



DAILY BRIEF

From April 28, 2009

The 2009 budget conference process has finally begun in the Florida Legislature. After days of uncertainty, both presiding officers announced today that they were finally ready to begin budget negotiations. Conference committee meetings were held late Tuesday afternoon and they will continue to take place until Friday of this week. Any unresolved issues will be bumped to the presiding officers later this weekend. The goal is to have the budget printed and on the desks of legislators by noon on Tuesday, May 5th. Since the budget requires a 72-hour cooling off period, the House and Senate will be forced to file an extension to the 2009 session. The earliest legislators can vote on the budget is on Friday, May 8th.

Insurance

Today, the Florida House unanimously approved (116-0) [HB 853](#) Relating to Surplus Lines Insurers by [Representative Pat Patterson \(R-Deland\)](#). The bill addresses the surplus lines insurance exemption from chapter 627, F.S. by providing the provisions of chapter 627, F.S. do not apply to surplus lines insurance unless a statutory section in chapter 627, F.S. specifically states it applies to such insurers. On June 26, 2008, the Florida Supreme Court ruled that surplus lines insurance is not exempt from all of these requirements. The practical impact of the Supreme Court decision is the elimination of surplus lines insurance in Florida. If this finding is not addressed legislatively, insurance will not be available for hard to place or unique commercial risks as well as high value or unique residential properties.

[HB 853](#) will now be sent to the Senate for consideration.

AIF supports this measure to ensure the continued accessibility of Surplus Lines insurance in Florida. Approximately fifteen percent of Florida businesses procure their property and liability insurance through the Surplus Lines insurance market. Without this, market insurance will not be available to many of these businesses with hard to place risks and unique insurance needs.

Court Funding

Today, the Florida House approved (75-32) [SB 2108](#) Relating to State Court Funding by [Senator Ken Pruitt \(R-Port St. Lucie\)](#). This bill creates a better mechanism for funding of Florida's court system by placing more legislative oversight on the court fees and fines that are collected by the clerks of courts. This will provide more adequate funding directly to the court system, which will help ensure that cases are heard and decided quickly and more efficiently. The bill does not remove or terminate employees in the clerks of courts offices around the state as some had feared earlier in the committee process. This is a significant change in the state's court funding policy and process, and is the result of a lot of negotiation between the courts and clerks, as well as with the senators.

[SB 2108](#) will now be sent to the Senate for consideration.

AIF strongly encourages the Florida Legislature to fund the court system adequately and swiftly at a level equivalent to the judiciary's status as the third equal branch of government. We would like thank Senator Pruitt for his leadership on this important policy matter.

Legal & Judicial

Today, the Senate considered [SB 1370](#) Relating to Contingency Fee Agreements by [Senator Mike Fasano \(R-New Port Richey\)](#). The bill provides for great transparency and accountability in the hiring of outside attorneys by the Attorney General and the Department of Legal Affairs. The bill prohibits the Department of Legal Affairs from entering into a contingency fee contract with a private attorney unless the Attorney General (AG) makes a written determination before entering such contract that contingency fee representation is both cost-effective and in the public interest. This bill requires the AG to request proposals from private attorneys to represent the Department on a contingency fee basis and requires attorneys to keep time records in increments of no greater than one-tenth of an hour. This bill prohibits contingency fee contracts entered into by the Department to exceed an aggregate contingency fee in excess of specified amounts. This bill prohibits a total aggregate contingency fee in excess of \$50 million, except when the AG determines, upon consultation with the Cabinet, that there are exigent or unusual circumstances or special legal knowledge or experience is required, and provides written evidence of this. Lastly, this bill requires copies of executed contingency fee agreements, as well as payment of contingency fees, to be posted on the Department's website.

[Senator Dennis Jones \(R-Seminole\)](#) filed an amendment today that would have gutted the bill in its entirety. The Jones amendment was supported by the trial bar and opposed by the business community. Thanks to the work of AIF and other business groups the amendment was defeated by the narrowest of margins (18-20).

[SB 1370](#) will now be considered on final passage by the Senate.

AIF SUPPORTS efforts to add transparency and accountability in the hiring of outside counsel by the Attorney General's office. This practice will ensure that tax dollars will be wisely spent and not wasted on costly attorney's fees.

Taxation

[SB 2430](#) Relating to Discretionary Surtax on documents by [Senator Al Lawson \(D-Tallahassee\)](#) was heard on second reading today in the House. It was substituted for its House companion, [HB 283](#) by [Representative Carlos Lopez-Cantera \(R-Miami\)](#). [SB 2430](#) passed out of the Senate Session yesterday by a vote of 38 to 1. The bill:

- Extends the authority of Miami-Dade County to assess discretionary surtax on documents for the purpose of homeownership assistance and rental housing units;
- Authorizes the issuance of bonds for the Florida Forever Program and the Save Our Everglades initiative as well as identifies funding sources for the resulting debt service;
- Amends statutory language to revert to previous law relating to the application of the excise tax on documents for transactions involving legal entities (referred to as the *Crescent Heights* Fix);
- Creates a housing assistance voucher program;
- Provides requirements for Counties levying the surtax;
- Specifies that any uncommitted surtax funds for the purpose of homeownership or rental housing assistance shall be reallocated in subsequent years at a rate of 35 percent for homeownership and 35 percent for rental assistance activities; and
- Authorizes the Department of Revenue to adopt implementing emergency rules for s. 201.02, Florida Statutes, as amended in [SB 2430](#).

Four amendments were adopted. The most significant was from **Representative Lopez-Cantera**, who proposed to eliminate bill language that would authorize bonds for the Florida Forever and Save Our Everglades programs. The amendment would eliminate all funding for these programs. The amendment was a contentious issue with significant opposition by Democratic members and it warranted a number of questions of the amendment sponsor. **Representative Lopez-Cantera** contended that provisions to fund the popular land conservation programs would jeopardize the other beneficial provisions in the bill. The amendment was adopted largely along party lines.

The remaining amendments were technical and clarified language regarding ownership transfer and the minimum threshold of 35 percent for homeownership assistance and rental housing.

The bill was rolled to a third reading. The adoption of **Representative Lopez Cantera's** amendment was a dramatic setback for environmental interests and those promoting Growth Management/Land conservation policies. The Florida Forever program represents the State's most significant vehicle for the purchase of environmentally sensitive lands for conservation purposes.

[SB 2430](#) will now be considered on final passage by the House.

AIF supports efforts to close this type of doc stamp loophole, but we do oppose any efforts to change the way certain types of properties are transferred by small business owners and families.