

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 938

SPONSOR: Banking and Insurance Committee and Senator Peaden

SUBJECT: Credit Life or Disability Insurance

DATE: March 13, 2001      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Emrich	Deffenbaugh	BI	Favorable/CS
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

The Insurance Code provides for limited licenses under which persons are authorized to sell only a particular kind of insurance under specific circumstances. In some cases, a limited license may be issued to a business entity rather than an individual, such as a finance company or automobile dealership, however, each branch office of that entity must also be separately licensed to sell the insurance. One such limited license category is *credit life or disability insurance* which provides coverage for the credit holder's debt in case of death or disability. Other limited lines of insurance include *credit insurance*, which insures against loss or damage resulting from the failure of the debtor to pay his or her obligation to a creditor, and *credit property insurance* which insures against loss or damage to the personal property used as collateral for securing a loan or the personal property purchased under an installment sales agreement.

Committee Substitute for Senate Bill 938 authorizes the issuance of credit life and disability licenses to lending or financial institutions (e.g., state or federal banks, associations, savings banks, or credit unions) and provides that such licensees may also sell credit insurance and credit property insurance. The bill provides that officers of the entity (sole proprietor, majority owner, partners, officers or directors) applying for credit life or disability licensure with the Department of Insurance do not have to submit fingerprints with an application, if such entity is regulated by certain state or federal agencies.

The bill also provides that if credit life insurance is solicited or consummated via telephone, the creditor or agent must provide written disclosures to the borrower within 30 days from the date the coverage takes effect. Further, the borrower must be notified that he or she has 30 days from the date the disclosures are received to rescind the insurance coverage.

The bill amends the following sections of the Florida Statutes: 626.321 and 627.679.

## II. Present Situation:

Under current law, the Department of Insurance is authorized to issue to a qualified individual or entity a limited license to transact a particular class of insurance (s. 626.321, F.S.). Such limited lines agents are subject to background investigations, including fingerprinting, when they apply for their license, but are not required to take a licensure examination or take continuing education courses to maintain their limited license. Limited lines agents may not hold a license as an agent as to any other or additional kind or class of insurance coverage.

One particular class of limited lines insurance is *credit life or disability insurance* which provides coverage for the credit holder's debt in case of death or disability. For example, if a person buys a car and finances it, the lender may offer the individual credit life insurance which would pay off the automobile should the borrower die. Other limited lines of insurance include *credit property insurance* in which personal property is used as collateral for securing a loan or on personal property purchased under an installment sales agreement, and *credit insurance* which covers against loss or damage to the property resulting from the failure of the debtor to pay his or her obligation to a creditor.

An individual holding a limited license covering credit life or disability insurance must be employed by a life or health insurer as an officer or other salaried or commissioned representative, or employed by or associated with a lending or financial institution or creditor, and may sell such insurance only with respect to borrowers or debtors of such lending or financial institution or creditor.

A limited lines license may also be issued to a business entity, such as a finance company or an auto dealership, however, each branch office of that entity must be separately licensed. Under the current system, a business entity submits a license application to the department, pays a fee of \$55, and receives its license. The branch location of that entity must complete an abbreviated one page application, pay a \$5 fee and, in turn, receives its license which must be posted at each office location. Presently, only individuals employed by or associated with a lending or financial institution may be licensed to sell credit life or disability insurance. The lending or financial institution (e.g., entities which are state or federal banks, associations, savings banks, or credit unions) may not be licensed to sell such insurance.

Currently, financial institutions such as banks are issuing what are termed "debt cancellation/deferment agreements" which are not deemed insurance and are not subject to state insurance regulation. These types of contracts are between the borrower and creditor that cancel or suspend a debt because of events such as death, unemployment, or disability. According to proponents of this bill, the financial institutions who offer these debt or deferment agreements have a competitive advantage over entities offering traditional credit insurance because such financial institutions are not burdened by state regulation.

Section 627.679, F.S., specifies disclosure criteria for the sale of credit life insurance which requires the creditor agent to obtain a separate written acknowledgment with respect to the following disclosures: 1) the borrower understands that he or she has the option of assigning

other policies they may own to cover such loan and that the policy need not be purchased from the creditor agent in order to obtain the loan; 2) the borrower understands that the credit life coverage may be deferred if the borrower is unable to be employed or meet other criteria, if the insurance policy contains certain restrictions; and, 3) the borrower understands that the benefits under the policy will end when the borrower reaches a certain age. Currently, creditor agents can not comply with these disclosures when they sell such insurance to consumers over the telephone.

Another disclosure provision under s. 626.9551(2)(a), F.S., requires that persons offering the sale of insurance at the time of or in connection with an extension of credit, sale, or lease of goods or services, must disclose in writing that the choice of an insurance provider will not affect the decision regarding the extension of said credit, sale or lease, except that reasonable requirements may be imposed. These requirements pertain to coercion prohibitions which apply to the lending of money, credit, or the sale of insurance. This disclosure provision applies to credit insurance and credit property insurance, but not credit life and disability insurance.

Under the provision of s. 655.005, F.S., a financial institution means a state or federal association, bank, savings bank, trust company, international bank agency, or credit union.

### III. Effect of Proposed Changes:

**Section 1.** Amends s. 626.321, F.S., relating to limited licenses, to provide that a credit life or disability insurance license may be issued to a lending or financial institution. It provides that an entity, holding a credit life or disability insurance license, may also be authorized to sell credit insurance. (The statute currently allows credit life or disability license holders to sell credit property insurance.) The bill further authorizes that officers of an entity (sole proprietor, majority owner, partners, officers or directors) applying for credit life or disability licensure with the Department of Insurance are not required to submit fingerprints with an application, if the entity is regulated by certain state or federal agencies (Department of Banking and Finance, Office of the Comptroller of the Currency, the Office of Thrift Supervision, or the Securities and Exchange Commission.)

**Section 2.** Amends s. 627.679, F.S., relative to disclosures and acknowledgments for credit life insurance, to provide that in lieu of the required written acknowledgments in this section and in s. 626.9551(2)(a), F.S., if the sale of credit life insurance is solicited or consummated telephonically, the creditor or agent must provide the written disclosures to the borrower within 30 days from the date the coverage takes effect. In turn, the borrower must be notified that he or she has 30 days from the date the disclosures are received to rescind the insurance coverage. Section 626.9551(2)(a), F.S., provides that persons offering insurance at the time of the extension of credit must disclose in writing that the choice of an insurance provider will not affect the decision to extend credit.

The effect of the bill allows financial entities to be licensed to sell credit life and disability insurance and thus be allowed to sell credit insurance and credit property insurance. The bill also provides disclosures and rescission rights to consumers when credit life insurance is solicited via the telephone.

**Section 3.** Provides for the act to take effect July 1, 2001.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Lending and financial institutions would benefit because they could now sell credit life or disability insurance as well as credit insurance and credit property insurance to consumers. Additionally, companies offering credit life or disability insurance, credit insurance and credit property insurance would no longer be required to obtain fingerprints from their officers during the licensure process if such entities are regulated by certain state or federal agencies. Finance and lending institutions will further benefit because now the various types of credit insurance can be sold via the telephone with the required disclosures provided to consumers.

Consumers will benefit because they will be provided written disclosures and have the right to rescind the insurance coverage should they purchase such insurance by telephone.

**C. Government Sector Impact:**

The Department of Insurance officials have concerns about deleting the requirement to obtain fingerprints of officers employed by entities selling the types of credit insurance provided for under the bill. According to representatives with the department, there appears to be no rationale to relax the fingerprinting requirements just for financial or lending institutions when there are no similar provisions for any other type of limited lines licensee. The department has a number of ongoing investigations as to the sale of such insurance and believes fingerprinting officers of entities selling such insurance will aid in doing a more complete background check of such individuals.

Representatives with the department estimate a \$5,000 reduction in annual revenue from the loss of fees associated with credit insurance which would no longer be paid to the department under the bill.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

---

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

---