

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Prepared By: Banking and Insurance Committee

BILL: SB 1060

INTRODUCER: Senator Diaz de la Portilla

SUBJECT: Termination of Insurance Appointments

DATE: April 23, 2006

REVISED: _____

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

I. Summary:

Insurance agents must be licensed by the Department of Financial Services (DFS) to act as an agent for an insurer and be appointed (i.e., given the authority by an insurer to transact business on its behalf) by at least one insurer to act as the agent for that particular appointing insurer. Under current law, when an insurer wants to terminate an appointment with an agent, the insurer must give a minimum of 60 days written notice to the agent. However, the agent and appointing entity (insurer) can shorten the 60 day appointment termination notice requirement by contract. The 60 day notice provision does not apply to the termination of agents based on grounds that would subject the agent to suspension or revocation of their agent license.

Senate Bill 1060 lengthens the termination notice requirement from 60 days to 120 days that appointing insurers must provide agents. The longer notice requirement is applicable to appointment contracts between agents and insurers entered into or amended on or after July 1, 2006. The 120 day termination notice time frame is an absolute minimum and the agent and appointing entity (insurer) can not shorten this time frame by contract. They may, however, lengthen the termination notice period by contract.

The bill maintains current law regarding termination of an agent based on grounds that would subject the agent to suspension or revocation of their agent license. Also, the bill does not change current law relating to an appointment termination by an agent in that the agent is still allowed to terminate an appointment at any time.

This bill substantially amends the following section of the Florida Statutes: 626.471.

II. Present Situation:

Licensure of Insurance Agents in Florida

In general, insurance agents transact insurance on behalf of an insurer and must be licensed by the Department of Financial Services (DFS or department) and be appointed (i.e., given the authority by an insurer to transact business on its behalf) by at least one insurer.¹ Requirements for insurance representatives vary by license, line of authority, and are based upon resident or nonresident license type. Classifications include: general lines agent, personal lines agent, health agent, life agent, managing general agent, and limited lines agent.² General requirements for agent licensure include submitting an application; paying required fees; satisfying pre-licensing examination requirements, when applicable; complying with requirements as to knowledge, experience, or instruction; and submitting fingerprints.³

Applicants for a resident agent license must be Florida residents. Applicants for a nonresident license must be licensed in good standing in their home state, but generally do not have to pass a pre-licensing examination because Florida has reciprocity agreements with all states to waive that requirement.

Insurance Agent Appointments

According to DFS, there are currently 191,511 insurance agents licensed in Florida that are appointed. These agents hold almost 2 million appointments. There are also approximately 120,000 agents who are licensed, but not currently appointed.

As noted previously, agents must be appointed by at least one insurer to act as the agent for that particular appointing insurer or insurers. There is no statutory limit on the number of appointments or on the number of classifications of appointments an agent can hold at a given time.⁴ The only restriction is that the agent must qualify and be licensed for each appointment held. Appointments must be renewed every 24 months and are in effect until suspended,

¹ Section 626.112, F.S.

² “General lines agents” are authorized under state law to transact any or all of the following lines of insurance: property, casualty, surety, health, and marine insurance (s. 626.015(5), F.S.). However, a general lines agent may sell health insurance without being separately licensed as a health agent only for those insurers also represented by that same agent as to property or casualty or surety insurance. “Personal lines agents” are general lines agents who only sell property and casualty insurance to individuals and families for noncommercial purposes (s. 626.015(15), F.S.). “Health agents” represent a health maintenance organization or an insurer covering health insurance only (s. 626.015(6), F.S.). “Life agents” generally represent insurers covering life insurance, annuity contracts or viatical settlements (s. 626.015(10), F.S.). “Managing general agents” are persons managing all or part of the insurance business of an insurer (s. 626.015(14), F.S.). A managing general agent is authorized to adjust and pay claims and negotiate reinsurance on behalf of the insurer. “Limited lines agents” are individuals, or in some cases entities, licensed as agents but limited to selling one or more of the following forms of insurance (each requiring a separate license): motor vehicle physical damage and mechanical breakdown; industrial fire or burglary; personal accident; baggage and motor vehicle excess liability; credit life or disability; credit insurance; credit property; crop hail and multiple peril crop insurance; in-transit and storage personal property; communications equipment property, communications equipment inland marine, or communications equipment service warranty agreement sales. (s. 626.321, F.S.). Applicants for a limited lines license generally do not have to satisfy any pre-licensing education or examination requirements to be licensed. Such applicants must, however, file an application with DFS, be fingerprinted and after obtaining a license, be appointed by an insurance company.

³Section 626.171, F.S.

⁴Section 626.331(1), F.S.

revoked, or terminated.⁵ To be appointed, the appointing entity files a form with DFS and pays a fee.⁶ Additionally, in most cases, at or before the time of appointment, the agent and insurer execute a letter of agreement or appointment contract to coincide with the appointment. The letter of agreement or appointment contract set forth the agreed upon terms of the appointment between the agent and insurer.

Under current law, an appointment can be terminated at any time by the appointing entity upon a minimum of 60 days written notice to the appointed agent.⁷ Additionally, the agent and appointing entity can shorten the 60 day appointment termination notice requirement by contract. The 60 day notice provision does not apply to agents who are terminated based on grounds that would subject the appointed agent to suspension or revocation of their agent license. Such grounds include lack of qualifications; material misstatement, misrepresentation or fraud in obtaining the license; willful misrepresentation or deception relating to an insurance policy or annuity contract; lack of trustworthiness; technical incompetence; violations of the Insurance Code; fraudulent or dishonest practices; and others.⁸

Pursuant to s. 626.471(4), F.S., an agent can terminate its appointment at any time as long as he or she gives notice to the appointing entity (the insurer) and DFS. However, there is no minimum notice length that applies when an agent is terminating the appointment.

III. Effect of Proposed Changes:

Section 1. Amends s. 626.471, F.S., pertaining to the termination of the appointment of insurance agents. The bill lengthens the termination notice period from 60 to 120 days that an appointing entity (insurer) must give an appointed insurance agent before terminating the agent's appointment.

The longer notice requirement is applicable to appointment contracts between agents and insurers entered into or amended on or after July 1, 2006. The 120 day termination notice time frame is an absolute minimum and the agent and appointing entity can not shorten this time frame by contract. They may, however, lengthen the termination notice period by contract.

The bill maintains current law regarding termination of an agent based on grounds that would subject the agent to suspension or revocation of their agent license. In other words, termination on such grounds can be made immediately without a minimum termination notice period. Also, the bill does not change current law relating to an appointment termination by an agent in that the agent is still allowed to terminate an appointment at any time.

Section 2. Provides an effective date of July 1, 2006.

⁵Section 626.381, F.S.

⁶Section 626.311(5), F.S.; s. 626.451, F.S.

⁷Section 626.471 (1), F.S.

⁸Section 626.611, F.S.; s. 626.621, F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

For independent insurance agents, a longer termination notice period allows the agent more time to find a new insurer for the insurance policies they have in their book of business. Independent agents represent two or more insurers. These agents own their book of business and are paid on a commission basis. If the agent is able to find new insurers to write the policies they have in their book of business, the agent is able to retain the commission on the policy and the policyholder does not have to obtain a new agent. For captive insurance agents, a longer termination notice period allows the agent more time to find a buyer and obtain the insurer's approval for sale of the agent's economic interest in their book of business. Captive agents sell insurance for only one insurer. These agents do not own their book of business, the insurer retains ownership. However these agents own an "economic interest" in their book of business. Owning an economic interest allows an agent, under certain circumstances, to sell the economic interest to a new agent at a negotiated price following termination of the agent's appointment with the insurer. In most cases, the insurer must approve any sale of an agent's "economic interest."

Insurance companies may be negatively impacted by no longer being allowed to negotiate terms for agent termination with no less than a 120-day notice period.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
