

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1381 Branch Insurance Agencies
SPONSOR(S): Jobs & Entrepreneurship Council and Richter
TIED BILLS: **IDEN./SIM. BILLS:** SB 2702

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|---|-------------------------|---------------|----------------|
| 1) <u>Committee on Insurance</u> | <u>9 Y, 0 N</u> | <u>Davis</u> | <u>Overton</u> |
| 2) <u>Jobs & Entrepreneurship Council</u> | <u>13 Y, 0 N, As CS</u> | <u>Davis</u> | <u>Thorn</u> |
| 3) <u>Policy & Budget Council</u> | <u></u> | <u>Martin</u> | <u>Hansen</u> |
| 4) <u></u> | <u></u> | <u></u> | <u></u> |
| 5) <u></u> | <u></u> | <u></u> | <u></u> |

SUMMARY ANALYSIS

This bill addresses the issue of agent coverage of branch insurance agencies. Currently, the law provides that each insurance branch location must be in the full-time charge of a licensed general lines agent or life or health agent who is appointed to represent one or more insurers. Any entity that has established one or more branch places of business must have at least one licensed general lines agent who is appointed to represent one or more insurers at each agency location, including the headquarters. The agent in charge cannot be in charge of more than one location.

The bill allows the licensed agent in charge of a financial institution, registered securities dealer, or licensed funeral establishment, or an agency affiliated with such an entity, or a branch of such an agency, that is licensed or registered as an insurance agency, to be the agent in charge of branch locations. However, this allowance is subject to certain requirements. A licensed agent may serve as the agent in charge of branch locations as long as no insurance activities requiring licensure as an insurance agent occur at any location when the agent is not physically present, and no unlicensed employee at the location engages in any insurance activities requiring licensure as an insurance agent.

The bill also provides that a licensed insurance agent in charge of an insurance agency that is not affiliated with a financial institution, registered securities dealer, or licensed funeral establishment may also be the agent in charge of branch insurance locations. A licensed agent may serve as the agent in charge of branch locations as long as the same conditions exist as stated above: no insurance activities requiring licensure may take place when the agent is not physically present, and no unlicensed employee may engage in any activities that require agent licensure.

The Department of Financial Services (DFS) Division of Agent and Agency Services estimates that it will incur non-recurring expenses for changes to its computer system. The bill provides an appropriation of \$132,000 in nonrecurring funds from the Insurance Regulatory Trust Fund to implement the provisions of the bill.

This bill becomes effective on July 1, 2007.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government--- The bill allows financial institutions, securities dealers, funeral establishments, their affiliated agencies, agency branches, and all insurance agencies to have a licensed agent in charge to be the agent in charge of other branch locations.

B. EFFECT OF PROPOSED CHANGES:

BACKGROUND

Effective October 1, 2006, section 626.112(7), Florida Statutes (F.S.), requires that entities that act in their own name or under a trade name as an insurance agency obtain an insurance agency license for each place of business at which activity occurs that can only be performed by a licensed insurance agent.

A business establishment that primarily performs tasks that are unrelated to insurance is also subject to this requirement if it engages in any activity that may be performed only by a licensed insurance agent. Examples of such business establishments are financial institutions, securities dealers, and funeral establishments. Among other transactions, financial institutions transact life insurance and annuities, securities dealers transact investment products such as life insurance and annuities, and funeral homes transact pre-need policies.

Additionally, financial institutions, securities dealers, and funeral establishments are not exempt from the branch insurance agency provisions under section 626.747, Florida Statutes. This statute governs general lines insurance agents, and requires that each branch insurance agency be in the active full-time charge of a licensed general lines agent or life or health agent who is appointed to represent one or more insurers.¹ This statute applies to any insurance agent or agency, firm, corporation, or association which has established one or more branches.

PROPOSED CHANGES

Current section 626.747(1), F.S., is changed to section 626.747(1)(a), F.S. The bill adds a new subparagraph (b) which exempts financial institutions, securities dealers, funeral establishments, their affiliated agencies, and agency branches from the requirement that each branch location have its own full-time licensed general lines agent or life or health agent. The result of this subparagraph is to allow the licensed agent in charge of:

- a financial institution as defined in 655.005(1)(h),
- a securities dealer registered pursuant to section 517.12,
- a funeral establishment licensed pursuant to chapter 497, or
- an affiliated agency or a branch of such an agency,

to serve as the agent in charge of branch locations, so long as: (1) no insurance activities that would require a licensed insurance agent take place when the agent is not physically present at the branch location; and (2) no unlicensed employee at the branch location engages in unlicensed activity.

The bill also adds a new subparagraph (c) to section 626.747(1), Florida Statutes, which provides that the licensed agent in charge of an insurance agency not affiliated with a financial institution, a securities dealer, or a funeral establishment may also be the agent in charge of such additional branch office locations if insurance activities requiring licensure as an insurance agent do not occur at any location

¹ Section 626.747(1), F.S.

when the agent is not physically present and unlicensed employees at the location do not engage in any insurance activities requiring licensure as an insurance agent or customer service representative.

The bill also provides that for fiscal year 2007-2008, \$132,000 in nonrecurring funds from the Insurance Regulatory Trust Fund is appropriated to DFS for computer system changes necessary to implement the provisions of section 626.747, Florida Statutes.

C. SECTION DIRECTORY:

Section 1: Amends section 626.747, Florida Statutes; provides that subject to certain requirements, the licensed agent in charge of a financial institution, registered securities dealer, or licensed funeral establishment may also be the agent in charge of branch locations; provides that subject to certain requirements, all insurance agencies may have a licensed agent in charge of branch locations.

Section 2: Provides an appropriation of \$132,000 to the Department of Financial Services for the 2007-2008 fiscal year.

Section 3: Provides an effective date of July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The DFS Division of Agent and Agency Services estimates the following non-recurring expenditures:

Cost to make changes to the division's computer systems:

| | |
|---------------------------------------|-----------------|
| Online application (AALF/MyProfile) - | \$44,000 |
| Licensing database (ALIS) - | <u>\$88,000</u> |
| Total cost to change systems - | \$132,000 |

The bill provides an appropriation of \$132,000 in nonrecurring funds from the Insurance Regulatory Trust Fund to implement the provisions of the bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill will reduce the economic impact of having to place a licensed agent at each location, or alternatively, having to discontinue offering insurance products at certain locations that may be less productive than others.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not: require counties or municipalities to spend funds or to take any action requiring the expenditure of funds; reduce the authority that municipalities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

In its amended analysis dated April 3, 2007, DFS states that the Division of Agent and Agency Services cannot implement these provisions sooner than January 1, 2008, due to the need for computer system enhancements. The bill currently states that the bill will take effect on July 1, 2007.

D. STATEMENT OF THE SPONSOR:

Prior to 2005, Florida was the only state that did not require insurance agencies to be licensed. During the 2005 Legislative Session, the Legislature passed SB 1912 to bring Florida in line with the other states. The bill and its subsequent interpretations did not account for the ways financial institutions, securities brokers, and funeral homes offer various insurance products to their customers. This bill is a remedy to these unintended consequences while still keeping with the intent of the law. More specifically, the bill allows financial institutions and securities brokers to continue to offer insurance products to their customers at multiple locations as they were currently allowed prior to implementation of the new law. The bill also allows funeral directors who offer pre-need policies to their customers at multiple funeral home locations, which they were previously allowed to do. Financial Institutions, Securities Brokers and funeral homes will still be required to obtain an agency license. Thank you for your consideration of this matter.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES