

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0896-02
Bill No.: SCS for SB 132
Subject: Insurance Dept.; Motor Vehicles; Licenses - Professional
Type: Original
Date: April 11, 2011

Bill Summary: Modifies the law with respect to the sale of motor vehicle extended service contracts.

FISCAL SUMMARY

| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | | | |
|---|------------|------------|------------|
| FUND AFFECTED | FY 2012 | FY 2013 | FY 2014 |
| | | | |
| | | | |
| Total Estimated Net Effect on General Revenue Fund | \$0 | \$0 | \$0 |

| ESTIMATED NET EFFECT ON OTHER STATE FUNDS | | | |
|---|----------------|----------------|----------------|
| FUND AFFECTED | FY 2012 | FY 2013 | FY 2014 |
| Insurance Dedicated | Unknown | Unknown | Unknown |
| | | | |
| Total Estimated Net Effect on <u>Other</u> State Funds | Unknown | Unknown | Unknown |

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 7 pages.

| ESTIMATED NET EFFECT ON FEDERAL FUNDS | | | |
|---|----------------|----------------|----------------|
| FUND AFFECTED | FY 2012 | FY 2013 | FY 2014 |
| | | | |
| | | | |
| Total Estimated Net Effect on <u>All</u> Federal Funds | \$0 | \$0 | \$0 |

| ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE) | | | |
|---|----------------|----------------|----------------|
| FUND AFFECTED | FY 2012 | FY 2013 | FY 2014 |
| | | | |
| | | | |
| Total Estimated Net Effect on FTE | | | |

Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

| ESTIMATED NET EFFECT ON LOCAL FUNDS | | | |
|--|----------------|----------------|----------------|
| FUND AFFECTED | FY 2012 | FY 2013 | FY 2014 |
| Local Government | \$0 | \$0 | \$0 |

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of State Courts Administrator, Office of Prosecution Services and Office of State Public Defender** assume the proposal would have no fiscal impact on their agencies.

Officials from the **Office of Administration - Administrative Hearing Commission** anticipate this legislation will not significantly alter its caseload. However, if other similar bills also pass, there are more cases, or the cases are more complex, there could be a fiscal impact.

Officials from the **Office of Secretary of State (SOS)** state the fiscal impact for this proposal is less than \$2,500. The SOS does not expect that additional funding would be required to meet these costs. However, the SOS also 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 SOS can sustain within its core budget. Therefore, the SOS reserves the right to request funding for the costs of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the Governor.

Officials from the **Department of Corrections (DOC)** state the DOC cannot predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase of direct offender costs either through incarceration (FY 10 average of \$16.397 per offender, per day, or an annual cost of \$5,985 per inmate) or through supervision provided by the Board of Probation and Parole (FY 10 average of \$3.92 per offender, per day, or an annual cost of \$1,431 per offender). The DOC assumes the narrow scope of the crime will not encompass a large number of offenders and the low felony status enhances the possibility of plea-bargaining or imposition of a probation sentence. The probability also exists that offenders would be charged with a similar, but more serious offense, or that sentences may run concurrent to one another. Therefore, supervision by the DOC through probation would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

Officials from the **Department of Insurance, Financial Institutions, and Professional Registration (DIFP)** state they are unable to determine how many producers would need to be licensed as business entity producers due to licensure exemptions listed in the proposal. It is

ASSUMPTION (continued)

that the requirements of this proposal can be completed within current appropriations. However, should the workload be more than anticipated, FTE and expenses will be requested through the budget process.

Oversight assumes minimal penalties will be collected as a result of the provisions of the proposal and is not presenting penalties in the fiscal note.

Officials from the **Office of Attorney General** did not respond to **Oversight's** request for a statement of fiscal impact.

| <u>FISCAL IMPACT - State Government</u> | FY 2012 (10 Mo.) | FY 2013 | FY 2014 |
|---|---------------------|----------------|----------------|
| INSURANCE DEDICATED FUND | | | |
| <u>Income - DIFP</u> | | | |
| Licensure revenue | <u>Unknown</u> | <u>Unknown</u> | <u>Unknown</u> |
| ESTIMATED NET EFFECT ON INSURANCE DEDICATED FUND | | | |
| | <u>Unknown</u> | <u>Unknown</u> | <u>Unknown</u> |
| <u>FISCAL IMPACT - Local Government</u> | FY 2012 (10 Mo.) | FY 2013 | FY 2014 |
| | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> |

FISCAL IMPACT - Small Business

This proposal would have a direct fiscal impact on small businesses selling extended service contracts.

FISCAL DESCRIPTION

This proposal modifies the law regarding motor vehicle extended service contracts.

DELIVERY OF MOTOR VEHICLE EXTENDED SERVICE CONTRACTS - This proposal makes it unlawful for a motor vehicle extended service contract provider to fail to deliver a fully executed motor vehicle extended service contract to the consumer within a commercially feasible time period (no more than 45 days), from the date the consumer's initial payment is processed.

FISCAL DESCRIPTION (continued)

LICENSING - The proposal also modifies who may sell motor vehicle extended service contracts. The authorized employees of motor vehicle dealers, motor vehicle manufacturers, lenders, and other entities may sell such contracts. Business entity producers or individual producers licensed under the provisions of this proposal may sell such contracts. Business entity producers must pay an initial and renewal licensure fee not to exceed \$100. Individual producers must pay an initial and renewal licensure fee not to exceed \$25. Examinations for individual producers are waived. Producer licenses issued under the proposal are valid for a period of 2 years and must be renewed biennially. Business entities must provide a list to the director of all of their locations at which they offer service contracts (Section 385.207).

FREE LOOK PERIOD - The proposal modifies the free look period provision for reviewing a motor vehicle extended service contract. If a claim is made under the contract during the free look period, the provider shall refund to the contract holder the full purchase price less any claims that have been paid (Section 385.206.14). The proposal further provides that a motor vehicle extended service contract shall state that a service contract holder may cancel the contract after the free look period at any time and the provider must refund 100% of the unearned pro rata provider fee, less any claims paid. A reasonable administrative fee may be surcharged by the provider in an amount not to exceed \$50 (Section 385.206.13).

DECEPTIVE PRACTICES - The proposal modifies the law regarding what constitutes a deceptive practice under the motor vehicle extended service contract act.

The proposal also makes it unlawful for a person to use fraud in the connection with the offer or sale of a motor vehicle extended service contract. Employing fraud in connection with the sale of a motor vehicle extended service contract is a level 3 violation under the insurance code (civil penalties of \$5,000 per violation, etc.). In addition, persons engaged in fraud in connection with the sale of a service contract shall be guilty of a felony, be subject to imprisonment for a term not to exceed 10 years, and be ordered to pay restitution (Section 385.208).

SUSPENSION AND REVOCATION OF LICENSE - The proposal establishes the statutory reasons for which the director may suspend or revoke a license to sell motor vehicle extended service contracts. The proposal also establishes the appeals process an aggrieved license holder may follow if the holder's license is suspended or revoked. Appeals shall be made to the administrative hearing commission. The proposal also requires motor vehicle extended service contract producers to notify the director of address changes, license revocations, or civil actions within 30 days. In addition, producers must report to the director any felony proceedings initiated by any state or the federal government within 30 days of the initial pretrial hearing date or arraignment (Section 385.209).

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FISCAL DESCRIPTION (continued)

REGISTRY OF MOTOR VEHICLE EXTENDED SERVICE PRODUCERS - Under the proposal, a provider registered to issue motor vehicle extended service contracts must maintain a register of business entity producers who are authorized to sell such contracts in this state.

Within 30 days of a provider authorizing a producer to sell motor vehicle extended service contracts, the provider shall enter the name and license number of the producer in the company registry of appointed motor vehicle extended service contract producers. Within 30 days of a provider terminating a business entity producer's appointment to sell motor vehicle extended service contracts, the provider shall update the registry with the effective date of the termination.

Under the proposal, providers having information relating to any cause for discipline under the act must notify the director of this information in writing (Section 385.211).

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 Administration -
Administrative Hearing Commission
Office of State Courts Administrator
Department of Insurance, Financial Institutions and Professional Registration
Department of Corrections
Office of Prosecution Services
Office of Secretary of State
Office of State Public Defender

NOT RESPONDING: Office of Attorney General



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April 11, 2011

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