

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/SB 774

INTRODUCER: Banking and Insurance Committee and Senator Montford

SUBJECT: Liability Insurance Coverage

DATE: January 26, 2016 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Billmeier</u>	<u>Knudson</u>	<u>BI</u>	<u>Fav/CS</u>
2.	<u>Billmeier</u>	<u>Phelps</u>	<u>RC</u>	<u>Pre-meeting</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 774 authorizes a company employee adjuster of an insurer that provides liability insurance coverage to provide the sworn statement required by s. 627.4137, F.S. Current law allows the sworn statement to be provided by only the insurer's claims manager or superintendent, or a corporate officer of the insurer. Section 627.4137, F.S., requires a liability insurer to provide to a claimant a statement containing the following information within 30 days of a written request by the claimant:

- The name of the insurer;
- The name of each insured;
- The limits of the liability coverage;
- A statement of any policy or coverage defense which such insurer reasonably believes is available to such insurer at the time of filing such statement; and
- A copy of the policy.

This bill allows a company employee adjuster to provide the sworn statement. If a company employee adjuster provides the disclosure statement required by s. 627.4137, F.S., the adjuster must consult with appropriate personnel in the insurance company's claims department and underwriting department to verify the information disclosed in the statement.

II. Present Situation:

Section 627.4137, F.S., requires a liability insurer¹ to provide to a claimant a statement containing the following information within 30 days of a written request by the claimant:

- The name of the insurer;
- The name of each insured;
- The limits of the liability coverage;
- A statement of any policy or coverage defense which such insurer reasonably believes is available to the such insurer at the time of filing such statement; and
- A copy of the policy.

The required statement must be under oath by a corporate officer or the insurer's claims manager or superintendent. Section 627.4137(2), F.S., requires that the disclosure statement be amended immediately upon discovery of facts calling for an amendment to such statement.

A review of insurance information required under s. 627.4137, F.S., allows a claimant to evaluate the damages that could be paid by the tortfeasor. Florida courts have explained that the purpose of the disclosure requirements in s. 627.4137, F.S., is to allow a claimant to make an informed decision whether to settle a case.²

III. Effect of Proposed Changes:

This bill authorizes a company employee adjuster of an insurer that provides liability insurance coverage to provide the sworn statement required by s. 627.4137, F.S. Current law allows the sworn statement to be provided by only the insurer's claims manager or superintendent, or a corporate officer of the insurer. If a company employee adjuster³ provides the disclosure statement required by s. 627.4137, F.S., the adjuster must consult with appropriate personnel in the insurance company's claims department and underwriting department to verify the information disclosed in the statement.

This bill takes effect on July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

¹ Section 627.4137, F.S., does not apply to PIP insurance. See *Progressive American Ins. Co. v. Rural/Metro Corp. of Florida*, 994 So.2d 1202 (Fla. 5th DCA 2008).

² See *Cheverie v. Geisser*, 783 So.2d 1115 (Fla. 4th DCA 2001)(rejecting the argument that compliance with s. 627.4137, F.S., is a technicality and explaining the Legislature recognized the importance to claimants of access to the information required by statute in making settlement decisions); *Gira v. Wolfe*, 115 So.3d 414, 417 (Fla. 2d DCA 2013)(explaining that "the legislature has recognized the importance of a claimant's access to the type of insurance information covered in the statute in order for a claimant to make settlement decisions").

³ Section 626.856, F.S., defines a "company employee adjuster" as a person licensed as an all-lines adjuster who is appointed and employed on an insurer's staff of adjusters or a wholly owned subsidiary of the insurer, and who undertakes on behalf of such insurer or other insurers under common control or ownership to ascertain and determine the amount of any claim, loss, or damage payable under a contract of insurance, or undertakes to effect settlement of such claim, loss, or damage.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

This bill will allow more persons to provide required disclosures to claimants and could reduce insurance company administrative costs. Claimants would only be impacted if the accuracy of such sworn statements is decreased by allowing company employee adjusters to provide them.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 627.4137 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Banking and Insurance on January 19, 2016:**

The committee substitute replaces the term “licensed company adjuster” with “company employee adjuster,” a term defined in current law. It also requires a company employee adjuster providing the required disclosure to verify the information provided with appropriate personnel in the company’s claims and underwriting departments.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
