

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Date: April 9, 1998 Revised: 4/20/98 \_\_\_\_\_

Subject: Insurance

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Emrich</u>	<u>Deffenbaugh</u>	<u>BI</u>	<u>Fav/1 amendment</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

**I. Summary:**

Under current law, the Department of Insurance regulates the rates and terms of health insurance policies delivered or issued for delivery in Florida. Under this bill, health insurance policies delivered or issued for delivery in Florida to residents of foreign countries would not be subject to regulation by the Department of Insurance as to policy terms or premiums. The exemption from regulation does not, in itself, exempt the policy from statutorily-mandated policy language or coverages, but this may be the practical effect. The department would not be reviewing policy forms to enforce these requirements.

Motor vehicle rental companies are currently able to obtain a limited agent’s license that allows company employees to sell motor vehicle liability insurance that provides coverage over and above the standard liability coverage provided by the rental company. The bill would allow a rental company operating under the limited agent’s license to sell motor vehicle liability insurance in any amount.

The bill has no fiscal impact.

This bill substantially amends the following sections of the Florida Statutes: 626.112, 626.321, and 627.410.

**II. Present Situation:**

**Health insurance form and rate regulation**

The forms (contract terms) and rates for health insurance policies delivered or issued for delivery in Florida are regulated by the Department of Insurance under ss. 627.410 and 627.411, F.S. Section 627.410, F.S., generally requires that forms be filed with and approved by the department

before they are used, and s. 627.411, F.S. sets out the grounds for disapproval. The department is required to disapprove a form for health insurance if the benefits provided by the policy are unreasonable in relation to the premium charged.<sup>1</sup>

When a form is used by a domestic (i.e., Florida-domiciled) insurer for delivery outside of Florida, the form is subject to regulation under ss. 627.410 and 627.411, F.S., if the insurance regulator of the jurisdiction in which the form is delivered notifies the Florida Department of Insurance that the form is not subject to approval or disapproval in that jurisdiction.<sup>2</sup>

Parts VI and VII of chapter 627, F.S., set out the language of several mandatory policy provisions for individual and group health insurance policies,<sup>3</sup> and require health insurance policies to contain certain mandatory benefits.<sup>4</sup>

### **Motor vehicle excess liability insurance**

Generally, motor vehicle insurance policies may be sold only by general lines insurance agents, who are subject to extensive examination, licensure, and continuing education requirements. Each agent within a general lines insurance agency must be separately licensed.<sup>5</sup>

The Insurance Code also provides for limited licenses under which persons are authorized only to sell a particular kind of insurance in particular circumstances. In some cases, a limited license may be issued to a business entity rather than an individual, enabling any employee of the entity to sell the insurance.

A limited license to sell motor vehicle excess liability insurance can be issued to an employee of a general lines agent, an employee of a business that rents or leases motor vehicles, or to an office of a business that rents or leases motor vehicles (provided that insurance is sold only by full-time salaried employees of the business).<sup>6</sup> Motor vehicle “excess” liability insurance is liability coverage that begins where the standard liability coverage<sup>7</sup> provided by the vehicle lessor leaves off. The authority conferred by the limited license applies only to insurance on motor vehicles rented from

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<sup>1</sup> Paragraph 627.411(1)(e), F.S.

<sup>2</sup> Subsection 627.410(5), F.S.

<sup>3</sup> See, e.g., s. 627.607, F.S., relating to time limits on certain defenses, s. 627.608, F.S., relating to grace periods, or s. 626.610, F.S., relating to notice of claims.

<sup>4</sup> See, e.g., s. 627.6056, F.S., relating to coverage for ambulatory surgical center services, s. 627.6408, F.S., relating to diabetes treatment services, s. 627.6409, F.S., relating to osteoporosis, or s. 627.6418, F.S., relating to mammogram.

<sup>5</sup> See, generally, Parts I and II, Chapter 626, F.S.

<sup>6</sup> See s. 626.321(1)(d), F.S.

<sup>7</sup> Under s. 627.7263, F.S., the lessee’s motor vehicle insurance is primary, that is, must be exhausted before any other insurance may be applied, if there is a notice to that effect in the rental agreement. According to the Department of Insurance, in those circumstances, “standard” coverage is the lessee’s own insurance coverage, and when the lessor’s insurance is primary, the “standard” coverage typically consists of the statutory minimum coverages (personal injury protection and property damage liability with limits of \$10,000/\$20,000).

the business for a period of 60 days or less, and requires that the lessee be notified that his or her personal motor vehicle policy may provide additional excess coverage.

### III. Effect of Proposed Changes:

**Section 1.** Amends s. 626.112, F.S., relating to licensure of insurance agents, to require that when an unregulated health insurance policy is sold in Florida to a foreign resident, the transaction must be conducted by a Florida-licensed and appointed insurance agent.

**Section 2.** Amends s. 626.321, F.S., relating to limited agent's licenses, to expand the scope of motor vehicle insurance that may be sold under a rental company's limited license. The limited license for motor vehicle excess liability insurance (which allows any number of rental company employees to transact insurance as if they were individually licensed agents) would be expanded to allow a motor vehicle rental company or its employees to sell liability insurance in *any amount*, rather than allowing only the sale of liability insurance that was over and above the standard liability insurance provided by the rental company. The other requirements applicable to this limited license would not be changed.

The motor vehicle liability insurance authorized to be sold by rental company employees under a limited agent's license is more likely to duplicate a customer's existing motor vehicle insurance than the excess liability insurance that is currently sold under the limited license.

**Section 3.** Amends s. 627.410, F.S., relating to form filing and approval, to exempt health insurance policies delivered or issued for delivery in Florida to foreign residents. Health insurance policies delivered or issued for delivery in Florida to residents of foreign countries would *not* be subject to rate or form regulation under s. 627.410, F.S. The policy could be sold only by an agent who was licensed by the Department of Insurance and appointed by the insurer.

The exemption from form and rate regulation does not, in itself, exempt the insurer from statutorily-mandated policy language or coverages, but this may be the practical effect. The department would not be reviewing policy forms or be able to use regulatory processes to enforce these requirements. Presumably, these requirements could be enforced only when a person aggrieved by the failure of a policy to include mandated coverages or mandated language sued the insurer.

**Section 4.** Provides that the bill will take effect upon becoming a law.

### 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:**

Persons who are legally residents of another country but who spend substantial amounts of time in Florida could be placed at a disadvantage relative to Florida residents by the provision authorizing the sale in Florida of unregulated health insurance policies to foreign residents. That is because they could be charged more than would otherwise be allowed for a policy providing less coverage than would otherwise be allowed. In addition, according to the Department of Insurance, if enacted, the department could not adequately protect any providers in Florida to whom the benefits have been assigned.

A Florida-domiciled health insurer would have additional opportunities to market products to foreign residents. Currently, a Florida-domiciled health insurer may sell an unregulated policy to a foreign resident only if the policy is delivered or issued for delivery outside of Florida. This bill would allow the insurer to deliver such a policy to a foreign resident within Florida. Proponents of the bill have indicated an intention to market these policies in international airports.

Consumers would not benefit under the motor vehicle excess liability provision because allowing rental car companies to market “first dollar” coverage could result in the sale of duplicate coverage, at least for basic limits.

**C. Government Sector Impact:**

The Department of Insurance would no longer regulate the forms or rates of health insurance policies delivered or issued for delivery in Florida to residents of foreign countries.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

#1 by Banking and Insurance:

Deletes everything after the enacting clause to provide that international health insurance policies and applications may be solicited and sold by licensed agents in this state at any international airport to a resident of a foreign country. International airports are defined as any airport which enplanes more than 1 million passengers per year. Such health policies could be sold without being subject to rate or form regulation, underwriting restrictions, guaranteed availability or any coverage mandates under the Insurance Code. However, such policies would be subject to certain provisions under the Insurance Code which cover the examination of insurers, market conduct examinations, unfair trade practices, statutory civil remedy causes of action, award of attorney's fees to an insured, notice of cancellation, nonrenewal, and readable language requirements.

Deletes the provision relating to the sale of motor vehicle liability insurance by rental companies operating under the limited agent's license. (WITH TITLE AMENDMENT)