

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 501 CS Insurance Field Representatives and Operations
SPONSOR(S): Berfield
TIED BILLS: **IDEN./SIM. BILLS:** SB 1002; SB 1952

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Insurance Committee	17 Y, 0 N, w/CS	Callaway	Cooper
2) State Administration Appropriations Committee			
3) Commerce Council			
4)			
5)			

SUMMARY ANALYSIS

Under current law, a general lines agent cannot simultaneously hold a managing general agent license. The bill changes current law by allowing a general lines agent to hold a managing general agent license as long as the managing general agent license held was issued in another state.

Current law requires each business location of a seller of communication equipment property insurance and communication equipment inland marine insurance (communication equipment insurance) to be licensed and appointed to sell such equipment. The bill permits appointment of branch locations for a seller of such equipment under a lead location's appointment in lieu of the branch location obtaining a separate appointment by the insurer. The bill also allows the branch locations to renew their appointments at the time the lead location renews its license to sell communication equipment insurance. It allows branch locations individually appointed by an insurer to replace that appointment with one from a lead location.

The bill reduces the appointment renewal fee for branch locations from \$60 to \$30 biennially.

The bill amends current law by allowing entities obtaining a limited lines license to sell communications equipment insurance to sell service warranty agreements for communications equipment without obtaining a separate license and appointment to sell service warranty agreements.

The bill amends current law by extending the notice requirement relating to termination of an agent's appointment from a minimum of 60 days to 120 days.

The bill removes the requirement that an insurance company include in their rate filing a \$10 maximum per-policy fee currently allowed by law to be charged by insurance agents for administrative costs associated with selling only a personal injury protection and property damage liability policy.

The bill's changes to the appointment procedures and fees for communications equipment insurance and service warranties are likely to reduce overall revenue for DFS, to increase expenditures for DFS, and to reduce revenue for counties.

The bill is effective upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure lower taxes: The bill will likely reduce revenue collected by the Department of Financial Services because it allows sellers of communication equipment insurance to also sell communications equipment service warranties without a separate license and appointment as is currently required by law. It will also reduce revenues of DFS because the appointment renewal fee for retail vendors of communication equipment insurance is reduced by 50%. This change will also reduce revenues counties receive as part of the counties' share of appointment fees.

Provide limited government: The bill allows licensees and insurance agent appointments for an insurance license limited to the sale of communications equipment to include the sale of service warranties relating to the sale of communications equipment. Under current law, two separate licenses and insurance agent appointments are needed to sell communication equipment insurance and service warranties relating to such.

Safeguard individual liberty: The bill allows licensees and insurance agent appointments for an insurance license limited to the sale of communications equipment to include the sale of service warranties without obtaining additional licensure and appointment. It also allows licensees with numerous business locations to appoint each business location under the lead business location appointment in lieu of obtaining an appointment from the insurer for each branch location.

B. EFFECT OF PROPOSED CHANGES:

Licensure of Insurance Agents in Florida

There are many different types of insurance representatives. These include agents, customer representatives, service representatives, adjusters, and others.

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 (i.e., given the authority by an insurance company to transact business on its behalf) by at least one insurer to act as the agent for that particular appointing insurer or insurers.¹ Requirements for insurance agents vary by line and based upon resident or nonresident license type. "Resident agents" are agents domiciled and residing in the state of Florida.²

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. "General lines agents" are authorized under state law to transact any or all of the following lines of insurance: property, casualty, surety, health, and marine insurance. However, a general lines agent may sell health insurance without being separately licensed as a health agent only for those insurers also represented by that 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.³ A managing general agent is authorized to adjust and pay claims and negotiate reinsurance on behalf of the insurer.⁴

Under current law, a general lines agent cannot simultaneously hold a managing general agent license. The bill changes current law by allowing a general lines agent to simultaneously hold a managing

¹ s. 626.112, F.S. (2004).

² s. 626.015(16), F.S. (2004).

³ s. 626.015(14), F.S. (2004).

⁴ Id.

general lines agent license as long as the managing general lines agent license was not issued in Florida.

“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.⁵

Licensing Requirements -Although 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 resident agent license must be Florida residents. Applicants for a nonresident license must be licensed 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 have a set of qualifications specific to the particular lines of insurance transacted.

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.

Licensure for the Sale of Insurance for Communication Equipment

Communications equipment property insurance and communications equipment inland marine insurance (communication equipment insurance) are types of limited lines insurance. This type of insurance covers loss, theft, mechanical failure, damage or malfunctioning of communication equipment (e.g. cellular phones, laptop computers, personal digital assistants).

Under current law, 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, and 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.

An entity obtaining a limited lines 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.

The bill changes current law by requiring licensure for the sale of communication equipment insurance for only the lead business location of a retail vendor of communications equipment and its branch locations, rather than each business or branch location. The bill allows each branch location the option of obtaining an appointment to sell communications equipment insurance from the associated lead location rather than the insurer, as long as the lead location is properly appointed by an insurer. The bill also allows branch location appointments to renew their appointment on the annual anniversary date of licensure of the lead location, rather than the anniversary date of the branch location’s appointment.

⁵ s. 626.321, F.S. (2004).

Under current law, DFS collects a \$50 filing fee for a limited lines insurance license for communication equipment insurance, a \$5 licensing fee, and a \$60 original appointment fee and \$60 biennial renewal appointment fee for each business location of a retail vendor of this type of insurance.⁶

The bill maintains the current filing fee, licensing fee, and original appointment fee, but reduces the cost of an appointment renewal fee for branch locations from \$60 to \$30 after July 1, 2006. The lead location will still be subject to the \$60 appointment renewal fee prescribed by current law.

Branch locations individually appointed (i.e. appointed by the insurer) before January 1, 2006 can surrender its appointment from the insurer and replace it with an appointment from the lead location at no charge.

Additionally, the bill amends current law by allowing entities obtaining a limited lines license to sell communications equipment insurance to sell service warranty agreements for communications equipment without obtaining a license and appointment to sell service warranty agreements under Chapter 634. Under current law, persons who sell service warranties are licensed and regulated by the DFS pursuant to part III of chapter 634, F.S. (as part of DFS' authority to license and regulate insurance agents) and separate licenses and appointments are required for persons or entities to sell communications equipment insurance and service warranties for communications equipment. Thus, the bill's provisions will reduce the number of appointments for a retail vendor of communications equipment from two to one because a separate appointment to sell service warranties for communications equipment is no longer needed.

Insurance Agent Appointments

As noted previously, agents must be appointed (i.e., given the authority by an insurance company to transact business on its behalf) by at least one insurer to act as the agent for that particular appointing insurer or insurers. There is no statutory limit on the number of categories of appointments an agent can hold at a given time.⁷ The only restriction is that the agent must qualify and be licensed for each appointment held.⁸ Appointments must be renewed every 24 months and are in effect until suspended, revoked, or terminated.⁹

Under current law, an appointment can be terminated at any time by the appointing entity upon a minimum of 60 days written notice to the appointed agent.¹⁰ Sixty days notice is not required for termination based on grounds that would subject the appointed agent to suspension or revocation of their agent license.¹¹ Such grounds include lack of qualifications; material misstatement, misrepresentation or fraud in obtaining the license; willful misrepresentation or deception relating to an insurance policy or annuity contract; lack of trustworthiness; technical incompetence; violations of the Insurance Code; fraudulent or dishonest practices; and others.¹² Additionally, the agent and appointing entity can shorten the appointment termination notice requirement by contract.

The bill amends current law by extending the notice requirement relating to termination of an agent's appointment from a minimum of 60 days to 120 days. The agent and appointing entity will not be allowed to shorten the appointment termination notice period by contract.

⁶ s. 624.501, F.S. (2004). The appointment fee is broken down as follows: \$42 for appointment fee, \$12 for state tax, and \$6 for county tax.

⁷ s. 626.331(1), F.S. (2004).

⁸ Id.

⁹ s. 626.381, F.S. (2004).

¹⁰ s. 626.471 (1), F.S. (2004).

¹¹ Id.

¹² s. 624.611, F.S. (2004); s. 626.621, F.S. (2004).

Per Policy Fee for Automobile Policies

Section 627.7295, Florida Statutes allows a licensed general lines agent to charge a per-policy fee of \$10 maximum per policy for an automobile policy covering only personal injury protection and property damage liability sold by the insurance agent. The purpose of the per-policy fee is to cover administrative costs of the agent associated with selling the policy.¹³ Although the per policy fee is allowed under current law, in order for the agent to charge the fee, the insurer writing the personal injury protection and property damage liability policy must include the fee in its rate filing with the Office of Insurance Regulation.

The bill amends s. 627.7295, Florida Statutes by removing the requirement that an insurer include the agent's \$10 maximum per-policy fee in its rate filing.

C. SECTION DIRECTORY:

Section 1: Amends s. 624.321, F.S.; provides entities with a limited lines insurance license to sell communications equipment can also sell service warranties for communication equipment without meeting licensure and appointment requirements for service warranty sellers; provides for streamlined appointment procedures for a limited lines license for communication equipment.

Section 2: Amends s. 624.471, F.S.; increases the notice requirement an appointing entity must give an appointed insurance agent before terminating the appointment.

Section 3: Amends s. 626.731, F.S.; provides the prohibition of a general lines agent also being a managing general agent applies to only managing general agents licensed in Florida.

Section 4: Amends s. 627.7295, F.S.; removing a requirement that insurers include a per policy fee in their rate filing in order for agents to charge it to policyholders of personal injury protection and property damage liability automobile insurance only.

Section 5: Provides an effective date of upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

I. FISCAL IMPACT ON STATE AGENCIES:

A. Revenues

According to DFS, 2,348 branch locations of retail vendors of communication equipment currently have an appointment for the sale of communications equipment insurance. Each of these 2,348 branch locations also holds an appointment for the sale of service warranties. As its share of the service warranty appointment fee, DFS collects \$54 per appointment and appointment renewal (\$6 of the \$60 appointment and appointment renewal fee goes to counties as a county tax). The bill eliminates the requirement that each branch location of a retail vendor of communication equipment insurance obtain a separate appointment for the sale of service warranties for communication equipment. Thus, the estimated loss in revenue for appointment fees for the sale of service warranties for communications equipment is \$126,792 biennially (\$54 x 2,348).¹⁴

¹³ s. 627.7295(5)(a), F.S. (2004).

¹⁴ Personal communication from DFS dated March 23, 2005.

The bill also reduces the biennial appointment renewal fee DFS charges retail vendors of communication equipment appointed to sell communication equipment insurance from \$60 to \$30. This reduction in the renewal appointment fee for communications equipment insurance appointments will reduce DFS revenue by \$70,440 biennially (\$30 x 2,348).¹⁵ The reduction in renewal fees is not effective until July 1, 2006; thus will not impact revenues until Fiscal Year 2006-2007.

The chart below summarizes the revenues associated with the bill:

REVENUES FOR DFS

	FY 2005-2006	FY 2006-2007	FY 2007-2008
Recurring for Insurance Regulatory Trust Fund due to elimination of service warranty appointment fee collected biennially (\$54 state portion of appointment fee x 2,348 branch locations)	\$ 0	(\$126,792)	\$ 0
Recurring for Insurance Regulatory Trust Fund for biennial reduction of renewal of communications license appointment fee from \$60 to \$30 per appointment (\$30 amount of reduction x 2,348 appointments)	\$ 0	(\$ 70,440)	\$ 0
TOTAL DECREASE IN RECURRING REVENUE	\$ 0	(\$197,232)	\$ 0

B. Expenditures

The licensing and appointment process for agents is currently fully automated and is done electronically. The computer programming is based on licensure and appointment for each branch location. DFS believes additional computer programming costing \$20,000 must be done to comply with the bill.¹⁶

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill allows the entities licensed to sell communications equipment property insurance to also sell "service warranties" under the communications equipment license. Currently, the sale of "service warranties" requires a separate license with separate license and appointment fees. According to DFS, counties receive \$6 per agent appointment and biennial appointment renewal as their share of tax revenue relating to the appointment and biennial appointment renewal for the sale of service warranties. Information received from the industry by DFS indicates that a majority of the branch offices holding the communications equipment property insurance license also hold service warranty licenses.¹⁷ Therefore, this would create an additional estimated loss of revenue every two years as follows:

¹⁵ Id.

¹⁶ Id.

¹⁷ Legislative Bill Analysis from DFS dated January 28, 2005.

REVENUES FOR COUNTIES FOR LOSS OF TAX ON SERVICE WARRANTIES

	FY 2005-2006	FY 2006-2007	FY 2007-2008
County Share of Tax on Appointment & Renewal of Insurance Agents (2,348 appointments x \$6/appointment)	\$ 0	(\$14,088)	\$ 0

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Private entities currently licensed to sell communications equipment insurance may save money by having to only license and appoint its primary business location, rather than each business location. Also, if the entity also sells service warranties for communications equipment, the entity may save money by having to obtain only one license and appointment to sell communications equipment insurance and service warranties, rather than separate licenses and appointments for sale of such insurance and service warranties.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to take an action requiring the expenditure of funds, does not reduce the authority that counties or municipalities have to raise revenue in the aggregate, and does not reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

In its bill analysis, DFS raised implementation challenges relating to the changes to the licensing provisions applicable to the sale of communications equipment. The challenges included: the possibility that submission of a list of branch offices could require reversion from an electronic license application and appointment submission process to a paper submission process, could require additional staff to process paper submissions, or could require changes to the current electronic process.¹⁸ The challenges raised should be eliminated by the changes contained in the strike-all amendment.

¹⁸ Id.

In its bill analysis, DFS indicated section 3 of the bill that removes the elimination of a general lines agent simultaneously being licensed as a managing general lines agent conflicts with s. 626.745, F.S.¹⁹ According to DFS, section 626.745 requires a general lines agent to accompany a managing general agent if the managing general agent is transacting insurance.²⁰ If an individual can hold both a general lines agent license and a managing general agent's license at the same time, then DFS believes the managing general agent will not have to have a general agent to accompany him/her while transacting insurance because he/she is a general agent too.²¹ The statutory conflict raised by DFS should be eliminated by the strike-all which allows a general lines agent to only hold a managing general agent's license only if the managing general agent's license is issued in another state.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 17, 2005, the Insurance Committee adopted a strike-all amendment to the bill and reported the bill favorably with a CS. The strike-all amendment maintains the following provision of the original bill:

- Allows a person or entity holding a license to sell communications equipment insurance to also sell communication equipment service warranties without obtaining a separate license to sell service warranties.

The original text of the bill focused on the licensure of branch locations of retail vendors of communications equipment insurance under the lead location's insurance license, whereas, the strike-all amendment changes the focus to the appointment of branch locations of retail vendors of communications equipment insurance under the lead location's appointment. The strike-all amendment changes the original text of the bill as follows:

- Allows a branch location of a retail vendor of communications equipment insurance to obtain an appointment as an insurance agent to sell this type of insurance under the lead location's appointment.
- Allows individually appointed branch locations to replace its individual appointment with an appointment from the lead location.
- Provides appointments of branch locations coming under the lead location appointment renew every 24 months at the same time the lead location appointment renews.
- Reduces the renewal appointment fee for branch locations from \$60 to \$30, beginning July 1, 2006.

The following provisions were contained in the original text of the bill, but were changed by the strike-all amendment:

- Prevents an appointing entity (typically an insurer) and an appointed insurance agent from contracting for a termination of appointment notice less than 120 days. (the original text allowed the appointing entity and appointed insurance agent to contractually agree to less than 120 days notice of appointment termination)
- Provides a general lines agent cannot simultaneously be a managing general agent in Florida. (the original text did not specify that the prohibition on being a general lines agent and managing general agent applied only to those managing general agents licensed in Florida)

The following provision was not contained in the original text of the bill and is a new provision added by the strike-all amendment:

- Removes the requirement that an insurance company include in their rate filing a per policy fee that is currently allowed by law.

The staff analysis was updated to reflect the strike-all amendment.

¹⁹ Id.

²⁰ Personal communication with DFS on March 14, 2005.

²¹ Id.

