

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 Rules

BILL: CS/CS/SB 1386

INTRODUCER: Rules Committee, Banking and Insurance Committee and Senator Richter

SUBJECT: Insurance Agents

DATE: February 18, 2016

REVISED: 2/22/16

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------------|----------------|-----------|------------------|
| 1. | <u>Matiyow</u> | <u>Knudson</u> | <u>BI</u> | <u>Fav/CS</u> |
| 2. | <u>Little</u> | <u>McKay</u> | <u>CM</u> | <u>Favorable</u> |
| 3. | <u>Matiyow</u> | <u>Phelps</u> | <u>RC</u> | <u>Fav/CS</u> |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1386 increases the allowable amount of coverage for insurance policies related to funeral expenses to \$21,000, plus an annual increase based on the CPI, beginning with the 2016 CPI. Licensed insurance agents are currently authorized to sell insurance policies for the coverage of funeral related expenses, as long as the policies do not exceed \$12,500, plus an annual percentage increase based on the Annual Consumer Price Index (CPI) compiled by the United States Department of Labor for the year 2003.

The bill also allows health insurance agents to contract for service fees on individual health plans while rebating to the insured any commissions paid by an insurer to the agent.

The bill is effective upon becoming law.

II. Present Situation:

Health Insurance

Currently s. 626.593, F.S., allows health insurance agents providing services on a group plan to contract with the insured for an additional service fee above the commission allowed under Chapter 627. If a contract for additional fee or compensation is agreed to then the agent must rebate to the insured any commissions paid by an insurer to the agent.

Life Insurance

In Florida, the Florida Funeral, Cemetery, and Consumer Services Act (act) protects death care industry consumers purchasing burial related services, merchandise, and preneed burial rights.¹ Burial services are those “offered or provided in connection with the final disposition, memorialization, interment, entombment, or inurnment of human remains or cremated remains.”² Burial merchandise includes personal property sold in connection with the burial such as caskets, urns, monuments, floral arrangements, acknowledgement cards, and register books.³

Consumers are able to make arrangements for burial services and merchandise through a preneed contract.⁴ The act requires funeral establishments, cemetery companies, direct disposal establishments, and monument establishments, and their agents, to obtain a valid preneed license prior to providing services pursuant to a preneed contract.⁵ Preneed contracts detail the goods and services to be provided, the costs of the services, and the funding method of the services. A preneed contract must be secured by one of three methods: 1) a trust account; 2) a letter of credit; or 3) an individual insurance policy.

The sales of individual insurance policies obtained to secure preneed contracts are regulated under ch. 626, F.S. Licensed insurance agents are authorized to sell policies of insurance to cover the expenses of final disposition or burial of an insured.⁶ A funeral director, direct disposer, or an employee of a funeral establishment may also obtain an insurance agent license for the limited purpose of selling life insurance policies in conjunction with the prearrangement of funeral services or merchandise.⁷

Current law authorizes such licensed insurance agents to sell insurance policies for the coverage of burial related expenses, as long as the policies do not exceed \$12,500 per person, plus an annual percentage increase based on the Annual Consumer Price Index (CPI) compiled by the United States Department of Labor for the year 2003.⁸ When taking into account the consumer price index from 2003 through 2015, the current cap for an insurance policy covering a preneed contract would be approximately \$16,000. It is unclear whether a formal mechanism exists by which the Office of Insurance Regulation monitors any CPI increase to the cap. The relevant administrative rule refers back to s. 626.785, F.S., and does not specify a CPI-indexed amount.⁹

III. Effect of Proposed Changes:

Section 1 amends s. 626.593, F.S., to allow health insurance agents providing services on an individual health plan to contract with the insured for an additional service fee above the

¹ See ch. 497, F.S.

² Section 497.005(8), F.S.

³ Section 497.005(6), F.S.

⁴ A preneed contract refers to “any arrangement or method of which the provider of funeral merchandise or services has actual knowledge, whereby any person agrees to furnish funeral merchandise or service in the future.” Section 497.005(56), F.S.

⁵ Section 497.52, F.S.

⁶ Section 626.785(1)(d), F.S.

⁷ Section 626.785(3), F.S.

⁸ Section 626.785(3), F.S.

⁹ See Rule 69O-148.001, F.A.C.

commission allowed under Chapter 627. If a contract for additional fee or compensation is agreed to then the agent must rebate to the insured any commissions paid by an insurer to the agent.

Section 2 amends s. 626.785, F.S., to increase the allowable amount of coverage an insurance agent is able to sell for insurance policies covering burial related expenses. The bill increases the policy coverage maximum to \$21,000, plus an annual increase based on the CPI, beginning with the 2016 CPI. The bill will allow individuals, securing preneed contracts by means of insurance policies, to obtain a greater amount of coverage for burial services and merchandise.

Section 3 provides that the bill is effective upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Health insurance agents will be allowed to contract for a services fee on individual health plans.

Individuals securing preneed contracts by means of insurance policies will be able to cover greater costs of burial services and merchandise.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 626.785 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.)

CS/CS by Rules on February 17, 2016:

- Amends s. 626.593, F.S., to apply to individual and group health plans.

CS by Banking and Insurance on January 26, 2016:

- Replaces the limit of \$22,500 with \$21,000 and also includes this new limit in subsection (1)(d).
- Changes the CPI date from 2003 to 2016.

- B. **Amendments:**

None.