

1979

## Session Law 79-394

Florida Senate & House of Representatives

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LEGISLATIVE SUPPLEMENT "B" - SESSION LAW ABSTRACT

Year 1979	Session Law No. 79-394	LOF Cite I,ii,1946-1958	#pp
Prime Bill# HB.1424	Sponsor	Comp./Sim. Bills HB. 1731	
JLMC Hist. Leg. Cites	Senate pp.#s	House pp.#s	#pp
Committee of Ref.	Senate Commerce	House Insurance (sub in)	Previous versions?

Committee Records

H/S	Committee	Year	Record Series: Folder Title, etc.	Location Cite	#pp
H	Insurance	1979	Meeting files 5-8-79 (Com. on Insurance)	19/476	3
"	"	"	"	"	2
"	"	"	10-10-79 (Insurance sub in Ev)	"	2
"	"	"	5-1-79 (Insurance sub in Ev)	"	0
"	"	"	5-8-79 (Insurance sub in Ev)	"	0
"	"	"	Bill files HB. 1424	19/477	4
"	"	"	HB 1731	"	NV.
"	"	"	HB 1731	19/478	0
S	Commerce	1979	Bill files HB. 1424	18/777	5
"	"	"	HB. 1731	"	0

Senate/House Journals

Page	?	Date	#pp	Page	?	Date	#pp
HJ 828	X	March 1, 1979		SJ 828	✓	June 1, 1979 (Senate)	
HJ 117	X	June 1, 1979		SJ 117	✓	June 1, 1979	

Tape Recordings

H/S	Floor	Committee/subcommittee	Date	# Tapes	Location Cite

Other Documentation

Record series title, folder title, etc.	Location Cite	#pp

19/477

1 A bill to be entitled

2 An act relating to Insurance; creating s.

3 629.401, Florida Statutes; providing for a

4 Florida Insurance exchange to provide a

5 facility for of reinsurance,

6 direct ins

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Florida House of Representatives - 1979

By Committee on Insurance

HB 1731  
19/477

A bill to be entitled

An act relating to insurance; creating s.

629.401, Florida Statutes; providing for a

Florida insurance exchange to provide a

facility for the underwriting of reinsurance,

direct insurance of risks located outside the

United States, and certain risks eligible for

export; providing for a committee to write a

constitution and bylaws upon a determination by

the Insurance Commissioner and Treasurer that

the exchange may operate in an economic and

beneficial manner; providing requirements with

respect thereto; providing for certain tax

exemption and providing an exception; providing

for application of the insurance law; providing

for limitations on investments in and by

exchange members; providing for inapplicability

of state security or guaranty funds; providing

for conditional repeal; providing an effective

date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 629.401, Florida Statutes, is

created to read:

629.401 Florida insurance exchange.--

(1) There shall be created a Florida insurance

exchange, subject to such rules as may be promulgated by the

commissioner. The purposes of the exchange are:

(a) To provide a facility for the underwriting of:

1. Reinsurance of all kinds of insurance.

2. Direct insurance of all kinds on risks located

entirely outside the United States.

3. Risks which shall be certified according to s.

626.920(1)(b) as being eligible for export according to s.

626.916(1)(a).

(b) To manage the facility authorized by this section,

in accordance with rules promulgated by the commissioner.

(2) The operation of this subsection shall become

a determination by the Insurance

exchange created by this

1:14

1.5

1.5/1

1.15

1.15/1

1.15/2

1.15/3

1.15/4

5/5

1.15/6

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1.15/11

1.15/12

1.15/13

1.15/15

This public document was promulgated at a cost of \$10.62 per page for the information of members of the Legislature and the public.

CODING: Words in struck through type are deletions from existing law; words underlined are additions.

re additions.

1	2. Direct insurance of all kinds on risks located	1.14
2	entirely outside the United States.	
3	3. Risks which shall be certified according to s.	1.15
4	626.920(1)(b) as being eligible for export according to s.	
5	626.916(1)(a).	
6	(b) To manage the facility authorized by this section,	1.15/1
7	in accordance with rules promulgated by the commissioner.	
8	(2) The operation of this subsection shall become	1.15/2
9	effective only after a determination by the Insurance	
10	Commissioner and Treasurer that the exchange created by this	1.15/3
11	section may operate in an economic and beneficial manner. A	1.15/4
12	committee shall be appointed to write the constitution and	
13	bylaws of the Florida insurance exchange and to make such	
14	other recommendations as may be necessary to assure maximum	1.15/5
15	coordination of the operations of the exchange with existing	
16	insurance industry operations, and to assure maximum economic	1.15/6
17	benefits to the state from the operations of the exchange.	
18	The committee shall consist of thirteen members, six to be	1.15/7
19	appointed by the Insurance Commissioner and Treasurer, two	
20	each to be appointed by the Speaker of the House of	1.15/8
21	Representatives and the President of the Senate, one each to	
22	be appointed by the minority leader of the House of	1.15/9
23	Representatives and the minority leader of the Senate, and one	
24	to be the Insurance Commissioner and Treasurer or his	1.15/10
25	designated representative. The chairman shall be elected by a	1.15/11
26	majority of the committee. The committee shall transmit such	1.15/12
27	proposed constitution and bylaws and such other	
28	recommendations to the Insurance Commissioner and Treasurer no	1.15/17
29	later than 30 days prior to the commencement of a regular	
30	annual legislative session, and the Insurance Commissioner and	1.15/15
31	Treasurer shall submit his recommendations to the Legislature	

CODING: Words in ~~strike through~~ type are deletions from existing law; words underlined are additions.

19/477

By Committee on Insurance

This public document was promulgated at a cost of \$10.62 per page for the information of members of the Legislature and the public.

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A bill to be entitled

An act relating to insurance; creating s. 629.401, Florida Statutes; providing for a Florida insurance exchange to provide a facility for the underwriting of reinsurance, direct insurance of risks located outside the United States, and certain risks eligible for export; providing for a committee to write a constitution and bylaws upon a determination by the Insurance Commissioner and Treasurer that the exchange may operate in an economic and beneficial manner; providing requirements with respect thereto; providing for certain tax exemption and providing an exception; providing for application of the insurance law; providing for limitations on investments in and by exchange members; providing for inapplicability of state security or guaranty funds; providing for conditional repeal; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 629.401, Florida Statutes, is created to read:

629.401 Florida insurance exchange.--

(1) There shall be created a Florida insurance exchange, subject to such rules as may be promulgated by the commissioner. The purposes of the exchange are:

(a) To provide a facility for the underwriting of:

1. Reinsurance of all kinds of insurance.

1	(e) The voting power of members who are underwriting	1.43
2	syndicates.	
3	(f) The voting power and other rights granted under	1.44
4	the provisions of the not-for-profit corporation law, chapter	
5	617, to participate in the conduct and management of the	1.45
6	affairs of the exchange, by brokers, agents and intermediaries	
7	transacting business on the exchange, each of whom shall be	1.46
8	considered "members" only under the provisions of such law.	
9	(g) The rights and duties of exchange members, which	1.47
10	may include but shall not be limited to the manner and form of	
11	conducting business, financial stability, dues, membership	1.48
12	fees, mandatory arbitration, and all other matters necessary	
13	or appropriate to conduct any business permitted herein.	1.49
14		
15	Any amendments to the constitution and bylaws shall be subject	1.49
16	to the approval of the commissioner.	
17	(4) The Florida insurance exchange formed under the	1.50
18	provisions of this section shall not be subject to any state	
19	or local taxes or fees measured by income, premiums or gross	1.50/1
20	receipts, except that for purposes of taxation under s.	
21	624.509 direct premiums written, procured or received by a	1.50/2
22	member or members through the exchange on risks located in	
23	Florida shall be construed to be written, procured or received	1.50/3
24	by the exchange and the premium tax due on said premium shall	
25	be reported and paid by the exchange.	1.50/4
26	(5) The exchange shall reimburse the commissioner for	1.50/4
27	any expenses incurred by him relating to the regulation of the	1.55
28	exchange and its members.	
29	(6) The insurance law and rules promulgated thereunder	1.55
30	shall apply to the exchange, its members, and the insurance or	1.55/1
31	reinsurance written through the exchange, except as may be	

1 no later than the first day of the regular annual legislative  
 2 session. Subject to the disapproval of the constitution and 1.1  
 3 bylaws by either house of the Legislature by resolution before  
 4 the end of the regular annual legislative session, the 1.1  
 5 exchange shall have full authority to function pursuant to its  
 6 constitution and bylaws 60 days after the end of the session. 1.1  
 7 The initial board of governors of the exchange shall consist 1.1  
 8 of seven members, three appointed by the Insurance  
 9 Commissioner and Treasurer, two by the Speaker of the House of 1.1  
 10 Representatives and two by the President of the Senate, to  
 11 serve until the first election pursuant to the constitution or 1.1  
 12 bylaws.

13 (3) The constitution and bylaws of the exchange shall 1.1  
 14 provide for, but not be limited to: 1.3

15 (a) The election of no less than six nor more than 1.3  
 16 thirteen governors, at least one-third of whom shall not be 1.3  
 17 members of the exchange and who shall be public  
 18 representatives.

19 (b) The location of the principal offices of the 1.3  
 20 exchange and the principal offices of its members to be within  
 21 this state for the purpose of the transaction of the type of 1.3  
 22 business described in subsection (1). A principal office 1.3  
 23 shall be one where officers and qualified personnel who are  
 24 engaged in the administration, underwriting, claims, 1.3  
 25 policyholders' service, marketing, accounting, record keeping  
 26 and all supportive services shall be located.

27 (c) The submission by members and all applicants for 1.4  
 28 membership on the exchange of such financial information as  
 29 may be required by the commissioner. 1.4

30 (d) The establishment by the exchange of a security 1.4  
 31 fund in such form and amount as approved by the commissioner. 1.4

\*\*\*\*\*

HOUSE SUMMARY

Provides for a Florida insurance exchange to provide a facility for the underwriting of reinsurance, direct insurance of risks located outside the United States, and certain risks eligible for export. Provides for a committee to write a constitution and bylaws upon a determination by the Insurance Commissioner and Treasurer that the exchange may operate in an economic and beneficial manner, and provides requirements with respect thereto.

Exempts the exchange from state or local taxes or fees measured by income, premiums or gross receipts, except for the application of the premium tax to direct premiums written, procured or received by members through the exchange on risks located in Florida. Provides for limitation on investments in and by exchange members.

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1 exempted by the commissioner pursuant to rule; however, no 1.5  
 2 such exemption shall be unfairly discriminatory or detrimental  
 3 to the solvency of licensed insurers, no such exemption shall 1.5  
 4 have the effect of allowing the exchange to participate in a  
 5 practice contrary to the public welfare, no such exemption or 1.5  
 6 application of the insurance law shall inhibit the viability,  
 7 effectiveness or efficiency of the exchange, and no such 1.5  
 8 exemption shall operate contrary to the purposes of the  
 9 exchange set out in subsection (1). The commissioner may 1.5  
 10 establish limitations on investments in members of the  
 11 exchange. The investment in any member by brokers, agents and 1.5  
 12 intermediaries transacting business on the exchange, and the  
 13 investment in any such broker, agent or intermediary by any 1.5  
 14 member, directly or indirectly, all as defined by rule, shall  
 15 in each case be limited in the aggregate to less than 20 1.5  
 16 percent, or such lesser amount as determined by the  
 17 commissioner, of the total investment in such member, broker, 1.5  
 18 agent or intermediary, as the case may be.

19 (7) The performance of the contractual obligations of 1.5  
 20 the exchange or its members entered into pursuant to  
 21 subsection (1) shall not be covered by any of the Florida 1.5  
 22 state security or guaranty funds.

23 Section 2. If chapter 629, Florida Statutes, is 1.6  
 24 repealed in accordance with the intent expressed in the  
 25 Regulatory Reform Act of 1976, as amended by chapter 77-457,  
 26 Laws of Florida, or as subsequently amended, it is the intent 1.6  
 27 of the Legislature that this act shall also be repealed on the  
 28 same date as is therein provided. 1.6

29 Section 3. This act shall take effect upon becoming a 1.6  
 30 law.  
 31

1 A bill to be entitled 1:btc  
2 An act relating to insurance; creating s. 1.5  
3 629.401, Florida Statutes; providing for a  
4 Florida insurance exchange to provide a 1.5/1  
5 facility for the underwriting of reinsurance,  
6 direct insurance of risks located outside the  
7 United States, and certain risks eligible for 1.5/2  
8 export; providing for a committee to write a  
9 constitution and bylaws upon a determination by  
10 the Insurance Commissioner and Treasurer that 1.5/3  
11 the exchange may operate in an economic and  
12 beneficial manner; providing requirements with 1.5/4  
13 respect thereto; providing for certain tax  
14 exemption and providing an exception; providing  
15 for application of the insurance law; providing  
16 for limitations on investments in and by  
17 exchange members; providing for inapplicability  
18 of state security or guaranty funds; providing 1.5/6  
19 for conditional repeal; providing an effective  
20 date.  
21  
22 Be It Enacted by the Legislature of the State of Florida: 1:enc  
23  
24 Section 1. Section 629.401, Florida Statutes, is 1.11  
25 created to read:  
26 629.401 Florida insurance exchange.-- 1.11  
27 (1) There shall be created a Florida insurance 1.12  
28 exchange, subject to such rules as may be promulgated by the  
29 commissioner. The purposes of the exchange are: 1.13  
30 (a) To provide a facility for the underwriting of: 1.13  
31 1. Reinsurance of all kinds of insurance. 1.14

1 2. Direct insurance of all kinds on risks located 1.14  
2 entirely outside the United States.  
3 3. Risks which shall be certified according to s. 1.15  
4 626.920(1)(b) as being eligible for export according to s.  
5 626.916(1)(a).  
6 (b) To manage the facility authorized by this section, 1.15/1  
7 in accordance with rules promulgated by the commissioner.  
8 (2) The operation of this subsection shall become 1.15/2  
9 effective only after a determination by the Insurance  
10 Commissioner and Treasurer that the exchange created by this 1.15/3  
11 section may operate in an economic and beneficial manner. A 1.15/4  
12 committee shall be appointed to write the constitution and  
13 bylaws of the Florida insurance exchange and to make such  
14 other recommendations as may be necessary to assure maximum 1.15/5  
15 coordination of the operations of the exchange with existing  
16 insurance industry operations, and to assure maximum economic 1.15/6  
17 benefits to the state from the operations of the exchange.  
18 The committee shall consist of thirteen members, six to be 1.15/7  
19 appointed by the Insurance Commissioner and Treasurer, two  
20 each to be appointed by the Speaker of the House of 1.15/8  
21 Representatives and the President of the Senate, one each to  
22 be appointed by the minority leader of the House of 1.15/9  
23 Representatives and the minority leader of the Senate, and one  
24 to be the Insurance Commissioner and Treasurer or his 1.15/10  
25 designated representative. The chairman shall be elected by a 1.15/11  
26 majority of the committee. The committee shall transmit such 1.15/12  
27 proposed constitution and bylaws and such other  
28 recommendations to the Insurance Commissioner and Treasurer no 1.15/13  
29 later than 30 days prior to the commencement of a regular  
30 annual legislative session, and the Insurance Commissioner and 1.15/15  
31 Treasurer shall submit his recommendations to the Legislature

1 no later than the first day of the regular annual legislative  
2 session. Subject to the disapproval of the constitution and 1.15/17  
3 bylaws by either house of the Legislature by resolution before  
4 the end of the regular annual legislative session, the 1.15/18  
5 exchange shall have full authority to function pursuant to its  
6 constitution and bylaws 60 days after the end of the session. 1.15/19  
7 The initial board of governors of the exchange shall consist 1.15/20  
8 of seven members, three appointed by the Insurance  
9 Commissioner and Treasurer, two by the Speaker of the House of 1.15/21  
10 Representatives and two by the President of the Senate, to  
11 serve until the first election pursuant to the constitution or 1.15/22  
12 bylaws.  
13 (3) The constitution and bylaws of the exchange shall 1.15/23  
14 provide for, but not be limited to:  
15 (a) The election of no less than six nor more than 1.34  
16 thirteen governors, at least one-third of whom shall not be 1.36  
17 members of the exchange and who shall be public  
18 representatives.  
19 (b) The location of the principal offices of the 1.37  
20 exchange and the principal offices of its members to be within  
21 this state for the purpose of the transaction of the type of 1.37/1  
22 business described in subsection (1). A principal office 1.37/2  
23 shall be one where officers and qualified personnel who are  
24 engaged in the administration, underwriting, claims, 1.37/3  
25 policyholders' service, marketing, accounting, record keeping  
26 and all supportive services shall be located.  
27 (c) The submission by members and all applicants for 1.41  
28 membership on the exchange of such financial information as  
29 may be required by the commissioner. 1.42  
30 (d) The establishment by the exchange of a security 1.42  
31 fund in such form and amount as approved by the commissioner. 1.43

1 (e) The voting power of members who are underwriting 1.43  
2 syndicates.  
3 (f) The voting power and other rights granted under 1.44  
4 the provisions of the not-for-profit corporation law, chapter  
5 617, to participate in the conduct and management of the 1.45  
6 affairs of the exchange, by brokers, agents and intermediaries  
7 transacting business on the exchange, each of whom shall be 1.46  
8 considered "members" only under the provisions of such law.  
9 (g) The rights and duties of exchange members, which 1.47  
10 may include but shall not be limited to the manner and form of  
11 conducting business, financial stability, dues, membership 1.48  
12 fees, mandatory arbitration, and all other matters necessary  
13 or appropriate to conduct any business permitted herein. 1.49  
14  
15 Any amendments to the constitution and bylaws shall be subject 1.49  
16 to the approval of the commissioner.  
17 (4) The Florida insurance exchange formed under the 1.50  
18 provisions of this section shall not be subject to any state  
19 or local taxes or fees measured by income, premiums or gross 1.50/1  
20 receipts, except that for purposes of taxation under s.  
21 624.509 direct premiums written, procured or received by a 1.50/2  
22 member or members through the exchange on risks located in  
23 Florida shall be construed to be written, procured or received 1.50/3  
24 by the exchange and the premium tax due on said premium shall  
25 be reported and paid by the exchange. 1.50/4  
26 (5) The exchange shall reimburse the commissioner for 1.50/4  
27 any expenses incurred by him relating to the regulation of the 1.55  
28 exchange and its members.  
29 (6) The insurance law and rules promulgated thereunder 1.55  
30 shall apply to the exchange, its members, and the insurance or 1.55/1  
31 reinsurance written through the exchange, except as may be

1 exempted by the commissioner pursuant to rule; however, no 1.55/2  
2 such exemption shall be unfairly discriminatory or detrimental  
3 to the solvency of licensed insurers, no such exemption shall 1.55/3  
4 have the effect of allowing the exchange to participate in a  
5 practice contrary to the public welfare, no such exemption or 1.55/4  
6 application of the insurance law shall inhibit the viability,  
7 effectiveness or efficiency of the exchange, and no such 1.55/5  
8 exemption shall operate contrary to the purposes of the  
9 exchange set out in subsection (1). The commissioner may 1.55/7  
10 establish limitations on investments in members of the  
11 exchange. The investment in any member by brokers, agents and 1.55/8  
12 intermediaries transacting business on the exchange, and the  
13 investment in any such broker, agent or intermediary by any 1.55/9  
14 member, directly or indirectly, all as defined by rule, shall  
15 in each case be limited in the aggregate to less than 20 1.55/10  
16 percent, or such lesser amount as determined by the  
17 commissioner, of the total investment in such member, broker, 1.55/11  
18 agent or intermediary, as the case may be.  
19 (7) The performance of the contractual obligations of 1.55/12  
20 the exchange or its members entered into pursuant to  
21 subsection (1) shall not be covered by any of the Florida 1.55/13  
22 state security or guaranty funds.  
23 Section 2. If chapter 629, Florida Statutes, is 1.66  
24 repealed in accordance with the intent expressed in the  
25 Regulatory Reform Act of 1976, as amended by chapter 77-457,  
26 Laws of Florida, or as subsequently amended, it is the intent 1.67  
27 of the Legislature that this act shall also be repealed on the  
28 same date as is therein provided. 1.68  
29 Section 3. This act shall take effect upon becoming a 1.68  
30 law.  
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2 HOUSE SUMMARY 1:hbs  
3 Provides for a Florida insurance exchange to provide a 1.70  
4 facility for the underwriting of reinsurance, direct  
5 insurance of risks located outside the United States, and 1.71  
6 certain risks eligible for export. Provides for a 1.71/1  
7 committee to write a constitution and bylaws upon a  
8 determination by the Insurance Commissioner and Treasurer  
9 that the exchange may operate in an economic and 1.71/2  
10 beneficial manner, and provides requirements with respect  
11 thereto.  
12 Exempts the exchange from state or local taxes or fees 1.74  
13 measured by income, premiums or gross receipts, except  
14 for the application of the premium tax to direct premiums 1.75  
15 written, procured or received by members through the  
16 exchange on risks located in Florida. Provides for 1.76  
17 limitation on investments in and by exchange members.  
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COMMITTEE ON INSURANCE

STAFF REPORT

HB 1424

DATE: 4-9-79

SPONSOR: O'Malley

RE: Automobile Insurance, JUA

I. SUMMARY

A. Current Law

The applicants for automobile insurance who are in good faith entitled to, but are unable to, procure such benefits through ordinary methods are handled through a joint underwriters' association. Plans for the handling of these applicants are authorized in two somewhat different statutes.

In s. 627.351(1), insurers writing automobile insurance develop the agreements and plans, subject to the department's approval, which apportion the applicants among all insurers. The department must adopt the insurers' plans if reasonable. All insurers must comply with the plan.

In s. 627.311(3) the department may, as an alternative to the s. 627.351(1) plan, develop a plan with the same requirements as the s. 627.351(1), except as to the apportionment provisions. Under the alternative plan, one or more insurers may be designated to handle all of the applicants. All of the insurers are apportioned the expenses and losses of the insurer handling the applicants.

B. Probable Effect of Proposed Changes

The bill gives the department the authority to disapprove of the entire alternative plan of s. 627.311(3), if changes are warranted. The disapproval will be subject to chapter 120. The joint underwriters' association which implements the plan, will be run by a board of governors. Five members of the board will be appointed by the Insurance Commissioner and four by participating insurers.

II. COMMENTS

The department has several criticisms of the current management of the JUA. The main problem appears to be the unresponsiveness of the board of governors. The high rates within the JUA are partially attributed to poor management. There are too many motorists, including good drivers, in the JUA. The department wants the ability to change an existing plan, including the surcharging procedures. This would alleviate the problem of having to convince the board to voluntarily change plans under a suggestion of the commissioner. With the Commissioner able to select a majority of the board, a smoother relationship can exist between the JUA and the department.

Prepared by Philippe Jeck

Staff Director - Jack Herzog

IV. AMENDMENTS

The choosing and composition of the board of governors was altered so that all nine members are chosen by the commissioner. Four must be from the insurance industry and two from insurance agents associations. The remaining positions are chosen from the public at large. The intent is to develop a more responsive and balanced board.

DATE: June 4, 1979

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Shull</u> <sup>Δ</sup>	<u>Martin</u> <sup>SM</sup>	1. <u>Com.</u>	<u>W/Drawn</u>
2. _____	_____	2. _____	_____
3. _____	_____	3. _____	_____

SUBJECT:  
Insurance

BILL NO. AND SPONSOR:  
HB 1424 by Rep.  
O'Malley

I. SUMMARY:

A. Present Situation:

This bill addresses two insurance issues: the Joint Underwriters' Association and the Florida Insurance Exchange. These two separate issues will be discussed below.

Section 1. Automobile Joint Underwriters' Association:

Applicants for automobile insurance who are in good faith entitled to, but are unable to procure such coverage through ordinary methods are placed in a joint underwriters' association. Plans for the handling of these applicants are authorized in two separate statutes.

In section 627.351(1), Florida Statutes, insurers writing automobile insurance develop the agreements and plans, subject to the department's approval, which apportion the applicants among all insurers. The department must adopt the insurers' plans if reasonable. All insurers must comply with the plan.

In section 627.311(3), Florida Statutes, the department may, as an alternative to the section 627.351(1) plan, develop a plan with the same requirements as the section 627.351(1), except as to the apportionment provisions. Under the alternative plan, one or more insurers may be designated to handle all of the applicants. All of the insurers are apportioned the expenses and losses of the insurer handling the applicants. Currently, the plan being used is the plan specified in section 627.311(3).

Under this statute, the Department of Insurance has no authority to review the plan on a continuing basis. Additionally, a spokesman for the Department of Insurance indicated that the main problem with the current joint underwriters' plan is the unresponsiveness of the board of governors. That board is a non-statutory body selected by insurers to administer the plan.

Section 2. Florida Insurance Exchange:

The United States has historically exported much of its reinsurance and unusual risk insurance to foreign markets capable of handling it. Much of the business is written at Lloyd's of London with approximately \$2 billion in base policy business and \$6.5 billion in reinsurance. Lloyd's writes business for many other countries as well.

Until recently, the United States has had no operative entity with the resources to adequately deal with the

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Series 18 Carton 779

## SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

Analyst: Shull XSB HB 1424  
Staff Director: Martin By  
Subject:

business which is being written overseas, or to write such business from overseas interests. New York has been the first state which has seized upon the idea of a Lloyd's-type operation in this country. New York has passed legislation creating an Insurance Exchange to function similarly to Lloyd's in hopes of competing for all those dollars currently being exported. Illinois is also in the process of passing legislation creating an Insurance Exchange.

Florida's insurance code does not contain any provisions relating to a domestic insurance exchange. There is no facility in Florida which has the ability to compete with Lloyd's, nor to attract foreign insurance business.

B. Effects of Proposed Changes:

Section 1.

This bill would change the current plan in two ways:

- 1) The bill would give the department the authority to disapprove the entire alternative plan of section 627.311(3), if changes are warranted. The disapproval will be subject to chapter 120.
- 2) This bill would also give the Insurance Commissioner the authority to appoint four members of the nine member board of governors, two of whom must be representatives of the insurance industry. The spokesman for the department indicated that, if the Commissioner were able to select part of the board, a smoother relationship could exist between the JUA and the department.

Section 2.

Generally, this bill establishes an insurance exchange after legislative approval of its constitution and bylaws. Three types of insurance will be allowed to be written in the exchange to compete with Lloyd's: 1) reinsurance, 2) direct insurance on risks located outside the United States, and 3) unusual domestic risks unable to be written in the domestic market of Florida.

The operations of the bill and its timetable would not come into effect until the commissioner has determined the viability of the exchange. Once the commissioner gives his approval, the constitution committee is formed to draft the constitution and the timetable begins.

The constitution will be drawn up by a committee of 13 members, six appointed by the commissioner, two each appointed by the Speaker of the House and the President of the Senate, one each appointed by the minority leader of the Senate and one being the commissioner. The entire constitution formulation and approval process will take approximately one year. The commissioner will have a significant amount of input into the terms of the constitution. An appointed board of governors would run the exchange until admitted members of the exchange elected their own. The appointed board will be composed



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of seven members, three appointed by the commissioner, two each appointed by the Speaker of the House and President of the Senate.

To assist the commissioner in making a decision as to which parts of the insurance code will apply to the exchange, standards are added to the bill. This will remedy any problem of an unconstitutional delegation of legislative power to the commissioner.

The exchange shall be primarily a self-governing unit. It generally shall not be subject to state and local taxes. The exchange shall bear the cost of any regulation which the commissioner should undertake. Investments in the members by brokers and in the brokers by members, is limited to 20 percent. The members of the exchange shall not be subject to existing security or guaranty funds.

II. ECONOMIC IMPACT AND FISCAL NOTE:

Section 1. None.

Section 2.

A. Public:

The actual fiscal impact cannot be determined until a feasibility study is completed. A New York study forecasts the creation of 2,000 jobs in the beginning. Incidental benefits would accrue in the banking, hotel and restaurant industries, etc. Potential benefits include the creation of a giant, \$1 billion plus exchange facility, employing thousands of people and creating additional incidental jobs.

B. Government:

There would be nominal costs to the state because the exchange would bear the cost of any regulation. The state's tax base would also increase, along with the increased prosperity of the exchange.

III. COMMENTS:

This bill passed both Houses of the Legislature on June 1, 1979.

# Journal

of the

# House of Representatives



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## First Regular Session

of the

Sixth Legislature

[under the Constitution as Revised in 1968]

APRIL 3 through JUNE 6, 1979

[Including a record of transmittal of Acts subsequent to sine die adjournment]

accreditation adopted by the board by rule based on a review and inspection by the board of the curriculum of accredited schools and colleges of architecture in the United States, and either:

1. Holds a 4 year degree evidencing completion of an approved architectural program and has completed 1 year of architectural experience; or
2. Holds a 5 year or 6 year degree from an approved architectural program.

Mr. Malloy moved the adoption of the amendment, which failed of adoption.

The question again recurred on the passage of CS for SB 958. The vote was:

Yeas—109

The Chair	Ewing	Kirkwood	Price
Allen	Flinn	Kiser	Ready
Bankhead	Flynn	Kutun	Reynolds
Barrett	Fontana	Lewis, J. W.	Richmond
Batchelor	Foster	Lewis, T. F.	Robinson
Beard	Fox	Liberti	Rosen
Bell	Gallagher	Lippman	Sadowski
Boles	Gardner	Lockward	Sample
Brantley	Girardeau	Malloy	Shackelford
Burnsed	Gustafson	Mann	Sheldon
Burrall	Hagler	Margolis	Silver
Bush	Hall	Martin	Smith, C. R.
Campbell	Hattaway	Martinez	Smith, J. H.
Carlton	Hawkins, M. E.	McCall	Spaet
Carpenter	Hazouri	Melby	Thomas
Conway	Healey	Mica	Thompson
Cox	Hector	Mills	Tygart
Crady	Hieber	Mitchell	Upchurch
Crawford	Hodes	Moffitt	Ward
Crotty	Hodges	Morgan	Warner
Danson	Hollingsworth	Myers	Watt
Davis	Jennings	Nergard	Weinstock
Deratany	Johnson, A. E.	Nuckolls	Williams
Dunbar	Johnson, B. L.	O'Malley	Woodruff
Dyer	Johnson, R. C.	Pajcic	Young
Easley	Jones, C. F.	Patchett	
Eckhart	Jones, D. L.	Patterson	
Evans	Kelly	Plummer	

Nays—2

Gersten            Gordon

Votes after roll call:

Yeas—Meek

So the bill passed and was immediately certified to the Senate.

**MR. HODGES IN THE CHAIR**

*The Honorable J. Hyatt Brown, Speaker*

I am directed to inform the House of Representatives that the Senate has passed with amendments—

By Representative O'Malley—

HB 1424—A bill to be entitled An act relating to insurance; amending s. 627.311(3), Florida Statutes, 1978 Supplement; authorizing the Department of Insurance to review the automobile liability insurance joint underwriting plan and to approve or disapprove the plan or any part thereof at any time; providing that disapproval is subject to the provisions of chapter 120; providing that the plan shall operate subject to the supervision and approval of a board of governors; providing for the appointment of all of the board, including the chairman by the Insurance Commissioner; providing that four of the board shall be chosen from the insurance industry and two from insurance agents' associations; providing for terms and granting the Insurance Commissioner authority to remove and replace any board member appointed thereby; providing an effective date.

—and requests the concurrence of the House.

*Joe Brown, Secretary*

Senate Amendment 1—On page 1, line 22, strike everything after the enacting clause and insert: Section 1. Subsection (3) of section 627.311, Florida Statutes, 1978 Supplement, is amended to read:

627.311 Joint underwriters and joint reinsurers.—

*(Substantial rewording of Subsection. See s. 627.311(3), F.S., 1978 Supp., for present text.)*

(3) The department may, after consultation with insurers licensed to write automobile insurance in this state approve a joint underwriting plan for purposes of equitable apportionment or sharing among insurers of automobile liability insurance and other motor vehicle insurance, as an alternate to the plan required in s. 627.351(1). All insurers authorized to write automobile insurance in this state shall subscribe to the plan and participate therein. The plan shall be subject to continuous review by the department which may at any time disapprove the entire plan or any part thereof if it determines that conditions have changed since prior approval and that in view of the purposes of the plan changes are warranted. Any disapproval by the department shall be subject to the provisions of chapter 120. If adopted the Plan:

(a) Shall be subject to all provisions of s. 627.351(1), except apportionment of applicants;

(b) May provide for one or more designated insurers, able and willing to provide policy and claims service, to act on behalf of all other insurers to provide insurance for applicants who are in good faith entitled to, but unable to, procure insurance through the voluntary insurance market at standard rates;

(c) Shall provide that designated insurers shall issue policies of insurance and provide policyholder and claim service on behalf of all insurers for the joint underwriting association;

(d) Shall provide for the equitable apportionment among insurers of losses and expenses incurred; and

(e) Shall provide that the joint underwriting association shall operate subject to the supervision and approval of a board of governors consisting of nine individuals including one who shall be elected as chairman.

1. Four members of the board shall be appointed by the Insurance Commissioner. Two of the commissioner's appointees shall be chosen from the insurance industry.

2. Any board member appointed by the Insurance Commissioner may be removed and replaced by him at any time without cause.

3. Five members of the board shall be appointed by the participating insurers, two of whom shall be from the insurance agents' associations.

4. All board members, including the chairman, shall be appointed to serve for 2-year terms beginning annually on a date designated by the plan.

Section 2. The 1982 repeal of section 627.311, Florida Statutes, by chapter 76-168, Laws of Florida, as amended, shall not be affected by the amendment of that section by this act.

Section 3. Section 629.401, Florida Statutes, is created to read:

629.401 Florida insurance exchange.—

(1) There shall be created a Florida insurance exchange, subject to such rules as may be promulgated by the commissioner. The purposes of the exchange are:

(a) To provide a facility for the underwriting of:

1. Reinsurance of all kinds of insurance.
2. Direct insurance of all kinds on risks located entirely outside the United States.

3. Risks which shall be certified according to s. 626.920(1) (b) as being eligible for export according to s. 626.916(1)(a).

(b) To manage the facility authorized by this section, in accordance with rules promulgated by the commissioner.

(2) The operation of this subsection shall become effective only after a determination by the Insurance Commissioner and Treasurer that the exchange created by this section may operate in an economic and beneficial manner. A committee shall be appointed to write the constitution and bylaws of the Florida

insurance exchange and to make such other recommendations as may be necessary to assure maximum coordination of the operations of the exchange with existing insurance industry operations, and to assure maximum economic benefits to the state from the operations of the exchange. The committee shall consist of thirteen members, six to be appointed by the Insurance Commissioner and Treasurer, two each to be appointed by the Speaker of the House of Representatives and the President of the Senate, one each to be appointed by the minority leader of the House of Representatives and the minority leader of the Senate, and one to be the Insurance Commissioner and Treasurer or his designated representative. The chairman shall be elected by a majority of the committee. The committee shall transmit such proposed constitution and bylaws and such other recommendations to the Insurance Commissioner and Treasurer no later than 30 days prior to the commencement of a regular annual legislative session, and the Insurance Commissioner and Treasurer shall submit his recommendations to the Legislature no later than the first day of the regular annual legislative session. Subject to the disapproval of the constitution and bylaws by either house of the Legislature by resolution before the end of the regular annual legislative session, the exchange shall have full authority to function pursuant to its constitution and bylaws 60 days after the end of the session. The initial board of governors of the exchange shall consist of seven members, three appointed by the Insurance Commissioner and Treasurer, two by the Speaker of the House of Representatives and two by the President of the Senate, to serve until the first election pursuant to the constitution or bylaws.

(3) The constitution and bylaws of the exchange shall provide for, but not be limited to:

(a) The election of no less than six nor more than thirteen governors, at least one-third of whom shall not be members of the exchange and who shall be public representatives.

(b) The location of the principal offices of the exchange and the principal offices of its members to be within this state for the purpose of the transaction of the type of business described in subsection (1). A principal office shall be one where officers and qualified personnel who are engaged in the administration, underwriting, claims, policyholders' service, marketing, accounting, record keeping and all supportive services shall be located.

(c) The submission by members and all applicants for membership on the exchange of such financial information as may be required by the commissioner.

(d) The establishment by the exchange of a security fund in such form and amount as approved by the commissioner.

(e) The voting power of members who are underwriting syndicates.

(f) The voting power and other rights granted under the provisions of the not-for-profit corporation law, chapter 617, to participate in the conduct and management of the affairs of the exchange, by brokers, agents and intermediaries transacting business on the exchange, each of whom shall be considered "members" only under the provisions of such law.

(g) The rights and duties of exchange members, which may include but shall not be limited to the manner and form of conducting business, financial stability, dues, membership fees, mandatory arbitration, and all other matters necessary or appropriate to conduct any business permitted herein.

Any amendments to the constitution and bylaws shall be subject to the approval of the commissioner.

(4) The Florida insurance exchange formed under the provisions of this section shall not be subject to any state or local taxes or fees measured by income, premiums or gross receipts, except that for purposes of taxation under s. 624.509 direct premiums written, procured or received by a member or members through the exchange on risks located in Florida shall be construed to be written, procured or received by the exchange and the premium tax due on said premium shall be reported and paid by the exchange.

(5) The exchange shall reimburse the commissioner for any expenses incurred by him relating to the regulation of the exchange and its members.

(6) The insurance law and rules promulgated thereunder shall apply to the exchange, its members, and the insurance or

reinsurance written through the exchange, except as may be exempted by the commissioner pursuant to rule; however, no such exemption shall be unfairly discriminatory or detrimental to the solvency of licensed insurers, no such exemption shall have the effect of allowing the exchange to participate in a practice contrary to the public welfare, no such exemption or application of the insurance law shall inhibit the viability, effectiveness or efficiency of the exchange, and no such exemption shall operate contrary to the purposes of the exchange set out in subsection (1). The commissioner may establish limitations on investments in members of the exchange. The investment in any member by brokers, agents and intermediaries transacting business on the exchange, and the investment in any such broker, agent or intermediary by any member, directly or indirectly, all as defined by rule, shall in each case be limited in the aggregate to less than 20 percent, or such lesser amount as determined by the commissioner, of the total investment in such member, broker, agent or intermediary, as the case may be.

(7) The performance of the contractual obligations of the exchange or its members entered into pursuant to subsection (1) shall not be covered by any of the Florida state security or guaranty funds.

Section 2. If chapter 629, Florida Statutes, is repealed in accordance with the intent expressed in the Regulatory Reform Act of 1976, as amended by chapter 77-457, Laws of Florida, or as subsequently amended, it is the intent of the Legislature that this act shall also be repealed on the same date as is therein provided.

Section 4. This act shall take effect upon becoming a law.

Senate Amendment 2—On page 1 in the title, line 2, strike everything after the word "insurance;" and insert: amending s. 627.311(3), Florida Statutes, 1978 Supplement; authorizing the Department of Insurance to review the automobile joint underwriting plan and to disapprove the plan or a part thereof at any time; providing that the procedure for disapproval is subject to chapter 120, Florida Statutes; providing an exception; requiring the joint underwriting association to operate subject to the supervision and approval of a board of governors and election of a chairman thereof; providing for the annual appointment of a nine member board of governors; providing for the appointment of the board members; authorizing participating insurers to appoint the remainder of the board; providing an effective date.

On motions by Mr. O'Malley, the House concurred in Senate Amendments 1 and 2. The question recurred on the passage of HB 1424. The vote was:

Yeas—107

The Chair	Foster	Kutun	Plummer
Allen	Fox	Lewis, J. W.	Price
Barrett	Gallagher	Lewis, T. F.	Ready
Batchelor	Gardner	Liberti	Reynolds
Beard	Girardeau	Lippman	Richmond
Bell	Gustafson	Lockward	Robinson
Boles	Haben	Malloy	Rosen
Brantley	Hagler	Mann	Ryals
Burrall	Hall	Margolis	Sadowski
Bush	Hattaway	Martin	Shackelford
Campbell	Hawkins, M. E.	Martinez	Sheldon
Carlton	Hazouri	McCall	Silver
Conway	Healey	McPherson	Smith, C. R.
Crady	Hector	Meek	Smith, J. H.
Crotty	Hieber	Melby	Spaet
Danson	Hodes	Mica	Thomas
Davis	Hollingsworth	Mills	Thompson
Deratany	Jennings	Mitchell	Tygart
Dunbar	Johnson, A. E.	Moffitt	Upchurch
Dyer	Johnson, B. L.	Morgan	Ward
Easley	Johnson, R. C.	Myers	Warner
Eckhart	Jones, C. F.	Nergard	Watt
Evans	Jones, D. L.	Nuckolls	Weinstock
Ewing	Kelly	Ogden	Williams
Flinn	Kershaw	O'Malley	Woodruff
Flynn	Kirkwood	Patchett	Young
Fontana	Kiser	Patterson	

Nays—2

Bankhead Carpenter

Votes after roll call:

Yeas—Sample

So the bill passed, as amended by Senate amendments.

Subsequently, on motions by Mr. Sadowski, the House reconsidered the vote by which HB 1424 passed and reconsidered the vote by which Senate Amendment 2 was concurred in.

Representative Sadowski offered the following title amendment to Senate Amendment 2:

House Amendment 1 to Senate Amendment 2—On page 1, line 11, after "board;" insert: creating s. 629.401, Florida Statutes; providing for a Florida insurance exchange to provide a facility for the underwriting of reinsurance, direct insurance of risks located outside the United States, and certain risks eligible for export; providing for a committee to write a constitution and bylaws upon a determination by the Insurance Commissioner and Treasurer that the exchange may operate in an economic and beneficial manner; providing requirements with respect thereto; providing for certain tax exemption and providing an exception; providing for application of the insurance law; providing for limitations on investments in and by exchange members; providing for inapplicability of state security or guaranty funds; providing for conditional repeal;

Mr. Sadowski moved the adoption of the amendment to the amendment, which was adopted.

On motion by Mr. Sadowski, the House concurred in Senate Amendment 2, as amended. The question recurred on the passage of HB 1424. The vote was:

Yeas—105

The Chair	Fontana	Kershaw	Plummer
Allen	Foster	Kirkwood	Ready
Barrett	Fox	Kiser	Reynolds
Beard	Gallagher	Kutun	Richmond
Bell	Gardner	Lewis, J. W.	Robinson
Boles	Gersten	Lewis, T. F.	Rosen
Brantley	Girardeau	Liberti	Ryals
Burnsed	Gordon	Lockward	Sadowski
Burrall	Gustafson	Malloy	Sample
Campbell	Haben	Margolis	Shackelford
Carlton	Hagler	Martin	Sheldon
Conway	Hall	Martinez	Silver
Cox	Hattaway	McCall	Smith, C. R.
Craday	Hawkins, M. E.	McPherson	Smith, J. H.
Crawford	Hazouri	Meek	Spaet
Crotty	Healey	Melby	Thomas
Danson	Hector	Mica	Tygart
Davis	Hieber	Mills	Upchurch
Deratany	Hodes	Mitchell	Ward
Dunbar	Hollingsworth	Moffitt	Warner
Dyer	Jennings	Myers	Watt
Easley	Johnson, A. E.	Nergard	Weinstock
Eckhart	Johnson, B. L.	Nuckolls	Williams
Evans	Johnson, R. C.	Ogden	Young
Ewing	Jones, C. F.	Pajcic	
Flinn	Jones, D. L.	Patchett	
Flynn	Kelly	Patterson	

Nays—1

Woodruff

So the bill passed, as further amended. The action, together with the bill and amendments thereto, was immediately certified to the Senate.

*The Honorable J. Hyatt Brown, Speaker*

I am directed to inform the House of Representatives that the Senate has passed CS for SB 151 and requests the concurrence of the House.

*Joe Brown, Secretary*

By the Committee on Judiciary-Civil and Senator Chamberlin—

CS for SB 151—A bill to be entitled An act relating to landlord and tenant; creating s. 83.591, Florida Statutes; prohibit-

ing a landlord or his agents or employees from interfering with the occupancy of, or entrance to, a dwelling unit except pursuant to s. 83.59(3), Florida Statutes; prohibiting a landlord or his agents or employees from terminating a tenant's utility services for certain purposes; clarifying the duties of public utilities; providing a civil action for damages and injunctive relief by a tenant; providing an effective date.

—was read the first time by title and taken up by waiver of the rules. On motion by Mr. Kutun, the rules were waived and CS for SB 151 was read the second time by title.

Mr. Healey moved the previous question on the bill, which was agreed to.

On motion by Mr. Kutun, the rules were waived and CS for SB 151 was read the third time by title. On passage, the vote was:

Yeas—36

Cox	Gersten	Malloy	Rosen
Davis	Girardeau	Margolis	Sadowski
Dyer	Gordon	Martinez	Sheldon
Eckhart	Gustafson	Meek	Silver
Flinn	Hazouri	Nergard	Spaet
Flynn	Healey	Ogden	Thompson
Fontana	Hector	Plummer	Warner
Fox	Kutun	Reynolds	Weinstock
Gallagher	Lockward	Richmond	Young

Nays—69

The Chair	Evans	Kelly	Patterson
Bankhead	Ewing	Kershaw	Price
Barrett	Foster	Kirkwood	Ready
Beard	Gardner	Kiser	Robinson
Boles	Haben	Lewis, J. W.	Sample
Brantley	Hagler	Lewis, T. F.	Shackelford
Burrall	Hall	Liberti	Smith, C. R.
Bush	Hattaway	Lippman	Smith, J. H.
Campbell	Hawkins, M. E.	Mann	Thomas
Carlton	Hieber	McCall	Tygart
Carpenter	Hodes	McPherson	Upchurch
Conway	Hollingsworth	Melby	Ward
Craday	Jennings	Mica	Watt
Crawford	Johnson, A. E.	Mitchell	Williams
Crotty	Johnson, B. L.	Myers	Woodruff
Danson	Johnson, R. C.	Nuckolls	
Deratany	Jones, C. F.	O'Malley	
Dunbar	Jones, D. L.	Patchett	

So the bill failed to pass.

*The Honorable J. Hyatt Brown, Speaker*

I am directed to inform the House of Representatives that the Senate has passed as amended SB 1249 and requests the concurrence of the House.

*Joe Brown, Secretary*

By Senator Skinner—

SB 1249—A bill to be entitled An act relating to maximum vehicle weights; amending s. 316.535(4), Florida Statutes, renumbering and amending subsection (5) of said section, and adding new subsections (5) and (6) to said section; prescribing maximum gross weights for vehicles traveling on interstate highways; prescribing maximum gross weights for vehicles traveling on other highways; requiring the Department of Transportation to adopt rules; requiring the Department of Highway Safety and Motor Vehicles to enforce the law and such rules; requiring the Department of Highway Safety and Motor Vehicles to publish and distribute certain information; providing an effective date.

—was read the first time by title and taken up by waiver of the rules. On motion by Mr. Shackelford, the rules were waived and SB 1249 was read the second time by title.

Ms. Evans moved the previous question on the bill, which was agreed to.

Mr. Shackelford moved that the rules be waived and SB 1249 be read a third time by title, which was not agreed to by two-thirds vote. The vote was:

Journal  
of the  
SENATE  
State of Florida

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ELEVENTH REGULAR SESSION  
UNDER THE CONSTITUTION AS REVISED IN 1968  
APRIL 3 THROUGH JUNE 6, 1979

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Scott	Steinberg	Tobiassen	Ware
Skinner	Stuart	Trask	Williamson
Spicola	Thomas	Vogt	Winn

Nays—2

Frank	McClain
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HB 675—A bill to be entitled An act relating to common carriers; amending and renumbering ss. 352.22, 352.23, and 352.24, Florida Statutes, revising the classes of persons to whom free or reduced transportation may be granted, to include sheriffs on official duty, public officers and employees traveling to promote economic development or tourism, and certain business persons connected with such promotion; deleting specific references to railroads; providing for reports of free or reduced transportation by common carriers; revising penalties to conform; directing that changes in terminology be made; providing an effective date.

—was read the second time by title. On motion by Senator Barron, by two-thirds vote HB 675 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Mr. President	Grizzle	Myers	Thomas
Anderson	Henderson	Neal	Tobiassen
Barron	Hill	Peterson	Trask
Carlucci	Holloway	Poole	Vogt
Childers, D.	Jenne	Scarborough	Ware
Childers, W. D.	Johnston	Scott	Williamson
Fechtel	MacKay	Skinner	Winn
Frank	Maxwell	Spicola	
Gordon	McClain	Steinberg	
Gorman	McKnight	Stuart	

Nays—1

Chamberlin

HB 1424—A bill to be entitled An act relating to insurance; amending s. 627.311(3), Florida Statutes, 1978 Supplement; authorizing the Department of Insurance to review the automobile liability insurance joint underwriting plan and to approve or disapprove the plan or any part thereof at any time; providing that disapproval is subject to the provisions of chapter 120; providing that the plan shall operate subject to the supervision and approval of a board of governors; providing for the appointment of all of the board, including the chairman by the Insurance Commissioner; providing that four of the board shall be chosen from the insurance industry and two from insurance agents' associations; providing for terms and granting the Insurance Commissioner authority to remove and replace any board member appointed thereby; providing an effective date.

—was read the second time by title.

Senator MacKay moved the following amendments which were adopted:

**Amendment 1**—On page 1, line 22, strike everything after the enacting clause and insert:

Section 1. Subsection (3) of section 627.311, Florida Statutes, 1978 Supplement, is amended to read:

627.311 Joint underwriters and joint reinsurers.—

*(Substantial rewording of subsection. See s. 627.311(3), F.S., 1978 Supp., for present text.)*

(3) The department may, after consultation with insurers licensed to write automobile insurance in this state approve a joint underwriting plan for purposes of equitable apportionment or sharing among insurers of automobile liability insurance and other motor vehicle insurance, as an alternate to the plan required in s. 627.351(1). All insurers authorized to write automobile insurance in this state shall subscribe to the plan and participate therein. The plan shall be subject to continuous review by the department which may at any time disapprove the entire plan or any part thereof if it determines that conditions have changed since prior approval and that in view of the purposes of the plan changes are warranted.

Any disapproval by the department shall be subject to the provisions of chapter 120. If adopted the Plan:

(a) Shall be subject to all provisions of s. 627.351(1), except apportionment of applicants;

(b) May provide for one or more designated insurers, able and willing to provide policy and claims service, to act on behalf of all other insurers to provide insurance for applicants who are in good faith entitled to, but unable to, procure insurance through the voluntary insurance market at standard rates;

(c) Shall provide that designated insurers shall issue policies of insurance and provide policyholder and claim service on behalf of all insurers for the joint underwriting association;

(d) Shall provide for the equitable apportionment among insurers of losses and expenses incurred; and

(e) Shall provide that the joint underwriting association shall operate subject to the supervision and approval of a board of governors consisting of nine individuals including one who shall be elected as chairman.

1. Four members of the board shall be appointed by the Insurance Commissioner. Two of the commissioner's appointees shall be chosen from the insurance industry.

2. Any board member appointed by the Insurance Commissioner may be removed and replaced by him at any time without cause.

3. Five members of the board shall be appointed by the participating insurers, two of whom shall be from the insurance agents' associations.

4. All board members, including the chairman, shall be appointed to serve for 2-year terms beginning annually on a date designated by the plan.

Section 2. The 1982 repeal of section 627.311, Florida Statutes, by chapter 76-168, Laws of Florida, as amended, shall not be affected by the amendment of that section by this act.

Section 3. This act shall take effect July 1, 1979.

Section 1. Section 629.401, Florida Statutes, is created to read:

629.401 Florida insurance exchange.—

(1) There shall be created a Florida Insurance Exchange, subject to such rules as may be promulgated by the commissioner. The purposes of the exchange are:

(a) To provide a facility for the underwriting of:

1. Reinsurance of all kinds of insurance.

2. Direct insurance of all kinds on risks located entirely outside the United States.

3. Risks which shall be certified according to s. 626.920(1)(b) as being eligible for export according to s. 626.916(1)(a).

(b) To manage the facility authorized by this section, in accordance with rules promulgated by the commissioner.

(2) The operation of this subsection shall become effective only after a determination by the Insurance Commissioner and Treasurer that the exchange created by this section may operate in an economic and beneficial manner. A committee shall be appointed to write the constitution and bylaws of the Florida insurance exchange and to make such other recommendations as may be necessary to assure maximum coordination of the operations of the exchange with existing insurance industry operations, and to assure maximum economic benefits to the state from the operations of the exchange. The committee shall consist of thirteen members, six to be appointed by the Insurance Commissioner and Treasurer, two each to be appointed by the Speaker of the House of Representatives and the President of the Senate, one each to be appointed by the minority leader of the House of Representatives and the minority leader of the Senate, and one to be the Insurance Commissioner and Treasurer or his designated representative. The chairman shall be elected by a majority of the committee. The committee shall transmit such proposed constitution and bylaws and such other recommendations to the Insurance Commissioner and Treasurer no later than 30 days prior to the commencement of a regular annual legislative session, and the Insurance Commissioner and Treasurer shall submit his recommendations to the Legislature

no later than the first day of the regular annual legislative session. Subject to the disapproval of the constitution and by-laws by either house of the Legislature by resolution before the end of the regular annual legislative session, the exchange shall have full authority to function pursuant to its constitution and bylaws 60 days after the end of the session. The initial board of governors of the exchange shall consist of seven members, three appointed by the Insurance Commissioner and Treasurer, two by the Speaker of the House of Representatives and two by the President of the Senate, to serve until the first election pursuant to the constitution or bylaws.

(3) The constitution and bylaws of the exchange shall provide for, but not be limited to:

(a) The election of no less than six nor more than thirteen governors, at least one-third of whom shall not be members of the exchange and who shall be public representatives.

(b) The location of the principal offices of the exchange and the principal offices of its members to be within this state for the purpose of the transaction of the type of business described in subsection (1). A principal office shall be one where officers and qualified personnel who are engaged in the administration, underwriting, claims, policyholders' service, marketing, accounting, record keeping and all supportive services shall be located.

(c) The submission by members and all applicants for membership on the exchange of such financial information as may be required by the commissioner.

(d) The establishment by the exchange of a security fund in such form and amount as approved by the commissioner.

(e) The voting power of members who are underwriting syndicates.

(f) The voting power and other rights granted under the provisions of the not-for-profit corporation law, chapter 617, to participate in the conduct and management of the affairs of the exchange, by brokers, agents and intermediaries transacting business on the exchange, each of whom shall be considered "members" only under the provisions of such law.

(g) The rights and duties of exchange members, which may include but shall not be limited to the manner and form of conducting business, financial stability, dues, membership fees, mandatory arbitration, and all other matters necessary or appropriate to conduct any business permitted herein.

Any amendments to the constitution and bylaws shall be subject to the approval of the commissioner.

(4) The Florida insurance exchange formed under the provisions of this section shall not be subject to any state or local taxes or fees measured by income, premiums or gross receipts, except that for purposes of taxation under s. 624.509 direct premiums written, procured or received by a member or members through the exchange on risks located in Florida shall be construed to be written, procured or received by the exchange and the premium tax due on said premium shall be reported and paid by the exchange.

(5) The exchange shall reimburse the commissioner for any expenses incurred by him relating to the regulation of the exchange and its members.

(6) The insurance law and rules promulgated thereunder shall apply to the exchange, its members, and the insurance or reinsurance written through the exchange, except as may be exempted by the commissioner pursuant to rule; however, no such exemption shall be unfairly discriminatory or detrimental to the solvency of licensed insurers, no such exemption shall have the effect of allowing the exchange to participate in a practice contrary to the public welfare, no such exemption or application of the insurance law shall inhibit the viability, effectiveness or efficiency of the exchange, and no such exemption shall operate contrary to the purposes of the exchange set out in subsection (1). The commissioner may establish limitations on investments in members of the exchange. The investment in any member by brokers, agents and intermediaries transacting business on the exchange, and the investment in any such broker, agent or intermediary by any member, directly or indirectly, all as defined by rule, shall in each case be limited in the aggregate to less than 20 percent, or such lesser amount as determined by the commissioner, of the total investment in such member, broker, agent or intermediary, as the case may be.

(7) The performance of the contractual obligations of the exchange or its members entered into pursuant to subsection (1) shall not be covered by any of the Florida state security or guaranty funds.

Section 2. If chapter 629, Florida Statutes, is repealed in accordance with the intent expressed in the Regulatory Reform Act of 1976, as amended by chapter 77-457, Laws of Florida, or as subsequently amended, it is the intent of the Legislature that this act shall also be repealed on the same date as is therein provided.

Section 3. This act shall take effect upon becoming a law.

**Amendment 2**—On page 1, line 2, strike everything after the word "insurance;" and insert: amending s. 627.311(3), Florida Statutes, 1978 Supplement; authorizing the Department of Insurance to review the automobile joint underwriting plan and to disapprove the plan or part thereof at any time; providing that the procedure for disapproval is subject to chapter 120, Florida Statutes; providing an exception; requiring the joint underwriting association to operate subject to the supervision and approval of a board of governors and election of a chairman thereof; providing for the annual appointment of a nine member board of governors; providing for the appointment of the board members; authorizing participating insurers to appoint the remainder of the board; providing an effective date.

On motion by Senator MacKay, by two-thirds vote HB 1424 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

Mr. President	Gorman	McClain	Steinberg
Anderson	Grizzle	McKnight	Stuart
Carlucci	Henderson	Myers	Thomas
Chamberlin	Hill	Neal	Tobiassen
Childers, D.	Holloway	Peterson	Trask
Dunn	Jenne	Poole	Vogt
Fechtcl	Johnston	Scarborough	Ware
Frank	MacKay	Skinner	Williamson
Gordon	Maxwell	Spicola	Winn

Nays—None

**SB 1249**—A bill to be entitled An act relating to maximum vehicle weights; amending s. 316.535(4), Florida Statutes, renumbering and amending subsection (5) of said section, and adding new subsections (5) and (6) to said section; prescribing maximum gross weights for vehicles traveling on interstate highways; prescribing maximum gross weights for vehicles traveling on other highways; requiring the Department of Transportation to adopt rules; requiring the Department of Highway Safety and Motor Vehicles to enforce the law and such rules; requiring the Department of Highway Safety and Motor Vehicles to publish and distribute certain information; providing an effective date.

—was read the second time by title.

The Committee on Transportation offered the following amendment which was moved by Senator Skinner and adopted:

**Amendment 1**—On page 2, strike all of line 8 through and including line 11 and insert: under consideration. ~~However~~; Such overall gross weight of any

Senator Henderson moved the following amendment:

**Amendment 2**—On page 3, between lines 9 and 10, insert: Section 2. Section 316.0746, Florida Statutes, is created to read:

316.0746 Sale or purchase of traffic control devices; prohibitions.—

(1) It is unlawful for any person to use any traffic control device at any place where the general public is invited, unless such device conforms to the uniform system of traffic control devices adopted by the Department of Transportation pursuant to this chapter.

(2) Any nonconforming traffic control device in use prior to January 1, 1980, may be used for the remainder of its use-



Copy to  
Scott Hunter  
2116 Skills  
Tallah. 32303



# FLORIDA HOUSE OF REPRESENTATIVES

Tallahassee

J. HYATT BROWN, Speaker/RICHARD S. HODES, Speaker Pro Tempore  
COMMITTEE ON INSURANCE

William E. "Bill" Sadowski  
Chairman

March 22, 1979

James G. Ward  
Vice Chairman

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Series 19 Carton 476  
3-28-79

MEMORANDUM

TO: Bill Sadowski, Jack Herzog  
FROM: Philippe Jeck  
RE: Florida Insurance Exchange

An insurance exchange is a unique vehicle through which certain risks are underwritten. The theory behind an exchange is to enable an insurer and an insured to get together and through arms-length bargaining, enter into an insurance contract without being restricted by a state's insurance regulation. The exchange is self-regulating and generally not subject to state premium taxes. Only certain risks can safely and profitably be written with adequate protection of both the insurer's and insured's interests. Basically, these risks are, 1) unusual and/or large <sup>in the U.S.</sup> or 2) reinsurance on all kinds of insurance, or 3) risks which have been rejected by all of the state's admitted insurers.

Currently a vast amount of these risks is being handled by non-admitted markets, particularly Lloyd's of London. One-half of the premiums written at Lloyd's is from the United States market. Early this year the New York legislature passed a law creating the New York Insurance Exchange (NYIE). The exchange is envisioned to provide an alternative to Lloyd's not only for United States business but the world market as well. There is a market to be tapped. Lloyd's has more world business than it can handle. In fact, some members of Lloyd's have become members in NYIE. The U.S. also has a large market, 60% of total world premiums is U.S. business. The NYIE has not yet become operational because the legislature has been unable to approve the NYIE constitution and by-laws.

There are differences between the NYIE and Lloyd's. A major difference between the two is the basis for the current problems New York is having in passing the NYIE constitution. The exchange is a deregulated insurance facility. Because the deregulation causes a loss of safeguards, new safeguards against the insolvency of insurers must be promulgated. The Commissioner of Insurance is granted broad, general powers to oversee the exchange. At Lloyd's, insureds are protected against insurer insolvency in that all members of the exchange are individuals and subject to unlimited liability and there is a two billion dollar guarantee fund set up. The NYIE allows its members to have limited liability thereby allowing corporations to be members and only a 50 million dollar guarantee fund is set up. The NYIE safeguards are probably not sound enough to cover the large risks that are underwritten nor to compensate for the lack of regulation.

The Florida exchange must satisfy four key elements if it is to have a chance for success. 1. It must have the business to write. 2. It must have the capitalization to accept the business. 3. It must have the freedom and flexibility to do business. 4. And, it must have the human resources to handle the business. At this point it is uncertain whether Florida can attract enough business. An exchange must be large to operate, so that it can handle large risks and provide an adequate guarantee fund. If the NYIE becomes operational, Florida will have a more difficult time soliciting enough business. Florida does have access to markets in South America, Mexico and a large reinsurance market from the captive insurers in the Bahamas (including major oil companies).

Capitalization is a problem because of the volume that must be maintained. There must be enough interested investors with money to put into the underwriting syndicates. The potential in this area is currently unknown.

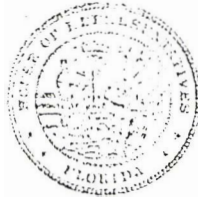
Freedom and flexibility is needed to allow insurers to handle unusual and large risks without burdensome restrictions. These qualities are essential to make the exchange attractive to both underwriters and insureds. Self-regulation by the exchange members is what is needed to provide the desired flexibility.

Controversy surrounds the question of whether or not there is enough talent to run the proposed exchange. There may not be adequate domestic talent. The membership at Lloyd's may be a possible source of personnel to tap.

This memo is intended only to present a preliminary overview of the possibility of a Florida Insurance Exchange. Obviously, much more research must be carried out to fully understand the possibilities and repercussions of the exchange.

The bill basically follows New York's. The bill itself is not complex. The complexity of setting up an exchange is found in the constitution and by-laws needed to regulate the exchange.

PJ/jj



# FLORIDA HOUSE OF REPRESENTATIVES

Tallahassee

J. HYATT BROWN, Speaker/RICHARD S. HODES, Speaker Pro Tempore  
COMMITTEE ON INSURANCE

William E. "Bill" Sadowski  
Chairman

James G. Ward  
Vice Chairman

October 9, 1979

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10-10-79

## MEMORANDUM

TO: Members, House Insurance Committee  
FROM: Cindy Gokel, Attorney/Analyst *Cg*  
RE: Progress of the Florida Insurance Exchange

On Monday, October 8, 1979, the Insurance Department held a public meeting to provide an opportunity for interested persons to express their views on various aspects of the Florida Insurance Exchange. In accordance with Chapter 79-394, Laws of Florida, the Department accepted applications from several firms to do the feasibility study. Robert Hughes Associates of Dallas, Texas, was chosen.

Commissioner Gunter opened the meeting by introducing Mr. Bob Shaw, Senior Vice President of Robert Hughes Associates, who outlined the major questions his group will answer. These are: is there sufficient capital to fund the exchange?; are there enough skilled people to run the exchange?; is the additional capacity needed?; will the exchange be used?; and where will the exchange be located?

Representatives Bill Sadowski and Terry O'Malley welcomed Robert Hughes Associates to Florida and stressed that we want to be sure a Florida exchange is really needed before we go ahead. Peter Genero of the Department of Commerce said that his department is very positive about the project and that their estimates show that 600 jobs would be created directly

because of the exchange with perhaps another 1400 indirectly. John Smith, representing the Miami Chamber of Commerce, offered Dade County's help to Robert Hughes Associates in conducting their study. The meeting ended after a general discussion among the participants.

Mr. Shaw stated that he expects to deliver a final report to the Commissioner by the middle of December. If the recommendations are positive, the committee to write the exchange's constitution and by-laws could be appointed and might have their task completed in time for the Legislature to consider it at the 1980 session.

CG:jj

COMMITTEE ON INSURANCE

STAFF REPORT

PCB #21

DATE: 5-1-79

RELATING TO: Florida Insurance Exchange

I. SUMMARY

A. Current Law

The United States, including Florida, has historically exported much of its reinsurance and unusual risk insurance to foreign markets capable of handling it. Much of the business is written at Lloyd's of London, approximately \$2 billion in base policy business and \$6.5 billion in reinsurance. Lloyd's writes business for many other countries as well.

Until recently, the United States has had no operative entity with the resources to adequately deal with the business which is being written overseas, or to write such business from overseas interests. New York has been the first state which has seized upon the idea of a Lloyd's type operation in this country. New York has passed legislation creating an Insurance Exchange to function similarly to Lloyd's in hopes of competing for all those dollars currently being exported. Illinois is also in the process of passing legislation creating an Insurance Exchange.

Florida's insurance code does not contain any provisions relating to a domestic insurance exchange. There is no facility in Florida which has the ability to compete with Lloyd's nor to attract foreign insurance business.

B. Probable Effects of Proposed Changes

Generally, this bill creates legislation enabling the establishment of an insurance exchange after the legislative approval of its constitution and bylaws. Three types of insurance will be allowed to be written in the exchange to compete with Lloyd's: 1) Reinsurance. 2) Direct insurance on risks located outside the United States. 3) Unusual domestic risks unable to be written in the domestic market of Florida.

The exchange will be subject to a constitution which will be drawn up by a committee representative of the various interested groups. The entire constitution formulation and approval process shall take approximately one year. The commissioner will have a significant amount of input into the terms of the constitution. An appointed board of governors would run the exchange until admitted members of the exchange elected their own.

The exchange shall primarily be a self-governing unit. It generally shall not be subject to state and local taxes. The exchange shall bear the cost of any regulation which the commissioner should undertake. Investments in the members by brokers and in the brokers by members, is limited to 20 percent. The members of the exchange shall not be subject to existing security or guaranty funds.

## II. COMMENTS

It must be recognized that there can be no guaranteed success of a Florida Insurance Exchange because of the novelty of such an entity in the United States. It is true however, that there is a vast potential market for an exchange to conquer. Lloyd's is currently over-extended. More U.S. business could be written domestically. The South American business and Mexican new-found oil industry are potential sources of business for the exchange. Also, offshore captive insurance companies of the big oil companies can utilize the reinsurance services of the exchange.

There is an immediate need to pass legislation creating the exchange because of the fact that other states are also beginning to see the light. New York has passed an exchange law and Illinois is considering such a law. It is unknown how many exchanges the U.S. can support. Florida, by acting promptly, will have a jump on any other state seeking the same market. Also, the foreign business will become aware of Florida's intentions and not seek other insurance facilities until they see what Florida will do.

The Florida exchange must satisfy four key elements if it is to have a chance for success. 1) It must have the business to write. 2) It must have the capitalization to accept the business. 3) It must have the freedom and flexibility to do business. 4) And, it must have the human resources to handle the business. At this point it is uncertain whether Florida can attract enough business. An exchange must be large to operate, so that it can handle large risks and provide an adequate guarantee fund. If the NYIE becomes operational, Florida will have a more difficult time soliciting enough business. Florida does have access to markets in South America, Mexico and a large reinsurance market from the captive insurers in the Bahamas (including major oil companies).

Capitalization is a problem because of the volume that must be maintained. There must be enough interested investors with money to put into the underwriting syndicates. The potential in this area is currently unknown.

Freedom and flexibility is needed to allow insurers to handle unusual and large risks without burdensome restrictions. These qualities are essential to make the exchange attractive to both underwriters and insureds. Self-regulation by the exchange members is what is needed to provide the desired flexibility.

Controversy surrounds the question of whether or not there is enough talent to run the proposed exchange. There may not be adequate domestic talent. The membership at Lloyd's may be a possible source of personnel to tap.

The bill basically follows New York's enacting legislation. The bill itself is not complex. The complexity of setting up an exchange is found in the constitution and by-laws needed to regulate the exchange.

## III. FISCAL IMPACT

The actual fiscal impact cannot be determined until a feasibility study is completed. Preliminary estimates forecast the creation of 2,000 jobs in the beginning. Incidental benefits would accrue in the banking, hotel and restaurant industries, etc. There would be nominal costs to the state because the exchange would bear the cost of any regulation.

Potential benefits include the creation of a giant, \$1 billion plus exchange facility employing thousands of people and creating additional incidental jobs. The state's tax base would also increase along with the increased prosperity of the exchange.

Prepared by Philippe Jeck

Staff Director - Jack Herzog 



## COMMITTEE ON INSURANCE

## STAFF REPORT

HB 1731 as amended onto HB 1424

DATE: 5-1-79

RELATING TO: Florida Insurance Exchange

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H&amp;C 7-2

## I. SUMMARY

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Until recently, the United States has had no operative entity with the resources to adequately deal with the business which is being written overseas, or to write such business from overseas interests. New York has been the first state which has seized upon the idea of a Lloyd's-type operation in this country. New York has passed legislation creating an Insurance Exchange to function similarly to Lloyd's in hopes of competing for all those dollars currently being exported. Illinois is also in the process of passing legislation creating an Insurance Exchange.

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Generally, this bill creates legislation enabling the establishment of an insurance exchange after the legislative approval of its constitution and bylaws. Three types of insurance will be allowed to be written in the exchange to compete with Lloyd's: 1) Reinsurance. 2) Direct insurance on risks located outside the United States. 3) Unusual domestic risks unable to be written in the domestic market of Florida.

The operations of the bill and its timetable do not come into effect until the commissioner has determined the viability of the exchange. Once the commissioner gives his o.k., the constitution committee is formed to draft the constitution and the timetable starts ticking.

The exchange will be subject to a constitution which will be drawn up by a committee of 13 members, six appointed by the commissioner, two each appointed by the Speaker of the House and the President of the Senate, one each appointed by the minority leader of the House and the minority leader of the Senate and one being the commissioner. The entire constitution formulation and approval process will take approximately one year. The commissioner will have a significant amount of input into the terms of the constitution. An appointed board of governors would run the exchange until admitted members of the exchange elected their own. The appointed board will be composed of seven members, three appointed by the commissioner, two each appointed by the Speaker of the House and President of the Senate.

To assist the commissioner in making a decision as to which parts of the insurance code will apply to the exchange, standards are added to the bill. This will remedy any problem of an unconstitutional delegation of legislative power to the commissioner.

The exchange shall primarily be a self-governing unit. It generally shall not be subject to state and local taxes. The exchange shall bear the cost of any regulation which the commissioner should undertake. Investments in the members by brokers and in the brokers by members, is limited to 20 percent. The members of the exchange shall not be subject to existing security or guaranty funds.

## II. COMMENTS

It must be recognized that there can be no guaranteed success of a Florida Insurance Exchange because of the novelty of such an entity in the United States. It is true however, that there is a vast potential market for an exchange to conquer. Lloyd's is currently over-extended. More U.S. Business could be written domestically. The South American business and Mexican new-found oil industry are potential sources of business for the exchange. Also, offshore captive insurance companies of the big oil companies can utilize the reinsurance services of the exchange.

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Prepared by Philippe Jeck

Staff Director - Jack Herzog

COMMITTEE ON INSURANCE

STAFF REPORT

HB 1424

DATE: 4-9-79

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HB 1424

SPONSOR: O'Malley

RE: Automobile Insurance, JUA

I. SUMMARY

A. Current Law

The applicants for automobile insurance who are in good faith entitled to, but are unable to, procure such benefits through ordinary methods are handled through a joint underwriters' association. Plans for the handling of these applicants are authorized in two somewhat different statutes.

In s. 627.351(1), insurers writing automobile insurance develop the agreements and plans, subject to the department's approval, which apportion the applicants among all insurers. The department must adopt the insurers' plans if reasonable. All insurers must comply with the plan.

In s. 627.311(3) the department may, as an alternative to the s. 627.351(1) plan, develop a plan with the same requirements as the s. 627.351(1), except as to the apportionment provisions. Under the alternative plan, one or more insurers may be designated to handle all of the applicants. All of the insurers are apportioned the expenses and losses of the insurer handling the applicants.

B. Probable Effect of Proposed Changes

The bill gives the department the authority to disapprove of the entire alternative plan of s. 672.311(3), if changes are warranted. The disapproval will be subject to chapter 120. The joint underwriters' association which implements the plan, will be run by a board of governors. Five members of the board will be appointed by the Insurance Commissioner and four by participating insurers.

II. COMMENTS

The department has several criticisms of the current management of the JUA. The main problem appears to be the unresponsiveness of the board of governors. The high rates within the JUA are partially attributed to poor management. There are too many motorists, including good drivers, in the JUA. The department wants the ability to change an existing plan, including the surcharging procedures. This would alleviate the problem of having to convince the board to voluntarily change plans under a suggestion of the commissioner. With the Commissioner able to select a majority of the board, a smoother relationship can exist between the JUA and the department.

III. FISCAL IMPACT - None.

IV. AMENDMENTS

Only four of the members of the board shall be appointed by the Commissioner, two of whom shall be chosen from the insurance industry. Five other members shall be appointed by participating insurers, two of whom shall be chosen from the insurance agents' associations. All board members shall serve two-year terms.

Also amended onto HB 1424 was HB 1731, which creates the Florida Insurance Exchange. The staff report is attached.

Prepared by Philippe Jeck  
Staff Director - Jack Herzog

By Representative O'Malley

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HB 1424

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A bill to be entitled  
An act relating to insurance; amending s.  
627.311(3), Florida Statutes, 1978 Supplement;  
authorizing the Department of Insurance to  
review the automobile liability insurance joint  
underwriting plan and to approve or disapprove  
the plan or any part thereof at any time;  
providing that disapproval is subject to the  
provisions of chapter 120, except that any  
hearing held shall be conducted by the  
Insurance Commissioner or a hearing officer  
appointed by him; providing that the plan shall  
operate subject to the supervision and approval  
of a board of governors; providing for the  
appointment of the majority of the board,  
including the chairman by the Insurance  
Commissioner; providing that the participating  
insurers may jointly appoint the remainder of  
the board; providing for terms and granting the  
Insurance Commissioner authority to remove and  
replace any board member appointed thereby;  
providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (3) of section 627.311, Florida  
Statutes, 1978 Supplement, is amended to read:

627.311 Joint underwriters and joint reinsurers.--

(Substantial rewording of subsection. See  
s. 627.311(3), F.S., 1978 Supp., for present text.)

1	(3) The department may, after consultation with	2.2/4
2	insurers licensed to write automobile insurance in this state,	2.2/5
3	approve a joint underwriting plan for the purpose of equitable	2.2/6
4	apportionment or sharing among insurers of automobile	
5	liability insurance and other motor vehicle insurance, as an	2.2/7
6	alternate to the plan required in s. 627.351(1). All insurers	2.2/9
7	authorized to write automobile insurance in this state shall	
8	subscribe to the plan and participate therein. The plan shall	2.2/11
9	be subject to continuous review by the department, which may	
10	at any time disapprove the entire plan or any part thereof if	2.2/12
11	it determines that conditions have changed since prior	
12	approval and if, in view of the purposes of the plan, changes	2.2/13
13	are warranted. Any disapproval by the department shall be	2.2/14
14	subject to the provisions of chapter 120, except that any	
15	hearing held shall be conducted by the Insurance Commissioner	2.2/15
16	or a hearing officer appointed by him. If adopted, the plan:	2.2/16
17	(a) Shall include all requirements of, and be subject	2.2/17
18	to all provisions of, s. 627.351(1), except provisions	
19	relating to apportionment of applicants.	2.2/18
20	(b) May provide for one or more designated insurers,	2.2/18
21	able and willing to provide policy and claims service, to act	2.2/19
22	on behalf of all other insurers to provide insurance for	
23	applicants who are in good faith entitled to, but are unable	2.2/21
24	to, procure insurance through the voluntary insurance market	
25	at standard rates.	
26	(c) Shall provide that designated insurers shall issue	2.2/22
27	policies of insurance and provide policyholder and claim	
28	service on behalf of all insurers for the joint underwriting	2.2/23
29	association.	
30	(d) Shall provide for the equitable apportionment	2.2/23
31	among insurers of losses and expenses incurred.	2.2/24

1 (e) Shall provide that the joint underwriting 2.2/24  
2 association shall operate subject to the supervision and 2.2/25  
3 approval of a board of governors consisting of nine members,  
4 including one who shall be designated as chairman, as follows: 2.2/26  
5 1. Five members, including the chairman, shall be 2.2/26  
6 appointed by the Insurance Commissioner, three of whom shall 2.2/27  
7 be chosen from the insurance industry.  
8 2. Four members may be jointly appointed by the 2.2/28  
9 participating insurers.  
10 3. All board members, including the chairman, shall be 2.2/28  
11 appointed to serve for 1-year terms beginning annually on a 2.2/29  
12 date designated by the plan, except that any member appointed  
13 by the Insurance Commissioner may be removed and replaced by 2.2/30  
14 him at any time with or without cause.  
15 Section 2. If chapter 627, Florida Statutes, is 2.2/31  
16 repealed in accordance with the intent expressed in the  
17 Regulatory Reform Act of 1976, as amended by chapter 77-457,  
18 Laws of Florida, or as subsequently amended, it is the intent 2.2/32  
19 of the Legislature that this act shall also be repealed on the  
20 same date as is therein provided. 2.2/33  
21 Section 3. This act shall take effect on October 1, 2.2/34  
22 1979.

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HOUSE SUMMARY

25 Authorizes the Department of Insurance to review the  
26 automobile liability insurance joint underwriting plan  
27 and to approve or disapprove all or any part of it at any  
28 time. Provides for hearings conducted by the Insurance  
29 Commissioner or a hearing officer appointed thereby.  
30 Provides that the plan shall operate subject to  
31 supervision and approval of a nine-member, annually  
appointed board of governors, five of whom (including the  
chairman) shall be appointed by the Insurance  
Commissioner and four of whom may be jointly appointed by  
the participating insurers. Provides that the Insurance  
Commissioner may at any time remove and replace any  
member appointed by him.