

STORAGE NAME: h0765z.hcs
DATE: June 2, 2000

****AS PASSED BY THE LEGISLATURE****
CHAPTER #: 2000-202, Laws of Florida

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
HEALTH CARE SERVICES
FINAL ANALYSIS**

BILL #: HB 765 (Passed as SB 828)
RELATING TO: Insurance/Medicare Supplement Policy
SPONSOR(S): Representative Hart
TIED BILL(S):

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

- (1) HEALTH CARE SERVICES YEAS 14 NAYS 0
 - (2) INSURANCE YEAS 10 NAYS 0
 - (3) GENERAL GOVERNMENT APPROPRIATIONS YEAS 11 NAYS 0
 - (4)
 - (5)
-

I. SUMMARY:

Passed by the Legislature as SB 828. On June 5, 2000, SB 828 became chapter 2000-202, Laws of Florida, with the Governor's Signature.

HB 765 excludes Medicare supplement insurance offered by labor organizations from the definition of "Medicare supplement policy." As a result, labor organizations would be able to negotiate with underwriters to develop a product that would apply on a nationwide basis, rather than having to conform policies specifically to Florida law. This would facilitate the issuance of multi-state policies by labor organizations. Policies would still be required to conform to the laws of the state where the master policy is issued.

The bill would not have a fiscal impact on state or local government.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Chapter 627, F.S., provides for the regulation of insurance rates and contracts. Part VIII of ch. 627, F.S., is specific to Medicare supplement policies. This part, consisting of ss. 627.671-627.675, F.S., is the "Florida Medicare Supplement Reform Act." Section 627.672, F.S., provides the applicable definitions of terms used in this part. Subsection (1) of s. 627.672, F.S., defines "Medicare supplement policy" as:

a health insurance policy or other health benefit plan offered by a private entity to individuals who are entitled to have payments for health care costs made under Medicare, Title XVIII of the Social Security Act ("Medicare"), as presently constituted and as may later be amended, which provides reimbursement for expenses incurred for services and items for which payment may be made under Medicare but which expenses are not reimbursable by reason of the applicability of deductibles, coinsurance amounts, or other limitations imposed by Medicare.

This definition provides no exemptions for any type of Medicare supplement policies, without regard to the source of the coverage. Prior to a 1988 rewrite, the definition of Medicare supplement policy in s. 627.672, F.S., did contain a specific exemption for group employer- and labor organization-provided Medicare supplement policies, as a part of the definition of such policies. The exemption was deleted because a then current National Association of Insurance Commissioners' committee recommended model act contained no such exclusion. Later that same year, the National Association of Insurance Commissioners failed to concur with its committee's recommendation.

The Department of Insurance has promulgated rules regarding Medicare supplement insurance policies. Specifically, Rule 4-156.002(2), Florida Administrative Code, exempts policies or contracts for Medicare supplement insurance offered by employer groups or labor organizations from regulation, but the rule is superseded by statute. The department indicates that it has recently proposed deleting this exemption, and has workshopped a version of the Medicare supplement rules with this revision and has received no comments from industry objecting to this department decision. The department indicates that its change in rule was designed to reflect the department's regulatory practice, to wit: because

these plans are providing Medicare supplement benefits, under the definition of Medicare supplement insurance, these plans must comply with applicable insurance requirements.

Out-of-state insurers that issue Medicare supplement policies to Florida residents are required to file a master copy of the policy and any certificate used in the state with the DOI. Additionally, every insurer issuing this type of policy in the state is required to report to the DOI every policy and certificate number and the date of issuance. Insurers that offer Medicare supplement insurance also must meet certain marketing standards and follow certain provisions for issuance, cancellation, and nonrenewal. Additionally, insurers offering this type of insurance are required to file with the DOI rates and rating schedules and demonstrate compliance with the loss ratio standards set forth in s. 627.6745, F.S.

The federal Social Security Act definition of "Medicare supplement policy" as found under 42 U.S.C. s.1395ss, subpart (g)(1), contains an exemption for policies issued by employer groups or labor organizations.

Advocates for this bill indicate that Florida is one of only two states that does not exclude Medicare supplement insurance policies negotiated by labor organizations from the state's Medicare supplement policy regulation.

C. EFFECT OF PROPOSED CHANGES:

HB 765 will provide for the exclusion of labor organization Medicare supplement insurance from the definition of "Medicare supplement policy" as part of the "Florida Medicare Supplement Reform Act."

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 627.672(1), F.S., relating to the definition of "Medicare supplement policy" as used in the "Florida Medicare Supplement Policy Reform Act," to exclude from the definition such policies or plan of one or more labor organizations, or of the trustees of a fund established by one or more labor organizations, or a combination thereof, for employees or former employees, or a combination thereof, or for members or former members, or a combination thereof, of the labor organizations.

Section 2. Provides a July 1, 2000, effective date.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

A labor organization could negotiate coverage for its members or former members on a nationwide basis without being required to have a state-specific policy.

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

Unknown.

D. FISCAL COMMENTS:

None.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the authority that counties or municipalities have to raise revenue in the aggregate.

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

The bill does not reduce the percentage of a state tax shared with counties or municipalities.

STORAGE NAME: h0765z.hcs

DATE: June 2, 2000

PAGE 5

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 16, 2000, the Committee on Health Care Services adopted one amendment which deleted the exclusion of *employer* Medicare supplement insurance policies from the bill. As a result, such policies will remain subject to the Florida Medicare Supplement Reform Act. This revision also made HB 765 identical to its Senate companion, SB 828.

On March 24, 2000, The House of Representatives substituted SB 828 for HB 765, and passed the bill.

VII. SIGNATURES:

COMMITTEE ON Health Care Services:

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STORAGE NAME: h0765z.hcs

DATE: June 2, 2000

PAGE 6