

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: CS/SB 1506

INTRODUCER: Banking and Insurance Committee and Senator Alexander

SUBJECT: Insurance - Filing Statements Electronically

DATE: March 8, 2006

REVISED: _____

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

I. Summary:

Committee Substitute for Senate Bill 1506 provides the Office of Insurance Regulation (OIR) with the ability to collect electronic financial statements or other information from viatical settlement providers, life expectancy providers, premium finance companies, and continuing care retirement communities. Currently, such entities submit these statements or filings only by hard copy. The bill authorizes the Financial Services Commission (Governor and Cabinet) to require by rule that certain statements or filings be submitted by electronic means in a computer-readable form, compatible with the electronic data format specified by the Commission. The bill also authorizes the OIR to require that records of a particular transaction of an insurer be submitted by remote electronic access.

Representatives with the OIR state that electronic filings facilitate efficient financial statement analysis and provide uniformity for insurance entities regulated by the office.

This bill substantially amends the following sections of the Florida Statutes: 626.9913, 626.99175, 627.836, 628.281, 651.026, and 651.0261.

II. Present Situation:

Office of Insurance Regulation

Current law allows for the following regulated entities to provide electronic filings, rather than hard copy submissions, to the Office of Insurance Regulation (OIR):

- Insurance administrators under s. 626.89(5), F.S.
- Motor vehicle service agreement companies under s. 634.137(5), F.S.
- Home warranty associations under s. 634.313(5), F.S.

- Service warranty associations under s. 634.415(6), F.S., and
- Legal expense insurance corporations under s. 642.032, F.S., referencing s. 624.424(1)(c), F.S.

In 2004-05, the legislature provided \$2.4 million to the OIR for the purpose of developing a system to receive electronic financial filings from insurance entities regulated by the office.¹ As a result, the OIR is developing the Financial Analysis and Monitoring/Electronic Document Management (FAME) system which collects these electronic filings. The OIR proposes expanding this program to capture the electronic financial filings from viatical settlement providers, premium finance companies, and continuing care providers because these filings are now collected in hard copy and manually keypunched into computer spreadsheets. Representatives with the OIR state that approximately 400 financial filings are submitted currently by these companies. The OIR would also prefer to have remote electronic access to records of particular transactions domestic insurance companies must currently make available to OIR upon written request.

Representatives with the OIR assert that electronic filings facilitate efficient financial statement analysis and provide uniformity for insurance entities regulated by the office. In addition, the FAME system permits the office to best utilize the expertise of its financial review staff that presently must devote a portion of work time to manually entering financial data. Using electronic filing formats will reduce the number of errors that result from manually entering such data. Further, the regulated entities presently using electronic filings have stated to the OIR that such filings are much more convenient and have reduced their costs.

Financial Services Commission

The Financial Services Commission (FSC) is composed of the Governor, the Attorney General, the Chief Financial Officer and the Commissioner of Agriculture. The FSC serves as the agency head of the Office of Insurance Regulation and the Office of Financial Regulation for purposes of rulemaking and for selecting the director of each of these offices and authorizing their organizational structure.²

Viatical Settlements

In general, a viatical settlement transaction is an agreement under which the owner of a life insurance policy (“viator”) sells the policy to another person (“viatical settlement provider”) in exchange for an up-front payment, which is generally less than the expected death benefit under the policy.³ Rather than retaining the policy, the provider usually sells all or a part of the policy to one or more investors (“viatical settlement purchasers”). In return for providing funds, these investors receive the death benefit, or a proportionate share thereof, upon the passing of the insured.

Under s. 626.9913, F.S., a viatical settlement provider licensee⁴ must file annually, on or before March 1, a statement containing specified financial and other information to the OIR and pay a

¹ Chapter 2004-268, L.O.F.

² Section 20.121(3), F.S.

³ The regulation of viatical settlements is under Part X of chapter 626, F.S.

⁴ A viatical settlement provider licensee is a person who is licensed to effectuate a viatical settlement contract.

license fee of \$500. Such statement shall include an audited financial statement, or, if such statement is not completed, an unaudited financial statement and an affidavit from an officer of the licensee stating that the audit has not been completed.⁵ Additionally, the annual statement must include a report of all life expectancy providers⁶ who have provided life expectancies to the provider for use in connection with a viatical settlement contract or investment. Further, information regarding a related provider trust⁷ established by the viatical settlement provider must be submitted. Failure to timely file the annual statement or pay the license fee is grounds for immediate license suspension.

Pursuant to s. 626.99175, F.S., life expectancy providers must register with the OIR providing specified background, financial, audit, and other information.

Premium Finance Companies

A premium finance company is a business that enters into a premium finance agreement with an insured by which the insured agrees to pay the company the amount advanced under the agreement to an insurer, in payment of premiums on an insurance contract, together with a service charge.⁸ Under s. 627.836, F.S., a licensed premium finance company must annually submit to its regulatory agency (the OIR), a report under oath containing such information as the OIR may require on or before March 1st.

Stock and Mutual Insurers

Part I of chapter 628, F.S., pertains to the regulation of stock and mutual insurers under the OIR. A stock insurer is an incorporated insurer with its capital divided into shares and owned by its stockholders while a mutual insurer is an incorporated insurer without permanent capital stock and its governing body is elected pursuant to the provisions contained in Part I. Under s. 628.281, F.S., an insurer is required to produce at its principal corporate offices in Florida, upon written request from the OIR, any records relating to a particular transaction or transactions of the insurer.

Continuing Care Retirement Communities

Chapter 651, F.S., provides for the licensure and regulation of Continuing Care Retirement Communities (CCRCs) by the OIR. Under s. 651.026, F.S., a CCRC must submit its annual report, on or before May 1, to the OIR which contains specified financial information. Furthermore, under s. 651.0261, F.S., if the OIR finds that information is needed to monitor the financial condition of a CCRC or to protect the public interest, the OIR may require a CCRC to submit a statement within 45 days after the end of each fiscal quarter.

III. Effect of Proposed Changes:

Section 1. Amends s. 626.9913, F.S., which pertains to the annual financial statement submitted by a viatical settlement provider licensee to the Office of Insurance Regulation. The bill

⁵ The licensee must file the audited financial statement by June 1.

⁶ A life expectancy provider is a person who determines life expectancies or mortality ratings used to determine life expectancies.

⁷ A related provider trust is a titling trust established by a licensed viatical settlement provider for the sole purpose of holding the ownership or beneficial interest in purchased policies in connection with a financial transaction.

⁸ Premium finance companies are regulated under Part XV of chapter 627, F.S.

authorizes the Financial Services Commission to promulgate a rule requiring all or part of the statements or filings required under this section to be submitted by electronic means in a “computer-readable form compatible with the electronic data format” as specified by the commission.

Section 2. Amends s. 626.99175, which applies to background, financial, audit and other information submitted by life expectancy providers to the OIR. The bill authorizes the Financial Services Commission to promulgate a rule requiring all or part of the statements or filings required under this section to be submitted by electronic means in a “computer-readable form compatible with the electronic data format” as specified by the commission.

Section 3. Amends s. 627.836, F.S., which applies to the annual report submitted by a premium finance company. The bill authorizes the Financial Services Commission to adopt a rule requiring all or part of the statements or filings required under this section to be submitted by electronic means in a “computer-readable form compatible with the electronic data format” as specified by the commission.

Section 4. Amends s. 628.281, F.S., which pertains to domestic stock insurers and mutual insurers. The bill provides that upon written request of the OIR, an insurer must provide the OIR with remote electronic access to records relating to a particular transaction or transactions of the insurer as designated by the OIR.

Section 5. Amends s. 651.026, which relates to annual financial statements submitted by Continuing Care Retirement Communities (CCRCs) to the OIR. The bill authorizes the Financial Services Commission to adopt a rule requiring all or part of the statements or filings required under this section to be submitted by electronic means in a “computer-readable form compatible with the electronic data format” as specified by the commission.

Section 6. Amends s. 651.0261, which pertains to quarterly statements submitted by Continuing Care Retirement Communities (CCRCs) to the OIR. The bill authorizes the Financial Services Commission to adopt a rule requiring all or part of the statements or filings required under this section to be submitted by electronic means in a “computer-readable form compatible with the electronic data format” as specified by the commission.

Section 7. Provides that the act shall take effect upon becoming a law.

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:

According to OIR officials, this bill will allow companies some measure of cost savings (reducing administrative overhead expenses) by allowing such companies to file their statements or filings electronically with the agency.

C. Government Sector Impact:

Representatives with the OIR state that there is no fiscal impact upon the agency to implement the provisions of this bill. The bill should reduce the workload associated with inputting data from current hard copy filings.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

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