

The Florida Senate
PROFESSIONAL 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: Commerce Committee

BILL: CS/CS/SB 1678

INTRODUCER: Regulated Industries Committee, Banking and Insurance Committee, and Senator Haridopolos

SUBJECT: Travel Insurance and Motor Vehicle Rental Insurance

DATE: April 12, 2007 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Emrich	Deffenbaugh	BI	Fav/CS
2.	Oxamendi	Imhof	RI	Fav/CS
3.	Gordon	Cooper	CM	Favorable
4.				
5.				
6.				

I. Summary:

The Committee Substitute for Committee Substitute (CS) provides changes to two limited insurance licenses issued by the Department of Financial Services (department). It changes the license for personal accident insurance to “travel insurance,” and changes the license for baggage and motor vehicle excess liability insurance to “motor vehicle rental insurance.”

The travel insurance license is expanded to cover accidental death and dismemberment of a traveler; trip cancellation, interruption, or delay; loss of or damage to personal effects or travel documents; baggage delay; emergency medical travel or evacuation of a traveler; or medical, surgical, and hospital expenses related to illness or emergency of a traveler. The CS authorizes timeshare developers, sellers of travel, and their subsidiaries or affiliates to obtain an insurance agent’s license to sell travel insurance. Such policies may be issued for terms longer than 60 days, but would be limited to coverage for travel of no longer than 60 days. Employee training and fingerprinting provisions are mandated for officers of the licensed entity.

The CS creates a definition of “travel insurance” as a separate type of insurance policy that may be issued. The Office of Insurance Regulation has raised concerns that this may allow for an insurance product that is primarily a health insurance product, but which is not subject to the requirements for health insurance policies.

The CS authorizes licensure of only the “parent entity” for a motor vehicle rental insurance license, rather than licensing each entity’s branch office, as under current law. The motor vehicle rental insurance license expands what is currently covered to include accidental personal injury or death of the lessee and passenger in a leased or rented motor vehicle. The CS revises the method licensing fees are calculated in order to be revenue neutral and requires license applicants to furnish specified information about each office or place of business to the department. The CS expands the current time period for which leases or rental agreements may be issued from 30 to 60 days.

The CS clarifies that limited insurance policies or certificates may only be sold by an authorized insurer or surplus lines insurer.

This CS substantially amends sections 624.501 and 626.321, Florida Statutes.

II. Present Situation:

Licensure of Insurance Agents in Florida

There are many different types of insurance representatives in Florida, including agents, customer representatives, service representatives, adjusters, and others.¹ In general, insurance agents transact insurance on behalf of an insurer or insurers. Agents must be licensed by the Department of Financial Services (department) to act as an agent for an insurer, and be appointed by each insurer. Requirements for insurance agents vary by line of insurance and whether the agent is a resident or a nonresident of Florida.²

General requirements for agent licensure include: being at least 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 for criminal background investigations. Applicants for a resident agent license must reside in Florida.

“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; credit property; crop hail and multiple peril crop insurance; in-transit and storage personal property; communications equipment property; communications equipment inland marine; and communications equipment service warranty agreement sales.³ 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 the department, be fingerprinted, and, after obtaining a license, be appointed by an insurance company. According to the department, there are 16,511 limited lines licensees.

¹ Chapter 626, F.S.

² Sections 626.112, F.S., and 626.171, F.S.

³ Section 626.321, F.S.

Personal Accident Insurance

A personal accident license⁴ may be issued to a full-time employee of a common carrier or employee or owner of a transportation ticket agency who may sell such ticket policies only in connection with the sale of transportation tickets, or to the full-time salaried employee of such an agent. Such a policy may not exceed a duration of 48 hours or the duration of a specified one-way trip or round trip.

A personal accident license may also be issued to a full-time employee of a business offering motor vehicles for rent or lease, or to a business entity offering motor vehicles for rent or lease.

Personal accident coverage covers accidental personal injury or death of the lessee and any passenger who is riding or driving with the covered lessee in the rental motor vehicle if the lease or agreement is for not more than 30 days, or if the lessee is not provided coverage for more than 30 consecutive days per lease period. However, if the lease is extended beyond 30 days, the coverage may be extended one time only for an additional 30 day period. Officials with the department state that there are 2,645 personal accident licensees.

Baggage and Motor Vehicle Excess Liability Insurance

A baggage and motor vehicle excess liability license⁵ may be issued to a common carrier or owner of a transportation ticket agency, which person is engaged in the sale or handling of transportation of baggage and personal effect of travelers, or to a business entity that offers motor vehicles for rent or lease if insurance sales activities authorized by the license are in connection with, and incidental to, the rental of a motor vehicle.

Entities applying for this license are required to obtain a license for each office, branch office, or place of business making use of the entity's license. The types of coverage offered under this policy include excess motor vehicle liability insurance which provides coverage in excess of standard liability limits for liability arising in connection with the negligent operation of a leased or rental vehicle provided that the lease or rental agreement is for not more than 30 days, that the lessee is not provided coverage for more than 30 consecutive days per lease period, and, if the lease is extended beyond 30 days, that the coverage may be extended one time only for a period not to exceed an additional 30 days. Coverage is also provided for the liability of the lessee for damage to a motor vehicle and for coverage for loss of personal effects. Department representatives state that there are 3,668 individuals/firms currently licensed for baggage and motor vehicle excess liability in Florida.

⁴ Section 626.321(1)(c), F.S.

⁵ Section 626.321(1)(d), F.S.

III. Effect of Proposed Changes:

Section 1. The CS amends s. 624.501, F.S., relating to the Department of Financial Services license fees. The CS provides an exception to the method for calculating agent/entity fees that must be paid by an insurer holding a motor vehicle rental insurance limited license created under section 3 of the CS. However, this exception will be revenue neutral for the department. The CS provides that for limited appointments as agent, the agent's original appointment and biennial renewal fee for each insurer must be equal to the number of offices, branch offices, or places of business covered by the license multiplied by the fees set forth in the statute. The current fees are \$60 for appointments and \$60 for renewals. Under the CS, an individual motor vehicle rental insurance entity may be licensed and appointment and renewal fees are based on the number of locations operating under that entity's license. Current law requires that each office, branch office or place of business is required to be licensed and fees are based on the number of licenses.

Section 2. The CS amends s. 626.321(1)(c) and (d), F.S., pertaining to limited licenses. Under s. 626.321(1)(c), F.S., the CS creates the travel insurance license to replace the personal accident license and expands the coverage to include health insurance and other products.

The CS defines "travel insurance" to mean insurance policies that cover risks incidental to travel, planned travel, or accommodations while traveling, including accidental death and dismemberment of a traveler; trip cancellation, interruption, or delay; loss of or damage to personal effects or travel documents; baggage delay; emergency medical travel or evacuation of a traveler; and medical, surgical, and hospital expenses related to an illness or emergency of a traveler.

Representatives with the Office of Insurance Regulation (OIR) have expressed concerns as to the medical benefits included within the definition of "travel insurance," above, because it may allow for a insurance product that is primarily a health insurance product, but which is not subject to the requirements that apply to health insurance policies. According to OIR, it has not approved filed insurance products for travel insurance as a type of property or casualty insurance if the *primary* benefit is health insurance while traveling. The OIR has disapproved these products and required them to be filed as a health insurance policy. However, property and casualty coverage may include medical coverage that is *incidental* to property coverage.⁶

The CS provides that travel insurance policies may be issued for terms longer than 60 days, but each policy must be limited to coverage of no longer than 60 days. The CS expands the types of entities that may be issued a license to include an entity or individual that is:

⁶ Sections 624.404 and 624.605(1)(q), F.S.; Rule 69O-167.006, F.A.C.

- The developer of a timeshare plan⁷ that is subject to an approved public offering statement under ch. 721, F.S. (Vacation Plans and Timesharing Law⁸);
- An exchange company operating an exchange program⁹ approved under ch. 721, F.S.;
- A managing entity operating a timeshare plan approved under ch. 721, F.S.;
- A seller of travel¹⁰ as defined under ch. 559, F.S. (Sellers of Travel Law); or
- A subsidiary or affiliate of any of the above entities.

The CS provides that a licensee require its employees who offer travel policies to receive initial training from a general lines agent¹¹ or an insurer authorized to transact insurance under ch. 624, F.S. The CS provides that for entities applying for a travel insurance agent license, the fingerprinting requirements apply to the president, secretary, treasurer, and any other officer or other person who directs or controls the travel insurance operations of the entity.

The CS amends s. 626.321(1)(d), F.S., relating to the baggage and motor vehicle excess liability insurance limited license, to replace that license with the motor vehicle rental limited license. The license applies only to motor vehicles that are the subject of a lease or rental agreement and occupants of the motor vehicle. The CS expands the coverage currently offered under the baggage and motor vehicle excess liability license to include accidental personal injury or death of the lessee and passenger in a leased or rented motor vehicle. The CS retains the current provisions for motor vehicle liability coverage in excess of standard liability limits; liability coverage for damage to the leased or rented motor vehicle; and coverage for loss of, or damage to, baggage, personal effects, or travel documents of a person renting or leasing a motor vehicle.

Insurance is available under this license only if the lease or rental agreement does not exceed 60 days, and the insurance coverage does not exceed 60 consecutive days per lease period. If the initial lease is extended, the insurance coverage may be extended one

⁷ Under a “timeshare plan,” in exchange for consideration, “a purchaser receives ownership rights in or a right to use accommodations, and facilities, if any, for a period of time less than a full year during any given year, but not necessarily for consecutive years.” Section 721.05(39), F.S. Both personal property and real property fall under the definition of a timeshare plan. Section 721.05(39)(a)-(b), F.S.

⁸ Chapter 721, F.S., provides for regulation of the offering, sale, management, and operation of real and personal property timeshare plans.

⁹ “Exchange company” means any person owning or operating, or owning and operating, an exchange program. Section 721.05(15), F.S. “Exchange program” means any method, arrangement, or procedure for the voluntary exchange of the right to use and occupy accommodations and facilities among purchasers. The term does not include the assignment of the right to use and occupy accommodations and facilities to purchasers pursuant to a particular multisite timeshare plan’s reservation system. Any method, arrangement, or procedure that otherwise meets this definition, wherein the purchaser’s total contractual financial obligation exceeds \$3,000 per any individual, recurring timeshare period, shall be regulated as a multisite timeshare plan in accordance with part II, s. 721.05(16), F.S.

¹⁰ Under ch. 559, F.S., “sellers of travel” must annually register with the Department of Agriculture and Consumer Services to be able to sell prearranged travel and tourist-related services or tour-guide services for individuals or groups, including, but not limited to, vacation or tour packages, or vacation certificates in exchange for a fee, commission, or other valuable consideration. The term includes any business entity offering membership in a travel club or travel services for an advance fee or payment. Section 559.927(10), F.S.

¹¹ General lines agents are authorized to transact any or all of the following lines of insurance: property, casualty, surety, health, and marine insurance. Sections 626.726 and 626.754, F.S.

time only, for up to 60 additional days. Currently, each of these time periods is limited to 30 days.

Rather than requiring each office or place of business to be licensed, the CS provides that a single motor vehicle rental license may be issued to a business entity that offers motor vehicles for rent or lease. The license would cover each office, branch office, or place of business making use of the entity's business name. The application for licensure must list the name, address, and phone number for each office, branch office, or place of business that is covered by the license and the licensee must notify the department of specific information as to new locations that are to be covered by the license. Additionally, the licensee must notify the department within 30 days after closing an office, branch office, or place of business and the department must delete that office from the subject license.

The CS creates s. 626.321(5), F.S., to clarify that the limited insurance policies or certificates identified in s. 626.321(1), F.S., can only be offered by an insurer authorized in Florida or a surplus lines insurer that is eligible in Florida.

Section 4. The CS provides an effective date of January 1, 2008.

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:

Timeshare entities, managing entities and sellers of travel would benefit under the provisions of the CS because they can now offer travel insurance coverage to their customers.

Rental car companies benefit by only having to obtain a single limited license to sell motor vehicle rental insurance. Even though the licensure fees are changed to

be revenue neutral, the company is relieved of the time and paperwork involved with obtaining multiple licenses.

C. Government Sector Impact:

The Department of Financial Services (DFS) anticipates an additional revenue loss. According to DFS, motor vehicle rental companies currently apply for both the Personal Accident license *and* the Baggage and Motor Vehicle Excess Liability license simultaneously. The CS as filed would likely result in potential licensees only applying for the proposed Personal Accident or Travel Protection license. Because of this, the department could see an estimated decrease of \$2,170 (434 x \$5.00) in revenue for licensing fees annually and a decrease of \$26,040 (434 x \$60) in revenue for appointment fees annually. (434 is the number of Baggage and Motor Vehicle Excess Liability licenses the department issued in fiscal year 05/06.).

However, the department also anticipates a revenue gain from the transfer of licensees from the Department of Agriculture and Consumer Services to DFS. There are approximately 8,721 sellers of travel licensed/registered with the Department of Agriculture and Consumer Services (DACS) and 632 timeshare entities licensed/registered with the Department of Business and Professional Regulation (DBPR) that could potentially apply for licensure with DFS due to this law change. Based on this, the department could see a one-time estimated revenue increase of \$514,415 (9,353 x \$55) in licensing fees and a \$561,180 (9,353 x \$60) increase in appointment fees recurring biennially.

According to DACS and DBPR, there are approximately 300 new sellers of travel licensed/registered and 50 new timeshare entities licensed/registered each year, respectively. Accordingly, the department could see an estimated \$19,250 (350 x \$55) increase in licensing fees annually.

The following table illustrates the aforementioned calculations.

1. Revenues

Trust Fund (Recurring)	FY 07-08 Amount/FTE	(FY 08-09) Amount/FTE	(FY 09-10) Amount/FTE
a. Issuance of only one license and one appointment.	(\$28,210)	(\$28,210)	(\$28,210)
b. Sellers of travel & timeshare appointments and renewals every 2 years (\$60 x 9,353)	\$561,180	\$0	\$561,180
c. Sellers of travel licensure: additional licensees each year (\$55 x 300); timeshare entities/individuals (\$55 x 50)	\$19,250	\$19,250	\$19,250
Total	\$1,066,635	(\$8,960)	(\$552,220)

Trust Fund (Non-recurring)			
Initial licensing of current registered sellers of travel and timeshare entities (\$55 x 9,353)	\$514,415		

2. Expenditures

According to DFS, “the CS would require enhancements to the department’s computer systems to allow new license types and to change the licensing database to allow a “single license” for a specific industry while tracking the locations” of those licenses. The department anticipates an expenditure of \$181,250 to make the required changes to its technology systems in order to accommodate the provisions of this act.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

VIII. Summary of Amendments:

None.

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