

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1501 CS

Agent Licensing

SPONSOR(S): Berfield

TIED BILLS:

IDEN./SIM. BILLS: SB 2432

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|-----------------------------------|------------------------|-------------------|----------------|
| 1) <u>Agriculture Committee</u> | <u>9 Y, 0 N</u> | <u>Blanchette</u> | <u>Reese</u> |
| 2) <u>Insurance Committee</u> | <u>18 Y, 0 N, w/CS</u> | <u>Freire</u> | <u>Cooper</u> |
| 3) <u>State Resources Council</u> | <u></u> | <u>Blanchette</u> | <u>Hamby</u> |
| 4) <u></u> | <u></u> | <u></u> | <u></u> |
| 5) <u></u> | <u></u> | <u></u> | <u></u> |

SUMMARY ANALYSIS

Part I of Chapter 636, F.S., requires the Office of Insurance Regulation to license and regulate prepaid limited health service organizations (PLHSOs). While similar to health maintenance organizations, PLHSOs offer a narrower variety of services and no surgical hospital services or emergency services. Current law states “[w]ith respect to a prepaid limited health services contract, a person may not, unless licensed and appointed as a health insurance agent in accordance with the applicable provisions of the insurance code” solicit contracts or procure applications.

This bill provides that a person registered as a seller of travel with the Department of Agriculture and Consumer Services may engage in the solicitation and sale of a prepaid limited health services contract that covers the cost of transportation by an air ambulance when that air ambulance service is licensed under Florida law. However, a contract for such coverage is subject to all applicable provisions of law pertaining to prepaid limited health service organizations.

This bill does not have a fiscal impact on state or local governments.

This bill is effective July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Part I of Chapter 636, F.S., requires the Office of Insurance Regulation (OIR) to license and regulate prepaid limited health service organizations (PLHSOs). These organizations are similar to health maintenance organizations (HMOs), but are limited to providing the following services: ambulance, dental care, vision care, mental health, substance abuse, chiropractic care, podiatric care, and pharmaceutical services under s. 636.003(5), F.S. A PLHSO may not offer inpatient or surgical hospital services or emergency services, except as such services are incidental to a limited health service. PLHSO enrollees are under a prepayment arrangement (i.e., either a prepaid per capita sum or a prepaid aggregate fixed sum) and receive services from an exclusive panel of providers such as physicians, dentists, health providers or other persons or institutions which are licensed in Florida to deliver limited health services, as defined in s. 636.003(7), F.S.

According to representatives with the OIR, there are twenty-two authorized prepaid limited health service organizations which have received a certificate of authority to operate in Florida. Under s. 636.044, F.S., only licensed and appointed health insurance agents may sell PLHSO contracts. Officials with the Department of Financial Services (DFS) state that the agency licenses approximately 4,620 health or life, health and variable annuity agents which have been appointed to offer prepaid limited health service organization contracts. Although requirements vary by line of authority, general requirements for agent licensure include: being 18 years of age; 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. Applicants for a resident agent license must be Florida residents. Once authorized, most lines of agents must take continuing education courses.¹

As provided under s. 636.005, F.S., PLHSOs must be incorporated, and they may be either a for-profit or not-for-profit corporation. Such an organization may be incorporated in a state other than Florida, if it maintains a certificate of authority or license in that state to provide the same services which it intends to provide in Florida at the time it applies for a certificate of authority from the OIR. Section 636.006, F.S., prohibits PLHSOs from transacting any insurance business, other than that specified under the act or under their certificate of authority.

Sellers of Travel

Under Part XI of Chapter 559, F.S., the Department of Agriculture and Consumer Services (DACS) is responsible for registering "sellers of travel," which is any resident or nonresident who offers for sale, at wholesale or retail, prearranged travel or tour-guide services for individuals or groups.² Sellers of travel must annually register with the DACS, pay a fee of \$300, and receive a certificate evidencing proof of registration. If the seller of travel offers vacation certificates, the seller must obtain a performance bond not to exceed \$25,000.

¹ Chapter 626, F.S.

² Section 559.928, F.S.

Air Ambulance Services

Air ambulance services are regulated under Part III of Chapter 401, F.S., by the Department of Health (DOH). An "air ambulance" is any fixed-wing or rotary-wing aircraft used for transporting sick or injured persons requiring, or likely to require, medical attention during transport.³ An "air ambulance service" is a publicly or privately owned service, licensed by the DOH, which operates air ambulances to transport persons requiring medical attention during transport.⁴ To be licensed, an air ambulance service must apply to DOH, pay fees, meet specified standards and obtain insurance. To be permitted by the department, each transport vehicle is required to meet specified safety standards, have an appropriate communication system, and be furnished with essential medical supplies and equipment.

The United States Center for Disease Control and Prevention estimates that almost 50% of U.S. travelers heading to another country will experience some kind of health problem.⁵ A large majority of U.S. insurance companies, HMOs, PPOs, and Medicare do not provide adequate travel medical insurance, nor do they provide the necessary emergency medical evacuation which includes air ambulance transportation.⁶ International medical evacuation and air ambulance cost anywhere between \$8,000 and \$100,000 for a one-way flight.⁷ Air ambulances, sometimes the only way to safely transport a patient, are "specially equipped aircraft designed for relocating patients from one facility to another with continuous medical monitoring to ensure their safety."⁸

Effect of the Bill

This bill provides that a person registered as a seller of travel under s. 559.928, F.S., may engage in the solicitation and sale of prepaid limited health service contracts covering the cost of transportation by an air ambulance when that air ambulance service is licensed under s. 401.251, F.S. However, the contract for such coverage is subject to all applicable provisions pertaining to prepaid limited health service organizations under Chapter 636, F.S.

This provision allows any travel agent, as opposed to a health insurance agent, to sell a prepaid limited health services contract to any person to cover the cost of transportation provided by an air ambulance service. An individual's own health insurance may cover the cost of such transportation as well.

C. SECTION DIRECTORY:

Section 1. Creates s. 636.044(5), F.S., to allow persons registered in accordance with s. 559.928, F.S., as a seller of travel, to engage in the solicitation and sale of prepaid limited health service contracts that cover the cost of transportation by an air ambulance when that air ambulance service is licensed under s. 401.251, F.S.

Section 2. This act takes effect July 1, 2006.

³ Section 401.23(3), F.S.

⁴ Section 401.23(4), F.S.

⁵ www.worldwidemedical.com.

⁶ *Id.*

⁷ www.medjets.com/hlthcr.htm.

⁸ www.usairambulance.com/s-1/01.htm?usapn=8009481216.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: There may be an increase in the total amount of collected registration fees that are deposited by the Chief Financial Officer to the credit of the General Inspection Trust Fund of the Department of Agriculture and Consumer Services pursuant to s. 570.20, F.S.⁹
2. Expenditures:
None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
None.
2. Expenditures:
None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See "Fiscal Comments."

D. FISCAL COMMENTS:

Companies that provide air ambulance services will economically benefit by no longer being required to have travel agents licensed as health insurance agents in order to sell prepaid contracts for this service. Travel agents will also benefit by this change. An individual who purchases this product may be buying duplicate coverage as his or her own current health insurance may cover air ambulance transportation services.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require the counties or cities to take an action requiring the expenditure of funds, does not appear to reduce the authority that cities or counties have to raise revenues in the aggregate, and does not appear to reduce the percentage of a state tax shared with counties or municipalities.

3. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

⁹ Registration fees shall be \$300 per year per registrant according to s. 559.928(2), F.S.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The Department of Agriculture and Consumer Services has expressed concern about possible limited recourse for consumers (who have purchased insurance that covers the cost of transportation by an air ambulance) should the seller of travel subsequently go out of business before paying for that service. However, consumers may have an action for a breach of contract.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On April 5, 2006, the Insurance Committee approved HB 1501 with one technical amendment. The amendment substituted the word "insurance" in the original bill with the term "prepaid limited health service contract."

This analysis has been updated to reflect the changes made by the Insurance Committee at its April 5, 2006 meeting.