HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 817 Authorized Agents of Tax Collectors
SPONSOR(S): Duggan
TIED BILLS: **IDEN./SIM. BILLS:** SB 840

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee		Herrera	Lloyd
2) Appropriations Committee			
3) Infrastructure Strategies Committee			

SUMMARY ANALYSIS

County tax collectors are the Department of Highway Safety and Motor Vehicles' (DHSMV) authorized agents for titling and registering motor vehicles, motor homes, and vessels. When processing these transactions, tax collectors charge and collect fees specified in state law, which are remitted to the state. However, chs. 319, 320, and 328, F.S., also require tax collectors to retain certain statutorily prescribed service fees and charges.

Each tax collector is authorized to enter into contracts with private third-party license plate agents (LPAs) for the titling and registration of motor vehicles, mobile homes, and vessels. LPAs are granted online computer access to DHSMV systems and are supplied with title paper, registration decals, and license plates by the tax collector.

The bill authorizes a licensed general lines insurance agency holding an insurer appointment to write motor vehicle insurance in Florida to petition a tax collector for appointment, and requires the tax collector to make such appointment, as an authorized agent of the tax collector for the purpose of issuing registration certificates, registration license plates, validation stickers, and mobile home stickers

Also, the bill permits these insurance agencies to offer applicants the option to register emergency contact information and the choice to be contacted with information about state and federal benefits available as a result of military service, subject to the requirements of law and in accordance with the rules of the DHSMV.

Further, the bill mandates that a general lines insurance agency appointed by a tax collector:

- Must file a performance bond of $2 million with the DHSMV.
- Must provide the DHSMVs with audited financial statements, prepared by a certified public accountant licensed in Florida, for each of the two previous years, demonstrating that the agency has produced policy premiums in excess of $500 million in each of the two previous years.
- Is not obligated to provide services to the general public and may choose to offer services only to its customers in the normal course of business.
- Must offer such services at no more than five locations in each county where the agency has a branch office.
- Must be authorized by the tax collector to access the DHSMV's electronic filing system.
- Is subject to all provisions of the law, as if the insurance agency were a private tag agency, except where the context indicates otherwise.

The bill may have an indeterminate positive impact on state government revenues and a negative fiscal impact on state government expenditures. It has no impact on local government revenues or expenses and may have a positive impact on the private sector.

The bill has an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

County tax collectors are the Department of Highway Safety and Motor Vehicles' (DHSMV) authorized agents for titling and registering motor vehicles, motor homes, and vessels.[1] When processing these transactions, tax collectors charge and collect fees specified in state law,[2] which are remitted to the state. However, chs. 319, 320, and 328, F.S., also require tax collectors to retain certain statutorily prescribed service fees and charges.[3]

Currently, 65 counties have elected tax collectors who are constitutional officers, while Broward and Miami-Dade Counties have appointed tax collectors under each county's charter government. However, pursuant to s. 1(d), Article VIII of the State Constitution, these counties will have elected tax collectors effective January 7, 2025.[4]

Each tax collector is authorized to enter into contracts with private third-party license plate agents (LPAs) for the titling and registration of motor vehicles, mobile homes, and vessels. LPAs are granted online computer access to DHSMV systems and are supplied with title paper, registration decals, and license plates by the tax collector.

Sixteen counties have, or until recently had, contracts with privately owned LPAs to operate 57 offices[5], primarily in Miami Dade and Broward County, to perform title and registration services for motor vehicles, mobile homes, and vessels. In counties with elected tax collectors, LPAs only charge the fees for those services as expressly authorized in statute. In these counties, the LPAs may retain all or a portion of the statutorily authorized service fee that tax collectors are allowed to collect for motor vehicle, mobile home, and vessel title and registration services, as provided in the contracts between the LPA and the tax collector.[6] The LPAs in Broward and Miami-Dade County charge fees[7] for motor vehicle, mobile home, and vessel title and registration fees *in addition* to the statutory fees authorized in chs. 319, 320, and 328, F.S. The additional fees levied in Broward and Miami-Dade Counties are levied pursuant to county ordinance and are retained by the LPAs.[8]

DHSMV has transitioned its driver license services from DHSMV-owned facilities to elected county tax collectors. Florida law required DHSMV to completely transition all driver license issuance services to tax collectors who are constitutional officers under s. 1(d), Article VIII of the State Constitution with this transition completed on June 30, 2015. The transition of services to appointed charter county tax collectors may occur on a limited basis as directed by DHSMV.[9]

<u>Driver License Issuance Systems</u>

DHSMV's Florida Driver License Information System (FDLIS) is the legacy driver license issuance system that will be completely replaced by 2025 with the newly launched Online Registration and

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[1] Ch. 320 and 328, F.S. County tax collectors are expressly made agents of the state with respect to motor vehicle registration in s. 320.03(1), F.S., and with respect to vessel registration in s. 328.73(1), F.S.
[2] *See* s. 319.32, F.S., for motor vehicle title fees, s. 320.03, for motor vehicle registration fees, s. 320.04, F.S., as to motor vehicle service charges, and s. 328.72, F.S., as to vessel registration fees.
[3] Department of Highway Safety and Motor Vehicles, Agency Analysis of 2021 SB 342, p 2. (January 14, 2021).
[4] *Id*. Art. VIII, s. 1(d), Fla. Const.
[5] *Id*.
[6] *Id.*
[7] Formerly the LPAs in Volusia County charged fees. An elected county tax collector took office on January 5, 2021, and the LPA offices closed by February 4, 2021. *Id.*
[8] *Id.*
[9] Section 322.02(1), F.S.

Identity Operating Network (ORION) database application.[10] ORION will be used to conduct all driver license and identification card issuances. ORION provides real-time access to extensive information on every driver, including driving history, vehicle insurance information, and personal identity information and documents.

FDLIS/ORION is installed in 195 tax collector offices in 63 counties in Florida and in the 15 driver license offices DHSMV operates in Broward and Miami-Dade counties.

Only DHSMV and elected tax collectors have access to FDLIS/ORION. Access to these systems is governed by individual memoranda of understanding (MOUs) between DHSMV and each tax collector.

County tax collectors are required to charge a $6.25 service fee for providing driver license services.[11]

Division of Insurance Agent and Agency Services

The DFS Division of Insurance Agent and Agency Services is responsible for the licensing and regulation of insurance agents, adjusters, insurance agencies, as well as related personnel and business entities.[12]

No person may be, act as, or advertise, or hold himself/herself out to be an insurance agent, insurance adjuster, or customer representative unless he or she is currently licensed by DFS and appointed by an appropriate appointing entity or person.[13] There are several types of insurance representatives. These include:

- General lines agents,
- Life insurance agents,
- Health insurance agents,
- Title insurance agents,
- Personal lines agents, and
- Unaffiliated insurance agents.[14]

General Lines Agent

A general lines agent[15] is one who sells the following lines of insurance: property;[16] casualty,[17] including commercial liability insurance underwritten by a risk retention group, a commercial self-insurance fund,[18] or a workers' compensation self-insurance fund;[19] surety;[20] health;[21] and, marine.[22] The general lines agent may only transact health insurance for an insurer that the general lines agent also represents for property and casualty insurance. If the general lines agent wishes to represent health insurers that are not also property and casualty insurers, they must be licensed as a health insurance agent.[23] Motor vehicle insurance is a type of casualty insurance.[24]

Effect of the Bill

Tax Collector Appointment of Insurance Agency

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[10] Department of Highway Safety and Motor Vehicles, Agency Analysis of 2024 HB 817, p 7. (December 22, 2023). S. 322.135(1)(c), F.S.
[11] Department of Highway Safety and Motor Vehicles, Agency Analysis of 2021 House Bill 613, p. 5-6. (Mar. 5, 2021).
[12] Ch. 626, parts I, II, III, IV, V, VI, VIII, IX, and XIII, F.S.
[13] S. 626.112, F.S.
[14] S. 626.015, F.S.
[15] S. 626.015(5), F.S.
[16] S. 624.604, F.S.
[17] S. 624.605, F.S.
[18] As defined in s. 624.462, F.S.
[19] Pursuant to s. 624.4621, F.S.
[20] S. 626.606, F.S.
[21] Ss. 624.603 and 627.6482, F.S.
[22] S. 624.607, F.S.
[23] S. 626.829, F.S.
[24] S. 624.605, F.S.

The bill authorizes a licensed general lines insurance agency holding an insurer appointment to write motor vehicle insurance in Florida to petition a tax collector for appointment, and requires the tax collector to make such appointment, as an authorized agent of the tax collector for the purpose of issuing:

- Registration certificates;
- Registration license plates;
- Validation stickers; and
- Mobile home stickers

Also, the bill permits these insurance agencies to offer applicants the option to register emergency contact information and the choice to be contacted with information about state and federal benefits available as a result of military service, subject to the requirements of law and in accordance with the rules of the DHSMV.

Insurance Agency Requirements

The bill mandates that a general lines insurance agency appointed by a tax collector:

- Must file a performance bond of $2 million with the DHSMV.
- Must provide the DHSMVs with audited financial statements, prepared by a certified public accountant licensed in Florida, for each of the two previous years, demonstrating that the agency has produced policy premiums in excess of $500 million in each of the two previous years.
- Is not obligated to provide services to the general public and may choose to offer services only to its customers in the normal course of business.
- Must offer such services at no more than five locations in each county where the agency has a branch office.
- Must be authorized by the tax collector to access the DHSMV's electronic filing system.
- Is subject to all provisions of the law, as if the insurance agency were a private tag agency, except where the context indicates otherwise.

B. SECTION DIRECTORY:

Section 1. Amends s. 320.03, F.S., relating to registration; duties of tax collectors; international registration plan.

Section 2. Providing an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   DHSMV estimates the bill will produce indeterminate positive revenues.[25]

2. Expenditures:

   According to the DHSMV, there will be a significant cost associated with providing equipment such as computers, printers, servers, ports, cabling, and software, as well as registration inventory, including license plates and decals, to insurance agencies.[26] Additionally, the DHSMV would require additional staff to ensure that the bill is implemented properly.[27] For instance, DHSMV will likely need to hire more employees in the Tax Collection Liaison Unit to oversee the proper collection of motor vehicle registration fees by insurance agencies.[28]

[25] Department of Highway Safety and Motor Vehicles, Agency Analysis of 2024 HB 817, p 5. (December 22, 2023).
[26] Department of Highway Safety and Motor Vehicles, Agency Analysis of 2024 HB 817, p 3. (December 22, 2023).
[27] *Id*. at 4.
[28] *Id*.

Specifically, DHSMV projects a first-year cost of $12,965,840, followed by recurring cost of $4,603,955 for each of the following four fiscal years. In the fifth year, DHSMV estimates a cost of $9,377,997.[29]

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Eligible general lines agencies that are appointed for this purpose may experience increased revenues.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill grants the DHSMV the authority to adopt rules, including those that establish the information required in the petition submitted by an insurance agent to a tax collector to offer services, the necessary details within the audited financial statements that an insurance agency must submit to the DHSMV, and the enforcement authority for noncompliance.

The rulemaking authority related to DHSMV establishing enforcement authority for noncompliance may be an invalid delegation of legislative authority as it provides no guidelines or limitations for such enforcement.

Since neither the general lines agency nor the tax collectors are licensees of DHSMV, it is unclear how DHSMV will be able to effectively discipline either for noncompliance.

C. DRAFTING ISSUES OR OTHER COMMENTS:

In their agency bill analysis, DHSMV suggests multiple amendments to: 1) delay the effective date until January 1, 2026, to allow it to be implemented after the rollout of ORION and avoid the cost of reprograming the soon to be phased out FRVIS, 2) remove surplus language related to issuance of

[29] Department of Highway Safety and Motor Vehicles, Agency Analysis of 2024 HB 817, p 5. (December 22, 2023).

titles, which is not within the scope of work for general lines agencies proposed by the bill, and 3) revise language to exclude the issuance of International Registration Plan registrations and permits.[30]

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

[30] Department of Highway Safety and Motor Vehicles, Agency Analysis of 2024 HB 817, p 7. (December 22, 2023).