Ohio Legislative Service Commission

Bill Analysis

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H.B. 430

130th General Assembly
(As Introduced)

Reps. Kunze, Stinziano

BILL SUMMARY

- Requires self-service storage facilities to hold a limited lines license in order to offer, sell, or solicit coverage under a policy of self-service storage insurance.
- Requires the Superintendent of Insurance (Superintendent) to issue a license to a self-service storage facility that meets the current law requirements for resident or nonresident insurance agents, as applicable, and certain additional requirements.
- Allows the Superintendent to collect a licensure fee from each licensed self-service storage facility and each applicant for a self-service storage insurance limited lines license.
- Requires each insurer providing self-service storage insurance to supervise, or to appoint a business entity licensed as an insurance agent to supervise, the administration of a self-service storage insurance program.
- Requires each self-service storage facility or the supervising entity to provide a training and education program for all endorsees who sell self-service storage insurance.
- Requires self-service storage facilities to provide to customers specified information and disclosures.
- Regulates the handling of proceeds from the sale of self-service storage insurance.
- Requires notice for changing the terms of or terminating a contract for self-service storage insurance, except when the contract is terminated by the customer.
- Allows the Superintendent to adopt rules to implement the bill's provisions.

- Authorizes the Superintendent to take administrative or other action as provided in the bill and current law, including a hearing process, with regard to any violation and provides penalties for violations.

CONTENT AND OPERATION

The bill establishes requirements and procedures for issuing self-service storage insurance, insurance that provides coverage for the loss of, or damage to, tangible personal property that is contained in storage space or in transit during a self-service storage rental agreement. As used in the bill, "self service storage rental agreement" means a written agreement containing the terms and conditions governing the use of storage space provided by a self-service storage facility. Under the bill, self-service storage insurance may be offered on a month-to-month or other periodic basis under an individual policy, or as a group, commercial, or master policy issued to a self-service storage facility to provide insurance to the self-service storage facility's customers.[1]

Licensure requirement

The bill requires self-service storage facilities to hold a limited lines license in order to offer, sell, solicit, or place coverage under a policy of self-service storage insurance. A self-service storage insurance license is either a resident or nonresident insurance agent license, depending on the domicile of the self-service storage facility. The bill requires any self-service storage facility offering or selling self-service storage insurance on or before the bill's effective date to apply for a license within 90 days after the application is made available by the Superintendent of Insurance (Superintendent).[2] However, the bill does not require an employee or authorized agent of a self-service storage facility (endorsee) to be licensed if the self-service storage facility is licensed and the insurer issuing the self-service storage insurance either directly supervises or appoints a supervising entity to supervise the administration of the self-service storage insurance program, including development of a training program for endorsees. A self-service storage facility may authorize any of its endorsees to sell or offer self-service storage insurance to a customer at any location at which the self-service storage facility engages in self-service storage transactions.[3]

A license issued under the bill authorizes the self-service storage facility and its endorsees to engage only in those activities that are expressly permitted under the bill,

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[1] R.C. 3905.063(A)(7) and (8).

[2] R.C. 3905.063(B) and 3905.06(A)(2) and (B)(11) and a conforming change in R.C. 3905.01(K).

[3] R.C. 3905.063(A)(2), (G)(1), and (G)(2).

and a self-service storage facility must be appointed to represent an insurer before selling, soliciting, or offering insurance on behalf of that insurer.[4] However, an endorsee is prohibited from doing all of the following:

- Advertising, representing, or otherwise representing the endorsee's self as a licensed insurance agent;
- Offering, selling, or soliciting the purchase of self-service storage insurance without an associated sale or lease of self-service storage;
- Making any statement or engaging in any conduct, express or implied, that would lead a customer to believe that, if self-service storage is required as a condition of a self-service storage rental agreement, that the customer's purchase of self-service storage insurance offered by the self-service storage facility is the only method to meet that condition, or that the self-service storage facility or the endorsee is qualified to evaluate the adequacy of the customer's existing insurance coverage.[5]

The bill exempts self-service storage facilities and self-service storage facility endorsees from the current law prohibition against using an insurance agent license for the principal purpose of procuring, receiving, or forwarding applications for insurance of any kind, other than life. The bill also exempts self-service storage facilities and self-service storage facility endorsees from the current law prohibition against soliciting, placing, or effecting any kind of insurance, other than life, in connection with the property of an individual with whom the self-service storage facility or self-service storage facility's endorsee has a familial or financial relationship.[6]

If insurance is required as a condition of a self-service storage rental agreement, the bill stipulates that this requirement may be satisfied by the customer purchasing self-service storage insurance that is sold, solicited, or negotiated by the self-service storage facility, or the customer presenting to the self-service storage facility evidence of other applicable insurance coverage. An endorsee must disclose that self-service storage insurance may duplicate coverage already provided under a customer's homeowner's insurance policy, renter's insurance policy, or other coverage.[7]

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[4] R.C. 3905.063(D) and (N).

[5] R.C. 3905.063(C) and (G)(3).

[6] R.C. 3905.063(E).

[7] R.C. 3905.063(F) and (G)(4).

Application for licensure

The bill requires the Superintendent to issue a resident insurance license to a self-service storage facility if the self-service storage facility satisfies the current law requirements for resident insurance agent licenses and the application for a self-service storage insurance license contains all of the following information:

- The location of the self-service storage facility's home office;
- A designated agent who is responsible for the self-service storage facility's compliance with Ohio law, but the designated agent need not be an employee of the self-service storage facility and may be the supervising entity or an individual agent employed by the supervising entity.

If a self-service storage facility derives 50% or more of its revenue from the sale of self-service storage insurance, the self-service storage facility may also be required to provide the name, residence, address, and other information required by the Superintendent for all owners with at least 10% interest or voting interest, partners, officers, and directors of the self-service storage facility, or members or managers if the self-service storage facility is a limited liability company.

If a self-service storage facility derives less than 50% of its revenue from the sale of self-service storage insurance, the self-service storage facility may be required to provide the name, residence address, and other information required by the Superintendent for one employee or officer of the self-service storage facility as the person responsible for the self-service storage facility's compliance with Ohio law.

The bill requires the Superintendent to issue a nonresident insurance agent license to a self-service storage facility if the self-service storage facility satisfies the requirements for a nonresident insurance agent license. If the self-service storage facility's home state does not issue limited lines insurance licenses for self-service storage insurance, the nonresident self-service storage facility may apply for a resident license. In such a case, the requirements for a resident license under current law and as modified for self-service storage insurance in the bill, apply.[8]

Licensure fee

Under the bill, each licensed self-service storage insurance agent must pay a licensure fee prescribed by the Superintendent. However, the bill limits the amount the Superintendent may prescribe. The fees may not exceed the following amounts:

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[8] R.C. 3905.063(B) and (C).

- For self-service storage facilities engaged in self-service transactions at more than ten locations in Ohio, $100 for an initial license and $25 for a license renewal, to occur on a biennial basis;

- For self-service storage facilities engaged in self-service storage transactions at ten or fewer locations in Ohio, an application fee of $50 for an initial license and $10 for a license renewal, to occur on a biennial basis.[9]

Supervising entity responsibility

The bill requires each insurer providing self-service storage insurance to supervise, or to appoint a business entity licensed as an insurance agent to supervise, the administration of a self-service storage insurance program. This supervising entity is required to maintain a registry of locations in Ohio supervised by that entity that are authorized to sell or solicit self-service storage insurance. The supervising entity is required to make that registry available to the Superintendent upon request if the Superintendent provides ten days' notice to the self-service storage facility or supervising entity.[10]

Training and education program

The bill requires each self-service storage facility, or supervising entity, to provide a training and education program for all endorsees who sell or offer self-service storage insurance. The program may be provided as a web-based training module or in any other electronic or recorded video form. The training and education program must meet all of the following minimum standards:

- The training must be delivered to each endorsee of each self-service storage facility who sells or offers self-service storage insurance, and each endorsee must complete the training;

- If the training is conducted in an electronic form, the supervising entity must implement a supplemental education program regarding self-service storage insurance that is conducted and overseen by employees of the supervising entity who are licensed insurance agents;

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[9] R.C. 3905.40(C), (E)(5), and (G).

[10] R.C. 3905.063(A)(9), (G)(2), and (I).

- The training and education program must include basic information about self-service storage insurance, including information regarding the prohibited actions of endorsees.[11]

Disclosure requirements

The bill requires self-service storage facilities to provide to customers certain information and disclosures. At every location (any physical location in Ohio or any website, call center site, or similar location directed to Ohio residents) where a self-service storage facility offers self-service storage insurance to customers, the self-service storage facility must provide brochures or other written materials to prospective customers that include all of the following information:

- A summary of the material terms of the insurance coverage, including the identity of the insurer, the identity of the supervising entity, the amount of any applicable deductible and how it is to be paid, the benefits of the coverage, and the key terms and conditions of coverage;

- A summary of the process for filing a claim;

- A disclosure that self-service storage insurance may provide a duplication of coverage already provided by a customer's homeowner's insurance policy, renter's insurance policy, or other source of coverage;

- A disclosure that, if insurance is required as a condition of a self-service storage rental agreement, the requirement may be satisfied by the customer's purchase of self-service storage insurance that is sold, solicited, or negotiated by the self-service storage facility or the customer's presentation to the self-service storage facility of evidence of other applicable insurance coverage;

- A disclosure that neither the endorsee nor the self-service storage facility is qualified to evaluate the adequacy of the customer's existing insurance coverage;

- A disclosure that the customer may cancel enrollment for coverage under a self-service storage policy at any time and receive a refund of any applicable premium.[12]

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[11] R.C. 3905.063(H).

[12] R.C. 3905.063(A)(4) and (J).

Proceeds from the sale of self-service storage insurance

Under the bill, the charges for self-service storage insurance may be billed and collected by the self-service storage facility. However, all funds received by a self-service storage facility from a customer for the sale of self-service storage insurance must be considered funds held in trust by the self-service storage facility in a fiduciary capacity for the benefit of the insurer. The bill does not require self-service storage facilities that bill and collect those charges to maintain those funds in a segregated account if the self-service storage facility is authorized by the insurer to hold those funds in an alternative manner and the self-service storage facility remits the amount of the charges to the supervising entity within 60 days after receiving the charges.

The bill allows a self-service storage facility to receive compensation for performing billing and collection services, if either of the following conditions are met:

- If the charge to the customer for coverage is not included in the cost associated with the purchase or lease of self-service storage or related services, the charge for coverage is separately itemized on the customer's bill;

- If the charge to the customer for coverage is included in the cost associated with the lease of self-service storage, the self-service storage facility clearly and conspicuously disclosed to the customer that the charge for self-service storage insurance coverage is included with the lease for self-service storage.[13]

Terminating or changing the terms of the contract

Under the bill, an insurer generally may terminate or otherwise change the terms and conditions of a policy of self-service storage insurance only upon providing the self-service storage facility policyholder and enrolled customers with at least 60 days' prior notice. If the insurer changes the terms and conditions, the insurer must promptly provide the self-service storage facility policyholder with a revised policy or endorsement, and each enrolled customer with a revised certificate, endorsement, updated brochure, or other evidence indicating that a change in the terms and conditions has occurred and a summary of material changes.[14]

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[13] R.C. 3905.063(K).

[14] R.C. 3905.063(L)(1).

Termination of a customer's enrollment

If the insurer discovers fraud or material misrepresentation in how the coverage was obtained or in the presentation of a claim under the policy, the bill allows an insurer to terminate an enrolled customer's enrollment under a self-service storage insurance policy with 15 days' prior notice.

Additionally, an insurer may immediately terminate an enrolled customer's enrollment under a self-service storage insurance policy for any of the following reasons:

- The enrolled customer fails to pay the required premium;
- The enrolled customer ceases to have an active lease at the self-service storage facility;
- The enrolled customer exhausts the aggregate limit of liability, if any, under the terms of the self-service storage insurance policy and the insurer sends notice of termination to the customer within 30 calendar days of exhaustion of the limit.

However, if the enrolled customer exhausts the aggregate limit of liability and the insurer does not send the notice within the required 30-day time frame, enrollment must continue notwithstanding the aggregate limit of liability until the insurer sends notice of termination to the enrolled customer.[15]

Termination of contract by self-service storage facility

If a self-service storage insurance policy is terminated by a self-service storage facility policyholder, the bill requires the self-service storage facility policyholder to provide notice to each enrolled customer advising the customer of the termination of the policy and the effective date of the termination. The written notice must be mailed or delivered to the customer at least 30 days prior to the termination.[16]

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[15] R.C. 3905.063(L)(2) and (3).

[16] R.C. 3905.063(L)(4).

Coverage cancelled by customer

The bill allows an enrolled customer to cancel the enrolled customer's coverage under a self-service storage insurance policy at any time. Upon cancellation, the insurer must refund any applicable unearned premium.[17]

Notice requirements

Whenever the bill requires notice, the notice must be provided in writing, either via mail or by electronic means.

If notice is provided via mail, it must be mailed or delivered to the self-service storage facility at the self-service storage facility's mailing address and to all affected enrolled customers at the last known mailing addresses of those customers on file with the insurer. The insurer or self-service storage facility must maintain proof of mailing in a form authorized or accepted by the United States Postal Service or other commercial mail delivery service.

If notice is provided electronically, it must be transmitted via fax or e-mail to the self-service storage facility at the self-service storage facility's fax number or e-mail address and to all affected enrolled customers at the last known fax numbers or e-mail addresses of those customers on file with the insurer. The insurer or self-service storage facility must maintain proof that the notice was sent.[18]

Rules

The bill allows the Superintendent to adopt rules to implement its provisions.[19]

Enforcement

If the Superintendent determines that a self-service storage facility or a self-service storage facility's endorsee has violated any provision of the bill, the Superintendent may revoke or suspend the self-service storage facility's license or impose any other sanctions provided under current law with respect to insurance agents.

If the Superintendent determines that any provision of the bill has been violated by a self-service storage facility or a self-service storage facility's endorsee at a particular location, the Superintendent may issue a cease and desist order to that location, or take

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[17] R.C. 3905.063(M).

[18] R.C. 3905.063(L)(5).

[19] R.C. 3905.063(P).

other administrative action authorized under current law, including the use of a hearing process.

If the Superintendent determines that a self-service storage facility or self-service storage facility's endorsee has violated any provision of the bill or acted in violation of any current law prohibition with respect to insurance agents, the Superintendent may assess a civil penalty of up to $25,000 per violation. Additionally, the Superintendent may assess an administrative fee to cover the costs associated with the investigation and hearing process.[20]

HISTORY

ACTION	DATE
Introduced	02-11-14

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[20] R.C. 3905.063(O).