurers to loss for risks covered under a policy for up to 90 days for which the premium has not yet been paid, but the past due premium would be required to be paid before the coverage is reinstated, retroactive to the date of cancellation.

**Standards and Practices for Auto Claims**—Consumers should benefit from the protections afforded in this bill. Some insurers will have to implement vehicle claims practices required under the bill, however, many insurers have already complied with these provisions because they were contained in Rule 4-166.027, F.A.C., (since repealed), most of which is now codified in this legislation.

**Sinkhole Insurance Facility Study**—The F.S.U. study will be financed with assessments on property insurers, costing them up to \$300,000.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

Section (2) of this bill and Senate Bill 2196 both amend the provisions of s. 501.137, F.S., which enumerates the responsibilities mortgage lenders have to timely pay taxes and insurance premium payments from escrow accounts. The two bills differ in their changes to s. 501.137, F.S., but the differences do not appear to be substantive.

**VIII. Amendments:**

None.

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

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