

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL: CS/SB 1134

INTRODUCER: Banking and Insurance Committee and Senator Hays

SUBJECT: Blanket Health Insurance

DATE: April 14, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Johnson</u>	<u>Knudson</u>	<u>BI</u>	Fav/CS
2.	<u>Betta</u>	<u>DeLoach</u>	<u>AGG</u>	Recommend: Fav/CS
3.	<u>Pace</u>	<u>Hrdlicka</u>	<u>FP</u>	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1134 expands the types of individuals and entities which are eligible for blanket health insurance coverage. The bill also provides the Commissioner of the Office of Insurance Regulation with discretionary authority to approve blanket health insurance eligibility for other groups based on individual risk, a class of risks, or both.

There is no fiscal impact to the state.

II. Present Situation:

The Office of Insurance Regulation (OIR) licenses and regulates the activities of insurers, health maintenance organizations, and other risk-bearing entities.¹ Blanket health insurance policies and contracts are issued to a policyholder, such as a school, business, or an organization, and provide coverage to a group of individuals or participants who share a common activity or operation of the policyholder. The coverage is for persons participating in specific activities and coverage begins and ends with the covered activity.² An individual application is not required from an individual covered under a blanket health insurance policy or contract.³ Generally, the insurer is

¹ Section 20.121(3)(a)1., F.S.

² Office of Insurance Regulation, *2015 Agency Bill Analysis for SB 1134*, March 6, 2015 (on file with the Senate Fiscal Policy Committee).

³ Section 627.660(1), F.S.

not required to provide a written certificate of the insurance coverage to each insured person.⁴ The certificate is subject to filing and approval with the OIR pursuant to ss. 627.410 and 627.640, F.S.

Pursuant to s. 627.659, F.S. blanket health insurance covers special groups of individuals under a policy or contract issued to the following groups:

- A common carrier;
- An employer;
- A volunteer fire department;
- A school, school district, college, university, or other institution of learning;
- An organization or branch of the Boys Scouts of America, Future Farmers of America, religious or educational organizations, or similar organizations;
- An individual, firm, or corporation holding or operating summer camps or other meetings;
- A newspaper;
- A health care provider;
- An HMO; and
- Other specified entities.⁵

Currently, the Commissioner of the OIR does not have discretionary authority to approve eligibility for blanket health insurance coverage.

III. Effect of Proposed Changes:

The bill revises and expands the special groups of individuals that are eligible under a blanket health insurance policy or contract. The bill expands the special groups to include policies or contracts issued to:

- Operators, owners, or lessees of a means of transportation (under current law a common carrier is eligible);
- Employers covering insured employees' dependents or guests, who are defined by reference to an activity or operation of the policyholder;
- Institutions of learning covering all or any grouping of the institution's students, teachers and employees and their spouses and dependent children;
- Local emergency management agencies or other groups of first responders;
- Instructional, charitable, recreational, or civic organizations;
- Individuals, firms, or corporations holding or operating meetings for educational, charitable, or civic purposes;
- Other publishers besides newspapers;
- Coordinators of health services covering donors or surrogates;
- Sports teams or camps, or a sponsor thereof;
- Travel agencies or other organizations that provide travel-related services;
- Associations having at least 25 individuals that have been organized and maintained for 1 year for purposes other than that of obtaining insurance coverage; and

⁴ An insurer is required to furnish a written certificate disclosing the essential features of the coverage to each person covered under a policy issued pursuant to s. 627.659(3), F.S., relating to policies issued to a school, district school system, college, university, or other institution of learning. Section 627.660(6), F.S.

⁵ Section 627.659, F.S.

- Financial institutions, vendors or parent holding companies of a financial institution, and trustees or agents of a financial institution.

The bill provides the Commissioner of the OIR with the discretion to determine additional risks or classes of risks as eligible for blanket health insurance coverage.

The bill takes effect July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues

The authority given to the Office of Insurance Regulation in the bill, may raise the issue of an unlawful delegation of legislative authority to the executive branch. The bill provides the Commissioner of the OIR with the discretion to determine additional risks or class of risks as properly eligible for blanket health insurance coverage.

Article II, s. 3 of the Florida Constitution establishes a doctrine of separation of powers, providing that no branch may exercise powers appertaining to the other branches. Interpreting this doctrine in the context of the Legislature delegating authority to the executive, the Florida Supreme Court has stated that, “where the Legislature makes the fundamental policy decision and delegates to some other body the task of implementing that policy under adequate safeguards, there is no violation of the doctrine.”⁶ However, “[w]hen the statute is couched in vague and uncertain terms or is so broad in scope that no one can say with certainty, from the terms of the law itself, what would be deemed an infringement of the law, it must be held unconstitutional as attempting to grant to the administrative body the power to say what the law shall be.”⁷

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

⁶ Askew v. Cross Key Waterways, 372 So.2d 913, 921 (Fla. 1978).

⁷ Conner v. Joe Hatton, Inc., 216 So.2d 209, 211 (Fla. 1968).

B. Private Sector Impact:

The bill would allow additional groups to obtain blanket health insurance coverage. According to advocates of the bill, although this coverage is not a substitute for liability insurance, such blanket policies may assist in reducing liability claims and offer reimbursement to participants for medical and other accidental injury-related expenses.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

The authority given in the bill to the Office of Insurance Regulation may raise the issue of an unlawful delegation of legislative authority to the executive branch. Section 627.659(13), F.S., of the bill provides the OIR commissioner with the discretion to determine additional risks or class of risks as “properly eligible” for blanket health insurance coverage. The bill does not provide standards or rulemaking for the OIR to implement this provision.

VII. Related Issues:

The OIR has indicated that the additional groups and covered persons are not well defined or not defined at all.⁸

VIII. Statutes Affected:

This bill substantially amends section 627.659 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

See PCS 125558 by Fiscal Policy (Recommended by Appropriations Subcommittee on General Government) on April 6, 2015.

CS by Banking and Insurance on March 17, 2015:

The CS eliminates the discretionary authority of the OIR to determine additional risks or classes of risks not specified in statute that would be eligible for blanket health insurance coverage.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

⁸ Supra note 2.