COMMITTEE REPORT

March 13, 2014

**S. 1065**

Introduced by Senator Hayes

S. Printed 3/13/14--S.

Read the first time February 27, 2014.

**THE COMMITTEE ON BANKING AND INSURANCE**

To whom was referred a Bill (S. 1065) to amend the Code of Laws of South Carolina, 1976, by adding Article 5 to Chapter 43, Title 38 so as to provide for the limited licensing of self-storage, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by deleting all after the enacting words and inserting:

/ SECTION 1. Chapter 43, Title 38 of the 1976 Code is amended by adding:

“Article 5

Limited Licensing of Self‑Service Storage Facilities to Sell or Offer Insurance

Section 38‑43‑610. For the purposes of this article:

(1) ‘Licensee’ means a person who holds a limited license.

(2) ‘Limited license’ means the authority of a person authorized to sell certain insurance pursuant to the provisions of this article.

(3) ‘Rental agreement’ means a written agreement setting forth the terms and conditions governing the use of a storage space provided by a self‑service storage facility for rental or lease.

(4) ‘Owner’ means the owner of a self‑service storage facility or his agent.

(5) ‘Occupant’ means a person or his lessee, successor, or assignee entitled to the use of the storage space at a self‑storage facility under a rental agreement to the exclusion of others.

(6) ‘Self‑service storage facility’ means real property designed and used for the sole purpose of renting or leasing individual storage space to occupants given access to this storage space for the sole purpose of storing and removing personal property.

(7) ‘Rental period’ means the term of a rental agreement.

Section 38‑43‑620. The director or his designee may issue a limited license to an owner who has complied with the requirements of this article.

Section 38‑43‑630. (A) Before issuing a limited license, an application for a limited license must be filed with the director, signed by an officer of the applicant, on a form prescribed by the department. An applicant for a limited license must be approved and vouched for by an official or licensed representative of the insurer for which the applicant proposes to act pursuant to Section 38‑43‑40 and Section 38‑43‑50. An application must be accompanied by a forty dollar fee. A limited license must be renewed biennially before May first of odd numbered years on a renewal application form provided by the department, and this form must be accompanied by a forty dollar renewal fee. The department shall cancel a license that is not renewed as required by this section. The licensee may reinstate a license within six months after the renewal deadline by paying the forty dollar renewal fee and a forty dollar reinstatement fee. A limited license fee is not refundable.

(B) A limited license holder must not advertise, represent, or otherwise hold itself or its employee out as a licensed insurer, insurance agent, or insurance broker.

Section 38‑43‑640. (A) A licensee must be the owner of a self‑service rental facility or his employee or agent.

(B) A licensee only may sell or offer to sell insurance in connection with, and incidental to, the rental of a self‑storage space in the owner’s facility. This insurance only may provide coverage for:

(1) casualty loss of the property contained in the self‑storage space;

(2) liability insurance for personal injuries, excluding injuries compensable by workers’ compensation, arising on the premises of the individual self‑storage space; or

(3) both.

Section 38‑43‑650. (A) Prior to issuing a policy under the provisions of this chapter, a licensee shall provide a written document that:

(1) summarizes clearly and correctly the material terms of coverage offered to an occupant, including the identity of the insurer;

(2) discloses that the coverage offered by the self‑service storage facility may provide a duplication of coverage already provided by a homeowners’ insurance policy or other source of coverage in effect for the occupant;

(3) describes the process for filing a claim if the occupant elects to purchase coverage and in the event of a claim; and

(4) states that the charges for coverage are itemized and ancillary to the rental agreement.

(B) If the rental agreement requires the occupant to provide insurance of the type described in Section 38‑43‑640(B), this requirement may be satisfied if the occupant:

(1) purchases this coverage from a licensee; or

(2) provides evidence of this coverage from another source.

Section 38‑43‑660. (A) The employee or agent of an owner who is a licensee may act individually on behalf, and under the supervision of, the owner‑licensee with respect to providing coverage for which the licensee is authorized to provide, but only if the owner instructs the employee or agent about the kinds of insurance sold pursuant to the owner’s license.

(B) The provisions of this chapter do not prohibit:

(1) the payment or receipt of a commission for the sale of insurance that the licensee is authorized to sell; and

(2) the payment of a bonus, incentive payment, or compensation by a licensee to his employee or agent; provided, however, that these payments may not be made based on the completion of a sale of insurance coverage.

Section 38‑43‑670. Notwithstanding another provision of this chapter, a regulation promulgated by the department, or an order issued by the director, a licensee, his employee, and agent must not be required to:

(1) act as a fiduciary of money received from the sale of insurance authorized to be sold under the provisions of this chapter; or

(2) hold this money in a separate trust account if the insurer represented by the license holder provides written consent, signed by an officer of the insurer, that a premium is not required to be segregated from money received by the license holder because of the consumer transaction associated with the coverage.

Section 38‑43‑680. The director may, after notice and opportunity for a hearing, respond to a violation of a provision of this chapter under the provisions of Section 38‑2‑10 by:

(1) revoking or suspending a limited license; or

(2) imposing other penalties, including suspending the transaction of insurance at a specific rental location where a violation of this chapter occurred, as the director considers necessary or convenient to carry out the provisions of this chapter.”

SECTION 2. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

ROBERT W. HAYES, JR. for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 5 TO CHAPTER 43, TITLE 38 SO AS TO PROVIDE FOR THE LIMITED LICENSING OF SELF‑STORAGE FACILITIES TO SELL OR OFFER INSURANCE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 43, Title 38 of the 1976 Code is amended by adding:

“Article 5

Limited Licensing of Self‑Service Storage Facilities to Sell or Offer Insurance

Section 38‑43‑610. For the purposes of this article:

(1) ‘Licensee’ means a person who holds a limited license.

(2) ‘Limited license’ means the authority of a person or entity authorized to sell certain insurance pursuant to the provisions of this article.

(3) ‘Rental agreement’ means a written agreement setting forth the terms and conditions governing the use of a storage space provided by a self‑service storage facility for rental or lease.

(4) ‘Owner’ means the owner of a self‑service storage facility or his agent.

(5) ‘Occupant’ means a person or his lessee, successor, or assignee entitled to the use of the storage space at a self‑storage facility under a rental agreement to the exclusion of others.

(6) ‘Self‑service storage facility’ means real property designed and used for the sole purpose of renting or leasing individual storage space to occupants given access to this storage space for the sole purpose of storing and removing personal property.

(7) ‘Rental period’ means the term of a rental agreement.

Section 38‑43‑620. The Director of the Department of Insurance or his designee may issue a limited license to an owner who has complied with the requirements of this article.

Section 38‑43‑630. Before issuing a limited license, an application for a limited license must be filed with the director, signed by an officer of the applicant, on a form prescribed by the department. An applicant for a limited license must be vouched for by an official or licensed representative of the insurer for which the applicant proposes to act pursuant to Section 38‑43‑50. An application must be accompanied by a forty dollar fee. A limited license must be renewed biennially before August first of odd numbered years on a renewal application form provided by the department, and this form must be accompanied by a forty dollar renewal fee. The department shall cancel a license that is not renewed as required by this section. The licensee may reinstate a license within six months after the renewal deadline by paying the forty dollar renewal fee and a forty dollar reinstatement fee. A license fee is not refundable.

Section 38‑43‑640. (A) A licensee must be the owner of a self‑service rental facility or his employee or agent.

(B) A licensee only may sell or offer to sell insurance in connection with, and incidental to, the rental of a self‑storage space in the owner’s facility. This insurance only may provide coverage for:

(1) casualty loss of the property contained in the self‑storage space;

(2) liability insurance for personal injuries, excluding injuries compensable by workers’ compensation, arising on the premises of the individual self‑storage space; or

(3) both.

Section 38‑43‑650. (A) Prior to issuing a policy under the provisions of this chapter, a licensee shall provide a written document that:

(1) summarizes clearly and correctly the material terms of coverage offered to renters, including the identity of the insurer;

(2) discloses that the coverage offered by the rental company may provide a duplication of coverage already provided by a homeowners’ insurance policy or other source of coverage in effect for the occupant;

(3) describes the process for filing a claim if the occupant elects to purchase coverage and in the event of a claim; and

(4) evidences coverage in the rental agreement is disclosed to every occupant who elects to purchase this coverage. (B) If the rental agreement requires the occupant to provide insurance of the type described in Section 38‑43‑640(B), this requirement may be satisfied if the occupant:

(1) purchases this coverage from a licensee; or

(2) provides evidence of this coverage from another source.

Section 38‑43‑660. (A) The employee or agent of an owner who is a licensee may act individually on behalf, and under the supervision of, the owner‑licensee with respect to providing coverage for which the licensee is authorized to provide, but only if the owner instructs the employee or agent about the kinds of insurance sold pursuant to the owner’s license.

(B) The provisions of this chapter do not prohibit:

(1) the payment or receipt of a commission for the sale of insurance that the licensee is authorized to sell; and

(2) the payment of a bonus, incentive payment, or compensation by a licensee to his employee or agent; provided, however, that these payments may not be made based on the completion of a sale of insurance coverage.

Section 38‑43‑670. Notwithstanding another provision of this chapter, a regulation promulgated by the department, or an order issued by the director, a licensee, his employee, and agent must not be required to:

(1) act as a fiduciary of money received from the sale of insurance authorized to be sold under the provisions of this chapter; or

(2) hold this money in a separate trust account.

Section 38‑43‑680. A licensee may not advertise, represent himself, or otherwise hold himself, his employee, or his agent out as a licensed insurer, insurance agent, or insurance broker.

Section 38‑43‑690. The director may respond to a violation of a provision of this chapter under the provisions of Section 38‑5‑120 by:

(1) revoking or suspending a limited license; or

(2) imposing other penalties, including suspending the transaction of insurance at a specific rental location where a violation of this chapter occurred, as the director considers necessary or convenient to carry out the provisions of this chapter.”

SECTION 2. This act takes effect upon approval by the Governor.

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