

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4710-01
Bill No.: HB 1626
Subject: Business and Commerce; Contracts and Contractors; Insurance Dept.
Type: Original
Date: February 20, 2006

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Insurance Dedicated	(\$71,106)	(\$130,077)	(\$134,145)
Total Estimated Net Effect on <u>Other</u> State Funds	(\$71,106)	(\$130,077)	(\$134,145)

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 6 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of State Courts Administrator** assume the proposal will have no fiscal impact on their organization.

Officials from the **Office of Prosecution Services** assume the proposal will not have a significant direct fiscal impact on county prosecutors.

Officials from the **Office of Attorney General (AGO)** assume that any costs incurred as a result of the proposal could be absorbed with existing resources. The AGO assumes that the provisions being transferred out of Chapter 407 were already regulated by the Department of Insurance. As a result, the AGO does not anticipate any new costs associated with the transfer of these sections out of Chapter 407.

Officials from the **Office of Secretary of State (SOS)** state the fiscal impact for this proposal to the SOS for administrative rules is less than \$1,500. The SOS does not expect additional funding would be required to meet these costs. However, the SOS recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with its core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the Governor.

ASSUMPTION (continued)

Officials from the **Department of Insurance (INS)** state in order to enforce provisions of this proposal, the INS would require one Financial Analyst Specialist II to process registrations, review company financial statements, examine reserve accounts, review any 10K filed and verify company net worth of those issuing product service contracts. The INS estimates that an additional Investigator II would be required to handle provisions of Section 385.310 which allows for conducting investigations and examinations for the protection of policyholders. The INS will also be required to receive and review the reimbursement contracts used by the providers of the motor vehicle and product service contracts. With the addition of product service contract providers using reimbursement contracts under this proposal, the workload of INS product analysts will increase. It is anticipated that the INS will receive an influx of filings so that providers can be in compliance. The INS is requesting one Insurance Product Analyst I/II to review reimbursement contracts received.

The INS cannot know how many companies will register but estimates it will be around 100. If numbers are considerably more (or less) additional (or fewer) staff will need to be requested. Revenue will be generated as a registration fee for product service contracts is required to be paid annually, up to a \$300 annual fee. The INS estimates that approximately 100 companies will be registered, for a yearly revenue amount of \$30,000. The proposal does not indicate where fees will be deposited, but the INS assumes fees will be deposited into the Insurance Dedicated Fund, where other such fees are deposited.

Subsection 385.301.5 exempts provider fees from premium taxes but requires tax be paid on premiums for reimbursement insurance policies. Premium tax is currently collected for premiums for reimbursement insurance policies handled through insurance companies. The INS has not made any estimates for additional revenues being collected.

The provisions of this proposal are effective January 1, 2007.

This proposal will result in an increase in total state revenue.

<u>FISCAL IMPACT - State Government</u>	FY 2007 (6 Mo.)	FY 2008	FY 2009
INSURANCE DEDICATED FUND			
<u>Income - Department of Insurance</u>			
Registration fees	\$15,000	\$30,000	\$30,000
<u>Costs - Department of Insurance</u>			
Personal service costs (3 FTE)	(\$49,661)	(\$101,806)	(\$104,351)
Fringe benefits	(\$21,881)	(\$44,856)	(\$45,977)
Expense and equipment	<u>(\$14,564)</u>	<u>(\$13,415)</u>	<u>(\$13,817)</u>
Total <u>Costs</u> - Department of Insurance	<u>(\$86,106)</u>	<u>(\$160,077)</u>	<u>(\$164,145)</u>
ESTIMATED NET EFFECT ON INSURANCE DEDICATED FUND	<u>(\$71,106)</u>	<u>(\$130,077)</u>	<u>(\$134,145)</u>
 <u>FISCAL IMPACT - Local Government</u>	 FY 2007 (6 Mo.)	 FY 2008	 FY 2009
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

This proposal would impact small business automobile dealerships and other businesses that sell and service extended service contracts.

DESCRIPTION

This proposal changes the laws regarding motor vehicle service contracts and product service agreements.

MOTOR VEHICLE SERVICE CONTRACTS

The proposal: (1) Defines "fronting company" as a dealer that authorizes a third-party administrator or provider to use its name or business to evade or circumvent a sale, an offer for sale, or a solicitation of a sale of a service contract to a consumer; (2) Prohibits an unlicensed motor vehicle or boat dealer from selling a motor vehicle service contract to a consumer; (3) Prohibits a dealer from acting as a fronting company; and (4) Creates penalties for violation of these provisions.

DESCRIPTION (continued)

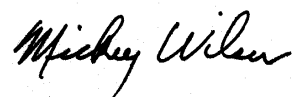
PRODUCT SERVICE AGREEMENT

The proposal: (1) Prohibits any person from issuing or selling a product service agreement without registering and paying a fee with the Director of the Department of Insurance; (2) Requires providers of service agreements to maintain at least one of the following: (a) A funded reserve account of at least 40% of gross consideration received less claims paid; (b) A financial security deposit with the department director of at least 5% of the gross consideration received less claims paid; (c) A net worth of \$1 million; or (d) A reimbursement insurance policy covering 100% of the service agreement obligations; (3) Prohibits provider fees collected from being subject to premium taxes and exempts the person selling the agreement from other state licensing laws if all requirements are met; (4) Requires providers of service agreements to furnish a written statement to the consumer outlining their obligations and conveying terms and restrictions. Misleading advertising is prohibited; (5) Requires providers of service agreements to maintain accurate records of every transaction for a period of at least three years after the specified period of coverage has expired. Records must be made available to the department upon request; (6) Prohibits insurers who issue reimbursement insurance policies from terminating a policy without notifying the director. Insurers have the right to seek indemnification against a provider if the insurer pays amounts under the service agreement that the provider was obligated to pay; and (7) Creates penalties for violation of the provisions of the proposal.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Attorney General
Office of State Courts Administrator
Department of Insurance
Office of Secretary of State
Office of Prosecution Services



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