



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

**Provide limited government:** The bill requires the Department of Financial Services to issue a new limited license to qualified entities to transact business in the area of travel protection insurance.

**Safeguard individual liberty:** The bill seeks to increase the availability of travel protection insurance, thereby increasing consumers' confidence in planning travel despite possible risks.

#### B. EFFECT OF PROPOSED CHANGES:

### BACKGROUND

#### Limited Lines Insurance License

Insurance agents may be classified according to the number of products they sell, the type of products they sell, and their place of residency. A "general lines agent" is authorized under state law to transact any or all of the following lines of insurance: property, casualty, surety, health, and marine insurance. "Limited lines agents" are individuals or entities licensed as agents but are 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; or communications equipment property, communications equipment inland marine insurance, and communications equipment service warranty agreement sales. These limited licenses are provided for in section 626.321(1), Florida Statutes. General and limited lines insurance agents are regulated by DFS. 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. Per section 624.501, Florida Statutes, all limited appointments as agent under section 626.321, Florida Statutes, are subject to a \$60.00 original appointment and biennial renewal fee.<sup>1</sup>

#### Limited Personal Accident Insurance License

The limited personal accident insurance license under section 626.321(1)(c), Florida Statutes, is available to: a full-time salaried employee of a common carrier or a full-time salaried employee or owner of a transportation ticket agency;<sup>2</sup> and to a full-time salaried employee of a business which offers motor vehicles for rent or lease, or to a business entity which offers motor vehicles for rent or lease.<sup>3</sup> The personal accident license covers only policies of personal accident insurance covering the risks of travel, with the exception that a motor vehicle rental or leasing employee or entity may offer insurance that also 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.<sup>4</sup>

A policy sold by a common carrier or transportation ticket licensee may not exceed a duration of 48 hours or the duration of a specified one-way trip or round trip.

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<sup>1</sup> The \$60.00 fee consists of a \$42.00 appointment fee, a \$12.00 state tax, and a \$6.00 county tax.

<sup>2</sup> Section 626.321(1)(c)1., F.S.

<sup>3</sup> Section 626.321(1)(c)2., F.S.

<sup>4</sup> This additional coverage is available as long as the coverage does not exceed 30 days; one 30 day extension of coverage is allowed.

## **Baggage and Motor Vehicle Excess Liability Insurance**

A baggage and motor vehicle excess liability license may be issued to a full-time salaried employee of a common carrier or a full-time salaried employee or owner of a transportation ticket agency, which person is engaged in the sale or handling of transportation of baggage and personal effects of travelers. This license may also be issued to a full-time salaried employee of a licensed general lines agent 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.

Under current law, each office, branch office or place of business is required to be licensed and fees are based on the number of licenses. The types of coverage offered under this policy include: coverage for loss of personal effects; coverage in excess of standard liability limits for liability arising in connection with negligent operation of a leased or rental vehicle provided that the lease or rental agreement is for not more than 30 days. Under this provision, 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.

## **Licensing Requirements**

An entity that applies for a limited license under chapter 626 must submit an application and fingerprints of the officers and directors;<sup>5</sup> obtain a license for each office, branch office, or place of business;<sup>6</sup> pay applicable license fees, be appointed by the appropriate appointing entity, and pay the applicable appointment fee.<sup>7</sup> Communications equipment limited licenses available under 626.321(i)(1)(c) are exempt from the fingerprint requirement.

## **PROPOSED CHANGES**

### **Travel Insurance Limited License**

Currently, the law does not provide for a limited license to transact business in the area of travel insurance. The bill proposes an additional area of limited licensing--- travel insurance, to be added to the limited personal accident insurance license category. The bill replaces the personal accident insurance license with the travel insurance limited license. Travel insurance is defined as insurance that covers 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. A travel insurance policy is effective for up to a 60-day travel period. However, the term during which the policy can be used may extend beyond 60 days.

### **Qualified Individuals & Entities**

A full-time salaried employee of a common carrier and a full-time salaried employee or owner of a transportation ticket agency are eligible to obtain the travel insurance license. Moreover, certain individuals or entities, some of which are related to the timeshare industry, are eligible for the travel insurance license. The list of eligible entities, contained in new sub-subparagraph 2 of section 626.321(1)(c), includes: a managing entity operating a timeshare plan<sup>8</sup> approved under chapter 721,<sup>9</sup>

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<sup>5</sup> Section 626.321(2)(a).

<sup>6</sup> Section 626.321(2)(b).

<sup>7</sup> Section 626.321(2)(c).

<sup>8</sup> 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.

and the developer of a timeshare plan that is the subject of an approved public offering statement under chapter 721. Also eligible to obtain a license is an exchange company operating an exchange program approved under chapter 721,<sup>10</sup> and a seller of travel as defined in chapter 559.<sup>11</sup> Last, a subsidiary or affiliate of any of the entities in sub-subparagraph 2 is also eligible to obtain a license.

## Licensing Requirements

In order for an entity to obtain a travel insurance license, the bill requires fingerprints from the President, Secretary, Treasurer, and any other officer or person who directs or controls the entity's travel insurance operations.

The bill also contains an educational requirement. The employees of entities or individuals specified in new sub-subparagraph 2 in section 626.321(1)(c), Florida Statutes,<sup>12</sup> must receive initial training from a general lines agent or an insurer that is authorized under chapter 624 to transact insurance in Florida.

## Motor Vehicle Rental Insurance Limited License

The bill amends section 626.321(1)(d), Florida Statutes, and it replaces the baggage and motor vehicle excess liability insurance limited license with the motor vehicle rental insurance limited license. The license covers policies offered, sold, or solicited with and incidental to the rental or lease of motor vehicles. The license applies only to motor vehicles that are the subject of a lease or rental agreement and occupants of the motor vehicle.

The license covers insurance for the following risks: liability arising in connection with the negligent use of a leased or rented motor vehicle; damage to the leased or rented motor vehicle; damage to personal effects or travel documents; and accidental personal injury or death of the lessee and any passenger who is riding or driving with the covered lessee in the leased or rented motor vehicle.

The bill also provides that a single license issued to a business entity that offers motor vehicles for rent or lease effectively licenses each office, branch office, or place of business that makes use of the entity's business name, and allows those offices, branches, and places of business to offer, solicit, and sell insurance. This is different from existing law, which requires each location that transacts such insurance to have its own license. The effect of this change is revenue-neutral, however, because the bill provides that the agent's original appointment and biennial renewal fee for each entity must be calculated by multiplying the fees set forth in the statute by the number of offices, branch offices, or places of business covered by the license.

To that end, the bill amends section 624.501(9), Florida Statutes, relating to the DFS limited license fees. The bill adds a new subsection (b), which provides an exception to the method for calculating

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<sup>9</sup> Chapter 721, F.S., provides for regulation of the offering, sale, management, and operation of real and personal property timeshare plans.

<sup>10</sup> "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. Section 721.05(16), F.S.

<sup>11</sup> Chapter 559, which addresses regulation of trade, commerce, and investments, defines "seller of travel" as any resident or nonresident person, firm, corporation, or business entity who offers for sale, directly or indirectly, at wholesale or retail, prearranged travel, 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, even if no travel contracts or certificates or vacation or tour packages are sold by the business entity. Section 559.927(10).

<sup>12</sup> Timeshare plan developer; exchange company; managing entity operating a timeshare plan; seller of travel; or subsidiary or affiliate of any of these entities.

agent/entity fees that must be paid by an insurer holding a motor vehicle rental insurance limited license created under section 626.321(1)(d), Florida Statutes. Therefore, while the bill provides for a motor vehicle rental insurance license to be provided to a single entity, the entity's appointment and renewal fees are based on the number of locations operating under the entity's license, and fees are calculated accordingly.

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 DFS of specific information as to new locations that are to be covered by the license. Additionally, the licensee must notify DFS within 30 days after closing an office, branch office, or place of business, and the DFS must delete that office from the subject license.

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

The bill also contains a provision which states that nothing contained in the statute shall permit the sale of an insurance policy or certificate for any limited class of business in a limited license category by a person or entity other than an insurance policy or certificate offered by an authorized insurer in Florida or an eligible surplus lines insurer in Florida.

#### C. SECTION DIRECTORY:

**Section 1:** Amends section 624.501, Florida Statutes; provides revised formula for calculating fees for motor vehicle rental insurance limited licenses.

**Section 2:** Amends sections 626.321(1)(c) and (d), Florida Statutes, pertaining to limited licenses. Under section 626.321(1)(c), Florida Statutes, the bill replaces personal accident insurance with travel insurance; defines travel insurance; provides for licensure of qualified individuals and entities; specifies qualified individuals/entities; specifies duration of insurance coverage; specifies fingerprint requirements; requires initial educational component for certain licensees' employees.

Under section 626.321(1)(d), Florida Statutes, the bill replaces baggage and motor vehicle excess liability insurance with motor vehicle rental insurance; provides covered risks; specifies policy duration; amends licensing process; provides application requirements.

**Section 3:** Provides an effective date of January 1, 2008.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

##### Recurring

If all of the estimated 300 sellers of travel currently registered with the Department of Agriculture and Consumer Services become licensed with DFS, then DFS estimates a gain in licensing fees.

General Revenue Fund (300 x \$55)	\$16,500
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If all the entities currently approved as sellers of travel with the Department of Agriculture and Consumer Services become appointed with DFS, then DFS estimates a gain of revenue in appointment fees.

General Revenue Fund (8,721 x \$60)                      \$523,260

If all the estimated 50 timeshare entities being registered with the Department of Business and Professional Regulation become licensed with DFS, then DFS estimates an annual gain of revenue in licensing fees.

General Revenue Fund (50 x \$55)                      \$37,920

**Nonrecurring**

If all currently approved as sellers of travel with the Department of Agriculture and Consumer Services become licensed with DFS in the first fiscal year of the bill becoming law, then DFS estimates a gain of revenue in licensing fees.

General Revenue Fund (8,721 x \$55)                      \$479,655

If the timeshare entities currently registered with the Department of Business and Professional Regulation become licensed with DFS in the first fiscal year of bill becoming law, then DFS estimates a gain of revenue in licensing fees.

General Revenue Fund (632 x \$55)                      \$34,760

2. Expenditures:

DFS estimates the following nonrecurring expenses will be incurred:

- Enhancements to computer systems                      \$181,250

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

DFS estimates a revenue gain for renewal of appointments every two years by Florida counties.

County revenue<sup>13</sup> (9,353 x \$6)                      \$56,118

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Timeshare entities, managing entities, and sellers of travel would benefit under the provisions of the bill 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.

D. FISCAL COMMENTS:

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<sup>13</sup> The state collects the county tax on behalf of the county in which the entity resides. Sec. 624.506, F.S., provides that DFS shall deposit the funds into the Agents County Tax Trust Fund, shall keep a separate account for all moneys collected for each county and, after deducting the service charges provided for in s. 215.20, shall remit the balance to the counties.

The estimates provided by DFS assume that all eligible entities obtain a travel insurance limited license and represent the potential maximum revenue generated from the new licenses. Additionally, DFS estimates that there may be some offsetting revenue loss of up to \$28,000 to the state and \$26,000 to the counties due to applicants applying for the proposed license solely, instead of applying for the existing Personal Accident license and the Baggage and Motor Vehicle Excess Liability license simultaneously. The actual revenues will depend on the actual number of entities choosing to obtain the license.

### **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:**

None.

#### **D. STATEMENT OF THE SPONSOR:**

No statement submitted.

### **IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES**

On March 29, 2007, the Jobs and Entrepreneurship Council adopted a strike-all amendment to the bill. The amendment replaces the personal accident insurance license with the travel insurance license, and it replaces the baggage and motor vehicle excess liability insurance license with the motor vehicle rental insurance license.