1988

Session Law 88-104

Florida Senate & House of Representatives

Follow this and additional works at: https://ir.law.fsu.edu/staff-analysis

Part of the Legislation Commons

Recommended Citation


This Article is brought to you for free and open access by the Florida Legislative Documents at Scholarship Repository. It has been accepted for inclusion in Staff Analysis by an authorized administrator of Scholarship Repository. For more information, please contact efarrell@law.fsu.edu.
**BILL VOTE SHEET**

**COMMITTEE ON:** Commerce

**DATE:** April 27, 1988

**TIME:** 9:00 a.m. - 12 noon

**PLACE:** Room A, Senate Office Building

**OTHER COMMITTEE REFERENCES:** None.

**THE VOTE WAS:**

<table>
<thead>
<tr>
<th>BILL VOTE</th>
<th>SENATORS</th>
<th>Aye</th>
<th>Nav</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Ave Nav</td>
<td>Ave</td>
<td>Nav</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Ave</td>
<td>Nav</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Ave</td>
<td>Nav</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Ave</td>
<td>Nav</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Ave</td>
<td>Nav</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Ave</td>
<td>Nav</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Ave</td>
<td>Nav</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Ave</td>
<td>Nav</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Ave</td>
<td>Nav</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Ave</td>
<td>Nav</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>W/O</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>6</strong></td>
<td><strong>0</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* Present at the table without objection

Please Complete: The Key sponsor appeared (X)
A Senator appeared
Sponsor's aide appeared
Other appearance

**BILL NO. SB 682**

**ACTION:**
- Favorably with 2 amendments
- Favorably with Committee Substitute
- Unfavorably
- Submitted as a Committee Bill
- Temporarily Passed
- Reconsidered
- Not Considered

**FLORIDA STATE ARCHIVES**
DEPARTMENT OF STATE
R. A. GRAY BUILDING
Tallahassee, FL 32399-0250

**COPY**
The Committee on Commerce recommended the following amendment which was moved by Senator and adopted:

Senate Amendment

On page 1, lines 9-12, strike all of said lines

If amendment is text from another bill insert:

Bill No. Draft No. With Changes? Yes

and insert:

Section 1. Section 626.752, Florida Statutes, is amended to read:

626.752 Exchange of business.--

(1)(a) "Excess business" is defined as risks requiring insurance above the limits of that which the agent's own insurer will accept.

(b) "Rejected business" is defined as risks which an agent's own insurer is authorized to write but rejects for underwriting reasons.

(2) Pursuant to rules adopted by the department, and subject to the provisions of subsection (3) of this section:

(a) An agent may place with an insurer for which he is not a licensed agent only such excess or rejected business for which he is appointed and licensed, and which the insurer by which he is appointed is authorized to write, with an insurer-for-which-he-is-not-a-licensed-agent.

(b) An agent may place a class of business which his insurer is authorized to write with an insurer for which he is not a licensed agent when it is in the best
interest of the insured to do so and whether or not it is rejected business.

(3)(a) An insurer may furnish to resident Florida general lines agents who are not licensed by such insurer its forms, coverage documents, binders, applications, and other incidental supplies only for the purposes set forth in this section and only to the extent necessary to facilitate the writing of exchange of business pursuant to this section. The insurer shall assign an unique brokering agent's register number to each agent not licensed with the insurer but furnished with the insurer's forms, coverage documents, binders, applications, and other incidental supplies.

(b) Each form, coverage document, binder, and application shall contain the following legend prominently displayed which shall be properly and completely filled out by the agent when utilized: "BROKERING AGENT'S REGISTER NO.

(c) The following legend must immediately preface a line provided for the applicant's signature on the application which shall be properly and completely filled out by the agent when utilized: "I understand this application is not a binder unless indicated as such on this form by the brokering agent."

(d)1. When business is placed under paragraph (2)(a), the following legend must preface a line provided for the brokering agent's signature which shall be properly and completely filled out by the agent when utilized: "This application is in compliance with Section 626.752, Florida Statutes. A copy has been submitted to the applicant or insured and coverage is: [ ] Bound effective ...(time)... ...(date)...; [ ] Not bound."
2. When business is placed under paragraph (2)(b), the following legend must preface a line provided for the brokering agent's signature which shall be properly and completely filled out by the agent when utilized: "This application is in compliance with Section 626.752, Florida Statutes, and is submitted in the best interest of the applicant or insured to whom a copy has been furnished and coverage is: [ ] Bound effective ...(time)... ...(date)... [ ] Not bound."

(e) The brokering agent shall maintain an appropriate and permanent Brokering Agent's Register, which shall be a bound journal, in which chronologically numbered transactions are entered no later than the day in which the Brokering Agent's application bearing the same number is signed by the applicant. The numbers shall reflect an annual aggregate through numerical sequence and be preceded by the last two digits of the current year. The initial entry shall contain the number of the transaction, date, time, and date of binder, date on which coverage commences, name and address of applicant, type of coverage desired, name of insurer binding the risk or to whom the application is to be submitted, and the amount of any premium collected therefor. By no later than the date following policy delivery, the policy number and coverage expiration date shall be added to the register.

(f) Policies written in accordance with this section shall be properly countersigned in accordance with the provisions of s. 624.425.

(g) Any insurer which violates this section as a general business practice, in addition to other penalties as may apply, shall be liable for coverage of any risk placed with such insurer by nonlicensed agents utilizing forms.
coverage documents, binders, and applications not bearing the insurer's name provided that such insurer has a history of accepting placement from such agent, which placements have not been made in compliance with the requirements of this section.

2. Any insurer furnishing forms, coverage documents, binders, applications, and incidental supplies to an agent not licensed with said insurer shall keep a log sufficient to identify the agent.

3. With respect to business placed under this section, if an agent collects a premium payment from an insured during the policy period, the payment to the agent shall be deemed to constitute payment to the insurer.

(h) 1. No insurer shall furnish forms, coverage documents, binders, applications, and incidental supplies to an agent, for the purposes of this section, whether or not licensed with the insurer, unless the name of the insurer is prominently displayed thereon.

2. No agent shall utilize a form, coverage documents, binder, or application which does not have prominently displaced on its face the insurer's name.

3. No agent shall utilize a form, coverage document, binder, or application not furnished by the insurer or not furnished on behalf of the insurer by its managing general agent with respect to which the form, coverage document, binder, or application applies.

4. The agent shall not place any business pursuant to this section unless the agent has fully complied with all requirements of this section.

5. No insurer shall accept business from an agent not licensed with said insurer on a form, coverage document, binder, or application not furnished to the agent by said insurer.
insurer; providing, however, in the event an insurer accepts business in violation of this provision the insurer shall be liable for coverage arising thereunder.

6. No business shall be placed pursuant to subsection (2), using a form, coverage document, binder, or application containing the name of more than one insurer with check-off boxes or spaces in which the agent indicates the insurer with which coverage is bound or with respect to which premium is collected.

(i) No provision of this section shall be construed to limit the rights of any person afforded under s. 626.342.

(4) The foregoing limitations and restrictions shall not be construed, and shall not apply to, the placing of surplus lines business under the provisions of part VIII.

(Renumber subsequent sections.)
A bill to be entitled
An act relating to insurance; amending s.
626.752, F.S.; limiting when an agent may place
private passenger motor vehicle insurance with
certain insurers; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (2) of section 626.752, Florida
Statutes, is amended to read:

626.752 Exchange of business.--
(2) Pursuant to rules and regulations adopted by the
department, an agent may place only such excess or rejected
business for which he is appointed and licensed, and which the
insurer by which he is appointed is authorized to write, with
an insurer for which he is not a licensed agent. However, an
agent may place a class of business which his insurer is
authorized to write with an insurer for which he is not a
licensed agent when it is in the best interest of the insured
to do so and whether or not it is rejected business, but the
agent may not place private passenger motor vehicle insurance
with an insurer for which he is not a licensed agent except
for insurance written pursuant to ss. 626.913-626.937.

Section 2. This act shall take effect July 1, 1988, or
upon becoming a law, whichever occurs later.

CODING: Words stricken are deletions; words underlined are additions.
SENATE SUMMARY

Provides that an insurance agent may not place private passenger motor vehicle insurance with an insurer for which he is not licensed except in certain situations.

This publication was produced at an average cost of 1.12 cents per single page in compliance with the Rules and for the information of members of the Legislature and the public.
Florida House of Representatives - 1988
By the Committee on Insurance and Representative Young

A bill to be entitled
An act relating to insurance; amending s. 626.752, F.S., relating to the exchange of business; providing additional restrictions, disclosures, and requirements; providing for liability of insurers for coverage written by unlicensed agents under certain circumstances; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 626.752, Florida Statutes, is amended to read:

626.752 Exchange of business.--
(1)(a) "Excess business" is defined as risks requiring insurance above the limits of that which the agent's own insurer will accept.
(b) "Rejected business" is defined as risks which an agent's own insurer is authorized to write but rejects for underwriting reasons.
(2) Pursuant to rules as may be and regulations adopted by the department and subject to the provisions of subsection (3),
(a) An agent may place with an insurer for which he is not a licensed agent only such excess or rejected business for which he is appointed and licensed, and which the insurer by which he is appointed is authorized to write with an insurer for which he is not a licensee.
(b) However, an agent may place a class of business which his insurer is authorized to write with an insurer for which he is not a licensed agent when it is in the best

CODING: Words stricken are deletions; words underlined are additions.
interest of the insured to do so and whether or not it is rejected business.

(2)(a) An insurer may furnish to resident Florida general lines agents who are not licensed by such insurer its forms, coverage documents, binders, applications, and other incidental supplies only for the purposes set forth in this section and only to the extent necessary to facilitate the writing of exchange of business pursuant to this section. The insurer shall assign a unique brokering agent's register number to each agent not licensed with the insurer but furnished with the insurer's forms, coverage documents, binders, applications, and other incidental supplies.

(b) Each form, coverage document, binder, and application shall contain the following legend prominently displayed, which shall be properly and completely filled out by the agent when utilized:

"BROKERING AGENT'S REGISTER NO.

(c) The following legend must immediately preface a line provided for the applicant's signature on the application, which shall be properly and completely filled out by the agent when utilized:

"I understand this application is not a binder unless indicated as such on this form by the brokering agent."

(d) When business is placed under paragraph (2)(a), the following legend must preface a line provided for the brokering agent's signature, which shall be properly and completely filled out by the agent when utilized:

"This application is in compliance with s. 626.752, Florida Statutes. A copy has been submitted to the applicant or insured and coverage is: [ ] Bound effective __________ [ ] Not bound,"

CODING: Words stricken are deletions; words underlined are additions.
2. When business is placed under paragraph (2)(b), the following legend must preface a line provided for the brokering agent's signature, which shall be properly and completely filled out by the agent when utilized:

"This application is in compliance with s. 626.752, Florida Statutes, and is submitted in the best interest of the applicant or insured to whom a copy has been furnished, and coverage is: [ ] Bound effective ______ (time) ______ (date): [ ] Not bound."

(a) The brokering agent shall maintain an appropriate and permanent brokering agent's register, which shall be a bound journal in which chronologically numbered transactions are entered no later than the day in which the brokering agent's application bearing the same number is signed by the applicant. The numbers shall reflect an annual aggregate through numerical sequence and be preceded by the last two digits of the current year. The initial entry shall contain the number of the transaction, date, time and date of binder, date on which coverage commences, name and address of applicant, type of coverage desired, name of insurer binding the risk or to whom the application is to be submitted, and the amount of any premium collected therefor. By no later than the date following policy delivery, the policy number and coverage expiration date shall be added to the register.

(b) Policies written in accordance with this section shall be properly countersigned in accordance with the provisions of s. 626.425.

(g) Any insurer which violates this section or a general business practice, in addition to other penalties as may apply, shall be liable for coverage of any risk placed with such insurer by nonlicensed agents utilizing forms.
coverage documents, binders, and applications not bearing the
insurer's name, provided that such insurer has a history of
accepting placements from such agent, which placements have
not been made in compliance with the requirements of this
section.

2. Any insurer furnishing forms, coverage documents,
binders, applications, and incidental supplies to an agent not
licensed with said insurer shall keep a log sufficient to
to identify the agent.

3. With respect to business placed under this section,
if an agent collects a premium payment from an insured during
the policy period, the payment to the agent shall be deemed to
constitute payment to the insurer.

4. No insurer shall furnish forms, coverage
documents, binders, applications, and incidental supplies to
an agent for the purpose of this section, whether or not
licensed with the insurer, unless the name of the insurer is
prominently displayed thereon.

2. No agent shall utilize a form, coverage document,
 binder, or application which does not have prominently
displayed on its face the insurer's name.

3. No agent shall utilize a form, coverage document,
binder, or application not furnished by the insurer or not
furnished on behalf of the insurer by its managing general
agent with respect to which the form, coverage document,
binder, or application applies.

4. The agent shall not place any business pursuant to
this section unless the agent has fully complied with all
requirements of this section.

5. No insurer shall accept business from an agent not
licensed with said insurer on a form, coverage document.

CODING: Words stricken are deletions; words underlined are additions.
binder, or application not furnished to the agent by said insurer. However, in the event an insurer accepts business in violation of this provision, the insurer shall be liable for coverage arising thereunder.

6. No business shall be placed pursuant to subsection (2) using a form, coverage document, binder, or application containing the name of more than one insurer with check-off boxes or spaces in which the agent indicates the insurer bound or with respect to which a premium is collected.

(i) No provision of this section shall be construed to limit the rights of any person afforded under s. 626.252.

(4) The foregoing limitations and restrictions shall not be construed, and shall not apply to, the placing of surplus lines business under the provisions of part VIII.

Section 2. This act shall take effect July 1, 1988, or upon becoming a law, whichever occurs later.
I. SUMMARY:

The bill prohibits an insurance agent from placing private passenger motor vehicle insurance with an insurer for which he is not licensed.

A. PRESENT SITUATION:

Under present law, an insurance agent may place excess or rejected business for which he is licensed, with an insurer for which he is not a licensed agent (s. 626.752, F.S.). Excess business is defined as risks requiring insurance above the limits an agent's own insurer will accept. Rejected business is defined as risks which an agent's own insurer is authorized to write but rejects for underwriting reasons.

Although an insurer is normally bound by the acts of its licensed agents, the insurer is not necessarily liable for the acts of an agent not licensed by the company. If an agent places excess or rejected private passenger motor vehicle business with a company for which he is not licensed, and either fails to remit the premium or fails to do so in a timely manner, an applicant may be without coverage.

B. EFFECT OF PROPOSED CHANGES:

The bill prohibits insurance agents from placing excess or rejected private passenger motor vehicle insurance with an insurer for which they are not licensed. The effect will be to require agents to place business only with companies for which they are licensed. An exception is provided for private passenger motor vehicle insurance written pursuant to the surplus lines law (ss. 626.913-626.937, F.S.). The surplus lines law permits unauthorized insurers to write coverages that cannot be procured from authorized carriers, subject to certain conditions.
C. SECTION-BY-SECTION ANALYSIS:

See B. above

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:
1. Non-recurring or First Year Start-Up Effects:
   None
2. Recurring or Annualized Continuation Effects:
   None
3. Long Run Effects Other Than Normal Growth:
   None
4. Appropriations Consequences:
   None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:
1. Non-recurring or First Year Start-Up Effects:
   None
2. Recurring or Annualized Continuation Effects:
   None
3. Long Run Effects Other Than Normal Growth:
   None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:
1. Direct Private Sector Costs:
   Insurance agents will be prohibited from placing private passenger motor vehicle insurance with an insurer for which they are not licensed to write. As a result, agents may only place excess or rejected business with the Joint Underwriting Association.

2. Direct Private Sector Benefits:
   Individuals seeking insurance will benefit from having coverage once an agent accepts the premium since the agent will be licensed for all companies to which the business may be placed.
3. Effects on Competition, Private Enterprise, and Employment Markets:

Agents will be prohibited from placing private passenger motor vehicle insurance with companies for which they are not licensed. Agents will have fewer companies from which to choose when attempting to place an application for motor vehicle insurance.

D. FISCAL COMMENTS:

None

III. LONG RANGE CONSEQUENCES:

IV. COMMENTS:

V. AMENDMENTS:

VI. SIGNATURES:

INSURANCE COMMITTEE:
Prepared by: Robert A. Henderson

FINANCE & TAXATION:
Prepared by:威廉·利瑞

APPROPRIATIONS:
Prepared by:
I. SUMMARY:

The bill establishes requirements regarding the placing of business by an insurance agent with an insurer for which he is not licensed.

A. PRESENT SITUATION:

Under present law, an insurance agent may "broker" or place excess or rejected business for which he is licensed, with an insurer for which he is not a licensed agent (s. 626.752, F.S.). Excess business is defined as risks requiring insurance above the limits an agent's own insurer will accept. Rejected business is defined as risks which an agent's own insurer is authorized to write but rejects for underwriting reasons. An agent may also place a class of business which his insurer is authorized to write with an insurer for which he is not a licensed agent when it is in the best interest of the insured.

Although an insurer is normally bound by the acts of its licensed agents, the insurer is not necessarily liable for the acts of an agent not licensed by the company. If an agent places excess or rejected private passenger motor vehicle business with a company for which he is not licensed, and either fails to remit the premium or fails to do so in a timely manner, an applicant may be without coverage.

B. EFFECT OF PROPOSED CHANGES:

The bill authorizes an insurer to furnish forms, coverage documents, binders, applications and other supplies to resident Florida general lines agents to facilitate the writing of brokered business (i.e. business with companies for which they are not licensed). The insurer must assign a "brokering" agent's register number to each non-licensed agent furnished...
with such forms and supplies. Each form supplied by an insurer must provide a space to record the agent's register number. The agent must also indicate on the document whether coverage is bound.

The bill requires an agent to maintain a register of "brokered" transactions. Entries to the register must be made no later than the day the application is signed by the applicant. The initial entry must contain specific information including: the number of the transaction, time and date of binder, date on which coverage begins, name and address of applicant, type of coverage, name of insurer, and amount of any premium collected. All policies must be countersigned by a local resident agent pursuant to s. 624.425, F.S.

An insurer in violation of the provisions of the bill as a general business practice will be liable for coverage placed by a non-licensed agent utilizing forms not bearing the insurer's name, if the insurer has a history of accepting placements from the agent. Any insurer furnishing forms and supplies to an unlicensed agent must keep a log identifying the agent. If an agent collects a premium from an insured for brokered business during the policy period, the payment to the agent will be deemed to constitute payment to the insurer.

The bill also requires that all forms and supplies furnished by an insurer to an agent, whether or not licensed with the insurer, prominently display the name of the insurer. An agent is prohibited from using a form which does not have the insurer's name prominently displayed on it. No agent can utilize a form not furnished by the insurer or not furnished on behalf of the insurer by its managing general agent. Insurers are prohibited from accepting business from an unlicensed agent on a form not furnished by the insurer to the agent. However, if the insurer accepts such business it will be liable for the coverage. No business may be placed on a form containing the name of more than one insurer with spaces for the agent to indicate which insurer is bound.

C. SECTION-BY-SECTION ANALYSIS:

See B. above

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:
   None

2. Recurring or Annualized Continuation Effects:
   None
III. Long Run Effects Other Than Normal Growth:

None

4. Appropriations Consequences:

None

B. Fiscal Impact on Local Governments as a Whole:

1. Non-recurring or First Year Start-Up Effects:

None

2. Recurring or Annualized Continuation Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

C. Direct Economic Impact on Private Sector:

1. Direct Private Sector Costs:

Insurers will incur costs to develop and disseminate forms and supplies bearing their name. Such costs will ultimately be passed on to policyholders.

2. Direct Private Sector Benefits:

Individuals seeking insurance should benefit from having coverage once an agent accepts the premium, since the agent is required to either be licensed with an insurer or use the insurer's forms.

3. Effects on Competition, Private Enterprise, and Employment Markets:

The effects on competition are unknown at this time.

D. Fiscal Comments:

None

III. Long Range Consequences:

IV. Comments:

STANDARD FORM 3/88
V. AMENDMENTS:

VI. SIGNATURES:

INSURANCE COMMITTEE:
Prepared by:

Robert A. Henderson

FINANCE & TAXATION:
Prepared by:

Staff Director:

William Leary

APPROPRIATIONS:
Prepared by:

Staff Director:
By Senator Grant

A bill to be entitled
An act relating to insurance; amending s.
626.752, F.S.; limiting when an agent may place
private passenger motor vehicle insurance with
certain insurers; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (2) of section 626.752, Florida
Statutes, is amended to read:

626.752 Exchange of business.--
(2) Pursuant to rules and regulations adopted by the
department, an agent may place only such excess or rejected
business for which he is appointed and licensed, and which the
insurer by which he is appointed is authorized to write, with
an insurer for which he is not a licensed agent. However, an
agent may place a class of business which his insurer is
authorized to write with an insurer for which he is not a
licensed agent when it is in the best interest of the insured
to do so and whether or not it is rejected business, but the
agent may not place private passenger motor vehicle insurance
with an insurer for which he is not a licensed agent except
for insurance written pursuant to ss. 626.913-626.937.

Section 2. This act shall take effect July 1, 1988, or
upon becoming a law, whichever occurs later.

SENATE SUMMARY
Provides that an insurance agent may not place private
passenger motor vehicle insurance with an insurer for
which he is not licensed except in certain situations.

CODING: Words stricken are deletions; words underlined are additions.
I. SUMMARY:

A. Present Situation:

Chapter 626, F.S., provides that a property and casualty agent may attempt to obtain coverage for a potential insured from an insurance company the agent is not licensed with, if the company or companies in which the agent is licensed with, will not insure the potential insured.

B. Effect of Proposed Changes:

Section 626.752, F.S., as amended, prohibits an agent from placing private passenger motor vehicle insurance with an insurer which he is not a licensed agent, except for insurance written pursuant to ss. 626.913 - 626.937, F.S. (The Surplus Lines Law)

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

None.

B. Government:

None.

III. COMMENTS:

There appears to be some abuses of s. 626.752, F.S., dealing with exchange of business. Currently, there does not appear to be a need for an agent to place business with companies other than those he is licensed with. Generally, if an agent's company rejects an application, other companies will reject the applicant as well and the driver will be placed in the Automobile Joint Underwriting Association.

Currently, the common abuse that occurs is that the purpose of the licensed agent system is circumvented when an agent accepts an application and premium for coverage from a company with which he is not licensed. A problem occurs if the agent fails to remit the premium or fails to do so in a timely manner, and an applicant is involved in an accident before the company has accepted coverage, the company is not responsible for the acts of that unlicensed agent.

IV. AMENDMENTS:

None.
I. SUMMARY:

A. Present Situation:

Chapter 626, F.S., provides that a property and casualty agent may attempt to obtain coverage for a potential insured from an insurance company the agent is not licensed with, if the company or companies in which the agent is licensed with, will not insure the potential insured.

B. Effect of Proposed Changes:

Section 626.752, F.S., as amended, prohibits an agent from placing private passenger motor vehicle insurance with an insurer which he is not a licensed agent, except for insurance written pursuant to ss. 626.913 - 626.937, F.S. (The Surplus Lines Law)

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

None.

B. Government:

None.

III. COMMENTS:

There appears to be some abuses of s. 626.752, F.S., dealing with exchange of business. Currently, there does not appear to be a need for an agent to place business with companies other than those he is licensed with. Generally, if an agent's company rejects an application, other companies will reject the applicant as well and the driver will be placed in the Automobile Joint Underwriting Association.

Currently, the common abuse that occurs is that the purpose of the licensed agent system is circumvented when an agent accepts an application and premium for coverage from a company with which he is not licensed. A problem occurs if the agent fails to remit the premium or fails to do so in a timely manner, and an applicant is involved in an accident before the company has accepted coverage, the company is not responsible for the acts of that unlicensed agent.

IV. AMENDMENTS:

#1 by Commerce:

Section 626.752, F.S., as amended, establishes requirements which must be met when placing business by an agent with an insurer with which the placing agent is not licensed. The forms, coverage documents, binders, and applications utilized in the placement must
be furnished by the agent. The insurer must assign a brokering agent's register number to each nonlicensed agent, furnished with the insurer's forms, coverage documents, binders, applications and incidental supplies. The furnished documents must have a space to record the agent's register number. The agent must indicate on the document whether coverage is bound or not bound. The applicant must indicate an understanding that coverage is not bound when this is the case.

The brokering agent must maintain a register of brokered transactions. Countersignature requirements must be met.

Insurers furnishing documents to nonlicensed agents are held accountable when business is placed improperly in certain cases. Insurers violating the exchange of business statute as a general business practice shall be responsible for the acts of agents with whom they have prior business dealings. Insurers must keep a log of agents furnished with the insurer's documents. Documents shall not be furnished or used unless the name of the insurer appears on the documents.

#2 by Commerce:
Title amendment.