

STORAGE NAME: h1319s2.ccc.doc
DATE: February 26, 2002

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY
COUNCIL FOR COMPETITIVE COMMERCE
ANALYSIS**

BILL #: CS/CS/HB 1319

RELATING TO: Communication Equipment Insurance Agents

SPONSOR(S): Council for Competitive Commerce, Committee on Insurance and Representative Alexander

TIED BILL(S): None

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

- (1) INSURANCE YEAS 13 NAYS 0
 - (2) COUNCIL FOR COMPETITIVE COMMERCE YEAS 12 NAYS 0
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

This bill authorizes general and limited lines agents to sell communications equipment property insurance. This insurance would be used to cover damage, theft, or malfunction of "communications equipment," defined in the bill as "handsets, pagers, personal digital assistants, portable computers, automatic answering devices, and other devices or their accessories used to originate or receive communications signals or service."

On February 20, 2002, the Committee on Insurance reported the bill favorably as a Committee Substitute, and adopted a "remove everything" amendment.

On February 26, 2002, the Council for Competitive Commerce reported the bill favorably as a Council Substitute for the Committee Substitute, and adopted one amendment. See Section VI., Amendments and Committee Substitute Changes.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

1. Less Government Yes No N/A

The bill would define a new type of limited lines insurance coverage, and provide regulations regarding the transactions for this line.

2. Lower Taxes Yes No N/A

3. Individual Freedom Yes No N/A

4. Personal Responsibility Yes No N/A

5. Family Empowerment Yes No N/A

For any principle that received a “no” above, please explain:

B. PRESENT SITUATION:

Classification of Agents: General Lines and Limited Lines

Insurance agents may be classified according to the number of products they may 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 limited to selling one or more of the following forms of insurance¹ (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, credit life or disability, credit property, crop hail and multiple peril crop insurance, or in-transit and storage personal property. General lines agents also may transact limited lines of insurance other than personal accident and crop insurance products.

Licensing of Agents

Insurance representatives are required by Florida law to be licensed² by the Department of Insurance prior to transacting business³ in the state. The Department issues approximately 70 different types of insurance licenses. An applicant for a general lines license, among other conditions for licensure and with certain exceptions, must satisfy pre-licensing education, experience, or instruction requirements⁴ and pass an examination. Applicants for a limited license generally do not have to satisfy any pre-licensing education or examination requirements to be licensed.⁵

¹ Section. 626.321, F.S.

² Section 626.122, F.S.

³ Transacting insurance is defined in 624.10, F.S., as including solicitation or inducement, preliminary negotiations, effectuation of a contract of insurance, and transaction of matters subsequent to effectuation of a contract of insurance and arising out of it.

⁴ Section 626.732, F.S.

⁵ For two types of limited licenses, the applicant must take a written examination, but for the other six, the applicant is expressly exempt from the examination requirement. Limited licenses exempt under 626.221, F.S., are personal accident insurance, baggage and motor vehicle excess liability insurance, credit life insurance, credit insurance, credit property insurance, and in-transit storage

Insurance Coverage for Communication Equipment

Coverage for the loss, theft, mechanical failure, damage or malfunctioning of communication equipment (e.g. cellular phones, laptop computers, personal digital assistants) is a form of property insurance. As a form of property insurance, it can only be sold through general lines agents, unless authorized as a limited line of insurance. The Legislature has not authorized a limited line of insurance specifically tailored to communications equipment.

Depending on the particular circumstances, personal communications equipment may be covered against theft and damage under a homeowners' insurance and automobile insurance policy. However, homeowners' insurance and automobile insurance policies typically require a deductible payment. The consumer also may be covered for mechanical defects or malfunctioning through a product warranty from the manufacturer or an extended warranty purchased from the retailer or manufacturer.

C. EFFECT OF PROPOSED CHANGES:

A "communications equipment property insurance or communications equipment inland marine insurance," limited license would be expressly authorized and added to the existing "in-transit and storage personal property insurance" limited license provision.⁶ "Communications equipment property insurance" would cover the loss, theft, mechanical failure, or malfunction of or damage to "communications equipment." It would be classified as a type of inland marine insurance.⁷ "Communications equipment" would be defined to include "handsets, pagers, personal digital assistants, portable computers, automatic answering devices, and other devices or their accessories used to originate or receive communications signals or service," but expressly excludes industrial-type switching and transceiver equipment, communications transmission wires, and other systems utilized by telecommunications companies for the provision of wireless service.⁸

General lines agents, employees and representatives of general lines agents, and employees, representatives or business locations of communication equipment retail vendors would be eligible to obtain this license. However, a general lines agent would not be required to obtain a separate license to sell "communications equipment property insurance or communications equipment inland marine insurance."

Individuals and entities would apply for a limited license from the Department of Insurance to market this product. As with other limited lines agents, they would be exempt from the pre-licensing examination and education requirements applicable to general lines agents. Unlike other limited licensees, licensees marketing this product would be required to receive initial training from, and have a "contractual relationship"⁹ with, a general lines agent. This product could only be sold in connection with the sale of communications equipment, or the sale of monthly communications service for this equipment.

personal property insurance. As to pre-licensing knowledge, experience or instruction, limited licenses for baggage and motor vehicle excess liability insurance, credit property insurance, credit insurance, and in-transit and storage personal property insurance are exempt from this requirement.

⁶ Section 626.321(1)(i).

⁷ Inland marine insurance is defined in 624.607(3), as "established by general custom and promulgated by rule of the department [of insurance]."

⁸ Specifically defined in the bill as "telecommunications switching equipment, cell site transceiver equipment, and other equipment and systems utilized by telecommunications companies for the provision of wireless telecommunications service to consumers.

⁹ The type of contractual relationship is not specifically defined for purposes of this section.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 626.221, F.S., relating to examination requirements for insurance agents.

Section 2. Amends s. 626.321, F.S., relating to types of limited insurance licenses.

Section 3. Amends s. 626.732, F.S, relating to knowledge, experience, and instruction requirements.

Section 4. Provides the act will take effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Positive, but indeterminate, because the number of license applicants is unknown. A \$50 license fee is paid to the Department for each applicant. Also, appointment fees of \$60 also must be paid, of which \$42 is the appointment fee payable to the Department and \$6 is state tax.

2. Expenditures:

The Department of Insurance estimates a cost of \$25,000 for conforming software to accommodate the new limited lines license proposed by the bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Positive, but indeterminate, because the number of license applicants is unknown. Of the fees established in law for appointment as a limited lines agent, \$6 per appointment is county tax.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

There is a possibility a consumer could purchase duplicate coverage if they also purchase an extended service warranty or have other forms of insurance that cover certain perils covered under this new line of insurance. Insurers offering this product would receive premium revenues from the sale of this product and retail establishments licensed as agents to sell this product would receive commissions from any sales.

Persons and businesses that wish to transact this type of insurance must obtain licenses and pay license and application fees to the Department of Insurance.

D. FISCAL COMMENTS:

N/A

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

A. APPLICABILITY OF THE MANDATES PROVISION:

The 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 revenue in the aggregate.

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

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

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The CS/CS/HB 1319 incorporates all of the amendments described below.

On February 20, 2002, the Committee on Insurance reported the bill favorably as a committee substitute, and adopted a “remove everything” amendment that made the following changes:

- Relabeled the proposed product as “in-transit and storage property insurance and communications equipment property or communication equipment inland marine insurance,” rather than “communications equipment property insurance”;
- Amended s. 626.321(1)(i) to include the definition, requirements, and restrictions of communications equipment inland marine insurance, rather than creating a new paragraph; also made technical amendments conforming the bill to reflect this change;
- Specifically exempted general lines agents from being required to obtain a separate license to offer or sell this product.
- Restricted the definition of “communications equipment” to limit the types of services protected to those related to communications equipment, such as consumer access to wireless networks. Also, specifically excluded from the proposed definition of communications equipment “telecommunications switching equipment, cell site transceiver equipment, and other equipment

used by telecommunication companies to provide wireless telecommunication service to consumers”.

- Required those selling this newly defined line of insurance to have a “contractual relationship” with a general lines agent.

On February 26, 2002, the Council for Competitive Commerce reported the bill favorably as a council substitute, and adopted an amendment that made the following changes:

- Expressly excluded “communications equipment wires” from the definition of “communications equipment”;
- Made drafting-type changes to conform the bill to its Senate companion.

VI. SIGNATURES:

COUNCIL FOR COMPETITIVE COMMERCE:

Prepared by:

Katherine Scott

Staff Director:

Stephen Hogge

AS REVISED BY THE COUNCIL FOR COMPETITIVE COMMERCE:

Prepared by:

Katherine Scott

Council Director:

Matthew Carter