

STORAGE NAME: h4047.fs

DATE: March 27, 1998

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
FINANCIAL SERVICES
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 4047

RELATING TO: Insurance (motor vehicle liability; health insurance)

SPONSOR(S): Rep. Ziebarth

COMPANION BILL(S): SB 1416 (s)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) FINANCIAL SERVICES
 - (2)
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

Currently, the Department of Insurance regulates the rates and terms of health insurance policies delivered or issued for delivery in Florida. Under this bill, health insurance policies delivered or issued for delivery in Florida to residents of foreign countries would not be subject to regulation by the Department of Insurance as to policy terms or premiums. The exemption from regulation would not exempt the policy from statutorily-mandated policy language or coverages.

Motor vehicle rental companies are currently able to obtain a limited agent's license that allows company employees to sell motor vehicle liability insurance that provides coverage over and above the standard liability coverage provided by the rental company. The bill would allow a rental company operating under the limited agent's license to sell motor vehicle liability insurance in any amount.

The bill has no fiscal impact.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Health insurance form and rate regulation

The forms (contract terms) and rates for health insurance policies delivered or issued for delivery in Florida are regulated by the Department of Insurance under ss. 627.410 and 627.411, F.S. Section 627.410, F.S., generally requires that forms be filed with and approved by the department before they are used, and s. 627.411, F.S. sets out the grounds for disapproval. The department is required to disapprove a form for health insurance if the benefits provided by the policy are unreasonable in relation to the premium charged.¹

When a form is used by a domestic (i.e., Florida-domiciled) insurer for delivery outside of Florida, the form is subject to regulation under ss. 627.410 and 627.411, F.S., if the insurance regulator of the jurisdiction in which the form is delivered notifies the Florida Department of Insurance that the form is not subject to approval or disapproval in that jurisdiction.²

Parts VI and VII of Chapter 627, F.S., set out the language of several mandatory policy provisions for individual and group health insurance policies,³ and require health insurance policies to contain certain mandatory benefits.⁴

Motor vehicle excess liability insurance

Generally, motor vehicle insurance policies may be sold only by general lines insurance agents, who are subject to extensive examination, licensure, and continuing education requirements. Each agent within a general lines insurance agency must be separately licensed.⁵

The Insurance Code also provides for limited licenses under which persons are authorized only to sell a particular kind of insurance in particular circumstances. In some cases, a limited license may be issued to a business entity rather than an individual, enabling any employee of the entity to sell the insurance.

¹ Paragraph 627.411(1)(e), F.S.

² Subsection 627.410(5), F.S.

³ See, e.g., s. 627.607, F.S., relating to time limits on certain defenses, s. 627.608, F.S., relating to grace periods, or s. 627.610, F.S., relating to notice of claims.

⁴ See, e.g., s. 627.6056, F.S., relating to coverage for ambulatory surgical center services, s. 627.6408, F.S., relating to diabetes treatment services, s. 627.6409, F.S., relating to osteoporosis, or s. 627.6418, F.S., relating to mammograms.

⁵ See, generally, Parts I and II, Chapter 626, F.S.

A limited license to sell motor vehicle excess liability insurance can be issued to an employee of a general lines agent, an employee of a business that rents or leases motor vehicles, or to an office of a business that rents or leases motor vehicles (provided that insurance is sold only by full-time salaried employees of the business).⁶ Motor vehicle "excess" liability insurance is liability coverage that begins where the standard liability coverage⁷ provided by the vehicle lessor leaves off. The authority conferred by the limited license applies only to insurance on motor vehicles rented from the business for a period of 60 days or less, and requires that the lessee be notified that his or her personal motor vehicle policy may provide additional excess coverage.

B. EFFECT OF PROPOSED CHANGES:

Health insurance form and rate regulation

Health insurance policies delivered or issued for delivery in Florida to residents of foreign countries would not be subject to rate or form regulation under s. 627.410, F.S. The policy could be sold only by an agent who was licensed by the Department of Insurance and appointed by the insurer.

The exemption from form and rate regulation would not exempt the insurer from statutorily-mandated policy language or coverages; however, the department would not be able to use regulatory processes to enforce these requirements.⁸

Motor vehicle excess liability insurance

The limited license for motor vehicle excess liability insurance (which allows any number of rental company employees to transact insurance as if they were individually licensed agents) would be expanded to allow a motor vehicle rental company or its employees to sell liability insurance in any amount, rather than allowing only the sale of liability insurance that was over and above the standard liability insurance provided by the rental company. The other requirements applicable to this limited license would not be changed.

The motor vehicle liability insurance authorized to be sold by rental company employees under a limited agent's license is more likely to duplicate a customer's existing motor vehicle insurance than the excess liability insurance that is currently sold under the limited license.

⁶ See s. 626.321(1)(d), F.S.

⁷ Under s. 627.7263, F.S., the lessee's motor vehicle insurance is primary, that is, must be exhausted before any other insurance may be applied, if there is a notice to that effect in the rental agreement. According to the Department of Insurance, in those circumstances, "standard" coverage is the lessee's own insurance coverage, and when the lessor's insurance is primary, the "standard" coverage typically consists of the statutory minimum coverages (personal injury protection and property damage liability with limits of \$10,000/\$20,000).

⁸ Presumably, these requirements could be enforced only when a person aggrieved by the failure of a policy to include mandated coverages or mandated language sued the insurer.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Yes. The Department of Insurance would no longer regulate the forms or rates of health insurance policies delivered or issued for delivery in Florida to residents of foreign countries.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Yes. The bill allows an insurer to deliver or issue for delivery in Florida an unregulated health insurance policy covering a resident of a foreign country. The bill also expands the scope of the motor vehicle insurance that a rental company can sell under a limited agent's license.

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Sections 626.112, 626.321, and 627.410, F.S.

E. SECTION-BY-SECTION RESEARCH:

Section 1 amends s. 626.112, F.S., relating to licensure of insurance agents, to require that when an unregulated health insurance policy is sold in Florida to a foreign resident, the transaction must be conducted by a Florida-licensed and appointed insurance agent.

Section 2 amends s. 626.321, F.S., relating to limited agent's licenses, to expand the scope of motor vehicle insurance that may be sold under a rental company's limited license.

Section 3 amends s. 627.410, F.S., relating to form filing and approval, to exempt health insurance policies delivered or issued for delivery in Florida to foreign residents.

Section 4 provides that the bill will take effect upon becoming a law.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. **DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

1. Direct Private Sector Costs:

Persons who are technically residents of another country but who spend substantial amounts of time in Florida could be put at a disadvantage relative to Florida residents by the provision authorizing the sale in Florida of unregulated health insurance policies to foreign residents, in that they could be charged more than would otherwise be allowed for a policy providing less coverage than would otherwise be allowed. In addition, according to the Department of Insurance, "If enacted, the DOI could not adequately protect any providers in Florida to whom the benefits have been assigned."

2. Direct Private Sector Benefits:

A Florida-domiciled health insurer would have additional opportunities to market products to foreign residents. Currently, a Florida-domiciled health insurer may sell an unregulated policy to a foreign resident only if the policy is delivered or issued for delivery outside of Florida; the bill would allow the insurer to deliver such a policy to a foreign resident within Florida. Proponents of the bill have indicated an intention to market these policies in international airports.

3. Effects on Competition, Private Enterprise and Employment Markets:

See above.

D. **FISCAL COMMENTS:**

N/A

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. **APPLICABILITY OF THE MANDATES PROVISION:**

N/A

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B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

N/A

V. COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON FINANCIAL SERVICES:

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