



**HOUSE COMMITTEE ON APPROPRIATIONS**  
2009-10 Legislative Session

**FISCAL NOTE**

**HOUSE BILL: 1736      PRINTER'S NO: 3440      PRIME SPONSOR: Godshall**

<b>FISCAL IMPACT SUMMARY</b>	<b>FY 2009/10</b>	<b>FY 2010/11</b>
<b>Expenditure Increase/(Decrease):</b>		
General Fund	\$0	*See Analysis

**OVERVIEW:**

House Bill 1736 amends Act 72 of 1983, known as the Public Adjuster Licensing Law, and further provides for penalties.

Under this legislation, any person, partnership, association, or corporation that willfully violates the following sections of this act shall be guilty of a felony of the third degree:

- Material misrepresentation of the terms and effect of any insurance contract.
- Engaging in, or attempting to engage in, any fraudulent transaction with respect to a claim or loss that licensee is adjusting.
- Misrepresentation of the services offered or the fees or commission to be charged.
- Misappropriation, conversion to his own use or improper withholding of moneys held on behalf of another party to the contract.
- To pay or cause to be paid any commission or any other compensation or thing of value whatsoever to any agent, broker, attorney, partner, clerk, servant, employee, or any other person, whosoever hired by or employed by or with any insured named in any policy of insurance as an inducement or solicitation to influence the contracting of services for the services of public adjuster or public adjuster solicitor with any insured. A public adjuster may utilize the services of any person authorized by the insurer to assist in connection with an insurance claim: Provided said services must not conflict with the services required to be rendered by a public adjuster.
- The commission of fraudulent practices.

A violation of any other provision of this act shall constitute a misdemeanor and, upon conviction thereof, a violator shall be sentenced to pay a fine of not less than \$500 or more than \$1,000 for each violation and conviction. Prosecution for any violation under this section is at the discretion of the insurance commissioner and may be instituted by the insurance commissioner or his duly authorized representative.

A new §7.1 (civil remedy) is added and provides that a violation of this act may also be a violation of the Unfair Trade Practices and Consumer Protection Law.

This act takes effect in 60 days.

**ANALYSIS:**

Because House Bill 1736 increases penalties for violations of certain sections of Public Adjuster Licensing Law from an ungraded misdemeanor to a felony of the third degree, punishable by up to seven years in prison and/or a fine up to \$15,000. The actual number of individuals who may be convicted under the increased penalty is not quantifiable.

The average cost in 2010 for incarcerating an offender in a state correctional institution is almost \$35,000 per year (including health care). According to the Board of Probation and Parole, in 2010 the average cost for state parole supervision was \$3,000 per year. The average cost in 2010 for incarceration in a county jail is approximately \$50 per day or \$18,250 per year. The average cost for supervising a county adult offender in 2010 was \$800 per year.

While this legislation is expected to have minimal fiscal impact, if considered in conjunction with other legislation that increases the grading of penalties or creates new penalties, the impact to state and/or local governments may be substantial.

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**DATE:** June 29, 2010

**General Note and Disclaimer:** *This Fiscal Note was prepared pursuant to House Rule 19(a), and the elements considered and reported above are required by Section 5 of the rule. Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.*