

STORAGE NAME: h1001.fs
DATE: March 20, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
FINANCIAL SERVICES
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT**

BILL #: HB 1001
RELATING TO: Insurance (temporary customer representatives)
SPONSOR(S): Representative Bitner
STATUTE(S) AFFECTED: Section 626.072, F.S.
COMPANION BILL(S): SB 990 (i)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) FINANCIAL SERVICES
- (2)
- (3)
- (4)
- (5)

I. SUMMARY:

In general, only a licensed insurance agent can lawfully transact insurance on behalf of an insurance company. Since 1990, a separate class of licensees, known as "customer representatives" and "limited customer representatives" have been allowed to assist insurance agents and agencies in the transaction of insurance other than life insurance.

A customer representative is a salaried employee of an agent who is allowed to fill out an application for insurance, calculate the premium, and receive the premium payment. Small insurance agencies have encountered difficulties in employing customer representatives. They suggest that they are forced to choose between hiring already-licensed representatives from a relatively small pool of licensed candidates or employing an applicant for licensure for 6 months while the applicant is unable to perform any substantial work.

HB 1001 would allow an insurance agent or agency to appoint an employee as a "temporary representative" while the employee is obtaining the training and experience required for licensure as a customer representative or limited customer representative. A temporary representative would, for up to 180 days, be able to perform the same tasks as a licensed customer representative or limited customer representative.

An amendment has been prepared that would provide for temporary customer representative's licenses and would limit the number of temporary customer representative licensees who could be employed by an insurance agent.

The Department of Insurance has estimated that the fiscal impact of either the bill or the amendment would be less than \$10,000 a year.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

In general, only a licensed insurance agent can lawfully transact insurance on behalf of an insurance company. Since 1990, a separate class of licensees, known as "customer representatives" and "limited customer representatives" have been allowed to assist insurance agents and agencies in the transaction of insurance other than life insurance.

A customer representative is a salaried employee of an agent who may, within the confines of the agent's office and under the agent's supervision, transact insurance with customers, but may not solicit insurance business. "Transacting" insurance business generally consists of filling out an application for insurance, calculating the premium, and receiving the premium payment. The customer representative acts on behalf of the agent, and the agent is responsible for the acts of the customer representative. A "limited customer representative" is licensed to perform these tasks only with respect to private passenger motor vehicle insurance.

Qualifications for licensure as a customer representative include completion of a 100-hour training course approved by the Department of Insurance (DOI) and at least 6 months' experience in responsible insurance duties as a substantially full-time employee. During the time that an applicant for a customer representative license is accumulating the required 6 months' experience, the applicant may not deal with the public, except to perform such tasks as answering telephones and taking messages.

Currently, there are 3,759 persons who hold customer representative licenses (although only 2,330 of them have been appointed by agents; presumably, the remaining 1,429 licenses are inactive), and 702 persons who hold limited customer representative licenses.

Small insurance agencies have encountered difficulties in employing customer representatives. They suggest that they are forced to choose between hiring already-licensed representatives from a relatively small pool of licensed candidates or employing an applicant for licensure for 6 months while the applicant is unable to perform any substantial work.

B. EFFECT OF PROPOSED CHANGES:

An insurance agent or agency would be allowed to appoint an employee as a "temporary representative" while the employee is obtaining the training and experience required for licensure as a customer representative or limited customer representative. A temporary representative would, for up to 180 days, be able to perform the same tasks as a licensed customer representative or limited customer representative.

In order to be appointed, the employee would have to provide the agent or agency with evidence that he or she is enrolled in a DOI-approved training course and has filed an application with the DOI for licensure as a customer representative or limited customer representative. The agent or agency would be required to provide the employee with on-the-job training for the duties of a customer representative or limited customer representative. As with licensed customer representatives and limited customer

representatives, the appointing agent or agency would be responsible for the acts of the temporary representative.

A "strike everything" amendment that addresses concerns of the DOI has been prepared. The amendment is summarized in "Amendments or Committee Substitute Changes," below.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

Not applicable.

(2) what is the cost of such responsibility at the new level/agency?

Not applicable.

(3) how is the new agency accountable to the people governed?

Not applicable.

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

No.

- b. Does the bill require or authorize an increase in any fees?

No.

- c. Does the bill reduce total taxes, both rates and revenues?

No.

- d. Does the bill reduce total fees, both rates and revenues?

No.

- e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Not applicable.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Yes. The bill allows an insurance agent or agency to employ a person to perform specified tasks while the person is accumulating the training and experience required for licensure to perform those tasks on a permanent basis. The supervising agent would be responsible for the acts of the employee.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

Not applicable.

- (2) Who makes the decisions?

Not applicable.

- (3) Are private alternatives permitted?

Not applicable.

- (4) Are families required to participate in a program?

Not applicable.

- (5) Are families penalized for not participating in a program?

Not applicable.

- b. Does the bill directly affect the legal rights and obligations between family members?

Not applicable.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

Not applicable.

- (1) parents and guardians?

Not applicable.

(2) service providers?

Not applicable.

(3) government employees/agencies?

Not applicable.

D. SECTION-BY-SECTION ANALYSIS:

Section 1 amends s. 626.072, F.S., relating to definitions of "customer representative" and "limited customer representative," to provide for temporary representatives as described in "Effect of Proposed Changes," above.

Section 2 provides that the bill will take effect upon becoming a law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

The Department of Insurance has estimated that the costs of implementing the bill or the amendment described below would be less than \$10,000 a year. These costs would primarily involve application processing and record-keeping.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

See above.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

STORAGE NAME: h1001.fs

DATE: March 20, 1997

PAGE 7

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

The bill would enable insurance agencies to obtain more valuable work from an employee who has applied for licensure as a customer representative or limited customer representative.

3. Effects on Competition, Private Enterprise and Employment Markets:

See above.

D. FISCAL COMMENTS:

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

A proposed amendment would substantially revise the bill. The amendment would create a new class of license known as a "temporary customer representative's" license. The DOI would be required to issue a temporary customer representative's license to any person who has paid the applicable license fees under s. 624.501, F.S. (that section does not specify a license fee for a temporary customer representative, but the fee for issuance and biennial renewal of a customer representative's license is \$60) and who:

is a natural person at least 18 years of age;

is a bona fide Florida resident or a resident of a bordering state;

has a good business reputation;

is employed and remains employed by a licensed general lines agent or agency;

is supervised by one general lines agent;

has not been convicted of any felonies within the preceding 5 years;

is not the subject of any pending criminal, administrative, or civil charges; and

is not on criminal probation or on administrative probation by the DOI.

The amendment would allow only one temporary customer representative licensee at any particular agency location at any time. No more than two temporary customer representative licensees would be allowed at any one agency location in a calendar year. The licensee's employer and supervising agent would be responsible for the acts of the licensee.

The applicant for a temporary customer representative's license would be required to provide the DOI with evidence that he or she is enrolled in an approved training course and with a certificate of employment and report as to his or her integrity and moral character on a form prescribed by the DOI and executed by the supervising agent.

A person may be issued a temporary customer representative's license only one time. The license would expire after 90 days unless terminated at an earlier date at the request of the employer or unless suspended or revoked by the DOI.

The DOI would be able to take administrative action against the both the temporary customer representative licensee and the supervising agent for any conduct in violation of the above provisions or of the Insurance Code or rules of the DOI.

The amendment would take effect 90 days after becoming law.

STORAGE NAME: h1001.fs

DATE: March 20, 1997

PAGE 9

The principle of lower taxes applies to the amendment in that the amendment imposes a license fee for licensure as a temporary customer representative; although the amount of the fee is not clearly indicated, it would apparently be the same \$60 a biennium as applies to customer representatives.

The amendment implicates personal responsibility in that the supervising insurance agent would be responsible for the acts of the temporary customer representative, just as the agent is responsible for the acts of a customer representative.

As with the main bill, the fiscal impact of the amendment would be minimal (less than \$10,000 a year according to the Department of Insurance).

VII. SIGNATURES:

COMMITTEE ON FINANCIAL SERVICES:

Prepared by:

Legislative Research Director:

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