

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Prepared By: Banking and Insurance Committee

BILL: CS/CS/SB 1002

SPONSOR: Commerce and Consumer Services Committee, Banking and Insurance Committee and Senator Posey

SUBJECT: Insurance Field Representatives and Operations

DATE: April 19, 2005

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Emrich</u>	<u>Deffenbaugh</u>	<u>BI</u>	<u>Fav/CS</u>
2.	<u>Gordon</u>	<u>Cooper</u>	<u>CM</u>	<u>Fav/CS</u>
3.	_____	_____	<u>GA</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Committee Substitute for Committee Substitute for Senate Bill 1002 makes changes to the insurance agent licensing requirements for entities offering communications equipment insurance for wireless phones and similar devices and changes a qualification for general lines agents. Specifically the committee substitute does the following:

- Allows entities offering communications equipment property insurance and communications equipment inland marine insurance to sell service warranty agreements for such equipment without having to obtain a separate license to sell service warranties;
- Authorizes limited agent licenses to be issued to the “lead” business location of a retail vendor of communications equipment and its branch locations;
- Allows a communications equipment branch location to obtain a single appointment from its associated lead business licensee, in lieu of obtaining an appointment from an insurer or warranty association;
- Allows a communications equipment branch location appointed by an insurer prior to January 1, 2006, to replace its appointment with an appointment from its associated lead business licensee at no charge, and to renew its appointment every 24 months thereafter with the Department of Financial Services;
- Reduces the renewal appointment fee for branch locations from \$60 to \$30 beginning July 1, 2006;
- Allows a general lines agent to be licensed in Florida and be licensed as a managing general agent in another state; and
- Deletes the requirement that insurers selling motor vehicle insurance contracts include the per policy fee in their rate filings.

This committee substitute substantially amends the following sections of the Florida Statutes: 626.321, 626.731 and 627.7295.

II. Present Situation:

Licensure of Insurance Agents in Florida

There are many different types of insurance representatives in Florida which include agents, customer representatives, service representatives, adjusters, and others.¹ In general, insurance agents transact insurance on behalf of an insurer or insurers. Agents must be licensed by the Department of Financial Services (DFS) to act as an agent for an insurer, and be appointed by each insurer. Requirements for insurance agents vary by line and are based upon being a resident or a nonresident of Florida.

Insurance agents may be classified according to the type of products they sell. “General lines agents” are authorized to transact any or all of the following lines of insurance: property, casualty, surety, health, and marine insurance.² However, a general lines agent may sell health insurance, but only when transacted by an insurer also represented by the same agent as to property, or casualty, or surety insurance.

“Managing general agents” are persons managing all or part of the insurance business of an insurer. A managing general agent is authorized to adjust and pay claims and negotiate reinsurance on behalf of the insurer. Presently, a general lines agent cannot simultaneously hold a managing general agent (MGA) license.³ Representatives with DFS state that they are not certain of the reason for prohibiting a general lines agent from holding an MGA license. However, they believe that a possible rationale is the likelihood for commingling of funds by agents holding both licenses, the practice of which is prohibited under the Insurance Code.

Although licensing requirements vary by line of authority, general requirements for agent licensure include submitting an application; paying required fees; satisfying pre-licensing examination requirements, when applicable; complying with requirements as to knowledge, experience, or instruction; and submitting fingerprints. Applicants for a nonresident license must be licensed and in good standing in their home state, but generally do not have to pass a pre-licensing examination because Florida has reciprocity agreements with all states to waive that requirement. Each type of agent, for example, general lines agent, health agent, and life agent, has a set of qualifications specific to the particular lines of insurance transacted.

“Limited lines agents” are individuals, or in some cases entities, licensed as agents but limited to selling one or more of the following forms of insurance (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 life or disability; credit insurance; credit property; crop hail and multiple peril crop insurance; in-transit and storage personal property; communications equipment property; or communications equipment inland marine.⁴ Applicants for a limited lines license generally do not have to satisfy any pre-licensing education or examination requirements to be licensed. Such applicants must however, file an application with DFS, be fingerprinted and, after obtaining a license, be appointed by an insurance company.

¹ Chapter 626, F.S.

² Sections 626.726-626.754, F.S.

³ Section 626.731(1)(f), F.S.

⁴ Section 626.321, F.S.

Licensure for the Sale of Insurance for Communications Equipment

Communications equipment property insurance and communications equipment inland marine insurance (communication equipment insurance) are types of limited lines insurance agent licenses regulated by DFS. A limited license authorizes insurance transactions for a limited class of business under s. 626.321, F.S. This type of insurance covers loss, theft, mechanical failure, damage, or malfunctioning of communication equipment (e.g. cellular phones, laptop computers, personal digital assistants). A limited license to sell this type of insurance can be issued only to employees or authorized representatives of a licensed general lines agent; to each business location of a communications equipment retail vendor; or, to employees, agents, or authorized representatives of such vendor. As with several other limited lines of insurance, agents selling this product are exempt from the pre-licensing examination and education requirements applicable to general lines agents. However, unlike other limited lines licensees, licensees selling this product are required to receive initial training from, and have a “contractual relationship” with, a general lines agent.⁵

Under current law, separate licenses are required to sell communications equipment property insurance/communications equipment inland marine insurance under s. 626.321, F.S., *and* communications equipment service warranty agreements under s. 634.419-420, F.S.⁶ Individuals or entities are required to apply to DFS and become licensed and appointed for both licenses.

An entity obtaining a limited lines agent license for communication equipment insurance must obtain a license for each business location of a retail vendor of communications equipment, although the license for each business location is made on a simplified license form. Each business location of a retail vendor of communication equipment insurance must also obtain an appointment by each insurance company represented. DFS presently collects a \$50 filing fee for a limited lines insurance license for communication equipment insurance, a \$5 licensing fee, a \$60 original appointment fee, and a \$60 biennial renewal appointment fee for each business location of a retail vendor of this type of insurance.

Motor Vehicle Insurance Contracts

Section 627.7295 outlines a per policy fee that general lines agents may charge to cover administrative expenses related to selling motor vehicle policies. Currently, this fee covers administrative costs associated with selling motor vehicle policies if the policy covers only personal injury protection coverage and property damage liability coverage. The fee is normally collected over by the selling agent over the life of the policy. If an individual buys the policy, then cancels it soon after, the general lines agent responsible for the sale loses his or her fee.

III. Effect of Proposed Changes:

Section 1 amends s. 624.321, F.S., relating to limited insurance agent licenses. The legislation provides that individuals or entities with a limited lines license to sell communications equipment property insurance and communications equipment inland marine insurance may now sell communications equipment service warranty agreements. Under current law, separate agent

⁵ Section 626.321(1)(i), F.S.

⁶ A service warranty generally means any warranty, guaranty, extended warranty or extended guaranty, or maintenance service contract greater than 1 year in length or other written promise to indemnify against the cost of repair or replacement of a consumer product in return for the payment of a segregated charge by the consumer (s. 634.401(13), F.S.).

licenses are required to sell the communications equipment property/communications equipment inland marine insurance *and* communications equipment service warranties. Individuals or entities are required to apply and become licensed and appointed for both types of licenses. Thus, this provision authorizes those individuals or entities that currently hold a communications equipment property/communications equipment inland marine insurance license to sell communications equipment service warranty agreements without obtaining an additional license.

This section authorizes limited lines licenses to be issued to the “lead” business location of a retail vendor of communications equipment and its “branch locations.” Current law requires that each business location of a vendor be licensed. The legislation also allows a communications equipment branch location the option of obtaining a single appointment from its associated lead business location licensee, in lieu of obtaining an appointment from an insurer or warranty association, and to pay the prescribed appointment fee (\$60) to DFS under s. 624.501, F.S., provided that the lead location has a single appointment from each insurer or warranty association represented and such appointment provides that it applies to the lead location and all its branch locations.

This section also allows a communications equipment branch location appointed by an insurer prior to January 1, 2006, to replace its appointment with an appointment from its associated lead business licensee at no charge, and to renew on the first annual anniversary of licensure of the lead location occurring more than 24 months after the initial appointment date and every 24 months thereafter. After July 1, 2006, the renewal appointment fee for a branch location is reduced from \$60 to \$30.

Section 2 amends s. 626.731, F.S., to provide that a Florida general lines agent cannot simultaneously be a managing general agent licensed in this state. This section would thus allow a general lines agent to be licensed in Florida and be licensed as a managing general agent in another state.

Section 3 amends s. 627.7295, F.S., regarding motor vehicle insurance contracts, to provide that an insurer’s rate filing need not include the per policy fee. Currently, licensed general lines agents recover their fee from the sale of such contracts over the life of the policy, rather than upfront. This change permits the collection of the fee at the point of sale in order to avoid a loss of the fee if the buyer later cancels the policy.

Section 4 provides that the act shall take effect 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. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Branch offices licensed to sell communications equipment insurance could benefit by having the option to obtain a single appointment from their associated lead business location as opposed to obtaining an appointment from an insurer or warranty association. The branch office renewal appointment fee would be reduced in half, from \$60 to \$30. If an entity sells communications equipment, that entity could benefit because it would have to obtain only one license and appointment to sell both equipment insurance and service warranty agreements.

C. Government Sector Impact:

The following fiscal impact statement is provided by DFS. The license and appointment fees are generated biennially.

I. FISCAL IMPACT ON STATE AGENCIES:

	(FY 06-07)	(FY 08-09)
	Amount / FTE	Amount/FTE
A. Revenues:		
Elimination of service warranty biennial appointment fee: \$60 minus \$6 (to counties): \$54 (2,348 branch offices x \$54)	(\$126,792)	(\$126,792)
Reduction of biennial renewal appointment fee for branch locations: \$30 (2,348 offices x \$30) (Effective 7/1/2006)	(\$70,440)	(\$70,440)
TOTAL REVENUE LOSS:	(\$197,232)	(\$197,232)

B. Expenditures:

DFS will be required to make miscellaneous enhancements to the current computer system. The estimated cost of these enhancements is \$20,000

II. ESTIMATED FISCAL IMPACT ON LOCAL GOVERNMENTS

The committee substitute for the committee substitute provides that entities licensed to sell communications equipment property insurance also be allowed to sell service

warranties which is currently a separate license and requires a separate license and appointment fee. By combining the service warranty license with the communications equipment property license, the biennial renewal appointment fee for service warranties is eliminated. Since Florida counties receive \$6 from every appointment fee received by DFS, there is the following fiscal impact on counties.

County revenue loss (2,348 x \$6)	(\$14,088)	(\$14,088)
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VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
