

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 807 CS

Consumer Services

SPONSOR(S): Poppell

TIED BILLS:

IDEN./SIM. BILLS: SB 1438

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Agriculture Committee</u>	<u>10 Y, 0 N, w/CS</u>	<u>Reese</u>	<u>Reese</u>
2) <u>Business Regulation Committee</u>	<u>15 Y, 0 N</u>	<u>Livingston</u>	<u>Liepshutz</u>
3) <u>Governmental Operations Committee</u>	<u>7 Y, 0 N</u>	<u>Luppert</u>	<u>Everhart</u>
4) <u>State Resources Council</u>	<u>8 Y, 0 N</u>	<u>Kaiser</u>	<u>Hamby</u>
5) _____	_____	_____	_____

SUMMARY ANALYSIS

HB 807 deals with the private security, investigative, and recovery industries. The Department of Agriculture and Consumer Services (department) provides licensure and regulation for the private security, investigative and recovery/repossession industries. Currently, the term "repossession" is defined to include property consisting of motor vehicles, mobile homes, and motorboats. The act of repossessing these properties must be conducted by licensed recovery agents.

HB 807 expands the definition of the term "repossession" to include aircraft, personal watercraft, all-terrain vehicles, farm equipment, and industrial equipment. Thus, these additional properties would be subject to the regulation.

The bill revises insurance requirements for security agencies to require *commercial* general liability coverage instead of *comprehensive* general liability.

The bill amends several sections in Chapter 493, F.S., to reflect the change in the term "repossession."

The number of individuals who are currently exempt from the licensing requirements is not known. Therefore, the fiscal impact this bill will have on state government is indeterminate. There is no anticipated fiscal impact on local government.

The effective date of the bill is October 1, 2005.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government: The bill increases the number of individuals that are required to be licensed and regulated by the department.

Ensure lower taxes: The bill subjects a new class of practitioners to statutory requirements and requires the payment of fees relating to licensure and regulation.

B. EFFECT OF PROPOSED CHANGES:

Background

The Department of Agriculture and Consumer Services (department) provides for licensure and regulation for the private security, investigative and recovery/repossession industries. The term "repossession" is defined to include property consisting of motor vehicles, mobile homes, and motorboats. The act of repossessing these properties must be conducted by licensed recovery agents. Currently, 15 categories of exemptions from regulation are specified in chapter 493, F.S.

Currently, all licensed security, recovery and private investigative agencies must carry a minimum of \$300,000 general comprehensive liability insurance coverage.

Effect of the Bill

This legislation expands the definition of the term "repossession" to include aircraft, personal watercraft, all-terrain vehicles, farm equipment, and industrial equipment. Thus, these additional properties would be subject to the regulations and guidelines set forth in chapter 493, F.S., relating to recovery/repossession practices.

One of the exemption categories specifies,

493.6102 Inapplicability of this chapter.--This chapter shall not apply to:

(3) Any individual solely, exclusively, and regularly employed as an unarmed investigator or ~~recovery agent~~ in connection with the business of her or his employer, when there exists an employer-employee relationship.

This bill eliminates the reference to "recovery agent" in this exemption and, thereby, requires these employees to be licensed and regulated in accordance with this chapter.

The bill revises insurance requirements for security agencies to require **commercial** general liability coverage instead of **comprehensive** general liability. According to the department, commercial general liability is a much more appropriate type of insurance for this industry. It doesn't include coverage for slander, libel, etc., issues that are not relative to this type of service industry.

The bill amends several sections in Chapter 493, F.S., reflecting the change in the term "repossession."

C. SECTION DIRECTORY:

Section 1: Amends s. 493.6101, F.S.; to expand the definition of "repossession" and creates a definition for "industrial equipment."

Section 2: Amends s. 493.6102, F.S.; to require additional persons to be licensed with the department.

Section 3: Amends s. 493.6110, F.S.; to amend certain insurance coverage requirements.

Section 4: Amends s. 493.6118, F.S.; to reflect change in definition of term "repossession."

Section 5: Amends s. 493.6403, F.S.; to reflect change in definition of term "repossession."

Section 6: Amends s. 493.6404, F.S.; to reflect change in definition of term "repossession."

Section 7: Amends s. 493.6405, F.S.; to reflect change in definition of term "repossession."

Section 8: Provides an effective date of October 1, 2005.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Indeterminate

2. Expenditures:

Indeterminate

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Indeterminate

2. Expenditures:

Indeterminate

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate

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 revenues 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:

“According to the Department of Agriculture, commercial general liability is a much more appropriate type of insurance for this type of service. Private investigators and repossessioners were removed from this section because they each have their own type of coverage that is more specific to their service. For example, recovery agencies already have what is referred to as “garage-keeper’s liability” which has a much larger coverage than what is specified by statute. Upon license renewal, security agencies must submit evidence of insurance to the department. Failure by a security agency to maintain adequate commercial general liability insurance is grounds for disciplinary action.”¹

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 9, 2005, the Committee on Agriculture adopted one amendment to HB 807. The amendment requires additional recovery agents to be licensed with the department by eliminating a current exemption. The bill was passed out of committee as a CS.

¹ See s. 293.6110, F.S., and the bill analysis of HB 1327 by the Committee on Agriculture, March 16, 2005, pg.2.