

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 721 w/CS Warranty Association Regulation  
**SPONSOR(S):** Llorente, Planes, and others  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 2414

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Insurance Regulation (Sub)</u>	<u>8Y, 0N</u>	<u>Cheek</u>	<u>Schulte</u>
2) <u>Insurance</u>	<u>15 Y, 0 N w/CS</u>	<u>Cheek</u>	<u>Schulte</u>
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

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### SUMMARY ANALYSIS

Under chapter 634, F.S., affiliates of domestic companies administering warranty policies (e.g., motor service vehicle agreements, home warranties, or service warranties) to residents out of the state of Florida must be licensed by the Office of Insurance Regulation (formerly Department of Insurance).

The bill creates an exemption from licensure for such affiliates if they do not issue, market, or cause to be marketed, warranty policies to residents of Florida and do not administer policies that were originally issued to a Florida resident who then moved out of state. The bill also provides that the domestic insurer or its wholly owned licensed insurer must be the direct obligor of all service and warranty agreements issued by the affiliate or must issue a contractual liability insurance policy.

The bill also provides that if the Office of Insurance Regulation determines, after notice and an opportunity for a hearing, the affiliate is not complying with the conditions of the exemption, the affiliate will be subject to licensure. The bill also provides that the domestic insurer or its wholly owned licensed insurer must be the direct obligor of all service and warranty agreements issued by the affiliate or must issue a contractual liability insurance policy.

The bill does not appear to have a state or local fiscal impact.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

**STORAGE NAME:** h0721b.in.doc  
**DATE:** April 17, 2003

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |                              |                             |   |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government?                | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes?                      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

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

#### B. EFFECT OF PROPOSED CHANGES:

Under chapter 634, F.S., affiliates of Florida-domiciled ("domestic") companies administering warranty policies (e.g., motor service vehicle agreements, home warranties, or service warranties) to residents out of the state of Florida must be licensed by the Office of Insurance Regulation. Until January 7, 2003, this function was handled by the Department of Insurance. See "Comments" below.

The bill creates an exemption from licensure for such affiliates if they do not issue, market, or cause to be marketed, warranty policies to residents of Florida and do not administer policies that were originally issued to a Florida resident who then moved out of state. The bill also provides that the domestic insurer or its wholly owned licensed insurer must be the direct obligor of all service and warranty agreements issued by the affiliate or must issue a contractual liability insurance policy.

The bill also provides that if the Office of Insurance Regulation determines, after notice and an opportunity for a hearing, the affiliate is not complying with the conditions of the exemption, the affiliate will be subject to licensure.

#### C. SECTION DIRECTORY:

Section 1: Amends section 634.031, F.S. - *License required*.

Section 2: Amends section 634.031, F.S. - *License required*.

Section 3: Amends section 634.031, F.S. - *License required*.

Section 4: Provides that the act takes effect upon becoming a law.

### II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

There may be a small fiscal impact from license fees that will no longer be collected from such affiliates.

##### 2. Expenditures:

None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The bill creates an exemption from licensure for affiliates of Florida-domiciled companies if they do not issue, market, or cause to be marketed warranty policies to residents of the state of Florida and do not administer policies that were originally issued to a Florida resident who then moved out of state.

The exemption removes the regulation of affiliates administering with out-of-state policies, which could be an economic incentive for companies considering locating their administration offices in Florida.

**D. FISCAL COMMENTS:**

The bill does not appear to have a state or local fiscal impact.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

Not applicable.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

Effective January 7, 2003, functions that were previously under the Department of Insurance became the responsibility of the Department of Financial Services, the Financial Services Commission, and the Office of Insurance Regulation. See s. 20.121, F.S. The functions covered by this bill became the responsibility of the Office of Insurance Regulation. Provisions added by this bill need to be conformed to the new regulatory structure. An amendment containing the appropriate corrective language is available for consideration.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

The committee substitute differs from the bill as filed in that it corrects several technical deficiencies by correcting statutory references and changing the "department" reference to "Office of Insurance Regulation". Ch. 2002-404, L.O.F., reassigned the statutory duties of the Comptroller and Treasurer to the newly created Department of Financial Services, headed by the CFO, and to the Financial Services Commission, whose members are the Governor and Cabinet, effective January 7, 2003.

The committee substitute also provides that the domestic insurer or its wholly owned licensed insurer must be the direct obligor of all service and warranty agreements issued by the affiliate or must issue a contractual liability insurance policy.