

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Governmental Operations Committee

BILL: CS/CS/SB 2528

INTRODUCER: Governmental Operations Committee, Banking and Insurance Committee, and Senator Deutch

SUBJECT: Insurance Representatives

DATE: April 9, 2008 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Emrich	Deffenbaugh	BI	Fav/CS
2.	McKay	Wilson	GO	Fav/CS
3.			GA	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

Insurance agents must be licensed by the Department of Financial Services (DFS) and be appointed, i.e., given the authority to transact business on behalf of at least one insurer. Agents must take continuing education (CE) courses of their own choosing subject to DFS approval of the courses and providers. Committee Substitute for Senate Bill 2528 makes changes to laws pertaining to insurance agents and CE provisions by providing the following:

- prohibits insurers, including Citizens Property Insurance Corporation (Citizens), from requiring appointees to complete specified continuing education (CE) courses offered by such insurers and Citizens, in order for the appointment to be issued or renewed;
- allows insurers, including Citizens, to require appointees to attend non-CE training and education programs offered by such insurers and Citizens, in order for the appointment to be issued or renewed;
- allows Citizens to require its employees to take training relevant to his or her employment and to require appointees to take CE courses which pertain solely to its internal procedures or products;

- allows applicants to be exempt from the customer representative licensing examination if they have earned an associate's or bachelor's degree from an accredited college or university and have completed at least 9 academic hours in property and casualty insurance;
- authorizes independent study programs offering CE courses through correspondence to allow students to take a final closed book examination without being monitored provided that the student submits a sworn affidavit attesting he or she did not receive assistance while taking the exam; and
- creates requirements and qualifications for insurance agents to be designated as "unaffiliated insurance consultants."

The bill also creates a provision that permits agents to impose a service charge for processing a premium installment payment, when the insured could have made the premium installment payment directly to the insurance company or premium finance company.

This bill substantially amends the following sections of the Florida Statutes: 626.221, 626.2815, 626.311, 626.381, and 627.901.

II. Present Situation:

Licensure of Insurance Agents in Florida

In general, insurance agents must be licensed by the Department of Financial Services (DFS) under ch. 626, F.S., and be appointed, i.e., given the authority by an insurer to transact business on its behalf, by at least one insurer. Requirements for insurance agents vary by license and line of authority, among other factors. An insurance agent is defined to mean a general lines agent, life agent, health agent, or title agent, or all such agents, as indicated by context, but does not include a customer representative.¹ Customer representatives are appointed by a general lines agent or agency to assist in transacting the business of insurance from the office of that agent or agency.²

Continuing Education Requirements

Section 626.2815, F.S., establishes the requirements and standards for continuing education (CE) courses for persons licensed to solicit or sell insurance in Florida for all lines of insurance for which an examination is required for licensing. Persons to whom this section applies who have been licensed for less than 6 years must complete 24 CE hours every 2 years, 3 hours of which must be on the topic of ethics. The number of required CE hours decreases for licensees with 6 or more years of experience to 20 CE hours every 2 years. Licensees with 25 years or more of experience and who have met specified education requirements must complete 10 CE hours every 2 years while customer representatives and other specified licensees are required to complete 10 CE hours every 2 years.

Pursuant to Rule 69B-228.080, F.A.C., all CE courses must be submitted to and approved by the DFS. In addition to DFS-approved CE courses, insurers generally require agents, as a condition of appointment or continuation of appointment, to take training or education classes on the insurer's procedures and processing requirements. These training classes are not of general

¹ Section 626.015, F.S.

² *Id.*

application and consumer benefit and are thus not eligible course topics for approved CE classes pursuant to the DFS rule.

Citizens Property Insurance Corporation (Citizens) has created an “Agent Certification Program” (program), which has been approved by the DFS as a CE course for 1 CE credit. The program includes four modules – Agent/Agency Compliance; Personal Residential; Commercial Residential; and Commercial Nonresidential. The classroom version of the program covers all four modules in a 3 ½ hour session, does not provide for tests, and costs \$30. The online version of the program requires successful completion of a test at the end of each module for each line of business for which an agent seeks appointment or renewal of appointment and costs \$15. Citizens requires agents seeking a new appointment, which was effective on February 15, 2008, or renewal of appointment, which begins in May 2008, to either to attend the 3 ½ hour classroom program or to successfully complete the test for each module for each line of business for which the agent seeks appointment or renewal of appointment. Agents are required to complete the program every 2 years. Citizens states that the program was created to improve upon the level of service offered to Citizens’ customers.

Insurance Premium Financing

Section 627.901, F.S., provides that a general lines agent may make reasonable service charges for financing insurance premiums on policies issued or business produced by the agent or agency. The service charge may not exceed \$3 per installment, and the maximum service charge may not exceed \$36 per year. In lieu of such service charges, an insurance agent or agency, at the sole discretion of the agent or agency, may charge a rate of interest not to exceed 18 percent simple interest per year on the unpaid balance or the average unpaid balance as billed over the term of the policy and subject to endorsement changes. The interest may be billed in equal installments.

Every agent or agency engaging in premium financing whose total service charge per year or rate of interest is more than as provided above is subject to the provisions governing premium finance companies in Part XV of ch. 627, F.S.

III. Effect of Proposed Changes:

Section 1. Amends 626.221, F.S., relating to examination provisions and exemptions, to add an exemption from the examination requirement for customer representatives. Under current law, applicants for a customer representative license may be exempt from taking the examination if they have specific insurance designations, such as Accredited Customer Service Representative or Accredited Advisor of Insurance. The bill provides that a customer representative applicant is exempt from the examination requirement if such person has earned an associate’s degree or bachelor’s degree from an accredited college or university with a minimum of nine hours, or the equivalent, of property and casualty insurance curriculum. This provision takes effect on January 1, 2009.

Section 2: Amends 626.2815, F.S., relating to continuing education (CE) requirements. Currently, licensees may attend courses of their choosing as long as the DFS approves the

courses and providers, and the courses meet the CE requirement for the specific type of license held.

The bill specifies that the CE provisions apply to any insurer, employer, or appointing entity, including Citizens. An appointing entity, except an entity appointing individuals who are employees or exclusive independent contractors of the appointing entity, is prohibited from requiring, as a condition of appointment or continuation thereof, the taking of a CE course by any appointee or potential appointee that is not of the appointee's choosing. The effect of this provision prohibits insurers and Citizens from requiring agents to take specified CE courses as a condition of appointment or continued appointment. The bill does allow Citizens to require an employee to take training of any type that is relevant to his or her employment, but may not require an appointee who is not also an employee to take any CE course, unless such course deals *solely* with Citizens' internal procedures or products, or with subjects that are substantially unique to Citizens.

For specified persons licensed to solicit or sell insurance, the bill authorizes CE credit for independent study programs that offer courses via correspondence presented on paper or printed material that impose a final closed-book examination in lieu of a monitored examination. The examination may be taken without a proctor if the student presents to the course provider a sworn affidavit certifying that he or she did not consult any written material or receive any outside help. If the student is an employee of an agency or corporate entity, the student's supervisor or manager or owner of the agency or corporate entity must also sign the sworn affidavit. If the student is self-employed, a sole proprietor, or a partner, or if the exam is administered online, the sworn affidavit must also be signed by a disinterested third party. The affidavit must be received by the course provider prior to reporting CE credits to DFS.

Section 3. Amends 626.311, F.S., to create requirements and qualifications for "unaffiliated insurance consultants." Currently, individuals who want to be insurance consultants must be licensed as insurance agents and appointed by at least one insurance company in order to maintain an active license. The bill defines an "unaffiliated insurance consultant" as a person who is not affiliated with any insurer and chooses to practice as an independent insurance consultant providing objective advice to the buyers of insurance and who:

- Is a licensed agent for the type of insurance for which the agent transacts the business of insurance;
- Is not appointed or registered by any insurer or other authorized appointing authority;
- Does not sell or service insurance on behalf of any insurer, insurance agent or insurance agency, in connection with the sale or service of insurance on behalf of an insurer or by the insurance agent or insurance agency;
- Does not receive any commission or any form of compensation from any insurer, insurance agent or insurance agency, in connection with the sale or servicing of insurance on behalf of an insurer or by the insurance agent or insurance agency; and
- Is appointed by himself or herself with the DFS and has paid an appointment fee.

Unaffiliated insurance consultants may not hold themselves out as acting as the agent for an insurer or act as a countersigning agent, or hold themselves out as replacing the need for an

appointed agent in the placement or sale of insurance. This provision is effective January 1, 2009.

Section 4. Amends s. 626.381, F.S., relating to renewal, continuation or termination of appointment. The bill gives appointing entities the authority to require an appointee to attend training and education programs of the appointing entity as a condition of appointment or renewal of appointment. However, an appointee cannot be required by the appointing entity, directly or indirectly, to attend any training programs that are wholly or partially approved for general CE credit.

The effect of this provision will be to allow Citizens to require agents to take its “Agent Certification Program” in order to be appointed or to continue their appointment, but not receive CE credit for it.

The bill provides that each appointing entity may appoint only those persons who have met the CE requirements of the license necessary for such appointment. However, an appointing entity may not make, directly or indirectly, any appointment of any appointee or potential appointee to be contingent, in whole or in part, on any appointee’s attendance at any course that is approved for CE credit.

Section 5. Amends s. 627.901, F.S., to allow agents to impose a service charge for processing a premium installment payment, when the insured could have made the premium installment payment directly to the insurance company or premium finance company.

Section 6. Provides that, except as otherwise provided, the act will 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. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Insurance agents who wish to be designated as unaffiliated insurance consultants must pay the \$60 appointment fee to DFS to obtain the designation and retain their license. This appointment fee should have a positive fiscal impact on the Insurance Regulatory Trust Fund; however, it is unknown how many agents will apply for the license. Representatives with the Specialty Agents Association estimate that only a small percentage of agents would likely obtain this license. Insurers and Citizens will not be able to require appointees to complete CE courses in order for the appointment to be issued or renewed. Affected insurance agents who are required by Citizens to take training and education will not receive the benefit of CE credit. Applicants for a customer representative license will be exempt from taking the exam if they meet the education provisions under the bill.

Agents who impose the service charge permitted by section 5 of the bill could profit from the charge, to the extent that the amount of the charge is greater than the cost to the agent in providing the service. Policyholders can avoid the charge by making payment directly to the insurance company or premium finance company.

C. Government Sector Impact:

According to representatives with the DFS, the agency requests a non-recurring Contracted Services appropriation of \$98,000 from the Insurance Regulatory Trust Fund because the following adjustments must be made to its computer system relating to: 1) processing the examination exemptions for customer representatives who hold a associate's degree or bachelor's degree and 9 academic hours or its equivalent in property and casualty insurance, and 2) processing requests for designation as unaffiliated insurance consultants.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Governmental Operations on April 9, 2008:**

Adds a provision that allows agents to impose a service charge for processing a premium installment payment, when the insured could have made the premium installment payment directly to the insurance company or premium finance company.

CS by Banking and Insurance on April 1, 2008:

Deletes “agents” and inserts “representatives” in the title to make the bill an act relating to insurance representatives.

- Allows an insurer or other appointing entity to require an appointed agent or other appointee to attend training and education programs of the appointing entity in order to receive or maintain an appointment.
- Makes technical conforming changes.

B. Amendments:

None.