

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 106

SPONSOR: Banking and Insurance Committee and Senator Mitchell

SUBJECT: Insurance/Countersignature law

DATE: October 5, 1999 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Deffenbaugh</u>	<u>Deffenbaugh</u>	<u>BI</u>	<u>Favorable/CS</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

Committee Substitute for Senate Bill 106 provides an exception to the current requirement that any policy of property, casualty, or surety insurance covering a subject of insurance located or to be performed in Florida, must be countersigned by a licensed agent who is a Florida resident. The bill provides an exception for policies issued by insurers whose agents represent only one company or group of companies under common ownership and for which a Florida resident agent is the agent of record and the application has been lawfully submitted to the insurer. Therefore, this exception from the countersignature law would not apply to policies sold by insurers that use independent agents who sell policies for various companies.

This bill substantially amends section 624.426 of the Florida Statutes.

II. Present Situation:

Pursuant to s. 624.425, F.S., any policy of property, casualty, or surety insurance covering a subject of insurance located or to be performed in Florida, must be countersigned by a licensed agent who is a Florida resident. The resident agent may not sign or countersign in blank any policy to be issued outside his or her office. However, a resident agent may give a written power of attorney to the issuing insurance company to countersign such documents by imprinting his or her name rather than manually countersigning the documents. An agent may not give a power of attorney to any other person to countersign in his or her name unless the person is directly employed by the agent in the office of the agent.

A nonresident of Florida can obtain a nonresident insurance agent license in Florida. However, s. 626.741, F.S., prohibits a nonresident general lines agent (property and casualty insurance) from soliciting or effecting insurance contracts in Florida unless he or she is accompanied by a countersigning resident agent. All insurance policies written under a nonresident general lines agent license on risks or property located in Florida must be countersigned by a resident Florida agent.

Section 624.426, F.S., provides for certain exceptions to the resident agent countersignature law. A countersignature is not required for: (a) contracts of reinsurance, (b) policies of insurance on the rolling stock of railroad companies doing a general freight and passenger business, or © U.S. Customs surety bonds issued by a corporate surety, approved by the U.S. Department of Treasury with the United States as beneficiary.

It is argued that the present law serves to protect consumers by assuring that an agent residing in Florida, who is knowledgeable about Florida law, is accessible to the policyholder and is subject to the legal responsibilities associated with being the agent of record. It also argued, however, that the law serves to protect the economic interests of Florida resident agents by at least indirectly assuring them part of the commission on the policy. Some insurers state that the law imposes unnecessary administrative costs and delay by requiring a policy to be sent back to an agent for a countersignature prior to issuance of the policy to the policyholder, after the agent has already submitted the policy application to the insurer. Although the insurer may legally obtain a power of attorney from the agent to meet the countersignature requirement, doing so may be unacceptable to the internal policies and procedures of the insurer and/or the agent. For example, insurers and agents may not want a power of attorney to be construed as making the agent an “employee” of the insurance company.

According to the American Insurance Association, only seven states, including Florida, currently require that insurance policies be countersigned by a resident agent.

III. Effect of Proposed Changes:

The bill provides an exception to the current requirement that a policy of property, casualty, or surety insurance covering a subject of insurance located in Florida, must be countersigned by a Florida resident agent. The exception would be for policies issued by insurers whose agents represent only one company or group of companies under common ownership and for which a Florida resident agent is the agent of record and the application has been lawfully submitted to the insurer.

The bill’s exception from the countersignature law would not apply to policies sold by insurers that use independent agents who sell policies for various companies.

The bill does not provide an exception to, or otherwise affect, the provisions of s. 626.741, F.S., which require that insurance policies written under a nonresident agent license on risks or property located in Florida must be countersigned by a resident Florida agent.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

By limiting the exception to agents who represent only one insurer, a question of equal protection may be raised. To be constitutional, there must be a rational basis for making a distinction between independent and exclusive agents for purposes of the countersignature law.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The bill will reduce administrative costs of insurers that use exclusive agents by eliminating the requirement that policies be sent back to the agent for a countersignature prior to policy issuance. The bill is not expected to have any impact on the commissions paid to such agents, who may also have reduced administrative costs.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.