



Insurance & Banking Subcommittee

**Thursday, January 25, 2024
8:00 AM - 11:00 AM
Morris Hall (17 HOB)**

Meeting Packet



The Florida House of Representatives

Commerce Committee

Insurance & Banking Subcommittee

Paul Renner
Speaker

Wyman Duggan
Chair

Meeting Agenda

Thursday, January 25, 2024

8:00 am – 11:00 am

Morris Hall (17 HOB)

- I. Call to Order
- II. Roll Call
- III. Welcome and Opening Remarks
- IV. Consideration of the following bill(s):**

HB 161 Payments for Health Care Providers and Surgical Procedures under Workers' Compensation by Daley

HB 593 Misdescription of Beneficiaries and Banks by Beltran

HB 659 Health Plans by Abbott

HB 989 Department of Financial Services by LaMarca

HB 991 Pub. Rec./Cellular Telephone Numbers and Secure Login Credentials Held by the Department of Financial Services by LaMarca

HB 1031 Debt Relief Services by Buchanan

HB 1191 Assignment of Benefits for Surplus Lines Insurers by Fabricio

HB 1347 Consumer Finance Loans by Brackett

HB 1569 Exemption from Regulation for Bona Fide Nonprofit Organizations by Grant

V. Presentation:

Presentation on Citizens Property Insurance Corporation, by Tim Cerio, President, Executive Director and CEO

VI. Closing Remarks

VII. Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 161 Payments for Health Care Providers and Surgical Procedures under Workers' Compensation

SPONSOR(S): Daley and others

TIED BILLS: IDEN./SIM. **BILLS:** SB 362

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee		Herrera	Lloyd
2) State Administration & Technology Appropriations Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

Florida's Workers' Compensation Law (WC Law) requires employers to provide injured employees all medically necessary remedial treatment, care, and attendance for such period as the nature of the injury or the process of recovery may require. The Department of Financial Services, Division of Workers' Compensation (DFS), provides regulatory oversight of Florida's workers' compensation system, including the workers' compensation health care delivery system. DWC is responsible for ensuring that employers provide medically necessary treatment, care, and attendance for injured workers.

A three-member panel (panel) consisting of the Chief Financial Officer (CFO) or his or her designee and two Governor's appointees sets the MRAs. The DFS incorporates the statewide schedules of the MRAs by rule in reimbursement manuals. The panel develops three different reimbursement manuals to determine statewide schedules of maximum reimbursement allowances. The WC Law manual limits the maximum reimbursement for licensed physicians to 110 percent of Medicare reimbursement, while reimbursement for surgical procedures is limited to 140 percent of Medicare.

The WC Law limits the amount a health care provider can be paid for expert testimony during depositions on a workers' compensation claim. As an expert medical witness, a workers' compensation health care provider is limited to a maximum \$200, per hour, unless they only provided an expert medical opinion following a medical record review or provided direct personal services unrelated to the case in dispute, then they limited to a maximum \$200, per day.

The bill increases the maximum hourly amount allowed expert witnesses from \$200, per hour, to \$300, per hour. For those expert witnesses' subject to the daily rate, the maximum amount allowed is increased from \$200, per day, to \$300, per day.

Also, the bill increases the maximum reimbursement for physician licensed under ch. 458 or ch. 459, from 110 percent to 200 percent of the reimbursement allowed by Medicare. Additionally, the bill increases the maximum reimbursement for surgical procedures from 140 percent to 200 percent of the reimbursement allowed by Medicare.

The bill has no impact on state or local government revenue. It may have a negative impact on state and local government expenditures and positive and negative impacts on the private sector.

The bill is effective July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Division of Workers' Compensation

Florida's Workers' Compensation Law¹ (WC Law) requires employers to provide injured employees all medically necessary remedial treatment, care, and attendance for such period as the nature of the injury or the process of recovery may require.² The Department of Financial Services, Division of Workers' Compensation (DFS) provides regulatory oversight of Florida's workers' compensation system, including the workers' compensation health care delivery system. The law specifies certain reimbursement formulas and methodologies to compensate workers' compensation health care providers³ that provide medical services to injured employees. Where a reimbursement amount or methodology is not specifically included in statute, the Three-Member Panel is authorized to annually adopt statewide schedules of maximum reimbursement allowances (MRAs) to provide uniform fee schedules for the reimbursement of various medical services.⁴ DFS incorporates the MRAs approved by the Three-Member Panel in reimbursement manuals⁵ through the rulemaking process provided by the Administrative Procedures Act.⁶ In 2023, CS/CS/HB 487 eliminated the authority of the Three-Member Panel to adopt MRA's for individually licensed health care providers, work-hardening programs, pain programs, and durable medical equipment providers.⁷ Instead, it mandates DFS to annually publish the maximum reimbursement allowance for physician and non-hospital reimbursements on its website by July 1st, effective the following January 1st.⁸

Medical Services

DWC is responsible for ensuring that employers provide medically necessary treatment, care, and attendance for injured workers. Healthcare providers must receive authorization from the insurer before providing treatment and submit treatment reports to the insurer. Insurers must reimburse healthcare providers based on statewide schedules of maximum reimbursement allowances developed by the DWC or an agreed-upon contract price. DWC mediates utilization and reimbursement disputes.⁹

Reimbursement for Healthcare Providers

The panel consisting of the Chief Financial Officer (CFO) or their designee and two Governor's appointees, sets the MRAs.¹⁰ Beginning with rates developed in 2024 and implemented with rates effective January 1, 2025, health care providers and non-hospital rates are annually published by DFS, instead of being included in the reimbursement manuals through rulemaking.¹¹ DFS incorporates the panel's statewide schedules of the MRAs through rulemaking. In establishing the MRA manuals, the panel considers the usual and customary levels of reimbursement for treatment, services, and care;¹² the cost impact to employers for providing reimbursement that ensures that injured workers have access to necessary medical care; and the financial impact of the MRAs on healthcare providers and facilities.¹³ Florida law requires the panel to develop MRA manuals that are reasonable, promote the workers'

¹ Ch. 440, F.S.

² S. 440.13(2)(a), F.S.

³ The term "health care provider" includes a physician or any recognized practitioner licensed to provide skilled services pursuant to a prescription or under the supervision or direction of a physician. It also includes any hospital licensed under chapter 395 and any health care institution licensed under chapter 400 or chapter 429. S. 440.13(1)(g), F.S.

⁴ S. 440.13(12), F.S.

⁵ Ss. 440.13(12) and (13), F.S., and Ch. 69L-7, F.A.C.

⁶ Ch. 120, F.S.

⁷ Ch. 2023-144, Laws of Fla.

⁸ *Id.*

⁹ S. 440.13, F.S.

¹⁰ *Id.*

¹¹ Ch. 2023-144, Laws of Fla.

¹² S. 440.13(12)(i)(1), F.S.

¹³ S. 440.13(12)(i)(2), F.S.

compensation system's healthcare cost containment and efficiency, and are sufficient to ensure that medically necessary treatment is available for injured workers.¹⁴

There are three different reimbursement manuals that determine statewide schedules of maximum reimbursement allowances. The healthcare provider manual, developed by the DWC, limits the maximum reimbursement for licensed physicians to 110 percent of Medicare reimbursement,¹⁵ while reimbursement for surgical procedures is limited to 140 percent of Medicare.¹⁶ The hospital manual, developed by the panel, sets maximum reimbursement for outpatient scheduled surgeries at 60 percent of usual and customary charges,¹⁷ while other outpatient services are limited to 75 percent of usual and customary charges.¹⁸ Reimbursement of inpatient hospital care is limited based on a schedule of per diem rates approved by the panel.¹⁹ The ambulatory surgical centers manual, developed by the panel, limits reimbursement to 60 percent of usual and customary as such services are generally scheduled outpatient surgeries. The prescription drug reimbursement manual limits reimbursement to the average wholesale price plus a \$4.18 dispensing fee.²⁰ Repackaged or relabeled prescription medication dispensed by a dispensing practitioner has a maximum reimbursement of 112.5 percent of the average wholesale price plus an \$8.00 dispensing fee.²¹ Fees may not exceed the schedules adopted under ch. 440, F.S., and department rule.²²

Expert Witness Fees for Health Care Providers

The law limits the amount a health care provider can be paid for expert testimony during depositions on a workers' compensation claim. As an expert medical witness, a workers' compensation health care provider is limited to a maximum \$200, per hour, unless they only provided an expert medical opinion following a medical record review or provided direct personal services unrelated to the case in dispute, then they limited to a maximum \$200, per day.²³

Effect of the Bill

The bill increases the maximum hourly amount allowed expert witnesses from \$200, per hour, to \$300, per hour. For those expert witnesses' subject to the daily rate, the maximum amount allowed is increased from \$200, per day, to \$300, per day.

Also, the bill increases the maximum reimbursement for physician licensed under ch. 458 or ch. 459, from 110 percent to 200 percent of the reimbursement allowed by Medicare. Additionally, the bill increases the maximum reimbursement for surgical procedures from 140 percent to 200 percent of the reimbursement allowed by Medicare or the medical reimbursement level adopted by the three-member panel.

B. SECTION DIRECTORY:

Section 1. Amends s. 440.13, F.S., relating to medical services and supplies; penalty for violations; limitations.

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

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

¹⁴ S. 440.13(12)(i)(3), F.S.

¹⁵ S. 440.13(12)(f), F.S.

¹⁶ S. 440.13(12)(g), F.S.

¹⁷ S. 440.13(12)(d), F.S.

¹⁸ S. 440.13(12)(a), F.S.

¹⁹ *Id.*

²⁰ S. 440.13(12)(h), F.S.

²¹ *Id.*

²² S. 440.13(12)(f), F.S.

²³ S. 440.13(10), F.S.

1. Revenues:

None.

2. Expenditures:

The bill may have a negative fiscal impact on state government expenditures, specifically leading to increased workers' compensation costs and necessitating budgetary adjustments to accommodate the projected 7.3 percent rise in workers' compensation rates.²⁴

The bill may have a negative, likely insignificant, impact on expenditures for litigated state employee workers' compensation claims to the extent the state elects to increase expert witness fees, as allowed by the bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill may have a negative fiscal impact on local government expenditures, potentially resulting in higher workers' compensation costs and requiring budget adjustments to address the anticipated 7.3 percent increase in workers' compensation rates.²⁵

The bill may have a negative, likely insignificant, impact on self-insured local government expenditures for litigated public employee workers' compensation claims to the extent they elect to increase expert witness fees, as allowed by the bill.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may increase payments to medical providers who appear as expert witnesses in litigated workers' compensation claim and to physicians for medical services provided to injured workers.

The bill may increase worker's compensation claim costs in litigated cases. If this is significant enough to impact workers' compensation rates, it may increase workers' compensation premiums paid by employers.

D. FISCAL COMMENTS:

According to the National Council on Compensation Insurance, the fee schedule increase may result in a 7.3 percent increase in workers' compensation rates.²⁶

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill necessitates local governments to allocate additional funds, particularly for those providing increased workers' compensation reimbursements to physicians, including self-insured employers; however, an exception may apply. The bill applies to all similarly situated entities that provide workers' compensation.

2. Other:

²⁴ Email from Dawn Ingham, State Relations Executive, External & Government Affairs, National Council on Compensation Insurance (NCCI), 2023 Rate Briefing, Aug. 25, 2023.

²⁵ *Id.*

²⁶ *Id.*

None.

B. RULE-MAKING AUTHORITY:

None provided by the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to payments for health care providers
 3 and surgical procedures under workers' compensation;
 4 amending s. 440.13, F.S.; increasing the maximum
 5 amounts of certain witness fees related to workers'
 6 compensation cases; increasing the maximum
 7 reimbursements for physicians and surgical procedures
 8 under workers' compensation; providing an effective
 9 date.

10

11 Be It Enacted by the Legislature of the State of Florida:

12

13 Section 1. Subsection (10) and paragraphs (f) and (g) of
 14 subsection (12) of section 440.13, Florida Statutes, are amended
 15 to read:

16 440.13 Medical services and supplies; penalty for
 17 violations; limitations.—

18 (10) WITNESS FEES.—Any health care provider who gives a
 19 deposition shall be allowed a witness fee. The amount charged by
 20 the witness may not exceed \$300 ~~200~~ per hour. An expert witness
 21 who has never provided direct professional services to a party
 22 but has merely reviewed medical records and provided an expert
 23 opinion or has provided only direct professional services that
 24 were unrelated to the workers' compensation case may not be
 25 allowed a witness fee in excess of \$300 ~~200~~ per day.

26 (12) CREATION OF THREE-MEMBER PANEL; GUIDES OF MAXIMUM
 27 REIMBURSEMENT ALLOWANCES.—

28 (f) Maximum reimbursement for a physician licensed under
 29 chapter 458 or chapter 459 shall be 200 ~~110~~ percent of the
 30 reimbursement allowed by Medicare, using appropriate codes and
 31 modifiers or the medical reimbursement level adopted by the
 32 three-member panel as of January 1, 2003, whichever is greater.

33 (g) Maximum reimbursement for surgical procedures shall be
 34 200 ~~140~~ percent of the reimbursement allowed by Medicare or the
 35 medical reimbursement level adopted by the three-member panel as
 36 of January 1, 2003, whichever is greater.

37
 38 The department, as requested, shall provide data to the panel,
 39 including, but not limited to, utilization trends in the
 40 workers' compensation health care delivery system. The
 41 department shall provide the panel with an annual report
 42 regarding the resolution of medical reimbursement disputes and
 43 any actions pursuant to subsection (8). The department shall
 44 provide administrative support and service to the panel to the
 45 extent requested by the panel. For prescription medication
 46 purchased under the requirements of this subsection, a
 47 dispensing practitioner shall not possess such medication unless
 48 payment has been made by the practitioner, the practitioner's
 49 professional practice, or the practitioner's practice management
 50 company or employer to the supplying manufacturer, wholesaler,

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51 distributor, or drug repackager within 60 days of the dispensing
52 practitioner taking possession of that medication.

53 Section 2. This act shall take effect July 1, 2024.

INSURANCE & BANKING SUBCOMMITTEE

**HB 161 by Rep. Daley
Payments for Health Care Providers and Surgical
Procedures under Workers' Compensation**

**AMENDMENT SUMMARY
January 25, 2024**

Amendment 1 by Rep. Daley (Line 29): The amendment reduces the proposed increase from 200% of the Medicare allowed amount to a uniform 150%, applicable to both surgical and non-surgical health care provider reimbursements.

Amendment No.1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Insurance & Banking
 2 Subcommittee

3 Representative Daley offered the following:

4

5 **Amendment**

6 Remove lines 29-34 and insert:

7 chapter 458 or chapter 459 shall be 150 ~~110~~ percent of the
 8 reimbursement allowed by Medicare, using appropriate codes and
 9 modifiers or the medical reimbursement level adopted by the
 10 three-member panel as of January 1, 2003, whichever is greater.

11 (g) Maximum reimbursement for surgical procedures shall be
 12 150 ~~140~~ percent of the reimbursement allowed by Medicare or the

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 593 Misdescription of Beneficiaries and Banks

SPONSOR(S): Beltran

TIED BILLS: IDEN./SIM. BILLS: SB 772

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee		Fletcher	Lloyd
2) Commerce Committee			

SUMMARY ANALYSIS

Florida's Uniform Commercial Code (UCC), chs. 670-680, F.S., regulates commercial and secured transactions in the state. Chapter 670, F.S., of the UCC applies to funds transfers. "Funds transfers" refers to the series of transactions, beginning with an originator's payment order, that is made for the purpose of making payment to the beneficiary of the order (i.e., a person or business issuing a payment to another through the payment system of banks).

The UCC currently provides that if the name, bank account number, or other identification of a beneficiary in a payment order refers to a nonexistent or unidentifiable person or account, no person has rights as a beneficiary of the order and acceptance of the order cannot occur at the beneficiary's bank. However, if a payment order received by the beneficiary's bank identifies the beneficiary both by name and an identifying or bank account number and the name and number identify different persons, then certain rules apply.

The UCC also currently provides that if a payment order identifies an intermediary bank or the beneficiary's bank only by an identifying number, the receiving bank may rely on the number as the proper identification of the intermediary or beneficiary's bank and need not determine whether the number identifies a bank. However, the sender must compensate the receiving bank for any loss and expense incurred by the receiving bank as a result of its reliance on the number in executing or attempting to execute the order. Certain rules also apply to a payment order that identifies an intermediary bank or the beneficiary's bank both by name and an identifying number, but the name and number identify different persons.

According to the Federal Bureau of Investigation (FBI), consumers in America lost more than \$220 million in 2020 from fraudulent schemes known as real estate wire fraud. In these schemes, hackers infiltrate legitimate email conversations between consumers and real estate title companies and send fraudulent wiring instructions.

The bill amends the chapter of the UCC relating to funds transfers to require that:

- A payment order must accurately identify the beneficiary both by name and by an identifying or bank account number;
- A beneficiary's bank must determine in good faith, and using reasonable care, whether the name and number refer to the same person;
- A bank accepting orders at a location in Florida, or from a customer who resides in Florida, must comply with certain verification, acceptance, and indemnification requirements; and
- A payment order identifying an intermediary bank or the beneficiary's bank must accurately use both an identifying number and a name, in addition to other requirements of the receiving bank.

The bill has no impact on state government nor local government revenues and expenses. It may have an indeterminate positive and negative impact on consumers in Florida and an indeterminable negative impact on financial institutions operating in Florida.

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

This document does not reflect the intent or official position of the bill sponsor or House of Representatives .

STORAGE NAME: h0593.IBS

DATE: 1/23/2024

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Uniform Commercial Code

The model Uniform Commercial Code (Model Code) is a comprehensive set of laws governing all commercial transactions in the United States.¹ It is not a federal law, but a uniformly adopted state law.² The Model Code is a joint project of the Uniform Law Commission (ULC) and the American Law Institute (ALI).³ In 1951, the ULC and ALI first offered the Model Code to the states for their consideration.⁴ Pennsylvania was the first state to adopt the Model Code in 1953, and every other state followed suit over the next twenty years.⁵

Florida's Uniform Commercial Code

Florida's Uniform Commercial Code (UCC)⁶ regulates commercial and secured transactions in the state. The UCC contains the following chapters:

- Ch. 670: Funds Transfers
- Ch. 671: General Provisions
- Ch. 672: Sales
- Ch. 673: Negotiable Instruments
- Ch. 674: Bank Deposits and Collections
- Ch. 675: Letters of Credit
- Ch. 677: Documents of Title
- Ch. 678: Investment Securities
- Ch. 679: Secured Transactions
- Ch. 680: Leases

Funds Transfers

Chapter 670, F.S., of the UCC applies to funds transfers. "Funds transfers" refers to the series of transactions, beginning with an originator's payment order, that is made for the purpose of making payment to the beneficiary of the order.⁷ The term includes any payment order issued by the originator's bank or an intermediary bank intended to carry out the order.⁸ A funds transfer is completed by acceptance of the beneficiary's bank of a payment order for the benefit of the beneficiary.⁹

¹ Uniform Law Commission, *Uniform Commercial Code*, <https://www.uniformlaws.org/acts/ucc> (last visited Jan. 18, 2024).

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ Chapters 670-680, F.S., codifies Florida's UCC. See s. 671.101, F.S.

⁷ S. 670.104(1), F.S.

⁸ *Id.*

⁹ *Id.*

For purposes of ch. 670, F.S., (including for purposes of the definition of “funds transfers”), the terms below have the following definitions:

- “Beneficiary” means the person to be paid by the beneficiary’s bank.¹⁰
- “Beneficiary’s bank” means the bank identified in a payment order in which an account of the beneficiary is to be credited pursuant to the order or which otherwise is to make payment to the beneficiary if the order does not provide for payment to an account.¹¹
- “Intermediary bank” means a receiving bank other than the originator’s bank or the beneficiary’s bank.¹²
- “Originator” means the sender of the first payment order in a funds transfer.¹³
- “Originator’s bank” means:
 - The receiving bank to which the payment order of the originator is issued if the originator is not a bank; or
 - The originator if the originator is a bank.¹⁴
- “Payment order” means an instruction of a sender to a receiving bank, transmitted orally, electronically, or in writing, to pay (or to cause another bank to pay) a fixed or determinable amount of money if:
 - The instruction does not state a condition to payment to the beneficiary other than time of payment;
 - The receiving bank is to be reimbursed by debiting an account of, or otherwise receiving payment from, the sender; and
 - The instruction is transmitted by the sender directly to the receiving bank or to an agent, funds-transfer system, or communication system for transmittal to the receiving bank.¹⁵
- “Receiving bank” means the bank to which the sender’s instruction is addressed.¹⁶
- “Sender” means the person giving the instruction to the receiving bank.¹⁷

The law governing funds transfers should “serve the interests of commercial parties that look to large-value credit transfer systems to settle their payment obligations and facilitate growth in domestic and international transactions.”¹⁸ The International Monetary Fund claims that with so much money transferred by wire each day, and with the average value of each transfer so high, the potential for large losses is great.¹⁹ Therefore, commercial parties making and receiving such payments require a clear, comprehensible, and sensible legal framework.²⁰

¹⁰ S. 670.103(1)(a), F.S.

¹¹ S. 670.103(1)(b), F.S.

¹² S. 670.104(2), F.S.

¹³ S. 670.104(3), F.S.

¹⁴ S. 670.104(4), F.S.

¹⁵ S. 670.103(1)(c), F.S.

¹⁶ S. 670.103(1)(d), F.S.

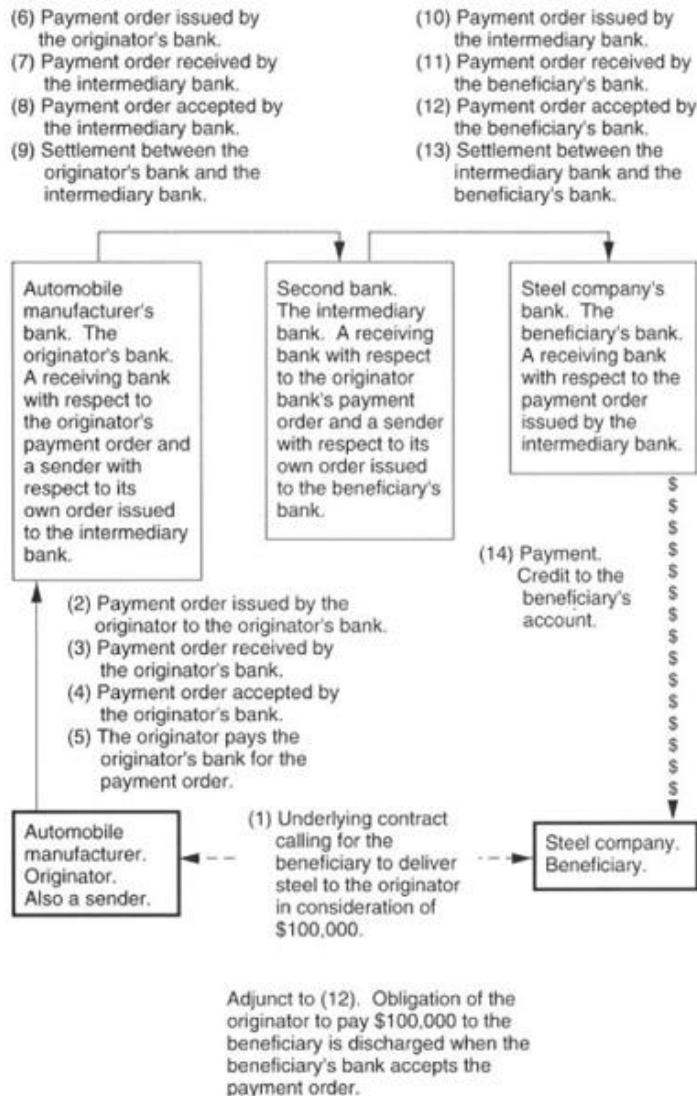
¹⁷ S. 670.103(1)(e), F.S.

¹⁸ Bruce J. Summers, *The Payment System: Design, Management, and Supervision* (Dec. 15, 1994), International Monetary Fund (Dec. 1994), <https://www.elibrary.imf.org/display/book/9781557753861/ch05.xml> (last visited Jan. 21, 2024).

¹⁹ *Id.*

²⁰ *Id.*

An example of a funds transfer is illustrated in the hypothetical transaction below:²¹



Misdescription of Beneficiary

The UCC provides that if the name, bank account number, or other identification of a beneficiary in a payment order refers to a nonexistent or unidentifiable person or account, no person has rights as a beneficiary of the order and acceptance of the order cannot occur.²²

However, if a payment order received by the beneficiary's bank identifies the beneficiary both by name and an identifying or bank account number and the name and number identify different persons, the following rules currently apply:

- If the beneficiary's bank does not know that the name and number refer to different persons, the bank may rely on the number as the proper identification of the beneficiary of the order, and the bank need not determine whether the name and number refer to the same person.²³

²¹ Bruce J. Summers, *The Payment System: Design, Management, and Supervision* (Dec. 15, 1994), International Monetary Fund (Dec. 1994), <https://www.elibrary.imf.org/display/book/9781557753861/ch05.xml> (last visited Jan. 21, 2024).

²² S. 670.207(1), F.S.

²³ Section 670.207(4), F.S., provides that in a case such as this, if the beneficiary's bank rightfully pays the person identified by number and that person was not entitled to receive payment from the originator, the amount paid may be recovered from that person to the extent allowed by the law governing mistake and restitution as follows:

(a) If the originator is obliged to pay its payment order because the originator is a bank, the originator has the right to recover.

- If the beneficiary's bank pays the person identified by name or knows that the name and number identify different persons, no person has rights as beneficiary except the person paid by the beneficiary's bank if that person was entitled to receive payment from the originator of the funds transfer. If no person has rights as beneficiary, acceptance of the order cannot occur.²⁴

If a payment order is accepted, the originator's order described the beneficiary inconsistently by name and number, and the beneficiary's bank pays the person identified by number, the originator is obliged to pay its order *if the originator is a bank*.²⁵

However, if the originator is not a bank and proves that the person identified by number was not entitled to receive payment from the originator, the originator is not required to pay its order *unless* the originator's bank proves that the originator, before acceptance of the originator's order, had notice that payment of a payment order issued by the originator might be made by the beneficiary's bank on the basis of an identifying or bank account number, even if it identifies a person different from the named beneficiary.²⁶

Misdescription of Intermediary Bank or Beneficiary's Bank

The UCC currently provides that if a payment order identifies an intermediary bank or the beneficiary's bank only by an identifying number, the receiving bank may rely on the number as the proper identification of the intermediary or beneficiary's bank and need not determine whether the number identifies a bank.²⁷ However, the sender must compensate the receiving bank for any loss and expense incurred by the receiving bank as a result of its reliance on the number in executing or attempting to execute the order.²⁸

The following rules apply to a payment order that identifies an intermediary bank or the beneficiary's bank both by name and an identifying number, but the name and number identify different persons:

- If the sender is a bank, the receiving bank may rely on the number as the proper identification of the intermediary or beneficiary's bank if the receiving bank, when it executes the sender's order, does not know that the name and number identify different persons. The receiving bank need not determine whether the name and number refer to the same person or whether the number refers to a bank. The sender is required to compensate the receiving bank for any loss and expenses incurred by the receiving bank as a result of its reliance on the number in executing or attempting to execute the order.
- If the sender is *not* a bank and the receiving bank proves that the sender, before the payment order was accepted, had notice that the receiving bank might rely on the number as the proper identification of the intermediary or beneficiary's bank even if it identifies a person different from the bank identified by name, the rights and obligations of the sender and the receiving bank are treated as if the sender were a bank.²⁹

Regardless of whether the sender is a bank, the receiving bank may rely on the name as the proper identification of the intermediary or beneficiary's bank if the receiving bank, at the time it executes the sender's order, does not know that the name and number identify different persons.³⁰ The receiving bank need not determine whether the name and number refer to the same person.³¹

(b) If the originator is not a bank and is not obliged to pay its payment order, the originator's bank has the right to recover.

²⁴ S. 670.207(2), F.S.

²⁵ S. 670.207(3)(a), F.S.

²⁶ Proof of notice may be made by any admissible evidence. The originator's bank satisfies the burden of proof if it proves that the originator, before the payment order was accepted, signed a writing stating the information to which the notice relates. S. 670.207(3)(b), F.S.

²⁷ S. 670.208(1)(a), F.S.

²⁸ S. 670.208(1)(b), F.S.

²⁹ S. 670.208(2)(a)-(b), F.S.

³⁰ S. 670.208(2)(c), F.S.

³¹ *Id.*

Moreover, if the receiving bank knows that the name and number identify different persons, reliance on either the name or the number in executing the sender's payment order is a breach of the receiving bank's obligation to issue, on the execution date, a payment order complying with the sender's order and to follow the sender's instructions concerning any intermediary bank or funds-transfer system to be used in carrying out the funds transfer.³²

Wire Fraud

According to the Federal Bureau of Investigation (FBI), consumers in America lost more than \$220 million in 2020 from fraudulent schemes known as real estate wire fraud.³³ In these growing schemes, hackers infiltrate legitimate email conversations between consumers and real estate title companies and send fraudulent wiring instructions that divert the money to the fraudsters and their accomplices.³⁴ Real estate wire fraud has become increasingly common, and the fraudsters are targeting expensive markets, such as New York, Los Angeles, and Palm Beach.³⁵

In California, a husband and wife wired over \$900,000 to a Wells Fargo account for the down payment on a home, only to later discover the money was sent to criminals as part of a wire transfer fraud scheme.³⁶ Using spoofed email addresses, the hackers infiltrated an email thread between the couple and their real estate agent.³⁷ The fraudsters then sent digital copies of the actual closing documents and wire transfer instructions, but swapped out the money transfer's destination for their own.³⁸

A couple in Florida were victims of a similar crime when they were trying to close on a retirement home in Naples.³⁹ The couple is now out nearly \$1 million after being tricked into wiring money to a fraudulent account, falling victim to the same scheme used by the fraudsters in California.⁴⁰ The couple filed a lawsuit in Collier County against the title company that the couple thought they were wiring money to and Truist Bank, which accepted the fraudulent wire transfer and later allowed it to be withdrawn by the fraudsters.⁴¹

Effect of the Bill

Misdescription of Beneficiary

The bill amends the UCC to provide that a payment order received by a beneficiary's bank *must* identify the beneficiary both by name and by an identifying or bank account number. If the name and number identify different persons, the bill provides that no person has rights as a beneficiary of the order and acceptance of the order cannot occur.

The bill requires the beneficiary's bank to determine in good faith, and using reasonable care, whether the name and number refer to the same person. The duty of reasonable care must include, at a minimum, an automated system for name and number match which escalates any transaction with any discrepancy to a human reviewer.

³² If the originator's bank issues a payment order to an intermediary bank, the originator's bank is required to instruct the intermediary bank according to the instruction of the originator. An intermediary bank in the funds transfer is similarly bound by an instruction given to it by the sender of the payment order it accepts. S. 670.302(1)(a), F.S. See also, s. 670.208(2)(d), F.S.

³³ CNBC, *How one family's nightmare illustrates the growing threat of real estate wire fraud* (Oct. 15, 2020), <https://www.cnbc.com/2020/10/15/how-one-family-s-nightmare-illustrates-the-growing-threat-of-real-estate-wire-fraud.html> (last visited Jan. 19, 2024).

³⁴ *Id.*

³⁵ *Id.*

³⁶ Aura, *The 9 Worst Wire Transfer Scams (and How to Avoid Them)* (Jul. 11, 2023), <https://www.aura.com/learn/wire-transfer-scams> (last visited Jan. 19, 2024).

³⁷ *Id.*

³⁸ *Id.*

³⁹ Wink News, *Truist troubles persist: Family files lawsuit; out nearly \$1 Million* (Dec. 8, 2023), <https://winknews.com/2023/12/08/truist-troubles-persist-million-dollar-lawsuit/> (last visited Jan. 19, 2024).

⁴⁰ *Id.*

⁴¹ *Id.*

If the receiving bank cannot reasonably verify that the name and number refer to the same person, acceptance of the order cannot occur until the bank has certified with the originator or the receiving bank that the payment order should be processed and any discrepancy is corrected.

The bill provides that:

- If a payment order is accepted, the originator's payment order described the beneficiary inconsistently by name and number and the beneficiary's bank pays any person who the originator did not intend to pay, then the originator is not required to pay its order, unless the originator was grossly negligent in sending the original instructions, and the beneficiary's bank was diligent in ascertaining whether the number and name referred to the same person.
- However, if the beneficiary's bank improperly pays any person not entitled or intended to receive payment from the originator, the amount paid may be recovered from that person to the extent allowed by the law governing mistake and restitution.

If the originator is required to pay its payment order due to the beneficiary bank's gross negligence, the originator has the right to recover. Otherwise, the bank who has borne the loss of the order has the right to recover.

The bill requires that a bank accepting orders at a location in Florida, or from a customer who resides in Florida, must comply with the requirements described above. The bill also requires that the bank must enter into an agreement with any counterparty bank requiring name and account number identification as described above and, if any beneficiary bank does not engage in name identification and any loss occurs, the receiving bank must indemnify the originator.

Misdescription of Intermediary Bank or Beneficiary's Bank

The bill revises the provisions of the UCC relating to misdescription of an intermediary bank or beneficiary's bank to require that:

- A payment order identifying an intermediary bank or the beneficiary's bank must use both an identifying number and a name;
- The receiving bank must determine whether the number identifies a bank and whether the bank identified by number matches the number provided; and
- The receiving bank must also determine whether the name and number refer to the same intermediary or beneficiary's bank.

If the receiving bank determines that the name and number identify different banks, reliance on either the name or the number in executing the sender's payment order is a breach of the obligation to issue, on the execution date, a payment order complying with the sender's order and to follow the sender's instructions concerning any intermediary bank or funds-transfer system to be used in carrying out the funds transfer or the means by which payment orders are to be transmitted in the funds transfer.

B. SECTION DIRECTORY:

Section 1. Amends s. 670.207, F.S., relating to misdescription of beneficiary.

Section 2. Amends s. 670.208, F.S., relating to misdescription of intermediary bank or beneficiary's bank.

Section 3. Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill has an indeterminate positive impact on consumers to the extent that it strengthens safeguards in Florida law relating to wire fraud. However, the bill also has an indeterminate negative impact on the private sector to the extent that transactions are rejected more often due to enhanced verification and non-acceptance requirements. Further, some transactions may be delayed due to the enhanced requirements to verify or reject such transactions, whereas before a beneficiary's bank could solely rely on an identifying bank account number to verify such transactions.

The bill has an indeterminable negative impact on financial institutions because of the duty to have an automated system for name and number match, to the extent that such institutions do not already have systems in place for those purposes. Additionally, the requirement for a financial institution to enter into an agreement with any counterparty bank (i.e., any other bank party to a funds transfer transaction with the originator's bank) requiring name identification may require additional labor to draft the agreements, thus increasing overhead costs, and may prove impractical for financial institutions.⁴²

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

⁴² Email from Ash Mason, Legislative & Cabinet Affairs Director, Office of Financial Regulation, Re: HB 593 No Impact (Jan. 5, 2024).

B. RULE-MAKING AUTHORITY:

The bill does not confer rulemaking authority nor require the promulgation of rules.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Lines 81-82: The bill provides that if the originator is obliged to pay its payment order “due to gross negligence,” the originator has the right to recover. The bill should be amended to specify it is the beneficiary’s gross negligence that triggers the originator’s right to recover in that instance.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

HB 593

2024

26 | by an identifying or bank account number. If ~~and~~ the name and
27 | number identify different persons, no person has rights as a the
28 | ~~following rules apply:~~

29 | ~~(a) Except as otherwise provided in subsection (3), if the~~
30 | ~~beneficiary's bank does not know that the name and number refer~~
31 | ~~to different persons, it may rely on the number as the proper~~
32 | ~~identification of the beneficiary of the order and acceptance of~~
33 | the order cannot occur.

34 | (2) (a) The beneficiary's bank must need not determine in
35 | good faith, and using reasonable care, whether the name and
36 | number refer to the same person. The duty of reasonable care
37 | must include, at a minimum, an automated system for name and
38 | number match which escalates any transaction with any
39 | discrepancy to a human reviewer.

40 | (b) If the bank cannot reasonably verify beneficiary's
41 | ~~bank pays the person identified by name or knows that the name~~
42 | ~~and number refer to the same person identify different persons,~~
43 | ~~no person has rights as beneficiary except the person paid by~~
44 | ~~the beneficiary's bank if that person was entitled to receive~~
45 | ~~payment from the originator of the funds transfer. If no person~~
46 | ~~has rights as beneficiary, acceptance of the order cannot occur~~
47 | until the bank has verified with the originator or the receiving
48 | bank that the payment order should be processed and any
49 | discrepancy is corrected.

50 | (3) If a payment order described in subsection (2) is

51 | accepted, the originator's payment order described the
52 | beneficiary inconsistently by name and number, and the
53 | beneficiary's bank pays any person who the originator did not
54 | intend to pay, then the originator is not obliged to pay its
55 | order, unless the originator was grossly negligent in sending
56 | the original instructions, and the beneficiary's bank was
57 | diligent in ascertaining whether the number and name referred to
58 | the same person. ~~the person identified by number as permitted by~~
59 | ~~paragraph (2) (a), the following rules apply:~~

60 | ~~(a) If the originator is a bank, the originator is obliged~~
61 | ~~to pay its order.~~

62 | ~~(b) If the originator is not a bank and proves that the~~
63 | ~~person identified by number was not entitled to receive payment~~
64 | ~~from the originator, the originator is not obliged to pay its~~
65 | ~~order unless the originator's bank proves that the originator,~~
66 | ~~before acceptance of the originator's order, had notice that~~
67 | ~~payment of a payment order issued by the originator might be~~
68 | ~~made by the beneficiary's bank on the basis of an identifying or~~
69 | ~~bank account number even if it identifies a person different~~
70 | ~~from the named beneficiary. Proof of notice may be made by any~~
71 | ~~admissible evidence. The originator's bank satisfies the burden~~
72 | ~~of proof if it proves that the originator, before the payment~~
73 | ~~order was accepted, signed a writing stating the information to~~
74 | ~~which the notice relates.~~

75 | ~~(4) In a case governed by paragraph (2) (a), If the~~

76 beneficiary's bank ~~improperly~~ rightfully pays any ~~the~~ person
 77 ~~identified by number and that person was not entitled or~~
 78 intended to receive payment from the originator, the amount paid
 79 may be recovered from that person to the extent allowed by the
 80 law governing mistake and restitution. ~~as follows:~~

81 ~~(a)~~ If the originator is obliged to pay its payment order
 82 due to gross negligence as stated in subsection (3), the
 83 originator has the right to recover. Otherwise, the bank who has
 84 borne the loss of the order has the right to recover.

85 ~~(b)~~ ~~If the originator is not a bank and is not obliged to~~
 86 ~~pay its payment order, the originator's bank has the right to~~
 87 ~~recover.~~

88 (5) (a) A bank accepting orders at a location in this
 89 state, or from a customer whose resides in this state, must
 90 comply with this section.

91 (b) The bank shall enter into an agreement with any
 92 counterparty bank requiring name identification as described in
 93 this section and, if any beneficiary bank does not engage in
 94 name identification and any loss occurs, the receiving bank
 95 shall indemnify the originator.

96 Section 2. Section 670.208, Florida Statutes, is amended
 97 to read:

98 670.208 Misdescription of intermediary bank or
 99 beneficiary's bank.—

100 ~~(1)~~ ~~This subsection applies to a~~ Any payment order

101 identifying an intermediary bank or the beneficiary's bank must
 102 use both ~~only by~~ an identifying number and a name.

103 ~~(a) The receiving bank must may rely on the number as the~~
 104 ~~proper identification of the intermediary or beneficiary's bank~~
 105 ~~and need not~~ determine whether the number identifies a bank and
 106 whether the bank identified by number matches the name provided.

107 ~~(b) The sender is obliged to compensate the receiving bank~~
 108 ~~for any loss and expenses incurred by the receiving bank as a~~
 109 ~~result of its reliance on the number in executing or attempting~~
 110 ~~to execute the order.~~

111 ~~(2) This subsection applies to a payment order identifying~~
 112 ~~an intermediary bank or the beneficiary's bank both by name and~~
 113 ~~an identifying number if the name and number identify different~~
 114 ~~persons.~~

115 ~~(a) If the sender is a bank, the receiving bank may rely~~
 116 ~~on the number as the proper identification of the intermediary~~
 117 ~~or beneficiary's bank if the receiving bank, when it executes~~
 118 ~~the sender's order, does not know that the name and number~~
 119 ~~identify different persons. The receiving bank need not~~
 120 ~~determine whether the name and number refer to the same person~~
 121 ~~or whether the number refers to a bank. The sender is obliged to~~
 122 ~~compensate the receiving bank for any loss and expenses incurred~~
 123 ~~by the receiving bank as a result of its reliance on the number~~
 124 ~~in executing or attempting to execute the order.~~

125 ~~(b) If the sender is not a bank and the receiving bank~~

126 ~~proves that the sender, before the payment order was accepted,~~
127 ~~had notice that the receiving bank might rely on the number as~~
128 ~~the proper identification of the intermediary or beneficiary's~~
129 ~~bank even if it identifies a person different from the bank~~
130 ~~identified by name, the rights and obligations of the sender and~~
131 ~~the receiving bank are governed by paragraph (a), as though the~~
132 ~~sender were a bank. Proof of notice may be made by any~~
133 ~~admissible evidence. The receiving bank satisfies the burden of~~
134 ~~proof if it proves that the sender, before the payment order was~~
135 ~~accepted, signed a writing stating the information to which the~~
136 ~~notice relates.~~

137 ~~(c) Regardless of whether the sender is a bank, the~~
138 ~~receiving bank may rely on the name as the proper identification~~
139 ~~of the intermediary or beneficiary's bank if the receiving bank,~~
140 ~~at the time it executes the sender's order, does not know that~~
141 ~~the name and number identify different persons. The receiving~~
142 ~~bank must need not determine whether the name and number refer~~
143 ~~to the same intermediary or beneficiary bank person.~~

144 ~~(d) If the receiving bank determines ~~knows~~ that the name~~
145 ~~and number identify different banks ~~persons~~, reliance on either~~
146 ~~the name or the number in executing the sender's payment order~~
147 ~~is a breach of the obligation stated in s. 670.302(1)(a).~~

148 Section 3. This act shall take effect July 1, 2024.

INSURANCE & BANKING SUBCOMMITTEE

**HB 593 by Rep. Beltran
Relating to Misdescription of Beneficiaries and Banks**

**AMENDMENT SUMMARY
January 25, 2024**

Amendment 1 by Rep. Beltran (Line 55): The amendment removes language relating to gross negligence on behalf of an originator in a funds transfer transaction.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Insurance & Banking
 2 Subcommittee

3 Representative Beltran offered the following:

4

5 **Amendment**

6 Remove lines 55-84 and insert:

7 ~~order the person identified by number as permitted by paragraph~~
 8 ~~(2)(a), the following rules apply:~~

9 ~~(a) If the originator is a bank, the originator is obliged~~
 10 ~~to pay its order.~~

11 ~~(b) If the originator is not a bank and proves that the~~
 12 ~~person identified by number was not entitled to receive payment~~
 13 ~~from the originator, the originator is not obliged to pay its~~
 14 ~~order unless the originator's bank proves that the originator,~~
 15 ~~before acceptance of the originator's order, had notice that~~
 16 ~~payment of a payment order issued by the originator might be~~

Amendment No. 1

17 ~~made by the beneficiary's bank on the basis of an identifying or~~
18 ~~bank account number even if it identifies a person different~~
19 ~~from the named beneficiary. Proof of notice may be made by any~~
20 ~~admissible evidence. The originator's bank satisfies the burden~~
21 ~~of proof if it proves that the originator, before the payment~~
22 ~~order was accepted, signed a writing stating the information to~~
23 ~~which the notice relates.~~

24 (4) ~~In a case governed by paragraph (2) (a),~~ If the
25 beneficiary's bank improperly ~~rightfully~~ pays any ~~the~~ person
26 ~~identified by number and that person was not entitled or~~
27 intended to receive payment from the originator, the amount paid
28 may be recovered from that person to the extent allowed by the
29 law governing mistake and restitution. ~~as follows:~~

30 ~~(a) If the originator is obliged to pay its payment order~~
31 ~~as stated in subsection (3), the originator has the right to~~
32 ~~recover.~~

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 659 Health Plans
SPONSOR(S): Abbott and others
TIED BILLS: IDEN./SIM. **BILLS:** SB 584

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Select Committee on Health Innovation	14 Y, 0 N	Lloyd	Calamas
2) Insurance & Banking Subcommittee		Lloyd	Lloyd
3) Health Care Appropriations Subcommittee			
4) Health & Human Services Committee			

SUMMARY ANALYSIS

The Agency for Health Care Administration (AHCA) contracts with a third-party resolution organization for the review of the claim disputes between health care providers, health insurers and health maintenance organizations under the Statewide Provider and Health Plan Claim Dispute Resolution Program (Program). Claims are reviewed by the organization and then submitted to the AHCA with a payment recommendation based on desk reviews by the third-party resolution organization and, if requested, a review of evidence and additional documentation in a hearing. Acting as an alternative dispute resolution process for eligible health care providers and insurers, the AHCA issues any final order after receipt of the recommendation and the non-prevailing party or parties has 35 days to pay. Non-prevailing parties are also responsible for review costs incurred by the review organization; their share of any costs from a hearing; and, subject to a penalty of up to \$500 and being reported to their licensing authority for untimely payment.

The bill prohibits a health plan, i.e., a health maintenance organization, preferred provider organization, prepaid health plan, exclusive provider organization, major medical expense health insurer, or group or individual health insurers, from declining to participate in the Program. If the health plan fails to timely pay an order under the Program, they are subject to penalty up to \$500 and reporting to their licensing authority.

The bill also creates new requirements for standardized identification cards for insureds that clearly identifies whether or not the plan is subject to state regulation and which provides the insured with quick access information to the consumer services website of the Department of Financial Services' Division of Consumer Services website.

The bill has an indeterminate fiscal impact on state and local governments and the private sector.

The bill provides an effective date of January 1, 2025.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Statewide Provider and Health Plan Claim Dispute Resolution Program

The Statewide Provider and Health Plan Claim Dispute Resolution Program (Program) assists contracted and non-contracted providers and managed care organizations with the resolution of claim disputes.¹ The Agency for Health Care Administration (AHCA) contracts with a third-party resolution organization (MAXIMUS) for the timely review, consideration, and recommendation for these filed claim disputes. The Program serves as a modified alternative dispute resolution process for health plans² and providers who have payment disputes. Typically, these payment disputes are between larger facilities and smaller providers who do not have an existing contractual relationship. The program was designed to resolve only disputes between providers, health maintenance organizations (HMOs), prepaid health clinics, exclusive provider organizations, prepaid health plans, medical expense insurance policies, preferred provider organizations, and Statewide Medicaid Managed Care Plans.³ The existing contract language has been repeated in the 2023-2024 re-procurement of the SMMC contracts.

Certain types of claims are excluded from consideration such as those related to interest payments, or claims that do not meet a minimum aggregate threshold as established by agency rule.⁴ A physician or health care facility filing an appeal must aggregate claims for one or more patients from the same insurer, which is also referred to as batching of claims.

Claims are also excluded if:

- Related to an internal Medicare managed care organization;
- Part of a reconsideration of a claim appeal through the Medicare appeals process;
- Related to a health plan not regulated in Florida;
- Is the basis for an action pending in state or federal court;
- Part of a Medicaid Fair Hearing Process pursued under 42 C.F.R. ss. 431.220 et seq.; or,
- Is the subject to a binding-claim-dispute-resolution process provided by contract entered into prior to October 1, 2000, between the provider and managed care organization.⁵

MAXIMUS operated a toll-free hotline to provide information and dispute application forms to interested parties while the contractor. The contract was a “no cost” contract to the state in that MAXIMUS was paid by the users of the Program. Costs for the Program were to be set by the AHCA through the rulemaking process. The final rule established that the non-prevailing party would pay the review costs. If both parties prevailed in parts of the action, then the costs of the review fee are required to be apportioned based on the final judgement.⁶

When a claim is received, it is investigated either through a desk review of the documentation submitted by the parties or sometimes through the involvement of other experts. Either party may call

¹ S. 408.7057, F.S.

² “Health plan” means a health maintenance organization or a prepaid health clinic certified under chapter 641, a prepaid health plan authorized under s. 409.912, an exclusive provider organization certified under s. 627.6472, or a major medical expense health insurance policy, as defined in s. 627.643(2)(e), offered by a group or an individual health insurer licensed pursuant to chapter 624, including a preferred provider organization under s. 627.6471. S. 408.7057(1)(b), F.S.

³ *Infra*, note 10.

⁴ See 59A-12.030, Statewide Provider and Health Plan Claim Dispute Resolution Program. The jurisdictional threshold amounts are the minimum, aggregate amount that a claim or claims must total for consideration by the Program. For health plan contracted hospitals, the threshold is \$25,000 and for non-contracted hospitals, the threshold is \$10,000.

⁵ S. 408.7057(2)(b)1.-7, F.S.

⁶ Rule 59A-12.030(4)(a), F.A.C.

an evidentiary hearing to review the evidence and call witnesses.⁷ Each party pays for the costs of their own witnesses, but the parties share the cost of the hearing equally.⁸

The AHCA's responsibility is to issue a final order adopting the recommendation of the resolution entity. The failure of the non-prevailing party to pay the ordered review cost within 35 days of the agency's order subjects the nonpaying party to a penalty of not more than \$500 per day until the penalty is paid.⁹

The chart below shows the volume of claims received by the Program and the status of claims at the end of each reporting year. The total number of claims filed with the system has dramatically increased in the past two years.¹⁰

Statewide Provider Health Plan Claim Dispute Program - Trends					
Year	Claims Received	Claims Reviewed	Claims Withdrawn	Claims Ineligible/Dismissed	Highest Claim (aggregated)
2019	74	45	7	19	\$675,209
2020	68	41	13	19	\$669,012
2021	111	73	13	19	\$2,320,399
2022	563	443	7	19	\$1,001,694,838

Currently, the Program does not have a vendor to process claims. The contract with previous third-party administrator ended June 30, 2023 and the AHCA has started a new procurement for a replacement vendor. No new claims are being accepted until a new vendor is in place.

Federal External Review Process

As part of the federal Patient Protection and Affordable Care Act (PPACA), patients were to be provided both an internal and external appeals process for review of unpaid claims.¹¹ For states which did not have an external review process that met those standards or if the individual was in a certain type of plan such as a self-insured plan, then the federal external review process would apply. Similarly, for claims disputes between providers and facilities, for disputes between providers and facilities.¹²

Standard Health Plan Identification Cards

The *No Surprises Act* addressed many health care transparency and consumer empowerment provisions which ensure that the patient receives accurate and up to date information from his or her insurer on a consistent basis allowing the patient to make better informed health care choices. One provision included in the *No Surprises Act* addresses the standard content to be included on every group or individual health plan identification card whether the card is a physical card or digital.

Current law addresses information on both health plan and prescription benefits cards. For prescription drug cards, a list of requirements includes the name of the claims processor, the processor's address

⁷ 59A-12.030, F.A.C.(7).

⁸ Id.

⁹ S. 408.7057(5), F.S.

¹⁰ Agency for Health Care Administration, *Statewide Health Provider and HealthPlan Claim Dispute Resolution Program*, available at <https://ahca.myflorida.com/health-care-policy-and-oversight/bureau-of-health-facility-regulation/certificate-of-need-and-commercial-managed-care-unit/commercial-managed-care/statewide-provider-and-health-plan-claim-dispute-resolution-program> (last visited January 10, 2024). Chart created from data retrieved from individual Annual Reports from 2019 through 2022.

¹¹ Public Law 111-148 (March 10, 2010) and Public Law 111-152 (March 30, 2010).

¹² Sec. 340B of the Public Health Service Act (42 U.S.C. 256b) (PHSA), as amended.

and the help desk phone number; the insured's prescription group number, identification number and name; and any other information helpful to the timely processing of a claim. Information can be embedded on the card or through a magnetic stripe.¹³ The HMOs must provide information in a readily identifiable manner or have the information be embedded on the card such that it can be easily accessed through a magnetic reader or smart card also. The information may also be provided through other electronic technology.¹⁴

Beginning January 1, 2022, the law required health plans and insurers to include the following minimum information on the insured's card:

- Any deductible applicable to coverage.
- Any out of pocket maximum applicable to the coverage.
- A telephone number and website address that individuals can use to find consumer assistance information and facilities and providers under contract with the plan.¹⁵

Effect of Proposed Changes

Statewide Provider and Health Plan Claim Dispute Resolution Program Authority

The bill requires health plans to participate in the Statewide Provider and Health Plan Claim Dispute Resolution Program. The proposed changes provide the AHCA with the necessary authority to assess sanctions on non-responsive participants and to implement final orders once issued. A health plan must comply with any orders within 35 days, subject to a \$500, per day, penalty. If a health plan fails to timely pay a resolved provider claim, AHCA is required to inform the applicable licensing authority, e.g., the Office of Insurance Regulation.

Standard Health Plan Identification Cards

The requirements to incorporate certain standardized components to any hard copy or digital health insurance benefits card became effective under the *No Surprises Act* in 2022. The bill enhances those provisions for any plan subject to state regulation.

For the card, the bill requires:

- The letters "FL" on the back, left-hand side of the card; and
- A quick response code (QR) on the card which directs the insured or subscriber to a consumer services website of the Division of Consumer Services of the Department of Financial Services.

On the website, requirements for posting information will depend on the type of plan and may include:

- Name of the regulatory entity with relevant contact information, including a telephone number or website hyperlink; and
- A notice that if the letters "FL" are not included, that the plan may not be regulated by the State of Florida and direct the consumer to the Division of Consumer Services website.

These changes are effective with any identification cards issues or reissued on or after January 1, 2025.

The bill provides an effective date of January 1, 2025.

B. SECTION DIRECTORY:

¹³ Ch. 627.4302, F.S.

¹⁴ Ch. 641.31(42), F.S. Similar provisions for identification cards issued under individual coverage can be found at 627.642, F.S., and at 627.657, F.S. for group health insurance policies.

¹⁵ 42 U.S.C. 300gg-111(e).

- Section 1:** Amends s. 408.7057, F.S., relating to statewide provider and health plan claim dispute resolution program..
- Section 2:** Amends s. 627.4302, F.S relating to identification cards for processing prescription drug claims.
- Section 3:** Amends s. 627.642, F.S. relating to outline of coverage .
- Section 4:** Amends s. 627.657, F.S. relating to provisions of group health insurance policies.
- Section 5:** Amends s. 641.31, F.S. relating to health maintenance contracts.
- Section 6:** Providing an effective date of January 1, 2025.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill authorizes the AHCA to assess a penalty on non-prevailing providers who fail to pay the required amount within 35 days of a final order. The amount of the penalty must be established by rule and may not exceed \$500 per day. Any fees collected would be additional revenue to the AHCA. The total amount that could be collected is indeterminate.¹⁶

2. Expenditures:

None.¹⁷

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

If local governments are operating self-funded health coverage, those local governments may incur costs related to the new identification cards.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Health plans will incur indeterminable, but likely insignificant, costs associated with reformatting identification cards and websites to comply with the bill.¹⁸ This is also true for reimbursement disputes to the extent that they either realize increased payments due upon receipt of a determination or incur penalties for failure to timely pay awards. Providers who do not prevail in awards may incur indeterminable costs to the extent that determinations award no additional or lower payments than those sought, in addition to any penalties for untimely payments of costs awarded against them.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

¹⁶ Florida Agency for Health Care Administration, Agency Analysis of 2024 House Bill 659, p. 4 (Dec. 4, 2023).

¹⁷ *Id.*

¹⁸ *Id.*

The federal process has been challenged in different jurisdictions from the amount of the filing fees to how claims are batched together and reviewed. The federal portal has opened and closed several times during these different legal challenges and federal CMS has recently re-opened the portal and began processing claim requests.

B. RULE-MAKING AUTHORITY:

None provided by the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
2 An act relating to health plans; amending s. 408.7057,
3 F.S.; prohibiting health plans from declining to
4 participate in filed claims; providing defaults
5 against health plans for failure to respond; requiring
6 the Agency for Health Care Administration to provide
7 health plans with notices of failure to pay providers
8 the amounts provided in claim dispute orders under
9 certain circumstances; requiring health plans to pay
10 providers the amounts provided in claim dispute orders
11 under certain circumstances; providing penalties for
12 failure to pay such amounts; amending s. 627.4302,
13 F.S.; requiring certain health insurance and health
14 maintenance organization benefits-identification cards
15 to include specified information in a certain manner;
16 providing applicability; providing rulemaking
17 authority; amending ss. 627.642, 627.657, and 641.31,
18 F.S.; requiring certain health insurance and health
19 maintenance organization identification cards to
20 include specified information in a certain manner;
21 providing applicability; providing rulemaking
22 authority; providing an effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:
25

26 Section 1. Subsection (7) of section 408.7057, Florida
27 Statutes, is renumbered as subsection (8), subsection (5) is
28 amended, paragraph (i) is added to subsection (2), and a new
29 subsection (7) is added to that section, to read:

30 408.7057 Statewide provider and health plan claim dispute
31 resolution program.—

32 (2)

33 (i) A health plan may not decline to participate in a
34 filed claim. Failure to respond as provided in paragraph (f)
35 shall result in a default against the health plan.

36 (5) The agency shall notify within 7 days the appropriate
37 licensure or certification entity whenever there is:

38 (a) A failure to pay as provided in subsection (7); or

39 (b) A violation of a final order issued by the agency
40 pursuant to this section.

41 (7) A health plan that does not prevail in the agency's
42 order shall pay the provider the amount provided in the order
43 within 35 days after the order is entered. A health plan that
44 does not pay the required amount within this timeframe is
45 subject to a penalty of not more than \$500 per day until the
46 amount is paid.

47 Section 2. Subsection (2) of section 627.4302, Florida
48 Statutes, is amended to read:

49 627.4302 Identification cards for processing prescription
50 drug claims.—

51 (2) Any health insurer or health maintenance organization
52 and all state and local government entities entering into an
53 agreement to provide coverage for prescription drugs on an
54 outpatient basis shall provide a benefits-identification card
55 containing the following information:

56 (a) The name of the claim processor.

57 (b) The electronic-claims payor identification number or
58 the issuer identification number, also referred to as the
59 Banking Identification Number or "BIN," assigned by the American
60 National Standards Institute.

61 (c) The insured's prescription group number.

62 (d) The insured's identification number.

63 (e) The insured's name.

64 (f) The claims submission name and address.

65 (g) The help desk telephone number.

66 (h) The type of plan, only if the plan is filed in this
67 state; an indication that the plan is self-funded; or the name
68 of the network.

69 1. If the plan is subject to state regulation, the
70 identification card must include the letters "FL" on the back
71 left-hand corner of the card, under which a quick response (QR)
72 code must be displayed directing the insured or the subscriber
73 to the consumer services website of the Division of Consumer
74 Services of the department. Based on the plan, the website may
75 display the name of the regulatory entity with relevant contact

76 information, including a telephone number or website hyperlink
 77 for the entity. The website may also include the following
 78 notice: "If your plan card does not display 'FL' on the back
 79 left-hand corner of the card, your plan may be regulated by
 80 another state, another Florida state agency, or the Federal
 81 Government. If you need assistance in locating the appropriate
 82 regulator for your plan, please visit the Get Insurance Help web
 83 page of the Division of Consumer Services."

84 2. Subparagraph 1. applies to benefits-identification
 85 cards issued or reissued on or after January 1, 2025.

86 3. The department may adopt rules to implement necessary
 87 changes to the consumer services website and hotline of the
 88 Division of Consumer Services to best assist insureds or
 89 subscribers who are at an impasse with their insurers or health
 90 maintenance organizations, respectively.

91 (i) ~~(h)~~ Any other information that the entity finds will
 92 assist in the processing of the claim.

93
 94 The information required in paragraphs (a), (b), (g), and (i)
 95 ~~(h)~~ must be provided on the card, unless instruction is provided
 96 on the card for ready access to such information by electronic
 97 means.

98 Section 3. Paragraph (c) of subsection (3) of section
 99 627.642, Florida Statutes, is amended to read:

100 627.642 Outline of coverage.—

101 (3) In addition to the outline of coverage, a policy as
102 specified in s. 627.6699(3)(k) must be accompanied by an
103 identification card that contains, at a minimum:

104 (c) The type of plan, only if the plan is filed in this
105 ~~the state;~~ an indication that the plan is self-funded; ~~or the~~
106 name of the network.

107 1. If the plan is subject to state regulation, the
108 identification card must include the letters "FL" on the back
109 left-hand corner of the card, under which a quick response (QR)
110 code must be displayed directing the insured to the consumer
111 services website of the Division of Consumer Services of the
112 department. Based on the plan, the website may display the name
113 of the regulatory entity with relevant contact information,
114 including a telephone number or website hyperlink for the
115 entity. The website may also include the following notice: "If
116 your plan card does not display 'FL' on the back left-hand
117 corner of the card, your plan may be regulated by another state,
118 another Florida state agency, or the Federal Government. If you
119 need assistance in locating the appropriate regulator for your
120 plan, please visit the Get Insurance Help web page of the
121 Division of Consumer Services."

122 2. Subparagraph 1. applies to identification cards issued
123 or reissued on or after January 1, 2025.

124 3. The department may adopt rules to implement necessary
125 changes to the consumer services website and hotline of the

126 Division of Consumer Services to best assist insureds who are at
 127 an impasse with their insurers.

128
 129 The identification card must present the information in a
 130 readily identifiable manner or, alternatively, the information
 131 may be embedded on the card and available through magnetic
 132 stripe or smart card. The information may also be provided
 133 through other electronic technology.

134 Section 4. Paragraph (c) of subsection (2) of section
 135 627.657, Florida Statutes, is amended to read:

136 627.657 Provisions of group health insurance policies.—

137 (2) The medical policy as specified in s. 627.6699(3)(k)
 138 must be accompanied by an identification card that contains, at
 139 a minimum:

140 (c) The type of plan, only if the plan is filed in the
 141 state; ~~an indication that the plan is self-funded;~~ or the name
 142 of the network.

143 1. If the plan is subject to state regulation, the
 144 identification card must include the letters "FL" on the back
 145 left-hand corner of the card, under which a quick response (QR)
 146 code must be displayed directing the insured or the subscriber
 147 to the consumer services website of the Division of Consumer
 148 Services of the department. Based on the plan, the website may
 149 display the name of the regulatory entity with relevant contact
 150 information, including a telephone number or website hyperlink

151 for the entity. The website may also include the following
152 notice: "If your plan card does not display 'FL' on the back
153 left-hand corner of the card, your plan may be regulated by
154 another state, another Florida state agency, or the Federal
155 Government. If you need assistance in locating the appropriate
156 regulator for your plan, please visit the Get Insurance Help web
157 page of the Division of Consumer Services."

158 2. Subparagraph 1. applies to identification cards issued
159 or reissued on or after January 1, 2025.

160 3. The department may adopt rules to implement necessary
161 changes to the consumer services website and hotline of the
162 Division of Consumer Services to best assist insureds who are at
163 an impasse with their insurers.

164

165 The identification card must present the information in a
166 readily identifiable manner or, alternatively, the information
167 may be embedded on the card and available through magnetic
168 stripe or smart card. The information may also be provided
169 through other electronic technology.

170 Section 5. Paragraph (c) of subsection (42) of section
171 641.31, Florida Statutes, is amended to read:

172 641.31 Health maintenance contracts.—

173 (42) The contract, certificate, or member handbook must be
174 accompanied by an identification card that contains, at a
175 minimum:

176 (c) A statement that the health plan is a health
177 maintenance organization. Only a health plan with a certificate
178 of authority issued under this chapter may be identified as a
179 health maintenance organization.

180 1. If the plan is subject to state regulation, the
181 identification card must include the letters "FL" on the back
182 left-hand corner of the card, under which a quick response (QR)
183 code must be displayed directing the insured or the subscriber
184 to the consumer services website of the Division of Consumer
185 Services of the department. Based on the plan, the website may
186 display the name of the regulatory entity with relevant contact
187 information, including a telephone number or website hyperlink
188 for the entity. The website may also include the following
189 notice: "If your plan card does not display 'FL' on the back
190 left-hand corner of the card, your plan may be regulated by
191 another state, another Florida state agency, or the Federal
192 Government. If you need assistance in locating the appropriate
193 regulator for your plan, please visit the help web page of the
194 Division of Consumer Services."

195 2. Subparagraph 1. applies to identification cards issued
196 or reissued on or after January 1, 2025.

197 3. The department may adopt rules to implement necessary
198 changes to the consumer services website and hotline of the
199 Division of Consumer Services to best assist subscribers who are
200 at an impasse with their health maintenance organizations.

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201
202 The identification card must present the information in a
203 readily identifiable manner or, alternatively, the information
204 may be embedded on the card and available through magnetic
205 stripe or smart card. The information may also be provided
206 through other electronic technology.

207 Section 6. This act shall take effect January 1, 2025.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #. HB 989 Department of Financial Services
SPONSOR(S). LaMarca
TIED BILLS. HB 991 **IDEN./SIM. BILLS.** SB 1098

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee		Herrera	Lloyd
2) State Administration & Technology Appropriations Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

The Chief Financial Officer (CFO) is an elected member of the Cabinet, serves as the state's chief fiscal officer, and is designated as the State Fire Marshal. The CFO is the head of the Department of Financial Services (DFS). The bill:

- Renames the Division of Investigative and Forensic Services to the Division of Criminal Investigations.
- Revises regulations for the My Safe Florida Home Program.
- Updates reporting by eliminating quarterly reports on salary indemnification benefits and reimbursements to the State Risk Management Trust Fund.
- Specifies workers' compensation maximum reimbursement methodology for emergency services and care when a maximum reimbursement allowance is unavailable.
- Mandates DFS approval for contracts exceeding \$100,000 by various associations, ensuring competitive procurement.
- Modifies appointment authority and requirements for the Board of Funeral, Cemetery, and Consumer Services.
- Amends provisions related to investigations and prosecutions within the regulatory purview of DFS.
- Adjusts notice requirements for administrative complaints, citations, and insurance policy litigation.
- Requires timely responses from surplus lines insurers to the Division of Consumer Services within DFS within 14 days upon receiving written requests.
- Allows voluntary submission of cellular telephone numbers for two-factor authentication during the agent licensing application process.
- Establishes "Registered Claims Adjuster (RCA)" from American Insurance College as an exemption from the agent licensing examination requirement.
- Grants DFS authority to disclose confidential investigative information to subjects or their representatives for review.
- Adds "Chartered Customer Service Representative (CCSR)" from American Insurance College as a qualifying criterion for customer representatives.
- Requires licensed adjusters to identify themselves in advertisements based on their adjuster appointment type.
- Allows general lines agents with a surplus lines license to appoint licenses with a single surplus license agent appointment.
- Modifies renewal notice requirements for insurance policy term changes.
- Imposes a requirement for insurers under Florida Insurance Guarantee Association to prepare a data transfer plan.
- Revises State Fire Marshal provisions on fireworks usage, the Florida Fire Prevention Code, and safety standards for mobile food dispensing vehicles and energy storage systems.
- Permits motor vehicle service agreement companies to use multiple insurance policies for financial backing.
- Modifies financial requirements for warranty associations and exempt municipal or county government employees from licensing and appointment requirements.
- Amends provisions for bail bond agents, clarifying they are not required to be employed with a bail bond agency.
- Revises sections of the Florida Disposition of Unclaimed Property Act.

The bill has an insignificant impact on state government revenues and expenditures and no impact on local government. It has indeterminate impacts on the private sector.

Except as specified in the bill, it is effective upon becoming law.

FULL ANALYSIS

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME h0989.IBS

DATE 1/23/2024

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

ORGANIZATION OF THE DEPARTMENT OF FINANCIAL SERVICES

The Chief Financial Officer (CFO) is an elected member of the Cabinet, serves as the state's chief fiscal officer,¹ and is designated as the State Fire Marshal. The CFO is the head of the Department of Financial Services (DFS). Effective January 2003, the Department of Insurance, Treasury, State Fire Marshal, and the Department of Banking and Finance merged to form DFS. DFS consists of 13 divisions and several specialized offices.² DFS is composed of the following divisions and independent office:

- Accounting and Auditing;
- Consumer Services;
- Funeral, Cemetery, and Consumer Services;
- Insurance Agent and Agency Services;
- Investigative and Forensic Services;³
- Public Assistance Fraud;
- Rehabilitation and Liquidation;
- Risk Management;
- State Fire Marshal;
- Treasury;
- Unclaimed Property;
- Workers' Compensation;
- Administration; and the
- Office of Insurance Consumer Advocate.

Division of Investigative and Forensic Services

The Division of Investigative and Forensic Services consolidates all law enforcement and forensic units housed within DFS.⁴ Endowed with a comprehensive mandate, the division probes a diverse array of fraudulent and criminal activities, such as investigations into insurance fraud, workers' compensation fraud, fire, arson, explosives, theft or misuse of state funds, and the analysis of fire and explosives samples.⁵

Effect of the Bill

The bill:

- Renames the Division of Investigative and Forensic Services to the Division of Criminal Investigations (DCI).
- Designates DCI as a criminal justice agency with the authority to initiate and conduct investigations into matters falling under the jurisdiction of the CFO and Fire Marshal.

My Safe Florida Home

In 2006, the Legislature created the My Safe Florida Home (MSFH) Program within DFS, with the intent that the Program provide trained and certified inspectors to perform inspections for owners of site-built, single-family, residential properties (mitigation inspections), and grants to eligible applicants, subject to

¹ Art. IV, s. 4, Fla. Const.

² S. 20.121, F.S.

³ This division includes the Bureau of Forensic Services; Bureau of Fire, Arson, and Explosives Investigations; Office of Fiscal Integrity; Bureau of Insurance Fraud; and Bureau of Workers' Compensation Fraud.

⁴ Department of Financial Services, Investigative and Forensic Services, *About the Division*, <https://myfloridacfo.com/Division/DIFS/> (last visited January 22, 2024).

⁵ *Id.*

funding availability.⁶ The aim of the MSFH Program was to “develop and implement a comprehensive and coordinated approach for hurricane damage mitigation.”⁷ The MSFH program allowed DFS to undertake a public outreach and advertising campaign to inform consumers of the availability, and benefits, of the mitigation inspections and grants.⁸ It required the development of brochures for distribution to general contractors, roofing contractors, and real estate brokers and sales associates to explain the benefits of residential hurricane damage mitigation to homeowners.⁹

Effect of the Bill

The bill introduces significant changes to the inspection and grant application process under MSFH, as well as the eligibility criteria for inspections. The changes include:

- Allows subsequent applications for mitigation inspection or grant if:
 - The original application was denied or withdrawn;
 - The program's eligibility requirements or applicant's qualifications have changed since the original application; and
 - The applicant reasonably believes that the home will be eligible under the new requirements or qualifications;
- Requires a signed or electronically verified statement, under penalty of perjury, confirming the submission of a single inspection application.
- Grants authority to DFS to request additional information if the information contains errors or omissions, with non-response within 60 days resulting in application withdrawal.
- Permits homeowners meeting mitigation inspection requirements to receive an inspection even if ineligible for a hurricane mitigation grant.
- Requires homeowners to provide information on premium discounts from insurers due to funded mitigation improvements.
- Sets a one-year deadline for homeowners to complete construction and request a final inspection or a 6-month extension after grant approval.
- Provides for when an application is deemed abandoned, leading to grant money reverting to DFS.
- Clarifying that "opening protection" improvements include windows, skylights, exterior doors, and garage doors.
- Refines language regarding a secondary water "resistance" barrier for roofs.
- Eliminates DFS maintaining a list of participating contractors; instead requiring naming of the contractor and their license number in the grant application.
- Encourages contractors to distribute electronic educational materials rather than brochures.
- Directs DFS collaboration with Citizens Property Insurance Corporation for policyholder education.

These revisions are designed to streamline processes, enhance homeowner responsibilities, broaden eligible improvements, and promote electronic education within the MSFH Program.

Division of Risk Management

The Division of Risk Management strives to support Florida's state agencies and universities by assisting them in managing various risks and ensuring quality coverage for workers' compensation, liability, federal civil rights, automobile liability, and property insurance at reasonable rates.¹⁰ This is achieved through self-insurance, the purchase of insurance, and effective claims administration.¹¹ The

⁶ S. 215.5586, F.S.

⁷ *Id.*

⁸ S. 215.5586(3), F.S.

⁹ S. 215.5586(7), F.S.

¹⁰ DFS, Division of Risk Management, *Fiscal Year 2021 Annual Report*, https://www.myfloridacfo.com/docs-sf/risk-management-libraries/risk-documents/annual-reports/risk-mgmt-annual-report-2021.pdf?sfvrsn=720e7fcb_4 (last visited Jan. 17, 2024).

¹¹ *Id.*

Division consists of three bureaus: Risk Financing and Loss Prevention, State Employee Workers' Compensation Claims, and State Liability and Property Claims.¹²

Effect of the Bill

The bill eliminates the requirement for the Division of Risk Management to produce quarterly reports detailing the total salary indemnification benefits paid and reimbursements from each agency to the State Risk Management Trust Fund for initial salary indemnity costs.

Division of Workers' Compensation

Florida's Workers' Compensation Law¹³ requires employers to provide injured employees all medically necessary remedial treatment, care, and attendance for such period as the nature of the injury or the process of recovery may require.¹⁴ DFS provides regulatory oversight of Florida's workers' compensation system, including the workers' compensation health care delivery system. The law specifies certain reimbursement formulas and methodologies to compensate workers' compensation health care providers¹⁵ that provide medical services to injured employees. Where a reimbursement amount or methodology is not specifically included in statute, the Three-Member Panel (Panel) is authorized to annually adopt statewide schedules of maximum reimbursement allowances (MRAs) to provide uniform fee schedules for the reimbursement of various medical services.¹⁶ DFS incorporates the MRAs approved by the Three-Member Panel in reimbursement manuals¹⁷ through the rulemaking process provided by the Administrative Procedures Act.¹⁸ In 2023, the Legislature eliminated the authority of the Three-Member Panel to adopt MRA's for individually licensed health care providers, work-hardening programs, pain programs, and durable medical equipment providers.¹⁹ Instead, DFS must annually publish the maximum reimbursement allowance for physician and non-hospital reimbursements on its website by July 1st, effective the following January 1st.²⁰

Reimbursement for Healthcare Providers

The Panel, which consists of the CFO or his or her designee and two Governor's appointees, sets the MRAs for hospital reimbursement.²¹ Beginning with rates developed in 2024, and implemented with rates effective January 1, 2025, health care providers and non-hospital rates are annually published by DFS, instead of being included in the reimbursement manuals.²² DFS incorporates the statewide schedules of the MRAs through rulemaking. In establishing the MRA manual, the panel considers the usual and customary levels of reimbursement for treatment, services, and care;²³ the cost impact to employers for providing reimbursement that ensures that injured workers have access to necessary medical care; and the financial impact of the MRAs on healthcare providers and facilities.²⁴ Florida law requires the panel to develop MRA manuals that are reasonable, promote the workers' compensation system's healthcare cost containment and efficiency, and are sufficient to ensure that medically necessary treatment is available for injured workers.²⁵

¹² *Id.*

¹³ Ch. 440, F.S.

¹⁴ S. 440.13(2)(a), F.S.

¹⁵ The term "health care provider" includes a physician or any recognized practitioner licensed to provide skilled services pursuant to a prescription or under the supervision or direction of a physician. It also includes any hospital licensed under ch. 395 and any health care institution licensed under ch. 400 or ch. 429. S. 440.13(1)(g), F.S.

¹⁶ S. 440.13(12), F.S.

¹⁷ Ss. 440.13(12) and (13), F.S., and r. 69L-7, F.A.C.

¹⁸ Ch. 120, F.S.

¹⁹ Ch. 2023-144, Laws of Fla.

²⁰ *Id.*

²¹ *Id.*

²² Ch. 2023-144, Laws of Fla.

²³ S. 440.13(12)(i)(1), F.S.

²⁴ S. 440.13(12)(i)(2), F.S.

²⁵ S. 440.13(12)(i)(3), F.S.

There are three different reimbursement manuals that determine statewide schedules of maximum reimbursement allowances. The healthcare provider manual, developed by the DWC, limits the maximum reimbursement for licensed physicians to 110 percent of Medicare reimbursement,²⁶ while reimbursement for surgical procedures is limited to 140 percent of Medicare.²⁷ The hospital manual, developed by the panel, sets maximum reimbursement for outpatient scheduled surgeries at 60 percent of usual and customary charges,²⁸ while other outpatient services are limited to 75 percent of usual and customary charges.²⁹ Reimbursement of inpatient hospital care is limited based on a schedule of per diem rates approved by the panel.³⁰ The ambulatory surgical centers manual, developed by the panel, limits reimbursement to 60 percent of usual and customary as such services are generally scheduled outpatient surgeries. The prescription drug reimbursement manual limits reimbursement to the average wholesale price plus a \$4.18 dispensing fee.³¹ Repackaged or relabeled prescription medication dispensed by a dispensing practitioner has a maximum reimbursement of 112.5 percent of the average wholesale price plus an \$8.00 dispensing fee.³² Fees may not exceed the schedules adopted under Ch. 440, F.S., and department rule.³³

Effect of the Bill

The bill specifies the reimbursement methodology applicable in situations where the maximum allowance for emergency services and care is not available. In such instances, the maximum allowance is set at 75 percent of the hospital's charge, except when a contract is in place, in which case the contract governs reimbursement.

Florida Self-Insurers Guaranty Association, Inc.

An employer may be eligible to self-insure for their workers' compensation coverage.³⁴ Such an employer must furnish proof to the Florida Self-Insurers Guaranty Association (FSIGA) that the employer has the financial strength necessary to ensure timely payment of all current and future claims.³⁵ The FSIGA is a nonprofit corporation established pursuant to s. 440.385, F.S., and monitors the financial strength of self-insured entities for DFS and makes recommendations as to the qualifications to self-insure.³⁶ All self-insurers other than governmental entities and public utilities are required to be members of the Association.³⁷

Effect of the Bill

The bill amends regulations concerning the Florida Self-Insurers Guaranty Association. Starting July 1, 2024, all contracts valued at \$100,000 or more, entered into by the association, must receive prior approval from DFS. DFS is mandated to approve or deny the contract within ten days; otherwise, it is considered approved. Competitive procurement is required for all such contracts, with awards granted to the most responsible and responsive vendor.

Florida Funeral, Cemetery, and Consumers Services Act

²⁶ S. 440.13(12)(f), F.S.

²⁷ S. 440.13(12)(g), F.S.

²⁸ S. 440.13(12)(d), F.S.

²⁹ S. 440.13(12)(a), F.S.

³⁰ *Id.*

³¹ S. 440.13(12)(h), F.S.

³² *Id.*

³³ S. 440.13(12)(f), F.S.

³⁴ S. 440.38(1)(b), F.S.

³⁵ *Id.*

³⁶ *Id.*

³⁷ S. 440.385(1)(a), F.S.

Chapter 497, F.S., known as the Florida Funeral, Cemetery, and Consumer Services Act (Funeral Act), generally regulates funeral and cemetery services.³⁸ The Funeral Act authorizes the Board of Funeral, Cemetery, and Consumer Services (Board) within DFS to regulate cemeteries, columbaria,³⁹ cremation services, mausoleums, cemetery companies, dealers and monument builders, funeral directors, and funeral establishments.⁴⁰

The Board oversees licensing and rulemaking for the death care industry, including examinations and facility standards.⁴¹ It holds authority over various licensure aspects, such as criteria and practical examinations, including content, grading, and time limits. The Board is comprised of ten members, including the State Health Officer and nine individuals appointed by the Governor.⁴² The composition of the Board includes funeral directors, cemetery associates, consumers, and a monument establishment principal. Members serve four-year terms, ensuring diverse representation and preventing conflicts of interest.⁴³

Effect of the Bill

The bill introduces changes to the Board of Funeral, Cemetery, and Consumer Services. The changes include:

- The CFO, rather than the Governor, will appoint Board members, and Senate confirmation is eliminated.
- The funeral director member is no longer conditioned on owning or operating an approved cinerator facility.
- Board members may be reappointed but are limited to serving no more than 8 consecutive years.
- Members are specifically held subject to the code of ethics under part III of ch. 112, F.S.
- Board members cannot vote on measures for their private gain or loss.
- A board member may not knowingly accept gifts or expenditures from entities under consideration for a contract or licensed by DFS.
- Board meetings must comply with open meeting requirements, and all records are open to the public for inspection.
- Notice of Board meetings, except for emergencies, must be published on the association's website at least seven days before the meeting. The agenda, arranged by presentation order, must also be published at least seven days in advance, with changes allowed only for good cause after the agenda release.

The bill amends disciplinary procedures and penalties for board members specifying that if certified mail service of an administrative complaint on a licensee cannot be achieved at the last address provided to DFS, service may be carried out by email. The email should be sent with delivery receipt required to the most recent email address provided to DFS by the licensee in accordance with s. 497.146, F.S.

Additionally, the bill modifies procedures for disciplinary citations and minor violations, stipulating that if certified mail service of a citation on a subject cannot be accomplished at the last address provided to DFS, then service may be conducted by email. The email should be sent with delivery receipt required, directed to the most recent email address provided to DFS by the subject in accordance with s. 497.146, F.S.

Service of Process

³⁸ S. 497.001, F.S.

³⁹ "Columbarium" means a structure or building that is substantially exposed above the ground and that is intended to be used for the inurnment of cremated remains. S. 497.005(18), F.S.

⁴⁰ See ss. 497.101 and 479.103, F.S.

⁴¹ S. 497.101 and 497.103, F.S.

⁴² S. 497.103(1)(a)-(g), F.S.

⁴³ S. 497.101(3), F.S.

In general, the law provides for the designation of a public officer, board, agency, or commission as the agent for service of process on a person, firm, or corporation in the state.⁴⁴ However, the state CFO is designated as the agent for service of process on insurers and other specific entities or persons licensed by DFS or the Office of Insurance Regulation (OIR). OIR provides oversight for specified insurance products, insurers and other risk bearing entities in Florida.⁴⁵ The Financial Services Commission (FSC), composed of the Governor, the Attorney General, the CFO, and the Commissioner of Agriculture, serves as agency head of the Office of Insurance Regulation for purposes of rulemaking. Further, the FSC appoints the commissioner of the Florida Office of Insurance Regulation.⁴⁶ Service of process on the CFO is made by mail, personal service, or via DFS's e-portal.⁴⁷

After receiving service of process, the CFO is required to promptly send a copy by registered or certified mail, or by any other verifiable means, to the person designated by an insurer to receive the process.⁴⁸ Verifiable means includes making the documents available by electronic transmission from a secure website established by DFS.⁴⁹ If DFS makes the documents available electronically, the CFO is required to send a notice of receipt of process to the person designated by the insurer being served to receive legal process.⁵⁰

Service is considered perfected on an insurer when the CFO is served with the process.⁵¹ Although an insurer is not required to respond to a lawsuit except until 20 days after the CFO sends or makes a copy of the process available, the triggering date for other legal deadlines is the date the CFO is served with process.⁵² This can create problems for an insurer when a delay occurs between the time the CFO is served and the time the CFO notifies the insurer of the service of process.

Pre-suit Notice to Initiate Litigation under an Insurance Policy

Before pursuing a bad faith claim under s. 624.155, F.S., an insured must provide at least 60 days' written notice to the insurer and DFS.⁵³ This notice period allows insurers a final chance to fulfill their claim obligations.⁵⁴ Then, DFS dispatches the notice to the insurer's specifically designated email address.⁵⁵ The civil remedy notice includes details like the alleged violation, involved individuals, relevant policy language, and a statement expressing the intent to pursue a civil remedy.⁵⁶

In property insurance cases, a claimant must give DFS written notice of intent to sue the insurer at least ten business days before filing a lawsuit, following a coverage determination under s. 627.70131, F.S.⁵⁷ The notice outlines alleged acts or omissions and, in case of coverage denial, estimates damages.⁵⁸ The insurer must respond within ten business days.⁵⁹ If coverage is denied, the insurer must accept, deny, or assert the right to re-inspect within 14 business days.⁶⁰ If other acts are alleged, the insurer must respond with a settlement offer or propose alternative dispute resolution.⁶¹ If ADR is not concluded within 90 days after the ten day notice, the claimant can file suit without additional notice.⁶² Failure to comply with the ten day notice requirement results in dismissal without prejudice.⁶³

⁴⁴ S. 48.151, F.S.

⁴⁵ S. 20.121(3)(a), F.S.

⁴⁶ *Id.*

⁴⁷ *Id.* DFS, <https://myfloridacfo.com/division/generalcounsel/service-of-process> (last visited Jan. 23, 2024).

⁴⁸ S. 624.423, F.S.

⁴⁹ S. 624.307(9), F.S.

⁵⁰ *Id.*

⁵¹ S. 624.423(3), F.S.

⁵² S. 624.423(2), F.S.

⁵³ S. 624.155(3), F.S.

⁵⁴ See *Talat Enterprises, Inc., v. Aetna Cas. and Sur. Co.*, 753 So. 2d 1278, 1284 (Fla. 2000).

⁵⁵ *Id.* S. 624.422, F.S.

⁵⁶ S. 624.155(3)(b)(1)-(5), F.S.

⁵⁷ S. 627.70152(3)(a), F.S.

⁵⁸ S. 627.70152(6)(a), F.S.

⁵⁹ S. 627.70152(4), F.S.

⁶⁰ S. 627.70152(4)(a), F.S.

⁶¹ S. 627.70152(4)(b), F.S.

⁶² *Id.*

⁶³ *Id.*

Effect of the Bill

The bill mandates a 60-day written notice of a violation as a prerequisite for initiating legal action against an insurer. DFS must provide this notice to the insurer via its designated email address.

Additionally, the bill requires claimants filing a property insurance suit to submit written notice to DFS before initiating litigation, ensuring it's delivered at least ten business days after an insurer's coverage determination. The notice, sent to the insurer's designated email, must detail the suit's basis, any denial of coverage, an estimate of damages if applicable, and, if represented, acknowledgment by the claimant. For cases beyond denial, it must include a pre-suit settlement demand and the disputed amount. Supporting documentation may accompany the notice.

Surplus Lines Insurers

Surplus lines insurance is coverage for specific risks that the standard or admitted market is either unable or unwilling to cover.⁶⁴ While the admitted market is where most consumers find coverage, the surplus lines market is a supplement for those individuals and businesses that cannot find coverage otherwise.⁶⁵ Florida law defines "eligible surplus lines insurer" as an unauthorized insurer which has been made eligible by the OIR to issue insurance coverage under the Surplus Lines Law.⁶⁶

Effect of the Bill

The bill requires eligible surplus lines insurers to provide a written or electronic response to the Division of Consumer Services within DFS within 14 days of receiving a written request for documents and information related to a consumer complaint.

Additionally, the bill requires that authorized insurers and eligible surplus lines insurers submit email addresses to DFS for directing requests related to consumer complaints. The insurer is required to designate a contact person to DFS for escalated complaint issues, providing the name, email address, and telephone number of the designated contact person.

Division of Insurance Agent and Agency Services

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.⁶⁷

No person may be, act as, or advertise, or hold himself or 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.⁶⁸ 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.⁶⁹

⁶⁴ Florida Surplus Lines Service Office, *Surplus Lines Insurance*, <https://www.fsiso.com/about/surplus-lines-insurance#:~:text=Surplus%20lines%20insurance%20is%20coverage,that%20cannot%20find%20coverage%20otherwise> (last visited Jan. 23, 2024).

⁶⁵ *Id.*

⁶⁶ S. 626.915, F.S.

⁶⁷ Ch. 626, parts I-IX, and XIII.

⁶⁸ S. 626.112, F.S.

⁶⁹ S. 626.015, F.S.

General Lines Agent

A general lines agent⁷⁰ is one who sells the following lines of insurance: property;⁷¹ casualty,⁷² including commercial liability insurance underwritten by a risk retention group, a commercial self-insurance fund,⁷³ or a workers' compensation self-insurance fund;⁷⁴ surety;⁷⁵ health;⁷⁶ and, marine.⁷⁷ 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.⁷⁸

Title Agents and Agencies

Title insurance insures owners of real property (owner's policy) or others having an interest in real property, as well as lenders (mortgagee policies) against loss by encumbrance, defective title, invalidity, or adverse claim to title. It is a policy issued by a title insurer that, after evaluating a search of title, insures against a number of covered risks, including title defects or liens that are not identified as exceptions. In Florida, title insurers operate on a monoline basis, meaning that the insurer can only transact title insurance and cannot transact any other type of insurance.⁷⁹

Effect of the Bill

The bill

- Requires DFS to allow applicants to submit cellular telephone numbers as part of the application process on a voluntary basis for purposes of two-factor authentication⁸⁰ of login credentials only. A separate bill, HB 991, which is linked to the passage of the bill, proposes to exempt these phone numbers from public records requirements.
- Adds "Registered Claims Adjuster (RCA) from American Insurance College" to the list of individuals exempted from the examination requirement to become an agent or adjuster.
- Allows DFS to disclose confidential investigative information to the subject or the subject's representative in order to review the details of the investigation.
- Adds designation of "Chartered Customer Service Representative (CCSR) from American Insurance College" to the list of criteria to qualify as a customer representative.

Insurance Adjusters

Florida law requires all insurance adjusters to be licensed by the Department of Financial Services (DFS) and appointed by the appropriate entity or person⁸¹ in order to adjust claims. General requirements for licensure include submitting an application; paying required fees; satisfying pre-licensing examination requirements, when applicable; complying with requirements as to knowledge, experience, or instruction; and submitting fingerprints.⁸²

⁷⁰ S. 626.015(5), F.S.

⁷¹ S. 624.604, F.S.

⁷² S. 624.605, F.S.

⁷³ As defined in s. 624.462, F.S.

⁷⁴ Pursuant to s. 624.4621, F.S.

⁷⁵ S. 626.606, F.S.

⁷⁶ Ss. 624.603 and 627.6482, F.S.

⁷⁷ S. 624.607, F.S.

⁷⁸ S. 626.829, F.S.

⁷⁹ S. 627.786, F.S.

⁸⁰ Two-factor authentication (TFA) is an identity and access management security method that requires two forms of identification to access resources and data. TFA gives businesses the ability to monitor and help safeguard their most vulnerable information and networks. Microsoft, *What is Two-Factor Authentication?*, <https://www.microsoft.com/en-us/security/business/security-101/what-is-two-factor-authentication-2fa> (last visited Jan. 22, 2024).

⁸¹ See s. 626.015(4), F.S., defining "appointment" as the authority given by an insurer or employer to a licensee to adjust claims on behalf of an insurer or employer.

⁸² S. 626.171, F.S.

Under s. 626.864, F.S., there are both public adjusters and all-lines adjuster license types, with all-lines appointments further divided into independent adjusters,⁸³ company employee adjusters,⁸⁴ and public adjuster apprentices.⁸⁵ The same adjuster may not be concurrently licensed as a public adjuster and an all-lines adjuster.⁸⁶ In the case of an all-lines adjuster, the adjuster may be appointed as an independent adjuster, company employee adjuster, or public adjuster apprentice, but not more than one concurrently.⁸⁷

A public adjuster is any person, other than a licensed attorney, who, for compensation, prepares, completes, or files an insurance claim form for an insured or third-party claimant in negotiating or settling an insurance claim on behalf of an insured or third party.⁸⁸ Public adjusters operate independently and are not affiliated with any insurer.

An all-lines adjuster is any person who, for compensation, ascertains and determines the amount of any claim, loss, or damage payable under an insurance contract or settles such claim, loss, or damage on behalf of a public adjuster or insurer.⁸⁹

An independent adjuster is any person who is self-employed or employed by an independent adjusting firm and who works for an insurer to ascertain and determine the amount of an insurance claim, loss, or damage, or to settle an insurance claim under an insurance contract.⁹⁰

A company employee adjuster is any person employed in-house by an insurer, or a wholly owned subsidiary of the insurer, who ascertains and determines the amount of an insurance claim, loss, or damage, or settles such claim, loss, or damage.⁹¹

Effect of the Bill

The bill mandates licensed adjusters to clearly identify themselves in all advertisements, solicitations, or written documents, reflecting their specific adjuster appointment type.

Additionally, an adjuster whose license has been revoked or suspended is expressly prohibited from participating in any aspect of an insurance claim or the insurance claim adjusting process.

Unauthorized Insurers and Surplus Lines

A general lines agent, when licensed and appointed as a surplus lines agent, is authorized to initiate and accept surplus lines business from any other originating Florida-licensed general lines agent appointed and licensed for the relevant kinds of insurance, and may receive compensation accordingly.⁹² Similarly, a managing general agent, when licensed and appointed as a surplus lines agent, can accept and place surplus lines business originated by a Florida-licensed general lines agent, and may compensate that agent.⁹³ General lines agents may not knowingly misrepresent any material fact related to such insurance or its eligibility for placement with a surplus lines insurer.⁹⁴

Effect of the Bill

⁸³ S. 626.855, F.S.

⁸⁴ S. 626.856, F.S.

⁸⁵ S. 626.8561, F.S.

⁸⁶ S. 626.864(2), F.S.

⁸⁷ S. 626.864(3), F.S.

⁸⁸ S. 626.854(1), F.S.

⁸⁹ S. 626.8548, F.S.

⁹⁰ S. 626.855, F.S.

⁹¹ S. 626.856, F.S.

⁹² S. 626.929(1), F.S.

⁹³ S. 626.929(2), F.S.

⁹⁴ S. 626.929(3), F.S.

The bill specifies that a general lines agent, while licensed as a surplus lines agent, is authorized to appoint licenses using a single surplus license agent appointment under s. 624.501, F.S. This appointed agent is limited to initiating surplus lines business and receiving surplus lines business exclusively from other Florida-licensed general lines agents who are appointed and licensed for the relevant kinds of insurance. Such agents are not eligible for appointment by or allowed to engage in transacting general lines insurance on behalf of an admitted insurer. Compensation may be provided to such agents.

Florida Medical Malpractice Joint Underwriting Association

The Florida Medical Malpractice Joint Underwriting Association (FMMJUA) is a legislatively established risk apportionment plan designed to ensure the availability of medical liability (malpractice) insurance for various Florida health care providers, including physicians, surgeons, dentists, nurses, physician partnerships or corporations, hospitals, medical facilities, and others.⁹⁵ The FMMJUA serves as a provider of liability insurance for medical practitioners who face challenges obtaining coverage from the private market.⁹⁶

Administered by its Board of Governors, composed of representatives from key entities such as the Florida Medical Association, Florida Hospital Association, The Florida Bar, Florida Dental Association, and the insurance industry, the FMMJUA operates under the framework of the FMMJUA Plan of Operation.⁹⁷ The Board, with OIR approval, oversees crucial aspects like insurance rates, rate classifications, policy forms, and overall policy setting.⁹⁸

Effect of the Bill

The bill requires that, starting July 1, 2024, the FMMJUA must obtain prior approval from DFS for all contracts valued at \$100,000 or more. DFS is obligated to render a decision on the contract within ten days; failure to do so will result in the contract being deemed approved. Competitive procurement is a requisite for all such contracts, and awards are to be granted to the most responsible and responsive vendor.

Please see section III A, Constitutional Issues.

The Insurance Contract

An insurer has the authority to modify the terms of a policy upon its renewal. In case of such changes, the insurer must provide the named insured with advance written notice that summarizes the modifications.⁹⁹ This notice can be included with the notice of renewal premium or sent separately within the specified timeframe.¹⁰⁰ Prior to, or concurrently with, providing the insured with the notice, the insurer must furnish a sample copy of the notice to the insured's insurance agent. The notice itself must be titled "Notice of Change in Policy Terms."¹⁰¹

For renewal policies incorporating optional coverage leading to a premium increase, the insurer cannot use the Notice of Change in Policy Terms to introduce the optional coverage without the policyholder's approval.¹⁰² The insured's payment of the renewal premium is considered acceptance of the new policy terms.¹⁰³ Failure to furnish the required notice means the original policy terms remain in effect until the

⁹⁵ S. 627.351, F.S. See also www.fmmjua.com (last visited Jan. 20, 2024).

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ S. 627.43141(2), F.S.

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² S. 627.43141(3), F.S.

¹⁰³ S. 627.43141(5), F.S.

subsequent renewal with proper notice, or until the effective date of replacement coverage obtained by the named insured, whichever happens first.¹⁰⁴

Effect of the Bill

The bill requires that the renewal notice sent to the named insured containing changes in policy terms must be in bold type of not less than 14 points and included as a single page within the written notice.

Please see section III A, Constitutional Issues.

Guaranty Associations

A guaranty association is typically a nonprofit corporation established by law to safeguard policyholders against financial losses and delays in claim payment and settlement resulting from the insolvency of an insurance company.

Florida Insurance Guaranty Association

Section 631.55, F.S., establishes the Florida Insurance Guaranty Association, Inc. (FIGA). In the event of insolvency of a property and casualty insurance company, FIGA is mandated to take over the claims and fulfill obligations to the policyholders of the insolvent insurer.¹⁰⁵ Participation in FIGA is a mandatory requirement for all insurers licensed to sell property and casualty insurance in Florida.¹⁰⁶ Operating as a nonprofit corporation, FIGA is governed by a Board of Directors appointed by DFS, with each member serving a four-year term.¹⁰⁷

Effect of the Bill

The bill requires that, starting July 1, 2024, FIGA must seek prior approval from DFS for all contracts valued at \$100,000 or more. DFS is required to decide on the contract within ten days; failure to do so will result in it being deemed approved. Competitive procurement is a prerequisite for all such contracts, and awards are to be directed to the most responsible and responsive vendor.

Additionally, the bill mandates that each insurer, subject to FIGA requirements, establish, implement, and maintain a data transfer plan. This plan is to be filed with the Commissioner of Insurance Regulation (Commissioner) in the event of a company-action level event, as outlined in s. 624.4085. Such events encompass various scenarios, including the insurer's total adjusted capital falling within specific risk-based capital thresholds or notification by the OIR regarding an adjusted risk-based capital report.

The data transfer plan must delineate procedures, actions, and safeguards, including the manner of maintaining records, the process for transferring records to DFS and FIGA in case of liquidation, and any additional information deemed necessary by the Commissioner. If a third-party vendor is involved, the plan must outline the process for prompt provision of records by the vendor in case of liquidation.

The Commissioner is tasked with reviewing each plan for compliance, consulting with DFS and FIGA to ensure integration with their record-keeping processes, and may conduct investigations, direct testing of processes, mandate plan modifications, prefund services, and enforce actions to remedy noncompliance with plan requirements.

¹⁰⁴ S. 627.43141(6), F.S.

¹⁰⁵ S. 631.57, F.S.

¹⁰⁶ S. 631.56(1), F.S.

¹⁰⁷ *Id.*

Florida Life and Health Insurance Guaranty Association

Section 631.715, F.S., establishes the Florida Life and Health Insurance Guaranty Association (FLHIGA). Every insurer licensed to sell direct life insurance policies, health insurance policies, annuity contracts, and supplemental contracts in the state must participate in FLHIGA as a requirement for conducting business in Florida.¹⁰⁸ FLHIGA functions as a nonprofit corporation, governed by a Board of Directors consisting of nine to eleven members appointed by member insurers.¹⁰⁹

Effect of the Bill

The bill requires the FLHIGA to obtain approval from DFS for all contracts valued at \$100,000 or more, initiated by the association after July 1, 2024. DFS is mandated to make a decision on the contract within ten days; otherwise, it is deemed approved. Competitive procurement is a requirement for all such contracts, with awards directed to the most responsible and responsive vendor.

Florida Health Maintenance Organization Consumer Assistance Plan

Section 631.815, F.S., provides for the creation of the Florida Health Maintenance Organization Consumer Assistance Plan (FHMOCAP). All health maintenance organizations possessing a valid certificate of authority in the state are required to participate in the FHMOCAP as a condition of transacting business in Florida. The FHMOCAP operates under a board of directors as a nonprofit corporation. The Board consists of five to nine members appointed by DFS to serve four-year terms.¹¹⁰

Effect of the Bill

The bill requires the FHMOCAP to obtain approval from DFS for all contracts valued at \$100,000 or more, initiated by the association after July 1, 2024. DFS is mandated to make a decision on the contract within ten days; otherwise, it is deemed approved. Competitive procurement is a requirement for all such contracts, with awards directed to the most responsible and responsive vendor.

Florida Workers' Compensation Insurance Guaranty Association

Section 631.911, F.S., provides the creation of the Florida Workers' Compensation Insurance Guaranty Association, Incorporated (FWCIGA). All insurers authorized to provide workers' compensation insurance in the state are required to participate in the FWCIGA as a condition of transacting business in Florida. The FWCIGA operates under a board of directors as a nonprofit corporation. The Board consists of eleven members appointed to serve four-year terms.¹¹¹

Effect of the Bill

The bill requires the FWCIGA to obtain approval from DFS for all contracts valued at \$100,000 or more, initiated by the association after July 1, 2024. DFS is mandated to make a decision on the contract within ten days; otherwise, it is deemed approved. Competitive procurement is a requirement for all such contracts, with awards directed to the most responsible and responsive vendor.

State Fire Marshal

¹⁰⁸ S. 631.716(1), F.S.

¹⁰⁹ *Id.*

¹¹⁰ S. 631.816(1), F.S.

¹¹¹ S. 631.912(1), F.S.

The CFO serves as the State Fire Marshal, operating through the Division of the State Fire Marshal within DFS.¹¹² Under this authority, the State Fire Marshal regulates, trains, and certifies fire service personnel; investigates the causes of fires; enforces arson laws; oversees the installation of fire equipment; conducts fire safety inspections of state property; develops fire safety standards; provides facilities for the analysis of fire debris; and manages the Florida State Fire College.¹¹³

Uniform Fire Safety Standards

DFS is mandated to establish uniform fire safety standards applicable to various entities, including state-owned and state-leased buildings, hospitals, nursing homes, assisted living facilities, adult family-care homes, correctional facilities, public schools, transient public lodging establishments, public food service establishments, elevators, migrant labor camps, mobile home parks, lodging parks, recreational vehicle parks, recreational camps, residential and nonresidential child care facilities, facilities for the developmentally disabled, motion picture and television special effects productions, tunnels, and self-service gasoline stations.¹¹⁴

These standards must be reasonably prudent in safeguarding life, safety, and property, considering the characteristics of individuals using these buildings and structures and other associated hazards across the state.¹¹⁵ Local authorities are generally restricted from imposing more stringent uniform fire safety standards, except in limited circumstances.¹¹⁶

Effect of the Bill

The bill adopts the National Fire Protection Association, Inc., Standard 1126, 2021 Edition, Standard for the Use of Pyrotechnics before a Proximate Audience. This replaces the 2001 Edition and is the most current edition.

The bill requires that the State Fire Marshal cannot adopt an accessibility code, as accessibility is already addressed within the Florida Building Code's Americans with Disabilities Act accessibility provisions.

Additionally, the bill mandates DFS to establish consistent fire safety standards for both mobile food dispensing vehicles and energy storage systems.

Motor Vehicle Service Agreement Companies

To engage in service agreement¹¹⁷ business activities in Florida, a person must hold a license and adhere to various requirements under applicable laws, including the Florida Insurance Code.¹¹⁸ These requirements include maintaining solvency, demonstrating competent and trustworthy management, making specified deposits, maintaining reserves, and ensuring a minimum net asset requirement of \$500,000.¹¹⁹ Additionally, a service agreement company may establish an unearned premium reserve or secure contractual liability insurance meeting certain criteria.¹²⁰ If using contractual liability insurance, the policy must cover 100 percent of claim exposure, ensure refund obligations, provide 90 days' notice

¹¹² S. 633.104, F.S.

¹¹³ S. 633.128(h), F.S.

¹¹⁴ S. 633.206(1), F.S.

¹¹⁵ S. 633.206(2)(a), F.S.

¹¹⁶ S. 633.206(2)(b), F.S.

¹¹⁷ S. 634.011(8), F.S., defines "motor vehicle service agreement" or "service agreement" as a contract or agreement indemnifying the service agreement holder for the motor vehicle listed on the service agreement and arising out of the ownership, operation, and use of the motor vehicle against loss caused by failure of any mechanical or other component part, or any mechanical or other component part that does not function as it was originally intended. However, nothing in this part shall prohibit or affect the giving, free of charge, of the usual performance guarantees by manufacturers or dealers in connection with the sale of motor vehicles. Transactions exempt under s. 624.125, F.S., are expressly excluded from this definition and are exempt from the provisions of this part.

¹¹⁸ S. 634.031(1), F.S.

¹¹⁹ S. 634.041, F.S.

¹²⁰ *Id.*

for cancellation, and furnish claims statistics to the OIR.¹²¹ Such policies can pay claims as incurred or in the event of the company's failure to meet payment obligations.¹²²

Effect of the Bill

The bill permits motor vehicle service agreement companies to employ multiple contractual liability insurance policies to support their financial obligations.

Home Warranty Associations

A home warranty is a contract or agreement between the homeowner and the issuing company, safeguarding the homeowner from expenses related to the repair or replacement of structural components or appliances in the home.¹²³ This protection extends to issues caused by normal wear and tear or defects in these components or appliances.¹²⁴

Home warranty contracts or agreements can be drafted by a Home Warranty Association licensed under s. 634.303, F.S., or by an authorized insurance company permitted to offer coverage in this category.¹²⁵

The elective market in Florida allows a builder, seller, buyer, or owner of a home to choose whether they would like to purchase a home warranty to cover against the cost of repair or replacement, or furnishes repair or replacement, of any structural component or appliance of a home, caused by wear and tear or a defect of a structural component or appliance.¹²⁶

Warranty associations and companies in Florida, including those associations selling home and service warranties, and those companies selling motor vehicle service agreements, are regulated by the OIR.¹²⁷

While warranties are not considered traditional insurance products, OIR regulates warranty associations and companies similarly to the way in which it regulates insurers.¹²⁸ Home and service warranty associations must be licensed by OIR¹²⁹ and must maintain certain minimum financial standards in order to do warranty business in Florida.¹³⁰

Effect of the Bill

The bill specifies that home warranty associations are not obligated to establish an unearned premium¹³¹ reserve or maintain contractual liability insurance. The association may allow premiums to exceed the ratio to net assets limitation under the following conditions:

- The association or its parent corporation, if applicable, must maintain a minimum net worth of at least \$100 million and provide the OIR with:
 - Annual audited financial statements or audited consolidated financial statements demonstrating the required net worth.

¹²¹ S. 634.041(8)(b)6., F.S.

¹²² *Id.*

¹²³ S. 634.301(2), F.S.

¹²⁴ *Id.*

¹²⁵ S. 634.303, F.S.

¹²⁶ S. 634.301(2), F.S.

¹²⁷ See ch. 634, F.S.

¹²⁸ See ch. 634, F.S.

¹²⁹ Ss. 634.303 and 634.403, F.S. Neither the Florida Insurance Code (FIC) nor this section grants permission for any home warranty association to conduct insurance business beyond what is specifically defined as home warranty or to participate in any other form of insurance. Sale of alternative insurance types requires explicit authorization through a certificate of authority issued by the office under the provisions of the FIC. S. 634.325, F.S.

¹³⁰ Ss. 634.3077 and 634.406, F.S.

¹³¹ Unearned premiums are parts of the insurance premiums that are collected in advance by the insurers. The insurer is subject to refund the unearned premium if the insured decides to terminate the policy before the policy period ends. Clear Tax, *What is Unearned Premium?*, <https://cleartax.in/glossary/unearned-premium/> (last visited Jan 23, 2024).

- A quarterly written certification of the continuing net worth maintenance.
- Submission of required documents, including Form 10-K, Form 10-Q, or Form 20-F, to the OIR on a quarterly and annual basis.

Failure to timely file the necessary documents may result in the association facing suspension or revocation of its license.

If the net worth of a parent corporation is used to satisfy the net worth provisions:

- The parent corporation must guarantee all service warranty obligations, subject to OIR approval.
- Cancellation, termination, or modification of the guarantee requires a 90-day notice to the OIR.
- The association must demonstrate compliance with all provisions before the effective date of any changes to the guarantee.
- If compliance is not demonstrated, the association must cease writing new and renewal business.

The bill also provides an exemption for employees and agents of municipal or county governments from the licensing and appointment requirements specified in s. 634.317, F.S.

Please see section III A, Constitutional Issues.

Bail Bonds

A bail bond is a guarantee by a third-party that a defendant in a criminal case will appear in court at all scheduled proceedings. A bail bond agent posts a surety bond to secure the defendant's release from custody; the defendant provides money or other collateral to secure the bail bond and forfeits the premium (10 percent of the amount of bail set by the court) if he or she fails to appear in court or comply with other conditions of the bond. Bail bond agents must be licensed by DFS and appointed by insurance carriers to execute bail bonds. If a defendant fails to appear in court, the bail bond agent may apprehend and detain the defendant until the defendant is surrendered to the authorities.¹³²

Bail bond agents may execute or sign bonds, handle collateral receipts, deliver bonds to appropriate authorities, or operate an agency or branch agency at a separate location from the supervising bail bond agent, managing general agent, or insurer that employs the bail bond agent.¹³³

Licensure as a Bail Bond Agent

All applicants for bail bond licenses must submit fingerprints for a national criminal background check and pay an application fee.¹³⁴ Bail bond agents may not have been convicted of a felony, must be age 18 or older, and must be eligible to work in the United States.¹³⁵ A bail bond agent must be appointed by a licensed insurer and the insurer must report the appointment to DFS.¹³⁶ A bail bond agent may not charge a premium other than the rate that has been approved by OIR, and must retain records related to any bail bonds the agent has executed or countersigned for at least three years after the liability of the surety has been terminated.¹³⁷ Additionally, bail bond agents must register with the sheriff and the clerk of the circuit court in the county where the bail bond agent resides.¹³⁸ Bail bond agents may not

¹³² Ss. 648.24 and 624.26, F.S. Also see DFS, Division of Consumer Services, *Bail Bonds Overview*, <https://www.myfloridacfo.com/bail-bonds-overview> (last visited Jan. 20, 2024).

¹³³ S. 648.355, F.S.

¹³⁴ *Id.*

¹³⁵ S. 648.34, F.S.

¹³⁶ S. 648.30, F.S.

¹³⁷ Ss. 648.295 and S. 648.36, F.S.,

¹³⁸ S. 648.42, F.S.

solicit clients at a jail, prison, or courthouse, and may not pay fees for referrals from any person working in the law enforcement community.¹³⁹

Ownership of a Bail Bond Agency

The owner of a bail bond agency must hold a valid license and appointment as a bail bond agent.¹⁴⁰ Additionally, the owner or operator of the agency is required to appoint a primary bail bond agent, responsible for the overall operation and management of a specific agency location.¹⁴¹ The name and license number of the primary bail bond agent, along with the agency's address, must be filed with DFS.¹⁴² A primary bail bond agent can supervise only one location, has the authority to hire employees, and is prohibited from employing or contracting with individuals who have been convicted of a felony.¹⁴³

Continuing Education

Bail bond agents are required to complete a minimum of 14 hours of continuing education every two years.¹⁴⁴ Approved schools providing continuing education must be certified by DFS, offering a minimum of three classroom-instruction classes per calendar year.¹⁴⁵ Each continuing education class should include at least two hours of approved coursework and be taught by a DFS-approved supervising instructor.¹⁴⁶

Effect of the Bill

The bill provides the following definitions:

- “Referring bail bond agent” is the limited surety agent who is appointed with the surety company issuing the transfer bond that is to be posted in a county where the referring limited surety agent is not registered. The referring bail bond agent is the appointed agent held liable for the transfer bond, along with the issuing surety company.
- “Transfer bond” means the appearance bond and power of attorney form posted by a limited surety agent who is registered in the county where the defendant is being held in custody, and who is appointed to represent the same surety company issuing the appearance bond as the referring bail bond agent.

The bill requires that the papers, documents, reports, or any other records related to the regulation of bail bonds, which are made confidential and exempt from public records law during an active investigation by DFS, cease to be confidential once DFS or the OIR files a formal administrative complaint, emergency order, or consent order against the individual or entity.

Additionally, the bill allows for the disclosure of confidential investigative records to the subject or their representative for a detailed review.

Furthermore:

- The bill eliminates the requirement for bail bond agents to be employed with a bail bond agency.
- The bill removes the mandate for the submission of a full-face photograph with a limited surety's or bail bond agent's license application.
- The bill mandates the inclusion of the license number, along with the name and address, of the referring bail bond agent on a transfer bond.

Florida Disposition of Unclaimed Property Act

¹³⁹ S. 648.44, F.S.

¹⁴⁰ S. 648.285, F.S.

¹⁴¹ *Id.*

¹⁴² *Id.*

¹⁴³ S. 648.25(6) and 648.387, F.S.

¹⁴⁴ S. 648.385, F.S.

¹⁴⁵ S. 648.386, F.S.

¹⁴⁶ *Id.*

As part of its statutory duties, DFS is mandated to collect and return unclaimed property to Florida residents under ch. 717, F.S., known as the Florida Disposition of Unclaimed Property Act. Unclaimed property refers to funds or other tangible and intangible assets that have remained unclaimed by the owner for a specific period, encompassing various forms such as savings and checking accounts, money orders, stocks, and more.¹⁴⁷

Chapter 717, F.S., provides a framework for the rightful owners to obtain unclaimed property that is held by DFS. Businesses, acting as holders of unclaimed property, are obligated to make reasonable efforts to locate the owner.¹⁴⁸ If these attempts prove unsuccessful, the businesses then report the property, along with the owner's name, last known address, and other relevant details, to DFS. While DFS serves as the custodian for the State of Florida, it does not assume legal ownership of the property.¹⁴⁹

To notify owners of their unclaimed property, DFS employs various methods, including database searches.¹⁵⁰ Citizens have the right to claim their property at any time, irrespective of the amount, without incurring any costs.¹⁵¹ Unclaimed funds are deposited into the State School Fund to support public schools.¹⁵² Importantly, the original amount reported as unclaimed can always be claimed by the owner or their heirs at no cost.¹⁵³

More than 326 licensed¹⁵⁴ claimant's representatives are registered with DFS to gain access to the unclaimed property database and to seek authorizations from potential claimants of unclaimed property held by DFS to file claims on behalf of those claimants.¹⁵⁵ A claimant representative, who must be a Florida-licensed attorney, a licensed Florida-certified public accountant (CPA), or a private investigator licensed under Chapter 493, F.S., is required to register with DFS.¹⁵⁶ A claimant representative must register with DFS on a form designated by DFS and provide certain documentation (including tax identification number, identification, electronic funds transfer information, business address, and employees and agents) and credentials as to their status as an attorney, CPA, or private investigator.¹⁵⁷ In order to move forward in obtaining unclaimed property on a potential client's behalf, the representative must first obtain that client's authorization.

Effect of the Bill

Revised and New Definitions

The bill includes substantial changes to the law regarding unclaimed property. It significantly revises some definitions and creates others so that the statutory definitions related to the unclaimed property process will better apply to modern business and consumer practices.¹⁵⁸ The updated definitions will also account for new property types, technology advancements, electronic communications, and consumer's changing preferences regarding financial accounts.¹⁵⁹

The revisions to, and creation of, definitions in the bill include the following:

¹⁴⁷ Ss. 717.104-717.116, F.S.

¹⁴⁸ *Id.*

¹⁴⁹ *Id.*

¹⁵⁰ Florida Department of Financial Services, Agency Analysis of House Bill 425, p. 1 (Feb. 9, 2021).

¹⁵¹ *Id.*

¹⁵² *Id.*

¹⁵³ *Id.*

¹⁵⁴ Email from Chase Mitchell, Director of Legislative Affairs and Policy, DFS, Inquiry Regarding Licensed Claimant's Representatives Registration, (Jan. 22, 2024).

¹⁵⁵ DFS, Agency Analysis of House Bill 425, p. 1 (Feb. 9, 2021).

¹⁵⁶ S. 717.124, F.S.

¹⁵⁷ S. 717.1400, F.S.

¹⁵⁸ Department of Financial Services (DFS), Agency Analysis of 2024 House Bill 989, p.5 (Dec. 28, 2023). Many of these definitions have not been updated since 1987.

¹⁵⁹ *Id.*

- An unclaimed property related audit is defined as an action or proceeding to assist in curbing the intentional delay of DFS audits of unclaimed property.
- Audit agent is defined to differentiate between DFS's employee auditors and auditors that DFS contracts with for audit services to establish that the contracted auditors have authority delegated by DFS.
- A definition of claimant representative is created because of confusion regarding the role of such people in the unclaimed property process.

Clarifications on Dormancy Period and Owner's Expression of Interest

The bill clarifies the dormancy period before property is presumed unclaimed and reported to DFS.¹⁶⁰ It also designates what constitutes an owner's expression of interest.

Virtual Currency and Reporting Requirements

The bill adds a definition of virtual currency to unclaimed property law and provides requirements on how this type of property is to be reported and remitted to DFS when it is unclaimed. Virtual currency must be reported to DFS on the annual report filed property holders file with DFS. Property holders must liquidate virtual currency within 30 days before the filing of the report and remit the proceeds to DFS.

Property Holder Obligations

The bill provides that a property holder may not assign or otherwise transfer its obligation to report, pay, or deliver property or to comply with unclaimed property law. Furthermore, an entity that acquires all or substantially all of a property holder's capital stock or assets is responsible for the reporting to DFS unless otherwise agreed to by the parties.

Changes to Dormancy Period for Stock or Equity Interest

The bill also updates the time frames for determining whether stock or equity interest in a business association is presumed to be unclaimed. Such stock or equity is presumed to be unclaimed after the earliest of the following:

- three years after any owner-generated activity;
- three years after the death of the owner; or
- one year after notice of the owner's death is received by the holder.

Lower Reporting Threshold and Notice to Owners

The bill aims to increase the number of searchable and claimable unclaimed property accounts. Instead of the current reporting threshold of \$50, the bill requires that property holders report to DFS the owner and account information for unclaimed property valued at \$10 or more.

The bill also makes changes to provide adequate notice to owners that their property has become unclaimed and may be transferred to the custody of the state. It allows notice to be given by mail or email. Such notice must contain a heading that informs the recipient that his or her property may be transferred to DFS if they do not contact the property holder within 30 days after the date of the notice.

The bill establishes that a property holder's substantial compliance with the reporting requirements for unclaimed property and good faith payment of delivery of the property to DFS:

¹⁶⁰ *Id.* at p. 9.
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- terminates any legal relationship between the holder and the owner with respect to the property; and
- releases and discharges the holder from liability to the owner or his heirs and representatives.

A payment or delivery of property has been made in good faith if:

- It was made in conjunction with an accurate and acceptable report.
- It was made in a reasonable attempt to comply with ch. 717, F.S.
- The holder had a reasonable basis for believing the property was unclaimed and subject to ch. 717, F.S.
- There is no showing that the records pursuant to which the delivery was made did not meet reasonable commercial standards of practice in the industry.

Records Retention Period Extension

The bill increases the period of time for which property holders must retain records regarding reportable property from five years to ten years. This aligns the records retention requirement with the number of years within which DFS can bring an action to enforce unclaimed property law.

DFS Authority and Unclaimed Property Trust Fund

The bill provides DFS with the authority to refund or return the money or property to a person within five years if it was remitted in error as long as the money or property has not been paid or delivered to a claimant or otherwise disposed of according to unclaimed property law.

The bill increases the amount of money retained in the Unclaimed Property Trust Fund from \$15 million to \$65 million to aid DFS with the amount of claims payments it processes each month, which significantly exceed \$15 million.

DFS Role in Probate Proceedings

The bill clarifies DFS's authority when determining entitlement to unclaimed property that is part of probate proceedings. DFS will be considered a party and provided with notice of proceedings as provided for in the Florida Probate Code and Probate Rules. By becoming a party to the probate proceedings, DFS should no longer have to disburse unclaimed property based upon court orders that were issued based upon false information.

Threshold Increase for Small Estate Accounts

The bill increases the threshold for small estate accounts accompanied with a signed affidavit from \$10,000, to \$20,000.

Codification of Common Law Requirement

The bill codifies the common law requirement that a plaintiff who has received a writ of garnishment upon unclaimed property delivered to DFS must also file a claim for the unclaimed property that is the subject of the writ.

Tolling of 10-Year Enforcement Period

The bill clarifies that the 10-year period within which DFS may commence an action or proceeding to enforce unclaimed property law is tolled by the earlier of:

- DFS's or its audit agent's delivery of a notice that a holder is subject to an audit or examination; or
- the holder's written election to enter into an unclaimed property voluntary disclosure agreement.

Auditors' Fees, Investigations, and Examinations

Pursuant to the bill, auditors are allowed to deduct their fees from the property recovered or collected under a contract for the location or collection of unclaimed property. In addition to audits, significant changes and clarifications of DFS's authority to conduct investigations and examinations are made in the bill. Confidential information, including a property holder's financial or proprietary information, may not be disclosed until after an investigation or audit is completed, unless a court requires the disclosure during a judicial proceeding.

Unclaimed Property Purchase, Electronic Signatures, and Exemption for Sale in Bankruptcy

The bill allows anyone to purchase unclaimed property as long as they comply with the other legal requirements regarding recovery and purchase agreements.¹⁶¹ It also eliminates the prohibition on electronically signing a recovery agreement for claims above \$2,000. The bill further provides that the law regarding recovery and purchase agreements does not apply to the sale and purchase of Florida-held unclaimed property accounts through a bankruptcy trustee appointed to represent a debtor's estate in a bankruptcy proceeding.

B. SECTION DIRECTORY:

Section 1. Amends s. 20.121, F.S. relating to Department of Financial Services.

Section 2. Amends s. 121.0515, F.S., relating to Special Risk Class.

Section 3. Amends s. 215.5586, F.S., relating to My Florida Safe Home Program.

Section 4. Amends s. 284.44, F.S., relating to salary indemnification costs of state agencies.

Section 5. Amends s 440.13, F.S., relating to medical services and supplies; penalty for violations; limitations.

Section 6. Amends s. 440.385, F.S., relating to Florida Self-Insurers Guaranty Association Incorporated.

Section 7. Amends s. 497.101, F.S., relating to Board Of Funeral, Cemetery, And Consumer Services; Membership; Appointment; Terms.

Section 8. Amends s. 497.153, F.S., relating to disciplinary procedures and penalties.

Section 9. Amends s. 497.155, F.S., relating to disciplinary citations and minor violations.

Section 10. Amends s. 624.155, F.S., relating to civil remedy.

Section 11. Amends s. 624.307, F.S., relating to general powers; duties.

Section 12. Amends s. 626.171, F.S., relating to application for license as an agent, customer representative, adjuster, service representative, or reinsurance intermediary.

Section 13. Amends s. 626.221, F.S., relating to examination requirement; exemptions.

¹⁶¹ These requirements are found in s. 717.135, F.S.
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- Section 14.** Amends s. 626.601, F.S., relating to improper conduct; inquiry; fingerprinting.
- Section 15.** Amends s. 626.7351, F.S., relating to qualifications for customer representative's license.
- Section 16.** Amends s. 626.878, F.S., relating to rules; code of ethics.
- Section 17.** Amends s. 626.929, F.S., relating to origination, acceptance, placement of surplus lines business.
- Section 18.** Amends s. 627.351, F.S., relating to insurance risk appointment plans.
- Section 19.** Amends s. 627.43141, F.S., relating to notice of change in policy terms.
- Section 20.** Amends s. 627.70152, F.S., relating to suits arising under a property insurance policy.
- Section 21.** Amends s. 631.59, F.S., relating to duties and powers of department and office.
- Section 22.** Creates s. 631.6955, F.S., relating to Florida Insurance Guaranty Fund Data Transfer Plan.
- Section 23.** Amends s. 631.722, F.S., relating to powers and duties of department and office.
- Section 24.** Amends s. 631.821, F.S., relating to powers and duties of the department.
- Section 25.** Amends s. 631.921, F.S., relating to department powers.
- Section 26.** Amends s. 633.124, F.S., relating to penalty for violation of law, rule, or order to cease and desist or for failure to comply with corrective order.
- Section 27.** Amends s. 633.202, F.S., relating to Florida Fire Prevention Code.
- Section 28.** Amends s. 633.206, F.S., relating to uniform fire safety standards.
- Section 29.** Amends s. 634.041, F.S., relating to qualifications for license.
- Section 30.** Amends s. 634.081, F.S., relating to suspension or revocation of license; grounds.
- Section 31.** Amends s. 634.3077, F.S., relating to financial requirements.
- Section 32.** Amends s. 634.317, F.S., relating to license and appointment required.
- Section 33.** Amends s. 648.25, F.S., relating to definitions.
- Section 34.** Amends s. 648.26, F.S., relating to Department of Financial Services; administration.
- Section 35.** Amends s. 648.30, F.S., relating to licensure and appointment required; prohibited acts; penalties.
- Section 36.** Amends s. 648.355, F.S., relating to limited surety agents and professional bail bond agents; qualifications.
- Section 37.** Amends s. 648.43, F.S., relating to power of attorney; approval by office; filing of copies; notification of transfer bond.
- Section 38.** Amends s. 717.101, F.S., relating to definitions.

- Section 39.** Amends s. 717.102, F.S., relating to property presumed unclaimed; general rule.
- Section 40.** Amends s. 717.106, F.S., relating to bank deposits and funds in financial organizations.
- Section 41.** Creates s. 717.1065, F.S., relating to virtual currency.
- Section 42.** Amends s. 717.1101, F.S., relating to unclaimed equity and debt of business associations.
- Section 43.** Amends s. 717.112, F.S., relating to property held by agents and fiduciaries.
- Section 44.** Amends s. 717.117, F.S., relating to report of unclaimed property.
- Section 45.** Amends s. 717.119, F.S., relating to payment or delivery of unclaimed property.
- Section 46.** Amends s. 717.1201, F.S., relating to custody by state; holder relieved from liability; reimbursement of holder paying claim; reclaiming for owner; defense of holder; payment of safe-deposit box or repository charges.
- Section 47.** Amends s. 717.123, F.S., relating to deposit of funds.
- Section 48.** Amends s. 717.1242, F.S., relating to restatement of jurisdiction of the circuit court sitting in probate and the department.
- Section 49.** Amends s. 717.1243, F.S., relating to small estate accounts.
- Section 50.** Amends s. 717.1245, F.S., relating to garnishment of unclaimed property.
- Section 51.** Amends s. 717.129, F.S., relating to periods of limitations.
- Section 52.** Amends s. 717.1301, F.S., relating to investigations; examinations; subpoenas.
- Section 53.** Amends s. 717.1311, F.S., relating to retention of records.
- Section 54.** Amends s. 717.1322, F.S., relating to administrative and civil enforcement.
- Section 55.** Amends s. 717.133, F.S., relating to evidence; estimations; audit reports, examiners worksheets, investigative reports, other related documents.
- Section 56.** Amends s. 717.134, F.S., relating to penalties and interest.
- Section 57.** Amends s. 717.135, F.S., relating to recovery agreements and purchase agreements for claims filed by a claimant's representative; fees and costs.
- Section 58.** Amends s. 717.1400, F.S., relating to registration.
- Section 59.** Amends s. 197.582, F.S., relating to disbursement of proceeds of sale.
- Section 60.** Amends s. 717.1382, F.S., relating to United States savings bond; unclaimed property; escheatment; procedure.
- Section 61.** Directs the Division of Law Revision to replace “Division of Investigative and Forensic Services” with “Division of Criminal Investigations” within Florida Statutes.
- Section 62.** Provides an effective date of upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

State government may see a negative fiscal impact due to the existing constraints on the Division of Unclaimed Property's operational capacity. DFS disburses substantial monthly claim payments, but the current \$15 million retention limit hampers its ability to meet fiscal demands without relying on loans. The proposed permanent increase in the retention limit to \$65 million aims to mitigate this challenge, ensuring timely loan repayment and facilitating smoother fiscal operations. However, DFS believes this change may contribute to a more stable revenue stream for the State School Trust Fund.

2. Expenditures:

State government may face a minimal fiscal impact due to the change in lowering the required aggregate reporting from \$50 per property to \$10. While this adjustment could lead to more people claiming "less than \$50" accounts, the overall impact on expenditures is expected to be small. Additionally, DFS anticipates saving money on the cost of serving administrative complaints and citations upon funeral licensees.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The fiscal impact on the private sector, particularly reporting entities, is expected to be positive. The changes in the bill involve deviations to the ways apparent owners of unclaimed equity and debt property indicate that they have not lost track of their property.

These updates are designed to enhance the process for determining when equity and debt property is considered unclaimed. Reporting entities are already accustomed to providing owner information to other states with similar regulations, and the impact on holders is anticipated to be minimal. While there may be an initial minor IT cost for formatting changes, the overall fiscal impact on the private sector is expected to be positive, fostering increased awareness and opportunities for citizens to recover unclaimed funds.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. The bill does not appear to affect county or municipal governments.

2. Other:

The bill is titled “an act relating to the Department of Financial Services.” Section 18 of the bill affects the FMMJUA for which DFS has no role. While the bill bestows DFS a role in the FMMJUA, this may present a constitutional single subject concern.

Section 19 of the bill pertains to insurers, introducing provisions regarding the notice of change in policy terms for renewal policies. Notably, this section does not propose any role for DFS within its provisions, nor does it establish such a role within the statute. This may present a constitutional single subject concern.

This bill may implicate the constitutional single subject rule. While DFS has a role in the statute as to agents, i.e., individual licensees, OIR is the regulator of the service agreement companies and Home Warranty Agreements; thus, this is incongruous with the title of the bill. This may present a constitutional single subject concern.

B. RULE-MAKING AUTHORITY:

The bill provides rulemaking authority to the Division of Consumer Services to clarify the process for an insurance company, agency, or agent to submit and update their designated contact for receiving and responding to consumer complaints.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
2 An act relating to the Department of Financial
3 Services; amending s. 20.121, F.S.; renaming a
4 division in the Department of Financial Services;
5 removing provisions relating to duties of such
6 division and to bureaus and offices in such division;
7 removing a division; amending s. 121.0515, F.S.;
8 revising requirements for the Special Risk Class
9 membership; amending s. 215.5586, F.S.; revising
10 legislative intent; revising requirements for My Safe
11 Florida Home Program mitigation inspections and
12 mitigation grants; providing additional requirements
13 for applications for inspections and mitigation
14 grants; removing provisions relating to matching fund
15 grants; revising improvements for which grants may be
16 used; providing a timeframe for finalizing
17 construction and requesting a final inspection or an
18 extension; providing that grant applications are
19 deemed abandoned under a specified circumstance;
20 authorizing the department to request additional
21 information; providing that applications are deemed
22 withdrawn under a specified circumstance; amending s.
23 284.44, F.S.; removing provisions relating to certain
24 quarterly reports prepared by the Division of Risk
25 Management; amending s. 440.13, F.S.; providing the

26 reimbursement schedule requirements for emergency
27 services and care under workers' compensation under
28 certain circumstances; amending s. 440.385, F.S.;
29 providing requirements for certain contracts entered
30 into and purchases made by the Florida Self-Insurers
31 Guaranty Association, Incorporated; providing duties
32 of the department and the association relating to
33 these contracts and purchases; amending s. 497.101,
34 F.S.; revising the requirements for appointing and
35 nominating members of the Board of Funeral, Cemetery,
36 and Consumer Services; revising the members' terms;
37 revising the authority to remove board members;
38 providing for vacancy appointments; providing that
39 board members are subject to the code of ethics;
40 providing requirements for board members' conduct;
41 providing prohibited acts; providing penalties;
42 providing requirements for board meetings, books, and
43 records; requiring notices of board meetings;
44 providing requirements for board meetings; amending s.
45 497.153, F.S.; authorizing services by electronic mail
46 of administrative complaints against certain licensees
47 under certain circumstances; amending s. 497.155,
48 F.S.; authorizing services of citations by electronic
49 mail under certain circumstances; amending s. 624.155,
50 F.S.; removing a cross-reference; amending s. 624.307,

51 F.S.; requiring eligible surplus lines insurers to
52 respond to the department or the Office of Insurance
53 Regulation after receipt of requests for documents and
54 information concerning consumer complaints; providing
55 penalties for failure to comply; requiring authorized
56 insurers and eligible surplus lines insurers to file
57 e-mail addresses with the department and to designate
58 contact persons for specified purposes; authorizing
59 changes of designated contact information; amending s.
60 626.171, F.S.; requiring the department to make
61 provisions for certain insurance license applicants to
62 submit cellular telephone numbers for a specified
63 purpose; amending s. 626.221, F.S.; providing a
64 qualification for all-lines adjuster license; amending
65 s. 626.601, F.S.; revising construction; amending s.
66 626.7351, F.S.; providing a qualification for customer
67 representative's licenses; amending s. 626.878, F.S.;
68 providing duties and prohibited acts for adjusters;
69 amending s. 626.929, F.S.; specifying that licensed
70 and appointed general lines agents, rather than
71 general lines agents, may engage in certain activities
72 while also licensed and appointed as surplus lines
73 agents; authorizing general lines agents that are also
74 licensed as surplus lines agents to make certain
75 appointments; authorizing such agents to originate

76 | specified businesses and accept specified businesses;
 77 | prohibiting such agents from being appointed by or
 78 | transacting certain insurance; amending s. 627.351,
 79 | F.S.; providing requirements for certain contracts
 80 | entered into and purchases made by the Florida Joint
 81 | Underwriting Association; providing duties of the
 82 | department and the association associated with such
 83 | contracts and purchases; amending s. 627.43141, F.S.;
 84 | providing requirements for certain notice of change in
 85 | insurance renewal policy terms; amending s. 627.70152,
 86 | F.S.; removing a cross-reference; amending s. 631.59,
 87 | F.S.; providing requirements for certain contracts
 88 | entered into and purchases made by the Florida
 89 | Insurance Guaranty Association, Incorporated;
 90 | providing duties of the department and the association
 91 | associated with such contracts and purchases; creating
 92 | s. 631.6955, F.S.; requiring insurers subject to the
 93 | Florida Insurance Guaranty Association requirements to
 94 | prepare, implement, and maintain a data transfer plan;
 95 | providing requirements for data transfer plans;
 96 | providing duties and authority of the Commissioner of
 97 | Insurance Regulation regarding data transfer plans;
 98 | amending ss. 631.722, 631.821, and 631.921, F.S.;
 99 | providing requirements for certain contracts entered
 100 | into and purchases made by the Florida Life and Health

101 Insurance Guaranty Association, the board of directors
102 of the Florida Health Maintenance Organization
103 Consumer Assistance Plan, and the board of directors
104 of the Florida Workers' Compensation Insurance
105 Guaranty Association, respectively; providing duties
106 of the department and of the association and boards
107 associated with such contracts and purchases; amending
108 s. 633.124, F.S.; updating the edition of a manual for
109 the use of pyrotechnics; amending s. 633.202, F.S.;
110 revising the duties of the State Fire Marshal;
111 amending s. 633.206, F.S.; revising the requirements
112 for uniform firesafety standards established by the
113 department; amending s. 634.041, F.S.; specifying the
114 conditions under which service agreement companies do
115 not have to establish and maintain unearned premium
116 reserves; amending s. 634.081, F.S.; specifying the
117 conditions under which service agreement companies'
118 licenses are not suspended or revoked under certain
119 circumstances; amending s. 634.3077, F.S.; specifying
120 requirements for certain contractual liability
121 insurance obtained by home warranty associations;
122 providing that such associations are not required to
123 establish unearned premium reserves or maintain
124 contractual liability insurance; authorizing such
125 associations to allow their premiums to exceed certain

126 limitations under certain circumstances; amending s.
127 634.317, F.S.; providing that agents and employees of
128 municipal and county government are exempt from sales
129 representative licenses and appointments under certain
130 circumstances; amending s. 648.25, F.S.; providing
131 definitions; amending s. 648.26, F.S.; revising the
132 types of investigatory records of the department which
133 are confidential and exempt from public records
134 requirements; revising the circumstances under which
135 investigatory records are confidential and exempt from
136 public records requirements; revising construction;
137 amending s. 648.30, F.S.; revising circumstances under
138 which a person or entity may act in the capacity of a
139 bail bond agent or bail bond agency and perform
140 certain functions, duties, and powers; amending s.
141 648.355, F.S.; revising the requirements for limited
142 surety agents and professional bail bond agent license
143 applications; amending s. 648.43, F.S.; revising
144 requirements for bail bond agents to execute and
145 countersign transfer bonds; amending s. 717.101, F.S.;
146 providing and revising definitions; amending s.
147 717.102, F.S.; providing a rebuttal to a presumption
148 of unclaimed property; providing requirements for such
149 rebuttal; amending s. 717.106, F.S.; conforming a
150 cross-reference; amending s. 717.1065, F.S.; providing

151 circumstances under which virtual currency held or
152 owing by banking organizations are not presumed
153 unclaimed; prohibiting virtual currency holders from
154 deducting certain charges from amounts of specified
155 instruments under certain circumstances; providing an
156 exception; amending s. 717.1101, F.S.; revising the
157 date on which stocks and other equity interests in
158 business associations are presumed unclaimed; amending
159 s. 717.112, F.S.; providing that certain intangible
160 property held by attorneys in fact and by agents in a
161 fiduciary capacity are presumed unclaimed under
162 certain circumstances; revising the requirements for
163 claiming such property; amending s. 717.117, F.S.;
164 removing the paper option for reports by holders of
165 unclaimed funds and property; revising the
166 requirements for reporting the owners of unclaimed
167 property and funds; authorizing the department to
168 extend reporting dates under certain circumstances;
169 revising the circumstances under which the department
170 may impose and collect penalties; requiring holders of
171 inactive accounts to notify apparent owners; revising
172 the manner of sending such notices; providing
173 requirements for such notices; amending s. 717.119,
174 F.S.; requiring certain virtual currency to be
175 remitted to the department; providing requirements for

176 the liquidation of such virtual currency; providing
177 that holders of such virtual currency are relieved of
178 all liability upon delivery of the virtual currency to
179 the department; prohibiting holders from assigning or
180 transferring certain obligations or from complying
181 with certain provisions; providing that certain
182 entities are responsible for meeting holders'
183 obligations and complying with certain provisions
184 under certain circumstances; providing construction;
185 amending s. 717.1201, F.S.; providing that good faith
186 payments and deliveries of property to the department
187 relieve holders of all liability; authorizing the
188 department to refund and redeliver certain money and
189 property under certain circumstances; amending s.
190 717.123, F.S.; revising the maximum amount that the
191 department shall retain from funds of unclaimed
192 property to make certain payment; amending s.
193 727.1242, F.S.; revising legislative intent; providing
194 circumstances under which the department is considered
195 interested parties in probate proceedings; revising
196 circumstances under which a party is required to pay
197 the department's costs and attorney fees; amending s.
198 717.1243, F.S.; revising applicability of certain
199 provisions relating to unclaimed small estate
200 accounts; amending s. 717.1245, F.S.; specifying the

201 fees, costs, and compensation that persons filing
202 petitions for writ of garnishment of unclaimed
203 property must pay; requiring such persons to file
204 claims with the department under a specified
205 circumstance; amending s. 717.129, F.S.; revising the
206 requirements and the tolling for the periods of
207 limitation relating to duties of holders of unclaimed
208 funds and property; amending s. 717.1301, F.S.;
209 revising the department's authorities on the
210 disposition of unclaimed funds and property for
211 specified purposes; prohibiting certain materials from
212 being disclosed or made public under certain
213 circumstances; revising the basis for the department's
214 cost assessment against holders of unclaimed funds and
215 property; amending s. 717.1311, F.S.; revising the
216 recordkeeping requirements for funds and property
217 holders; amending s. 717.1322, F.S.; revising acts
218 that are violations of specified provisions and
219 constitute grounds for administrative enforcement
220 actions and civil enforcement by the department;
221 providing that claimants' representatives, rather than
222 registrants, are subject to civil enforcement and
223 disciplinary actions for certain violations; amending
224 s. 717.1333, F.S.; conforming provisions to changes
225 made by the act; amending s. 717.134, F.S.; conforming

226 a provision to changes made by the act; amending s.
 227 717.135, F.S.; revising the information that certain
 228 agreements relating to unclaimed property must
 229 disclose; applying certain provisions relating to such
 230 agreements to purchasers; removing a requirement for
 231 Unclaimed Property Purchase Agreement; providing
 232 nonapplicability; amending s. 717.1400, F.S.; removing
 233 a circumstance under which certain persons must
 234 register with the department; amending ss. 197.582 and
 235 717.1382, F.S.; conforming a cross-reference;
 236 providing a directive to the Division of Law Revision;
 237 providing an effective date.

238

239 Be It Enacted by the Legislature of the State of Florida:

240

241 Section 1. Paragraphs (g) through (n) of subsection (2) of
 242 section 20.121, Florida Statutes, are redesignated as paragraphs
 243 (f) through (m), respectively, and paragraph (e) and present
 244 paragraph (f) of subsection (2) of that section are amended to
 245 read:

246 20.121 Department of Financial Services.—There is created
 247 a Department of Financial Services.

248 (2) DIVISIONS.—The Department of Financial Services shall
 249 consist of the following divisions and office:

250 (e) The Division of Criminal Investigations ~~Investigative~~

251 ~~and Forensic Services, which shall function as a criminal~~
252 ~~justice agency for purposes of ss. 943.045-943.08. The division~~
253 ~~may initiate and conduct investigations into any matter under~~
254 ~~the jurisdiction of the Chief Financial Officer and Fire Marshal~~
255 ~~within or outside of this state as it deems necessary. ~~If,~~~~
256 ~~during an investigation, the division has reason to believe that~~
257 ~~any criminal law of this state or the United States has or may~~
258 ~~have been violated, it shall refer any records tending to show~~
259 ~~such violation to state law enforcement and, if applicable,~~
260 ~~federal prosecutorial agencies and shall provide investigative~~
261 ~~assistance to those agencies as appropriate. The division shall~~
262 ~~include the following bureaus and office:~~

- 263 ~~1. The Bureau of Forensic Services;~~
- 264 ~~2. The Bureau of Fire, Arson, and Explosives~~
265 ~~Investigations;~~
- 266 ~~3. The Office of Fiscal Integrity, which shall have a~~
267 ~~separate budget;~~
- 268 ~~4. The Bureau of Insurance Fraud; and~~
- 269 ~~5. The Bureau of Workers' Compensation Fraud.~~

270 ~~(f) The Division of Public Assistance Fraud, which shall~~
271 ~~function as a criminal justice agency for purposes of ss.~~
272 ~~943.045-943.08. The division shall conduct investigations~~
273 ~~pursuant to s. 414.411 within or outside of the state as it~~
274 ~~deems necessary. If, during an investigation, the division has~~
275 ~~reason to believe that any criminal law of the state has or may~~

276 | ~~have been violated, it shall refer any records supporting such~~
277 | ~~violation to state or federal law enforcement or prosecutorial~~
278 | ~~agencies and shall provide investigative assistance to those~~
279 | ~~agencies as required.~~

280 | Section 2. Paragraph (f) of subsection (2) and paragraph
281 | (h) of subsection (3) of section 121.0515, Florida Statutes, are
282 | amended to read:

283 | 121.0515 Special Risk Class.—

284 | (2) MEMBERSHIP.—

285 | (f) Effective July 1, 2024 ~~2008~~, the member must be
286 | employed by the Department of Law Enforcement in the crime
287 | laboratory or by the Division of Criminal Investigations ~~State~~
288 | ~~Fire Marshal~~ in the forensic laboratory and meet the special
289 | criteria set forth in paragraph (3) (h).

290 | (3) CRITERIA.—A member, to be designated as a special risk
291 | member, must meet the following criteria:

292 | (h) Effective July 1, 2024 ~~2008~~, the member must be
293 | employed by the Department of Law Enforcement in the crime
294 | laboratory or by the Division of Criminal Investigations ~~State~~
295 | ~~Fire Marshal~~ in the forensic laboratory in one of the following
296 | classes:

- 297 | 1. Forensic technologist (class code 8459);
- 298 | 2. Crime laboratory technician (class code 8461);
- 299 | 3. Crime laboratory analyst (class code 8463);
- 300 | 4. Senior crime laboratory analyst (class code 8464);

- 301 5. Crime laboratory analyst supervisor (class code 8466);
- 302 6. Forensic chief (class code 9602); or
- 303 7. Forensic services quality manager (class code 9603);

304 Section 3. Subsections (1) and (2) of section 215.5586,
 305 Florida Statutes, as amended by section 5 of chapter 2023-349,
 306 Laws of Florida, are amended to read:

307 215.5586 My Safe Florida Home Program.—There is
 308 established within the Department of Financial Services the My
 309 Safe Florida Home Program. The department shall provide fiscal
 310 accountability, contract management, and strategic leadership
 311 for the program, consistent with this section. This section does
 312 not create an entitlement for property owners or obligate the
 313 state in any way to fund the inspection or retrofitting of
 314 residential property in this state. Implementation of this
 315 program is subject to annual legislative appropriations. It is
 316 the intent of the Legislature that the My Safe Florida Home
 317 Program provide licensed inspectors to perform inspections for
 318 eligible homes ~~owners of site-built, single-family, residential~~
 319 ~~properties~~ and grants to fund hurricane mitigation projects for
 320 those homes ~~eligible applicants~~ as funding allows. The program
 321 shall develop and implement a comprehensive and coordinated
 322 approach for hurricane damage mitigation that may include the
 323 following:

- 324 (1) HURRICANE MITIGATION INSPECTIONS.—
- 325 (a) To be eligible for a hurricane mitigation inspection,

326 all of the following criteria must be met:

327 1. The home must be a single-family, detached residential
328 property or a townhouse, as defined in s. 481.203.

329 2. The home must be site-built and owner-occupied.

330 3. The homeowner must have been granted a homestead
331 exemption on the home under chapter 196.

332 (b) An application for an inspection must contain a signed
333 or electronically verified statement made under penalty of
334 perjury that the applicant has submitted only a single
335 inspection application and must have attached documents
336 demonstrating that the applicant meets the requirements of
337 paragraph (a). An applicant may submit a new inspection
338 application if all of the following criteria are met:

339 1. The original application has already been denied or
340 withdrawn.

341 2. The program's eligibility requirements or applicant's
342 qualifications have changed since the original application date.

343 3. The applicant reasonably believes that the home will be
344 eligible under the new requirements or qualifications.

345 (c) An applicant who meets the requirements of paragraph
346 (a) may apply for and receive an inspection without also
347 applying for a grant pursuant to subsection (2) and without
348 meeting the requirements of paragraph (2)(a).

349 (d)-(a) Licensed inspectors are to provide home inspections
350 of eligible homes ~~site-built, single-family, residential~~

351 ~~properties for which a homestead exemption has been granted, to~~
352 determine what mitigation measures are needed, what insurance
353 premium discounts may be available, and what improvements to
354 existing residential properties are needed to reduce the
355 property's vulnerability to hurricane damage. ~~An inspector may~~
356 ~~inspect a townhouse as defined in s. 481.203 to determine if~~
357 ~~opening protection mitigation as listed in paragraph (2) (e)~~
358 ~~would provide improvements to mitigate hurricane damage.~~

359 (e)~~(b)~~ The Department of Financial Services shall contract
360 with wind certification entities to provide hurricane mitigation
361 inspections. The inspections provided to homeowners, at a
362 minimum, must include:

363 1. A home inspection and report that summarizes the
364 results and identifies recommended improvements a homeowner may
365 take to mitigate hurricane damage.

366 2. A range of cost estimates regarding the recommended
367 mitigation improvements.

368 3. Information regarding estimated premium discounts,
369 correlated to the current mitigation features and the
370 recommended mitigation improvements identified by the
371 inspection.

372 (f)~~(e)~~ To qualify for selection by the department as a
373 wind certification entity to provide hurricane mitigation
374 inspections, the entity must, at a minimum, meet the following
375 requirements:

- 376 1. Use hurricane mitigation inspectors who are licensed or
377 certified as:
- 378 a. A building inspector under s. 468.607;
- 379 b. A general, building, or residential contractor under s.
380 489.111;
- 381 c. A professional engineer under s. 471.015;
- 382 d. A professional architect under s. 481.213; or
- 383 e. A home inspector under s. 468.8314 and who have
384 completed at least 3 hours of hurricane mitigation training
385 approved by the Construction Industry Licensing Board, which
386 training must include hurricane mitigation techniques,
387 compliance with the uniform mitigation verification form, and
388 completion of a proficiency exam.
- 389 2. Use hurricane mitigation inspectors who also have
390 undergone drug testing and a background screening. The
391 department may conduct criminal record checks of inspectors used
392 by wind certification entities. Inspectors must submit a set of
393 fingerprints to the department for state and national criminal
394 history checks and must pay the fingerprint processing fee set
395 forth in s. 624.501. The fingerprints must be sent by the
396 department to the Department of Law Enforcement and forwarded to
397 the Federal Bureau of Investigation for processing. The results
398 must be returned to the department for screening. The
399 fingerprints must be taken by a law enforcement agency,
400 designated examination center, or other department-approved

401 entity.

402 3. Provide a quality assurance program including a
403 reinspection component.

404 ~~(d) An application for an inspection must contain a signed~~
405 ~~or electronically verified statement made under penalty of~~
406 ~~perjury that the applicant has submitted only a single~~
407 ~~application for that home.~~

408 ~~(e) The owner of a site-built, single-family, residential~~
409 ~~property or townhouse as defined in s. 481.203, for which a~~
410 ~~homestead exemption has been granted, may apply for and receive~~
411 ~~an inspection without also applying for a grant pursuant to~~
412 ~~subsection (2) and without meeting the requirements of paragraph~~
413 ~~(2)(a).~~

414 (2) HURRICANE MITIGATION GRANTS.—Financial grants shall be
415 used to encourage single-family, site-built, owner-occupied,
416 residential property owners to retrofit eligible homes based on
417 the recommendations made in a hurricane mitigation inspection
418 their properties to make the homes ~~them~~ less vulnerable to
419 hurricane damage.

420 (a) ~~For a homeowner~~ To be eligible for a grant, all of the
421 following criteria must be met:

422 1. The home must be a single-family, detached residential
423 property or a townhouse, as defined in s. 481.203.

424 2. The home must be site-built and owner-occupied.

425 3.1. The homeowner must have been granted a homestead

426 exemption on the home under chapter 196.

427 ~~4.2.~~ The home must be a dwelling with an insured value of
428 \$700,000 or less. Homeowners who are low-income persons, as
429 defined in s. 420.0004(11), are exempt from this requirement.

430 ~~5.3.~~ The home must undergo an acceptable hurricane
431 mitigation inspection as provided in subsection (1).

432 ~~6.4.~~ The building permit application for initial
433 construction of the home must have been made before January 1,
434 2008.

435 ~~7.5.~~ The homeowner must agree to make his or her home
436 available for inspection once a mitigation project is completed.

437 (b)1. An application for a grant must contain a signed or
438 electronically verified statement made under penalty of perjury
439 that the applicant has submitted only a single grant application
440 and must have attached documents demonstrating that the
441 applicant meets the requirements of ~~this~~ paragraph (a).

442 2. An applicant may submit a new grant application if all
443 of the following criteria are met:

444 a. The original application has already been denied or
445 withdrawn.

446 b. The program's eligibility requirements or applicant's
447 qualifications have changed since the original application date.

448 c. The applicant reasonably believes that the home will be
449 eligible under the new requirements or qualifications.

450 (c)-(b) All grants must be matched on the basis of \$1

451 provided by the applicant for \$2 provided by the state up to a
452 maximum state contribution of \$10,000 toward the actual cost of
453 the mitigation project.

454 ~~(d)(e)~~ The program shall require ~~create a process in which~~
455 ~~contractors agree to participate and homeowners select from a~~
456 ~~list of participating contractors.~~ All mitigation work to ~~must~~
457 be based upon the securing of all required local permits and
458 inspections, and the work must be performed by properly licensed
459 contractors. The program shall approve only a homeowner grant
460 application that includes an acknowledged statement from the
461 homeowner containing the name and state license number of the
462 contractor the homeowner intends to use for the mitigation work.
463 The program must electronically verify that the contractor's
464 state license number is accurate and up to date before grant
465 approval ~~Hurricane mitigation inspectors qualifying for the~~
466 ~~program may also participate as mitigation contractors as long~~
467 ~~as the inspectors meet the department's qualifications and~~
468 ~~certification requirements for mitigation contractors.~~

469 ~~(d)~~ ~~Matching fund grants shall also be made available to~~
470 ~~local governments and nonprofit entities for projects that will~~
471 ~~reduce hurricane damage to single-family, site-built, owner-~~
472 ~~occupied, residential property. The department shall liberally~~
473 ~~construe those requirements in favor of availing the state of~~
474 ~~the opportunity to leverage funding for the My Safe Florida Home~~
475 ~~Program with other sources of funding.~~

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476 (e) When recommended by a hurricane mitigation inspection,
477 grants for eligible homes may be used for the following
478 improvements:

- 479 1. Opening protection, including windows, skylights,
480 exterior doors, and garage doors.
- 481 2. Exterior doors, including garage doors.
- 482 3. Reinforcing roof-to-wall connections.
- 483 4. Improving the strength of roof-deck attachments.
- 484 5. Secondary Water Resistance (SWR) barrier for roof.

485 (f) When recommended by a hurricane mitigation inspection,
486 grants for townhouses, as defined in s. 481.203, may only be
487 used for opening protection.

488 (g) The department may require that improvements be made
489 to all openings, including exterior doors and garage doors, as a
490 condition of reimbursing a homeowner approved for a grant. The
491 department may adopt, by rule, the maximum grant allowances for
492 any improvement allowable under paragraph (e) or this paragraph.

493 ~~(g) Grants may be used on a previously inspected existing~~
494 ~~structure or on a rebuild. A rebuild is defined as a site-built,~~
495 ~~single-family dwelling under construction to replace a home that~~
496 ~~was destroyed or significantly damaged by a hurricane and deemed~~
497 ~~unlivable by a regulatory authority. The homeowner must be a~~
498 ~~low-income homeowner as defined in paragraph (h), must have had~~
499 ~~a homestead exemption for that home before the hurricane, and~~
500 ~~must be intending to rebuild the home as that homeowner's~~

501 ~~homestead.~~

502 (h) Low-income homeowners, as defined in s. 420.0004(11),
 503 who otherwise meet the requirements of this subsection
 504 ~~paragraphs (a), (c), (e), and (g)~~ are eligible for a grant of up
 505 to \$10,000 and are not required to provide a matching amount to
 506 receive the grant. The program may accept a certification
 507 directly from a low-income homeowner that the homeowner meets
 508 the requirements of s. 420.0004(11) if the homeowner provides
 509 such certification in a signed or electronically verified
 510 statement made under penalty of perjury.

511 (i) The department shall develop a process that ensures
 512 the most efficient means to collect and verify grant
 513 applications to determine eligibility and may direct hurricane
 514 mitigation inspectors to collect and verify grant application
 515 information or use the Internet or other electronic means to
 516 collect information and determine eligibility.

517 (j) Homeowners must finalize construction and request a
 518 final inspection, or request an extension for an additional 6
 519 months, within 1 year after grant approval. If the homeowners
 520 fail to comply, the application shall be deemed abandoned and
 521 the grant money reverts back to the department.

522 (3) REQUESTS FOR INFORMATION.—The department may request
 523 that the applicant provide additional information. An
 524 application shall be deemed withdrawn by the applicant if the
 525 department does not receive a response to its request for

526 additional information within 60 days after the notification of
 527 any apparent errors or omissions.

528 ~~(4)-(3)~~ EDUCATION, CONSUMER AWARENESS, AND OUTREACH.—

529 (a) The department may undertake a statewide multimedia
 530 public outreach and advertising campaign to inform consumers of
 531 the availability and benefits of hurricane inspections and of
 532 the safety and financial benefits of residential hurricane
 533 damage mitigation. The department may seek out and use local,
 534 state, federal, and private funds to support the campaign.

535 (b) The program may develop brochures for distribution to
 536 Citizens Property Insurance Corporation, and other licensed
 537 entities or nonprofits that work with the department to educate
 538 the public on the benefits of the program ~~general contractors,~~
 539 ~~roofing contractors, and real estate brokers and sales~~
 540 ~~associates who are licensed under part I of chapter 475 which~~
 541 ~~provide information on the benefits to homeowners of residential~~
 542 ~~hurricane damage mitigation. Citizens Property Insurance~~
 543 ~~Corporation is encouraged to distribute the brochure to~~
 544 ~~policyholders of the corporation. Contractors are encouraged to~~
 545 ~~distribute the brochures to homeowners at the first meeting with~~
 546 ~~a homeowner who is considering contracting for home or roof~~
 547 ~~repair or contracting for the construction of a new home. Real~~
 548 ~~estate brokers and sales associates are encouraged to distribute~~
 549 ~~the brochure to clients before the purchase of a home. The~~
 550 brochures may be made available electronically.

551 (5)~~(4)~~ FUNDING.—The department may seek out and leverage
 552 local, state, federal, or private funds to enhance the financial
 553 resources of the program.

554 (6)~~(5)~~ RULES.—The Department of Financial Services shall
 555 adopt rules pursuant to ss. 120.536(1) and 120.54 to govern the
 556 program; implement the provisions of this section; including
 557 rules governing hurricane mitigation inspections and grants,
 558 mitigation contractors, and training of inspectors and
 559 contractors; and carry out the duties of the department under
 560 this section.

561 (7)~~(6)~~ HURRICANE MITIGATION INSPECTOR LIST.—The department
 562 shall develop and maintain as a public record a current list of
 563 hurricane mitigation inspectors authorized to conduct hurricane
 564 mitigation inspections pursuant to this section.

565 (8)~~(7)~~ CONTRACT MANAGEMENT.—

566 (a) The department may contract with third parties for
 567 grants management, inspection services, contractor services for
 568 low-income homeowners, information technology, educational
 569 outreach, and auditing services. Such contracts are considered
 570 direct costs of the program and are not subject to
 571 administrative cost limits. The department shall contract with
 572 providers that have a demonstrated record of successful business
 573 operations in areas directly related to the services to be
 574 provided and shall ensure the highest accountability for use of
 575 state funds, consistent with this section.

576 (b) The department shall implement a quality assurance and
 577 reinspection program that determines whether mitigation initial
 578 inspections and mitigation projects ~~home improvements~~ are
 579 completed in a manner consistent with the intent of the program.
 580 The department may use valid random sampling in order to perform
 581 the quality assurance portion of the program.

582 (9)~~(8)~~ INTENT.—It is the intent of the Legislature that
 583 grants made to residential property owners under this section
 584 shall be considered disaster-relief assistance within the
 585 meaning of s. 139 of the Internal Revenue Code of 1986, as
 586 amended.

587 (10)~~(9)~~ REPORTS.—The department shall make an annual
 588 report on the activities of the program that shall account for
 589 the use of state funds and indicate the number of inspections
 590 requested, the number of inspections performed, the number of
 591 grant applications received, the number and value of grants
 592 approved, and the estimated average annual amount of insurance
 593 premium discounts and total estimated annual amount of insurance
 594 premium discounts homeowners received from insurers as a result
 595 of mitigation funded through the program. The report must be
 596 delivered to the President of the Senate and the Speaker of the
 597 House of Representatives by February 1 of each year.

598 Section 4. Subsection (6) of section 284.44, Florida
 599 Statutes, is amended to read:

600 284.44 Salary indemnification costs of state agencies.—

601 ~~(6) The Division of Risk Management shall prepare~~
602 ~~quarterly reports to the Executive Office of the Governor and~~
603 ~~the chairs of the legislative appropriations committees~~
604 ~~indicating for each state agency the total amount of salary~~
605 ~~indemnification benefits paid to claimants and the total amount~~
606 ~~of reimbursements from state agencies to the State Risk~~
607 ~~Management Trust Fund for initial costs for the previous~~
608 ~~quarter. These reports shall also include information for each~~
609 ~~state agency indicating the number of cases and amounts of~~
610 ~~initial salary indemnification costs for which reimbursement~~
611 ~~requirements were waived by the Executive Office of the Governor~~
612 ~~pursuant to this section.~~

613 Section 5. Paragraph (a) of subsection (12) of section
614 440.13, Florida Statutes, is amended to read:

615 440.13 Medical services and supplies; penalty for
616 violations; limitations.—

617 (12) CREATION OF THREE-MEMBER PANEL; GUIDES OF MAXIMUM
618 REIMBURSEMENT ALLOWANCES.—

619 (a) A three-member panel is created, consisting of the
620 Chief Financial Officer, or the Chief Financial Officer's
621 designee, and two members to be appointed by the Governor,
622 subject to confirmation by the Senate, one member who, on
623 account of present or previous vocation, employment, or
624 affiliation, shall be classified as a representative of
625 employers, the other member who, on account of previous

626 vocation, employment, or affiliation, shall be classified as a
627 representative of employees. The panel shall determine statewide
628 schedules of maximum reimbursement allowances for medically
629 necessary treatment, care, and attendance provided by hospitals
630 and ambulatory surgical centers. The maximum reimbursement
631 allowances for inpatient hospital care shall be based on a
632 schedule of per diem rates, to be approved by the three-member
633 panel no later than March 1, 1994, to be used in conjunction
634 with a precertification manual as determined by the department,
635 including maximum hours in which an outpatient may remain in
636 observation status, which shall not exceed 23 hours. All
637 compensable charges for hospital outpatient care shall be
638 reimbursed at 75 percent of usual and customary charges, except
639 as otherwise provided by this subsection. Annually, the three-
640 member panel shall adopt schedules of maximum reimbursement
641 allowances for hospital inpatient care, hospital outpatient
642 care, and ambulatory surgical centers. A hospital or an
643 ambulatory surgical center shall be reimbursed either the
644 agreed-upon contract price or the maximum reimbursement
645 allowance in the appropriate schedule. Reimbursement for
646 emergency services and care, as defined in s. 395.002, without a
647 maximum reimbursement allowance must be at 75 percent of the
648 hospital's charge, unless there is a contract, in which case the
649 contract governs reimbursement.

650

651 The department, as requested, shall provide data to the panel,
652 including, but not limited to, utilization trends in the
653 workers' compensation health care delivery system. The
654 department shall provide the panel with an annual report
655 regarding the resolution of medical reimbursement disputes and
656 any actions pursuant to subsection (8). The department shall
657 provide administrative support and service to the panel to the
658 extent requested by the panel. For prescription medication
659 purchased under the requirements of this subsection, a
660 dispensing practitioner shall not possess such medication unless
661 payment has been made by the practitioner, the practitioner's
662 professional practice, or the practitioner's practice management
663 company or employer to the supplying manufacturer, wholesaler,
664 distributor, or drug repackager within 60 days of the dispensing
665 practitioner taking possession of that medication.

666 Section 6. Subsections (9) through (13) of section
667 440.385, Florida Statutes, are renumbered as subsections (10)
668 through (14), respectively, and a new subsection (9) is added to
669 that section to read:

670 440.385 Florida Self-Insurers Guaranty Association,
671 Incorporated.—

672 (9) CONTRACTS AND PURCHASES.—

673 (a) After July 1, 2024, all contracts entered into, and
674 all purchases made by, the association pursuant to this section
675 which are valued at or more than \$100,000 must first be approved

676 by the department. The department has 10 days to approve or deny
677 the contract or purchase upon electronic receipt of the approval
678 request. The contract or purchase is automatically approved if
679 the department is nonresponsive.

680 (b) All contracts and purchases valued at or more than
681 \$100,000 require competition through a formal bid solicitation
682 conducted by the association. The association must undergo a
683 formal bid solicitation process. The formal bid solicitation
684 process must include all of the following:

685 1. The time and date for the receipt of bids, the
686 proposals, and whether the association contemplates renewal of
687 the contract, including the price for each year for which the
688 contract may be renewed.

689 2. All the contractual terms and conditions applicable to
690 the procurement.

691 (c) Evaluation of bids by the association must include
692 consideration of the total cost for each year of the contract,
693 including renewal years, as submitted by the vendor. The
694 association must award the contract to the most responsible and
695 responsive vendor. Any formal bid solicitation conducted by the
696 association must be made available, upon request, to the
697 department via electronic delivery.

698 Section 7. Subsection (7) of section 497.101, Florida
699 Statutes, is renumbered as subsection (11), subsections (1)
700 through (4) are amended, and a new subsection (7) and

701 subsections (8), (9), and (10) are added to that section, to
 702 read:

703 497.101 Board of Funeral, Cemetery, and Consumer Services;
 704 membership; appointment; terms.—

705 (1) The Board of Funeral, Cemetery, and Consumer Services
 706 is created within the Department of Financial Services and shall
 707 consist of 10 members, 9 of whom shall be appointed by ~~the~~
 708 ~~Governor from nominations made by~~ the Chief Financial Officer
 709 ~~and confirmed by the Senate. The Chief Financial Officer shall~~
 710 ~~nominate one to three persons for each of the nine vacancies on~~
 711 ~~the board, and the Governor shall fill each vacancy on the board~~
 712 ~~by appointing one of the persons nominated by the Chief~~
 713 ~~Financial Officer to fill that vacancy. If the Governor objects~~
 714 ~~to each of the nominations for a vacancy, she or he shall inform~~
 715 ~~the Chief Financial Officer in writing. Upon notification of an~~
 716 ~~objection by the Governor, the Chief Financial Officer shall~~
 717 ~~submit one to three additional nominations for that vacancy~~
 718 ~~until the vacancy is filled. One member must be the State Health~~
 719 ~~Officer or her or his designee.~~

720 (2) Two members of the board must be funeral directors
 721 licensed under part III of this chapter who are associated with
 722 a funeral establishment. One member of the board must be a
 723 funeral director licensed under part III of this chapter who is
 724 associated with a funeral establishment licensed under part III
 725 of this chapter which has a valid preneed license issued

726 | pursuant to this chapter ~~and who owns or operates a cinerator~~
727 | ~~facility approved under chapter 403 and licensed under part VI~~
728 | ~~of this chapter~~. Two members of the board must be persons whose
729 | primary occupation is associated with a cemetery company
730 | licensed pursuant to this chapter. Two members of the board must
731 | be consumers who are residents of this state, have never been
732 | licensed as funeral directors or embalmers, are not connected
733 | with a cemetery or cemetery company licensed pursuant to this
734 | chapter, and are not connected with the death care industry or
735 | the practice of embalming, funeral directing, or direct
736 | disposition. One of the two consumer members must be at least 60
737 | years of age. One member of the board must be a consumer who is
738 | a resident of this state; is licensed as a certified public
739 | accountant under chapter 473; has never been licensed as a
740 | funeral director or an embalmer; is not a principal or an
741 | employee of any licensee licensed under this chapter; and does
742 | not otherwise have control, as defined in s. 497.005, over any
743 | licensee licensed under this chapter. One member of the board
744 | must be a principal of a monument establishment licensed under
745 | this chapter as a monument builder. One member must be the State
746 | Health Officer or her or his designee. There may not be two or
747 | more board members who are principals or employees of the same
748 | company or partnership or group of companies or partnerships
749 | under common control.

750 | (3) Board members shall be appointed for terms of 4 years

751 and may be reappointed; however, a member may not serve for more
 752 than 8 consecutive years.~~and~~ The State Health Officer shall
 753 serve as long as that person holds that office. The designee of
 754 the State Health Officer shall serve at the pleasure of the
 755 Chief Financial Officer ~~Governor~~.

756 (4) The Chief Financial Officer ~~Governor~~ ~~may suspend and~~
 757 ~~the Senate~~ may remove any board member for malfeasance or
 758 misfeasance, neglect of duty, incompetence, substantial
 759 inability to perform official duties, commission of a crime, or
 760 other substantial cause as determined by the Chief Financial
 761 Officer ~~Governor or Senate, as applicable,~~ to evidence a lack of
 762 fitness to sit on the board. A board member shall be deemed to
 763 have resigned her or his board membership, and that position
 764 shall be deemed vacant, upon the failure of the member to attend
 765 three consecutive meetings of the board or at least half of the
 766 meetings of the board during any 12-month period, unless the
 767 Chief Financial Officer determines that there was good and
 768 adequate justification for the absences and that such absences
 769 are not likely to continue. Any vacancy so created shall be
 770 filled as provided in subsection (1).

771 (7) Members of the board are subject to the code of ethics
 772 under part III of chapter 112. For purposes of applying part III
 773 of chapter 112 to activities of the members of the board, those
 774 persons are considered public officers, and the department is
 775 considered their agency. A board member may not vote on any

776 measure that would inure to his or her special private gain or
777 loss and, in accordance with s. 112.3143(2), may not vote on any
778 measure that he or she knows would inure to the special private
779 gain or loss of any principal by which he or she is retained,
780 other than an agency as defined in s. 112.312; or that he or she
781 knows would inure to the special private gain or loss of his or
782 her relative or business associate. Before the vote is taken,
783 such member shall publicly state to the board the nature of his
784 or her interest in the matter from which he or she is abstaining
785 from voting and, within 15 days after the vote occurs, disclose
786 the nature of his or her interest as a public record in a
787 memorandum filed with the person responsible for recording the
788 minutes of the meeting, who shall incorporate the memorandum in
789 the minutes.

790 (8) In accordance with ss. 112.3148 and 112.3149, a board
791 member may not knowingly accept, directly or indirectly, any
792 gift or expenditure from a person or entity, or an employee or
793 representative of such person or entity, which has a contractual
794 relationship with the department or the board, which is under
795 consideration for a contract, or which is licensed by the
796 department.

797 (9) A board member who fails to comply with subsection (7)
798 or subsection (8) is subject to the penalties provided under ss.
799 112.317 and 112.3173.

800 (10) (a) All meetings of the board are subject to the

801 requirements of s. 286.011, and all books and records of the
802 board are open to the public for reasonable inspection except as
803 otherwise provided by s. 497.172 or other applicable law.

804 (b) Except for emergency meetings, the board shall give
805 notice of any board meeting by publication on the association's
806 website at least 7 days before the meeting. The board shall
807 prepare and publish a meeting agenda on its website at least 7
808 days before the meeting. The agenda must contain the items to be
809 considered in order of presentation. After the agenda has been
810 made available, a change may be made only for good cause, as
811 determined by the person designated to preside, and must be
812 stated in the record. Notification of such change must be at the
813 earliest practicable time.

814 Section 8. Paragraph (a) of subsection (4) of section
815 497.153, Florida Statutes, is amended to read:

816 497.153 Disciplinary procedures and penalties.—

817 (4) ACTION AFTER PROBABLE CAUSE FOUND.—

818 (a) Service of an administrative complaint may be in
819 person by department staff or any person authorized to make
820 service of process under the Florida Rules of Civil Procedure.
821 Service upon a licensee may in the alternative be made by
822 certified mail, return receipt requested, to the last known
823 address of record provided by the licensee to the department. If
824 service by certified mail cannot be made at the last address
825 provided by the licensee to the department, service may be made

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826 by e-mail, delivery receipt required, sent to the most recent e-
827 mail address provided by the licensee to the department in
828 accordance with s. 497.146.

829 Section 9. Paragraph (e) of subsection (1) of section
830 497.155, Florida Statutes, is amended to read:

831 497.155 Disciplinary citations and minor violations.—

832 (1) CITATIONS.—

833 (e) Service of a citation may be made by personal service
834 or certified mail, restricted delivery, to the subject at the
835 subject's last known address in accordance with s. 497.146. If
836 service by certified mail cannot be made at the last address
837 provided by the subject to the department, service may be made
838 by e-mail, delivery receipt required, sent to the most recent e-
839 mail address provided by the subject to the department in
840 accordance with s. 497.146.

841 Section 10. Paragraph (a) of subsection (3) of section
842 624.155, Florida Statutes, is amended to read:

843 624.155 Civil remedy.—

844 (3)(a) As a condition precedent to bringing an action
845 under this section, the department and the authorized insurer
846 must have been given 60 days' written notice of the violation.
847 Notice to the authorized insurer must be provided by the
848 department to the e-mail address designated by the insurer ~~under~~
849 ~~s. 624.422.~~

850 Section 11. Paragraphs (c) and (d) subsection (10) of

851 section 624.307, Florida Statutes, are redesignated as
852 paragraphs (d) and (e), respectively, paragraph (b) is amended,
853 and a new paragraph (c) is added to subsection (10) of that
854 section, to read:

855 624.307 General powers; duties.—

856 (10)

857 (b) Any person licensed or issued a certificate of
858 authority or made an eligible surplus lines insurer by the
859 department or the office shall respond, in writing or
860 electronically, to the division within 14 days after receipt of
861 a written request for documents and information from the
862 division concerning a consumer complaint. The response must
863 address the issues and allegations raised in the complaint and
864 include any requested documents concerning the consumer
865 complaint not subject to attorney-client or work-product
866 privilege. The division may impose an administrative penalty for
867 failure to comply with this paragraph of up to \$5,000 per
868 violation upon any entity licensed by the department or the
869 office and up to \$1,000 per violation by any individual licensed
870 by the department or the office.

871 (c) Each insurer issued a certificate of authority or made
872 an eligible surplus lines insurer shall file with the department
873 an e-mail address to which requests for response to consumer
874 complaints shall be directed pursuant to paragraph (b). Such
875 insurer shall also designate a contact person for escalated

876 complaint issues and shall provide the name, e-mail address, and
877 telephone number of such person. A licensee of the department,
878 including an agency or a firm, may elect to designate an e-mail
879 address to which requests for response to consumer complaints
880 shall be directed pursuant to paragraph (b). If a licensee,
881 including an agency or a firm, elects not to designate an e-mail
882 address, the department shall direct requests for response to
883 consumer complaints to the e-mail of record for the licensee in
884 the department's licensing system. An insurer or a licensee,
885 including an agency or a firm, may change a designated contact
886 information at any time by submitting the new information to the
887 department using the method designated by rule by the
888 department.

889 Section 12. Subsection (2) of section 626.171, Florida
890 Statutes, is amended to read:

891 626.171 Application for license as an agent, customer
892 representative, adjuster, service representative, or reinsurance
893 intermediary.—

894 (2) In the application, the applicant shall set forth:

895 (a) His or her full name, age, social security number,
896 residence address, business address, mailing address, contact
897 telephone numbers, including a business telephone number, and e-
898 mail address.

899 (b) A statement indicating the method the applicant used
900 or is using to meet any required prelicensing education,

901 knowledge, experience, or instructional requirements for the
 902 type of license applied for.

903 (c) Whether he or she has been refused or has voluntarily
 904 surrendered or has had suspended or revoked a license to solicit
 905 insurance by the department or by the supervising officials of
 906 any state.

907 (d) Whether any insurer or any managing general agent
 908 claims the applicant is indebted under any agency contract or
 909 otherwise and, if so, the name of the claimant, the nature of
 910 the claim, and the applicant's defense thereto, if any.

911 (e) Proof that the applicant meets the requirements for
 912 the type of license for which he or she is applying.

913 (f) The applicant's gender (male or female).

914 (g) The applicant's native language.

915 (h) The highest level of education achieved by the
 916 applicant.

917 (i) The applicant's race or ethnicity (African American,
 918 white, American Indian, Asian, Hispanic, or other).

919 (j) Such other or additional information as the department
 920 may deem proper to enable it to determine the character,
 921 experience, ability, and other qualifications of the applicant
 922 to hold himself or herself out to the public as an insurance
 923 representative.

924
 925 However, the application must contain a statement that an

926 applicant is not required to disclose his or her race or
 927 ethnicity, gender, or native language, that he or she will not
 928 be penalized for not doing so, and that the department will use
 929 this information exclusively for research and statistical
 930 purposes and to improve the quality and fairness of the
 931 examinations. The department shall make provisions for
 932 applicants to submit cellular telephone numbers as part of the
 933 application process on a voluntary basis for purpose of two-
 934 factor authentication of secure login credentials only.

935 Section 13. Paragraph (j) of subsection (2) of section
 936 626.221, Florida Statutes, is amended to read:

937 626.221 Examination requirement; exemptions.—

938 (2) However, an examination is not necessary for any of
 939 the following:

940 (j) An applicant for license as an all-lines adjuster who
 941 has the designation of Accredited Claims Adjuster (ACA) from a
 942 regionally accredited postsecondary institution in this state;
 943 Certified All Lines Adjuster (CALA) from Kaplan Financial
 944 Education; Associate in Claims (AIC) from the Insurance
 945 Institute of America; Professional Claims Adjuster (PCA) from
 946 the Professional Career Institute; Professional Property
 947 Insurance Adjuster (PPIA) from the HurriClaim Training Academy;
 948 Certified Adjuster (CA) from ALL LINES Training; Certified
 949 Claims Adjuster (CCA) from AE21 Incorporated; Claims Adjuster
 950 Certified Professional (CACP) from WebCE, Inc.; Accredited

951 Insurance Claims Specialist (AICS) from Encore Claim Services;
952 Professional in Claims (PIC) from 2021 Training, LLC; Registered
953 Claims Adjuster (RCA) from American Insurance College; or
954 Universal Claims Certification (UCC) from Claims and Litigation
955 Management Alliance (CLM) whose curriculum has been approved by
956 the department and which includes comprehensive analysis of
957 basic property and casualty lines of insurance and testing at
958 least equal to that of standard department testing for the all-
959 lines adjuster license. The department shall adopt rules
960 establishing standards for the approval of curriculum.

961 Section 14. Subsection (6) of section 626.601, Florida
962 Statutes, is amended to read:

963 626.601 Improper conduct; inquiry; fingerprinting.—

964 (6) The complaint and any information obtained pursuant to
965 the investigation by the department or office are confidential
966 and are exempt from s. 119.07 unless the department or office
967 files a formal administrative complaint, emergency order, or
968 consent order against the individual or entity. This subsection
969 does not prevent the department or office from disclosing the
970 complaint or such information as it deems necessary to conduct
971 the investigation, to update the complainant as to the status
972 and outcome of the complaint, to review the details of the
973 investigation with the individual or entity or their
974 representative, or to share such information with any law
975 enforcement agency or other regulatory body.

976 Section 15. Subsection (3) of section 626.7351, Florida
 977 Statutes, is amended to read:

978 626.7351 Qualifications for customer representative's
 979 license.—The department shall not grant or issue a license as
 980 customer representative to any individual found by it to be
 981 untrustworthy or incompetent, or who does not meet each of the
 982 following qualifications:

983 (3) Within 4 years preceding the date that the application
 984 for license was filed with the department, the applicant has
 985 earned the designation of Accredited Advisor in Insurance (AAI),
 986 Associate in General Insurance (AINS), or Accredited Customer
 987 Service Representative (ACSR) from the Insurance Institute of
 988 America; the designation of Certified Insurance Counselor (CIC)
 989 from the Society of Certified Insurance Service Counselors; the
 990 designation of Certified Professional Service Representative
 991 (CPSR) from the National Foundation for CPSR; the designation of
 992 Certified Insurance Service Representative (CISR) from the
 993 Society of Certified Insurance Service Representatives; the
 994 designation of Certified Insurance Representative (CIR) from
 995 All-Lines Training; the designation of Chartered Customer
 996 Service Representative (CCSR) from American Insurance College;
 997 the designation of Professional Customer Service Representative
 998 (PCSR) from the Professional Career Institute; the designation
 999 of Insurance Customer Service Representative (ICSR) from
 1000 Statewide Insurance Associates LLC; the designation of

1001 Registered Customer Service Representative (RCSR) from a
1002 regionally accredited postsecondary institution in the state
1003 whose curriculum is approved by the department and includes
1004 comprehensive analysis of basic property and casualty lines of
1005 insurance and testing which demonstrates mastery of the subject;
1006 or a degree from an accredited institution of higher learning
1007 approved by the department when the degree includes a minimum of
1008 9 credit hours of insurance instruction, including specific
1009 instruction in the areas of property, casualty, and inland
1010 marine insurance. The department shall adopt rules establishing
1011 standards for the approval of curriculum.

1012 Section 16. Section 626.878, Florida Statutes, is amended
1013 to read:

1014 626.878 Rules; code of ethics.—

1015 (1) An adjuster shall subscribe to the code of ethics
1016 specified in the rules of the department. The rules shall
1017 implement the provisions of this part and specify the terms and
1018 conditions of contracts, including a right to cancel, and
1019 require practices necessary to ensure fair dealing, prohibit
1020 conflicts of interest, and ensure preservation of the rights of
1021 the claimant to participate in the adjustment of claims.

1022 (2) A person licensed as an adjuster must identify himself
1023 or herself in any advertisement, solicitation, or written
1024 document based on the adjuster appointment type held.

1025 (3) An adjuster who has had his or her licensed revoked or

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1026 suspended may not participate in any part of an insurance claim
1027 or in the insurance claims adjusting process, including
1028 estimating, completing, filing, negotiating, appraising,
1029 mediating, umpiring, or effecting settlement of a claim for loss
1030 or damage covered under an insurance contract. A person who
1031 provides these services while the person's license is revoked or
1032 suspended acts as an unlicensed adjuster.

1033 Section 17. Subsection (1) of section 626.929, Florida
1034 Statutes, is amended, and subsection (4) is added to that
1035 section, to read:

1036 626.929 Origination, acceptance, placement of surplus
1037 lines business.—

1038 (1) A licensed and appointed general lines agent while
1039 also licensed and appointed as a surplus lines agent under this
1040 part may originate surplus lines business and may accept surplus
1041 lines business from any other originating Florida-licensed
1042 general lines agent appointed and licensed as to the kinds of
1043 insurance involved and may compensate such agent therefor.

1044 (4) A general lines agent while licensed as a surplus
1045 lines agent under this part may appoint these licenses with a
1046 single surplus license agent appointment pursuant to s. 624.501.
1047 Such agent may only originate surplus lines business and accept
1048 surplus lines business from other originating Florida-licensed
1049 general lines agents appointed and licensed as to the kinds of
1050 insurance involved and may compensate such agent therefor. Such

1051 agent may not be appointed by or transact general lines
1052 insurance on behalf of an admitted insurer.

1053 Section 18. Paragraphs (j) is added to subsection (4) of
1054 section 627.351, Florida Statutes, to read:

1055 627.351 Insurance risk apportionment plans.—

1056 (4) MEDICAL MALPRACTICE RISK APPORTIONMENT; ASSOCIATION
1057 CONTRACTS AND PURCHASES.—

1058 (j)1. After July 1, 2024, all contracts entered into, and
1059 all purchases made by, the association pursuant to this
1060 subsection which are valued at or more than \$100,000 must first
1061 be approved by the department. The department has 10 days to
1062 approve or deny a contract or purchase upon electronic receipt
1063 of the approval request. The contract or purchase is
1064 automatically approved if the department is nonresponsive.

1065 2. All contracts and purchases valued at or more than
1066 \$100,000 require competition through a formal bid solicitation
1067 conducted by the association. The association must undergo a
1068 formal bid solicitation process by a minimum of three vendors.
1069 The formal bid solicitation process must include all of the
1070 following:

1071 a. The time and date for the receipt of bids, the
1072 proposals, and whether the association contemplates renewal of
1073 the contract, including the price for each year for which the
1074 contract may be renewed.

1075 b. All the contractual terms and conditions applicable to

1076 | the procurement.

1077 | 3. Evaluation of bids by the association must include
 1078 | consideration of the total cost for each year of the contract,
 1079 | including renewal years, as submitted by the vendor. The
 1080 | association must award the contract to the most responsible and
 1081 | responsive vendor. Any formal bid solicitation conducted by the
 1082 | association must be made available, upon request, to the
 1083 | department by electronic delivery.

1084 | Section 19. Subsection (2) of section 627.43141, Florida
 1085 | Statutes, is amended to read:

1086 | 627.43141 Notice of change in policy terms.—

1087 | (2) A renewal policy may contain a change in policy terms.
 1088 | If such change occurs, the insurer shall give the named insured
 1089 | advance written notice summarizing the change, which may be
 1090 | enclosed in along with the written notice of renewal premium
 1091 | required under ss. 627.4133 and 627.728 or sent separately
 1092 | within the timeframe required under the Florida Insurance Code
 1093 | for the provision of a notice of nonrenewal to the named insured
 1094 | for that line of insurance. The insurer must also provide a
 1095 | sample copy of the notice to the named insured's insurance agent
 1096 | before or at the same time that notice is provided to the named
 1097 | insured. Such notice shall be entitled "Notice of Change in
 1098 | Policy Terms—" and shall be in bold type of not less than 14
 1099 | points and included as a single page within the written notice.

1100 | Section 20. Paragraph (a) of subsection (3) of section

1101 627.70152, Florida Statutes, is amended to read:

1102 627.70152 Suits arising under a property insurance
1103 policy.—

1104 (3) NOTICE.—

1105 (a) As a condition precedent to filing a suit under a
1106 property insurance policy, a claimant must provide the
1107 department with written notice of intent to initiate litigation
1108 on a form provided by the department. Such notice must be given
1109 at least 10 business days before filing suit under the policy,
1110 but may not be given before the insurer has made a determination
1111 of coverage under s. 627.70131. Notice to the insurer must be
1112 provided by the department to the e-mail address designated by
1113 the insurer ~~under s. 624.422~~. The notice must state with
1114 specificity all of the following information:

1115 1. That the notice is provided pursuant to this section.

1116 2. The alleged acts or omissions of the insurer giving
1117 rise to the suit, which may include a denial of coverage.

1118 3. If provided by an attorney or other representative,
1119 that a copy of the notice was provided to the claimant.

1120 4. If the notice is provided following a denial of
1121 coverage, an estimate of damages, if known.

1122 5. If the notice is provided following acts or omissions
1123 by the insurer other than denial of coverage, both of the
1124 following:

1125 a. The presuit settlement demand, which must itemize the

1126 damages, attorney fees, and costs.

1127 b. The disputed amount.

1128

1129 Documentation to support the information provided in this
1130 paragraph may be provided along with the notice to the insurer.

1131 Section 21. Subsection (5) is added to section 631.59,
1132 Florida Statutes, to read:

1133 631.59 Duties and powers of department and office;
1134 association contracts and purchases.—

1135 (5) (a) After July 1, 2024, all contracts entered into, and
1136 all purchases made by, the association pursuant to this section
1137 which are valued at or more than \$100,000 must first be approved
1138 by the department. The department has 10 days to approve or deny
1139 the contract or purchase upon electronic receipt of the approval
1140 request. The contract or purchase is automatically approved if
1141 the department is nonresponsive.

1142 (b) All contracts and purchases valued at or more than
1143 \$100,000 require competition through a formal bid solicitation
1144 conducted by the association. The association must undergo a
1145 formal bid solicitation process. The formal bid solicitation
1146 process must include all of the following:

1147 1. The time and date for the receipt of bids, the
1148 proposals, and whether the association contemplates renewal of
1149 the contract, including the price for each year for which the
1150 contract may be renewed.

1151 2. All the contractual terms and conditions applicable to
 1152 the procurement.

1153 (c) Evaluation of bids by the association must include
 1154 consideration of the total cost for each year of the contract,
 1155 including renewal years, as submitted by the vendor. The
 1156 association must award the contract to the most responsible and
 1157 responsive vendor. Any formal bid solicitation conducted by the
 1158 association must be made available, upon request, to the
 1159 department via electronic delivery.

1160 Section 22. Section 631.6955, Florida Statutes, is created
 1161 to read:

1162 631.6955 Florida Insurance Guaranty Fund data transfer
 1163 plan.—

1164 (1) Each insurer that is subject to the Florida Insurance
 1165 Guaranty Association requirements shall prepare, implement, and
 1166 maintain a data transfer plan. Upon the occurrence of a company-
 1167 action level event, as described in s. 624.4085, the insurer
 1168 shall file the data transfer plan with the Commissioner of
 1169 Insurance Regulation.

1170 (2) The data transfer plan required by subsection (1) must
 1171 outline specific procedures, actions, and safeguards that, at
 1172 minimum, include all of the following:

1173 (a) The manner, methods, and formats in which the insurer
 1174 maintains and preserves its claims and underwriting records.

1175 (b) The process by which the insurer will transfer all of

1176 its claims and underwriting records to the department and the
1177 association if an order of liquidation is issued pursuant to s.
1178 631.395.

1179 (c) Any other information deemed necessary by the
1180 Commissioner of Insurance Regulation.

1181 (3) If the insurer uses a third-party vendor to maintain
1182 and preserve its claims and underwriting records, the insurer
1183 shall include in its data transfer plan the process by which the
1184 third-party vendor will provide the insurer's claims and
1185 underwriting records without delay to the department and the
1186 association if an order of liquidation is issued pursuant to s.
1187 631.395.

1188 (4) The Commissioner of Insurance Regulation shall review
1189 each data transfer plan submitted pursuant to this section to
1190 determine compliance with the requirements of this section and
1191 shall consult with the department and the association to confirm
1192 that the data transfer plans will integrate with the
1193 department's and the association's manner and means of
1194 maintaining records received from insurers that are subject to
1195 orders of liquidation.

1196 (5) The Commissioner of Insurance Regulation may do all of
1197 the following:

1198 (a) Investigate and examine the records and operations of
1199 insurers to determine if each insurer has implemented and
1200 complied with the data transfer plan requirements of this

1201 section.

1202 (b) Direct an insurer to test the processes set forth in
 1203 its data transfer plan to ensure that the data can be
 1204 effectively transferred.

1205 (c) Direct an insurer to modify its data transfer plan to
 1206 comply with the requirements of this section.

1207 (d) Require an insurer to prefund the services required to
 1208 initiate a data transfer.

1209 (e) Require an insurer to take action to remedy
 1210 substantial noncompliance with the requirements of this section
 1211 regarding data transfer plans.

1212 Section 23. Subsection (6) is added to section 631.722,
 1213 Florida Statutes, to read:

1214 631.722 Powers and duties of department and office;
 1215 association contracts and purchases.-

1216 (6) (a) After July 1, 2024, all contracts entered into, and
 1217 all purchases made by, the association pursuant to this section
 1218 which are valued at or more than \$100,000 must first be approved
 1219 by the department. The department has 10 days to approve or deny
 1220 the contract or purchase upon electronic receipt of the approval
 1221 request. The contract or purchase is automatically approved if
 1222 the department is nonresponsive.

1223 (b) All contracts and purchases valued at or more than
 1224 \$100,000 require competition through a formal bid solicitation
 1225 conducted by the association. The association must undergo a

1226 formal bid solicitation process. The formal bid solicitation
1227 process must include all of the following:

1228 1. The time and date for the receipt of bids, the
1229 proposals, and whether the association contemplates renewal of
1230 the contract, including the price for each year for which the
1231 contract may be renewed.

1232 2. All the contractual terms and conditions applicable to
1233 the procurement.

1234 (c) Evaluation of bids by the association must include
1235 consideration of the total cost for each year of the contract,
1236 including renewal years, as submitted by the vendor. The
1237 association must award the contract to the most responsible and
1238 responsive vendor. Any formal bid solicitation conducted by the
1239 association must be made available, upon request, to the
1240 department via electronic delivery.

1241 Section 24. Subsection (5) is added to section 631.821,
1242 Florida Statutes, to read:

1243 631.821 Powers and duties of the department; board
1244 contracts and purchases.-

1245 (5)(a) After July 1, 2024, all contracts entered into, and
1246 all purchases made by, the board pursuant to this section which
1247 are valued at or more than \$100,000 must first be approved by
1248 the department. The department has 10 days to approve or deny
1249 the contract or purchase upon electronic receipt of the approval
1250 request. The contract or purchase is automatically approved if

1251 the department is nonresponsive.

1252 (b) All contracts and purchases valued at or more than
1253 \$100,000 require competition through a formal bid solicitation
1254 conducted by the board. The board must undergo a formal bid
1255 solicitation process. The formal bid solicitation process must
1256 include all of the following:

1257 1. The time and date for the receipt of bids, the
1258 proposals, and whether the board contemplates renewal of the
1259 contract, including the price for each year for which the
1260 contract may be renewed.

1261 2. All the contractual terms and conditions applicable to
1262 the procurement.

1263 (c) Evaluation of bids by the board must include
1264 consideration of the total cost for each year of the contract,
1265 including renewal years, as submitted by the vendor. The plan
1266 must award the contract to the most responsible and responsive
1267 vendor. Any formal bid solicitation conducted by the board must
1268 be made available, upon request, to the department via
1269 electronic delivery.

1270 Section 25. Section 631.921, Florida Statutes, is amended
1271 to read:

1272 631.921 Department powers; board contracts and purchases.—

1273 (1) The corporation shall be subject to examination by the
1274 department. By March 1 of each year, the board of directors
1275 shall cause a financial report to be filed with the department

1276 for the immediately preceding calendar year in a form approved
1277 by the department.

1278 (2) (a) After July 1, 2024, all contracts entered into, and
1279 all purchases made by, the board pursuant to this section which
1280 are valued at or more than \$100,000 must first be approved by
1281 the department. The department has 10 days to approve or deny
1282 the contract or purchase upon electronic receipt of the approval
1283 request. The contract or purchase is automatically approved if
1284 the department is nonresponsive.

1285 (b) All contracts and purchases valued at or more than
1286 \$100,000 require competition through a formal bid solicitation
1287 conducted by the board. The board must undergo a formal bid
1288 solicitation process. The formal bid solicitation process must
1289 include all of the following:

1290 1. The time and date for the receipt of bids, the
1291 proposals, and whether the board contemplates renewal of the
1292 contract, including the price for each year for which the
1293 contract may be renewed.

1294 2. All the contractual terms and conditions applicable to
1295 the procurement.

1296 (c) Evaluation of bids by the board must include
1297 consideration of the total cost for each year of the contract,
1298 including renewal years, as submitted by the vendor. The
1299 association must award the contract to the most responsible and
1300 responsive vendor. Any formal bid solicitation conducted by the

1301 association must be made available, upon request, to the
1302 department via electronic delivery.

1303 Section 26. Paragraph (b) of subsection (3) of section
1304 633.124, Florida Statutes, is amended to read:

1305 633.124 Penalty for violation of law, rule, or order to
1306 cease and desist or for failure to comply with corrective
1307 order.—

1308 (3)

1309 (b) A person who initiates a pyrotechnic display within
1310 any structure commits a felony of the third degree, punishable
1311 as provided in s. 775.082, s. 775.083, or s. 775.084, unless:

1312 1. The structure has a fire protection system installed in
1313 compliance with s. 633.334.

1314 2. The owner of the structure has authorized in writing
1315 the pyrotechnic display.

1316 3. If the local jurisdiction requires a permit for the use
1317 of a pyrotechnic display in an occupied structure, such permit
1318 has been obtained and all conditions of the permit complied with
1319 or, if the local jurisdiction does not require a permit for the
1320 use of a pyrotechnic display in an occupied structure, the
1321 person initiating the display has complied with National Fire
1322 Protection Association, Inc., Standard 1126, 2021 ~~2001~~ Edition,
1323 Standard for the Use of Pyrotechnics before a Proximate
1324 Audience.

1325 Section 27. Subsection (2) of section 633.202, Florida

1326 Statutes, is amended to read:

1327 633.202 Florida Fire Prevention Code.—

1328 (2) The State Fire Marshal shall adopt the current edition
1329 of the National Fire Protection Association's Standard 1, Fire
1330 Prevention Code but may not adopt a building, mechanical,
1331 accessibility, or plumbing code. The State Fire Marshal shall
1332 adopt the current edition of the Life Safety Code, NFPA 101,
1333 current editions, by reference. The State Fire Marshal may
1334 modify the selected codes and standards as needed to accommodate
1335 the specific needs of the state. Standards or criteria in the
1336 selected codes shall be similarly incorporated by reference. The
1337 State Fire Marshal shall incorporate within sections of the
1338 Florida Fire Prevention Code provisions that address uniform
1339 firesafety standards as established in s. 633.206. The State
1340 Fire Marshal shall incorporate within sections of the Florida
1341 Fire Prevention Code provisions addressing regional and local
1342 concerns and variations.

1343 Section 28. Paragraph (b) of subsection (1) of section
1344 633.206, Florida Statutes, is amended to read:

1345 633.206 Uniform firesafety standards.—The Legislature
1346 hereby determines that to protect the public health, safety, and
1347 welfare it is necessary to provide for firesafety standards
1348 governing the construction and utilization of certain buildings
1349 and structures. The Legislature further determines that certain
1350 buildings or structures, due to their specialized use or to the

1351 special characteristics of the person utilizing or occupying
 1352 these buildings or structures, should be subject to firesafety
 1353 standards reflecting these special needs as may be appropriate.

1354 (1) The department shall establish uniform firesafety
 1355 standards that apply to:

1356 (b) All new, existing, and proposed hospitals, nursing
 1357 homes, assisted living facilities, adult family-care homes,
 1358 correctional facilities, public schools, transient public
 1359 lodging establishments, public food service establishments,
 1360 mobile food dispensing vehicles, elevators, migrant labor camps,
 1361 mobile home parks, lodging parks, recreational vehicle parks,
 1362 recreational camps, residential and nonresidential child care
 1363 facilities, facilities for the developmentally disabled, motion
 1364 picture and television special effects productions, tunnels,
 1365 energy storage systems, and self-service gasoline stations, of
 1366 which standards the State Fire Marshal is the final
 1367 administrative interpreting authority.

1368
 1369 In the event there is a dispute between the owners of the
 1370 buildings specified in paragraph (b) and a local authority
 1371 requiring a more stringent uniform firesafety standard for
 1372 sprinkler systems, the State Fire Marshal shall be the final
 1373 administrative interpreting authority and the State Fire
 1374 Marshal's interpretation regarding the uniform firesafety
 1375 standards shall be considered final agency action.

1376 Section 29. Paragraph (b) of subsection (8) of section
 1377 634.041, Florida Statutes, is amended to read:

1378 634.041 Qualifications for license.—To qualify for and
 1379 hold a license to issue service agreements in this state, a
 1380 service agreement company must be in compliance with this part,
 1381 with applicable rules of the commission, with related sections
 1382 of the Florida Insurance Code, and with its charter powers and
 1383 must comply with the following:

1384 (8)

1385 (b) A service agreement company does not have to establish
 1386 and maintain an unearned premium reserve if it secures and
 1387 maintains contractual liability insurance in accordance with the
 1388 following:

1389 1. Coverage of 100 percent of the claim exposure is
 1390 obtained from an insurer or insurers approved by the office,
 1391 which hold ~~holds~~ a certificate of authority under s. 624.401 to
 1392 do business within this state, or secured through a risk
 1393 retention groups ~~group~~, which are ~~is~~ authorized to do business
 1394 within this state under s. 627.943 or s. 627.944. Such insurers
 1395 ~~insurer~~ or risk retention groups ~~group~~ must maintain a surplus
 1396 as regards policyholders of at least \$15 million.

1397 2. If the service agreement company does not meet its
 1398 contractual obligations, the contractual liability insurance
 1399 policy binds its issuer to pay or cause to be paid to the
 1400 service agreement holder all legitimate claims and cancellation

1401 refunds for all service agreements issued by the service
1402 agreement company while the policy was in effect. This
1403 requirement also applies to those service agreements for which
1404 no premium has been remitted to the insurer.

1405 3. If the issuer of the contractual liability policy is
1406 fulfilling the service agreements covered by the contractual
1407 liability policy and the service agreement holder cancels the
1408 service agreement, the issuer must make a full refund of
1409 unearned premium to the consumer, subject to the cancellation
1410 fee provisions of s. 634.121(3). The sales representative and
1411 agent must refund to the contractual liability policy issuer
1412 their unearned pro rata commission.

1413 4. The policy may not be canceled, terminated, or
1414 nonrenewed by the insurer or the service agreement company
1415 unless a 90-day written notice thereof has been given to the
1416 office by the insurer before the date of the cancellation,
1417 termination, or nonrenewal.

1418 5. The service agreement company must provide the office
1419 with the claims statistics.

1420 6. A policy issued in compliance with this paragraph may
1421 either pay 100 percent of claims as they are incurred, or pay
1422 100 percent of claims due in the event of the failure of the
1423 service agreement company to pay such claims when due.

1424
1425 All funds or premiums remitted to an insurer by a motor vehicle

1426 service agreement company under this part shall remain in the
 1427 care, custody, and control of the insurer and shall be counted
 1428 as an asset of the insurer; provided, however, this requirement
 1429 does not apply when the insurer and the motor vehicle service
 1430 agreement company are affiliated companies and members of an
 1431 insurance holding company system. If the motor vehicle service
 1432 agreement company chooses to comply with this paragraph but also
 1433 maintains a reserve to pay claims, such reserve shall only be
 1434 considered an asset of the covered motor vehicle service
 1435 agreement company and may not be simultaneously counted as an
 1436 asset of any other entity.

1437 Section 30. Subsection (5) of section 634.081, Florida
 1438 Statutes, is amended to read:

1439 634.081 Suspension or revocation of license; grounds.—

1440 (5) The office shall suspend or revoke the license of a
 1441 company if it finds that the ratio of gross written premiums
 1442 written to net assets exceeds 10 to 1 unless the company has in
 1443 excess of \$750,000 in net assets and is utilizing contractual
 1444 liability insurance which cedes 100 percent of the service
 1445 agreement company's claims liabilities to the contractual
 1446 liability insurers ~~insurer~~ or is utilizing contractual liability
 1447 insurance which reimburses the service agreement company for 100
 1448 percent of its paid claims. However, if a service agreement
 1449 company has been licensed by the office in excess of 10 years,
 1450 is in compliance with all applicable provisions of this part,

1451 and has net assets at all times in excess of \$3 million that
1452 comply with the provisions of part II of chapter 625, such
1453 company may not exceed a ratio of gross written premiums written
1454 to net assets of 15 to 1.

1455 Section 31. Subsection (5) of section 634.3077, Florida
1456 Statutes, is renumbered as subsection (6), subsection (3) is
1457 amended, and a new subsection (5) is added to that section, to
1458 read:

1459 634.3077 Financial requirements.—

1460 (3) An association may ~~shall~~ not be required to set up an
1461 unearned premium reserve if it has purchased contractual
1462 liability insurance which demonstrates to the satisfaction of
1463 the office that 100 percent of its claim exposure is covered by
1464 such insurance. Such contractual liability insurance shall be
1465 obtained from an insurer or insurers that hold ~~holds~~ a
1466 certificate of authority to do business within the state or from
1467 an insurer or insurers approved by the office as financially
1468 capable of meeting the obligations incurred pursuant to the
1469 policy. For purposes of this subsection, the contractual
1470 liability policy shall contain the following provisions:

1471 (a) In the event that the home warranty association is
1472 unable to fulfill its obligation under its contracts issued in
1473 this state for any reason, including insolvency, bankruptcy, or
1474 dissolution, the contractual liability insurer will pay losses
1475 and unearned premiums under such plans directly to persons

1476 making claims under such contracts.

1477 (b) The insurer issuing the policy shall assume full
 1478 responsibility for the administration of claims in the event of
 1479 the inability of the association to do so.

1480 (c) The policy may not be canceled or not renewed by
 1481 ~~either~~ the insurer or the association unless 60 days' written
 1482 notice thereof has been given to the office by the insurer
 1483 before the date of such cancellation or nonrenewal.

1484 (d) The contractual liability insurance policy shall
 1485 insure all home warranty contracts that were issued while the
 1486 policy was in effect whether or not the premium has been
 1487 remitted to the insurer.

1488 (5) An association licensed under this part is not
 1489 required to establish an unearned premium reserve or maintain
 1490 contractual liability insurance and may allow its premiums to
 1491 exceed the ratio to net assets limitation of this section if the
 1492 association complies with the following:

1493 (a) The association or, if the association is a direct or
 1494 indirect wholly owned subsidiary of a parent corporation, its
 1495 parent corporation has, and maintains at all times, a minimum
 1496 net worth of at least \$100 million and provides the office with
 1497 the following:

1498 1. A copy of the association's annual audited financial
 1499 statements or the audited consolidated financial statements of
 1500 the association's parent corporation, prepared by an independent

1501 certified public accountant in accordance with generally
1502 accepted accounting principles, which clearly demonstrate the
1503 net worth of the association or its parent corporation to be
1504 \$100 million, and a quarterly written certification to the
1505 office that the association or its parent corporation continues
1506 to maintain the net worth required under this paragraph.

1507 2. The association's or its parent corporation's Form 10-
1508 K, Form 10-Q, or Form 20-F as filed with the United States
1509 Securities and Exchange Commission or such other documents
1510 required to be filed with a recognized stock exchange, which
1511 shall be provided on a quarterly and annual basis within 10 days
1512 after the last date each such report must be filed with the
1513 Securities and Exchange Commission, the National Association of
1514 Security Dealers Automated Quotation system, or other recognized
1515 stock exchange.

1516
1517 Failure to timely file the documents required under this
1518 paragraph may, at the discretion of the office, subject the
1519 association to suspension or revocation of its license under
1520 this part.

1521 (b) If the net worth of a parent corporation is used to
1522 satisfy the net worth provisions of paragraph (a), the following
1523 provisions must be met:

1524 1. The parent corporation must guarantee all service
1525 warranty obligations of the association, wherever written, on a

1526 form approved in advance by the office. A cancellation,
1527 termination, or modification of the guarantee does not become
1528 effective unless the parent corporation provides the office
1529 written notice at least 90 days before the effective date of the
1530 cancellation, termination, or modification and the office
1531 approves the request in writing. Before the effective date of
1532 the cancellation, termination, or modification of the guarantee,
1533 the association must demonstrate to the satisfaction of the
1534 office compliance with all applicable provisions of this part,
1535 including whether the association will meet the requirements of
1536 this section by the purchase of contractual liability insurance,
1537 establishing required reserves, or other method allowed under
1538 this section. If the association or parent corporation does not
1539 demonstrate to the satisfaction of the office compliance with
1540 all applicable provisions of this part, the association or
1541 parent association shall immediately cease writing new and
1542 renewal business upon the effective date of the cancellation,
1543 termination, or modification.

1544 2. The association must maintain at all times net assets
1545 of at least \$750,000.

1546 Section 32. Section 634.317, Florida Statutes, is amended
1547 to read:

1548 634.317 License and appointment required.—No person may
1549 solicit, negotiate, or effectuate home warranty contracts for
1550 remuneration in this state unless such person is licensed and

1551 appointed as a sales representative. A licensed and appointed
1552 sales representative shall be directly responsible and
1553 accountable for all acts of the licensee's employees. An agent
1554 or employee of a municipal or county government is exempt from
1555 these licensing and appointment requirements.

1556 Section 33. Subsection (9) of section 648.25, Florida
1557 Statutes, is renumbered as subsection (10), and a new subsection
1558 (9) and subsection (11) are added to that section to read:

1559 648.25 Definitions.—As used in this chapter, the term:

1560 (9) "Referring bail bond agent" is the limited surety
1561 agent who is appointed with the surety company issuing the
1562 transfer bond that is to be posted in a county where the
1563 referring limited surety agent is not registered. The referring
1564 bail bond agent is the appointed agent held liable for the
1565 transfer bond, along with the issuing surety company.

1566 (11) "Transfer bond" means the appearance bond and power
1567 of attorney form posted by a limited surety agent who is
1568 registered in the county where the defendant is being held in
1569 custody, and who is appointed to represent the same surety
1570 company issuing the appearance bond as the referring bail bond
1571 agent.

1572 Section 34. Subsection (3) of section 648.26, Florida
1573 Statutes, is amended to read:

1574 648.26 Department of Financial Services; administration.—

1575 (3) The papers, documents, reports, or any other

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1576 | investigatory records of the department are confidential and
1577 | exempt from s. 119.07(1) until such investigation is completed
1578 | or ceases to be active, unless the department or office files a
1579 | formal administrative complaint, emergency order, or consent
1580 | order against the individual or entity. For the purpose of this
1581 | section, an investigation is considered active while the
1582 | investigation is being conducted by the department with a
1583 | reasonable, good faith belief that it may lead to the filing of
1584 | administrative, civil, or criminal proceedings. An investigation
1585 | does not cease to be active if the department is proceeding with
1586 | reasonable dispatch and there is good faith belief that action
1587 | may be initiated by the department or other administrative or
1588 | law enforcement agency. This subsection does not prevent the
1589 | department or office from disclosing the content of a complaint
1590 | or such information as it deems necessary to conduct the
1591 | investigation, to update the complainant as to the status and
1592 | outcome of the complaint, to review the details of the
1593 | investigation with the subject or the subject's representative,
1594 | or to share such information with any law enforcement agency or
1595 | other regulatory body.

1596 | Section 35. Paragraph (a) of subsection (1) of section
1597 | 648.30, Florida Statutes, is amended to read:

1598 | 648.30 Licensure and appointment required; prohibited
1599 | acts; penalties.—

1600 | (1) (a) A person or entity may not act in the capacity of a

1601 | bail bond agent or bail bond agency or perform any of the
 1602 | functions, duties, or powers prescribed for bail bond agents or
 1603 | bail bond agencies under this chapter unless that person or
 1604 | entity is qualified, licensed, and appointed as provided in this
 1605 | chapter ~~and employed by a bail bond agency.~~

1606 | Section 36. Subsection (1) of section 648.355, Florida
 1607 | Statutes, is amended to read:

1608 | 648.355 Limited surety agents and professional bail bond
 1609 | agents; qualifications.—

1610 | (1) The applicant shall furnish, with the application for
 1611 | license, a complete set of the applicant's fingerprints in
 1612 | accordance with s. 626.171(4) ~~and a recent credential-sized,~~
 1613 | ~~fullface photograph of the applicant.~~ The department may not
 1614 | issue a license under this section until the department has
 1615 | received a report from the Department of Law Enforcement and the
 1616 | Federal Bureau of Investigation relative to the existence or
 1617 | nonexistence of a criminal history report based on the
 1618 | applicant's fingerprints.

1619 | Section 37. Subsection (3) of section 648.43, Florida
 1620 | Statutes, is amended to read:

1621 | 648.43 Power of attorney; approval by office; filing of
 1622 | copies; notification of transfer bond.—

1623 | (3) Every bail bond agent who executes or countersigns a
 1624 | transfer bond shall indicate in writing on the bond the name,
 1625 | ~~and~~ address, and license number of the referring bail bond

1626 agent.

1627 Section 38. Section 717.101, Florida Statutes, is amended
1628 to read:

1629 717.101 Definitions.—As used in this chapter, unless the
1630 context otherwise requires:

1631 (1) "Aggregate" means the amounts reported for owners of
1632 unclaimed property of less than \$50 or where there is no name
1633 for the individual or entity listed on the holder's records,
1634 regardless of the amount to be reported.

1635 (2) "Apparent owner" means the person whose name appears
1636 on the records of the holder as the person entitled to property
1637 held, issued, or owing by the holder.

1638 (3) "Audit" means an action or proceeding to examine and
1639 verify a person's records, books, accounts, and other documents
1640 to ascertain and determine compliance with this chapter.

1641 (4) "Audit agent" means a person with whom the department
1642 enters into a contract with to conduct an audit or examination.
1643 The term includes an independent contractor of the person and
1644 each individual participating in the audit on behalf of the
1645 person or contractor.

1646 (5)-(3) "Banking organization" means any and all banks,
1647 trust companies, private bankers, savings banks, industrial
1648 banks, safe-deposit companies, savings and loan associations,
1649 credit unions, and investment companies in this state, organized
1650 under or subject to the laws of this state or of the United

1651 States, including entities organized under 12 U.S.C. s. 611, but
 1652 does not include federal reserve banks. The term also includes
 1653 any corporation, business association, or other organization
 1654 that:

1655 (a) Is a wholly or partially owned subsidiary of any
 1656 banking, banking corporation, or bank holding company that
 1657 performs any or all of the functions of a banking organization;
 1658 or

1659 (b) Performs functions pursuant to the terms of a contract
 1660 with any banking organization ~~state or national bank,~~
 1661 ~~international banking entity or similar entity, trust company,~~
 1662 ~~savings bank, industrial savings bank, land bank, safe-deposit~~
 1663 ~~company, private bank, or any organization otherwise defined by~~
 1664 ~~law as a bank or banking organization.~~

1665 (6)-(4) "Business association" means any for-profit or
 1666 nonprofit corporation other than a public corporation; joint
 1667 stock company; investment company; unincorporated association or
 1668 association of two or more individuals for business purposes,
 1669 whether or not for profit; partnership; joint venture; limited
 1670 liability company; sole proprietorship; business trust; trust
 1671 company; land bank; safe-deposit company; safekeeping
 1672 depository; financial organization; insurance company; federally
 1673 chartered entity; utility company; or other business entity,
 1674 whether or not for profit ~~corporation (other than a public~~
 1675 ~~corporation), joint stock company, investment company, business~~

1676 ~~trust, partnership, limited liability company, or association of~~
 1677 ~~two or more individuals for business purposes, whether for~~
 1678 ~~profit or not for profit.~~

1679 ~~(7)-(5)~~ "Claimant" means the person on whose behalf a claim
 1680 is filed.

1681 (8) "Claimant's representative" means an attorney who is a
 1682 member in good standing of The Florida Bar, a certified public
 1683 accountant licensed in this state, or private investigator who
 1684 is duly licensed to do business in the state, registered with
 1685 the department, and authorized by the claimant to claim
 1686 unclaimed property on the claimant's behalf. The term does not
 1687 include a person acting in a representative capacity, such as a
 1688 personal representative, guardian, trustee, or attorney, whose
 1689 representation is not contingent upon the discovery or location
 1690 of unclaimed property; provided, however, that any agreement
 1691 entered into for the purpose of evading s. 717.135 is invalid
 1692 and unenforceable.

1693 ~~(9)-(6)~~ "Credit balance" means an account balance in the
 1694 customer's favor.

1695 ~~(10)-(7)~~ "Department" means the Department of Financial
 1696 Services.

1697 ~~(11)-(8)~~ "Domicile" means the state of incorporation for a
 1698 corporation; the state of filing for a business association,
 1699 other than a corporation, whose formation or organization
 1700 requires a filing with a state; the state of organization for a

1701 business association, other than a corporation, whose formation
 1702 or organization does not require a filing with a state; the
 1703 state of home office for a federally chartered entity ~~incorporated~~
 1704 ~~under the laws of a state, or, for an unincorporated business~~
 1705 ~~association, the state where the business association is~~
 1706 ~~organized.~~

1707 (12)-(9) "Due diligence" means the use of reasonable and
 1708 prudent methods under particular circumstances to locate
 1709 apparent owners of inactive accounts using the taxpayer
 1710 identification number or social security number, if known, which
 1711 may include, but are not limited to, using a nationwide
 1712 database, cross-indexing with other records of the holder,
 1713 mailing to the last known address unless the last known address
 1714 is known to be inaccurate, providing written notice as described
 1715 in this chapter by electronic mail if an apparent owner has
 1716 elected such delivery, or engaging a licensed agency or company
 1717 capable of conducting such search and providing updated
 1718 addresses.

1719 (13) "Electronic" means relating to technology having
 1720 electrical, digital, magnetic, wireless, optical,
 1721 electromagnetic, or similar capabilities.

1722 (14)-(10) "Financial organization" means a ~~state or federal~~
 1723 savings association, savings and loan association, savings bank,
 1724 industrial bank, bank, banking organization, trust company,
 1725 international bank agency, cooperative bank, building and loan

1726 association, or credit union.

1727 (15)~~(11)~~ "Health care provider" means any state-licensed
 1728 entity that provides and receives payment for health care
 1729 services. These entities include, but are not limited to,
 1730 hospitals, outpatient centers, physician practices, and skilled
 1731 nursing facilities.

1732 (16)~~(12)~~ "Holder" means:

1733 (a) A person, ~~wherever organized or domiciled,~~ who is in
 1734 possession or control or has custody of property or the rights
 1735 to property belonging to another; is indebted to another on an
 1736 obligation; or is obligated to hold for the account of, or to
 1737 deliver or pay to, the owner, property subject to this chapter;
 1738 or÷

1739 ~~(a) In possession of property belonging to another;~~

1740 ~~(b) A trustee in case of a trust; or~~

1741 ~~(c) Indebted to another on an obligation.~~

1742 (17)~~(13)~~ "Insurance company" means an association,
 1743 corporation, or fraternal or mutual benefit organization,
 1744 whether for profit or not for profit, which is engaged in
 1745 providing insurance coverage.

1746 (18)~~(14)~~ "Intangible property" means an item of value that
 1747 cannot be touched or physically held. The term includes, but is
 1748 not limited to includes, by way of illustration and not
 1749 limitation:

1750 (a) Moneys, checks, virtual currency, drafts, deposits,

1751 interest, dividends, and income.

1752 (b) Credit balances, customer overpayments, security
 1753 deposits and other instruments as defined by chapter 679,
 1754 refunds, unpaid wages, unused airline tickets, and unidentified
 1755 remittances.

1756 (c) Stocks, and other intangible ownership interests in
 1757 business associations.

1758 (d) Moneys deposited to redeem stocks, bonds, bearer
 1759 bonds, original issue discount bonds, coupons, and other
 1760 securities, or to make distributions.

1761 (e) Amounts due and payable under the terms of insurance
 1762 policies.

1763 (f) Amounts distributable from a trust or custodial fund
 1764 established under a plan to provide any health, welfare,
 1765 pension, vacation, severance, retirement, death, stock purchase,
 1766 profit sharing, employee savings, supplemental unemployment
 1767 insurance, or similar benefit.

1768 (19)~~(15)~~ "Last known address" means a description of the
 1769 location of the apparent owner sufficient for the purpose of the
 1770 delivery of mail. For the purposes of identifying, reporting,
 1771 and remitting property to the department which is presumed to be
 1772 unclaimed, "last known address" includes any partial description
 1773 of the location of the apparent owner sufficient to establish
 1774 the apparent owner was a resident of this state at the time of
 1775 last contact with the apparent owner or at the time the property

1776 became due and payable.

1777 ~~(20)-(16)~~ "Lawful charges" means charges against dormant
 1778 accounts that are authorized by statute for the purpose of
 1779 offsetting the costs of maintaining the dormant account.

1780 ~~(21)-(17)~~ "Managed care payor" means a health care plan
 1781 that has a defined system of selecting and limiting health care
 1782 providers as evidenced by a managed care contract with the
 1783 health care providers. These plans include, but are not limited
 1784 to, managed care health insurance companies and health
 1785 maintenance organizations.

1786 ~~(22)-(18)~~ "Owner" means a person, or the person's legal
 1787 representative, entitled to receive or having a legal or
 1788 equitable interest in or claim against property subject to this
 1789 chapter; a depositor in the case of a deposit; a beneficiary in
 1790 the case of a trust or a deposit in trust; or a payee in the
 1791 case of a negotiable instrument or other intangible property a
 1792 ~~depositor in the case of a deposit, a beneficiary in the case of~~
 1793 ~~a trust or a deposit in trust, or a payee in the case of other~~
 1794 ~~intangible property, or a person having a legal or equitable~~
 1795 ~~interest in property subject to this chapter or his or her legal~~
 1796 ~~representative.~~

1797 ~~(23)~~ "Person" means an individual; estate; business
 1798 association; corporation; firm; association; joint adventure;
 1799 partnership; government or governmental subdivision, agency, or
 1800 instrumentality; or any other legal or commercial entity.

1801 (24)~~(19)~~ "Public corporation" means a corporation created
 1802 by the state, founded and owned in the public interest,
 1803 supported by public funds, and governed by those deriving their
 1804 power from the state.

1805 (25) "Record" means information that is inscribed on a
 1806 tangible medium or that is stored in an electronic or other
 1807 medium and is retrievable in perceivable form.

1808 (26)~~(20)~~ "Reportable period" means the calendar year
 1809 ending December 31 of each year.

1810 (27)~~(21)~~ "State," when applied to a part of the United
 1811 States, includes any state, district, commonwealth, territory,
 1812 insular possession, and any other area subject to the
 1813 legislative authority of the United States.

1814 (28)~~(22)~~ "Trust instrument" means a trust instrument as
 1815 defined in s. 736.0103.

1816 ~~(23) "Ultimate equitable owner" means a natural person~~
 1817 ~~who, directly or indirectly, owns or controls an ownership~~
 1818 ~~interest in a corporation, a foreign corporation, an alien~~
 1819 ~~business organization, or any other form of business~~
 1820 ~~organization, regardless of whether such natural person owns or~~
 1821 ~~controls such ownership interest through one or more natural~~
 1822 ~~persons or one or more proxies, powers of attorney, nominees,~~
 1823 ~~corporations, associations, partnerships, trusts, joint stock~~
 1824 ~~companies, or other entities or devices, or any combination~~
 1825 ~~thereof.~~

1826 (29) "Unclaimed Property Purchase Agreement" means the
 1827 form adopted by the department pursuant to s. 717.135 which must
 1828 be used, without modification or amendment, by a claimant's
 1829 representative to purchase unclaimed property from an owner.

1830 (30) "Unclaimed Property Recovery Agreement" means the
 1831 form adopted by the department pursuant to s. 717.135 which must
 1832 be used, without modification or amendment, by a claimant's
 1833 representative to obtain an owner's consent and authority to
 1834 recover unclaimed property on the owner's behalf.

1835 (31)~~(24)~~ "United States" means any state, district,
 1836 commonwealth, territory, insular possession, and any other area
 1837 subject to the legislative authority of the United States of
 1838 America.

1839 (32)~~(25)~~ "Utility" means a person who owns or operates,
 1840 for public use, any plant, equipment, property, franchise, or
 1841 license for the transmission of communications or the
 1842 production, storage, transmission, sale, delivery, or furnishing
 1843 of electricity, water, steam, or gas.

1844 (33) (a) "Virtual currency" means digital units of exchange
 1845 that:

- 1846 1. Have a centralized repository or administrator;
- 1847 2. Are decentralized and have no centralized repository or
 1848 administrator; or
- 1849 3. May be created or obtained by computing or
 1850 manufacturing effort.

1851 (b) The term does not include any of the following:
 1852 1. Digital units that:
 1853 a. Are used solely within online gaming platforms;
 1854 b. Have no market or application outside of the online
 1855 gaming platforms in sub-subparagraph a.;
 1856 c. Cannot be converted into, or redeemed for, fiat
 1857 currency or virtual currency; and
 1858 d. Can or cannot be redeemed for real-world goods,
 1859 services, discounts, or purchases.
 1860 2. Digital units that can be redeemed for:
 1861 a. Real-world goods, services, discounts, or purchases as
 1862 part of a customer affinity or rewards program with the issuer
 1863 or other designated merchants; or
 1864 b. Digital units in another customer affinity or rewards
 1865 program, but cannot be converted into, or redeemed for, fiat
 1866 currency or virtual currency.
 1867 3. Digital units used as part of prepaid cards.
 1868 Section 39. Subsections (3) and (4) are added to section
 1869 717.102, Florida Statutes, to read:
 1870 717.102 Property presumed unclaimed; general rule.—
 1871 (3) A presumption that property is unclaimed is rebutted
 1872 by an apparent owner's expression of interest in the property.
 1873 An owner's expression of interest in property includes:
 1874 (a) A record communicated by the apparent owner to the
 1875 holder or agent of the holder concerning the property or the

1876 account in which the property is held;
1877 (b) An oral communication by the apparent owner to the
1878 holder or agent of the holder concerning the property or the
1879 account in which the property is held, if the holder or its
1880 agent contemporaneously makes and preserves a record of the fact
1881 of the apparent owner's communication;
1882 (c) Presentment of a check or other instrument of payment
1883 of a dividend, interest payment, or other distribution, with
1884 respect to an account, underlying security, or interest in a
1885 business association;
1886 (d) Activity directed by an apparent owner in the account
1887 in which the property is held, including accessing the account
1888 or information concerning the account, or a direction by the
1889 apparent owner to increase, decrease, or otherwise change the
1890 amount or type of property held in the account;
1891 (e) A deposit into or withdrawal from an account at a
1892 financial organization, excluding an automatic deposit or
1893 withdrawal previously authorized by the apparent owner or an
1894 automatic reinvestment of dividends or interest, which does not
1895 constitute an expression of interest; or
1896 (f) Any other action by the apparent owner which
1897 reasonably demonstrates to the holder that the apparent owner
1898 knows that the property exists.
1899 (4) A deceased owner is incapable of expressing an
1900 interest in property.

1901 Section 40. Subsection (5) of section 717.106, Florida
 1902 Statutes, is amended to read:

1903 717.106 Bank deposits and funds in financial
 1904 organizations.—

1905 (5) If the documents establishing a deposit described in
 1906 subsection (1) state the address of a beneficiary of the
 1907 deposit, and the account has a value of at least \$50, notice
 1908 shall be given to the beneficiary as provided for notice to the
 1909 apparent owner under s. 717.117(6) ~~s. 717.117(4)~~. This
 1910 subsection shall apply to accounts opened on or after October 1,
 1911 1990.

1912 Section 41. Section 717.1065, Florida Statutes, is created
 1913 to read:

1914 717.1065 Virtual currency.—

1915 (1) Any virtual currency held or owing by a banking
 1916 organization, corporation, custodian, exchange, or other entity
 1917 engaged in virtual currency business activity is presumed
 1918 unclaimed unless the owner, within 5 years, has communicated in
 1919 writing with the banking organization, corporation, custodian,
 1920 exchange, or other entity engaged in virtual currency business
 1921 activity concerning the virtual currency or otherwise indicated
 1922 an interest as evidenced by a memorandum or other record on file
 1923 with the banking organization, corporation, custodian, exchange,
 1924 or other entity engaged in virtual currency business activity.

1925 (2) A holder may not deduct from the amount of any

1926 instrument subject to this section any charges imposed by reason
 1927 of the failure to present the instrument for encashment unless
 1928 there is a valid and enforceable written contract between the
 1929 holder and the owner of the instrument pursuant to which the
 1930 holder may impose those charges and does not regularly reverse
 1931 or otherwise cancel those charges with respect to the
 1932 instrument.

1933 Section 42. Paragraph (a) of subsection (1) of section
 1934 717.1101, Florida Statutes, is amended to read:

1935 717.1101 Unclaimed equity and debt of business
 1936 associations.—

1937 (1)(a) Stock or other equity interest in a business
 1938 association is presumed unclaimed on the date of ~~3 years after~~
 1939 the earliest of the following:

1940 1. Three years after ~~The date of~~ the most recent of any
 1941 owner-generated activity or communication related to the
 1942 account, as recorded and maintained in the holder's database and
 1943 records systems sufficient enough to demonstrate the owners
 1944 continued awareness or interest in the property ~~dividend, stock~~
 1945 ~~split, or other distribution unclaimed by the apparent owner;~~

1946 2. Three years after the date of the death of the owner,
 1947 as evidenced by: ~~The date of a statement of account or other~~
 1948 ~~notification or communication that was returned as~~
 1949 ~~undeliverable; or~~

1950 a. Notice to the holder of the owner's death by an

1951 administrator, beneficiary, relative, or trustee, or by a
 1952 personal representative or other legal representative of the
 1953 owner's estate;

1954 b. Receipt by the holder of a copy of the death
 1955 certificate of the owner;

1956 c. Confirmation by the holder of the owner's death through
 1957 other means; or

1958 d. Other evidence from which the holder may reasonably
 1959 conclude that the owner is deceased; or

1960 3. One year after the date on which the holder receives
 1961 notice under subparagraph 2. if the notice is received 2 years
 1962 or less after the owner's death and the holder lacked knowledge
 1963 of the owner's death during that period of 2 years or less ~~The~~
 1964 ~~date the holder discontinued mailings, notifications, or~~
 1965 ~~communications to the apparent owner.~~

1966 Section 43. Subsection (1) of section 717.112, Florida
 1967 Statutes, is amended to read:

1968 717.112 Property held by agents and fiduciaries.—

1969 (1) ~~Except as provided in ss. 717.1125 and 733.816,~~ All
 1970 intangible property and any income or increment thereon held in
 1971 a fiduciary capacity for the benefit of another person,
 1972 including property held by an attorney in fact or an agent,
 1973 except as provided in ss. 717.1125 and 733.816, is presumed
 1974 unclaimed unless the owner has within 5 years after it has
 1975 become payable or distributable increased or decreased the

1976 principal, accepted payment of principal or income, communicated
 1977 in writing concerning the property, or otherwise indicated an
 1978 interest as evidenced by a memorandum or other record on file
 1979 with the fiduciary.

1980 Section 44. Section 717.117, Florida Statutes, is amended
 1981 to read:

1982 717.117 Report of unclaimed property.—

1983 (1) Every person holding funds or other property, tangible
 1984 or intangible, presumed unclaimed and subject to custody as
 1985 unclaimed property under this chapter shall report to the
 1986 department ~~on such forms as the department may prescribe by~~
 1987 ~~rule. In lieu of forms, a report identifying 25 or more~~
 1988 ~~different apparent owners must be submitted by the holder via~~
 1989 electronic medium as the department may prescribe by rule. The
 1990 report must include:

1991 (a) ~~Except for traveler's checks and money orders,~~ The
 1992 name, social security number or taxpayer identification number,
 1993 ~~and date of birth, if known,~~ and last known address, ~~if any,~~ of
 1994 each person appearing from the records of the holder to be the
 1995 owner of any property which is presumed unclaimed and which has
 1996 a value of \$10 ~~\$50~~ or more.

1997 (b) For unclaimed funds that ~~which~~ have a value of \$10 ~~\$50~~
 1998 or more held or owing under any life or endowment insurance
 1999 policy or annuity contract, the identifying information provided
 2000 in paragraph (a) for both ~~full name, taxpayer identification~~

2001 ~~number or social security number, date of birth, if known, and~~
 2002 ~~last known address of the insured or annuitant and of the~~
 2003 beneficiary according to records of the insurance company
 2004 holding or owing the funds.

2005 (c) For all tangible property held in a safe-deposit box
 2006 or other safekeeping repository, a description of the property
 2007 and the place where the property is held and may be inspected by
 2008 the department, and any amounts owing to the holder. Contents of
 2009 a safe-deposit box or other safekeeping repository which consist
 2010 of documents or writings of a private nature and which have
 2011 little or no apparent value shall not be presumed unclaimed.

2012 (d) The nature or type of property, any accounting or ~~and~~
 2013 identifying number associated with the property, a if any, or
 2014 description of the property, and the amount appearing from the
 2015 records to be due. Items of value under \$10 ~~\$50~~ each may be
 2016 reported in the aggregate.

2017 (e) The date the property became payable, demandable, or
 2018 returnable, and the date of the last transaction with the
 2019 apparent owner with respect to the property.

2020 (f) Any other information the department may prescribe by
 2021 rule as necessary for the administration of this chapter.

2022 (2) If the total value of all presumed unclaimed property,
 2023 whether tangible or intangible, held by a person is less than
 2024 \$10, a zero balance report may be filed for that reporting
 2025 period.

2026 ~~(f) Any person or business association or public~~
2027 ~~corporation holding funds presumed unclaimed and having a total~~
2028 ~~value of \$10 or less may file a zero balance report for that~~
2029 ~~reporting period. The balance brought forward to the new~~
2030 ~~reporting period is zero.~~

2031 ~~(g) Such other information as the department may prescribe~~
2032 ~~by rule as necessary for the administration of this chapter.~~

2033 (3)~~(h)~~ Credit balances, customer overpayments, security
2034 deposits, and refunds having a value of less than \$10 shall not
2035 be presumed unclaimed.

2036 (4)~~(2)~~ If the holder of property presumed unclaimed and
2037 subject to custody as unclaimed property is a successor holder
2038 or if the holder has changed the holder's name while in
2039 possession of the property, the holder shall file with the
2040 holder's report all known names and addresses of each prior
2041 holder of the property. Compliance with this subsection means
2042 the holder exercises reasonable and prudent efforts to determine
2043 the names of all prior holders.

2044 (5)~~(3)~~ The report must be filed before May 1 of each year.
2045 The report shall apply to the preceding calendar year. On
2046 written request by any person required to file a report, and
2047 upon a showing of good cause, the department may extend the
2048 reporting date. The department may impose and collect a penalty
2049 of \$10 per day up to a maximum of \$500 for the failure to timely
2050 report, if an extension was not provided or if the holder of the

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2051 property failed ~~the failure~~ to include in a report information
2052 required by this chapter which was in the holder's possession at
2053 the time of reporting. The penalty shall be remitted to the
2054 department within 30 days after the date of the notification to
2055 the holder that the penalty is due and owing. As necessary for
2056 proper administration of this chapter, the department may waive
2057 any penalty due with appropriate justification. ~~On written~~
2058 ~~request by any person required to file a report and upon a~~
2059 ~~showing of good cause, the department may postpone the reporting~~
2060 ~~date~~. The department must provide information contained in a
2061 report filed with the department to any person requesting a copy
2062 of the report or information contained in a report, to the
2063 extent the information requested is not confidential, within 45
2064 days after the department determines that the report ~~has been~~
2065 ~~processed and added to the unclaimed property database~~
2066 ~~subsequent to a determination that the report is accurate and~~
2067 acceptable and that the reported property is the same as the
2068 remitted property.

2069 ~~(6)(4)~~ Holders of inactive accounts having a value of \$50
2070 or more shall use due diligence to locate and notify apparent
2071 owners that the entity is holding unclaimed property available
2072 for them to recover. Not more than 120 days and not less than 60
2073 days prior to filing the report required by this section, the
2074 holder in possession of property presumed unclaimed and subject
2075 to custody as unclaimed property under this chapter shall send

2076 | written notice by first-class United States mail to the apparent
 2077 | owner at the apparent owner's last known address from the
 2078 | holder's records or from other available sources, or via
 2079 | electronic mail if the apparent owner has elected this method of
 2080 | delivery, informing the apparent owner that the holder is in
 2081 | possession of property subject to this chapter, if the holder
 2082 | has in its records a mailing or electronic ~~an~~ address for the
 2083 | apparent owner which the holder's records do not disclose to be
 2084 | inaccurate. These two means of contact are not mutually
 2085 | exclusive; if the mailing address is determined to be
 2086 | inaccurate, electronic mail may be used if so elected by the
 2087 | apparent owner.

2088 | (7) The written notice to the apparent owner required
 2089 | under this section must:

2090 | (a) Contain a heading that reads substantially as follows:
 2091 | "Notice. The State of Florida requires us to notify you that
 2092 | your property may be transferred to the custody of the Florida
 2093 | Department of Financial Services if you do not contact us before
 2094 | (insert date that is 30 days after the date of notice)."

2095 | (b) Identify the type, nature, and, except for property
 2096 | that does not have a fixed value, value of the property that is
 2097 | the subject of the notice.

2098 | (c) State that the property will be turned over to the
 2099 | custody of the department if no response is received within 30
 2100 | days after the date of the notice.

2101 (d) State that any property that is not legal tender of
 2102 the United States may be sold or liquidated by the department.

2103 (e) State that after the property is turned over to the
 2104 department, an apparent owner seeking return of the property may
 2105 file a claim with the department.

2106 (f) State that the property is currently with a holder and
 2107 provide instructions that the apparent owner must follow to
 2108 prevent the holder from reporting and paying for the property or
 2109 from delivering the property to the department.

2110 (8)-(5) Any holder of intangible property may file with the
 2111 department a petition for determination that the property is
 2112 unclaimed requesting the department to accept custody of the
 2113 property. The petition shall state any special circumstances
 2114 that exist, contain the information required by subsection (4)
 2115 ~~(2)~~, and show that a diligent search has been made to locate the
 2116 owner. If the department finds that the proof of diligent search
 2117 is satisfactory, it shall give notice as provided in s. 717.118
 2118 and accept custody of the property.

2119 (9)-(6) Upon written request by any entity or person
 2120 required to file a report, stating such entity's or person's
 2121 justification for such action, the department may place that
 2122 entity or person in an inactive status as an unclaimed property
 2123 "holder."

2124 (10)-(7)(a) This section does not apply to the unclaimed
 2125 patronage refunds as provided for by contract or through bylaw

2126 provisions of entities organized under chapter 425 or that are
 2127 exempt from ad valorem taxation pursuant to s. 196.2002.

2128 (b) This section does not apply to intangible property
 2129 held, issued, or owing by a business association subject to the
 2130 jurisdiction of the United States Surface Transportation Board
 2131 or its successor federal agency if the apparent owner of such
 2132 intangible property is a business association. The holder of
 2133 such property does not have any obligation to report, to pay, or
 2134 to deliver such property to the department.

2135 (c) This section does not apply to credit balances,
 2136 overpayments, refunds, or outstanding checks owed by a health
 2137 care provider to a managed care payor with whom the health care
 2138 provider has a managed care contract, provided that the credit
 2139 balances, overpayments, refunds, or outstanding checks become
 2140 due and owing pursuant to the managed care contract.

2141 (11)~~(8)~~(a) As used in this subsection, the term "property
 2142 identifier" means the descriptor used by the holder to identify
 2143 the unclaimed property.

2144 (b) Social security numbers and property identifiers
 2145 contained in reports required under this section, held by the
 2146 department, are confidential and exempt from s. 119.07(1) and s.
 2147 24(a), Art. I of the State Constitution.

2148 (c) This exemption applies to social security numbers and
 2149 property identifiers held by the department before, on, or after
 2150 the effective date of this exemption.

2151 Section 45. Subsections (4), (5), and (6) of section
 2152 717.119, Florida Statutes, are renumbered as subsections (5),
 2153 (6), and (7), respectively, and a new subsection (4) and
 2154 subsection (8) are added to that section, to read:

2155 717.119 Payment or delivery of unclaimed property.—

2156 (4) All virtual currency reported under this chapter on
 2157 the annual report filing required in s. 717.117 shall be
 2158 remitted to the department with the report. The holder shall
 2159 liquidate the virtual currency and remit the proceeds to the
 2160 department. The liquidation must occur within 30 before the
 2161 filing of the report. Upon delivery of the virtual currency
 2162 proceeds to the department, the holder is relieved of all
 2163 liability of every kind in accordance with the provisions of s.
 2164 717.1201 to every person for any losses or damages resulting to
 2165 the person by the delivery to the department of the virtual
 2166 currency proceeds.

2167 (8) A holder may not assign or otherwise transfer its
 2168 obligation to report, pay, or deliver property or to comply with
 2169 the provisions of this chapter, other than to a parent,
 2170 subsidiary, or affiliate of the holder.

2171 (a) Unless otherwise agreed to by the parties to a
 2172 transaction, the holder's successor by merger or consolidation,
 2173 or any person or entity that acquires all or substantially all
 2174 of the holder's capital stock or assets, is responsible for
 2175 fulfilling the holder's obligation to report, pay, or deliver

2176 property or to comply with the duties of this chapter regarding
 2177 the transfer to it of property owed to and being held for an
 2178 owner resulting from the merger, consolidation, or acquisition.

2179 (b) This subsection does not prohibit a holder from
 2180 contracting with a third party for the reporting of unclaimed
 2181 property, but the holder remains responsible to the department
 2182 for the complete, accurate, and timely reporting of the
 2183 property.

2184 Section 46. Section 717.1201, Florida Statutes, is amended
 2185 to read:

2186 717.1201 Custody by state; holder ~~relieved from~~ liability;
 2187 reimbursement of holder paying claim; reclaiming for owner;
 2188 ~~defense of holder;~~ payment of safe-deposit box or repository
 2189 charges.—

2190 (1) Upon the good faith payment or delivery of property to
 2191 the department, the state assumes custody and responsibility for
 2192 the safekeeping of property. Any person who pays or delivers
 2193 property to the department in good faith is relieved of all
 2194 liability to the extent of the value of the property paid or
 2195 delivered for any claim then existing or which thereafter may
 2196 arise or be made in respect to the property.

2197 (a) A holder's substantial compliance with s. 717.117(4)
 2198 and good faith payment or delivery of property to the department
 2199 terminates any legal relationship between the holder and the
 2200 owner with respect to the property reported and releases and

2201 discharges the holder from any and all liability to the owner,
2202 the owner's heirs, personal representatives, successors, or
2203 assigns by reason of such payment or delivery, regardless of
2204 whether such property is in fact and in law abandoned property,
2205 and such delivery and payment may be plead as a bar to recovery
2206 and are a conclusive defense in any suit or action brought by
2207 the owner, the owner's heirs, personal representatives,
2208 successors, and assigns or any claimant against the holder by
2209 reason of such delivery or payment.

2210 (b) If the holder pays or delivers property to the
2211 department in good faith and thereafter any other person claims
2212 the property from the holder paying or delivering, or another
2213 state claims the money or property under that state's laws
2214 relating to escheat or abandoned or unclaimed property, the
2215 department, upon written notice of the claim, shall defend the
2216 holder against the claim and indemnify the holder against any
2217 liability on the claim, except that a holder may not be
2218 indemnified against penalties imposed by another state.

2219 (2) For the purposes of this section, a payment or
2220 delivery of property is made in good faith if:

2221 (a) The payment or delivery was made in conjunction with
2222 an accurate and acceptable report.

2223 (b) The payment or delivery was made in a reasonable
2224 attempt to comply with this chapter.

2225 (c) The holder had a reasonable basis for believing, based

2226 on the facts then known, that the property was unclaimed and
2227 subject to this chapter.

2228 (d) There is no showing that the records pursuant to which
2229 the delivery was made did not meet reasonable commercial
2230 standards of practice in the industry.

2231 (3)-(2) Any holder who has paid money to the department
2232 pursuant to this chapter may make payment to any person
2233 appearing to be entitled to payment and, upon filing proof that
2234 the payee is entitled thereto, the department shall forthwith
2235 repay the holder without deduction of any fee or other charges.
2236 If repayment is sought for a payment made on a negotiable
2237 instrument, including a traveler's check or money order, the
2238 holder must be repaid under this subsection upon filing proof
2239 that the instrument was duly presented and that the payee is
2240 entitled to payment. The holder shall be repaid for payment made
2241 under this subsection even if the payment was made to a person
2242 whose claim was barred under s. 717.129(1).

2243 (4)-(3) Any holder who has delivered property, including a
2244 certificate of any interest in a business association, other
2245 than money to the department pursuant to this chapter may
2246 reclaim the property if still in the possession of the
2247 department, without payment of any fee or other charges, upon
2248 filing proof that the owner has claimed the property from the
2249 holder.

2250 (5)-(4) The department may accept an affidavit of the

2251 holder stating the facts that entitle the holder to recover
 2252 money and property under this section as sufficient proof.

2253 ~~(5) If the holder pays or delivers property to the~~
 2254 ~~department in good faith and thereafter any other person claims~~
 2255 ~~the property from the holder paying or delivering, or another~~
 2256 ~~state claims the money or property under that state's laws~~
 2257 ~~relating to escheat or abandoned or unclaimed property, the~~
 2258 ~~department, upon written notice of the claim, shall defend the~~
 2259 ~~holder against the claim and indemnify the holder against any~~
 2260 ~~liability on the claim.~~

2261 ~~(6) For the purposes of this section, "good faith" means~~
 2262 ~~that:~~

2263 ~~(a) Payment or delivery was made in a reasonable attempt~~
 2264 ~~to comply with this chapter.~~

2265 ~~(b) The person delivering the property was not a fiduciary~~
 2266 ~~then in breach of trust in respect to the property and had a~~
 2267 ~~reasonable basis for believing, based on the facts then known to~~
 2268 ~~that person, that the property was unclaimed for the purposes of~~
 2269 ~~this chapter.~~

2270 ~~(c) There is no showing that the records pursuant to which~~
 2271 ~~the delivery was made did not meet reasonable commercial~~
 2272 ~~standards of practice in the industry.~~

2273 (6) ~~(7)~~ Property removed from a safe-deposit box or other
 2274 safekeeping repository is received by the department subject to
 2275 the holder's right under this subsection to be reimbursed for

2276 | the actual cost of the opening and to any valid lien or contract
 2277 | providing for the holder to be reimbursed for unpaid rent or
 2278 | storage charges. The department shall make the reimbursement to
 2279 | the holder out of the proceeds remaining after the deduction of
 2280 | the department's selling cost.

2281 | (7) If it appears to the satisfaction of the department
 2282 | that, because of some mistake of fact, error in calculation, or
 2283 | erroneous interpretation of a statute, a person has paid or
 2284 | delivered to the department pursuant to any provision of this
 2285 | chapter any money or other property not required by this chapter
 2286 | to be so paid or delivered, the department may, within 5 years
 2287 | after such erroneous payment or delivery, refund or redeliver
 2288 | such money or other property to the person, provided that such
 2289 | money or property has not been paid or delivered to a claimant
 2290 | or otherwise disposed of in accordance with this chapter.

2291 | Section 47. Subsection (1) of section 717.123, Florida
 2292 | Statutes, is amended to read:

2293 | 717.123 Deposit of funds.—

2294 | (1) All funds received under this chapter, including the
 2295 | proceeds from the sale of unclaimed property under s. 717.122,
 2296 | shall forthwith be deposited by the department in the Unclaimed
 2297 | Property Trust Fund. The department shall retain, from funds
 2298 | received under this chapter, an amount not exceeding \$65 ~~\$15~~
 2299 | million from which the department shall make prompt payment of
 2300 | claims allowed by the department and shall pay the costs

2301 incurred by the department in administering and enforcing this
 2302 chapter. All remaining funds received by the department under
 2303 this chapter shall be deposited by the department into the State
 2304 School Fund.

2305 Section 48. Section 717.1242, Florida Statutes, is amended
 2306 to read:

2307 717.1242 Restatement of jurisdiction of the circuit court
 2308 sitting in probate and the department.—

2309 (1) It is and has been the intent of the Legislature that,
 2310 pursuant to s. 26.012(2)(b), circuit courts have jurisdiction of
 2311 proceedings relating to the settlement of the estates of
 2312 decedents and other jurisdiction usually pertaining to courts of
 2313 probate. It is and has been the intent of the Legislature that,
 2314 pursuant to this chapter ~~s. 717.124~~, the department determines
 2315 the merits of claims and entitlements to ~~for~~ property paid or
 2316 delivered to the department under this chapter. Consistent with
 2317 this legislative intent, any ~~estate or~~ beneficiary, devisee,
 2318 heir, personal representative, or other interested person, as
 2319 those terms are defined in s. 731.201, of an estate seeking to
 2320 obtain property paid or delivered to the department under this
 2321 chapter must file a claim with the department as provided in s.
 2322 717.124.

2323 (2) If a beneficiary, devisee, heir, personal
 2324 representative, or other interested person, as those terms are
 2325 defined in s. 731.201, of an estate seeks administration of the

2326 estate, of which unclaimed property makes up 50 percent or more
 2327 of the assets, the department shall be considered an interested
 2328 party and provided with notice of any such proceeding as
 2329 provided in the Florida Probate Code and the Florida Probate
 2330 Rules.

2331 (3)-(2) If a beneficiary, devisee, heir, personal
 2332 representative, or other interested person, as those terms are
 2333 defined in s. 731.201, of an any estate or heir of an estate
 2334 seeks or obtains an order from a circuit court sitting in
 2335 probate directing the department to pay or deliver unclaimed
 2336 property to any person property paid or delivered to the
 2337 department under this chapter, and the notice required in
 2338 subsection (2) was not provided or administration of the estate
 2339 was obtained by fraud or mistake of fact, the party seeking the
 2340 order estate or heir shall be ordered to pay the department's
 2341 department reasonable costs and attorney attorney's fees in any
 2342 proceeding brought by the department to oppose, appeal, or
 2343 collaterally attack the order if the department is the
 2344 prevailing party in any such proceeding.

2345 Section 49. Subsection (4) of section 717.1243, Florida
 2346 Statutes, is amended to read:

2347 717.1243 Small estate accounts.—

2348 (4) This section ~~only~~ applies only if all of the unclaimed
 2349 property held by the department on behalf of the owner has an
 2350 aggregate value of \$20,000 ~~\$10,000~~ or less and no probate

2351 proceeding is pending.

2352 Section 50. Section 717.1245, Florida Statutes, is amended
2353 to read:

2354 717.1245 Garnishment of unclaimed property.—

2355 (1) In addition to the fees, costs, and compensation
2356 specified in ss. 77.17 and 77.28, if any person files a petition
2357 for writ of garnishment seeking to obtain property paid or
2358 delivered to the department under this chapter, the plaintiff
2359 petitioner shall be ordered to pay the department reasonable
2360 costs and attorney ~~attorney's~~ fees if in any proceeding brought
2361 by the department ~~opposes to oppose,~~ appeals appeal, or
2362 collaterally attacks ~~attack~~ the petition or writ and if the
2363 department is the prevailing party in any such proceeding.

2364 (2) If a final judgment on the writ is issued in the
2365 plaintiff's favor, the plaintiff must still file a claim with
2366 the department as provided in s. 717.124.

2367 Section 51. Subsection (2) of section 717.129, Florida
2368 Statutes, is amended to read:

2369 717.129 Periods of limitation.—

2370 (2) The department may not commence an ~~No~~ action or
2371 proceeding to enforce this chapter with respect to the
2372 reporting, payment, or delivery of property or any other duty of
2373 a holder under this chapter ~~may be commenced by the department~~
2374 ~~with respect to any duty of a holder under this chapter~~ more
2375 than 10 years after the duty arose. The period of limitation

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2376 established under this subsection is tolled by the earlier of
2377 the department's or audit agent's delivery of a notice that a
2378 holder is subject to an audit or examination under s. 717.1301
2379 or the holder's written election to enter into an unclaimed
2380 property voluntary disclosure agreement.

2381 Section 52. Section 717.1301, Florida Statutes, is amended
2382 to read:

2383 717.1301 Investigations; examinations; subpoenas.—

2384 (1) To carry out the chapter's purpose of protecting the
2385 interest of missing owners through the safeguarding of their
2386 property and to administer and enforce this chapter, the
2387 department may:

2388 (a) Investigate, examine, inspect, request, or otherwise
2389 gather information or evidence on, claim documents from a
2390 claimant or a claimant's representative during its review of a
2391 claim.

2392 (b) Audit the records of a person or the records in the
2393 possession of an agent, representative, subsidiary, or affiliate
2394 of the person subject to this chapter to determine whether the
2395 person complied with this chapter. Such records may include
2396 information to verify the completeness or accuracy of the
2397 records provided, even if such records may not identify property
2398 reportable to the department.

2399 (c) Take testimony of a person, including the person's
2400 employee, agent, representative, subsidiary, or affiliate, to

2401 determine whether the person complied with this chapter.

2402 (d) Issue an administrative subpoena to require that the
2403 records specified in paragraph (b) be made available for
2404 examination or audit and that the testimony specified in
2405 paragraph (c) be provided.

2406 (e) Bring an action in a court of competent jurisdiction
2407 seeking enforcement of an administrative subpoena issued under
2408 this section, which the court shall consider under procedures
2409 that will lead to an expeditious resolution of the action.

2410 (f) Bring an administrative action or an action in a court
2411 of competent jurisdiction to enforce this chapter.

2412 (2) If a person is subject to reporting property under
2413 this chapter, the department may require the person to file a
2414 verified report in a form prescribed by the department. The
2415 verified report must:

2416 (a) State whether the person is holding property
2417 reportable under this chapter;

2418 (b) Describe the property not previously reported, the
2419 property about which the department has inquired, or the
2420 property that is in dispute as to whether it is reportable under
2421 this chapter; and

2422 (c) State the amount or value of the property.

2423 (3) The department may authorize a compliance review of a
2424 report for a specified reporting year. The review must be
2425 limited to the contents of the report filed, as required by s.

2426 717.117 and subsection (2), and all supporting documents related
2427 to the reports. If the review results in a finding of a
2428 deficiency in unclaimed property due and payable to the
2429 department, the department shall notify the holder in writing of
2430 the amount of deficiency within 1 year after the authorization
2431 of the compliance review. If the holder fails to pay the
2432 deficiency within 90 days, the department may seek to enforce
2433 the assessment under subsection (1). The department is not
2434 required to conduct a review under this section before
2435 initiating an audit.

2436 (4) Notwithstanding any other provision of law, in a
2437 contract providing for the location or collection of unclaimed
2438 property, the department may authorize the contractor to deduct
2439 its fees and expenses for services provided under the contract
2440 from the unclaimed property that the contractor has recovered or
2441 collected under the contract. The department shall annually
2442 report to the Chief Financial Officer the total amount collected
2443 or recovered by each contractor during the previous fiscal year
2444 and the total fees and expenses deducted by each contractor.

2445 ~~(1) The department may make investigations and~~
2446 ~~examinations within or outside this state of claims, reports,~~
2447 ~~and other records as it deems necessary to administer and~~
2448 ~~enforce the provisions of this chapter. In such investigations~~
2449 ~~and examinations the department may administer oaths, examine~~
2450 ~~witnesses, issue subpoenas, and otherwise gather evidence. The~~

2451 ~~department may request any person who has not filed a report~~
 2452 ~~under s. 717.117 to file a verified report stating whether or~~
 2453 ~~not the person is holding any unclaimed property reportable or~~
 2454 ~~deliverable under this chapter.~~

2455 ~~(2) Subpoenas for witnesses whose evidence is deemed~~
 2456 ~~material to any investigation or examination under this section~~
 2457 ~~may be issued by the department under seal of the department, or~~
 2458 ~~by any court of competent jurisdiction, commanding such~~
 2459 ~~witnesses to appear before the department at a time and place~~
 2460 ~~named and to bring such books, records, and documents as may be~~
 2461 ~~specified or to submit such books, records, and documents to~~
 2462 ~~inspection. Such subpoenas may be served by an authorized~~
 2463 ~~representative of the department.~~

2464 ~~(3) If any person shall refuse to testify, produce books,~~
 2465 ~~records, and documents, or otherwise refuse to obey a subpoena~~
 2466 ~~issued under this section, the department may present its~~
 2467 ~~petition to a court of competent jurisdiction in or for the~~
 2468 ~~county in which such person resides or has its principal place~~
 2469 ~~of business, whereupon the court shall issue its rule nisi~~
 2470 ~~requiring such person to obey forthwith the subpoena issued by~~
 2471 ~~the department or show cause for failing to obey said subpoena.~~
 2472 ~~Unless said person shows sufficient cause for failing to obey~~
 2473 ~~the subpoena, the court shall forthwith direct such person to~~
 2474 ~~obey the same subject to such punishment as the court may direct~~
 2475 ~~including, but not limited to, the restraint, by injunction or~~

2476 ~~by appointment of a receiver, of any transfer, pledge,~~
 2477 ~~assignment, or other disposition of such person's assets or any~~
 2478 ~~concealment, alteration, destruction, or other disposition of~~
 2479 ~~subpoenaed books, records, or documents as the court deems~~
 2480 ~~appropriate, until such person has fully complied with such~~
 2481 ~~subpoena and the department has completed its investigation or~~
 2482 ~~examination. The department is entitled to the summary procedure~~
 2483 ~~provided in s. 51.011, and the court shall advance the cause on~~
 2484 ~~its calendar. Costs incurred by the department to obtain an~~
 2485 ~~order granting, in whole or in part, its petition shall be taxed~~
 2486 ~~against the subpoenaed person, and failure to comply with such~~
 2487 ~~order shall be a contempt of court.~~

2488 ~~(4) Witnesses shall be entitled to the same fees and~~
 2489 ~~mileage as they may be entitled by law for attending as~~
 2490 ~~witnesses in the circuit court, except where such examination or~~
 2491 ~~investigation is held at the place of business or residence of~~
 2492 ~~the witness.~~

2493 (5) The material compiled by the department in an
 2494 investigation or examination under this chapter is confidential
 2495 until the investigation or examination is complete. If any such
 2496 material contains a holder's financial or proprietary
 2497 information, it may not be disclosed or made public by the
 2498 department after the investigation or audit is completed, except
 2499 as required by a court of competent jurisdiction in the course
 2500 of a judicial proceeding in which the state is a party, or

2501 pursuant to an agreement with another state allowing joint
 2502 audits. Such material may be considered trade secret and exempt
 2503 from s. 119.07(1) as provided for in s. 119.0715. The records,
 2504 data, and information gathered ~~material compiled~~ by the
 2505 department in an investigation or audit examination under this
 2506 chapter remain ~~remains~~ confidential ~~after the department's~~
 2507 ~~investigation or examination is complete~~ if the department has
 2508 submitted the material or any part of it to any law enforcement
 2509 agency or other administrative agency for further investigation
 2510 or for the filing of a criminal or civil prosecution and such
 2511 investigation has not been completed or become inactive.

2512 (6) If an investigation or an audit examination of the
 2513 records of any person results in the disclosure of property
 2514 reportable and deliverable under this chapter, the department
 2515 may assess the cost of the investigation or audit ~~the~~
 2516 ~~examination~~ against the holder at ~~the rate of \$100 per 8-hour~~
 2517 ~~day for each investigator or examiner. Such fee shall be~~
 2518 ~~calculated on an hourly basis and shall be rounded to the~~
 2519 ~~nearest hour. The person shall also pay the travel expense and~~
 2520 ~~per diem subsistence allowance provided for state employees in~~
 2521 ~~s. 112.061. The person shall not be required to pay a per diem~~
 2522 ~~fee and expenses of an examination or investigation which shall~~
 2523 ~~consume more than 30 worker-days in any one year unless such~~
 2524 ~~examination or investigation is due to fraudulent practices of~~
 2525 ~~the person, in which case such person shall be required to pay~~

2526 ~~the entire cost regardless of time consumed.~~ The fee for the
 2527 costs of the investigation or audit shall be remitted to the
 2528 department within 30 days after the date of the notification
 2529 that the fee is due and owing. Any person who fails to pay the
 2530 fee within 30 days after the date of the notification that the
 2531 fee is due and owing shall pay to the department interest at the
 2532 rate of 12 percent per annum on such fee from the date of the
 2533 notification.

2534 Section 53. Subsection (1) of section 717.1311, Florida
 2535 Statutes, is amended to read:

2536 717.1311 Retention of records.—

2537 (1) Every holder required to file a report under s.
 2538 717.117 shall maintain a record of the specific type of
 2539 property, amount, name, and last known address of the owner for
 2540 10 ~~5~~ years after the property becomes reportable, except to the
 2541 extent that a shorter time is provided in subsection (2) or by
 2542 rule of the department.

2543 Section 54. Paragraph (j) of subsection (1) and subsection
 2544 (3) of section 717.1322, Florida Statutes, are amended to read:

2545 717.1322 Administrative and civil enforcement.—

2546 (1) The following acts are violations of this chapter and
 2547 constitute grounds for an administrative enforcement action by
 2548 the department in accordance with the requirements of chapter
 2549 120 and for civil enforcement by the department in a court of
 2550 competent jurisdiction:

2551 (j) Requesting or receiving compensation for notifying a
2552 person of his or her unclaimed property or assisting another
2553 person in filing a claim for unclaimed property, unless the
2554 person is an attorney licensed to practice law in this state, a
2555 Florida-certified public accountant, or a private investigator
2556 licensed under chapter 493, or entering into, or making a
2557 solicitation to enter into, an agreement to file a claim for
2558 unclaimed property owned by another, ~~or a contract or agreement~~
2559 ~~to purchase unclaimed property,~~ unless such person is registered
2560 with the department under this chapter and an attorney licensed
2561 to practice law in this state in the regular practice of her or
2562 his profession, a Florida-certified public accountant who is
2563 acting within the scope of the practice of public accounting as
2564 defined in chapter 473, or a private investigator licensed under
2565 chapter 493. This paragraph does not apply to a person who has
2566 been granted a durable power of attorney to convey and receive
2567 all of the real and personal property of the owner, is the
2568 court-appointed guardian of the owner, has been employed as an
2569 attorney or qualified representative to contest the department's
2570 denial of a claim, or has been employed as an attorney to
2571 probate the estate of the owner or an heir or legatee of the
2572 owner.

2573 (3) A claimant's representative ~~registrant~~ is subject to
2574 civil enforcement and the disciplinary actions specified in
2575 subsection (2) for violations of subsection (1) by an agent or

2576 employee of the registrant's employer if the claimant's
 2577 representative ~~registrant~~ knew or should have known that such
 2578 agent or employee was violating any provision of this chapter.

2579 Section 55. Subsection (1) of section 717.1333, Florida
 2580 Statutes, is amended to read:

2581 717.1333 Evidence; estimations; audit reports and
 2582 worksheets, investigator ~~examiner's worksheets, investigative~~
 2583 reports and worksheets, other related documents.—

2584 (1) In any proceeding involving a holder under ss. 120.569
 2585 and 120.57 in which an audit agent ~~auditor, examiner,~~ or
 2586 investigator acting under authority of this chapter is available
 2587 for cross-examination, any official written report, worksheet,
 2588 or other related paper, or copy thereof, compiled, prepared,
 2589 drafted, or otherwise made or received by the audit agent
 2590 ~~auditor, examiner,~~ or investigator, after being duly
 2591 authenticated by the audit agent ~~auditor, examiner,~~ or
 2592 investigator, may be admitted as competent evidence upon the
 2593 oath of the audit agent ~~auditor, examiner,~~ or investigator that
 2594 the report, worksheet, or related paper was prepared or received
 2595 as a result of an audit, examination, or investigation of the
 2596 books and records of the person audited, examined, or
 2597 investigated, or the agent thereof.

2598 Section 56. Subsections (1) and (2) of section 717.134,
 2599 Florida Statutes, are amended to read:

2600 717.134 Penalties and interest.—

2601 (1) For any person who willfully fails to render any
 2602 report required under this chapter, the department may impose
 2603 and collect a penalty of \$500 per day up to a maximum of \$5,000
 2604 and 25 percent of the value of property not reported until an
 2605 appropriate a report is provided ~~rendered for any person who~~
 2606 ~~willfully fails to render any report required under this~~
 2607 ~~chapter.~~ Upon a holder's showing of good cause, the department
 2608 may waive said penalty or any portion thereof. If the holder
 2609 acted in good faith and without negligence, the department shall
 2610 waive the penalty provided herein.

2611 (2) For any person who willfully refuses to pay or deliver
 2612 unclaimed property to the department as required under this
 2613 chapter, the department may impose and collect a penalty of \$500
 2614 per day up to a maximum of \$5,000 and 25 percent of the value of
 2615 property not paid or delivered until the property is paid or
 2616 delivered ~~for any person who willfully refuses to pay or deliver~~
 2617 ~~abandoned property to the department as required under this~~
 2618 ~~chapter.~~

2619 Section 57. Section 717.135, Florida Statutes, is amended
 2620 to read:

2621 717.135 Recovery agreements and purchase agreements for
 2622 claims filed by a claimant's representative or a purchaser; fees
 2623 and costs, or total net gain.—

2624 (1) In order to protect the interests of owners of
 2625 unclaimed property, the department shall adopt by rule a form

2626 entitled "Unclaimed Property Recovery Agreement" and a form
 2627 entitled "Unclaimed Property Purchase Agreement."

2628 (2) The Unclaimed Property Recovery Agreement and the
 2629 Unclaimed Property Purchase Agreement must include and disclose
 2630 all of the following:

2631 (a) The total dollar amount of unclaimed property accounts
 2632 claimed or sold.

2633 (b) The total percentage of all authorized fees and costs
 2634 to be paid to the claimant's representative or the percentage of
 2635 the value of the property to be paid as net gain to the
 2636 purchaser ~~purchasing claimant's representative~~.

2637 (c) The total dollar amount to be deducted and received
 2638 from the claimant as fees and costs by the claimant's
 2639 representative or the total net dollar amount to be received by
 2640 the purchaser ~~purchasing claimant's representative~~.

2641 (d) The net dollar amount to be received by the claimant
 2642 or the seller.

2643 (e) For each account claimed, the unclaimed property
 2644 account number.

2645 (f) For the Unclaimed Property Purchase Agreement, a
 2646 statement that the amount of the purchase price will be remitted
 2647 to the seller by the purchaser within 30 days after the
 2648 execution of the agreement by the seller.

2649 (g) The name, address, e-mail address, phone number, and
 2650 license number of the claimant's representative, or the name,

2651 address, e-mail address, and phone number of the purchaser.

2652 (h)1. The manual signature of the claimant or seller and
2653 the date signed, affixed on the agreement by the claimant or
2654 seller.

2655 2. Notwithstanding any other provision of this chapter to
2656 the contrary, the department may allow an apparent owner, who is
2657 also the claimant or seller, to sign the agreement
2658 electronically ~~for claims of \$2,000 or less~~. All electronic
2659 signatures on the Unclaimed Property Recovery Agreement and the
2660 Unclaimed Property Purchase Agreement must be affixed on the
2661 agreement by the claimant or seller using the specific,
2662 exclusive eSignature product and protocol authorized by the
2663 department.

2664 (i) The social security number or taxpayer identification
2665 number of the claimant or seller, if a number has been issued to
2666 the claimant or seller.

2667 (j) The total fees and costs, or the total discount in the
2668 case of a purchase agreement, which may not exceed 30 percent of
2669 the claimed amount. In the case of a recovery agreement, if the
2670 total fees and costs exceed 30 percent, the fees and costs shall
2671 be reduced to 30 percent and the net balance shall be remitted
2672 directly by the department to the claimant. In the case of a
2673 purchase agreement, if the total net gain of the purchaser
2674 exceeds 30 percent, the claim will be denied.

2675 (3) For an Unclaimed Property Purchase Agreement form,

2676 proof that the purchaser has made payment must be filed with the
2677 department along with the claim. If proof of payment is not
2678 provided, the claim is void.

2679 (4) A claimant's representative or a purchaser must use
2680 the Unclaimed Property Recovery Agreement or the Unclaimed
2681 Property Purchase Agreement as the exclusive means of entering
2682 into an agreement or a contract with a claimant or seller to
2683 file a claim with the department.

2684 (5) Fees and costs may be owed or paid to, or received by,
2685 a claimant's representative or a purchaser only after a filed
2686 claim has been approved and if the claimant's representative
2687 used an agreement authorized by this section.

2688 (6) A claimant's representative or a purchaser may not use
2689 or distribute any other agreement of any type, conveyed by any
2690 method, with respect to the claimant or seller which relates,
2691 directly or indirectly, to unclaimed property accounts held by
2692 the department or the Chief Financial Officer other than the
2693 agreements authorized by this section. Any engagement,
2694 authorization, recovery, or fee agreement that is not authorized
2695 by this section is void. A claimant's representative or a
2696 purchaser is subject to administrative and civil enforcement
2697 under s. 717.1322 if he or she uses an agreement that is not
2698 authorized by this section and if the agreement is used to
2699 apply, directly or indirectly, to unclaimed property held by
2700 this state. This subsection does not prohibit lawful

2701 nonagreement, noncontractual, or advertising communications
 2702 between or among the parties.

2703 (7) The Unclaimed Property Recovery Agreement ~~and the~~
 2704 ~~Unclaimed Property Purchase Agreement~~ may not contain language
 2705 that makes the agreement irrevocable or that creates an
 2706 assignment of any portion of unclaimed property held by the
 2707 department.

2708 (8) When a claim is approved, the department may pay any
 2709 additional account that is owned by the claimant but has not
 2710 been claimed at the time of approval, provided that a subsequent
 2711 claim has not been filed or is not pending for the claimant at
 2712 the time of approval.

2713 (9) This section does not supersede s. 717.1241.

2714 (10) This section does not apply to the sale and purchase
 2715 of Florida-held unclaimed property accounts through a bankruptcy
 2716 trustee appointed to represent a debtor's estate in a bankruptcy
 2717 proceeding in accordance with the United States Bankruptcy Code.

2718 Section 58. Subsections (1), (2), and (3) of section
 2719 717.1400, Florida Statutes, are amended to read:

2720 717.1400 Registration.—

2721 (1) In order to file claims as a claimant's
 2722 representative, ~~acquire ownership of or entitlement to unclaimed~~
 2723 ~~property,~~ receive a distribution of fees and costs from the
 2724 department, and obtain unclaimed property dollar amounts and
 2725 numbers of reported shares of stock held by the department, a

2726 private investigator holding a Class "C" individual license
 2727 under chapter 493 must register with the department on such form
 2728 as the department prescribes by rule and must be verified by the
 2729 applicant. To register with the department, a private
 2730 investigator must provide:

2731 (a) A legible copy of the applicant's Class "A" business
 2732 license under chapter 493 or that of the applicant's firm or
 2733 employer which holds a Class "A" business license under chapter
 2734 493.

2735 (b) A legible copy of the applicant's Class "C" individual
 2736 license issued under chapter 493.

2737 (c) The business address and telephone number of the
 2738 applicant's private investigative firm or employer.

2739 (d) The names of agents or employees, if any, who are
 2740 designated to act on behalf of the private investigator,
 2741 together with a legible copy of their photo identification
 2742 issued by an agency of the United States, or a state, or a
 2743 political subdivision thereof.

2744 (e) Sufficient information to enable the department to
 2745 disburse funds by electronic funds transfer.

2746 (f) The tax identification number of the private
 2747 investigator's firm or employer which holds a Class "A" business
 2748 license under chapter 493.

2749 (2) In order to file claims as a claimant's
 2750 representative, ~~acquire ownership of or entitlement to unclaimed~~

2751 ~~property,~~ receive a distribution of fees and costs from the
2752 department, and obtain unclaimed property dollar amounts and
2753 numbers of reported shares of stock held by the department, a
2754 Florida-certified public accountant must register with the
2755 department on such form as the department prescribes by rule and
2756 must be verified by the applicant. To register with the
2757 department, a Florida-certified public accountant must provide:

2758 (a) The applicant's Florida Board of Accountancy number.

2759 (b) A legible copy of the applicant's current driver
2760 license showing the full name and current address of such
2761 person. If a current driver license is not available, another
2762 form of identification showing the full name and current address
2763 of such person or persons shall be filed with the department.

2764 (c) The business address and telephone number of the
2765 applicant's public accounting firm or employer.

2766 (d) The names of agents or employees, if any, who are
2767 designated to act on behalf of the Florida-certified public
2768 accountant, together with a legible copy of their photo
2769 identification issued by an agency of the United States, or a
2770 state, or a political subdivision thereof.

2771 (e) Sufficient information to enable the department to
2772 disburse funds by electronic funds transfer.

2773 (f) The tax identification number of the accountant's
2774 public accounting firm employer.

2775 (3) In order to file claims as a claimant's

2776 representative, ~~acquire ownership of or entitlement to unclaimed~~
2777 ~~property,~~ receive a distribution of fees and costs from the
2778 department, and obtain unclaimed property dollar amounts and
2779 numbers of reported shares of stock held by the department, an
2780 attorney licensed to practice in this state must register with
2781 the department on such form as the department prescribes by rule
2782 and must be verified by the applicant. To register with the
2783 department, such attorney must provide:

2784 (a) The applicant's Florida Bar number.

2785 (b) A legible copy of the applicant's current driver
2786 license showing the full name and current address of such
2787 person. If a current driver license is not available, another
2788 form of identification showing the full name and current address
2789 of such person or persons shall be filed with the department.

2790 (c) The business address and telephone number of the
2791 applicant's firm or employer.

2792 (d) The names of agents or employees, if any, who are
2793 designated to act on behalf of the attorney, together with a
2794 legible copy of their photo identification issued by an agency
2795 of the United States, or a state, or a political subdivision
2796 thereof.

2797 (e) Sufficient information to enable the department to
2798 disburse funds by electronic funds transfer.

2799 (f) The tax identification number of the attorney's firm
2800 or employer.

2801 Section 59. Paragraph (a) of subsection (2) of section
 2802 197.582, Florida Statutes, is amended to read:
 2803 197.582 Disbursement of proceeds of sale.—
 2804 (2)(a) If the property is purchased for an amount in
 2805 excess of the statutory bid of the certificateholder, the
 2806 surplus must be paid over and disbursed by the clerk as set
 2807 forth in subsections (3), (5), and (6). If the opening bid
 2808 included the homestead assessment pursuant to s. 197.502(6)(c),
 2809 that amount must be treated as surplus and distributed in the
 2810 same manner. The clerk shall distribute the surplus to the
 2811 governmental units for the payment of any lien of record held by
 2812 a governmental unit against the property, including any tax
 2813 certificates not incorporated in the tax deed application and
 2814 omitted taxes, if any. If there remains a balance of
 2815 undistributed funds, the balance must be retained by the clerk
 2816 for the benefit of persons described in s. 197.522(1)(a), except
 2817 those persons described in s. 197.502(4)(h), as their interests
 2818 may appear. The clerk shall mail notices to such persons
 2819 notifying them of the funds held for their benefit at the
 2820 addresses provided in s. 197.502(4). Such notice constitutes
 2821 compliance with the requirements of s. 717.117(6) ~~s. 717.117(4)~~.
 2822 Any service charges and costs of mailing notices shall be paid
 2823 out of the excess balance held by the clerk. Notice must be
 2824 provided in substantially the following form:

2825 NOTICE OF SURPLUS FUNDS FROM TAX DEED SALE

2826 CLERK OF COURT
 2827 COUNTY, FLORIDA
 2828 Tax Deed #.....
 2829 Certificate #.....
 2830 Property Description:

2831 Pursuant to chapter 197, Florida Statutes, the above
 2832 property was sold at public sale on ...(date of sale)..., and a
 2833 surplus of \$...(amount)... (subject to change) will be held by
 2834 this office for 120 days beginning on the date of this notice to
 2835 benefit the persons having an interest in this property as
 2836 described in section 197.502(4), Florida Statutes, as their
 2837 interests may appear (except for those persons described in
 2838 section 197.502(4)(h), Florida Statutes).

2839 To the extent possible, these funds will be used to satisfy
 2840 in full each claimant with a senior mortgage or lien in the
 2841 property before distribution of any funds to any junior mortgage
 2842 or lien claimant or to the former property owner. To be
 2843 considered for funds when they are distributed, you must file a
 2844 notarized statement of claim with this office within 120 days of
 2845 this notice. If you are a lienholder, your claim must include
 2846 the particulars of your lien and the amounts currently due. Any
 2847 lienholder claim that is not filed within the 120-day deadline
 2848 is barred.

2849 A copy of this notice must be attached to your statement of
 2850 claim. After the office examines the filed claim statements, it

2851 will notify you if you are entitled to any payment.

2852 Dated:

2853 Clerk of Court

2854 Section 60. Subsection (1) of section 717.1382, Florida
 2855 Statutes, is amended to read:

2856 717.1382 United States savings bond; unclaimed property;
 2857 escheatment; procedure.—

2858 (1) Notwithstanding any other provision of law, a United
 2859 States savings bond in possession of the department or
 2860 registered to a person with a last known address in the state,
 2861 including a bond that is lost, stolen, or destroyed, is presumed
 2862 abandoned and unclaimed 5 years after the bond reaches maturity
 2863 and no longer earns interest and shall be reported and remitted
 2864 to the department by the financial institution or other holder
 2865 in accordance with ss. 717.117(1) and (5) ~~(3)~~ and 717.119, if
 2866 the department is not in possession of the bond.

2867 Section 61. The Division of Law Revision is directed to
 2868 prepare a reviser's bill for the 2025 Regular Session of the
 2869 Legislature to change the term "Division of Investigative and
 2870 Forensic Services" wherever the term appears in the Florida
 2871 Statutes to "Division of Criminal Investigations."

2872 Section 62. This act shall take effect upon becoming a
 2873 law.

INSURANCE & BANKING SUBCOMMITTEE

HB 989 by Rep. LaMarca Department of Financial Services

AMENDMENT SUMMARY January 25, 2024

Amendment 1 by Rep. LaMarca (strike all): The amendment makes the following changes:

- Establishes a tax liaison to assist Florida's taxpayers with federal tax issues and creates one full time employee position.
- Refines the categorization of benefits for firefighters undergoing cancer treatment.
- Provides that Florida Insurance Guaranty Association contracts with defense counsel and claims administrators are not subject to the prior approval of DFS as otherwise proposed by the bill.
- Exempts contracts and purchases required by law relating the Florida Self-Insurers Guaranty Association, from prior DFS approval requirements proposed by the bill.
- Clarifies that DFS is tasked with posting notices and agendas on the Board of Funeral, Cemetery, and Consumer Services website.
- Allows summary pages for notices of changes in policy terms to exceed one page, if necessary.
- Exempts certain local governments and their employees from licensing and appointment requirements applicable to Home Warranty Association representatives.
- Preserves current definition of intangible property.
- Replaces the term "instrument" with the term "virtual currency" for purposes of the Unclaimed Property Law.
- Preserves current law relating to unclaimed property that is part of an estate in probate.
- Preserves current law relating to garnishment of unclaimed property.
- Removes provisions requiring a data transfer plan for the Florida Insurance Guaranty Fund.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

1 Committee/Subcommittee hearing bill: Insurance & Banking
 2 Subcommittee

3 Representative LaMarca offered the following:

4
 5 **Amendment**

6 Remove everything after the enacting clause and insert:
 7 Section 1. Section 17.69, Florida Statutes, is created to
 8 read:

9 17.69 Federal Tax Liaison.—

10 (1) The Federal Tax Liaison position is created within the
 11 department. The purpose of the position is to assist the
 12 taxpayers of the state.

13 (2) The Chief Financial Officer shall appoint a Federal
 14 Tax Liaison. The Federal Tax Liaison reports directly to the
 15 Chief Financial Officer, but is not otherwise under the

Amendment No. 1

16 authority of the department or of any employee of the
17 department.

18 (3) The Federal Tax Liaison may

19 (a) Assist taxpayers by answering taxpayer questions.

20 (b) Direct taxpayers to the proper departments or offices
21 within the Internal Revenue Service in order to hasten
22 resolution to taxpayer issues.

23 (c) Prepare recommendations for the Internal Revenue
24 Service of any actions that will help resolve problems
25 encountered by taxpayers.

26 (d) Provide information about the policies, practices and
27 procedures the Internal Revenue Service uses to ensure
28 compliance with the tax laws.

29 (e) Request records from the Internal Revenue Service to
30 assist taxpayer inquiries with the taxpayer's consent.

31 Section 2. Paragraphs (g) through (n) of subsection (2) of
32 section 20.121, Florida Statutes, are redesignated as paragraphs
33 (f) through (m), respectively, and paragraph (e) and present
34 paragraph (f) of subsection (2) of that section are amended to
35 read:

36 20.121 Department of Financial Services.—There is created
37 a Department of Financial Services.

38 (2) DIVISIONS.—The Department of Financial Services shall
39 consist of the following divisions and office:

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40 (e) The Division of Criminal Investigations ~~Investigative~~
41 ~~and Forensic Services~~, which shall function as a criminal
42 justice agency for purposes of ss. 943.045-943.08. The division
43 may initiate and conduct investigations into any matter under
44 the jurisdiction of the Chief Financial Officer and Fire Marshal
45 within or outside of this state as it deems necessary. ~~If,~~
46 ~~during an investigation, the division has reason to believe that~~
47 ~~any criminal law of this state or the United States has or may~~
48 ~~have been violated, it shall refer any records tending to show~~
49 ~~such violation to state law enforcement and, if applicable,~~
50 ~~federal prosecutorial agencies and shall provide investigative~~
51 ~~assistance to those agencies as appropriate. The division shall~~
52 ~~include the following bureaus and office:~~

53 1. ~~The Bureau of Forensic Services;~~

54 2. ~~The Bureau of Fire, Arson, and Explosives~~
55 ~~Investigations;~~

56 3. ~~The Office of Fiscal Integrity, which shall have a~~
57 ~~separate budget;~~

58 4. ~~The Bureau of Insurance Fraud; and~~

59 5. ~~The Bureau of Workers' Compensation Fraud.~~

60 (f) ~~The Division of Public Assistance Fraud, which shall~~
61 ~~function as a criminal justice agency for purposes of ss.~~
62 ~~943.045-943.08. The division shall conduct investigations~~
63 ~~pursuant to s. 414.411 within or outside of the state as it~~
64 ~~deems necessary. If, during an investigation, the division has~~

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65 ~~reason to believe that any criminal law of the state has or may~~
66 ~~have been violated, it shall refer any records supporting such~~
67 ~~violation to state or federal law enforcement or prosecutorial~~
68 ~~agencies and shall provide investigative assistance to those~~
69 ~~agencies as required.~~

70 Section 3. Subsection (2) of section 112.1816, Florida
71 Statutes, is amended to read:

72 112.1816 Firefighters; cancer diagnosis.-

73 (2) Upon a diagnosis of cancer, a firefighter is entitled
74 to the following benefits, as an alternative to pursuing
75 workers' compensation benefits under chapter 440, if the
76 firefighter has been employed by his or her employer for at
77 least 5 continuous years, has not used tobacco products for at
78 least the preceding 5 years, and has not been employed in any
79 other position in the preceding 5 years which is proven to
80 create a higher risk for any cancer:

81 (a) Cancer treatment covered within an employer-sponsored
82 health plan or through a group health insurance trust fund. The
83 employer must timely reimburse the firefighter for any out-of-
84 pocket deductible, copayment, or coinsurance costs incurred due
85 to the treatment of cancer.

86 (b) A one-time cash payout of \$25,000, upon the
87 firefighter's initial diagnosis of cancer.

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88 (c) Leave time and job retention benefits equivalent to
89 those provided for other injuries or illnesses incurred in the
90 line of duty.

91 If the firefighter elects to continue coverage in the employer-
92 sponsored health plan or group health insurance trust fund after
93 he or she terminates employment, the benefits specified in
94 paragraphs (a) and (b) must be made available by the former
95 employer of a firefighter for 10 years following the date on
96 which the firefighter terminates employment so long as the
97 firefighter otherwise met the criteria specified in this
98 subsection when he or she terminated employment and was not
99 subsequently employed as a firefighter following that date. For
100 purposes of determining leave time and employee retention
101 policies, the employer must consider a firefighter's cancer
102 diagnosis as an injury or illness incurred in the line of duty.
103

104 Section 4. Paragraph (f) of subsection (2) and paragraph
105 (h) of subsection (3) of section 121.0515, Florida Statutes, are
106 amended to read:

107 121.0515 Special Risk Class.—

108 (2) MEMBERSHIP.—

109 (f) Effective July 1, 2008, the member must be employed by
110 the Department of Law Enforcement in the crime laboratory or by
111 the Department of Financial Services ~~Division of State Fire~~

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112 ~~Marshal~~ in the forensic laboratory and meet the special criteria
113 set forth in paragraph (3)(h).

114 (3) CRITERIA.—A member, to be designated as a special risk
115 member, must meet the following criteria:

116 (h) Effective July 1, 2024 ~~2008~~, the member must be
117 employed by the Department of Law Enforcement in the crime
118 laboratory or by the Department of Financial Services Division
119 ~~of State Fire Marshal~~ in the forensic laboratory in one of the
120 following classes:

- 121 1. Forensic technologist (class code 8459);
- 122 2. Crime laboratory technician (class code 8461);
- 123 3. Crime laboratory analyst (class code 8463);
- 124 4. Senior crime laboratory analyst (class code 8464);
- 125 5. Crime laboratory analyst supervisor (class code 8466);
- 126 6. Forensic chief (class code 9602); or
- 127 7. Forensic services quality manager (class code 9603);

128 Section 5. Subsections (1) and (2) of section 215.5586,
129 Florida Statutes, as amended by section 5 of chapter 2023-349,
130 Laws of Florida, are amended to read:

131 215.5586 My Safe Florida Home Program.—There is
132 established within the Department of Financial Services the My
133 Safe Florida Home Program. The department shall provide fiscal
134 accountability, contract management, and strategic leadership
135 for the program, consistent with this section. This section does
136 not create an entitlement for property owners or obligate the

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137 state in any way to fund the inspection or retrofitting of
138 residential property in this state. Implementation of this
139 program is subject to annual legislative appropriations. It is
140 the intent of the Legislature that the My Safe Florida Home
141 Program provide licensed inspectors to perform inspections for
142 eligible homes ~~owners of site-built, single-family, residential~~
143 ~~properties~~ and grants to fund hurricane mitigation projects for
144 those homes ~~eligible applicants~~ as funding allows. The program
145 shall develop and implement a comprehensive and coordinated
146 approach for hurricane damage mitigation that may include the
147 following:

148 (1) HURRICANE MITIGATION INSPECTIONS.—

149 (a) To be eligible for a hurricane mitigation inspection,
150 all of the following criteria must be met:

151 1. The home must be a single-family, detached residential
152 property or a townhouse, as defined in s. 481.203.

153 2. The home must be site-built and owner-occupied.

154 3. The homeowner must have been granted a homestead
155 exemption on the home under chapter 196.

156 (b) An application for an inspection must contain a signed
157 or electronically verified statement made under penalty of
158 perjury that the applicant has submitted only a single
159 inspection application and must have attached documents
160 demonstrating that the applicant meets the requirements of

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161 paragraph (a). An applicant may submit a new inspection
162 application if all of the following criteria are met:

163 1. The original application has already been denied or
164 withdrawn.

165 2. The program's eligibility requirements or applicant's
166 qualifications have changed since the original application date.

167 3. The applicant reasonably believes that the home will be
168 eligible under the new requirements or qualifications.

169 (c) An applicant who meets the requirements of paragraph
170 (a) may apply for and receive an inspection without also
171 applying for a grant pursuant to subsection (2) and without
172 meeting the requirements of paragraph (2)(a).

173 (d)-(a) Licensed inspectors are to provide home inspections
174 of eligible homes ~~site-built, single-family, residential~~
175 ~~properties for which a homestead exemption has been granted,~~ to
176 determine what mitigation measures are needed, what insurance
177 premium discounts may be available, and what improvements to
178 existing residential properties are needed to reduce the
179 property's vulnerability to hurricane damage. ~~An inspector may~~
180 ~~inspect a townhouse as defined in s. 481.203 to determine if~~
181 ~~opening protection mitigation as listed in paragraph (2)(c)~~
182 ~~would provide improvements to mitigate hurricane damage.~~

183 (e)-(b) The Department of Financial Services shall contract
184 with wind certification entities to provide hurricane mitigation

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185 inspections. The inspections provided to homeowners, at a
186 minimum, must include:

187 1. A home inspection and report that summarizes the
188 results and identifies recommended improvements a homeowner may
189 take to mitigate hurricane damage.

190 2. A range of cost estimates regarding the recommended
191 mitigation improvements.

192 3. Information regarding estimated premium discounts,
193 correlated to the current mitigation features and the
194 recommended mitigation improvements identified by the
195 inspection.

196 ~~(f)(e)~~ To qualify for selection by the department as a
197 wind certification entity to provide hurricane mitigation
198 inspections, the entity must, at a minimum, meet the following
199 requirements:

200 1. Use hurricane mitigation inspectors who are licensed or
201 certified as:

202 a. A building inspector under s. 468.607;

203 b. A general, building, or residential contractor under s.
204 489.111;

205 c. A professional engineer under s. 471.015;

206 d. A professional architect under s. 481.213; or

207 e. A home inspector under s. 468.8314 and who have
208 completed at least 3 hours of hurricane mitigation training
209 approved by the Construction Industry Licensing Board, which

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210 training must include hurricane mitigation techniques,
211 compliance with the uniform mitigation verification form, and
212 completion of a proficiency exam.

213 2. Use hurricane mitigation inspectors who also have
214 undergone drug testing and a background screening. The
215 department may conduct criminal record checks of inspectors used
216 by wind certification entities. Inspectors must submit a set of
217 fingerprints to the department for state and national criminal
218 history checks and must pay the fingerprint processing fee set
219 forth in s. 624.501. The fingerprints must be sent by the
220 department to the Department of Law Enforcement and forwarded to
221 the Federal Bureau of Investigation for processing. The results
222 must be returned to the department for screening. The
223 fingerprints must be taken by a law enforcement agency,
224 designated examination center, or other department-approved
225 entity.

226 3. Provide a quality assurance program including a
227 reinspection component.

228 ~~(d) An application for an inspection must contain a signed~~
229 ~~or electronically verified statement made under penalty of~~
230 ~~perjury that the applicant has submitted only a single~~
231 ~~application for that home.~~

232 ~~(e) The owner of a site-built, single-family, residential~~
233 ~~property or townhouse as defined in s. 481.203, for which a~~
234 ~~homestead exemption has been granted, may apply for and receive~~

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235 ~~an inspection without also applying for a grant pursuant to~~
236 ~~subsection (2) and without meeting the requirements of paragraph~~
237 ~~(2)(a).~~

238 (2) HURRICANE MITIGATION GRANTS.—Financial grants shall be
239 ~~used to encourage single-family, site-built, owner-occupied,~~
240 ~~residential property owners~~ to retrofit eligible homes based on
241 the recommendations made in a hurricane mitigation inspection
242 ~~their properties~~ to make the homes ~~them~~ less vulnerable to
243 hurricane damage.

244 (a) ~~For a homeowner~~ To be eligible for a grant, all of the
245 following criteria must be met:

246 1. The home must be a single-family, detached residential
247 property or a townhouse, as defined in s. 481.203.

248 2. The home must be site-built and owner-occupied.

249 ~~3.1.~~ The homeowner must have been granted a homestead
250 exemption on the home under chapter 196.

251 ~~4.2.~~ The home must be a dwelling with an insured value of
252 \$700,000 or less. Homeowners who are low-income persons, as
253 defined in s. 420.0004(11), are exempt from this requirement.

254 ~~5.3.~~ The home must undergo an acceptable hurricane
255 mitigation inspection as provided in subsection (1).

256 ~~6.4.~~ The building permit application for initial
257 construction of the home must have been made before January 1,
258 2008.

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259 ~~7.5.~~ The homeowner must agree to make his or her home
260 available for inspection once a mitigation project is completed.

261 (b)1. An application for a grant must contain a signed or
262 electronically verified statement made under penalty of perjury
263 that the applicant has submitted only a single grant application
264 and must have attached documents demonstrating that the
265 applicant meets the requirements of ~~this~~ paragraph (a).

266 2. An applicant may submit a new grant application if all
267 of the following criteria are met:

268 a. The original application has already been denied or
269 withdrawn.

270 b. The program's eligibility requirements or applicant's
271 qualifications have changed since the original application date.

272 c. The applicant reasonably believes that the home will be
273 eligible under the new requirements or qualifications.

274 (c)(b) All grants must be matched on the basis of \$1
275 provided by the applicant for \$2 provided by the state up to a
276 maximum state contribution of \$10,000 toward the actual cost of
277 the mitigation project.

278 (d)(e) The program shall require ~~create a process in which~~
279 ~~contractors agree to participate and homeowners select from a~~
280 ~~list of participating contractors.~~ All mitigation work to must
281 be based upon the securing of all required local permits and
282 inspections, and the work must be performed by properly licensed
283 contractors. The program shall approve only a homeowner grant

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284 application that includes an acknowledged statement from the
285 homeowner containing the name and state license number of the
286 contractor the homeowner intends to use for the mitigation work.

287 The program must electronically verify that the contractor's
288 state license number is accurate and up to date before grant
289 approval ~~Hurricane mitigation inspectors qualifying for the~~
290 ~~program may also participate as mitigation contractors as long~~
291 ~~as the inspectors meet the department's qualifications and~~
292 ~~certification requirements for mitigation contractors.~~

293 ~~(d) Matching fund grants shall also be made available to~~
294 ~~local governments and nonprofit entities for projects that will~~
295 ~~reduce hurricane damage to single-family, site-built, owner-~~
296 ~~occupied, residential property. The department shall liberally~~
297 ~~construe those requirements in favor of availing the state of~~
298 ~~the opportunity to leverage funding for the My Safe Florida Home~~
299 ~~Program with other sources of funding.~~

300 (e) When recommended by a hurricane mitigation inspection,
301 grants for eligible homes may be used for the following
302 improvements:

- 303 1. Opening protection, including windows, skylights,
304 exterior doors, and garage doors.
- 305 2. Exterior doors, including garage doors.
- 306 3. Reinforcing roof-to-wall connections.
- 307 4. Improving the strength of roof-deck attachments.
- 308 5. Secondary Water Resistance (SWR) barrier for roof.

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309 (f) When recommended by a hurricane mitigation inspection,
310 grants for townhouses, as defined in s. 481.203, may only be
311 used for opening protection.

312 (g) The department may require that improvements be made
313 to all openings, including exterior doors and garage doors, as a
314 condition of reimbursing a homeowner approved for a grant. The
315 department may adopt, by rule, the maximum grant allowances for
316 any improvement allowable under paragraph (e) or this paragraph.

317 ~~(g) Grants may be used on a previously inspected existing
318 structure or on a rebuild. A rebuild is defined as a site-built,
319 single-family dwelling under construction to replace a home that
320 was destroyed or significantly damaged by a hurricane and deemed
321 unlivable by a regulatory authority. The homeowner must be a
322 low-income homeowner as defined in paragraph (h), must have had
323 a homestead exemption for that home before the hurricane, and
324 must be intending to rebuild the home as that homeowner's
325 homestead.~~

326 (h) Low-income homeowners, as defined in s. 420.0004(11),
327 who otherwise meet the requirements of this subsection
328 ~~paragraphs (a), (c), (e), and (g)~~ are eligible for a grant of up
329 to \$10,000 and are not required to provide a matching amount to
330 receive the grant. The program may accept a certification
331 directly from a low-income homeowner that the homeowner meets
332 the requirements of s. 420.0004(11) if the homeowner provides

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333 such certification in a signed or electronically verified
334 statement made under penalty of perjury.

335 (i) The department shall develop a process that ensures
336 the most efficient means to collect and verify grant
337 applications to determine eligibility and may direct hurricane
338 mitigation inspectors to collect and verify grant application
339 information or use the Internet or other electronic means to
340 collect information and determine eligibility.

341 (j) Homeowners must finalize construction and request a
342 final inspection, or request an extension for an additional 6
343 months, within 1 year after grant approval. If the homeowners
344 fail to comply, the application shall be deemed abandoned and
345 the grant money reverts back to the department.

346 (3) REQUESTS FOR INFORMATION.—The department may request
347 that the applicant provide additional information. An
348 application shall be deemed withdrawn by the applicant if the
349 department does not receive a response to its request for
350 additional information within 60 days after the notification of
351 any apparent errors or omissions.

352 (4)-(3) EDUCATION, CONSUMER AWARENESS, AND OUTREACH.—

353 (a) The department may undertake a statewide multimedia
354 public outreach and advertising campaign to inform consumers of
355 the availability and benefits of hurricane inspections and of
356 the safety and financial benefits of residential hurricane

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357 damage mitigation. The department may seek out and use local,
358 state, federal, and private funds to support the campaign.

359 (b) The program may develop brochures for distribution to
360 Citizens Property Insurance Corporation, and other licensed
361 entities or nonprofits that work with the department to educate
362 the public on the benefits of the program ~~general contractors,~~
363 ~~roofing contractors, and real estate brokers and sales~~
364 ~~associates who are licensed under part I of chapter 475 which~~
365 ~~provide information on the benefits to homeowners of residential~~
366 ~~hurricane damage mitigation.~~ Citizens Property Insurance
367 Corporation is encouraged to distribute the brochure to
368 policyholders of the corporation. ~~Contractors are encouraged to~~
369 ~~distribute the brochures to homeowners at the first meeting with~~
370 ~~a homeowner who is considering contracting for home or roof~~
371 ~~repair or contracting for the construction of a new home. Real~~
372 ~~estate brokers and sales associates are encouraged to distribute~~
373 ~~the brochure to clients before the purchase of a home.~~ The
374 brochures may be made available electronically.

375 (5)~~(4)~~ FUNDING.—The department may seek out and leverage
376 local, state, federal, or private funds to enhance the financial
377 resources of the program.

378 (6)~~(5)~~ RULES.—The Department of Financial Services shall
379 adopt rules pursuant to ss. 120.536(1) and 120.54 to govern the
380 program; implement the provisions of this section; including
381 rules governing hurricane mitigation inspections and grants,

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382 mitigation contractors, and training of inspectors and
383 contractors; and carry out the duties of the department under
384 this section.

385 ~~(7)(6)~~ HURRICANE MITIGATION INSPECTOR LIST.—The department
386 shall develop and maintain as a public record a current list of
387 hurricane mitigation inspectors authorized to conduct hurricane
388 mitigation inspections pursuant to this section.

389 ~~(8)(7)~~ CONTRACT MANAGEMENT.—

390 (a) The department may contract with third parties for
391 grants management, inspection services, contractor services for
392 low-income homeowners, information technology, educational
393 outreach, and auditing services. Such contracts are considered
394 direct costs of the program and are not subject to
395 administrative cost limits. The department shall contract with
396 providers that have a demonstrated record of successful business
397 operations in areas directly related to the services to be
398 provided and shall ensure the highest accountability for use of
399 state funds, consistent with this section.

400 (b) The department shall implement a quality assurance and
401 reinspection program that determines whether mitigation ~~initial~~
402 ~~inspections and mitigation projects home improvements~~ are
403 completed in a manner consistent with the intent of the program.
404 The department may use valid random sampling in order to perform
405 the quality assurance portion of the program.

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406 ~~(9)-(8)~~ INTENT.—It is the intent of the Legislature that
407 grants made to residential property owners under this section
408 shall be considered disaster-relief assistance within the
409 meaning of s. 139 of the Internal Revenue Code of 1986, as
410 amended.

411 ~~(10)-(9)~~ REPORTS.—The department shall make an annual
412 report on the activities of the program that shall account for
413 the use of state funds and indicate the number of inspections
414 requested, the number of inspections performed, the number of
415 grant applications received, the number and value of grants
416 approved, and the estimated average annual amount of insurance
417 premium discounts and total estimated annual amount of insurance
418 premium discounts homeowners received from insurers as a result
419 of mitigation funded through the program. The report must be
420 delivered to the President of the Senate and the Speaker of the
421 House of Representatives by February 1 of each year.

422 Section 6. Subsection (6) of section 284.44, Florida
423 Statutes, is amended to read:

424 284.44 Salary indemnification costs of state agencies.—

425 ~~(6) The Division of Risk Management shall prepare~~
426 ~~quarterly reports to the Executive Office of the Governor and~~
427 ~~the chairs of the legislative appropriations committees~~
428 ~~indicating for each state agency the total amount of salary~~
429 ~~indemnification benefits paid to claimants and the total amount~~
430 ~~of reimbursements from state agencies to the State Risk~~

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431 ~~Management Trust Fund for initial costs for the previous~~
432 ~~quarter. These reports shall also include information for each~~
433 ~~state agency indicating the number of cases and amounts of~~
434 ~~initial salary indemnification costs for which reimbursement~~
435 ~~requirements were waived by the Executive Office of the Governor~~
436 ~~pursuant to this section.~~

437 Section 7. Paragraph (a) of subsection (12) of section
438 440.13, Florida Statutes, is amended to read:

439 440.13 Medical services and supplies; penalty for
440 violations; limitations.—

441 (12) CREATION OF THREE-MEMBER PANEL; GUIDES OF MAXIMUM
442 REIMBURSEMENT ALLOWANCES.—

443 (a) A three-member panel is created, consisting of the
444 Chief Financial Officer, or the Chief Financial Officer's
445 designee, and two members to be appointed by the Governor,
446 subject to confirmation by the Senate, one member who, on
447 account of present or previous vocation, employment, or
448 affiliation, shall be classified as a representative of
449 employers, the other member who, on account of previous
450 vocation, employment, or affiliation, shall be classified as a
451 representative of employees. The panel shall determine statewide
452 schedules of maximum reimbursement allowances for medically
453 necessary treatment, care, and attendance provided by hospitals
454 and ambulatory surgical centers. The maximum reimbursement
455 allowances for inpatient hospital care shall be based on a

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456 | schedule of per diem rates, to be approved by the three-member
457 | panel no later than March 1, 1994, to be used in conjunction
458 | with a precertification manual as determined by the department,
459 | including maximum hours in which an outpatient may remain in
460 | observation status, which shall not exceed 23 hours. All
461 | compensable charges for hospital outpatient care shall be
462 | reimbursed at 75 percent of usual and customary charges, except
463 | as otherwise provided by this subsection. Annually, the three-
464 | member panel shall adopt schedules of maximum reimbursement
465 | allowances for hospital inpatient care, hospital outpatient
466 | care, and ambulatory surgical centers. A hospital or an
467 | ambulatory surgical center shall be reimbursed either the
468 | agreed-upon contract price or the maximum reimbursement
469 | allowance in the appropriate schedule. Reimbursement for
470 | emergency services and care, as defined in s. 395.002, without a
471 | maximum reimbursement allowance must be at 75 percent of the
472 | hospital's charge, unless there is a contract, in which case the
473 | contract governs reimbursement.

474 |
475 | The department, as requested, shall provide data to the panel,
476 | including, but not limited to, utilization trends in the
477 | workers' compensation health care delivery system. The
478 | department shall provide the panel with an annual report
479 | regarding the resolution of medical reimbursement disputes and
480 | any actions pursuant to subsection (8). The department shall

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481 provide administrative support and service to the panel to the
482 extent requested by the panel. For prescription medication
483 purchased under the requirements of this subsection, a
484 dispensing practitioner shall not possess such medication unless
485 payment has been made by the practitioner, the practitioner's
486 professional practice, or the practitioner's practice management
487 company or employer to the supplying manufacturer, wholesaler,
488 distributor, or drug repackager within 60 days of the dispensing
489 practitioner taking possession of that medication.

490 Section 8. Subsections (9) through (13) of section
491 440.385, Florida Statutes, are renumbered as subsections (10)
492 through (14), respectively, and a new subsection (9) is added to
493 that section to read:

494 440.385 Florida Self-Insurers Guaranty Association,
495 Incorporated.—

496 (9) CONTRACTS AND PURCHASES.—

497 (a) After July 1, 2024, all contracts entered into, and
498 all purchases made by, the association pursuant to this section
499 which are valued at or more than \$100,000 must first be approved
500 by the department. The department has 10 days to approve or deny
501 the contract or purchase upon electronic receipt of the approval
502 request. The contract or purchase is automatically approved if
503 the department is nonresponsive.

504 (b) All contracts and purchases valued at or more than
505 \$100,000 require competition through a formal bid solicitation

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506 conducted by the association. The association must undergo a
507 formal bid solicitation process. The formal bid solicitation
508 process must include all of the following:

509 1. The time and date for the receipt of bids, the
510 proposals, and whether the association contemplates renewal of
511 the contract, including the price for each year for which the
512 contract may be renewed.

513 2. All the contractual terms and conditions applicable to
514 the procurement.

515 (c) Evaluation of bids by the association must include
516 consideration of the total cost for each year of the contract,
517 including renewal years, as submitted by the vendor. The
518 association must award the contract to the most responsible and
519 responsive vendor. Any formal bid solicitation conducted by the
520 association must be made available, upon request, to the
521 department via electronic delivery.

522 (d) Contracts that are required by law are exempt from this
523 section.

524 Section 9. Subsection (7) of section 497.101, Florida
525 Statutes, is renumbered as subsection (11), subsections (1)
526 through (4) are amended, and a new subsection (7) and
527 subsections (8), (9), and (10) are added to that section, to
528 read:

529 497.101 Board of Funeral, Cemetery, and Consumer Services;
530 membership; appointment; terms.-

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531 (1) The Board of Funeral, Cemetery, and Consumer Services
532 is created within the Department of Financial Services and shall
533 consist of 10 members, 9 of whom shall be appointed by ~~the~~
534 ~~Governor from nominations made by~~ the Chief Financial Officer
535 ~~and confirmed by the Senate. The Chief Financial Officer shall~~
536 ~~nominate one to three persons for each of the nine vacancies on~~
537 ~~the board, and the Governor shall fill each vacancy on the board~~
538 ~~by appointing one of the persons nominated by the Chief~~
539 ~~Financial Officer to fill that vacancy. If the Governor objects~~
540 ~~to each of the nominations for a vacancy, she or he shall inform~~
541 ~~the Chief Financial Officer in writing. Upon notification of an~~
542 ~~objection by the Governor, the Chief Financial Officer shall~~
543 ~~submit one to three additional nominations for that vacancy~~
544 ~~until the vacancy is filled.~~ One member must be the State Health
545 Officer or her or his designee.

546 (2) Two members of the board must be funeral directors
547 licensed under part III of this chapter who are associated with
548 a funeral establishment. One member of the board must be a
549 funeral director licensed under part III of this chapter who is
550 associated with a funeral establishment licensed under part III
551 of this chapter which has a valid preneed license issued
552 pursuant to this chapter ~~and who owns or operates a cinerator~~
553 ~~facility approved under chapter 403 and licensed under part VI~~
554 ~~of this chapter.~~ Two members of the board must be persons whose
555 primary occupation is associated with a cemetery company

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556 licensed pursuant to this chapter. Two members of the board must
557 be consumers who are residents of this state, have never been
558 licensed as funeral directors or embalmers, are not connected
559 with a cemetery or cemetery company licensed pursuant to this
560 chapter, and are not connected with the death care industry or
561 the practice of embalming, funeral directing, or direct
562 disposition. One of the two consumer members must be at least 60
563 years of age. One member of the board must be a consumer who is
564 a resident of this state; is licensed as a certified public
565 accountant under chapter 473; has never been licensed as a
566 funeral director or an embalmer; is not a principal or an
567 employee of any licensee licensed under this chapter; and does
568 not otherwise have control, as defined in s. 497.005, over any
569 licensee licensed under this chapter. One member of the board
570 must be a principal of a monument establishment licensed under
571 this chapter as a monument builder. One member must be the State
572 Health Officer or her or his designee. There may not be two or
573 more board members who are principals or employees of the same
574 company or partnership or group of companies or partnerships
575 under common control.

576 (3) Board members shall be appointed for terms of 4 years
577 and may be reappointed; however, a member may not serve for more
578 than 8 consecutive years.~~and~~ The State Health Officer shall
579 serve as long as that person holds that office. The designee of

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580 the State Health Officer shall serve at the pleasure of the
581 Chief Financial Officer Governor.

582 (4) The Chief Financial Officer Governor ~~may suspend and~~
583 ~~the Senate~~ may remove any board member for malfeasance or
584 misfeasance, neglect of duty, incompetence, substantial
585 inability to perform official duties, commission of a crime, or
586 other substantial cause as determined by the Chief Financial
587 Officer Governor or Senate, as applicable, to evidence a lack of
588 fitness to sit on the board. A board member shall be deemed to
589 have resigned her or his board membership, and that position
590 shall be deemed vacant, upon the failure of the member to attend
591 three consecutive meetings of the board or at least half of the
592 meetings of the board during any 12-month period, unless the
593 Chief Financial Officer determines that there was good and
594 adequate justification for the absences and that such absences
595 are not likely to continue. Any vacancy so created shall be
596 filled as provided in subsection (1).

597 (7) Members of the board are subject to the code of ethics
598 under part III of chapter 112. For purposes of applying part III
599 of chapter 112 to activities of the members of the board, those
600 persons are considered public officers, and the department is
601 considered their agency. A board member may not vote on any
602 measure that would inure to his or her special private gain or
603 loss and, in accordance with s. 112.3143(2), may not vote on any
604 measure that he or she knows would inure to the special private

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605 gain or loss of any principal by which he or she is retained,
606 other than an agency as defined in s. 112.312; or that he or she
607 knows would inure to the special private gain or loss of his or
608 her relative or business associate. Before the vote is taken,
609 such member shall publicly state to the board the nature of his
610 or her interest in the matter from which he or she is abstaining
611 from voting and, within 15 days after the vote occurs, disclose
612 the nature of his or her interest as a public record in a
613 memorandum filed with the person responsible for recording the
614 minutes of the meeting, who shall incorporate the memorandum in
615 the minutes.

616 (8) In accordance with ss. 112.3148 and 112.3149, a board
617 member may not knowingly accept, directly or indirectly, any
618 gift or expenditure from a person or entity, or an employee or
619 representative of such person or entity, which has a contractual
620 relationship with the department or the board, which is under
621 consideration for a contract, or which is licensed by the
622 department.

623 (9) A board member who fails to comply with subsection (7)
624 or subsection (8) is subject to the penalties provided under ss.
625 112.317 and 112.3173.

626 (10) (a) All meetings of the board are subject to the
627 requirements of s. 286.011, and all books and records of the
628 board are open to the public for reasonable inspection except as
629 otherwise provided by s. 497.172 or other applicable law.

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630 (b) Except for emergency meetings, the department shall
631 give notice of any board meeting by publication on the
632 department's website at least 7 days before the meeting. The
633 department shall publish a meeting agenda on its website at
634 least 7 days before the meeting. The agenda must contain the
635 items to be considered in order of presentation. After the
636 agenda has been made available, a change may be made only for
637 good cause, as determined by the person designated to preside,
638 and must be stated in the record. Notification of such change
639 must be at the earliest practicable time.

640 Section 10. Paragraph (a) of subsection (4) of section
641 497.153, Florida Statutes, is amended to read:

642 497.153 Disciplinary procedures and penalties.—

643 (4) ACTION AFTER PROBABLE CAUSE FOUND.—

644 (a) Service of an administrative complaint may be in
645 person by department staff or any person authorized to make
646 service of process under the Florida Rules of Civil Procedure.
647 Service upon a licensee may in the alternative be made by
648 certified mail, return receipt requested, to the last known
649 address of record provided by the licensee to the department. If
650 service by certified mail cannot be made at the last address
651 provided by the licensee to the department, service may be made
652 by e-mail, delivery receipt required, sent to the most recent e-
653 mail address provided by the licensee to the department in
654 accordance with s. 497.146.

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655 Section 11. Paragraph (e) of subsection (1) of section
656 497.155, Florida Statutes, is amended to read:

657 497.155 Disciplinary citations and minor violations.—

658 (1) CITATIONS.—

659 (e) Service of a citation may be made by personal service
660 or certified mail, restricted delivery, to the subject at the
661 subject's last known address in accordance with s. 497.146. If
662 service by certified mail cannot be made at the last address
663 provided by the subject to the department, service may be made
664 by e-mail, delivery receipt required, sent to the most recent e-
665 mail address provided by the subject to the department in
666 accordance with s. 497.146.

667 Section 12. Paragraph (a) of subsection (3) of section
668 624.155, Florida Statutes, is amended to read:

669 624.155 Civil remedy.—

670 (3)(a) As a condition precedent to bringing an action
671 under this section, the department and the authorized insurer
672 must have been given 60 days' written notice of the violation.
673 Notice to the authorized insurer must be provided by the
674 department to the e-mail address designated by the insurer ~~under~~
675 ~~s. 624.422.~~

676 Section 13. Paragraphs (c) and (d) subsection (10) of
677 section 624.307, Florida Statutes, are redesignated as
678 paragraphs (d) and (e), respectively, paragraph (b) is amended,

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679 and a new paragraph (c) is added to subsection (10) of that
680 section, to read:

681 624.307 General powers; duties.-

682 (10)

683 (b) Any person licensed or issued a certificate of
684 authority or made an eligible surplus lines insurer by the
685 department or the office shall respond, in writing or
686 electronically, to the division within 14 days after receipt of
687 a written request for documents and information from the
688 division concerning a consumer complaint. The response must
689 address the issues and allegations raised in the complaint and
690 include any requested documents concerning the consumer
691 complaint not subject to attorney-client or work-product
692 privilege. The division may impose an administrative penalty for
693 failure to comply with this paragraph of up to \$5,000 per
694 violation upon any entity licensed by the department or the
695 office and up to \$1,000 per violation by any individual licensed
696 by the department or the office.

697 (c) Each insurer issued a certificate of authority or made
698 an eligible surplus lines insurer shall file with the department
699 an e-mail address to which requests for response to consumer
700 complaints shall be directed pursuant to paragraph (b). Such
701 insurer shall also designate a contact person for escalated
702 complaint issues and shall provide the name, e-mail address, and
703 telephone number of such person. A licensee of the department,

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704 including an agency or a firm, may elect to designate an e-mail
705 address to which requests for response to consumer complaints
706 shall be directed pursuant to paragraph (b). If a licensee,
707 including an agency or a firm, elects not to designate an e-mail
708 address, the department shall direct requests for response to
709 consumer complaints to the e-mail of record for the licensee in
710 the department's licensing system. An insurer or a licensee,
711 including an agency or a firm, may change a designated contact
712 information at any time by submitting the new information to the
713 department using the method designated by rule by the
714 department.

715 Section 14. Subsection (2) of section 626.171, Florida
716 Statutes, is amended to read:

717 626.171 Application for license as an agent, customer
718 representative, adjuster, service representative, or reinsurance
719 intermediary.—

720 (2) In the application, the applicant shall set forth:

721 (a) His or her full name, age, social security number,
722 residence address, business address, mailing address, contact
723 telephone numbers, including a business telephone number, and e-
724 mail address.

725 (b) A statement indicating the method the applicant used
726 or is using to meet any required prelicensing education,
727 knowledge, experience, or instructional requirements for the
728 type of license applied for.

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729 (c) Whether he or she has been refused or has voluntarily
730 surrendered or has had suspended or revoked a license to solicit
731 insurance by the department or by the supervising officials of
732 any state.

733 (d) Whether any insurer or any managing general agent
734 claims the applicant is indebted under any agency contract or
735 otherwise and, if so, the name of the claimant, the nature of
736 the claim, and the applicant's defense thereto, if any.

737 (e) Proof that the applicant meets the requirements for
738 the type of license for which he or she is applying.

739 (f) The applicant's gender (male or female).

740 (g) The applicant's native language.

741 (h) The highest level of education achieved by the
742 applicant.

743 (i) The applicant's race or ethnicity (African American,
744 white, American Indian, Asian, Hispanic, or other).

745 (j) Such other or additional information as the department
746 may deem proper to enable it to determine the character,
747 experience, ability, and other qualifications of the applicant
748 to hold himself or herself out to the public as an insurance
749 representative.

750
751 However, the application must contain a statement that an
752 applicant is not required to disclose his or her race or
753 ethnicity, gender, or native language, that he or she will not

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754 be penalized for not doing so, and that the department will use
755 this information exclusively for research and statistical
756 purposes and to improve the quality and fairness of the
757 examinations. The department shall make provisions for
758 applicants to submit cellular telephone numbers as part of the
759 application process on a voluntary basis for purpose of two-
760 factor authentication of secure login credentials only.

761 Section 15. Paragraph (j) of subsection (2) of section
762 626.221, Florida Statutes, is amended to read:

763 626.221 Examination requirement; exemptions.—

764 (2) However, an examination is not necessary for any of
765 the following:

766 (j) An applicant for license as an all-lines adjuster who
767 has the designation of Accredited Claims Adjuster (ACA) from a
768 regionally accredited postsecondary institution in this state;
769 Certified All Lines Adjuster (CALA) from Kaplan Financial
770 Education; Associate in Claims (AIC) from the Insurance
771 Institute of America; Professional Claims Adjuster (PCA) from
772 the Professional Career Institute; Professional Property
773 Insurance Adjuster (PPIA) from the HurriClaim Training Academy;
774 Certified Adjuster (CA) from ALL LINES Training; Certified
775 Claims Adjuster (CCA) from AE21 Incorporated; Claims Adjuster
776 Certified Professional (CACP) from WebCE, Inc.; Accredited
777 Insurance Claims Specialist (AICS) from Encore Claim Services;
778 Professional in Claims (PIC) from 2021 Training, LLC; Registered

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779 Claims Adjuster (RCA) from American Insurance College; or
780 Universal Claims Certification (UCC) from Claims and Litigation
781 Management Alliance (CLM) whose curriculum has been approved by
782 the department and which includes comprehensive analysis of
783 basic property and casualty lines of insurance and testing at
784 least equal to that of standard department testing for the all-
785 lines adjuster license. The department shall adopt rules
786 establishing standards for the approval of curriculum.

787 Section 16. Subsection (6) of section 626.601, Florida
788 Statutes, is amended to read:

789 626.601 Improper conduct; inquiry; fingerprinting.—

790 (6) The complaint and any information obtained pursuant to
791 the investigation by the department or office are confidential
792 and are exempt from s. 119.07 unless the department or office
793 files a formal administrative complaint, emergency order, or
794 consent order against the individual or entity. This subsection
795 does not prevent the department or office from disclosing the
796 complaint or such information as it deems necessary to conduct
797 the investigation, to update the complainant as to the status
798 and outcome of the complaint, to review the details of the
799 investigation with the individual or entity or their
800 representative, or to share such information with any law
801 enforcement agency or other regulatory body.

802 Section 17. Subsection (3) of section 626.7351, Florida
803 Statutes, is amended to read:

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804 626.7351 Qualifications for customer representative's
805 license.—The department shall not grant or issue a license as
806 customer representative to any individual found by it to be
807 untrustworthy or incompetent, or who does not meet each of the
808 following qualifications:

809 (3) Within 4 years preceding the date that the application
810 for license was filed with the department, the applicant has
811 earned the designation of Accredited Advisor in Insurance (AAI),
812 Associate in General Insurance (AINS), or Accredited Customer
813 Service Representative (ACSR) from the Insurance Institute of
814 America; the designation of Certified Insurance Counselor (CIC)
815 from the Society of Certified Insurance Service Counselors; the
816 designation of Certified Professional Service Representative
817 (CPSR) from the National Foundation for CPSR; the designation of
818 Certified Insurance Service Representative (CISR) from the
819 Society of Certified Insurance Service Representatives; the
820 designation of Certified Insurance Representative (CIR) from
821 All-Lines Training; the designation of Chartered Customer
822 Service Representative (CCSR) from American Insurance College;
823 the designation of Professional Customer Service Representative
824 (PCSR) from the Professional Career Institute; the designation
825 of Insurance Customer Service Representative (ICSR) from
826 Statewide Insurance Associates LLC; the designation of
827 Registered Customer Service Representative (RCSR) from a
828 regionally accredited postsecondary institution in the state

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829 whose curriculum is approved by the department and includes
830 comprehensive analysis of basic property and casualty lines of
831 insurance and testing which demonstrates mastery of the subject;
832 or a degree from an accredited institution of higher learning
833 approved by the department when the degree includes a minimum of
834 9 credit hours of insurance instruction, including specific
835 instruction in the areas of property, casualty, and inland
836 marine insurance. The department shall adopt rules establishing
837 standards for the approval of curriculum.

838 Section 18. Section 626.878, Florida Statutes, is amended
839 to read:

840 626.878 Rules; code of ethics.—

841 (1) An adjuster shall subscribe to the code of ethics
842 specified in the rules of the department. The rules shall
843 implement the provisions of this part and specify the terms and
844 conditions of contracts, including a right to cancel, and
845 require practices necessary to ensure fair dealing, prohibit
846 conflicts of interest, and ensure preservation of the rights of
847 the claimant to participate in the adjustment of claims.

848 (2) A person licensed as an adjuster must identify himself
849 or herself in any advertisement, solicitation, or written
850 document based on the adjuster appointment type held.

851 (3) An adjuster who has had his or her licensed revoked or
852 suspended may not participate in any part of an insurance claim
853 or in the insurance claims adjusting process, including

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854 estimating, completing, filing, negotiating, appraising,
855 mediating, umpiring, or effecting settlement of a claim for loss
856 or damage covered under an insurance contract. A person who
857 provides these services while the person's license is revoked or
858 suspended acts as an unlicensed adjuster.

859 Section 19. Subsection (1) of section 626.929, Florida
860 Statutes, is amended, and subsection (4) is added to that
861 section, to read:

862 626.929 Origination, acceptance, placement of surplus
863 lines business.—

864 (1) A licensed and appointed general lines agent while
865 also licensed and appointed as a surplus lines agent under this
866 part may originate surplus lines business and may accept surplus
867 lines business from any other originating Florida-licensed
868 general lines agent appointed and licensed as to the kinds of
869 insurance involved and may compensate such agent therefor.

870 (4) A general lines agent while licensed as a surplus
871 lines agent under this part may appoint these licenses with a
872 single surplus license agent appointment pursuant to s. 624.501.
873 Such agent may only originate surplus lines business and accept
874 surplus lines business from other originating Florida-licensed
875 general lines agents appointed and licensed as to the kinds of
876 insurance involved and may compensate such agent therefor. Such
877 agent may not be appointed by or transact general lines
878 insurance on behalf of an admitted insurer.

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879 Section 20. Paragraphs (j) is added to subsection (4) of
880 section 627.351, Florida Statutes, to read:

881 627.351 Insurance risk apportionment plans.—

882 (4) MEDICAL MALPRACTICE RISK APPORTIONMENT; ASSOCIATION
883 CONTRACTS AND PURCHASES.—

884 (j)1. After July 1, 2024, all contracts entered into, and
885 all purchases made by, the association pursuant to this
886 subsection which are valued at or more than \$100,000 must first
887 be approved by the department. The department has 10 days to
888 approve or deny a contract or purchase upon electronic receipt
889 of the approval request. The contract or purchase is
890 automatically approved if the department is nonresponsive.

891 2. All contracts and purchases valued at or more than
892 \$100,000 require competition through a formal bid solicitation
893 conducted by the association. The association must undergo a
894 formal bid solicitation process by a minimum of three vendors.
895 The formal bid solicitation process must include all of the
896 following:

897 a. The time and date for the receipt of bids, the
898 proposals, and whether the association contemplates renewal of
899 the contract, including the price for each year for which the
900 contract may be renewed.

901 b. All the contractual terms and conditions applicable to
902 the procurement.

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903 3. Evaluation of bids by the association must include
904 consideration of the total cost for each year of the contract,
905 including renewal years, as submitted by the vendor. The
906 association must award the contract to the most responsible and
907 responsive vendor. Any formal bid solicitation conducted by the
908 association must be made available, upon request, to the
909 department by electronic delivery.

910 Section 21. Subsection (2) of section 627.43141, Florida
911 Statutes, is amended to read:

912 627.43141 Notice of change in policy terms.—

913 (2) A renewal policy may contain a change in policy terms.
914 If such change occurs, the insurer shall give the named insured
915 advance written notice summarizing the change, which may be
916 enclosed in ~~along with~~ the written notice of renewal premium
917 required under ss. 627.4133 and 627.728 or sent separately
918 within the timeframe required under the Florida Insurance Code
919 for the provision of a notice of nonrenewal to the named insured
920 for that line of insurance. The insurer must also provide a
921 sample copy of the notice to the named insured's insurance agent
922 before or at the same time that notice is provided to the named
923 insured. Such notice shall be entitled "Notice of Change in
924 Policy Terms—" and shall be in bold type of not less than 14
925 points and included as a single page or consecutive pages, as
926 necessary, within the written notice.

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927 Section 22. Paragraph (a) of subsection (3) of section
928 627.70152, Florida Statutes, is amended to read:

929 627.70152 Suits arising under a property insurance
930 policy.—

931 (3) NOTICE.—

932 (a) As a condition precedent to filing a suit under a
933 property insurance policy, a claimant must provide the
934 department with written notice of intent to initiate litigation
935 on a form provided by the department. Such notice must be given
936 at least 10 business days before filing suit under the policy,
937 but may not be given before the insurer has made a determination
938 of coverage under s. 627.70131. Notice to the insurer must be
939 provided by the department to the e-mail address designated by
940 the insurer ~~under s. 624.422~~. The notice must state with
941 specificity all of the following information:

942 1. That the notice is provided pursuant to this section.

943 2. The alleged acts or omissions of the insurer giving
944 rise to the suit, which may include a denial of coverage.

945 3. If provided by an attorney or other representative,
946 that a copy of the notice was provided to the claimant.

947 4. If the notice is provided following a denial of
948 coverage, an estimate of damages, if known.

949 5. If the notice is provided following acts or omissions
950 by the insurer other than denial of coverage, both of the
951 following:

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952 a. The presuit settlement demand, which must itemize the
953 damages, attorney fees, and costs.

954 b. The disputed amount.

955
956 Documentation to support the information provided in this
957 paragraph may be provided along with the notice to the insurer.

958 Section 23. Subsection (5) is added to section 631.59,
959 Florida Statutes, to read:

960 631.59 Duties and powers of department and office;
961 association contracts and purchases.-

962 (5)(a) After July 1, 2024, all contracts entered into, and
963 all purchases made by, the association pursuant to this section
964 which are valued at or more than \$100,000 must first be approved
965 by the department. The department has 10 days to approve or deny
966 the contract or purchase upon electronic receipt of the approval
967 request. The contract or purchase is automatically approved if
968 the department is nonresponsive.

969 (b) All contracts and purchases valued at or more than
970 \$100,000 require competition through a formal bid solicitation
971 conducted by the association. The association must undergo a
972 formal bid solicitation process. The formal bid solicitation
973 process must include all of the following:

974 1. The time and date for the receipt of bids, the
975 proposals, and whether the association contemplates renewal of

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976 the contract, including the price for each year for which the
977 contract may be renewed.

978 2. All the contractual terms and conditions applicable to
979 the procurement.

980 (c) Evaluation of bids by the association must include
981 consideration of the total cost for each year of the contract,
982 including renewal years, as submitted by the vendor. The
983 association must award the contract to the most responsible and
984 responsive vendor. Any formal bid solicitation conducted by the
985 association must be made available, upon request, to the
986 department via electronic delivery.

987 (d) The provisions of subparagraphs (b) and (c) do not
988 apply to claims defense counsel or claims vendors provided that
989 contracts with all vendors which may exceed \$100,000 are
990 provided to the Department for prior approval in accordance with
991 subparagraph (a).

992 Section 24. Subsection (6) is added to section 631.722,
993 Florida Statutes, to read:

994 631.722 Powers and duties of department and office;
995 association contracts and purchases.-

996 (6) (a) After July 1, 2024, all contracts entered into, and
997 all purchases made by, the association pursuant to this section
998 which are valued at or more than \$100,000 must first be approved
999 by the department. The department has 10 days to approve or deny
1000 the contract or purchase upon electronic receipt of the approval

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1001 request. The contract or purchase is automatically approved if
1002 the department is nonresponsive.

1003 (b) All contracts and purchases valued at or more than
1004 \$100,000 require competition through a formal bid solicitation
1005 conducted by the association. The association must undergo a
1006 formal bid solicitation process. The formal bid solicitation
1007 process must include all of the following:

1008 1. The time and date for the receipt of bids, the
1009 proposals, and whether the association contemplates renewal of
1010 the contract, including the price for each year for which the
1011 contract may be renewed.

1012 2. All the contractual terms and conditions applicable to
1013 the procurement.

1014 (c) Evaluation of bids by the association must include
1015 consideration of the total cost for each year of the contract,
1016 including renewal years, as submitted by the vendor. The
1017 association must award the contract to the most responsible and
1018 responsive vendor. Any formal bid solicitation conducted by the
1019 association must be made available, upon request, to the
1020 department via electronic delivery.

1021 Section 25. Subsection (5) is added to section 631.821,
1022 Florida Statutes, to read:

1023 631.821 Powers and duties of the department; board
1024 contracts and purchases.-

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1025 (5) (a) After July 1, 2024, all contracts entered into, and
1026 all purchases made by, the board pursuant to this section which
1027 are valued at or more than \$100,000 must first be approved by
1028 the department. The department has 10 days to approve or deny
1029 the contract or purchase upon electronic receipt of the approval
1030 request. The contract or purchase is automatically approved if
1031 the department is nonresponsive.

1032 (b) All contracts and purchases valued at or more than
1033 \$100,000 require competition through a formal bid solicitation
1034 conducted by the board. The board must undergo a formal bid
1035 solicitation process. The formal bid solicitation process must
1036 include all of the following:

1037 1. The time and date for the receipt of bids, the
1038 proposals, and whether the board contemplates renewal of the
1039 contract, including the price for each year for which the
1040 contract may be renewed.

1041 2. All the contractual terms and conditions applicable to
1042 the procurement.

1043 (c) Evaluation of bids by the board must include
1044 consideration of the total cost for each year of the contract,
1045 including renewal years, as submitted by the vendor. The plan
1046 must award the contract to the most responsible and responsive
1047 vendor. Any formal bid solicitation conducted by the board must
1048 be made available, upon request, to the department via
1049 electronic delivery.

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1050 Section 26. Section 631.921, Florida Statutes, is amended
1051 to read:

1052 631.921 Department powers; board contracts and purchases.—

1053 (1) The corporation shall be subject to examination by the
1054 department. By March 1 of each year, the board of directors
1055 shall cause a financial report to be filed with the department
1056 for the immediately preceding calendar year in a form approved
1057 by the department.

1058 (2)(a) After July 1, 2024, all contracts entered into, and
1059 all purchases made by, the board pursuant to this section which
1060 are valued at or more than \$100,000 must first be approved by
1061 the department. The department has 10 days to approve or deny
1062 the contract or purchase upon electronic receipt of the approval
1063 request. The contract or purchase is automatically approved if
1064 the department is nonresponsive.

1065 (b) All contracts and purchases valued at or more than
1066 \$100,000 require competition through a formal bid solicitation
1067 conducted by the board. The board must undergo a formal bid
1068 solicitation process. The formal bid solicitation process must
1069 include all of the following:

1070 1. The time and date for the receipt of bids, the
1071 proposals, and whether the board contemplates renewal of the
1072 contract, including the price for each year for which the
1073 contract may be renewed.

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1074 2. All the contractual terms and conditions applicable to
1075 the procurement.

1076 (c) Evaluation of bids by the board must include
1077 consideration of the total cost for each year of the contract,
1078 including renewal years, as submitted by the vendor. The
1079 association must award the contract to the most responsible and
1080 responsive vendor. Any formal bid solicitation conducted by the
1081 association must be made available, upon request, to the
1082 department via electronic delivery.

1083 Section 27. Paragraph (b) of subsection (3) of section
1084 633.124, Florida Statutes, is amended to read:

1085 633.124 Penalty for violation of law, rule, or order to
1086 cease and desist or for failure to comply with corrective
1087 order.—

1088 (3)

1089 (b) A person who initiates a pyrotechnic display within
1090 any structure commits a felony of the third degree, punishable
1091 as provided in s. 775.082, s. 775.083, or s. 775.084, unless:

1092 1. The structure has a fire protection system installed in
1093 compliance with s. 633.334.

1094 2. The owner of the structure has authorized in writing
1095 the pyrotechnic display.

1096 3. If the local jurisdiction requires a permit for the use
1097 of a pyrotechnic display in an occupied structure, such permit
1098 has been obtained and all conditions of the permit complied with

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1099 or, if the local jurisdiction does not require a permit for the
1100 use of a pyrotechnic display in an occupied structure, the
1101 person initiating the display has complied with National Fire
1102 Protection Association, Inc., Standard 1126, 2021 ~~2001~~ Edition,
1103 Standard for the Use of Pyrotechnics before a Proximate
1104 Audience.

1105 Section 28. Subsection (2) of section 633.202, Florida
1106 Statutes, is amended to read:

1107 633.202 Florida Fire Prevention Code.—

1108 (2) The State Fire Marshal shall adopt the current edition
1109 of the National Fire Protection Association's Standard 1, Fire
1110 Prevention Code but may not adopt a building, mechanical,
1111 accessibility, or plumbing code. The State Fire Marshal shall
1112 adopt the current edition of the Life Safety Code, NFPA 101,
1113 current editions, by reference. The State Fire Marshal may
1114 modify the selected codes and standards as needed to accommodate
1115 the specific needs of the state. Standards or criteria in the
1116 selected codes shall be similarly incorporated by reference. The
1117 State Fire Marshal shall incorporate within sections of the
1118 Florida Fire Prevention Code provisions that address uniform
1119 firesafety standards as established in s. 633.206. The State
1120 Fire Marshal shall incorporate within sections of the Florida
1121 Fire Prevention Code provisions addressing regional and local
1122 concerns and variations.

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1123 Section 29. Paragraph (b) of subsection (1) of section
1124 633.206, Florida Statutes, is amended to read:

1125 633.206 Uniform firesafety standards.—The Legislature
1126 hereby determines that to protect the public health, safety, and
1127 welfare it is necessary to provide for firesafety standards
1128 governing the construction and utilization of certain buildings
1129 and structures. The Legislature further determines that certain
1130 buildings or structures, due to their specialized use or to the
1131 special characteristics of the person utilizing or occupying
1132 these buildings or structures, should be subject to firesafety
1133 standards reflecting these special needs as may be appropriate.

1134 (1) The department shall establish uniform firesafety
1135 standards that apply to:

1136 (b) All new, existing, and proposed hospitals, nursing
1137 homes, assisted living facilities, adult family-care homes,
1138 correctional facilities, public schools, transient public
1139 lodging establishments, public food service establishments,
1140 mobile food dispensing vehicles, elevators, migrant labor camps,
1141 mobile home parks, lodging parks, recreational vehicle parks,
1142 recreational camps, residential and nonresidential child care
1143 facilities, facilities for the developmentally disabled, motion
1144 picture and television special effects productions, tunnels,
1145 energy storage systems, and self-service gasoline stations, of
1146 which standards the State Fire Marshal is the final
1147 administrative interpreting authority.

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1148
1149 In the event there is a dispute between the owners of the
1150 buildings specified in paragraph (b) and a local authority
1151 requiring a more stringent uniform firesafety standard for
1152 sprinkler systems, the State Fire Marshal shall be the final
1153 administrative interpreting authority and the State Fire
1154 Marshal's interpretation regarding the uniform firesafety
1155 standards shall be considered final agency action.

1156 Section 30. Paragraph (b) of subsection (8) of section
1157 634.041, Florida Statutes, is amended to read:

1158 634.041 Qualifications for license.—To qualify for and
1159 hold a license to issue service agreements in this state, a
1160 service agreement company must be in compliance with this part,
1161 with applicable rules of the commission, with related sections
1162 of the Florida Insurance Code, and with its charter powers and
1163 must comply with the following:

1164 (8)

1165 (b) A service agreement company does not have to establish
1166 and maintain an unearned premium reserve if it secures and
1167 maintains contractual liability insurance in accordance with the
1168 following:

1169 1. Coverage of 100 percent of the claim exposure is
1170 obtained from an insurer or insurers approved by the office,
1171 which hold ~~holds~~ a certificate of authority under s. 624.401 to
1172 do business within this state, or secured through a risk

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1173 retention groups ~~group~~, which are ~~is~~ authorized to do business
1174 within this state under s. 627.943 or s. 627.944. Such insurers
1175 ~~insurer~~ or risk retention groups ~~group~~ must maintain a surplus
1176 as regards policyholders of at least \$15 million.

1177 2. If the service agreement company does not meet its
1178 contractual obligations, the contractual liability insurance
1179 policy binds its issuer to pay or cause to be paid to the
1180 service agreement holder all legitimate claims and cancellation
1181 refunds for all service agreements issued by the service
1182 agreement company while the policy was in effect. This
1183 requirement also applies to those service agreements for which
1184 no premium has been remitted to the insurer.

1185 3. If the issuer of the contractual liability policy is
1186 fulfilling the service agreements covered by the contractual
1187 liability policy and the service agreement holder cancels the
1188 service agreement, the issuer must make a full refund of
1189 unearned premium to the consumer, subject to the cancellation
1190 fee provisions of s. 634.121(3). The sales representative and
1191 agent must refund to the contractual liability policy issuer
1192 their unearned pro rata commission.

1193 4. The policy may not be canceled, terminated, or
1194 nonrenewed by the insurer or the service agreement company
1195 unless a 90-day written notice thereof has been given to the
1196 office by the insurer before the date of the cancellation,
1197 termination, or nonrenewal.

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1198 5. The service agreement company must provide the office
1199 with the claims statistics.

1200 6. A policy issued in compliance with this paragraph may
1201 either pay 100 percent of claims as they are incurred, or pay
1202 100 percent of claims due in the event of the failure of the
1203 service agreement company to pay such claims when due.

1204
1205 All funds or premiums remitted to an insurer by a motor vehicle
1206 service agreement company under this part shall remain in the
1207 care, custody, and control of the insurer and shall be counted
1208 as an asset of the insurer; provided, however, this requirement
1209 does not apply when the insurer and the motor vehicle service
1210 agreement company are affiliated companies and members of an
1211 insurance holding company system. If the motor vehicle service
1212 agreement company chooses to comply with this paragraph but also
1213 maintains a reserve to pay claims, such reserve shall only be
1214 considered an asset of the covered motor vehicle service
1215 agreement company and may not be simultaneously counted as an
1216 asset of any other entity.

1217 Section 31. Subsection (5) of section 634.081, Florida
1218 Statutes, is amended to read:

1219 634.081 Suspension or revocation of license; grounds.—

1220 (5) The office shall suspend or revoke the license of a
1221 company if it finds that the ratio of gross written premiums
1222 written to net assets exceeds 10 to 1 unless the company has in

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1223 excess of \$750,000 in net assets and is utilizing contractual
1224 liability insurance which cedes 100 percent of the service
1225 agreement company's claims liabilities to the contractual
1226 liability insurers ~~insurer~~ or is utilizing contractual liability
1227 insurance which reimburses the service agreement company for 100
1228 percent of its paid claims. However, if a service agreement
1229 company has been licensed by the office in excess of 10 years,
1230 is in compliance with all applicable provisions of this part,
1231 and has net assets at all times in excess of \$3 million that
1232 comply with the provisions of part II of chapter 625, such
1233 company may not exceed a ratio of gross written premiums written
1234 to net assets of 15 to 1.

1235 Section 32. Subsection (5) of section 634.3077, Florida
1236 Statutes, is renumbered as subsection (6), subsection (3) is
1237 amended, and a new subsection (5) is added to that section, to
1238 read:

1239 634.3077 Financial requirements.—

1240 (3) An association may ~~shall~~ not be required to set up an
1241 unearned premium reserve if it has purchased contractual
1242 liability insurance which demonstrates to the satisfaction of
1243 the office that 100 percent of its claim exposure is covered by
1244 such insurance. Such contractual liability insurance shall be
1245 obtained from an insurer or insurers that hold ~~holds~~ a
1246 certificate of authority to do business within the state or from
1247 an insurer or insurers approved by the office as financially

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1248 capable of meeting the obligations incurred pursuant to the
1249 policy. For purposes of this subsection, the contractual
1250 liability policy shall contain the following provisions:

1251 (a) In the event that the home warranty association is
1252 unable to fulfill its obligation under its contracts issued in
1253 this state for any reason, including insolvency, bankruptcy, or
1254 dissolution, the contractual liability insurer will pay losses
1255 and unearned premiums under such plans directly to persons
1256 making claims under such contracts.

1257 (b) The insurer issuing the policy shall assume full
1258 responsibility for the administration of claims in the event of
1259 the inability of the association to do so.

1260 (c) The policy may not be canceled or not renewed by
1261 ~~either~~ the insurer or the association unless 60 days' written
1262 notice thereof has been given to the office by the insurer
1263 before the date of such cancellation or nonrenewal.

1264 (d) The contractual liability insurance policy shall
1265 insure all home warranty contracts that were issued while the
1266 policy was in effect whether or not the premium has been
1267 remitted to the insurer.

1268 (5) An association licensed under this part is not
1269 required to establish an unearned premium reserve or maintain
1270 contractual liability insurance and may allow its premiums to
1271 exceed the ratio to net assets limitation of this section if the
1272 association complies with the following:

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1273 (a) The association or, if the association is a direct or
1274 indirect wholly owned subsidiary of a parent corporation, its
1275 parent corporation has, and maintains at all times, a minimum
1276 net worth of at least \$100 million and provides the office with
1277 the following:

1278 1. A copy of the association's annual audited financial
1279 statements or the audited consolidated financial statements of
1280 the association's parent corporation, prepared by an independent
1281 certified public accountant in accordance with generally
1282 accepted accounting principles, which clearly demonstrate the
1283 net worth of the association or its parent corporation to be
1284 \$100 million, and a quarterly written certification to the
1285 office that the association or its parent corporation continues
1286 to maintain the net worth required under this paragraph.

1287 2. The association's or its parent corporation's Form 10-
1288 K, Form 10-Q, or Form 20-F as filed with the United States
1289 Securities and Exchange Commission or such other documents
1290 required to be filed with a recognized stock exchange, which
1291 shall be provided on a quarterly and annual basis within 10 days
1292 after the last date each such report must be filed with the
1293 Securities and Exchange Commission, the National Association of
1294 Security Dealers Automated Quotation system, or other recognized
1295 stock exchange.

1296

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1297 Failure to timely file the documents required under this
1298 paragraph may, at the discretion of the office, subject the
1299 association to suspension or revocation of its license under
1300 this part.

1301 (b) If the net worth of a parent corporation is used to
1302 satisfy the net worth provisions of paragraph (a), the following
1303 provisions must be met:

1304 1. The parent corporation must guarantee all service
1305 warranty obligations of the association, wherever written, on a
1306 form approved in advance by the office. A cancellation,
1307 termination, or modification of the guarantee does not become
1308 effective unless the parent corporation provides the office
1309 written notice at least 90 days before the effective date of the
1310 cancellation, termination, or modification and the office
1311 approves the request in writing. Before the effective date of
1312 the cancellation, termination, or modification of the guarantee,
1313 the association must demonstrate to the satisfaction of the
1314 office compliance with all applicable provisions of this part,
1315 including whether the association will meet the requirements of
1316 this section by the purchase of contractual liability insurance,
1317 establishing required reserves, or other method allowed under
1318 this section. If the association or parent corporation does not
1319 demonstrate to the satisfaction of the office compliance with
1320 all applicable provisions of this part, the association or
1321 parent association shall immediately cease writing new and

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1322 renewal business upon the effective date of the cancellation,
1323 termination, or modification.

1324 2. The association must maintain at all times net assets
1325 of at least \$750,000.

1326 Section 33. Section 634.317, Florida Statutes, is amended
1327 to read:

1328 634.317 License and appointment required.—No person may
1329 solicit, negotiate, or effectuate home warranty contracts for
1330 remuneration in this state unless such person is licensed and
1331 appointed as a sales representative. A licensed and appointed
1332 sales representative shall be directly responsible and
1333 accountable for all acts of the licensee's employees.

1334 Municipalities, county governments, special districts, entities
1335 operated by a municipality or county government, and the
1336 employees or agents of a municipality, county government,
1337 special district, or entity operated by a municipality or county
1338 government, are exempt from these licensing and appointing
1339 requirements.

1340 Section 34. Subsection (9) of section 648.25, Florida
1341 Statutes, is renumbered as subsection (10), and a new subsection
1342 (9) and subsection (11) are added to that section to read:

1343 648.25 Definitions.—As used in this chapter, the term:

1344 (9) "Referring bail bond agent" is the limited surety
1345 agent who is appointed with the surety company issuing the
1346 transfer bond that is to be posted in a county where the

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1347 referring limited surety agent is not registered. The referring
1348 bail bond agent is the appointed agent held liable for the
1349 transfer bond, along with the issuing surety company.

1350 (11) "Transfer bond" means the appearance bond and power
1351 of attorney form posted by a limited surety agent who is
1352 registered in the county where the defendant is being held in
1353 custody, and who is appointed to represent the same surety
1354 company issuing the appearance bond as the referring bail bond
1355 agent.

1356 Section 35. Subsection (3) of section 648.26, Florida
1357 Statutes, is amended to read:

1358 648.26 Department of Financial Services; administration.—

1359 (3) The papers, documents, reports, or any other
1360 investigatory records of the department are confidential and
1361 exempt from s. 119.07(1) until such investigation is completed
1362 or ceases to be active, unless the department or office files a
1363 formal administrative complaint, emergency order, or consent
1364 order against the individual or entity. For the purpose of this
1365 section, an investigation is considered active while the
1366 investigation is being conducted by the department with a
1367 reasonable, good faith belief that it may lead to the filing of
1368 administrative, civil, or criminal proceedings. An investigation
1369 does not cease to be active if the department is proceeding with
1370 reasonable dispatch and there is good faith belief that action
1371 may be initiated by the department or other administrative or

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1372 law enforcement agency. This subsection does not prevent the
1373 department or office from disclosing the content of a complaint
1374 or such information as it deems necessary to conduct the
1375 investigation, to update the complainant as to the status and
1376 outcome of the complaint, to review the details of the
1377 investigation with the subject or the subject's representative,
1378 or to share such information with any law enforcement agency or
1379 other regulatory body.

1380 Section 36. Paragraph (a) of subsection (1) of section
1381 648.30, Florida Statutes, is amended to read:

1382 648.30 Licensure and appointment required; prohibited
1383 acts; penalties.—

1384 (1)(a) A person or entity may not act in the capacity of a
1385 bail bond agent or bail bond agency or perform any of the
1386 functions, duties, or powers prescribed for bail bond agents or
1387 bail bond agencies under this chapter unless that person or
1388 entity is qualified, licensed, and appointed as provided in this
1389 chapter ~~and employed by a bail bond agency.~~

1390 Section 37. Subsection (1) of section 648.355, Florida
1391 Statutes, is amended to read:

1392 648.355 Limited surety agents and professional bail bond
1393 agents; qualifications.—

1394 (1) The applicant shall furnish, with the application for
1395 license, a complete set of the applicant's fingerprints in
1396 accordance with s. 626.171(4) ~~and a recent credential-sized,~~

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1397 ~~fullface photograph of the applicant.~~ The department may not
1398 issue a license under this section until the department has
1399 received a report from the Department of Law Enforcement and the
1400 Federal Bureau of Investigation relative to the existence or
1401 nonexistence of a criminal history report based on the
1402 applicant's fingerprints.

1403 Section 38. Subsection (3) of section 648.43, Florida
1404 Statutes, is amended to read:

1405 648.43 Power of attorney; approval by office; filing of
1406 copies; notification of transfer bond.—

1407 (3) Every bail bond agent who executes or countersigns a
1408 transfer bond shall indicate in writing on the bond the name,
1409 ~~and~~ address, and license number of the referring bail bond
1410 agent.

1411 Section 39. Section 717.101, Florida Statutes, is amended
1412 to read:

1413 717.101 Definitions.—As used in this chapter, unless the
1414 context otherwise requires:

1415 (1) "Aggregate" means the amounts reported for owners of
1416 unclaimed property of less than \$50 or where there is no name
1417 for the individual or entity listed on the holder's records,
1418 regardless of the amount to be reported.

1419 (2) "Apparent owner" means the person whose name appears
1420 on the records of the holder as the person entitled to property
1421 held, issued, or owing by the holder.

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1422 (3) "Audit" means an action or proceeding to examine and
1423 verify a person's records, books, accounts, and other documents
1424 to ascertain and determine compliance with this chapter.

1425 (4) "Audit agent" means a person with whom the department
1426 enters into a contract with to conduct an audit or examination.
1427 The term includes an independent contractor of the person and
1428 each individual participating in the audit on behalf of the
1429 person or contractor.

1430 (5)~~(3)~~ "Banking organization" means any and all banks,
1431 trust companies, private bankers, savings banks, industrial
1432 banks, safe-deposit companies, savings and loan associations,
1433 credit unions, and investment companies in this state, organized
1434 under or subject to the laws of this state or of the United
1435 States, including entities organized under 12 U.S.C. s. 611, but
1436 does not include federal reserve banks. The term also includes
1437 any corporation, business association, or other organization
1438 that:

1439 (a) Is a wholly or partially owned subsidiary of any
1440 banking, banking corporation, or bank holding company that
1441 performs any or all of the functions of a banking organization;
1442 or

1443 (b) Performs functions pursuant to the terms of a contract
1444 with any banking organization ~~state or national bank,~~
1445 ~~international banking entity or similar entity, trust company,~~
1446 ~~savings bank, industrial savings bank, land bank, safe-deposit~~

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1447 ~~company, private bank, or any organization otherwise defined by~~
1448 ~~law as a bank or banking organization.~~

1449 ~~(6)-(4) "Business association" means any for-profit or~~
1450 ~~nonprofit corporation other than a public corporation; joint~~
1451 ~~stock company; investment company; unincorporated association or~~
1452 ~~association of two or more individuals for business purposes,~~
1453 ~~whether or not for profit; partnership; joint venture; limited~~
1454 ~~liability company; sole proprietorship; business trust; trust~~
1455 ~~company; land bank; safe-deposit company; safekeeping~~
1456 ~~depository; financial organization; insurance company; federally~~
1457 ~~chartered entity; utility company; or other business entity,~~
1458 ~~whether or not for profit corporation (other than a public~~
1459 ~~corporation), joint stock company, investment company, business~~
1460 ~~trust, partnership, limited liability company, or association of~~
1461 ~~two or more individuals for business purposes, whether for~~
1462 ~~profit or not for profit.~~

1463 ~~(7)-(5) "Claimant" means the person on whose behalf a claim~~
1464 ~~is filed.~~

1465 ~~(8) "Claimant's representative" means an attorney who is a~~
1466 ~~member in good standing of The Florida Bar, a certified public~~
1467 ~~accountant licensed in this state, or private investigator who~~
1468 ~~is duly licensed to do business in the state, registered with~~
1469 ~~the department, and authorized by the claimant to claim~~
1470 ~~unclaimed property on the claimant's behalf. The term does not~~
1471 ~~include a person acting in a representative capacity, such as a~~

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1472 personal representative, guardian, trustee, or attorney, whose
1473 representation is not contingent upon the discovery or location
1474 of unclaimed property; provided, however, that any agreement
1475 entered into for the purpose of evading s. 717.135 is invalid
1476 and unenforceable.

1477 (9)-(6) "Credit balance" means an account balance in the
1478 customer's favor.

1479 (10)-(7) "Department" means the Department of Financial
1480 Services.

1481 (11)-(8) "Domicile" means the state of incorporation for a
1482 corporation; the state of filing for a business association,
1483 other than a corporation, whose formation or organization
1484 requires a filing with a state; the state of organization for a
1485 business association, other than a corporation, whose formation
1486 or organization does not require a filing with a state; the
1487 state of home office for a federally chartered entity ~~incorporated~~
1488 under the laws of a state, or, for an unincorporated business
1489 association, the state where the business association is
1490 organized.

1491 (12)-(9) "Due diligence" means the use of reasonable and
1492 prudent methods under particular circumstances to locate
1493 apparent owners of inactive accounts using the taxpayer
1494 identification number or social security number, if known, which
1495 may include, but are not limited to, using a nationwide
1496 database, cross-indexing with other records of the holder,

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1497 mailing to the last known address unless the last known address
1498 is known to be inaccurate, providing written notice as described
1499 in this chapter by electronic mail if an apparent owner has
1500 elected such delivery, or engaging a licensed agency or company
1501 capable of conducting such search and providing updated
1502 addresses.

1503 (13) "Electronic" means relating to technology having
1504 electrical, digital, magnetic, wireless, optical,
1505 electromagnetic, or similar capabilities.

1506 (14)-(10) "Financial organization" means a ~~state or federal~~
1507 savings association, savings and loan association, savings bank,
1508 industrial bank, bank, banking organization, trust company,
1509 international bank agency, cooperative bank, building and loan
1510 association, or credit union.

1511 (15)-(11) "Health care provider" means any state-licensed
1512 entity that provides and receives payment for health care
1513 services. These entities include, but are not limited to,
1514 hospitals, outpatient centers, physician practices, and skilled
1515 nursing facilities.

1516 (16)-(12) "Holder" means:

1517 (a) A person, ~~wherever organized or domiciled,~~ who is in
1518 possession or control or has custody of property or the rights
1519 to property belonging to another; is indebted to another on an
1520 obligation; or is obligated to hold for the account of, or to

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1521 deliver or pay to, the owner, property subject to this chapter;
1522 or:

1523 ~~(a) In possession of property belonging to another;~~

1524 (b) A trustee in case of a trust; ~~or~~

1525 ~~(c) Indebted to another on an obligation.~~

1526 (17) ~~(13)~~ "Insurance company" means an association,
1527 corporation, or fraternal or mutual benefit organization,
1528 whether for profit or not for profit, which is engaged in
1529 providing insurance coverage.

1530 (18) ~~(14)~~ "Intangible property" includes, by way of
1531 illustration and not limitation:

1532 (a) Moneys, checks, virtual currency, drafts, deposits,
1533 interest, dividends, and income.

1534 (b) Credit balances, customer overpayments, security
1535 deposits and other instruments as defined by chapter 679,
1536 refunds, unpaid wages, unused airline tickets, and unidentified
1537 remittances.

1538 (c) Stocks, and other intangible ownership interests in
1539 business associations.

1540 (d) Moneys deposited to redeem stocks, bonds, bearer
1541 bonds, original issue discount bonds, coupons, and other
1542 securities, or to make distributions.

1543 (e) Amounts due and payable under the terms of insurance
1544 policies.

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1545 (f) Amounts distributable from a trust or custodial fund
1546 established under a plan to provide any health, welfare,
1547 pension, vacation, severance, retirement, death, stock purchase,
1548 profit sharing, employee savings, supplemental unemployment
1549 insurance, or similar benefit.

1550 ~~(19)-(15)~~ "Last known address" means a description of the
1551 location of the apparent owner sufficient for the purpose of the
1552 delivery of mail. For the purposes of identifying, reporting,
1553 and remitting property to the department which is presumed to be
1554 unclaimed, "last known address" includes any partial description
1555 of the location of the apparent owner sufficient to establish
1556 the apparent owner was a resident of this state at the time of
1557 last contact with the apparent owner or at the time the property
1558 became due and payable.

1559 ~~(20)-(16)~~ "Lawful charges" means charges against dormant
1560 accounts that are authorized by statute for the purpose of
1561 offsetting the costs of maintaining the dormant account.

1562 ~~(21)-(17)~~ "Managed care payor" means a health care plan
1563 that has a defined system of selecting and limiting health care
1564 providers as evidenced by a managed care contract with the
1565 health care providers. These plans include, but are not limited
1566 to, managed care health insurance companies and health
1567 maintenance organizations.

1568 ~~(22)-(18)~~ "Owner" means a person, or the person's legal
1569 representative, entitled to receive or having a legal or

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1570 equitable interest in or claim against property subject to this
1571 chapter; a depositor in the case of a deposit; a beneficiary in
1572 the case of a trust or a deposit in trust; or a payee in the
1573 case of a negotiable instrument or other intangible property a
1574 depositor in the case of a deposit, a beneficiary in the case of
1575 a trust or a deposit in trust, or a payee in the case of other
1576 intangible property, or a person having a legal or equitable
1577 interest in property subject to this chapter or his or her legal
1578 representative.

1579 (23) "Person" means an individual; estate; business
1580 association; corporation; firm; association; joint adventure;
1581 partnership; government or governmental subdivision, agency, or
1582 instrumentality; or any other legal or commercial entity.

1583 (24)-(19) "Public corporation" means a corporation created
1584 by the state, founded and owned in the public interest,
1585 supported by public funds, and governed by those deriving their
1586 power from the state.

1587 (25) "Record" means information that is inscribed on a
1588 tangible medium or that is stored in an electronic or other
1589 medium and is retrievable in perceivable form.

1590 (26)-(20) "Reportable period" means the calendar year
1591 ending December 31 of each year.

1592 (27)-(21) "State," when applied to a part of the United
1593 States, includes any state, district, commonwealth, territory,

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1594 insular possession, and any other area subject to the
1595 legislative authority of the United States.

1596 ~~(28)-(22)~~ "Trust instrument" means a trust instrument as
1597 defined in s. 736.0103.

1598 ~~(23) "Ultimate equitable owner" means a natural person
1599 who, directly or indirectly, owns or controls an ownership
1600 interest in a corporation, a foreign corporation, an alien
1601 business organization, or any other form of business
1602 organization, regardless of whether such natural person owns or
1603 controls such ownership interest through one or more natural
1604 persons or one or more proxies, powers of attorney, nominees,
1605 corporations, associations, partnerships, trusts, joint stock
1606 companies, or other entities or devices, or any combination
1607 thereof.~~

1608 (29) "Unclaimed Property Purchase Agreement" means the
1609 form adopted by the department pursuant to s. 717.135 which must
1610 be used, without modification or amendment, by a claimant's
1611 representative to purchase unclaimed property from an owner.

1612 (30) "Unclaimed Property Recovery Agreement" means the
1613 form adopted by the department pursuant to s. 717.135 which must
1614 be used, without modification or amendment, by a claimant's
1615 representative to obtain an owner's consent and authority to
1616 recover unclaimed property on the owner's behalf.

1617 ~~(31)-(24)~~ "United States" means any state, district,
1618 commonwealth, territory, insular possession, and any other area

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1619 subject to the legislative authority of the United States of
1620 America.

1621 ~~(32)-(25)~~ "Utility" means a person who owns or operates,
1622 for public use, any plant, equipment, property, franchise, or
1623 license for the transmission of communications or the
1624 production, storage, transmission, sale, delivery, or furnishing
1625 of electricity, water, steam, or gas.

1626 (33) (a) "Virtual currency" means digital units of exchange
1627 that:

1628 1. Have a centralized repository or administrator;
1629 2. Are decentralized and have no centralized repository or
1630 administrator; or
1631 3. May be created or obtained by computing or
1632 manufacturing effort.

1633 (b) The term does not include any of the following:

1634 1. Digital units that:
1635 a. Are used solely within online gaming platforms;
1636 b. Have no market or application outside of the online
1637 gaming platforms in sub-subparagraph a.;
1638 c. Cannot be converted into, or redeemed for, fiat
1639 currency or virtual currency; and
1640 d. Can or cannot be redeemed for real-world goods,
1641 services, discounts, or purchases.

1642 2. Digital units that can be redeemed for:

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1643 a. Real-world goods, services, discounts, or purchases as
1644 part of a customer affinity or rewards program with the issuer
1645 or other designated merchants; or

1646 b. Digital units in another customer affinity or rewards
1647 program, but cannot be converted into, or redeemed for, fiat
1648 currency or virtual currency.

1649 3. Digital units used as part of prepaid cards.

1650 Section 40. Subsections (3) and (4) are added to section
1651 717.102, Florida Statutes, to read:

1652 717.102 Property presumed unclaimed; general rule.—

1653 (3) A presumption that property is unclaimed is rebutted
1654 by an apparent owner's expression of interest in the property.
1655 An owner's expression of interest in property includes:

1656 (a) A record communicated by the apparent owner to the
1657 holder or agent of the holder concerning the property or the
1658 account in which the property is held;

1659 (b) An oral communication by the apparent owner to the
1660 holder or agent of the holder concerning the property or the
1661 account in which the property is held, if the holder or its
1662 agent contemporaneously makes and preserves a record of the fact
1663 of the apparent owner's communication;

1664 (c) Presentment of a check or other instrument of payment
1665 of a dividend, interest payment, or other distribution, with
1666 respect to an account, underlying security, or interest in a
1667 business association;

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1668 (d) Activity directed by an apparent owner in the account
1669 in which the property is held, including accessing the account
1670 or information concerning the account, or a direction by the
1671 apparent owner to increase, decrease, or otherwise change the
1672 amount or type of property held in the account;

1673 (e) A deposit into or withdrawal from an account at a
1674 financial organization, excluding an automatic deposit or
1675 withdrawal previously authorized by the apparent owner or an
1676 automatic reinvestment of dividends or interest, which does not
1677 constitute an expression of interest; or

1678 (f) Any other action by the apparent owner which
1679 reasonably demonstrates to the holder that the apparent owner
1680 knows that the property exists.

1681 (4) A deceased owner is incapable of expressing an
1682 interest in property.

1683 Section 41. Subsection (5) of section 717.106, Florida
1684 Statutes, is amended to read:

1685 717.106 Bank deposits and funds in financial
1686 organizations.—

1687 (5) If the documents establishing a deposit described in
1688 subsection (1) state the address of a beneficiary of the
1689 deposit, and the account has a value of at least \$50, notice
1690 shall be given to the beneficiary as provided for notice to the
1691 apparent owner under s. 717.117(6) ~~s. 717.117(4)~~. This

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1692 subsection shall apply to accounts opened on or after October 1,
1693 1990.

1694 Section 42. Section 717.1065, Florida Statutes, is created
1695 to read:

1696 717.1065 Virtual currency.-

1697 (1) Any virtual currency held or owing by a banking
1698 organization, corporation, custodian, exchange, or other entity
1699 engaged in virtual currency business activity is presumed
1700 unclaimed unless the owner, within 5 years, has communicated in
1701 writing with the banking organization, corporation, custodian,
1702 exchange, or other entity engaged in virtual currency business
1703 activity concerning the virtual currency or otherwise indicated
1704 an interest as evidenced by a memorandum or other record on file
1705 with the banking organization, corporation, custodian, exchange,
1706 or other entity engaged in virtual currency business activity.

1707 (2) A holder may not deduct from the amount of any virtual
1708 currency subject to this section any charges imposed by reason
1709 of the virtual currency unless there is a valid and enforceable
1710 written contract between the holder and the owner of the virtual
1711 currency pursuant to which the holder may impose those charges
1712 and does not regularly reverse or otherwise cancel those charges
1713 with respect to the virtual currency.

1714 Section 43. Paragraph (a) of subsection (1) of section
1715 717.1101, Florida Statutes, is amended to read:

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1716 717.1101 Unclaimed equity and debt of business
1717 associations.—

1718 (1)(a) Stock or other equity interest in a business
1719 association is presumed unclaimed on the date of ~~3 years after~~
1720 the earliest of the following:

1721 1. Three years after ~~The date of~~ the most recent of any
1722 owner-generated activity or communication related to the
1723 account, as recorded and maintained in the holder's database and
1724 records systems sufficient enough to demonstrate the owners
1725 continued awareness or interest in the property dividend, stock
1726 split, or other distribution unclaimed by the apparent owner;

1727 2. Three years after the date of the death of the owner,
1728 as evidenced by: ~~The date of a statement of account or other~~
1729 ~~notification or communication that was returned as~~
1730 ~~undeliverable; or~~

1731 a. Notice to the holder of the owner's death by an
1732 administrator, beneficiary, relative, or trustee, or by a
1733 personal representative or other legal representative of the
1734 owner's estate;

1735 b. Receipt by the holder of a copy of the death
1736 certificate of the owner;

1737 c. Confirmation by the holder of the owner's death through
1738 other means; or

1739 d. Other evidence from which the holder may reasonably
1740 conclude that the owner is deceased; or

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1741 3. One year after the date on which the holder receives
1742 notice under subparagraph 2. if the notice is received 2 years
1743 or less after the owner's death and the holder lacked knowledge
1744 of the owner's death during that period of 2 years or less ~~The~~
1745 ~~date the holder discontinued mailings, notifications, or~~
1746 ~~communications to the apparent owner.~~

1747 Section 44. Subsection (1) of section 717.112, Florida
1748 Statutes, is amended to read:

1749 717.112 Property held by agents and fiduciaries.—

1750 (1) ~~Except as provided in ss. 717.1125 and 733.816,~~ All
1751 intangible property and any income or increment thereon held in
1752 a fiduciary capacity for the benefit of another person,
1753 including property held by an attorney in fact or an agent,
1754 except as provided in ss. 717.1125 and 733.816, is presumed
1755 unclaimed unless the owner has within 5 years after it has
1756 become payable or distributable increased or decreased the
1757 principal, accepted payment of principal or income, communicated
1758 in writing concerning the property, or otherwise indicated an
1759 interest as evidenced by a memorandum or other record on file
1760 with the fiduciary.

1761 Section 45. Section 717.117, Florida Statutes, is amended
1762 to read:

1763 717.117 Report of unclaimed property.—

1764 (1) Every person holding funds or other property, tangible
1765 or intangible, presumed unclaimed and subject to custody as

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1766 unclaimed property under this chapter shall report to the
1767 department ~~on such forms as the department may prescribe by~~
1768 ~~rule. In lieu of forms, a report identifying 25 or more~~
1769 ~~different apparent owners must be submitted by the holder via~~
1770 electronic medium as the department may prescribe by rule. The
1771 report must include:

1772 (a) ~~Except for traveler's checks and money orders,~~ The
1773 name, social security number or taxpayer identification number,
1774 ~~and date of birth, if known,~~ and last known address, ~~if any,~~ of
1775 each person appearing from the records of the holder to be the
1776 owner of any property which is presumed unclaimed and which has
1777 a value of \$10 ~~\$50~~ or more.

1778 (b) For unclaimed funds that ~~which~~ have a value of \$10 ~~\$50~~
1779 or more held or owing under any life or endowment insurance
1780 policy or annuity contract, the identifying information provided
1781 in paragraph (a) for both full name, taxpayer identification
1782 number or social security number, date of birth, if known, and
1783 last known address of the insured or annuitant and ~~of~~ the
1784 beneficiary according to records of the insurance company
1785 holding or owing the funds.

1786 (c) For all tangible property held in a safe-deposit box
1787 or other safekeeping repository, a description of the property
1788 and the place where the property is held and may be inspected by
1789 the department, and any amounts owing to the holder. Contents of
1790 a safe-deposit box or other safekeeping repository which consist

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1791 of documents or writings of a private nature and which have
1792 little or no apparent value shall not be presumed unclaimed.

1793 (d) The nature or type of property, any accounting or ~~and~~
1794 identifying number associated with the property, a if any, or
1795 description of the property, and the amount appearing from the
1796 records to be due. Items of value under \$10 ~~\$50~~ each may be
1797 reported in the aggregate.

1798 (e) The date the property became payable, demandable, or
1799 returnable, and the date of the last transaction with the
1800 apparent owner with respect to the property.

1801 (f) Any other information the department may prescribe by
1802 rule as necessary for the administration of this chapter.

1803 (2) If the total value of all presumed unclaimed property,
1804 whether tangible or intangible, held by a person is less than
1805 \$10, a zero balance report may be filed for that reporting
1806 period.

1807 ~~(f) Any person or business association or public~~
1808 ~~corporation holding funds presumed unclaimed and having a total~~
1809 ~~value of \$10 or less may file a zero balance report for that~~
1810 ~~reporting period. The balance brought forward to the new~~
1811 ~~reporting period is zero.~~

1812 ~~(g) Such other information as the department may prescribe~~
1813 ~~by rule as necessary for the administration of this chapter.~~

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1814 ~~(3)(h)~~ Credit balances, customer overpayments, security
1815 deposits, and refunds having a value of less than \$10 shall not
1816 be presumed unclaimed.

1817 ~~(4)(2)~~ If the holder of property presumed unclaimed and
1818 subject to custody as unclaimed property is a successor holder
1819 or if the holder has changed the holder's name while in
1820 possession of the property, the holder shall file with the
1821 holder's report all known names and addresses of each prior
1822 holder of the property. Compliance with this subsection means
1823 the holder exercises reasonable and prudent efforts to determine
1824 the names of all prior holders.

1825 ~~(5)(3)~~ The report must be filed before May 1 of each year.
1826 The report shall apply to the preceding calendar year. On
1827 written request by any person required to file a report, and
1828 upon a showing of good cause, the department may extend the
1829 reporting date. The department may impose and collect a penalty
1830 of \$10 per day up to a maximum of \$500 for the failure to timely
1831 report, if an extension was not provided or if the holder of the
1832 property failed the failure to include in a report information
1833 required by this chapter which was in the holder's possession at
1834 the time of reporting. The penalty shall be remitted to the
1835 department within 30 days after the date of the notification to
1836 the holder that the penalty is due and owing. As necessary for
1837 proper administration of this chapter, the department may waive
1838 any penalty due with appropriate justification. ~~On written~~

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1839 ~~request by any person required to file a report and upon a~~
1840 ~~showing of good cause, the department may postpone the reporting~~
1841 ~~date.~~ The department must provide information contained in a
1842 report filed with the department to any person requesting a copy
1843 of the report or information contained in a report, to the
1844 extent the information requested is not confidential, within 45
1845 days after the department determines that the report ~~has been~~
1846 ~~processed and added to the unclaimed property database~~
1847 ~~subsequent to a determination that the report is accurate and~~
1848 acceptable and that the reported property is the same as the
1849 remitted property.

1850 (6)(4) Holders of inactive accounts having a value of \$50
1851 or more shall use due diligence to locate and notify apparent
1852 owners that the entity is holding unclaimed property available
1853 for them to recover. Not more than 120 days and not less than 60
1854 days prior to filing the report required by this section, the
1855 holder in possession of property presumed unclaimed and subject
1856 to custody as unclaimed property under this chapter shall send
1857 written notice by first-class United States mail to the apparent
1858 owner at the apparent owner's last known address from the
1859 holder's records or from other available sources, or via
1860 electronic mail if the apparent owner has elected this method of
1861 delivery, informing the apparent owner that the holder is in
1862 possession of property subject to this chapter, if the holder
1863 has in its records a mailing or electronic ~~an~~ address for the

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1864 | apparent owner which the holder's records do not disclose to be
1865 | inaccurate. These two means of contact are not mutually
1866 | exclusive; if the mailing address is determined to be
1867 | inaccurate, electronic mail may be used if so elected by the
1868 | apparent owner.

1869 | (7) The written notice to the apparent owner required
1870 | under this section must:

1871 | (a) Contain a heading that reads substantially as follows:
1872 | "Notice. The State of Florida requires us to notify you that
1873 | your property may be transferred to the custody of the Florida
1874 | Department of Financial Services if you do not contact us before
1875 | (insert date that is 30 days after the date of notice)."

1876 | (b) Identify the type, nature, and, except for property
1877 | that does not have a fixed value, value of the property that is
1878 | the subject of the notice.

1879 | (c) State that the property will be turned over to the
1880 | custody of the department if no response is received within 30
1881 | days after the date of the notice.

1882 | (d) State that any property that is not legal tender of
1883 | the United States may be sold or liquidated by the department.

1884 | (e) State that after the property is turned over to the
1885 | department, an apparent owner seeking return of the property may
1886 | file a claim with the department.

1887 | (f) State that the property is currently with a holder and
1888 | provide instructions that the apparent owner must follow to

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1889 prevent the holder from reporting and paying for the property or
1890 from delivering the property to the department.

1891 ~~(8)-(5)~~ Any holder of intangible property may file with the
1892 department a petition for determination that the property is
1893 unclaimed requesting the department to accept custody of the
1894 property. The petition shall state any special circumstances
1895 that exist, contain the information required by subsection (4)
1896 ~~(2)~~, and show that a diligent search has been made to locate the
1897 owner. If the department finds that the proof of diligent search
1898 is satisfactory, it shall give notice as provided in s. 717.118
1899 and accept custody of the property.

1900 ~~(9)-(6)~~ Upon written request by any entity or person
1901 required to file a report, stating such entity's or person's
1902 justification for such action, the department may place that
1903 entity or person in an inactive status as an unclaimed property
1904 "holder."

1905 ~~(10)-(7)~~(a) This section does not apply to the unclaimed
1906 patronage refunds as provided for by contract or through bylaw
1907 provisions of entities organized under chapter 425 or that are
1908 exempt from ad valorem taxation pursuant to s. 196.2002.

1909 (b) This section does not apply to intangible property
1910 held, issued, or owing by a business association subject to the
1911 jurisdiction of the United States Surface Transportation Board
1912 or its successor federal agency if the apparent owner of such
1913 intangible property is a business association. The holder of

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1914 such property does not have any obligation to report, to pay, or
1915 to deliver such property to the department.

1916 (c) This section does not apply to credit balances,
1917 overpayments, refunds, or outstanding checks owed by a health
1918 care provider to a managed care payor with whom the health care
1919 provider has a managed care contract, provided that the credit
1920 balances, overpayments, refunds, or outstanding checks become
1921 due and owing pursuant to the managed care contract.

1922 ~~(11)~~(8)(a) As used in this subsection, the term "property
1923 identifier" means the descriptor used by the holder to identify
1924 the unclaimed property.

1925 (b) Social security numbers and property identifiers
1926 contained in reports required under this section, held by the
1927 department, are confidential and exempt from s. 119.07(1) and s.
1928 24(a), Art. I of the State Constitution.

1929 (c) This exemption applies to social security numbers and
1930 property identifiers held by the department before, on, or after
1931 the effective date of this exemption.

1932 (12) This section shall take effect on January 1, 2025.

1933 Section 46. Subsections (4), (5), and (6) of section
1934 717.119, Florida Statutes, are renumbered as subsections (5),
1935 (6), and (7), respectively, and a new subsection (4) and
1936 subsection (8) are added to that section, to read:

1937 717.119 Payment or delivery of unclaimed property.-

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1938 (4) All virtual currency reported under this chapter on
1939 the annual report filing required in s. 717.117 shall be
1940 remitted to the department with the report. The holder shall
1941 liquidate the virtual currency and remit the proceeds to the
1942 department. The liquidation must occur within 30 before the
1943 filing of the report. Upon delivery of the virtual currency
1944 proceeds to the department, the holder is relieved of all
1945 liability of every kind in accordance with the provisions of s.
1946 717.1201 to every person for any losses or damages resulting to
1947 the person by the delivery to the department of the virtual
1948 currency proceeds.

1949 (8) A holder may not assign or otherwise transfer its
1950 obligation to report, pay, or deliver property or to comply with
1951 the provisions of this chapter, other than to a parent,
1952 subsidiary, or affiliate of the holder.

1953 (a) Unless otherwise agreed to by the parties to a
1954 transaction, the holder's successor by merger or consolidation,
1955 or any person or entity that acquires all or substantially all
1956 of the holder's capital stock or assets, is responsible for
1957 fulfilling the holder's obligation to report, pay, or deliver
1958 property or to comply with the duties of this chapter regarding
1959 the transfer to it of property owed to and being held for an
1960 owner resulting from the merger, consolidation, or acquisition.

1961 (b) This subsection does not prohibit a holder from
1962 contracting with a third party for the reporting of unclaimed

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1963 property, but the holder remains responsible to the department
1964 for the complete, accurate, and timely reporting of the
1965 property.

1966 Section 47. Section 717.1201, Florida Statutes, is amended
1967 to read:

1968 717.1201 Custody by state; holder ~~relieved from~~ liability;
1969 reimbursement of holder paying claim; reclaiming for owner;
1970 ~~defense of holder;~~ payment of safe-deposit box or repository
1971 charges.-

1972 (1) Upon the good faith payment or delivery of property to
1973 the department, the state assumes custody and responsibility for
1974 the safekeeping of property. Any person who pays or delivers
1975 property to the department in good faith is relieved of all
1976 liability to the extent of the value of the property paid or
1977 delivered for any claim then existing or which thereafter may
1978 arise or be made in respect to the property.

1979 (a) A holder's substantial compliance with s. 717.117(4)
1980 and good faith payment or delivery of property to the department
1981 terminates any legal relationship between the holder and the
1982 owner with respect to the property reported and releases and
1983 discharges the holder from any and all liability to the owner,
1984 the owner's heirs, personal representatives, successors, or
1985 assigns by reason of such payment or delivery, regardless of
1986 whether such property is in fact and in law unclaimed property,
1987 and such delivery and payment may be plead as a bar to recovery

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1988 and are a conclusive defense in any suit or action brought by
1989 the owner, the owner's heirs, personal representatives,
1990 successors, and assigns or any claimant against the holder by
1991 reason of such delivery or payment.

1992 (b) If the holder pays or delivers property to the
1993 department in good faith and thereafter any other person claims
1994 the property from the holder paying or delivering, or another
1995 state claims the money or property under that state's laws
1996 relating to escheat or abandoned or unclaimed property, the
1997 department, upon written notice of the claim, shall defend the
1998 holder against the claim and indemnify the holder against any
1999 liability on the claim, except that a holder may not be
2000 indemnified against penalties imposed by another state.

2001 (2) For the purposes of this section, a payment or
2002 delivery of property is made in good faith if:

2003 (a) The payment or delivery was made in conjunction with
2004 an accurate and acceptable report.

2005 (b) The payment or delivery was made in a reasonable
2006 attempt to comply with this chapter.

2007 (c) The holder had a reasonable basis for believing, based
2008 on the facts then known, that the property was unclaimed and
2009 subject to this chapter.

2010 (d) There is no showing that the records pursuant to which
2011 the delivery was made did not meet reasonable commercial
2012 standards of practice in the industry.

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2013 ~~(3)-(2)~~ Any holder who has paid money to the department
2014 pursuant to this chapter may make payment to any person
2015 appearing to be entitled to payment and, upon filing proof that
2016 the payee is entitled thereto, the department shall forthwith
2017 repay the holder without deduction of any fee or other charges.
2018 If repayment is sought for a payment made on a negotiable
2019 instrument, including a traveler's check or money order, the
2020 holder must be repaid under this subsection upon filing proof
2021 that the instrument was duly presented and that the payee is
2022 entitled to payment. The holder shall be repaid for payment made
2023 under this subsection even if the payment was made to a person
2024 whose claim was barred under s. 717.129(1).

2025 ~~(4)-(3)~~ Any holder who has delivered property, including a
2026 certificate of any interest in a business association, other
2027 than money to the department pursuant to this chapter may
2028 reclaim the property if still in the possession of the
2029 department, without payment of any fee or other charges, upon
2030 filing proof that the owner has claimed the property from the
2031 holder.

2032 ~~(5)-(4)~~ The department may accept an affidavit of the
2033 holder stating the facts that entitle the holder to recover
2034 money and property under this section as sufficient proof.

2035 ~~(5) If the holder pays or delivers property to the~~
2036 ~~department in good faith and thereafter any other person claims~~
2037 ~~the property from the holder paying or delivering, or another~~

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2038 ~~state claims the money or property under that state's laws~~
2039 ~~relating to escheat or abandoned or unclaimed property, the~~
2040 ~~department, upon written notice of the claim, shall defend the~~
2041 ~~holder against the claim and indemnify the holder against any~~
2042 ~~liability on the claim.~~

2043 ~~(6) For the purposes of this section, "good faith" means~~
2044 ~~that:~~

2045 ~~(a) Payment or delivery was made in a reasonable attempt~~
2046 ~~to comply with this chapter.~~

2047 ~~(b) The person delivering the property was not a fiduciary~~
2048 ~~then in breach of trust in respect to the property and had a~~
2049 ~~reasonable basis for believing, based on the facts then known to~~
2050 ~~that person, that the property was unclaimed for the purposes of~~
2051 ~~this chapter.~~

2052 ~~(c) There is no showing that the records pursuant to which~~
2053 ~~the delivery was made did not meet reasonable commercial~~
2054 ~~standards of practice in the industry.~~

2055 ~~(6)(7)~~ Property removed from a safe-deposit box or other
2056 safekeeping repository is received by the department subject to
2057 the holder's right under this subsection to be reimbursed for
2058 the actual cost of the opening and to any valid lien or contract
2059 providing for the holder to be reimbursed for unpaid rent or
2060 storage charges. The department shall make the reimbursement to
2061 the holder out of the proceeds remaining after the deduction of
2062 the department's selling cost.

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2063 (7) If it appears to the satisfaction of the department
2064 that, because of some mistake of fact, error in calculation, or
2065 erroneous interpretation of a statute, a person has paid or
2066 delivered to the department pursuant to any provision of this
2067 chapter any money or other property not required by this chapter
2068 to be so paid or delivered, the department may, within 5 years
2069 after such erroneous payment or delivery, refund or redeliver
2070 such money or other property to the person, provided that such
2071 money or property has not been paid or delivered to a claimant
2072 or otherwise disposed of in accordance with this chapter.

2073 Section 48. Subsection (1) of section 717.123, Florida
2074 Statutes, is amended to read:

2075 717.123 Deposit of funds.—

2076 (1) All funds received under this chapter, including the
2077 proceeds from the sale of unclaimed property under s. 717.122,
2078 shall forthwith be deposited by the department in the Unclaimed
2079 Property Trust Fund. The department shall retain, from funds
2080 received under this chapter, an amount not exceeding ~~\$65~~ \$15
2081 million from which the department shall make prompt payment of
2082 claims allowed by the department and shall pay the costs
2083 incurred by the department in administering and enforcing this
2084 chapter. All remaining funds received by the department under
2085 this chapter shall be deposited by the department into the State
2086 School Fund.

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2087 Section 49. Section 717.1242, Florida Statutes, is amended
2088 to read:

2089 717.1242 Restatement of jurisdiction of the circuit court
2090 sitting in probate and the department.—

2091 (1) It is and has been the intent of the Legislature that,
2092 pursuant to s. 26.012(2)(b), circuit courts have jurisdiction of
2093 proceedings relating to the settlement of the estates of
2094 decedents and other jurisdiction usually pertaining to courts of
2095 probate. It is and has been the intent of the Legislature that,
2096 pursuant to this chapter ~~s. 717.124~~, the department determines
2097 the merits of claims and entitlements to ~~for~~ property paid or
2098 delivered to the department under this chapter. Consistent with
2099 this legislative intent, any ~~estate or~~ beneficiary, devisee,
2100 heir, personal representative, or other interested person, as
2101 those terms are defined in s. 731.201, of an estate seeking to
2102 obtain property paid or delivered to the department under this
2103 chapter must file a claim with the department as provided in s.
2104 717.124.

2105 (2) If a beneficiary, devisee, heir, personal
2106 representative, or other interested person, as those terms are
2107 defined in s. 731.201, of an estate seeks administration of the
2108 estate, of which unclaimed property makes up 50 percent or more
2109 of the assets, the department shall be considered an interested
2110 party and provided with notice of any such proceeding as

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2111 provided in the Florida Probate Code and the Florida Probate
2112 Rules.

2113 ~~(3)-(2)~~ If any estate or heir of an estate seeks or obtains
2114 an order from a circuit court sitting in probate directing the
2115 department to pay or deliver to any person property paid or
2116 delivered to the department under this chapter, the estate or
2117 heir shall be ordered to pay the department reasonable costs and
2118 attorney's fees in any proceeding brought by the department to
2119 oppose, appeal, or collaterally attack the order if the
2120 department is the prevailing party in any such proceeding.

2121 Section 50. Subsection (4) of section 717.1243, Florida
2122 Statutes, is amended to read:

2123 717.1243 Small estate accounts.—

2124 (4) This section ~~only~~ applies only if all of the unclaimed
2125 property held by the department on behalf of the owner has an
2126 aggregate value of \$20,000 ~~\$10,000~~ or less and no probate
2127 proceeding is pending.

2128 Section 51. Subsection (2) of section 717.129, Florida
2129 Statutes, is amended to read:

2130 717.129 Periods of limitation.—

2131 (2) The department may not commence an ~~No~~ action or
2132 proceeding to enforce this chapter with respect to the
2133 reporting, payment, or delivery of property or any other duty of
2134 a holder under this chapter ~~may be commenced by the department~~
2135 ~~with respect to any duty of a holder under this chapter~~ more

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2136 than 10 years after the duty arose. The period of limitation
2137 established under this subsection is tolled by the earlier of
2138 the department's or audit agent's delivery of a notice that a
2139 holder is subject to an audit or examination under s. 717.1301
2140 or the holder's written election to enter into an unclaimed
2141 property voluntary disclosure agreement.

2142 Section 52. Section 717.1301, Florida Statutes, is amended
2143 to read:

2144 717.1301 Investigations; examinations; subpoenas.—

2145 (1) To carry out the chapter's purpose of protecting the
2146 interest of missing owners through the safeguarding of their
2147 property and to administer and enforce this chapter, the
2148 department may:

2149 (a) Investigate, examine, inspect, request, or otherwise
2150 gather information or evidence on, claim documents from a
2151 claimant or a claimant's representative during its review of a
2152 claim.

2153 (b) Audit the records of a person or the records in the
2154 possession of an agent, representative, subsidiary, or affiliate
2155 of the person subject to this chapter to determine whether the
2156 person complied with this chapter. Such records may include
2157 information to verify the completeness or accuracy of the
2158 records provided, even if such records may not identify property
2159 reportable to the department.

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2160 (c) Take testimony of a person, including the person's
2161 employee, agent, representative, subsidiary, or affiliate, to
2162 determine whether the person complied with this chapter.

2163 (d) Issue an administrative subpoena to require that the
2164 records specified in paragraph (b) be made available for
2165 examination or audit and that the testimony specified in
2166 paragraph (c) be provided.

2167 (e) Bring an action in a court of competent jurisdiction
2168 seeking enforcement of an administrative subpoena issued under
2169 this section, which the court shall consider under procedures
2170 that will lead to an expeditious resolution of the action.

2171 (f) Bring an administrative action or an action in a court
2172 of competent jurisdiction to enforce this chapter.

2173 (2) If a person is subject to reporting property under
2174 this chapter, the department may require the person to file a
2175 verified report in a form prescribed by the department. The
2176 verified report must:

2177 (a) State whether the person is holding property
2178 reportable under this chapter;

2179 (b) Describe the property not previously reported, the
2180 property about which the department has inquired, or the
2181 property that is in dispute as to whether it is reportable under
2182 this chapter; and

2183 (c) State the amount or value of the property.

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2184 (3) The department may authorize a compliance review of a
2185 report for a specified reporting year. The review must be
2186 limited to the contents of the report filed, as required by s.
2187 717.117 and subsection (2), and all supporting documents related
2188 to the reports. If the review results in a finding of a
2189 deficiency in unclaimed property due and payable to the
2190 department, the department shall notify the holder in writing of
2191 the amount of deficiency within 1 year after the authorization
2192 of the compliance review. If the holder fails to pay the
2193 deficiency within 90 days, the department may seek to enforce
2194 the assessment under subsection (1). The department is not
2195 required to conduct a review under this section before
2196 initiating an audit.

2197 (4) Notwithstanding any other provision of law, in a
2198 contract providing for the location or collection of unclaimed
2199 property, the department may authorize the contractor to deduct
2200 its fees and expenses for services provided under the contract
2201 from the unclaimed property that the contractor has recovered or
2202 collected under the contract. The department shall annually
2203 report to the Chief Financial Officer the total amount collected
2204 or recovered by each contractor during the previous fiscal year
2205 and the total fees and expenses deducted by each contractor.

2206 ~~(1) The department may make investigations and~~
2207 ~~examinations within or outside this state of claims, reports,~~
2208 ~~and other records as it deems necessary to administer and~~

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2209 ~~enforce the provisions of this chapter. In such investigations~~
2210 ~~and examinations the department may administer oaths, examine~~
2211 ~~witnesses, issue subpoenas, and otherwise gather evidence. The~~
2212 ~~department may request any person who has not filed a report~~
2213 ~~under s. 717.117 to file a verified report stating whether or~~
2214 ~~not the person is holding any unclaimed property reportable or~~
2215 ~~deliverable under this chapter.~~

2216 ~~(2) Subpoenas for witnesses whose evidence is deemed~~
2217 ~~material to any investigation or examination under this section~~
2218 ~~may be issued by the department under seal of the department, or~~
2219 ~~by any court of competent jurisdiction, commanding such~~
2220 ~~witnesses to appear before the department at a time and place~~
2221 ~~named and to bring such books, records, and documents as may be~~
2222 ~~specified or to submit such books, records, and documents to~~
2223 ~~inspection. Such subpoenas may be served by an authorized~~
2224 ~~representative of the department.~~

2225 ~~(3) If any person shall refuse to testify, produce books,~~
2226 ~~records, and documents, or otherwise refuse to obey a subpoena~~
2227 ~~issued under this section, the department may present its~~
2228 ~~petition to a court of competent jurisdiction in or for the~~
2229 ~~county in which such person resides or has its principal place~~
2230 ~~of business, whereupon the court shall issue its rule nisi~~
2231 ~~requiring such person to obey forthwith the subpoena issued by~~
2232 ~~the department or show cause for failing to obey said subpoena.~~
2233 ~~Unless said person shows sufficient cause for failing to obey~~

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2234 ~~the subpoena, the court shall forthwith direct such person to~~
2235 ~~obey the same subject to such punishment as the court may direct~~
2236 ~~including, but not limited to, the restraint, by injunction or~~
2237 ~~by appointment of a receiver, of any transfer, pledge,~~
2238 ~~assignment, or other disposition of such person's assets or any~~
2239 ~~concealment, alteration, destruction, or other disposition of~~
2240 ~~subpoenaed books, records, or documents as the court deems~~
2241 ~~appropriate, until such person has fully complied with such~~
2242 ~~subpoena and the department has completed its investigation or~~
2243 ~~examination. The department is entitled to the summary procedure~~
2244 ~~provided in s. 51.011, and the court shall advance the cause on~~
2245 ~~its calendar. Costs incurred by the department to obtain an~~
2246 ~~order granting, in whole or in part, its petition shall be taxed~~
2247 ~~against the subpoenaed person, and failure to comply with such~~
2248 ~~order shall be a contempt of court.~~

2249 ~~(4) Witnesses shall be entitled to the same fees and~~
2250 ~~mileage as they may be entitled by law for attending as~~
2251 ~~witnesses in the circuit court, except where such examination or~~
2252 ~~investigation is held at the place of business or residence of~~
2253 ~~the witness.~~

2254 (5) The material compiled by the department in an
2255 investigation or examination under this chapter is confidential
2256 until the investigation or examination is complete. If any such
2257 material contains a holder's financial or proprietary
2258 information, it may not be disclosed or made public by the

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2259 department after the investigation or audit is completed, except
2260 as required by a court of competent jurisdiction in the course
2261 of a judicial proceeding in which the state is a party, or
2262 pursuant to an agreement with another state allowing joint
2263 audits. Such material may be considered trade secret and exempt
2264 from s. 119.07(1) as provided for in s. 119.0715. The records,
2265 data, and information gathered ~~material compiled~~ by the
2266 department in an investigation or audit ~~examination~~ under this
2267 chapter remain ~~remains~~ confidential ~~after the department's~~
2268 ~~investigation or examination is complete~~ if the department has
2269 submitted the material or any part of it to any law enforcement
2270 agency or other administrative agency for further investigation
2271 or for the filing of a criminal or civil prosecution and such
2272 investigation has not been completed or become inactive.

2273 (6) If an investigation or an audit ~~examination~~ of the
2274 records of any person results in the disclosure of property
2275 reportable and deliverable under this chapter, the department
2276 may assess the cost of the investigation or audit ~~the~~
2277 ~~examination~~ against the holder ~~at the rate of \$100 per 8-hour~~
2278 ~~day for each investigator or examiner. Such fee shall be~~
2279 ~~calculated on an hourly basis and shall be rounded to the~~
2280 ~~nearest hour. The person shall also pay the travel expense and~~
2281 ~~per diem subsistence allowance provided for state employees in~~
2282 ~~s. 112.061. The person shall not be required to pay a per diem~~
2283 ~~fee and expenses of an examination or investigation which shall~~

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2284 ~~consume more than 30 worker-days in any one year unless such~~
2285 ~~examination or investigation is due to fraudulent practices of~~
2286 ~~the person, in which case such person shall be required to pay~~
2287 ~~the entire cost regardless of time consumed.~~ The fee for the
2288 costs of the investigation or audit shall be remitted to the
2289 department within 30 days after the date of the notification
2290 that the fee is due and owing. Any person who fails to pay the
2291 fee within 30 days after the date of the notification that the
2292 fee is due and owing shall pay to the department interest at the
2293 rate of 12 percent per annum on such fee from the date of the
2294 notification.

2295 Section 53. Subsection (1) of section 717.1311, Florida
2296 Statutes, is amended to read:

2297 717.1311 Retention of records.—

2298 (1) Every holder required to file a report under s.
2299 717.117 shall maintain a record of the specific type of
2300 property, amount, name, and last known address of the owner for
2301 10 ~~5~~ years after the property becomes reportable, except to the
2302 extent that a shorter time is provided in subsection (2) or by
2303 rule of the department.

2304 Section 54. Paragraph (j) of subsection (1) and subsection
2305 (3) of section 717.1322, Florida Statutes, are amended to read:

2306 717.1322 Administrative and civil enforcement.—

2307 (1) The following acts are violations of this chapter and
2308 constitute grounds for an administrative enforcement action by

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2309 the department in accordance with the requirements of chapter
2310 120 and for civil enforcement by the department in a court of
2311 competent jurisdiction:

2312 (j) Requesting or receiving compensation for notifying a
2313 person of his or her unclaimed property or assisting another
2314 person in filing a claim for unclaimed property, unless the
2315 person is an attorney licensed to practice law in this state, a
2316 Florida-certified public accountant, or a private investigator
2317 licensed under chapter 493, or entering into, or making a
2318 solicitation to enter into, an agreement to file a claim for
2319 unclaimed property owned by another, ~~or a contract or agreement~~
2320 ~~to purchase unclaimed property,~~ unless such person is registered
2321 with the department under this chapter and an attorney licensed
2322 to practice law in this state in the regular practice of her or
2323 his profession, a Florida-certified public accountant who is
2324 acting within the scope of the practice of public accounting as
2325 defined in chapter 473, or a private investigator licensed under
2326 chapter 493. This paragraph does not apply to a person who has
2327 been granted a durable power of attorney to convey and receive
2328 all of the real and personal property of the owner, is the
2329 court-appointed guardian of the owner, has been employed as an
2330 attorney or qualified representative to contest the department's
2331 denial of a claim, or has been employed as an attorney to
2332 probate the estate of the owner or an heir or legatee of the
2333 owner.

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2334 (3) A claimant's representative ~~registrant~~ is subject to
2335 civil enforcement and the disciplinary actions specified in
2336 subsection (2) for violations of subsection (1) by an agent or
2337 employee of the registrant's employer if the claimant's
2338 representative ~~registrant~~ knew or should have known that such
2339 agent or employee was violating any provision of this chapter.

2340 Section 55. Subsection (1) of section 717.1333, Florida
2341 Statutes, is amended to read:

2342 717.1333 Evidence; estimations; audit reports and
2343 worksheets, investigator ~~examiner's worksheets~~, ~~investigative~~
2344 ~~reports and worksheets~~, other related documents.-

2345 (1) In any proceeding involving a holder under ss. 120.569
2346 and 120.57 in which an audit agent ~~auditor, examiner,~~ or
2347 investigator acting under authority of this chapter is available
2348 for cross-examination, any official written report, worksheet,
2349 or other related paper, or copy thereof, compiled, prepared,
2350 drafted, or otherwise made or received by the audit agent
2351 ~~auditor, examiner,~~ or investigator, after being duly
2352 authenticated by the audit agent ~~auditor, examiner,~~ or
2353 investigator, may be admitted as competent evidence upon the
2354 oath of the audit agent ~~auditor, examiner,~~ or investigator that
2355 the report, worksheet, or related paper was prepared or received
2356 as a result of an audit, examination, or investigation of the
2357 books and records of the person audited, examined, or
2358 investigated, or the agent thereof.

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2359 Section 56. Subsections (1) and (2) of section 717.134,
2360 Florida Statutes, are amended to read:

2361 717.134 Penalties and interest.—

2362 (1) For any person who willfully fails to render any
2363 report required under this chapter, the department may impose
2364 and collect a penalty of \$500 per day up to a maximum of \$5,000
2365 and 25 percent of the value of property not reported until an
2366 appropriate a report is provided ~~rendered for any person who~~
2367 ~~willfully fails to render any report required under this~~
2368 ~~chapter.~~ Upon a holder's showing of good cause, the department
2369 may waive said penalty or any portion thereof. If the holder
2370 acted in good faith and without negligence, the department shall
2371 waive the penalty provided herein.

2372 (2) For any person who willfully refuses to pay or deliver
2373 unclaimed property to the department as required under this
2374 chapter, the department may impose and collect a penalty of \$500
2375 per day up to a maximum of \$5,000 and 25 percent of the value of
2376 property not paid or delivered until the property is paid or
2377 delivered ~~for any person who willfully refuses to pay or deliver~~
2378 ~~abandoned property to the department as required under this~~
2379 ~~chapter.~~

2380 Section 57. Section 717.135, Florida Statutes, is amended
2381 to read:

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2382 717.135 Recovery agreements and purchase agreements for
2383 claims filed by a claimant's representative or a purchaser; fees
2384 and costs, or total net gain.—

2385 (1) In order to protect the interests of owners of
2386 unclaimed property, the department shall adopt by rule a form
2387 entitled "Unclaimed Property Recovery Agreement" and a form
2388 entitled "Unclaimed Property Purchase Agreement."

2389 (2) The Unclaimed Property Recovery Agreement and the
2390 Unclaimed Property Purchase Agreement must include and disclose
2391 all of the following:

2392 (a) The total dollar amount of unclaimed property accounts
2393 claimed or sold.

2394 (b) The total percentage of all authorized fees and costs
2395 to be paid to the claimant's representative or the percentage of
2396 the value of the property to be paid as net gain to the
2397 purchaser ~~purchasing claimant's representative~~.

2398 (c) The total dollar amount to be deducted and received
2399 from the claimant as fees and costs by the claimant's
2400 representative or the total net dollar amount to be received by
2401 the purchaser ~~purchasing claimant's representative~~.

2402 (d) The net dollar amount to be received by the claimant
2403 or the seller.

2404 (e) For each account claimed, the unclaimed property
2405 account number.

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2406 (f) For the Unclaimed Property Purchase Agreement, a
2407 statement that the amount of the purchase price will be remitted
2408 to the seller by the purchaser within 30 days after the
2409 execution of the agreement by the seller.

2410 (g) The name, address, e-mail address, phone number, and
2411 license number of the claimant's representative, or the name,
2412 address, e-mail address, and phone number of the purchaser.

2413 (h)1. The manual signature of the claimant or seller and
2414 the date signed, affixed on the agreement by the claimant or
2415 seller.

2416 2. Notwithstanding any other provision of this chapter to
2417 the contrary, the department may allow an apparent owner, who is
2418 also the claimant or seller, to sign the agreement
2419 electronically ~~for claims of \$2,000 or less~~. All electronic
2420 signatures on the Unclaimed Property Recovery Agreement and the
2421 Unclaimed Property Purchase Agreement must be affixed on the
2422 agreement by the claimant or seller using the specific,
2423 exclusive eSignature product and protocol authorized by the
2424 department.

2425 (i) The social security number or taxpayer identification
2426 number of the claimant or seller, if a number has been issued to
2427 the claimant or seller.

2428 (j) The total fees and costs, or the total discount in the
2429 case of a purchase agreement, which may not exceed 30 percent of
2430 the claimed amount. In the case of a recovery agreement, if the

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2431 total fees and costs exceed 30 percent, the fees and costs shall
2432 be reduced to 30 percent and the net balance shall be remitted
2433 directly by the department to the claimant. In the case of a
2434 purchase agreement, if the total net gain of the purchaser
2435 exceeds 30 percent, the claim will be denied.

2436 (3) For an Unclaimed Property Purchase Agreement form,
2437 proof that the purchaser has made payment must be filed with the
2438 department along with the claim. If proof of payment is not
2439 provided, the claim is void.

2440 (4) A claimant's representative or a purchaser must use
2441 the Unclaimed Property Recovery Agreement or the Unclaimed
2442 Property Purchase Agreement as the exclusive means of entering
2443 into an agreement or a contract with a claimant or seller to
2444 file a claim with the department.

2445 (5) Fees and costs may be owed or paid to, or received by,
2446 a claimant's representative or a purchaser only after a filed
2447 claim has been approved and if the claimant's representative
2448 used an agreement authorized by this section.

2449 (6) A claimant's representative or a purchaser may not use
2450 or distribute any other agreement of any type, conveyed by any
2451 method, with respect to the claimant or seller which relates,
2452 directly or indirectly, to unclaimed property accounts held by
2453 the department or the Chief Financial Officer other than the
2454 agreements authorized by this section. Any engagement,
2455 authorization, recovery, or fee agreement that is not authorized

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2456 by this section is void. A claimant's representative or a
2457 purchaser is subject to administrative and civil enforcement
2458 under s. 717.1322 if he or she uses an agreement that is not
2459 authorized by this section and if the agreement is used to
2460 apply, directly or indirectly, to unclaimed property held by
2461 this state. This subsection does not prohibit lawful
2462 nonagreement, noncontractual, or advertising communications
2463 between or among the parties.

2464 (7) The Unclaimed Property Recovery Agreement ~~and the~~
2465 ~~Unclaimed Property Purchase Agreement~~ may not contain language
2466 that makes the agreement irrevocable or that creates an
2467 assignment of any portion of unclaimed property held by the
2468 department.

2469 (8) When a claim is approved, the department may pay any
2470 additional account that is owned by the claimant but has not
2471 been claimed at the time of approval, provided that a subsequent
2472 claim has not been filed or is not pending for the claimant at
2473 the time of approval.

2474 (9) This section does not supersede s. 717.1241.

2475 (10) This section does not apply to the sale and purchase
2476 of Florida-held unclaimed property accounts through a bankruptcy
2477 trustee appointed to represent a debtor's estate in a bankruptcy
2478 proceeding in accordance with the United States Bankruptcy Code.

2479 Section 58. Subsections (1), (2), and (3) of section
2480 717.1400, Florida Statutes, are amended to read:

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2481 717.1400 Registration.—

2482 (1) In order to file claims as a claimant's
2483 representative, ~~acquire ownership of or entitlement to unclaimed~~
2484 ~~property,~~ receive a distribution of fees and costs from the
2485 department, and obtain unclaimed property dollar amounts and
2486 numbers of reported shares of stock held by the department, a
2487 private investigator holding a Class "C" individual license
2488 under chapter 493 must register with the department on such form
2489 as the department prescribes by rule and must be verified by the
2490 applicant. To register with the department, a private
2491 investigator must provide:

2492 (a) A legible copy of the applicant's Class "A" business
2493 license under chapter 493 or that of the applicant's firm or
2494 employer which holds a Class "A" business license under chapter
2495 493.

2496 (b) A legible copy of the applicant's Class "C" individual
2497 license issued under chapter 493.

2498 (c) The business address and telephone number of the
2499 applicant's private investigative firm or employer.

2500 (d) The names of agents or employees, if any, who are
2501 designated to act on behalf of the private investigator,
2502 together with a legible copy of their photo identification
2503 issued by an agency of the United States, or a state, or a
2504 political subdivision thereof.

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2505 (e) Sufficient information to enable the department to
2506 disburse funds by electronic funds transfer.

2507 (f) The tax identification number of the private
2508 investigator's firm or employer which holds a Class "A" business
2509 license under chapter 493.

2510 (2) In order to file claims as a claimant's
2511 representative, ~~acquire ownership of or entitlement to unclaimed~~
2512 ~~property,~~ receive a distribution of fees and costs from the
2513 department, and obtain unclaimed property dollar amounts and
2514 numbers of reported shares of stock held by the department, a
2515 Florida-certified public accountant must register with the
2516 department on such form as the department prescribes by rule and
2517 must be verified by the applicant. To register with the
2518 department, a Florida-certified public accountant must provide:

2519 (a) The applicant's Florida Board of Accountancy number.

2520 (b) A legible copy of the applicant's current driver
2521 license showing the full name and current address of such
2522 person. If a current driver license is not available, another
2523 form of identification showing the full name and current address
2524 of such person or persons shall be filed with the department.

2525 (c) The business address and telephone number of the
2526 applicant's public accounting firm or employer.

2527 (d) The names of agents or employees, if any, who are
2528 designated to act on behalf of the Florida-certified public
2529 accountant, together with a legible copy of their photo

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2530 identification issued by an agency of the United States, or a
2531 state, or a political subdivision thereof.

2532 (e) Sufficient information to enable the department to
2533 disburse funds by electronic funds transfer.

2534 (f) The tax identification number of the accountant's
2535 public accounting firm employer.

2536 (3) In order to file claims as a claimant's
2537 representative, ~~acquire ownership of or entitlement to unclaimed~~
2538 ~~property,~~ receive a distribution of fees and costs from the
2539 department, and obtain unclaimed property dollar amounts and
2540 numbers of reported shares of stock held by the department, an
2541 attorney licensed to practice in this state must register with
2542 the department on such form as the department prescribes by rule
2543 and must be verified by the applicant. To register with the
2544 department, such attorney must provide:

2545 (a) The applicant's Florida Bar number.

2546 (b) A legible copy of the applicant's current driver
2547 license showing the full name and current address of such
2548 person. If a current driver license is not available, another
2549 form of identification showing the full name and current address
2550 of such person or persons shall be filed with the department.

2551 (c) The business address and telephone number of the
2552 applicant's firm or employer.

2553 (d) The names of agents or employees, if any, who are
2554 designated to act on behalf of the attorney, together with a

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2555 legible copy of their photo identification issued by an agency
2556 of the United States, or a state, or a political subdivision
2557 thereof.

2558 (e) Sufficient information to enable the department to
2559 disburse funds by electronic funds transfer.

2560 (f) The tax identification number of the attorney's firm
2561 or employer.

2562 Section 59. Paragraph (a) of subsection (2) of section
2563 197.582, Florida Statutes, is amended to read:

2564 197.582 Disbursement of proceeds of sale.—

2565 (2)(a) If the property is purchased for an amount in
2566 excess of the statutory bid of the certificateholder, the
2567 surplus must be paid over and disbursed by the clerk as set
2568 forth in subsections (3), (5), and (6). If the opening bid
2569 included the homestead assessment pursuant to s. 197.502(6)(c),
2570 that amount must be treated as surplus and distributed in the
2571 same manner. The clerk shall distribute the surplus to the
2572 governmental units for the payment of any lien of record held by
2573 a governmental unit against the property, including any tax
2574 certificates not incorporated in the tax deed application and
2575 omitted taxes, if any. If there remains a balance of
2576 undistributed funds, the balance must be retained by the clerk
2577 for the benefit of persons described in s. 197.522(1)(a), except
2578 those persons described in s. 197.502(4)(h), as their interests
2579 may appear. The clerk shall mail notices to such persons

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2580 notifying them of the funds held for their benefit at the
2581 addresses provided in s. 197.502(4). Such notice constitutes
2582 compliance with the requirements of s. 717.117(6) ~~s. 717.117(4)~~.
2583 Any service charges and costs of mailing notices shall be paid
2584 out of the excess balance held by the clerk. Notice must be
2585 provided in substantially the following form:

2586 NOTICE OF SURPLUS FUNDS FROM TAX DEED SALE

2587 CLERK OF COURT

2588 COUNTY, FLORIDA

2589 Tax Deed #.....

2590 Certificate #.....

2591 Property Description:

2592 Pursuant to chapter 197, Florida Statutes, the above
2593 property was sold at public sale on ...(date of sale)..., and a
2594 surplus of \$...(amount)... (subject to change) will be held by
2595 this office for 120 days beginning on the date of this notice to
2596 benefit the persons having an interest in this property as
2597 described in section 197.502(4), Florida Statutes, as their
2598 interests may appear (except for those persons described in
2599 section 197.502(4)(h), Florida Statutes).

2600 To the extent possible, these funds will be used to satisfy
2601 in full each claimant with a senior mortgage or lien in the
2602 property before distribution of any funds to any junior mortgage
2603 or lien claimant or to the former property owner. To be
2604 considered for funds when they are distributed, you must file a

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Amendment No. 1

2605 | notarized statement of claim with this office within 120 days of
2606 | this notice. If you are a lienholder, your claim must include
2607 | the particulars of your lien and the amounts currently due. Any
2608 | lienholder claim that is not filed within the 120-day deadline
2609 | is barred.

2610 | A copy of this notice must be attached to your statement of
2611 | claim. After the office examines the filed claim statements, it
2612 | will notify you if you are entitled to any payment.

2613 | Dated:

2614 | Clerk of Court

2615 | Section 60. Subsection (1) of section 717.1382, Florida
2616 | Statutes, is amended to read:

2617 | 717.1382 United States savings bond; unclaimed property;
2618 | escheatment; procedure.—

2619 | (1) Notwithstanding any other provision of law, a United
2620 | States savings bond in possession of the department or
2621 | registered to a person with a last known address in the state,
2622 | including a bond that is lost, stolen, or destroyed, is presumed
2623 | abandoned and unclaimed 5 years after the bond reaches maturity
2624 | and no longer earns interest and shall be reported and remitted
2625 | to the department by the financial institution or other holder
2626 | in accordance with ss. 717.117(1) and (5) ~~(3)~~ and 717.119, if
2627 | the department is not in possession of the bond.

2628 | Section 61. The Division of Law Revision is directed to
2629 | prepare a reviser's bill for the 2025 Regular Session of the

Amendment No. 1

2630 Legislature to change the term "Division of Investigative and
2631 Forensic Services" wherever the term appears in the Florida
2632 Statutes to "Division of Criminal Investigations."

2633 Section 62. For the 2024-2025 fiscal year, 1 full-time
2634 equivalent position with associated salary rate of \$110,000 is
2635 authorized and the sum of \$183,863 in recurring funds and the
2636 sum of \$5,067 in non-recurring funds is appropriated from the
2637 Insurance Regulatory Trust Fund to the Department of Financial
2638 Services to support the full-time equivalent position.

2639 Section 63. Except as otherwise, this act shall take
2640 effect upon becoming law.

2641

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 991 Pub. Rec./Cellular Telephone Numbers and Secure Login Credentials Held by the Department of Financial Services

SPONSOR(S): LaMarca

TIED BILLS: HB 989 **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee		Herrera	Lloyd
2) Ethics, Elections & Open Government Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

The Department of Financial Services (DFS) has broad duties, including licensure and regulation of insurance agents, agencies, and adjusters; insurance consumer assistance and protection; and holding and attempting to return unclaimed property to its rightful owner. DFS has a number of regulatory responsibilities over the Florida insurance market. DFS regulates insurance adjusters, which includes public adjusters, independent adjusters, and company employee adjusters.

The bill creates a public record exemption within s. 626.171, F.S., pertaining to cellular telephone numbers and secure login credentials associated with insurance agents, customer representatives, adjusters, service representatives, and reinsurance intermediaries, all of which are held by the DFS. The bill establishes telephone numbers collected by the DFS are exempt from disclosure under s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption encompasses cellular telephone numbers held by the DFS, irrespective of whether they were acquired before or after the effective date of the act.

The bill exemption related to secure login credentials maintained by the DFS for the purpose of electronic filing or record review covers information used for authenticating a user's login across various electronic platforms, are shielded from disclosure under the same legal provisions.

The exemptions are subject to the Open Government Sunset Review Act, and will be repealed on October 2, 2029, unless reviewed and saved from repeal through reenactment by the Legislature. It also provides a statement of public necessity as required by the Florida Constitution.

The bill provides for repeal of the exemption on October 2, 2029, unless reviewed and saved from repeal by the Legislature. It also provides a public necessity statement as required by the Florida Constitution.

Article I, s. 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created public record or public meeting exemption. The bill creates a public record exemption; thus, it requires a two-thirds vote for final passage.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Public Records

The Florida Constitution sets forth the state's public policy regarding access to government records, guaranteeing every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government.¹ The Legislature, however, may provide by general law for exemption² from public record requirements provided the exemption passes by two-thirds vote of each chamber, states with specificity the public necessity justifying the exemption, and is no broader than necessary to meet its public purpose.³

The Florida Statutes also address the public policy regarding access to government records, guaranteeing every person a right to inspect and copy any state, county, or municipal record, unless the record is exempt.⁴ Furthermore, the Open Government Sunset Review Act⁵ provides that a public record exemption may be created, revised, or maintained only if it serves an identifiable public purpose and the "Legislature finds that the purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exemption."⁶ An identifiable public purpose is served if the exemption meets one of the following purposes:

- Allow the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
- Protect sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision; or
- Protect trade or business secrets.⁷

Pursuant to the Open Government Sunset Review Act, a new public record exemption or substantial amendment of an existing public record exemption is repealed on October 2nd of the fifth year following enactment, unless the Legislature reenacts the exemption.⁸

Organization of the Department of Financial Services

The Chief Financial Officer (CFO) is an elected member of the Cabinet, serves as the state's chief fiscal officer,⁹ and is designated as the State Fire Marshal. The CFO is the head of the DFS. Effective January 2003, the Department of Insurance, Treasury, State Fire Marshal, and the Department of Banking and Finance merged to form DFS. DFS consists of 13 divisions and several specialized offices.¹⁰ DFS is composed of the following divisions and independent office:

- Accounting and Auditing;
- Consumer Services;
- Funeral, Cemetery, and Consumer Services;
- Insurance Agent and Agency Services;

¹ Art. I, s. 24(a), FLA. CONST.

² A public record exemption means a provision of general law which provides that a specified record, or portion thereof, is not subject to the access requirements of s. 119.07(1), F.S., or s. 24, Art. I of the State Constitution. See s. 119.011(8), F.S.

³ Art. I, s. 24(c), FLA. CONST.

⁴ See s. 119.01, F.S.

⁵ Section 119.15, F.S.

⁶ Section 119.15(6)(b), F.S.

⁷ *Id.*

⁸ Section 119.15(3), F.S.

⁹ Art. IV, s. 4, Fla. Const.

¹⁰ S. 20.121, F.S.

- Investigative and Forensic Services;¹¹
- Public Assistance Fraud;
- Rehabilitation and Liquidation;
- Risk Management;
- State Fire Marshal;
- Treasury;
- Unclaimed Property;
- Workers' Compensation;
- Administration; and the
- Office of Insurance Consumer Advocate.

Division of Insurance Agent and Agency Services

DFS has broad duties, including licensure and regulation of insurance agents, agencies, and adjusters; insurance consumer assistance and protection; and holding and attempting to return unclaimed property to its rightful owner.¹² DFS has a number of regulatory responsibilities over the Florida insurance market. DFS regulates insurance adjusters, which includes public adjusters, independent adjusters, and company employee adjusters and conducts insurance-related consumer outreach through its Consumer Services. The Division of Workers' Compensation within DFS administers the workers' compensation system through enforcement of coverage requirements,¹³ administration of workers' compensation health care delivery system,¹⁴ data collection,¹⁵ and assisting injured workers, employers, insurers, and providers in fulfilling their responsibilities.¹⁶ DFS also administers the rehabilitation and liquidation of insolvent insurers.

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.¹⁷ 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.¹⁸

General Lines Agent

A general lines agent¹⁹ is one who sells the following lines of insurance: property;²⁰ casualty,²¹ including commercial liability insurance underwritten by a risk retention group, a commercial self-insurance fund,²² or a workers' compensation self-insurance fund;²³ surety;²⁴ health;²⁵ and, marine.²⁶ The general lines agent may only transact health insurance for an insurer that the general lines agent also

¹¹ This division includes the Bureau of Forensic Services; Bureau of Fire, Arson, and Explosives Investigations; Office of Fiscal Integrity; Bureau of Insurance Fraud; and Bureau of Workers' Compensation Fraud.

¹² See, e.g., Florida Department of Financial Services, *What is the Purpose of the Department*, <https://oppaga.fl.gov/> (last visited Apr. 2, 2023).

¹³ S. 440.107(3), F.S.

¹⁴ S. 440.13, F.S.

¹⁵ Ss. 440.185 and 440.593, F.S.

¹⁶ S. 440.191, F.S.

¹⁷ S. 626.112, F.S.

¹⁸ S. 626.015, F.S.

¹⁹ S. 626.015(5), F.S.

²⁰ S. 624.604, F.S.

²¹ S. 624.605, F.S.

²² As defined in s. 624.462, F.S.

²³ Pursuant to s. 624.4621, F.S.

²⁴ S. 626.606, F.S.

²⁵ Ss. 624.603 and 627.6482, F.S.

²⁶ S. 624.607, F.S.

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.²⁷

Title Agents and Agencies

Title insurance insures owners of real property (owner's policy) or others having an interest in real property, as well as lenders (mortgagee policies) against loss by encumbrance, defective title, invalidity, or adverse claim to title. It is a policy issued by a title insurer that, after evaluating a search of title, insures against a number of covered risks, including title defects or liens that are not identified as exceptions. In Florida, title insurers operate on a monoline basis, meaning that the insurer can only transact title insurance and cannot transact any other type of insurance.²⁸

Public Adjusters

A public adjuster, excluding duly licensed attorneys, is any individual who, for compensation or any other valuable consideration, directly or indirectly prepares, completes, or submits an insurance claim for an insured or third-party claimant.²⁹ Additionally, it includes those who, for compensation, act on behalf of or assist an insured or third-party claimant in negotiating or settling a covered insurance claim.³⁰ This term also encompasses individuals advertising as adjusters for such claims, as well as those who, for compensation, solicit, investigate, or adjust these claims on behalf of the public adjuster, an insured, or a third-party claimant.³¹

Effect of the Bill

The bill creates a public record exemption within s. 626.171, F.S., pertaining to cellular telephone numbers and secure login credentials associated with insurance agents, customer representatives, adjusters, service representatives, and reinsurance intermediaries, all of which are held by the DFS. The bill establishes telephone numbers collected by the DFS are exempt from disclosure under s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption encompasses cellular telephone numbers held by the DFS, irrespective of whether they were acquired before or after the effective date of the act.

The bill exemption related to secure login credentials maintained by the DFS for the purpose of electronic filing or record review covers information used for authenticating a user's login across various electronic platforms, are shielded from disclosure under the same legal provisions.

The exemptions are subject to the Open Government Sunset Review Act, and will be repealed on October 2, 2029, unless reviewed and saved from repeal through reenactment by the Legislature. It also provides a statement of public necessity as required by the Florida Constitution.

B. SECTION DIRECTORY:

Section 1. Amends s. 626.171, F.S., relating to application for license as an agent, customer representative, adjuster, service representative, or reinsurance intermediary.

Section 2. Provides a statement of public necessity.

Section 3. Contains undirected section of law.

Section 4. Provides an effective date of becoming law when HB 989 takes effect

²⁷ S. 626.829, F.S.

²⁸ S. 627.786, F.S.

²⁹ S. 626.854(1), F.S.

³⁰ *Id.*

³¹ *Id.*

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

Vote Requirement

Article I, s. 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record exemption. The bill creates a public record exemption; thus, it requires a two-thirds vote for final passage.

Public Necessity Statement

Article I, s. 24(c) of the Florida Constitution requires a public necessity statement for a newly created or expanded public record exemption. The bill creates a public record exemption; therefore, it includes a public necessity statement.

Breadth of Exemption

Article I, s. 24(c) of the Florida Constitution requires a newly created public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. This bill creates a public record exemption for cellular telephone numbers and secure login credentials held by the DFS associated with insurance agents, customer representatives, adjusters, service representatives, and reinsurance intermediaries. The purpose of the exemption is to protect sensitive personal information linked to individuals in these roles, that the DFS receives for the purpose of electronic filing or record review. As such, the bill appears to be no broader than necessary to accomplish its purpose.

B. RULE-MAKING AUTHORITY:

The bill does not confer rulemaking authority nor require the promulgation of rules.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 626.171, F.S.; providing a public records exemption
 4 for cellular telephone numbers and secure login
 5 credentials obtained by the Department of Financial
 6 Services through certain insurance license
 7 applications; providing applicability; providing a
 8 definition; providing for future legislative review
 9 and repeal of the exemption; providing a statement of
 10 public necessity; providing a directive to the
 11 Division of Law Revision; providing a contingent
 12 effective date.

13
 14 Be It Enacted by the Legislature of the State of Florida:

15
 16 Section 1. Subsection (8) is added to section 626.171,
 17 Florida Statutes, as amended by HB 989 or similar legislation,
 18 2024 Regular Session, to read:

19 626.171 Application for license as an agent, customer
 20 representative, adjuster, service representative, or reinsurance
 21 intermediary.—

22 (8)(a) Cellular telephone numbers collected by the
 23 department under subsection (2) are exempt from s. 119.07(1) and
 24 s. 24(a), Art. I of the State Constitution. This exemption
 25 applies to cellular telephone numbers held by the department

26 | before, on, or after the effective date of this act.

27 | (b) Secure login credentials held by the department for
28 | the purpose of allowing a person to electronically file or
29 | review records under this section are exempt from s. 119.07(1)
30 | and s. 24(a), Art. I of the State Constitution. This exemption
31 | applies to secure login credentials held by the department
32 | before, on, or after the effective date of this act. As used in
33 | this paragraph, the term "secure login credential" means
34 | information held by the department for purposes of
35 | authenticating a user's logging into a user account on a
36 | computer, a computer system, a computer network, or an
37 | electronic device; an online user account accessible via the
38 | Internet, whether through a mobile device, a website, or any
39 | other electronic means; or information used for authentication
40 | or password recovery.

41 | (c) This subsection is subject to the Open Government
42 | Sunset Review Act in accordance with s. 119.15 and shall stand
43 | repealed on October 2, 2029, unless reviewed and saved from
44 | repeal through reenactment by the Legislature.

45 | Section 2. The Legislature finds that it is a public
46 | necessity that all cellular phone numbers and secure login
47 | credentials held by the Department of Financial Services
48 | relating to electronically filed applications for licenses as
49 | insurance agents, customer representatives, adjusters, service
50 | representatives, and reinsurance intermediaries be made exempt

51 from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of
52 the State Constitution. The unintentional publication of such
53 information may subject the filer to identity theft, financial
54 harm, or other adverse impacts. Without this public records
55 exemption, the effective and efficient administration of the
56 electronic filing system, which is otherwise designed to
57 increase the ease of filing records, would be hindered. For
58 these reasons, the Legislature finds that the public records
59 exemption for all cellular phone numbers and secure login
60 credentials held by the Department of Financial Services
61 relating to electronically filed applications for licenses as
62 insurance agents, customer representatives, adjusters, service
63 representatives, and reinsurance intermediaries serves a public
64 purpose.

65 Section 3. The Division of Law Revision is directed to
66 replace the phrase "the effective date of this act" wherever it
67 occurs in this act with the date this act becomes a law.

68 Section 4. This act shall take effect on the same date
69 that HB 989 or similar legislation takes effect, if such
70 legislation is adopted in the same legislative session or an
71 extension thereof and becomes a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1031 Debt Relief Services
SPONSOR(S): Buchanan
TIED BILLS: **IDEN./SIM. BILLS:** SB 1074

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee		Fletcher	Lloyd
2) Commerce Committee			

SUMMARY ANALYSIS

Individuals seeking to manage and reduce their debts often engage credit counseling organizations who provide debt management services and credit counseling services. "Debt management services" is defined by Florida statute as services provided to a debtor by a credit counseling organization for a fee to effect the adjustment, compromise, or discharge of any unsecured account, note, or other indebtedness of the debtor, or receive from the debtor and disburse to a creditor any money or other thing of value.

Any person engaging in debt management services or credit counseling services must comply with Part IV of ch. 817, F.S., which sets a limitation on fees; requires certain disclosures and financial reporting; sets minimum insurance requirements; specifies acts which are considered violations; and subjects the person engaging in such services to the enforcement provisions of Part IV of ch. 817, F.S.

As an alternative to debt management services, individuals who struggle to pay their credit card bills can turn to organizations that offer debt relief services. Unlike credit counseling organizations, debt relief service providers are for-profit businesses that work with credit card companies to renegotiate the amount of principal owed on an individual's debt.

Florida law does not currently define "debt relief services" nor separately regulate providers of debt relief services. However, debt relief companies that use telemarketing to contact potential customers or hire people on their behalf to do so are regulated by the federal Telemarketing and Consumer Fraud and Abuse Prevention Act (Telemarketing Act), 15 U.S.C. ss. 6101-6108. The federal regulations under the Telemarketing Act specify certain acts that are considered deceptive and abusive telemarketing practices. The regulations also authorize any attorney general or other state officer authorized by a state to bring an action under the Telemarketing Act for violations of the regulations.

The bill:

- Defines the term "debt relief services" as any program or service represented, directly or by implication, to renegotiate, settle, or in any way alter the terms of payment or other terms of the debt between a person and one or more unsecured creditors or debt collectors, including, but not limited to, a reduction in the balance, interest rate, or fees owed by a person to an unsecured creditor or debt collector;
- Relieves debt relief service providers from compliance with Part IV of ch. 817, F.S., including fee limitations, minimum insurance requirements, disclosures and financial reporting requirements, and the enforcement provisions of Part IV of ch. 817, F.S.;
- Clarifies that the term "debt relief services" does not include a debt management service;
- Provides that certain actions that would otherwise be considered violations under Part IV of ch. 817, F.S., do not apply to debt relief services; and
- Authorizes the Attorney General to bring an action against a debt relief services provider for violations of the regulations under the Telemarketing Act.

The bill has no fiscal impact on state government or local government. It has an indeterminate positive and negative impact on the private sector.

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

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1031.IBS

DATE: 1/23/2024

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Debt Management Services

Individuals seeking to manage and reduce their debts often engage credit counseling organizations who provide debt management services and credit counseling services.¹ These organizations are non-profit businesses that assist debtors with managing and reducing their debt by:

- Offering free counseling on credit practices,
- Enrolling qualifying debtors in debt management plans, and
- Providing community education to individuals and families on money management skills.²

“Debt management services” is defined by Florida statute as services provided to a debtor by a credit counseling organization for a fee to effect the adjustment, compromise, or discharge of any unsecured account, note, or other indebtedness of the debtor, **or** receive from the debtor and disburse to a creditor any money or other thing of value.³

Any person engaging in debt management services or credit counseling services must comply with Part IV of ch. 817, F.S., which sets a limitation on fees;⁴ requires certain disclosures and financial reporting;⁵ sets minimum insurance requirements;⁶ specifies certain acts that are considered violations;⁷ and subjects the person engaging in such services to the enforcement provisions of Part IV of ch. 817, F.S.⁸

Additionally, any person who violates Florida’s laws relating to debt management services commits an unfair or deceptive trade practice as defined in Part II of ch. 501, F.S., which relates to Florida’s consumer protection laws.⁹ Further, any consumer injured by a violation of Part II of ch. 501, F.S., may bring an action for recovery of damages.¹⁰ If an injured consumer does bring such an action, judgement must be entered for actual damages, but in no case less than the amount paid by the consumer to the credit counseling agency, plus reasonable attorney’s fees and costs.¹¹

Debt Relief Services

As an alternative to debt management services, individuals who struggle to pay their credit card bills can turn to organizations that offer debt relief services.¹² Unlike credit counseling organizations, debt relief service providers are for-profit businesses that work with credit card companies to renegotiate the amount of principal owed on an individual’s debt.¹³

¹ Consumer Financial Protection Bureau, *What is credit counseling?*, <https://www.consumerfinance.gov/ask-cfpb/whatiscredit-counseling-en-1451/> (last visited Jan. 12, 2024).

² *Id.*

³ S. 817.801(4), F.S.

⁴ See s. 817.802, F.S.

⁵ See s. 817.804, F.S.

⁶ See s. 817.804(1)(b), F.S.

⁷ S. 817.806, F.S.

⁸ *Id.*

⁹ S. 817.806(1), F.S.

¹⁰ *Id.*

¹¹ *Id.*

¹² Federal Trade Commission, *Debt Relief Services & the Telemarketing Sales Rule: A Guide for Business*, <https://www.ftc.gov/system/files/documents/plain-language/bus72-debt-relief-services-telemarketing-sales-rule-guide-business.pdf> (last visited Jan. 12, 2024).

¹³ *Id.*

Florida law does not currently define “debt relief services” nor separately regulate providers of debt relief services. However, debt relief companies that use telemarketing to contact potential customers or hire people on their behalf to do so are regulated by the federal Telemarketing and Consumer Fraud and Abuse Prevention Act (Telemarketing Act), 15 U.S.C. ss. 6101-6108.¹⁴

The federal regulations under the Telemarketing Act defines “debt relief services” as a program that claims directly, or implies, that it can renegotiate, settle, or in some way change the terms of an individual’s debt to an unsecured creditor or debt collector.¹⁵ These services typically include reducing the balance, interest rates, or fees that an individual owes.¹⁶

The federal regulations under the Telemarketing Act specify certain acts that are considered deceptive and abusive telemarketing practices.¹⁷ Examples of such acts include:

- Before a customer consents to pay for goods or services offered, failing to disclose truthfully, in a clear and conspicuous manner, certain material information;¹⁸
- Misrepresenting, directly or by implication, in the sale of goods or services, certain material information;¹⁹
- Causing billing information to be submitted for payment, or collecting payment for goods or services, directly or indirectly, without the customer’s express authorization;²⁰
- Assisting or facilitating any seller or telemarketer that knows or consciously avoids knowing that they are engaged in any act or practice that violates the provisions of the regulations;²¹
- Requesting or receiving payment for goods or services represented to remove derogatory information from, or improve, a person’s credit history, credit record, or credit rating until certain conditions are met;²² and
- Requesting or receiving payment in advance of obtaining a loan or other extension of credit when the seller or telemarketer has guaranteed or represented a high likelihood of success in obtaining or arranging a loan or other extension of credit.²³

The federal regulations under the Telemarketing Act also authorize any attorney general or other state officer authorized by such state to bring an action under the Telemarketing Act.²⁴ If such an action is brought, the attorney general or other authorized state official must serve written notice on the Federal Trade Commission (FTC), if feasible,²⁵ prior to its initiating an action under the regulations.²⁶ The notice must be mailed to a specific address for the FTC and include a copy of the state’s complaint and any other pleadings to be filed with the court.²⁷

Effect of the Bill

The bill amends the definition of “debt management services” to mean services provided to a debtor by a credit counseling organization for a fee to:

- Effect the adjustment, compromise, or discharge of any unsecured account, note, or other indebtedness of the debtor; and (rather than “or”)
- Receive from the debtor and disburse to a creditor any money or thing of value.

¹⁴ *Id.*

¹⁵ 16 C.F.R. s. 310.2(o), F.S.

¹⁶ *Id.*

¹⁷ See 16 C.F.R. ss. 310.3 and 310.4.

¹⁸ See 16 C.F.R. s. 310.3(a)(1)(i)-(viii).

¹⁹ See 16 C.F.R. s. 310.3(a)(2).

²⁰ See 16 C.F.R. s. 310.3(a)(3).

²¹ See 16 C.F.R. s. 310.3(b).

²² See 16 C.F.R. s. 310.4(a)(2).

²³ See 16 C.F.R. s. 310.4(a)(4).

²⁴ 16 C.F.R. s. 310.7(a). The regulations also authorize a private person to bring an action under the Telemarketing Act.

²⁵ If prior notice is not feasible, the state shall serve the FTC with the required notice immediately upon instituting its action. See 16 C.F.R. s. 310.7(a).

²⁶ 16 C.F.R. s. 310.7(a).

²⁷ *Id.*

Due to the change in the definition of “debt management services,” the bill would remove providers that only offer renegotiation services or payment management services that provider either service, but not both, from regulation under Part IV of ch. 817, F.S. This affects entities who must currently comply with the Part, which is separate from the effect related to “debt relief services” described below.

The bill defines the term “debt relief services” as having the same meaning as provided in 16 C.F.R. s. 310.2, which defines the term as any program or service represented, directly or by implication, to renegotiate, settle, or in any way alter the terms of payment or other terms of the debt between a person and one or more unsecured creditors or debt collectors, including, but not limited to, a reduction in the balance, interest rate, or fees owed by a person to an unsecured creditor or debt collector.

The bill clarifies that the term “debt relief services” does not include a debt management service in which any money or thing of value is received from a debtor and disbursed to a creditor, and also clarifies that the term “debt management services” does not include debt relief services.

The effect of the changes described above relieves debt relief service providers from compliance with Part IV of ch. 817, F.S., including fee limitations, minimum insurance requirements, disclosures and financial reporting requirements, and the enforcement provisions of Part IV of ch. 817, F.S.

The bill provides that certain actions that would otherwise be considered violations under ch. 501, F.S., (which relates to Florida’s consumer protection laws) do not apply to debt relief services. However, the bill does provide that, as authorized in 16 C.F.R. s. 310.7, the Attorney General may bring an action under the Telemarketing Act against a debt relief services provider for violations of debt relief services regulations in 16 C.F.R. part 310.

B. SECTION DIRECTORY:

Section 1. Amends s. 817.801, F.S., relating to definitions.

Section 2. Amends s. 817.806, F.S., relating to violations.

Section 3. Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill has an indeterminable positive impact on the private sector to the extent that it authorizes the Attorney General to bring actions under the Telemarketing Act for deceptive and abusive telemarketing practices relating to debt relief services.

Due to the change in the definition of “debt management services,” the bill could allow providers of such services to charge unregulated fees if the provider either, but not both, renegotiates debt or handles payment management. Therefore, Florida consumers using certain credit counseling services, including debt relief services, may experience higher fees.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not confer rulemaking authority nor require the promulgation of rules.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to debt relief services; amending s.
 3 817.801, F.S.; defining the term "debt relief
 4 services"; revising the definition of the term "debt
 5 management services"; amending s. 817.806, F.S.;
 6 authorizing the Attorney General to bring certain
 7 actions for violations of specified federal
 8 regulations of debt relief services; specifying that
 9 provisions for enforcement of violations involving
 10 credit counseling services or debt management services
 11 do not apply to debt relief services; providing an
 12 effective date.

13
 14 Be It Enacted by the Legislature of the State of Florida:

15
 16 Section 1. Subsection (5) of section 817.801, Florida
 17 Statutes, is renumbered as subsection (6), subsection (4) is
 18 amended, and a new subsection (5) is added to that section, to
 19 read:

20 817.801 Definitions.—As used in this part:

21 (4) "Debt management services" means services provided to
 22 a debtor by a credit counseling organization for a fee to:

23 (a) Effect the adjustment, compromise, or discharge of any
 24 unsecured account, note, or other indebtedness of the debtor;

25 and ~~or~~

26 (b) Receive from the debtor and disburse to a creditor any
 27 money or other thing of value.

28

29 The term does not include debt relief services.

30 (5) "Debt relief service" has the same meaning as provided
 31 in 16 C.F.R. s. 310.2. The term does not include a debt
 32 management service in which any money or other thing of value is
 33 received from a debtor and disbursed to a creditor.

34 Section 2. Section 817.806, Florida Statutes, is amended
 35 to read:

36 817.806 Violations.—

37 (1)(a) Any person who violates any provision of this part
 38 commits an unfair or deceptive trade practice as defined in part
 39 II of chapter 501. Violators shall be subject to the penalties
 40 and remedies provided therein. Further, any consumer injured by
 41 a violation of this part may bring an action for recovery of
 42 damages. Judgment shall be entered for actual damages, but in no
 43 case less than the amount paid by the consumer to the credit
 44 counseling agency, plus reasonable attorney ~~attorney's~~ fees and
 45 costs.

46 ~~(b)(2)~~ Any person who violates any provision of this part
 47 commits a felony of the third degree, punishable as provided in
 48 s. 775.082 or s. 775.083.

49 (c) This subsection does not apply to debt relief
 50 services.

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51 (2) As authorized in 16 C.F.R. s. 310.7, the Attorney
52 General may bring an action under the federal Telemarketing and
53 Consumer Fraud and Abuse Prevention Act, 15 U.S.C. ss. 6101-
54 6108, against a debt relief services provider for violations of
55 debt relief services regulations in 16 C.F.R. part 310.

56 Section 3. This act shall take effect July 1, 2024.

INSURANCE & BANKING SUBCOMMITTEE

HB 1031 by Rep. Buchanan Relating to Debt Relief Services

AMENDMENT SUMMARY January 25, 2024

Amendment 1 by Rep. Buchanan (Strike-all): The amendment:

- Expands the list of exceptions to part IV of ch. 817, F.S., relating to credit counseling services, to any telemarketer or seller who provides any debt relief services;
- Provides that certain terms have the same meanings as provided in the federal Telemarketing Sales Rule, 16 C.F.R. s. 310.2.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Insurance & Banking
 2 Subcommittee

3 Representative Buchanan offered the following:

4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Section 817.803, Florida Statutes, is amended
 8 to read:

9 817.803 Exceptions. ~~Nothing in~~ This part does not apply
 10 ~~applies~~ to:

11 (1) Any debt management or credit counseling services
 12 provided in the practice of law in this state. ~~†~~

13 (2) Any person who engages in debt adjustment to adjust
 14 the indebtedness owed to such person. ~~† or~~

15 (3) Any of the following entities or their subsidiaries:

16 (a) The Federal National Mortgage Association. ~~†~~

Amendment No. 1

17 (b) The Federal Home Loan Mortgage Corporation.~~†~~

18 (c) The Florida Housing Finance Corporation, a public
19 corporation created in s. 420.504.~~†~~

20 (d) A bank, bank holding company, trust company, savings
21 and loan association, credit union, credit card bank, or savings
22 bank that is regulated and supervised by the Office of the
23 Comptroller of the Currency, the Office of Thrift Supervision,
24 the Federal Reserve, the Federal Deposit Insurance Corporation,
25 the National Credit Union Administration, the Office of
26 Financial Regulation of the Department of Financial Services, or
27 any state banking regulator.~~†~~

28 (e) A consumer reporting agency as defined in the Federal
29 Fair Credit Reporting Act, 15 U.S.C. ss. 1681-1681y, as it
30 existed on April 5, 2004.~~†~~~~or~~

31 (f) Any subsidiary or affiliate of a bank holding company,
32 its employees and its exclusive agents acting under written
33 agreement.

34 (4) (a) Any telemarketer or seller who provides any debt
35 relief service within the scope of the Telemarketing and
36 Consumer Fraud and Abuse Prevention Act, 15 U.S.C. ss. 6101-
37 6108, and the Telemarketing Sales Rule, 16 C.F.R. part 310, and
38 who therefore is required to comply with such federal
39 regulation, if such telemarketer or seller does not receive from
40 the debtor and disburse to a creditor any money or other thing

Amendment No. 1

41 of value, in accordance with the definition of debt management
42 services under s. 817.801(4)(b).

43 (b) As used in this subsection, the terms "telemarketer,"
44 "seller," and "debt relief service" have the same meaning as in
45 16 C.F.R. s. 310.2.

46 Section 2. This act shall take effect July 1, 2024.

47

48 -----

49 **T I T L E A M E N D M E N T**

50 Remove lines 3-12 and insert:

51 s. 817.803, F.S.; providing an exception from specified
52 provisions for telemarketers and sellers who provide debt
53 relief services under certain circumstances; defining
54 terms; providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1191 Assignment of Benefits for Surplus Lines Insurers

SPONSOR(S): Fabricio

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee		Fortenberry	Lloyd
2) Civil Justice Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

An assignment is the voluntary transfer of the rights of one party under a contract to another party. An AOB is an instrument that assigns or transfers post-loss benefits under a residential or commercial property insurance policy to or from a person who protects, repairs, restores, or replaces property or mitigates against further property damage. Once an AOB is executed, the assignee can take any action the policyholder could take to enforce the insurance policy. Accordingly, if an insurer refuses to pay an assignee for a claim submitted under the policy, the assignee may file a lawsuit against the insurer.

During Special Session 2022A, the Legislature prohibited policyholders from assigning, in whole or in part, any post-loss insurance benefit under a residential or commercial insurance policy issued by an authorized insurer on or after January 1, 2023. Any attempt to assign post-loss benefits under such a policy is void, invalid, and unenforceable.

Surplus lines insurance refers to a category of insurance for which the admitted market is unable or unwilling to provide coverage. Surplus lines insurers are not “authorized” insurers as defined in the Florida Insurance Code. Rather, surplus lines insurers are “unauthorized” insurers, but may transact surplus lines insurance if they are made eligible by OIR. Unless specifically stated, the provisions of the Code, including those regarding AOBs, do not apply to surplus lines policies.

Beginning July 1, 2024, the bill applies the existing prohibition on AOBs for residential and commercial property insurance policies to policies issued by surplus lines insurers in addition to policies issued by authorized insurers.

The bill has no impact on local or state government revenues or expenditures. It has an indeterminate direct economic impact on the private sector.

The bill is effective on July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Assignment of Benefits (AOB)

An assignment is the voluntary transfer of the rights of one party under a contract to another party. An AOB is an instrument that assigns or transfers post-loss benefits under a residential or commercial property insurance policy to or from a person who protects, repairs, restores, or replaces property or mitigates against further property damage.¹

Once an AOB is executed, the assignee can take any action the policyholder could take to enforce the insurance policy. Accordingly, if an insurer refuses to pay an assignee² for a claim submitted under the policy, the assignee may file a lawsuit against the insurer. An assignee must give an insurer and the assignor³ prior written notice of at least 10 business days before filing suit on a claim (pre-suit notice).⁴ The pre-suit notice may not be served before the insurer has made a determination of coverage.⁵ It must specify the damages in dispute, the amount claimed, and a pre-suit settlement demand, and must include an itemized, detailed, written invoice or estimate of the work performed or to be performed.⁶

During Special Session 2022A, the Legislature prohibited policyholders from assigning, in whole or in part, any post-loss insurance benefit under a residential or commercial insurance policy issued by an authorized insurer on or after January 1, 2023.⁷ Any attempt to assign post-loss benefits under such a policy is void, invalid, and unenforceable.⁸ Any assignment agreement executed under a residential or commercial property insurance policy issued before January 1, 2023 is valid as long as it complies with the requirements of s. 627.7152, F.S.

Surplus Lines Insurers

Surplus lines insurance refers to a category of insurance for which the admitted market is unable or unwilling to provide coverage.⁹ Surplus lines insurers are not “authorized” insurers as defined in the Florida Insurance Code (Code),¹⁰ which means they do not obtain a certificate of authority from Office of Insurance Regulation (OIR) to transact insurance in Florida.¹¹ Rather, surplus lines insurers are “unauthorized” insurers,¹² but may transact surplus lines insurance if they are made eligible by OIR.

¹ S. 627.7152(1)(b), F.S.

² An assignee is the party that receives the right to pursue the assigned benefits.

³ An assignor is the party who legally transfers rights or benefits to another individual, the assignee.

⁴ S. 627.7152(9)(b), F.S.

⁵ *Id.*

⁶ *Id.*

⁷ Ch. 2022-271, Laws of Fla. The existing statutory carve-out for a seller-to-buyer assignment related to ongoing insurance claims was maintained by law. See s. 627.7152(11), F.S.

⁸ S. 627.7152(13)(a), F.S.

⁹ The admitted market is comprised of insurance companies licensed to transact insurance in Florida. The administration of surplus lines insurance business is managed by the Florida Surplus Lines Service Office. S. 626.921, F.S.

¹⁰ The Florida Insurance Code is chapters 624-632, 634, 635, 636, 641, 642, 648, and 651, F.S. S. 624.01, F.S.

¹¹ S. 624.09(1), F.S.

¹² S. 624.09(2), F.S.

The export of insurance policies, including property insurance policies, to the surplus lines market is regulated by the Florida Office of Insurance Regulation (OIR) under the Florida Surplus Lines Law.¹³ Pursuant to the Surplus Lines Law, unless specifically stated, the provisions of the Code, including those regarding AOBs, do not apply to surplus lines policies.

Effect of the Bill

Beginning July 1, 2024, the bill applies the existing prohibition on AOBs for residential and commercial property insurance to policies issued by surplus lines insurers, in addition to policies issued by authorized insurers.

B. SECTION DIRECTORY:

Section 1. Amends s. 627.7152, F.S., relating to assignment agreements.

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

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

While the elimination of AOBs for surplus lines property insurance policies may appear to affect third-party providers, recent legislation regarding attorney fees for property insurance litigation may mitigate any financial impact of this bill.

D. FISCAL COMMENTS:

None.

¹³ Ss. 626.913–626.937, F.S., constitute the Florida Surplus Lines Law.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill neither authorizes nor requires administrative rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to assignment of benefits for surplus
 3 lines insurers; amending s. 627.7152, F.S.; providing
 4 that the prohibition against assignment of post-loss
 5 insurance benefits applies to residential and
 6 commercial property insurance policies issued by
 7 authorized insurers and eligible surplus lines
 8 insurers on or after a specified date; providing an
 9 effective date.

10

11 Be It Enacted by the Legislature of the State of Florida:

12

13 Section 1. Subsection (13) of section 627.7152, Florida
 14 Statutes, is amended, and subsection (11) of that section is
 15 republished, to read:

16 627.7152 Assignment agreements.—

17 (11) This section does not apply to:

18 (a) An assignment, transfer, or conveyance granted to a
 19 subsequent purchaser of the property with an insurable interest
 20 in the property following a loss;

21 (b) A power of attorney under chapter 709 that grants to a
 22 management company, family member, guardian, or similarly
 23 situated person of an insured the authority to act on behalf of
 24 an insured as it relates to a property insurance claim; or

25 (c) Liability coverage under a property insurance policy.

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26 (13) (a) Except as provided in subsection (11), a
27 policyholder may not assign, in whole or in part, any post-loss
28 insurance benefit under any residential property insurance
29 policy or under any commercial property insurance policy as that
30 term is defined in s. 627.0625(1), issued on or after January 1,
31 2023. An attempt to assign post-loss property insurance benefits
32 under such a policy is void, invalid, and unenforceable.

33 (b) On or after July 1, 2024, the prohibition under
34 paragraph (a) applies to a residential or commercial property
35 insurance policy issued by an authorized insurer as well as an
36 eligible surplus lines insurer.

37 Section 2. This act shall take effect July 1, 2024.

INSURANCE & BANKING SUBCOMMITTEE

HB 1191 by Fabricio Assignment of Benefits for Surplus Lines Insurers

AMENDMENT SUMMARY January 25, 2024

Amendment 1 by Rep. Fabricio (Line 33): The amendment clarifies that the prohibition on assignments of benefits applies to residential and commercial property insurance policies issued by:

- Both authorized insurers and surplus lines insurers; and
- Surplus lines insurers on or after July 1, 2024.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER

1 Committee/Subcommittee hearing bill: Insurance & Banking
2 Subcommittee

3 Representative Fabricio offered the following:

4

5 **Amendment**

6 Remove lines 33-36 and insert:

7 (b) In addition to residential and commercial property
8 insurance policies issued by authorized insurers, the
9 prohibition under paragraph (a) also applies to residential or
10 commercial property insurance policies issued by an eligible
11 surplus lines insurer on or after July 1, 2024.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1347 Consumer Finance Loans

SPONSOR(S): Brackett

TIED BILLS: **IDEN./SIM. BILLS:** SB 1436

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee		Fletcher	Lloyd
2) State Administration & Technology Appropriations Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

The Florida Consumer Finance Act, ch. 516, F.S. (Act), prohibits businesses from making consumer finance loans unless first authorized to do so under the Act. Under the Act, licensed lenders are allowed to make secured or unsecured loans up to \$25,000 with a tiered interest rate structure, such that the maximum annual interest rate allowed on each tier decreases as principal amount increases:

- 30% per annum, computed on the first \$3,000 of the principal amount;
- 24% per annum on that part of the principal amount exceeding \$3,000 and up to \$4,000; and
- 18% per annum on that part of the principal amount exceeding \$4,000 and up to \$25,000.

The Act requires that, at the time of applying for a license, the applicant pay to the office a nonrefundable biennial license fee of \$625. Other than applications to renew or reactivate a license, applicants must also pay a nonrefundable investigation fee of \$200. Additionally, the Act prohibits licensees from applying delinquency charges until a borrower has been in default for 10 days.

The bill:

- Provides a definition for the term “branch;”
- Prohibits the operation of a branch that makes consumer finance loans without first obtaining a license;
- Requires an application fee of \$625 to be paid to the Office of Financial Regulation (OFR) for each branch application filed;
- Increases the maximum interest rate and the amount of principal for the tiered interest rate structure, such that the tiered structure will be as follows:
 - 36% per annum, computed on the first \$10,000 of the principal amount
 - 30% per annum on that part of the principal amount exceeding \$10,000 and up to \$20,000
 - 24% per annum on that part of the principal amount exceeding \$20,000 and up to \$25,000;

This yields an allowable maximum interest rate for the following loan amounts:

Loan Amount	Approximate Maximum Interest Rate	
	Current	Proposed
\$5,000	26.4%	36.0%
\$10,000	22.2%	36.0%
\$15,000	20.8%	34.0%
\$25,000	19.2%	31.2%

- Changes the 10-day rule for a licensee applying delinquency charges to 12 days;
- Requires licensees that provide assistance programs during a disaster to report to OFR details of such assistance programs; and
- Requires licensees to annually submit to OFR reports of certain information, which OFR may publish in a report after anonymizing and consolidating the data for all licensees.

The bill has a negative, likely insignificant, fiscal impact on state government, no fiscal impact on local government, and an indeterminate fiscal impact on the private sector, both positive and negative.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

The Florida Office of Financial Regulation (OFR) is responsible for all activities of the Financial Services Commission (Commission) relating to the regulation of banks, credit unions, other financial institutions, finance companies, and the securities industry.¹ OFR's Division of Consumer Finance (Division) licenses and regulates non-depository financial service industries and individuals, and conducts examinations and complaint investigations for licensed entities to determine compliance with Florida law.²

The Florida Consumer Finance Act, ch. 516, F.S. (Act), prohibits individuals and entities from engaging in the business of making consumer finance loans unless first authorized to do so under the Act.³ A consumer finance loan is defined as "a loan of money, credit, goods, or choses in action, including, except as otherwise specifically indicated, provision of a line of credit, in an amount or to a value of \$25,000 or less for which the lender charges, contracts for, collects, or receives interest at a rate greater than 18 percent per annum."⁴

Currently, the Act provides that, at the time of applying for a license, the applicant shall pay to OFR a nonrefundable biennial license fee of \$625.⁵ Applications, except for applications to renew or reactivate a license, must also be accompanied by a nonrefundable investigation fee of \$200.⁶

The Act also prohibits licensees from applying delinquency charges until a borrower has been in default for 10 days.⁷

Licensed lenders are allowed to make secured or unsecured loans up to \$25,000 with a tiered interest rate structure, such that the maximum annual interest rate allowed on each tier decreases as principal amounts increase:

- 30% per annum, computed on the first \$3,000 of the principal amount;
- 24% per annum on that part of the principal amount exceeding \$3,000 and up to \$4,000; and
- 18% per annum on that part of the principal amount exceeding \$4,000 and up to \$25,000.⁸

This yields an allowable maximum interest rate for the following loan amounts:

Loan Amount	Approximate Maximum Interest Rate
\$5,000	26.4%
\$10,000	22.2%
\$15,000	20.8%
\$25,000	19.2%

Effect of the Bill

¹ S. 20.121(3)(a)2., F.S. See also Florida Office of Financial Regulation, Agency Analysis of 2023 House Bill 1267, p. 1 (Mar. 10, 2023). A bill analysis for the 2024 version of the bill has been requested from OFR.

² Florida Office of Financial Regulation, *Division of Consumer Finance*, <https://flofr.gov/sitePages/DivisionOfConsumerFinance.htm> (last visited Jan., 19, 2024).

³ S. 516.02(1), F.S.

⁴ S. 516.01(2), F.S.

⁵ S. 516.03(1), F.S.

⁶ *Id.*

⁷ S. 516.031(3)(a)9., F.S.

⁸ S. 516.031(1), F.S.

General

The bill provides a definition for the term “branch,” namely, “any location, other than a licensee’s principal place of business, at which a licensee operates or conducts business ... or which the licensee owns or controls for the purposes of conducting business....”

The bill clarifies a person must not engage in the business of making consumer finance loans or operate a branch of such business unless first authorized to do so under the Act. The bill requires an application fee of \$625 be paid to OFR for each branch application filed, which is in addition to the \$625 application fee for the branch’s principal place of business. The bill provides that applications for a license for the principal place of business be accompanied by a nonrefundable investigation fee of \$200.

Maximum Rate Increase; Delinquency Charges

The bill retains the tiered interest rate structure but increases the maximum interest rate and the amount of principal for each tier, such that the tiered interest rate structure will be as follows:

- 36% per annum, computed on the first \$10,000 of the principal amount;
- 30% per annum on that part of the principal amount exceeding \$10,000 and up to \$20,000; and
- 24% per annum on that part of the principal amount exceeding \$20,000 and up to \$25,000.

This yields an allowable maximum interest rate for the following loan amounts:

Loan Amount	Approximate Maximum Interest Rate	
	Current	Proposed
\$5,000	26.4%	36.0%
\$10,000	22.2%	36.0%
\$15,000	20.8%	34.0%
\$25,000	19.2%	31.2%

Disaster Relief and Suspension of Penalties

The bill provides that in the event of a Federal Emergency Management Agency (FEMA) response to a Presidential Disaster Declaration in Florida, if a licensee offers any assistance program to borrowers impacted by the disaster, the licensee must send to OFR a written notice within 10 days after the licensee’s establishment of the assistance program. The notice must include, at a minimum, the following:

- The licensed locations impacted by the disaster, including the physical addresses, if applicable;
- The telephone number, e-mail address, or other contact information for the licensee;
- A brief description of the assistance programs available to borrowers in the impacted areas; and
- The start date and, if known, the end date of the assistance program.

The bill provides that assistance programs may include, but are not limited to, deferments, forbearance, waiver of late fees, payment modification, or changing payment due dates.

Similarly, in the event of a FEMA response to a Presidential Disaster Declaration in Florida, the bill requires a licensee operating in a county designated in the disaster declaration to suspend, for a period of 90 days after the date of the initial declaration, all of the following:

- Application of delinquency charges;
- Repossessions of collateral pledged to loans made under the Act; and
- Filing of lawsuits for collection of amounts owed for loans made under the Act.

Annual Reports

The bill requires a licensee, by March 15, 2024, and annually thereafter, to file a report with OFR, in a form and manner prescribed by commission rule, using aggregated and anonymized data without

reference to any borrower's nonpublic personal information. The bill requires the report to include the following information for the preceding calendar year:

- The number of licenses under the Act held by the licensee as of December 31st of the preceding calendar year;
- The number of loan originations by the licensee from all licenses held under the Act during the preceding calendar year;
- The total number and dollar amount of loans outstanding with the licensee from all licenses held under the Act as of December 31st of the preceding calendar year;
- The total number of unsecured loans as of December 31st of the preceding calendar year;
- The total number of loans separated by principal amount in the following ranges as of December 31st of the preceding calendar year:
 - From \$0 to \$5,000
 - From \$5,001 to \$10,000
 - From \$10,001 to \$15,000
 - From \$15,001 to \$20,000
 - From \$20,001 to \$25,000;
- The total number and dollar amount of loans charged off as of December 31st of the preceding calendar year; and
- The total number and dollar amount of loans with delinquency status listed as:
 - Current or less than 30 days past due.
 - From 30 to 59 days past due.
 - From 60 to 89 days past due.
 - At least 90 days past due.

The bill requires a licensee claiming that information contained in the report contains a trade secret to submit to OFR an accompanying affidavit designating the information claimed to be a trade secret. The bill allows OFR to publish a report of the information submitted if all the data published in the report are anonymized aggregate data from all licensees.

B. SECTION DIRECTORY:

Section 1. Amends s. 516.01, F.S., relating to definitions.

Section 2. Amends s. 516.02, F.S., relating to loans; lines of credit; rates of interest; license.

Section 3. Amends s. 516.03, F.S., relating to application for license; fees; etc.

Section 4. Amends s. 516.031, F.S., relating to finance charge; maximum rates.

Section 5. Amends 516.15, F.S., relating to duties of licensee.

Section 6. Creates s. 516.38, F.S., relating to annual reports by licensees.

Section 7. Creates s. 516.39, F.S., relating to suspension of penalties and remedial measures after federal disaster declaration.

Section 8. Reenacts s. 516.19, F.S., relating to penalties.

Section 9. Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

OFR estimates its revenues may decrease by as much as \$5,000 per fiscal year if it no longer receives the background investigation fee of \$200 required for each additional location once replaced by a branch office license requirement.⁹ OFR considers this to be a negligible amount which would not impact its operations.¹⁰ Additionally, according to OFR, the reduction in staff time no longer needed to review a full license application for each additional location when replaced with a branch office license would likely offset any loss in revenues.¹¹

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill has an indeterminate fiscal impact on the private sector.¹² Applicants will no longer be required to pay a \$200 background investigation fee for each additional location with the implementation of a branch office license.¹³ This may save applicants up to \$5,000 per fiscal year in reduced fees.¹⁴

Consumers may benefit from increased opportunities to receive loans if consumer finance lenders issue more credit under the terms allowed by the bill, but they may also see an increase in interest payable on consumer finance loans, to the extent that lenders utilize higher interest rates permitted by the bill.

D. FISCAL COMMENTS:

The bill proposes to create a branch license in lieu of a full license for each additional location of a licensee.¹⁵ The branch licenses will not include the \$200 background investigation fee and thus result in a fee reduction.¹⁶

Additionally, the bill would require OFR to make technology changes to its internal licensing system to create a branch office license and annual reporting functionality.¹⁷ The cost of these changes would be negligible and could be covered within OFR's existing budget.¹⁸

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

⁹ Office of Financial Regulation, *supra* note 1.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.* at 5.

¹⁶ *Id.*

¹⁷ *Id.* at 6.

¹⁸ *Id.*

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

Article VII, sec. 19(e), of the Florida Constitution requires any bill that imposes, authorizes, or raises a state tax or fee must be contained in a separate bill that contains no other subject. Current law requires each location of a consumer finance company to pay a \$625 application fee and a \$200 investigation fee. The bill requires the designation of a principal location. The principal location and each branch location will be subject to the current application fee, but only the principal location will be subject to the investigation fee. Arguably, this is merely a change in status of a location from an applicant location to an applicant principal location; retaining the same fee for that application. Also, other applicant locations will become applicant branch locations; also retaining the same fee. There is no case law to guide this analysis. It is unclear whether a fee bill is required.

B. RULE-MAKING AUTHORITY:

The bill creates a new section of statute that will require a licensee to file an annual report with OFR “in a form and manner prescribed by commission rule.” This section will require and sufficiently authorizes rulemaking. Rule 69V-160.111, F.A.C., which adopts Disciplinary Guidelines for Consumer Finance Companies, will also require an update.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to consumer finance loans; amending s.
 3 516.01, F.S.; defining the term "branch"; amending s.
 4 516.02, F.S.; prohibiting a person from operating a
 5 branch of a business making consumer finance loans
 6 before obtaining a license from the Office of
 7 Financial Regulation; amending s. 516.03, F.S.;
 8 specifying application fees for branch licenses;
 9 revising the applicability of investigation fees;
 10 making a technical change; amending s. 516.031, F.S.;
 11 revising the maximum interest rates and the
 12 calculation of interest rates on consumer finance
 13 loans; revising the minimum amount of time before
 14 which a delinquency charge for each payment in default
 15 may be imposed; amending s. 516.15, F.S.; requiring
 16 licensees offering an assistance program to borrowers
 17 after a federally declared major disaster to send a
 18 specified notice to the office within a certain
 19 timeframe; providing construction; creating s. 516.38,
 20 F.S.; requiring licensees to file annual reports with
 21 the office; providing for rulemaking by the Financial
 22 Services Commission; specifying requirements for the
 23 reports; providing requirements for a licensee
 24 claiming that submitted information contains a trade
 25 secret; authorizing the office to publish a report in

26 a certain manner; creating s. 516.39, F.S.; requiring
 27 certain licensees to suspend specified actions for a
 28 certain timeframe after a federally declared disaster;
 29 reenacting s. 516.19, F.S., relating to penalties, to
 30 incorporate the amendments made to ss. 516.02 and
 31 516.031, F.S., in references thereto; providing an
 32 effective date.
 33

34 Be It Enacted by the Legislature of the State of Florida:

35
 36 Section 1. Section 516.01, Florida Statutes, is amended to
 37 read:

38 516.01 Definitions.—As used in this chapter, the term:

39 (1) "Branch" means any location, other than a licensee's
 40 principal place of business, at which a licensee operates or
 41 conducts business under this chapter or which the licensee owns
 42 or controls for the purpose of conducting business under this
 43 chapter.

44 (2)~~(3)~~ "Commission" means the Financial Services
 45 Commission.

46 (3)~~(1)~~ "Consumer finance borrower" or "borrower" means a
 47 person who has incurred either direct or contingent liability to
 48 repay a consumer finance loan.

49 (4)~~(2)~~ "Consumer finance loan" means a loan of money,
 50 credit, goods, or choses in action, including, except as

51 otherwise specifically indicated, provision of a line of credit,
52 in an amount or to a value of \$25,000 or less for which the
53 lender charges, contracts for, collects, or receives interest at
54 a rate greater than 18 percent per annum.

55 (5)~~(8)~~ "Control person" means an individual, partnership,
56 corporation, trust, or other organization that possesses the
57 power, directly or indirectly, to direct the management or
58 policies of a company, whether through ownership of securities,
59 by contract, or otherwise. A person is presumed to control a
60 company if, with respect to a particular company, that person:

61 (a) Is a director, general partner, or officer exercising
62 executive responsibility or having similar status or functions;

63 (b) Directly or indirectly may vote 10 percent or more of
64 a class of a voting security or sell or direct the sale of 10
65 percent or more of a class of voting securities; or

66 (c) In the case of a partnership, may receive upon
67 dissolution or has contributed 10 percent or more of the
68 capital.

69 (6)~~(5)~~ "Interest" means the cost of obtaining a consumer
70 finance loan and includes any profit or advantage of any kind
71 whatsoever that a lender may charge, contract for, collect,
72 receive, or in anywise obtain, including by means of any
73 collateral sale, purchase, or agreement, as a condition for a
74 consumer finance loan. Charges specifically permitted by this
75 chapter, including commissions received for insurance written as

76 | permitted by this chapter, shall not be deemed interest.

77 | ~~(7)(6)~~ "License" means a permit issued under this chapter
78 | to make and collect loans in accordance with this chapter at a
79 | single place of business.

80 | ~~(8)(7)~~ "Licensee" means a person to whom a license is
81 | issued.

82 | ~~(9)(4)~~ "Office" means the Office of Financial Regulation
83 | of the commission.

84 | Section 2. Subsection (1) of section 516.02, Florida
85 | Statutes, is amended to read:

86 | 516.02 Loans; lines of credit; rate of interest; license.—

87 | (1) A person must not engage in the business of making
88 | consumer finance loans or operate a branch of such business
89 | unless she or he is authorized to do so under this chapter or
90 | other statutes and unless the person first obtains a license
91 | from the office.

92 | Section 3. Subsection (1) of section 516.03, Florida
93 | Statutes, is amended to read:

94 | 516.03 Application for license; fees; etc.—

95 | (1) APPLICATION.—Application for a license to make loans
96 | under this chapter shall be in the form prescribed by rule of
97 | the commission. The commission may require each applicant to
98 | provide any information reasonably necessary to determine the
99 | applicant's eligibility for licensure. The applicant shall also
100 | provide information that the office requires concerning any

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101 officer, director, control person, member, partner, or joint
102 venturer of the applicant or any person having the same or
103 substantially similar status or performing substantially similar
104 functions or concerning any individual who is the ultimate
105 equitable owner of a 10-percent or greater interest in the
106 applicant. The office may require information concerning any
107 such applicant or person, including, but not limited to, his or
108 her full name and any other names by which he or she may have
109 been known, age, social security number, residential history,
110 qualifications, educational and business history, and
111 disciplinary and criminal history. The applicant must provide
112 evidence of liquid assets of at least \$25,000 or documents
113 satisfying the requirements of s. 516.05(10). At the time of
114 making such application, the applicant shall pay to the office a
115 nonrefundable biennial license fee of \$625 for the principal
116 place of business and for each branch application filed.
117 ~~Applications for a license for the principal place of business,~~
118 ~~except for applications to renew or reactivate a license,~~ must
119 also be accompanied by a nonrefundable investigation fee of
120 \$200. An application is considered received for purposes of s.
121 120.60 upon receipt of a completed application form as
122 prescribed by commission rule, a nonrefundable application fee
123 of \$625, and any other fee prescribed by law. The commission may
124 adopt rules requiring electronic submission of any form,
125 document, or fee required by this chapter ~~act~~ if such rules

126 reasonably accommodate technological or financial hardship. The
 127 commission may prescribe by rule requirements and procedures for
 128 obtaining an exemption due to a technological or financial
 129 hardship.

130 Section 4. Subsection (1) and paragraph (a) of subsection
 131 (3) of section 516.031, Florida Statutes, are amended to read:

132 516.031 Finance charge; maximum rates.—

133 (1) INTEREST RATES.—A licensee may lend any sum of money
 134 up to \$25,000. A licensee may not take a security interest
 135 secured by land on any loan less than \$1,000. The licensee may
 136 charge, contract for, and receive thereon interest charges as
 137 provided and authorized by this section. The maximum interest
 138 rate shall be 36 ~~30~~ percent per annum, computed on the first
 139 \$10,000 ~~\$3,000~~ of the principal amount; 30 ~~24~~ percent per annum
 140 on that part of the principal amount exceeding \$10,000 ~~\$3,000~~
 141 and up to \$20,000 ~~\$4,000~~; and 24 ~~18~~ percent per annum on that
 142 part of the principal amount exceeding \$20,000 ~~\$4,000~~ and up to
 143 \$25,000. The original principal amount as used in this section
 144 is the same as the amount financed as defined by the federal
 145 Truth in Lending Act and Regulation Z of the Board of Governors
 146 of the Federal Reserve System. In determining compliance with
 147 the statutory maximum interest and finance charges set forth
 148 herein, the computations used shall be simple interest and not
 149 add-on interest or any other computations. If two or more
 150 interest rates are applied to the principal amount of a loan,

151 the licensee may charge, contract for, and receive interest at
152 that single annual percentage rate which, if applied according
153 to the actuarial method to each of the scheduled periodic
154 balances of principal, would produce at maturity the same total
155 amount of interest as would result from the application of the
156 two or more rates otherwise permitted, based upon the assumption
157 that all payments are made as agreed.

158 (3) OTHER CHARGES.—

159 (a) In addition to the interest, delinquency, and
160 insurance charges provided in this section, further or other
161 charges or amount for any examination, service, commission, or
162 other thing or otherwise may not be directly or indirectly
163 charged, contracted for, or received as a condition to the grant
164 of a loan, except:

165 1. An amount of up to \$25 to reimburse a portion of the
166 costs for investigating the character and credit of the person
167 applying for the loan;

168 2. An annual fee of \$25 on the anniversary date of each
169 line-of-credit account;

170 3. Charges paid for the brokerage fee on a loan or line of
171 credit of more than \$10,000, title insurance, and the appraisal
172 of real property offered as security if paid to a third party
173 and supported by an actual expenditure;

174 4. Intangible personal property tax on the loan note or
175 obligation if secured by a lien on real property;

176 5. The documentary excise tax and lawful fees, if any,
 177 actually and necessarily paid out by the licensee to any public
 178 officer for filing, recording, or releasing in any public office
 179 any instrument securing the loan, which may be collected when
 180 the loan is made or at any time thereafter;

181 6. The premium payable for any insurance in lieu of
 182 perfecting any security interest otherwise required by the
 183 licensee in connection with the loan if the premium does not
 184 exceed the fees which would otherwise be payable, which may be
 185 collected when the loan is made or at any time thereafter;

186 7. Actual and reasonable attorney fees and court costs as
 187 determined by the court in which suit is filed;

188 8. Actual and commercially reasonable expenses for
 189 repossession, storing, repairing and placing in condition for
 190 sale, and selling of any property pledged as security; or

191 9. A delinquency charge for each payment in default for at
 192 least 12 ~~10~~ days if the charge is agreed upon, in writing,
 193 between the parties before imposing the charge. Delinquency
 194 charges may be imposed as follows:

195 a. For payments due monthly, the delinquency charge for a
 196 payment in default may not exceed \$15.

197 b. For payments due semimonthly, the delinquency charge
 198 for a payment in default may not exceed \$7.50.

199 c. For payments due every 2 weeks, the delinquency charge
 200 for a payment in default may not exceed \$7.50 if two payments

201 are due within the same calendar month, and may not exceed \$5 if
202 three payments are due within the same calendar month.

203

204 Any charges, including interest, in excess of the combined total
205 of all charges authorized and permitted by this chapter
206 constitute a violation of chapter 687 governing interest and
207 usury, and the penalties of that chapter apply. In the event of
208 a bona fide error, the licensee shall refund or credit the
209 borrower with the amount of the overcharge immediately but
210 within 20 days after the discovery of such error.

211 Section 5. Subsection (5) is added to section 516.15,
212 Florida Statutes, to read:

213 516.15 Duties of licensee.—Every licensee shall:

214 (5) In the event of a Federal Emergency Management Agency
215 response to a Presidential Disaster Declaration in the state, if
216 the licensee offers any assistance program to borrowers impacted
217 by the disaster, within 10 days after the licensee's
218 establishment of the program, send written notice to the office
219 in either physical or electronic format and include the
220 following information, subject to change as any additional
221 declarations are issued or declarations are revoked:

222 (a) The licensed locations affected by the disaster
223 declaration, including physical addresses, if applicable;

224 (b) The telephone number, e-mail address, or other contact
225 information for the licensee;

226 (c) A brief description of the assistance program
 227 available to borrowers in the affected areas; and

228 (d) The start date, and end date if known, of the
 229 assistance program.

230

231 For purposes of this subsection, assistance programs may
 232 include, but are not limited to, deferments, forbearance, waiver
 233 of late fees, payment modification, or changing payment due
 234 dates.

235 Section 6. Section 516.38, Florida Statutes, is created to
 236 read:

237 516.38 Annual reports by licensees.-

238 (1) By March 15, 2024, and each March 15 thereafter, a
 239 licensee shall file a report with the office in a form and
 240 manner prescribed by commission rule. The report must include
 241 each of the items specified in subsection (2) for the preceding
 242 calendar year using aggregated and anonymized data and without
 243 reference to any borrower's nonpublic personal information.

244 (2) The report must include the following information for
 245 the preceding calendar year:

246 (a) The number of locations held by the licensee under
 247 this chapter as of December 31 of the preceding calendar year.

248 (b) The number of loan originations by the licensee from
 249 all licenses held under this chapter during the preceding
 250 calendar year.

251 (c) The total dollar amount of loans and the number of
252 loans outstanding with the licensee from all licenses held under
253 this chapter as of December 31 of the preceding calendar year.

254 (d) The total dollar amount of loans and the number of
255 loans in which the licensee holds a security interest in
256 collateral as of December 31 of the preceding calendar year.

257 (e) The total dollar amount of loans and the number of
258 unsecured loans as of December 31 of the preceding calendar
259 year.

260 (f) The total number of loans, separated by principal
261 amount, in the following ranges as of December 31 of the
262 preceding calendar year:

- 263 1. Up to and including \$5,000.
- 264 2. Five thousand and one dollars to \$10,000.
- 265 3. Ten thousand and one dollars to \$15,000.
- 266 4. Fifteen thousand and one dollars to \$20,000.
- 267 5. Twenty thousand and one dollars to \$25,000.

268 (g) The total dollar amount of loans and the number of
269 loans charged off as of December 31 of the preceding calendar
270 year.

271 (h) The total dollar amount of loans and the number of
272 loans with delinquency status listed as:

- 273 1. Current or less than 30 days past due.
- 274 2. From 30 to 59 days past due.
- 275 3. From 60 to 89 days past due.

276 4. At least 90 days past due.

277 (3) A licensee claiming that any information submitted in
 278 the report contains a trade secret must submit to the office an
 279 accompanying affidavit in accordance with s. 655.0591 and
 280 designate the information claimed to be a trade secret pursuant
 281 to s. 655.0591.

282 (4) The office may publish a report of information
 283 submitted pursuant to this section, provided that all data
 284 published in the report is anonymized and aggregated from all
 285 licensees.

286 Section 7. Section 516.39, Florida Statutes, is created to
 287 read:

288 516.39 Suspension of penalties and remedial measures after
 289 federal disaster declaration.—In the event of a Federal
 290 Emergency Management Agency response to a Presidential Disaster
 291 Declaration in the state, a licensee operating in a county
 292 designated in the declaration must suspend for a period of 90
 293 days after the date of the initial declaration the following:

294 (1) The application of delinquency charges under s.
 295 516.031(3)(a)9.

296 (2) Repossessions of collateral pledged to loans made
 297 under this chapter.

298 (3) The filing of civil actions for the collection of
 299 amounts owed for loans made under this chapter.

300 Section 8. For the purpose of incorporating the amendments

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301 made by this act to sections 516.02 and 516.031, Florida
302 Statutes, in references thereto, section 516.19, Florida
303 Statutes, is reenacted to read:

304 516.19 Penalties.—Any person who violates any of the
305 provisions of s. 516.02, s. 516.031, s. 516.05(3), s. 516.05(6),
306 or s. 516.07(1)(e) commits a misdemeanor of the first degree,
307 punishable as provided in s. 775.082 or s. 775.083.

308 Section 9. This act shall take effect July 1, 2024.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1569 Exemption from Regulation for Bona Fide Nonprofit Organizations

SPONSOR(S): Grant

TIED BILLS: IDEN./SIM. BILLS: CS/SB 514

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee		Fletcher	Lloyd
2) Commerce Committee			

SUMMARY ANALYSIS

In response to the 2008 financial crisis, Congress enacted the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE Act). The SAFE Act and the regulations promulgated thereunder set forth the minimum standards for the state licensing and registration of residential mortgage loan originators (MLOs). The SAFE Act also requires that federal and state licensing and registration of residential MLOs be accomplished through the same online registration system.

Florida adopted its registration requirements for MLOs in 2009. Florida has also adopted similar requirements for the licensure and registration of mortgage brokers and mortgage lenders, exceeding the federal requirements.

States are permitted to provide an exemption from the SAFE Act registration requirements to a bona fide nonprofit organization and its employees if the state determines that the organization meets certain criteria. Florida law does not currently provide an exemption from regulation for bona fide nonprofit organizations, but does provide exemptions for certain other entities consistent with federal law.

The bill provides an exemption from Florida’s SAFE Act regulation to a bona fide nonprofit organization and the employees of such organization, provided the organization:

- Has the status of a tax-exempt organization under s. 501(c)(3) of the Internal Revenue Code;
- Promotes affordable housing or provides homeownership education or similar services;
- Conducts activities that serves public or charitable purposes rather than commercial purposes;
- Receives funding and revenue in a manner that does not incentivize the organization or the organization’s employees to act other than in the best interests of the organization’s clients;
- Compensates the organization’s employees in a manner that does not incentivize the employees to act other than in the best interests of the organization’s clients; and
- Provides to or identifies for a borrower any residential mortgage loans with terms favorable to the borrower and comparable to mortgage loans and housing assistance provided under any federal, state, and local housing assistance programs.

The bill has no fiscal impact on local government. It has an indeterminable fiscal impact on state government revenues but no fiscal impact on state government expenses. The bill has an indeterminable positive fiscal impact on the private sector.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

The S.A.F.E Act

The U.S. financial crisis of 2008 began as a housing crisis that first seemed to be localized in certain states and in the subprime mortgage market.¹ Eventually, however, the seemingly localized housing collapse spread to the entire U.S. housing market, as house prices declined nationwide.²

Because the financial system was integral to the housing boom, the system was highly exposed to the housing market, whose downturn would prove to be so severe that it threatened to bring down the entire financial system with it in the absence of significant government intervention.³ The 2008 financial crisis, known as the “Great Recession,” became the most severe financial crisis since the Great Depression, and its effects spread throughout the global economy.⁴

In response to the housing crisis, Congress enacted the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE Act).⁵ The SAFE Act and the regulations promulgated thereunder:

- Set forth the minimum standards for the state licensing and registration of residential mortgage loan originators (MLOs);⁶
- Prohibit individuals from engaging in the business of a residential MLO without first obtaining and maintaining annually certain licensure and registration requirements;⁷ and
- Require that federal and state licensing and registration of residential MLOs be accomplished through the same online registration system, known as the Nationwide Mortgage Licensing System and Registry (NMLSR).⁸

The objectives of the NMLSR under the SAFE Act include aggregating and improving the flow of information to and between regulators; providing increased accountability and tracking of MLOs; enhancing consumer protections by supporting anti-fraud measures; and providing consumers with easily accessible information at no charge regarding the employment history of, and publicly adjudicated disciplinary and enforcement actions against, MLOs.⁹

¹ Cynthia Angell and Krishna Patel, *Crisis and Response: An FDIC History, 2008-2013*, Federal Deposit Insurance Corporation (last updated June 12, 2023), at xiv. Available at <https://www.fdic.gov/bank/historical/crisis/chap1.pdf> (last visited Jan. 20, 2024).

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ See 12 U.S.C. Sec. 5101–5116, Title V of the Housing and Economic Recovery Act of 2008 (Pub. L. 110–289, 122 Stat. 2654, 12 U.S.C. 5101 et seq.) as amended by Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) (Pub. L. No. 111–203, 124 Stat. 1376).

⁶ A mortgage loan originator is an individual who takes a residential mortgage loan application and offers or negotiates terms of a residential mortgage loan for compensation or gain. See 12 C.F.R. Sec. 1007.102.

⁷ For an individual who is an employee of a covered financial institution, the individual must obtain and annually maintain registration as a registered mortgage loan originator and a unique identifier (federal registration). For all other individuals, they must obtain and annually maintain a state license and registration as a state-licensed mortgage loan originator, and a unique identifier (state licensing/registration). See Consumer Financial Protection Bureau, *Secure and Fair Enforcement for Mortgage Licensing Act: Manual V.2*, CFPB Laws and Regulation (Oct. 1, 2012), https://files.consumerfinance.gov/f/documents/102012_cfpb_secure-fair-enforcement-for-mortgage-licensing-safe-act_procedures.pdf (last visited Jan. 20, 2024).

⁸ Consumer Financial Protection Bureau, *Secure and Fair Enforcement for Mortgage Licensing Act: Manual V.2*, CFPB Laws and Regulation (Oct. 1, 2012), https://files.consumerfinance.gov/f/documents/102012_cfpb_secure-fair-enforcement-for-mortgage-licensing-safe-act_procedures.pdf (last visited Jan. 20, 2024).

⁹ 12 U.S.C. Sec. 5101.

State Regulation of Loan Originators, Mortgage Brokers, and Mortgage Lenders

Soon after the enactment of the SAFE Act, states began adopting licensure and registration requirements for residential MLOs pursuant to the requirements of the SAFE Act.¹⁰ Florida adopted its requirements for MLOs¹¹ in 2009 with the enactment of s. 494.00312, F.S.¹² In addition to MLOs, however, Florida also adopted similar requirements for the licensure and registration of mortgage brokers¹³ and mortgage lenders,¹⁴ exceeding the federal requirements.

The Office of Financial Regulation (OFR) regulates state-chartered banks, credit unions, other financial institutions, finance companies, and the securities industry.¹⁵ The OFR's Division of Consumer Finance licenses and regulates various aspects of the non-depository financial services industries, including individuals and businesses engaged in the mortgage business.¹⁶ Specifically, under ch. 494, F.S., OFR licenses and regulates MLOs, mortgage brokers, and mortgage lenders.

An individual or entity applying for licensure under ch. 494, F.S., is required to meet certain conditions and pay a nonrefundable application fee in the following amounts:

- For a mortgage broker license, an applicant must submit a nonrefundable application fee of \$425, and an additional \$100 nonrefundable fee if the applicant meets certain other criteria;¹⁷
- For a loan originator license, an applicant must submit a nonrefundable application fee of \$195, and an additional \$20 nonrefundable fee if the applicant meets certain other criteria;¹⁸ and
- For a mortgage lender license, an applicant must submit a nonrefundable application fee of \$500, and an additional \$100 nonrefundable fee if the applicant meets certain other criteria.¹⁹

¹⁰ National Reverse Mortgage Lenders Association, *States Move Aggressively to Implement SAFE Act and Improve Mortgage Supervision*, https://www.nrmlaonline.org/app_assets/public/ef8c2414-00da-4cff-8c69-e45d2ca45a82/SAFE%20Act%20Update.pdf (last visited Jan. 20, 2024).

¹¹ Florida statute defines "loan originator" as an individual who, directly or indirectly, solicits or offers to solicit a mortgage loan, accepts or offers to accept an application for a mortgage loan, negotiates or offers to negotiate the terms or conditions of a new or existing mortgage loan on behalf of a borrower or lender, or negotiates or offers to negotiate the sale of an existing mortgage loan to a noninstitutional investor for compensation or gain. The term includes an individual who is required to be licensed as a loan originator under the SAFE Act. The term does not include an employee of a mortgage broker or mortgage lender whose duties are limited to physically handling a completed application form or transmitting a completed application form to a lender on behalf of a prospective borrower. See s. 494.001(18), F.S.

¹² See ch. 2009-241, L.O.F.

¹³ Florida statute defines "mortgage broker" as a person conducting loan originator activities through one or more licensed loan originators employed by the mortgage broker or as independent contractors to the mortgage broker. See s. 494.001(23), F.S.

¹⁴ Florida statute defines "mortgage lender" as a person making a mortgage loan or servicing a mortgage loan for others, or, for compensation or gain, directly or indirectly, selling or offering to sell a mortgage loan to a noninstitutional investor. See s. 494.001(24), F.S.

¹⁵ S. 20.121(3)(a)2. and (d), F.S. OFR is housed within the Financial Services Commission (Commission). The Commission, comprised of the Governor and Cabinet, appoints OFR's Commissioner.

¹⁶ Office of Financial Regulation, *Division of Consumer Finance*, <https://fiofr.gov/sitePages/DivisionOfConsumerFinance.htm#:~:text=The%20Division%20of%20Consumer%20Finance,dermine%20compliance%20with%20Florida%20law>. (last visited Jan. 20, 2024).

¹⁷ S. 494.00321(1)(c), F.S.

¹⁸ S. 494.00312(2)(e), F.S.

¹⁹ S. 494.00611(2)(c), F.S.

Exemption from Regulation: Bona Fide Nonprofit Organizations

Notwithstanding the policies of the SAFE Act, federal regulations provide that a state is not required to impose registration requirements on certain individuals.²⁰ Among those exemptions, states are permitted to provide an exemption from registration requirements under the SAFE Act to a bona fide nonprofit organization and its employees if, under criteria and pursuant to processes established by the state, the state supervisory authority determines that the organization:

- Has the status of a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986;
- Promotes affordable housing or provides homeownership education, or similar services;
- Conducts its activities in a manner that serves public or charitable purposes, rather than commercial purposes;
- Receives funding and revenue and charges fees in a manner that does not incentivize it or its employees to act other than in the best interests of its clients;
- Compensates its employees in a manner that does not incentivize employees to act other than in the best interests of its clients;
- Provides or identifies for the borrower residential mortgage loans with terms favorable to the borrower and comparable to mortgage loans and housing assistance provided under government housing assistance programs; and
- Meets other standards that the state determines are appropriate.²¹

A state must periodically examine the books and activities of an organization it classifies as a bona fide nonprofit organization and revoke its status as a bona fide nonprofit organization if it does not continue to meet the criteria described above.²² Moreover, for residential mortgage loans to have terms that are favorable to the borrower, a state must determine that the terms are consistent with loan origination in a public or charitable context, rather than a commercial context.²³

Florida law does not currently provide an exemption from regulation for bona fide nonprofit organizations, but does provide exemptions for certain other individuals and entities consistent with federal law, provided certain criteria are met.²⁴

Effect of the Bill

The bill provides an exemption from regulation under ch. 494, F.S., for a bona fide nonprofit organization and the employees of such organization, provided that the organization meets all of the following conditions:

- Has the status of a tax-exempt organization under s. 501(c)(3) of the Internal Revenue Code;
- Promotes affordable housing or provides homeownership education or similar services;
- Conducts the organization's activities in a manner that serves public or charitable purposes rather than commercial purposes;
- Receives funding and revenue and charges fees in a manner that does not incentivize the organization or the organization's employees to act other than in the best interests of the organization's clients;
- Compensates the organization's employees in a manner that does not incentivize the employees to act other than in the best interests of the organization's clients;
- Provides to or identifies for a borrower any residential mortgage loans with terms favorable to the borrower and comparable to mortgage loans and housing assistance provided under any federal, state, and local housing assistance programs.

B. SECTION DIRECTORY:

²⁰ See 12 C.F.R. Sec. 1008.103(e) for a full list of exempt individuals.

²¹ 12 U.S.C. Sec. 1008.103(e)(7)(ii).

²² 12 U.S.C. Sec. 1008.103(e)(7)(iii).

²³ 12 U.S.C. Sec. 1008.103(e)(7)(iv).

²⁴ See s. 494.00115, F.S., for a full list of individuals and entities exempt from regulation under ch. 494, F.S.

Section 1. Amends s. 494.00115, F.S., relating to exemptions.

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

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill has an indeterminable negative fiscal impact on OFR to the extent that entities and employees of entities that qualify for the proposed exemption will no longer pay application fees associated with licensure requirements under ch. 494, F.S. The total number of nonprofit organizations that are eligible for the exemption, however, is unclear.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Entities and employees of entities that meet the criteria for the proposed exemption will likely benefit financially by not having to pay costs associated with licensure requirements under ch. 494, F.S. The total number of nonprofit organizations that are eligible for the exemption is unclear.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

See "Drafting Issues or Other Comments."

B. RULE-MAKING AUTHORITY:

The bill does not confer rulemaking authority nor require the promulgation of rules. However, if the bill is amended as suggested in "Drafting Issues or Other Comments," the Commission's rulemaking authority under s. 494.0011(2)(b), F.S., relating to compliance with the SAFE Act, will likely need to be expanded to prescribe criteria and processes for determining whether an organization qualifies for the proposed exemption.

C. DRAFTING ISSUES OR OTHER COMMENTS:

To ensure compliance with federal law, the following amendments to the bill are suggested:

- Conform the provisions of the bill to the SAFE Act exemption for bona fide nonprofit organizations' employees from loan originator and mortgage broker regulation;
- Clarify the conditions under which an employee may be exempt from the SAFE Act regulations provided in Florida statute;
- Provide that OFR must determine whether an organization is a bona fide nonprofit organization based on specified factors;
- Require OFR to determine that the terms of the loan are consistent with loan origination in public or charitable context, rather than a commercial context; and
- Require OFR to periodically examine the books and activities of the organization and revoke its status if the organization does not continue to meet the requirements.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to an exemption from regulation for
 3 bona fide nonprofit organizations; amending s.
 4 494.00115, F.S.; exempting bona fide nonprofit
 5 organizations and the employees of such organizations
 6 from certain regulation; defining the term "bona fide
 7 nonprofit organization"; providing an effective date.
 8

9 Be It Enacted by the Legislature of the State of Florida:

10
 11 Section 1. Subsection (5) of section 494.00115, Florida
 12 Statutes, is amended, and paragraph (g) is added to subsection
 13 (1) of that section, to read:

14 494.00115 Exemptions.—

15 (1) The following are exempt from regulation under this
 16 part and parts II and III of this chapter.

17 (g) A bona fide nonprofit organization and the employees
 18 of a bona fide nonprofit organization.

19 (5) As used in this section, the term:

20 (a) "Bona fide nonprofit organization" means an
 21 organization that meets all of the following conditions:

22 1. Has the status of a tax-exempt organization under s.
 23 501(c)(3) of the Internal Revenue Code.

24 2. Promotes affordable housing or provides homeownership
 25 education or similar services.

26 3. Conducts the organization's activities in a manner that
 27 serves public or charitable purposes rather than commercial
 28 purposes.

29 4. Receives funding and revenue and charges fees in a
 30 manner that does not incentivize the organization or the
 31 organization's employees to act other than in the best interests
 32 of the organization's clients.

33 5. Compensates the organization's employees in a manner
 34 that does not incentivize the organization's employees to act
 35 other than in the best interests of the organization's clients.

36 6. Provides to or identifies for a borrower any
 37 residential mortgage loans with terms favorable to the borrower
 38 and comparable to mortgage loans and housing assistance provided
 39 under any federal, state, and local housing assistance programs.

40 (b) "Hold himself or herself out to the public as being in
 41 the mortgage lending business" includes any of the following:

42 1.(a) Representing to the public, through advertising or
 43 other means of communicating or providing information, including
 44 the use of business cards, stationery, brochures, signs, rate
 45 lists, or promotional items, by any method, that such individual
 46 can or will perform the activities described in s. 494.001(24).

47 2.(b) Soliciting in a manner that would lead the intended
 48 audience to reasonably believe that such individual is in the
 49 business of performing the activities described in s.
 50 494.001(24).

51 3.~~(e)~~ Maintaining a commercial business establishment at
52 which, or premises from which, such individual regularly
53 performs the activities described in s. 494.001(24) or regularly
54 meets with current or prospective mortgage borrowers.

55 4.~~(d)~~ Advertising, soliciting, or conducting business
56 through the use of a name, trademark, service mark, trade name,
57 Internet address, or logo that indicates or reasonably implies
58 that the business being advertised, solicited, or conducted is
59 of the kind or character of business transacted or conducted by
60 a licensed mortgage lender or is likely to lead any person to
61 believe that such business is that of a licensed mortgage
62 lender.

63 Section 2. This act shall take effect July 1, 2024.

INSURANCE & BANKING SUBCOMMITTEE

HB 1569 by Rep. Grant Relating to Exemption from Regulation for Bona Fide Nonprofit Organizations

AMENDMENT SUMMARY January 25, 2024

Amendment 1 by Rep. Grant (Strike-all): The amendment:

- Conforms the provisions of the bill to the exemption provided in the federal Secure and Fair Enforcement Act of 2008 (SAFE Act), 12 U.S.C. s. 5101-5116, for bona fide nonprofit organizations and their employees from loan originator and mortgage broker regulation;
- Clarifies the conditions under which an organization and an employee may be exempt from the SAFE Act regulations adopted by Florida law;
- Provides that the Office of Financial Regulation (OFR) must determine whether an organization is a bona fide nonprofit organization based on specified factors;
- Requires OFR to periodically examine the books and activities of an organization and revoke an organization's exemption if it does not continue to meet the requirements; and
- Provides the Financial Services Commission with rule-making authority to prescribe criteria and processes required for OFR to make determinations regarding bona fide nonprofit organizations.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Insurance & Banking
 2 Subcommittee

3 Representative Grant offered the following:

4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Paragraph (b) of subsection (2) of section
 8 494.0011, Florida Statutes, is amended to read:

9 494.0011 Powers and duties of the commission and office.—

10 (2) The commission may adopt rules to administer parts I,
 11 II, and III of this chapter, including rules:

12 (b) Relating to compliance with the S.A.F.E. Mortgage
 13 Licensing Act of 2008, including rules to:

14 1. Require loan originators, mortgage brokers, mortgage
 15 lenders, and branch offices to register through the registry.

Amendment No. 1

16 2. Require the use of uniform forms that have been
17 approved by the registry, and any subsequent amendments to such
18 forms if the forms are substantially in compliance with the
19 provisions of this chapter. Uniform forms that the commission
20 may adopt include, but are not limited to:

21 a. Uniform Mortgage Lender/Mortgage Broker Form, MU1.

22 b. Uniform Mortgage Biographical Statement & Consent Form,
23 MU2.

24 c. Uniform Mortgage Branch Office Form, MU3.

25 d. Uniform Individual Mortgage License/Registration &
26 Consent Form, MU4.

27 3. Require the filing of forms, documents, and fees in
28 accordance with the requirements of the registry.

29 4. Prescribe requirements for amending or surrendering a
30 license or other activities as the commission deems necessary
31 for the office's participation in the registry.

32 5. Prescribe procedures that allow a licensee to challenge
33 information contained in the registry.

34 6. Prescribe procedures for reporting violations of this
35 chapter and disciplinary actions on licensees to the registry.

36 7. Prescribe criteria and processes for determining
37 whether an organization is and remains a bona fide nonprofit
38 organization for the purpose of determining whether the
39 organization and its employees acting as loan originators may be

Amendment No. 1

40 exempt from regulation under this chapter pursuant to s.
41 494.00115.

42 Section 2. Present subsections (3), (4), and (5) of
43 section 494.00115, Florida Statutes, are redesignated as
44 subsections (4), (5), and (6), respectively, and a new
45 subsection (3) is added to that section, to read:

46 494.00115 Exemptions.—

47 (3)(a) As provided in this subsection, a bona fide
48 nonprofit organization and an employee of a bona fide nonprofit
49 organization who acts as a loan originator only with respect to
50 his or her work duties to the bona fide nonprofit organization,
51 and who acts as a loan originator only with respect to
52 residential mortgage loans with terms that are favorable to the
53 borrower, are exempt from regulation under this chapter.

54 1. For an organization to be considered a bona fide
55 nonprofit organization under this subsection, the office must
56 determine, pursuant to criteria and processes established by
57 rule, that the organization satisfies all of the following
58 criteria:

59 a. Has the status of a tax-exempt organization under s.
60 501(c)(3) of the Internal Revenue Code of 1986.

61 b. Promotes affordable housing or provides homeownership
62 education or similar services.

63 c. Conducts its activities in a manner that serves public
64 or charitable purposes rather than commercial purposes.

Amendment No. 1

65 d. Receives funding and revenue and charges fees in a
66 manner that does not incentivize it or its employees to act
67 other than in the best interests of its clients.

68 e. Compensates its employees in a manner that does not
69 incentivize employees to act other than in the best interests of
70 its clients.

71 f. Provides or identifies for the borrower residential
72 mortgage loans with terms favorable to the borrower and
73 comparable to mortgage loans and housing assistance provided
74 under government housing assistance programs.

75 2. For residential mortgage loans to be deemed under this
76 section to have terms that are favorable to the borrower, the
77 office must determine that the terms are consistent with loan
78 origination in a public or charitable context, rather than a
79 commercial context.

80 (b) The office must periodically examine the books and
81 activities of an organization that it determines is a bona fide
82 nonprofit organization and revoke its status as a bona fide
83 nonprofit organization if it does not continue to meet the
84 criteria specified in paragraph (a).

85 Section 3. This act shall take effect July 1, 2024.

86

87

88

89

T I T L E A M E N D M E N T

Amendment No. 1

90 Remove lines 4-7 and insert:
91 494.0011, F.S.; authorizing the Financial Services
92 Commission to adopt rules prescribing criteria and
93 processes for determining whether an organization is a bona
94 fide nonprofit organization for a specified purpose;
95 amending s. 494.00115, F.S.; providing exemptions from
96 regulation under ch. 494, F.S., for bona fide nonprofit
97 organizations and certain employees of a bona fide
98 nonprofit organization that meet specified criteria;
99 requiring the Office of Financial Regulation to make a
100 specified determination; requiring the office to make
101 certain a determination related to the terms of residential
102 mortgage loans originated by such employees; requiring the
103 office to periodically examine the books and activities of
104 a bona fide nonprofit organization and to revoke its status
105 in certain circumstances; providing an effective date.

Florida House of Representatives Insurance and Banking Subcommittee

Tim Cerio – President, CEO & Executive
Director

January 25, 2024



U.S. Residual Markets

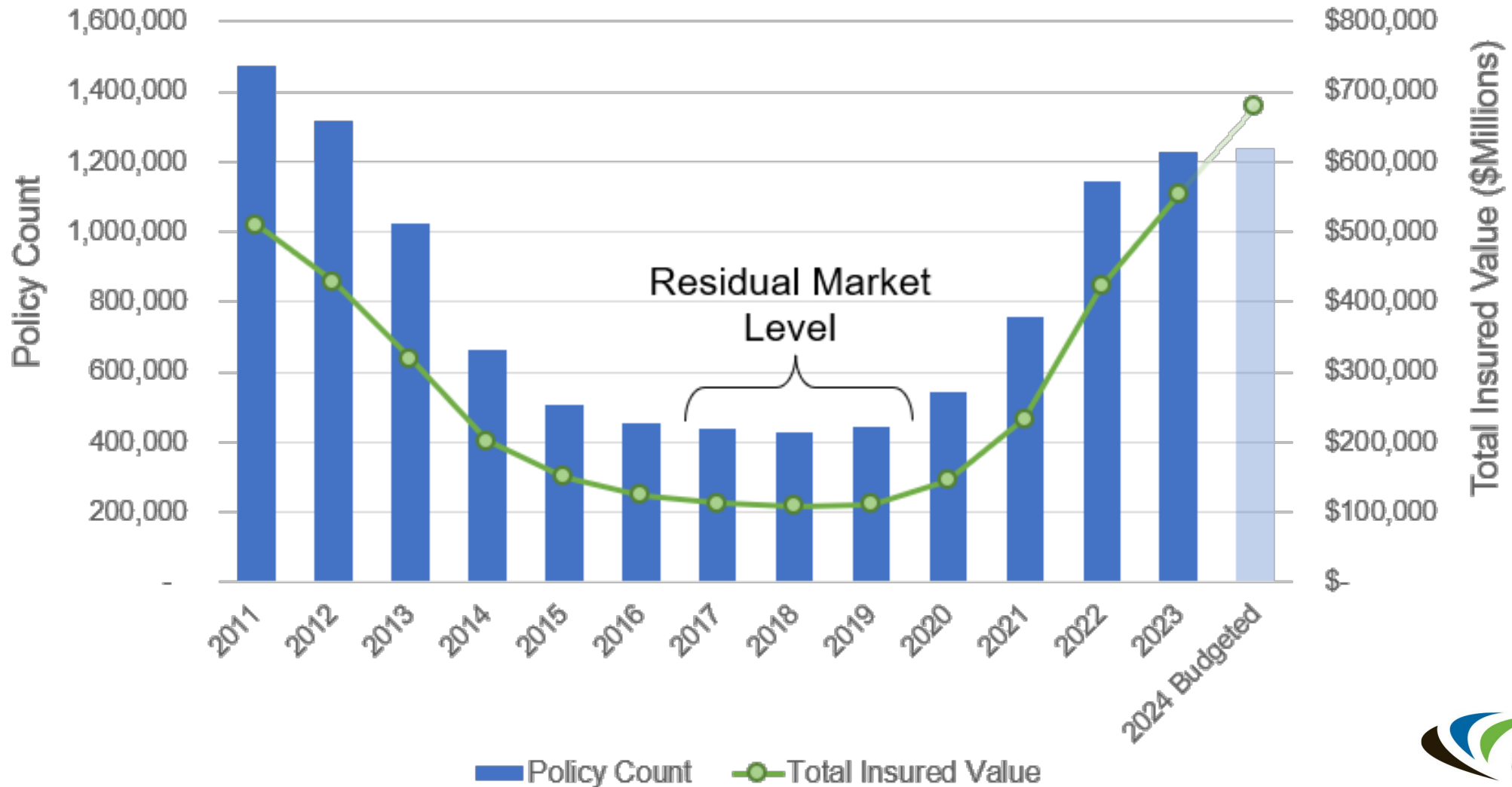
Fair Access to Insurance Requirements Plan Report

State	Policies in Force	Exposure (\$000)	% of Total Exposure
Florida	1,220,897	\$ 422,953,352	51%
California	261,421	\$ 209,808,071	25%
Massachusetts	197,177	\$ 90,572,584	11%
Louisiana	154,507	\$ 40,935,450	5%
North Carolina	218,506	\$ 33,404,590	4%
Texas	66,488	\$ 11,301,744	1%
New York	23,197	\$ 6,892,000	1%

PIPSO Reports. (2023, June). Property Insurance Plans Service Office, Inc.

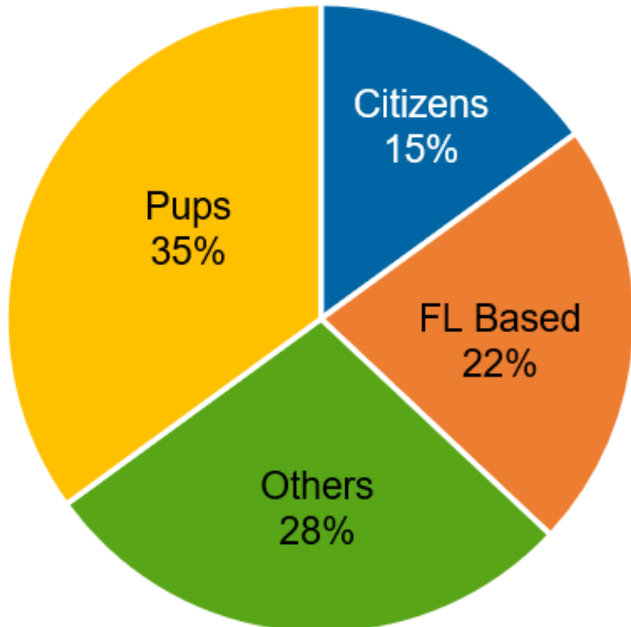


Policy Count and Total Insured Value



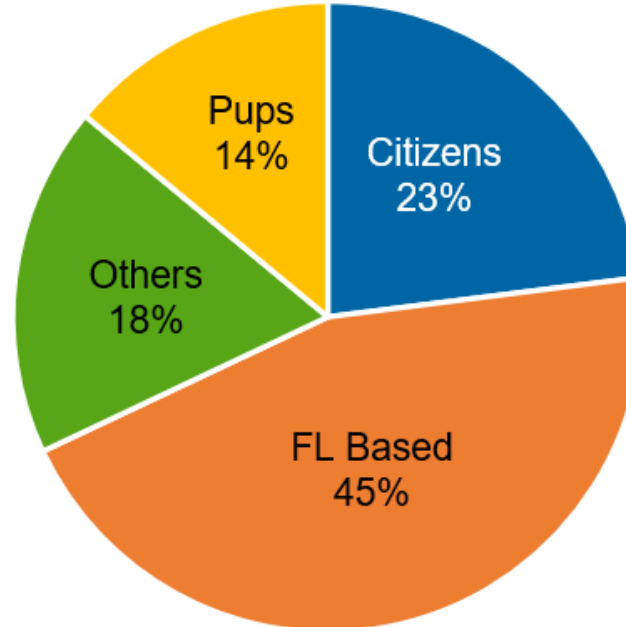
FL's Residential Property Insurance Market

Before 04/05 Storms



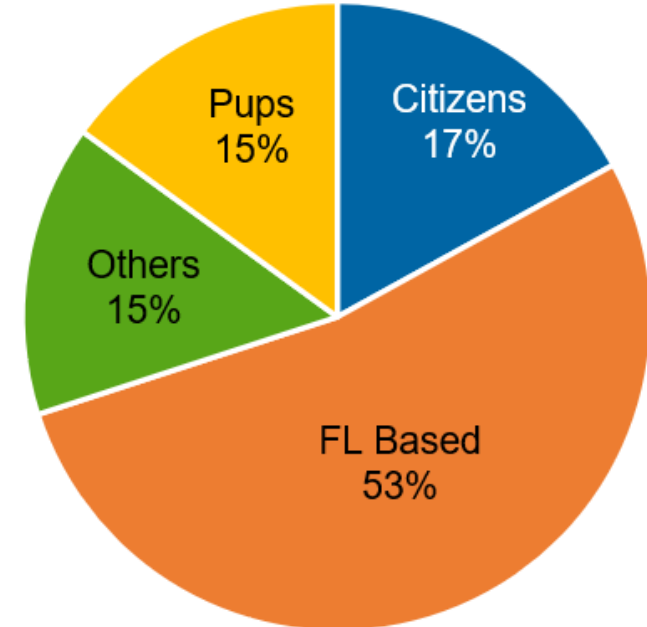
6/30/2004

Citizens' Peak



12/31/2011

Latest Data



9/30/2023

Pups

FL only subsidiaries of major national writers

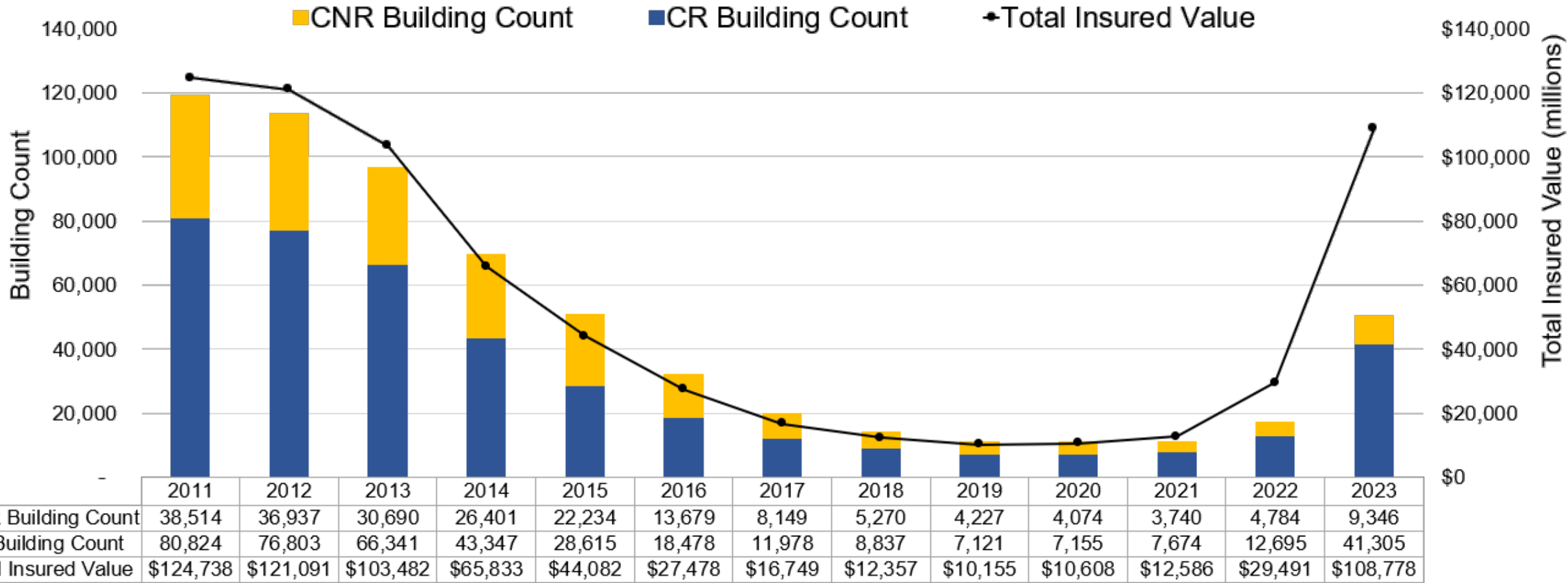
FL Based

FL domiciled companies where majority only write in state

Others

National writers

Commercial Lines by Non-Residential (CNR) and Residential (CR)



Early Signs of Property Insurance Market Improvement

- The Office of Insurance Regulation has approved 7 property insurance company actions, including 6 additional insurers.
- Increased depopulation activity.
- Companies are expanding new business in Florida.
- Citizens' new non-catastrophe litigated cases being filed through July 2023 were down 20% compared to 2022.
- Reinsurance availability for the 2023 hurricane season was more favorable than initially anticipated.

Market Financials for Selected Florida Property Insurers

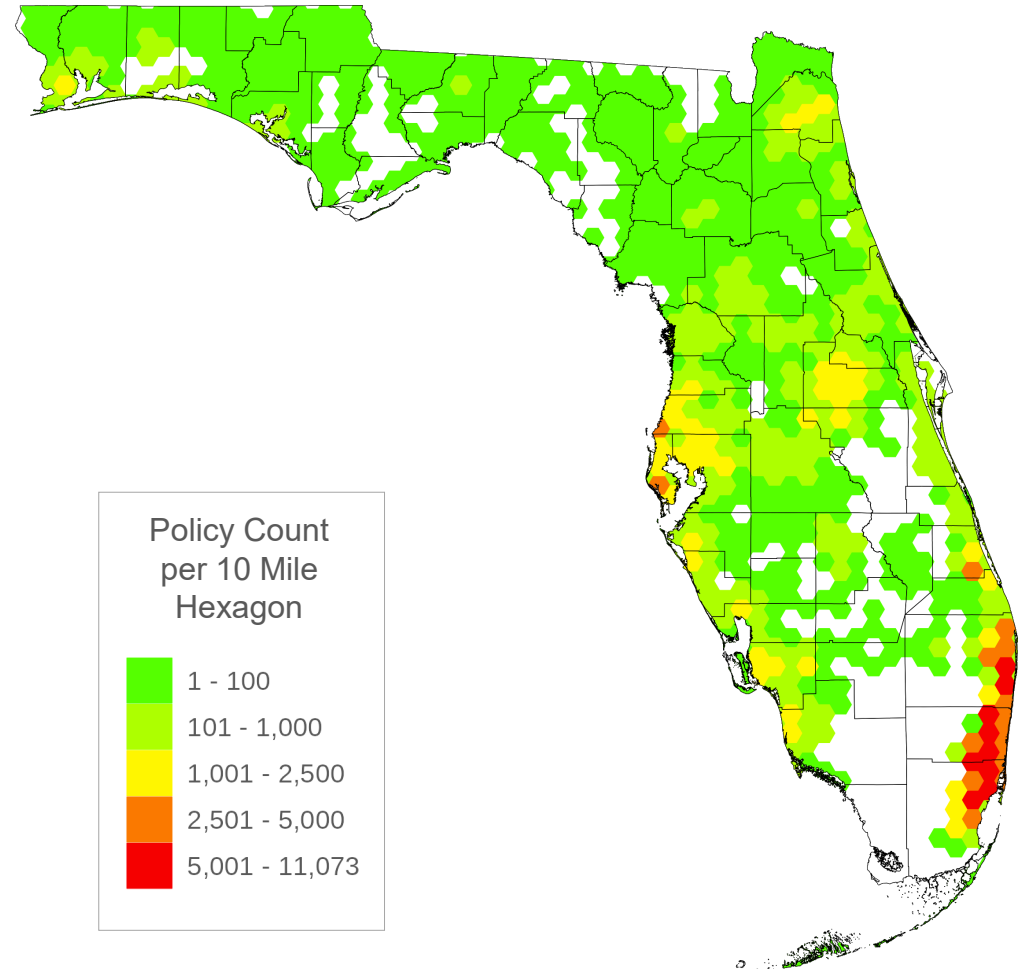
Insolvent Carriers are Included (\$000)

	3Q 2019	3Q 2020	3Q 2021	3Q 2022	3Q 2023
Underwriting Gain / (Loss)	(\$375,273)	(\$1,120,680)	(\$1,205,963)	(\$1,224,936)	(\$545,319)
Net Income	(\$143,243)	(\$633,292)	(\$917,176)	(\$1,046,998)	(\$237,057)
Surplus	\$4,089,404	\$3,723,515	\$3,669,730	\$4,033,117	\$4,197,212
Direct Written Premium	\$9,234,985	\$10,434,942	\$11,495,485	\$12,350,482	\$13,924,935
Contributed Capital	\$125,166	\$200,027	\$649,629	\$1,024,279	\$263,141

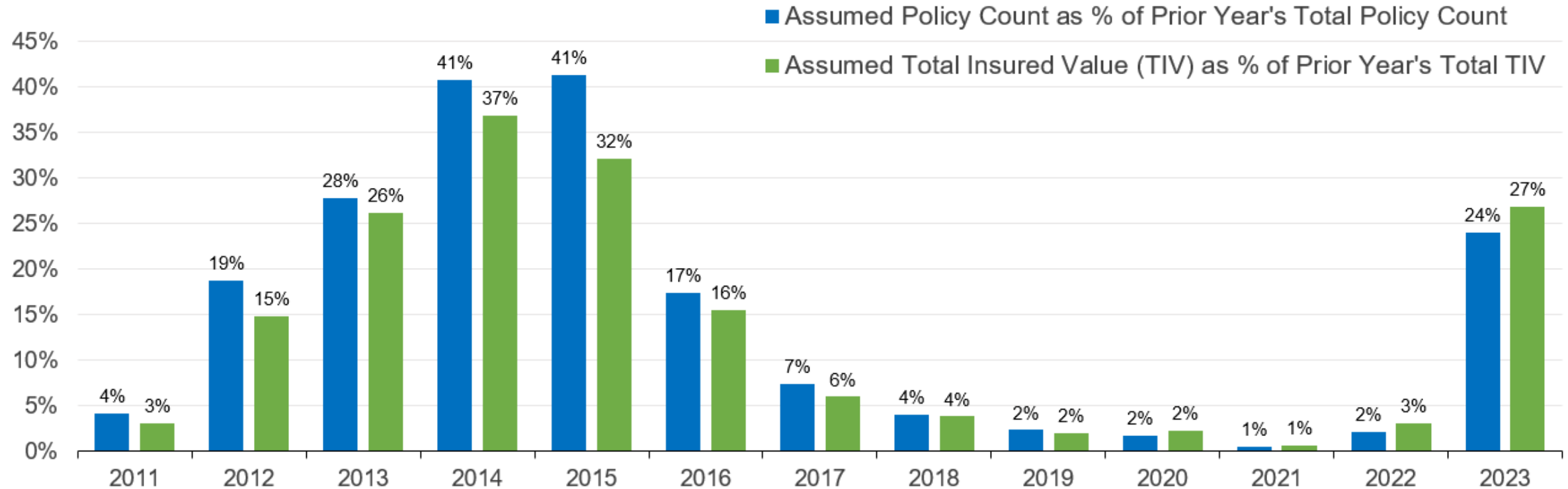
Depopulation Activity

2023 Assumed Policies			
Assumption Date	Number Office of Insurance Regulation Approved	*Policyholder Choice Letters Mailed	Number Assumed on Day of Assumption
4/18/2023	20,000	26,335	4,573
6/20/2023	46,218	18,760	17,239
8/22/2023	26,000	27,689	8,836
10/17/2023	184,000	311,310	99,773
11/21/2023	202,399	179,747	92,886
12/19/2023	168,000	86,620	52,017
Total	646,617	650,461	275,324

*Total letters mailed, one per policy. Multiple offers may be contained in a single mailing

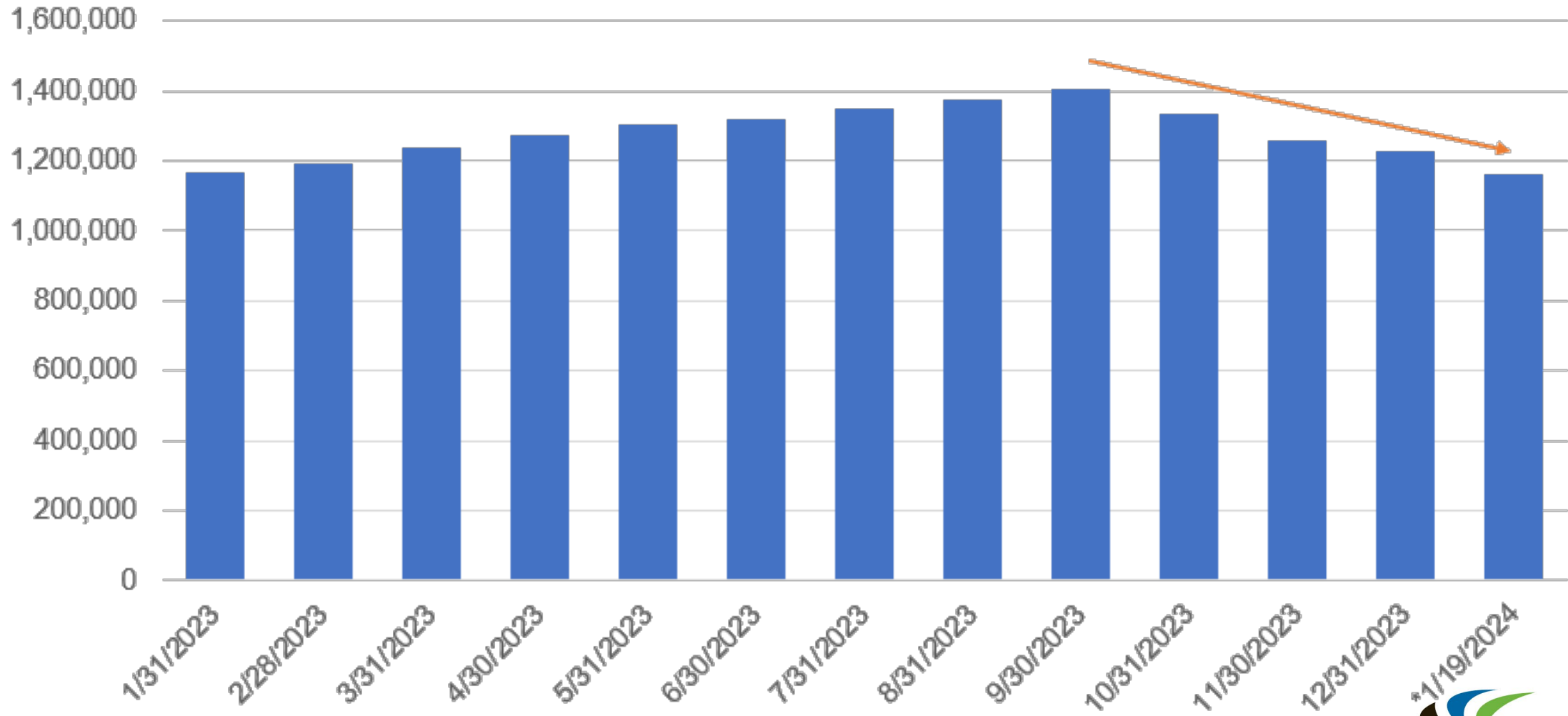


Historical Depopulation Activity



Total Policies Assumed	53,577	277,002	365,767	416,623	272,785	88,000	34,008	17,905	10,084	7,463	2,814	16,408	275,324
TIV Assumed (millions)	\$14,474	\$75,927	\$112,265	\$117,530	\$64,830	\$23,363	\$7,435	\$4,308	\$2,181	\$2,497	\$1,027	\$7,174	\$113,375

Depopulation Impact to Policy Counts



Non-Catastrophe Litigation and AOB Rates

Personal Lines Non-Catastrophe Claims as of 6/30/2023

Accident Year	*Litigation %	AOB %
2017	21%	25%
2018	19%	24%
2019	17%	19%
2020	18%	18%
2021	17%	23%
2022	15%	23%
2023	8%	6%

* Litigation % is the projected ultimate number of claims litigated divided by the total number of claims.

Citizens has been experiencing a decrease in the non-catastrophe litigation rate for several years.

There are significant reductions in the 2023 accident year litigation rate and the Assignment of Benefit (AOB) rate.