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HOUSE OF REPRESENTATIVES
COMMITTEE ON
INSURANCE
ANALYSIS

BILL #: HB 747

RELATING TO: Credit insurance

SPONSOR(S): Representative(s) Brown

TIED BILL(S):

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

(1) INSURANCE
(2) BANKING
(3) COUNCIL ON COMPETITIVE COMMERCE
(4)
(5)

I. SUMMARY:

The Department of Insurance issues limited licenses for the sale of three different types of credit-based insurance products: credit life or disability, credit property, and credit insurance. Virtually all licenses are issued to entities such as retail merchants, automobile dealerships, or finance companies, rather than to individuals.

The entities eligible to obtain a limited license to sell credit life or disability insurance would be restricted to lending or financial institutions. Lending or financial institutions licensed to sell credit life or disability insurance also would be permitted to obtain a single license to sell credit property insurance and credit insurance.

Entities could obtain a single license or appointment covering all of their offices or branch offices, rather than having to secure one for each office. Loan officers involved in a loan transaction would not be subject to the statutory prohibition against the sale of insurance in connection with the same loan.

Prior to sale, rather than securing the *acknowledgement* of certain product terms from the purchaser of credit life insurance, the agent instead would be required to *disclose* these terms to the purchaser. In those instances where credit life insurance is sold over the telephone, through the mail, or electronically, the agent would be required to make these disclosures within 30 days from the date the policy takes effect, rather than prior to sale. The borrower then would have 30 days from the date the disclosures are received to rescind the coverage.

For fiscal year 2001-02, based on the assumptions utilized, the bill would have a recurring negative fiscal impact on state government of $389,826 and on county government of $43,314.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

1.	Less Government	Yes []	No []	N/A [x]
2.	Lower Taxes	Yes []	No []	N/A [x]
3.	Individual Freedom	Yes []	No []	N/A [x]
4.	Personal Responsibility	Yes []	No []	N/A [x]
5.	Family Empowerment	Yes []	No []	N/A [x]

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

B. PRESENT SITUATION:

Lines of credit-related insurance

The Department of Insurance issues limited licenses for the sale of three different types of credit-based insurance products: credit life or disability, credit property, and credit insurance.[1] Virtually all licenses are issued to entities such as retail merchants, automobile dealerships, banks or finance companies, rather than to individuals. Each branch office or place of business of the entity must obtain a license to sell the insurance product and post the license in a visible location. Licensees, whether an individual or entity, are appointed by an insurer to market the particular insurance product at their place of business. Applicants for these limited licenses must undergo a background investigation and submit a set of fingerprints. Applicants are not required to take a licensure examination or, once licensed, take continuing education courses. Limited lines agents may not hold a license as an agent for any other kind or class of insurance.

>*Credit life or disability insurance* covers a credit holder's debt in case of death or disability. Both individuals and entities can be licensed to sell this product. An individual seeking a limited license to sell credit life or disability insurance must be:

employed by a life or health insurer as an officer or other salaried or commissioned representative, or

employed by or associated with a lending or financial institution or creditor.

Except for lending or financial institutions, entities which hold a credit life or disability license also may sell credit property insurance. The entity selling credit life or disability insurance is required to submit only one license application. However, the entity must obtain a license for each office, branch office, or place of business and pay the required appointment fees. However, these entities are not required to pay additional application fees for licenses issued to these offices or branches.

>*Credit property insurance* insures against the loss of personal property used as collateral for securing a loan or on personal property purchased under an installment sales agreement. Any individual, other than an employee of a financial institution, may be licensed to sell this

[1] See section 626.321(1)(e)(f) and (g), F.S.

insurance product. Except for financial institutions, entities holding a license to sell credit life or disability insurance also may be licensed to sell credit property insurance.

>*Credit insurance* covers loss or damage resulting from the failure of debtors to pay their obligations to creditors (including loss or damage resulting from the involuntary unemployment of the debtors). The licensing provisions for entities licensed as credit life or disability apply to entities licensed as credit insurance agents. Apparently, then, both individuals and entities may be licensed to sell this product subject to the same limitations as apply to credit life or disability licensees. It is unclear if this means financial institutions can or cannot be licensed to sell this product. Nonetheless, some financial institutions do enter into "debt cancellation/deferment agreements" with borrowers. Under these agreements, the financial institution will cancel or suspend a debt in the event of the death, unemployment, or disability of the borrower. Unlike credit insurance, these agreements are not regulated as insurance products.

Acknowledgement of disclosures

Agents selling credit life insurance must obtain, prior to sale, a separate written acknowledgment from the borrower that the borrower understands that the coverage is not needed to obtain the loan, that the coverage may be deferred, and that the coverage will be terminated when the borrower reaches a certain age.[2]

Favored agent prohibitions

Agents selling credit and credit property insurance are subject to the general prohibition against a loan officer involved in a loan transaction from selling insurance in connection with that same loan.[3]

License and appointment fees

Regardless of the type of limited license, license application fees can cost approximately $150. License fees for a branch office of an entity applicant can run approximately $50. Total fees for limited appointments, original and biennial renewal, are $60 per appointment. [4] Of this amount, $42 is the appointment fee paid to the Department of Insurance, $12 is state tax, and $6 is county tax.

C. EFFECT OF PROPOSED CHANGES:

The entities eligible to obtain a limited license to sell credit life or disability insurance would be restricted to lending or financial institutions. Lending or financial institutions licensed to sell credit life or disability insurance also would be permitted to obtain a single license to sell credit property insurance and credit insurance.

Entities would be allowed to file a single application covering the sale of multiple credit products. Entities regulated by the U. S. Comptroller of the Currency, the Securities and Exchange Commission, or the Department of Banking and Finance would not have to comply with the requirement to include fingerprints with the application.

Entities could obtain a single license or appointment covering all of their offices or branch offices, rather than having to secure one for each office. However, licensed entities would be required to file annually with the Department of Insurance the address and telephone number of each place of business selling credit insurance.

[2] Section 627.679(1)(b), F.S.
[3] Section 626.9551(2)(d), F.S.
[4] Section 624.501, F.S.

Sales of credit and credit property insurance would be exempted from the prohibition against loan officers involved in a loan transaction selling insurance in connection with the same loan.

Rather than securing, prior to sale, the *acknowledgement* of certain product terms from the purchaser of credit life insurance, the agent instead would be required to *disclose* these terms to the purchaser. In those instances where credit life insurance is sold over the telephone, through the mail, or electronically, the agent would be required to make these disclosures within 30 days from the date the policy takes effect, rather than prior to sale. The borrower then would have 30 days from the date the disclosures are received to rescind the coverage.

D. SECTION-BY-SECTION ANALYSIS:

N/A

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

	FY 2001-02	FY 2002-03
Insurer's Commissioner's Regulatory Trust Fund	($389,826)	(indeterminate)

See Section III.D., Fiscal Comments.

2. Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

County governments would see a reduction in the amount of revenues received from taxes paid as a part of total appointment fees. Counties receive $6 for each appointment. Assuming 7,219 fewer appointments, the fiscal impact would be a negative $43,314 in fiscal year 2001-02.

See Section III.D., Fiscal Comments.

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Certain entities now authorized to sell credit life or disability insurance would no longer be eligible to be licensed to sell credit life or disability insurance.

Those entities authorized to sell credit life or disability insurance and credit property insurance would benefit because they also could sell credit insurance to consumers. Since licenses for branch offices would no longer be required, the amount of appointment fees owed would be reduced. According to the Department of Insurance, agents with multiple credit licenses would be able to reduce their expenses by obtaining a single credit license.

Allowing entities selling credit insurance to make certain disclosures to a purchaser after the sale in lieu of having to obtain their "acknowledgment" prior to sale should facilitate the sale of credit insurance through telephonic or electronic means. This change could result in certain terms not being disclosed until after the sale has occurred. Consumers would have 30 days from the date the disclosures are received to rescind their coverage.

Additionally, companies offering credit insurance would not have to obtain fingerprints from their officers during the licensure process, if such entities are regulated by certain state or federal agencies. See Section V.C., Other Comments.

D. FISCAL COMMENTS:

Currently, there are 3,008 credit property and credit licensees. Assuming three appointments per licensee, that would produce a total of 9,024 appointments. Assuming an 80 percent reduction in the number of appointments as a result of this bill, appointment fee revenues would be reduced by $389,826 [7,219 x ($42 appointment fee + $12 state tax)]. These appointments are renewed biennially, explaining the difference in fiscal impact from one year to the next. This figure also assumes all appointments would be renewed in FY 2001-02.

IV. <u>CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION</u>:

A. APPLICABILITY OF THE MANDATES PROVISION:

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

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the authority that municipalities or counties have to raise revenues 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.

V. <u>COMMENTS</u>:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

On page 1, line 30, the bill restricts entity licenses to "lending or financing institution" entities, but does not define these institutions.

On page 3, line 16, relating to application requirements, the bill would “exclude the requirements of s. 626.171(5).” The meaning of this seems unclear. Does it mean the fingerprinting requirements of subsection (5) do not apply to applications filed by these entities? Or, does it mean that although the entity may submit one application, they must continue to submit fingerprints for each limited line regardless of having to file only one application?

The requirement that a licensed entity file the names and addresses of business locations is limited to the sale of credit insurance, even though the bill eliminates the license requirement as to all forms of credit-based insurance.

The express prohibition on the sale of credit property insurance by financial institutions in section 626.321(g) would be repealed. This change would seem to necessitate some conforming revision to section 626.321(1)(g) dealing with credit property insurance.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON INSURANCE:

Prepared by:	Staff Director:
Stephen T. Hogge	Stephen T. Hogge