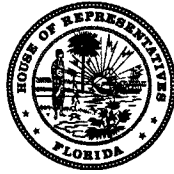


Commerce Committee

**Tuesday, February 13, 2018
3:00 PM – 6:00 PM
Webster Hall (212 Knott)**

Meeting Packet



The Florida House of Representatives

Commerce Committee

Richard Corcoran
Speaker

Jim Boyd
Chair

Meeting Agenda

Tuesday, February 13, 2018

3:00 pm – 6:00 pm

Webster Hall (212 Knott)

- I. Call to Order
- II. Roll Call
- III. Welcome and Opening Remarks
- IV. **Consideration of the following bill(s):**
 - CS/HR 157 Public Health Risk Created by Pornography by Spano
 - CS/HB 425 Physician Fee Sharing Task Force by Plasencia
 - CS/HB 645 Young Farmers and Ranchers by Raburn
 - CS/CS/HB 1073 Department of Financial Services by Hager
 - CS/HB 1103 Regional Rural Development Grants by Albritton
 - HB 6037 Fireworks by Grant, J.
- V. Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HR 157 Public Health Risk Created by Pornography
SPONSOR(S): Health & Human Services Committee; Spano and others
TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health & Human Services Committee	18 Y, 1 N, As CS	Gilani	Calamas
2) Commerce Committee		Hamon <i>K.W.H.</i>	Hamon <i>K.W.H.</i>

SUMMARY ANALYSIS

In the past two decades, internet usage and mobile technology have become ubiquitous, especially among teens and young adults. The internet has also made creation and dissemination of pornography seamless. The majority of Americans, including minors, are exposed to pornography online regularly. Twenty-seven percent of young adults first view pornography before the onset of puberty; 70 percent of teens accidentally view pornography online; and teens have experienced an increase in unwanted exposure to pornographic content online.

While legal and ethical constraints limit research that can determine causal links between pornography and negative outcomes, several studies make correlational findings. Adolescents who view pornography:

- Tend to have sexually permissive views, have more sexual partners in their lifetime, and are more likely to have engaged in oral and anal sex;
- Tend to display more aggression, have more traditional gender role attitudes, and view women as sex objects;
- Report feeling insecure about their ability to perform sexually or the way they look; and
- Tend to reduce their pornography use as their self-confidence increases or their relationships with family and friends improve.

Pornography addiction is not recognized by the American Psychiatric Association as an addiction; however, a growing body of research suggests that one can develop a compulsive disorder related to problematic pornography use.

CS/HR 157 recognizes pornography as a public health risk and acknowledges the need for education, prevention, research, and policy change to protect the citizens of Florida.

In support of the resolution, CS/HR 157 makes various findings related to: the negative impacts of pornography on children and teens; the role of pornography in the demand for human trafficking, prostitution, and child pornography; the potential for compulsive pornography viewing; the correlations between pornography use and mental and physical illnesses; and the potential negative impact of pornography on intimate relationships and families.

Legislative resolutions do not have the force of law and are not subject to the Governor's approval and veto powers.

The resolution does not have a fiscal impact on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation:

Effects of Pornography

Rapidly advancing technology has made the creation and dissemination of pornography seamless.¹ Specifically, internet usage and mobile technology in the past two decades have become ubiquitous, especially among teens and young adults.² The majority of Americans come across pornography online and roughly half will seek it out.³ Twenty-seven percent of young adults first view pornography before the onset of puberty,⁴ 70 percent of teens accidentally stumble upon pornography online,⁵ and teens have experienced an increase in unwanted exposure to pornographic content online.⁶

With pornography increasingly accessible to children and teens, there is growing concern about the adverse effects on them of such early exposure.⁷

Scientific Research

Scientific research on the effects of pornography exists, but is not robust. In order to determine causal links between pornography use and long-term negative outcomes, researchers would need to expose minors to pornography. Legal and ethical constraints prevent researchers from exposing minors to pornography and subjecting them to potentially lasting adverse effects.⁸ Instead, researchers must rely on participants who are willing to self-disclose their pornography use and who may also have preexisting co-variables. Therefore, prevailing research is not representative of the general population and does not determine causation, but does establish correlational links between pornography use and negative consequences.

Since the 1990s, there has been a significant and steady decline in teen sex, pre-teen sex, teen births, and sexually transmitted diseases in teens.⁹ Violent and sex crime rates have also declined

¹ Eric W. Owens et al., *The Impact of Internet Pornography on Adolescents: A Review of the Research*, 19(1-2) *SEXUAL ADDICTION & COMPULSIVITY* 99, 99-100 (2012).

² *Id.* See also PEW RESEARCH CENTER, *Teens, Social Media & Technology Overview 2015: Smartphones Facilitate Shifts in Communication Landscape for Teens*, <http://www.pewinternet.org/2015/04/09/teens-social-media-technology-2015/> (last visited Jan. 14, 2018).

³ Josh McDowell Ministry, *THE PORN PHENOMENON: THE IMPACT OF PORNOGRAPHY IN THE DIGITAL AGE* (2016), research summary available at <https://www.barna.com/research/porn-in-the-digital-age-new-research-reveals-10-trends/> (last visited Jan. 14, 2018).

⁴ *Id.*

⁵ KAISER FAMILY FOUNDATION, *Generation Rx.com: How Young People Use the Internet for Health Information*, December 2001, at 12, available at <https://kaiserfamilyfoundation.files.wordpress.com/2001/11/3202-genrx-report.pdf> (last visited Jan. 14, 2018).

⁶ Kimberly J. Mitchell et al., *Trends in Youth Reports of Sexual Solicitations, Harassment and Unwanted Exposure to Pornography on the Internet*, 40 *JOURNAL OF ADOLESCENT HEALTH* 116, 124 (2007), available at: <http://unh.edu/ccrc/pdf/CV135.pdf> (last visited Jan. 14, 2018).

⁷ *Supra* note 1, at 101. See also, Kimberly J. Mitchell et al., *Trends in Youth Reports of Sexual Solicitations, Harassment and Unwanted Exposure to Pornography on the Internet*, 40 *JOURNAL OF ADOLESCENT HEALTH* 116, 116 (2007), available at: <http://unh.edu/ccrc/pdf/CV135.pdf> (last visited Jan. 14, 2018).

⁸ *Supra* note 1, at 102. *E.g.*, s. 847.0133, F.S., making it a third-degree felony to knowingly show any obscene material to a minor. See generally, SOCIETY FOR RESEARCH IN CHILD DEVELOPMENT, *Ethical Standards in Research*, <https://www.srcd.org/about-us/ethical-standards-research> (last visited Jan. 14, 2018).

⁹ U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, CENTERS FOR DISEASE CONTROL AND PREVENTION, *Morbidity and Mortality Weekly Report: Youth Risk Behavior Surveillance – United States, 2015*, June 10, 2016, at 26-30, 119-121 available at: https://www.cdc.gov/healthyyouth/data/yrbs/pdf/2015/ss6506_updated.pdf (last visited Jan. 14, 2018). See also U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, CENTERS FOR DISEASE CONTROL AND PREVENTION, *Morbidity and Mortality Weekly Report: Reduced Disparities in Birth Rates among Teens Aged 15-19 Years – United States, 2006-2007 and 2013-2014*, available at: <https://www.cdc.gov/mmwr/volumes/65/wr/mm6516a1.htm> (last visited Jan. 14, 2018); U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, CENTERS FOR DISEASE CONTROL AND PREVENTION, *Birth Rates (Live Births) per 1,000 Females Aged 15-19 Years, by Race and*
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significantly.¹⁰ Nevertheless, research suggests that adolescents who view pornography tend to have more sexually permissive attitudes, have more sexual partners in their lifetime, and are more likely to have engaged in oral and anal sex.¹¹ Similarly, adolescents who viewed pornography tended to display more aggression, have more traditional gender role attitudes, and view women as sex objects.¹² Due to the correlational nature of these findings, researchers were unable to determine if these characteristics were precursors to pornography use or a consequence of it;¹³ however, they were able to identify pornography use as a strong exacerbating factor in individuals who have preexisting markers for sexual aggression.¹⁴

There is limited research on the effect of internet pornography on adolescents' emotional health, but sexualized media is known to negatively affect girls' and women's self-esteem and lead to eating disorders and depression.¹⁵ Adolescents who view pornography report feeling insecure about their ability to perform sexually or how they look, and tend to decrease their pornography use as their self-confidence increases or they develop positive relationships with friends and family.¹⁶

During adolescence, the brain is still developing. Unlike adults, adolescents who view pornography are less able to control or suppress sexual cravings, thoughts, and behaviors.¹⁷ This vulnerability makes children and teens susceptible to developing problematic pornography use if exposed to pornography during this period of cognitive growth.¹⁸

One study found that individuals with problematic pornography use have less gray matter and reactivity in the reward system of their brain.¹⁹ This is consistent with the brain composition of those suffering from addictions, suggesting that overstimulation of the reward system changes the composition of the brain.²⁰ However, the researchers cautioned that this could be a precondition that conversely requires the individual to engage in stronger stimuli in order to stimulate the reward system of the brain.²¹

Ethnicity, 2007-2015, <https://www.cdc.gov/teenpregnancy/about/alt-text/birth-rates-chart-2007-2015-text.htm> (last visited Jan. 14, 2018).

¹⁰ U.S. DEPARTMENT OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, BUREAU OF JUSTICE STATISTICS, *Criminal Victimization, 2015*, Oct. 2016, <https://www.bis.gov/content/pub/pdf/cv15.pdf> (last visited Jan. 14, 2018). See also CRIMES AGAINST CHILDREN RESEARCHER CENTER, *Have Sexual Abuse and Physical Abuse Declined Since the 1990s?*, Nov. 2012, http://www.unh.edu/ccrc/pdf/CV267_Have%20SA%20%20PA%20Decline_FACT%20SHEET_11-7-12.pdf (last visited Jan. 14, 2018).

¹¹ Debra K. Braun-Corville & Mary Rojas, *Exposure to Sexually Explicit Web Sites and Adolescent Sexual Attitudes and Behaviors*, 45(2) J ADOLESCENT HEALTH 153, 156-162 (2009). See also Jane D. Brown & Kelly L. L'Engles, *X-Rated: Sexual Attitudes and Behaviors Associated with U.S. Early Adolescents' Exposure to Sexually Explicit Media* 36 COMM. RSCH. 129-151 (2009). *Contra*, Marie-Therese Luder et al., *Associations between Online Pornography and Sexual Behavior among Adolescents: Myth or Reality?* 40(5) ARCHIVES OF SEXUAL BEHAVIOR 1027-1035 (2011) (finding that pornography use had no association with early sexual imitation or risky sexual behaviors).

¹² Eileen M. Alexy et al., *Pornography as a Risk Marker for an Aggressive Pattern of Behavior among Sexually Reactive Children and Adolescents*, 14(6) J AM. PSYCHIATRIC NURSES ASS'N 442, 450 (2009). See also Elisabet Haggstrom-Nordin et al., *Experiences of and Attitudes towards Pornography among a Group of Swedish High School Students*, 14 EURO. J CONTRACEPTION AND REPRODUCTIVE HEALTH CARE 277, 277-284 (2009).

¹³ *Supra* note 1, at 107.

¹⁴ Michelle L. Ybarra & Kimberly J. Mitchell, *X-Rated Material and Perpetration of Sexually Aggressive Behavior Among Children and Adolescents: Is There a Link?* 8 *CyberPsychology and Behavior* 473, 473-486 (2011). See generally, Paul J. Wright, *A Meta-Analysis of Pornography Consumption and Actual Acts of Sexual Aggression in General Population Studies*, 66(1) J COMM 183-205 (2016).

¹⁵ AMERICAN PSYCHOLOGICAL ASSOCIATION, *Sexualization of Girls is Linked to Common Mental Health Problems in Girls and Women—Eating Disorders, Low Self-Esteem, and Depression; An APA Task Force Reports*, Feb. 19, 2007, <http://www.apa.org/news/press/releases/2007/02/sexualization.aspx> (last visited Jan. 14, 2018).

¹⁶ Lotta Lofgren-Martenson & Sven-Axel Mason, *Lust, Love, and Life: A Qualitative Study of Swedish Adolescents' Perceptions and Experiences with Pornography* 47 J SEX RSCH. 568, 575 (2010).

¹⁷ *Supra* note 1, at 113-115.

¹⁸ *Id.*

¹⁹ Simone Kuhn & Jurgen Gallinat, *Brain Structure and Functional Connectivity Associated with Pornography Consumption*, 71(7) JAMA PSYCHIATRY 827, 827-834, available at https://jamanetwork.com/journals/jamapsychiatry/fullarticle/1874574?utm_source=Silverchair%20Information%20Systems&utm_medium=email&utm_campaign=JAMAPsychiatry:OnlineFirst05/28/2014#Discussion (last visited Jan. 14, 2018).

²⁰ *Id.*

²¹ *Id.*

The Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition,²² does not recognize sex or pornography addictions, but there is growing research supporting the concept of a compulsive disorder²³ related to problematic pornography use. A major distinction between addiction and compulsion is that addiction includes an experience of pleasure, whereas a compulsion does not. Studies have shown that individuals who struggle with pornography use have neurological responses to sexual cues similar to those previously studied in drug addictions.²⁴ However, there was a significant disassociation between their brain's reaction, and their subjective enjoyment of the image, which is more consistent with compulsive behaviors.²⁵ An attempt to treat problematic pornography use as a compulsive disorder rather than an addiction showed an 85 percent reduction in pornography use and an increase in measures of quality of life.²⁶

Human Trafficking, Prostitution, and Child Pornography

Human trafficking is a form of modern-day slavery affecting young children, teenagers, and adults who are subjected to force, fraud, or coercion for sexual exploitation or forced labor.²⁷ Commercial sexual exploitation is a form of human trafficking and can include prostitution and pornography as a means for the perpetrator to make money.²⁸ Both adults and children can be victims of these acts.²⁹ The U.S. Department of Justice estimates that as many as 300,000 children in the United States are at risk for commercial sexual exploitation.³⁰

In cases of sexual exploitation of minors, perpetrators may engage in a "grooming" process to prepare the victim to engage in the sexual activity.³¹ Grooming can include the perpetrator showering the child with gifts and compliments to gain his or her trust or exposing the minor to adult and child pornography to normalize sexual behavior.³²

Resolutions on Pornography in Other Jurisdictions

Since 2016, at least five other states have adopted similar resolutions declaring pornography a health crisis or hazard. Utah was the first to pass this resolution in April 2016, followed by Arkansas, Louisiana, South Dakota, and Tennessee in 2017.³³ The Canadian Parliament has also ordered a study of the effects of violent and degrading pornography on children, women, and men.³⁴

²² The American Psychiatric Association publishes the Diagnostic and Statistical Manual of Mental Disorder, a manual classifying mental disorders, providing standardized criteria for diagnoses and treatment. It is relied upon universally in the health field and is currently on its fifth edition.

²³ Compulsions are repetitive behaviors or mental acts that an individual feels driven to perform in response to an obsession or according to rules that must be applied rigidly. THE AMERICAN PSYCHIATRIC ASSOCIATION, *Diagnosics and Statistical Manual of Mental Disorders* (5th ed., 2013) at 235.

²⁴ Valerie Voon et al., *Neural Correlates of Sexual Cue Reactivity in Individuals with and without Compulsive Sexual Behaviours*, 9(7) PLoS ONE (2014), available at <http://journals.plos.org/plosone/article?id=10.1371/journal.pone.0102419> (last visited Jan. 14, 2018).

²⁵ Id.

²⁶ Michael P. Twohig & Jesse M. Crosby, Acceptance and Commitment Therapy as a Treatment for Problematic Internet Pornography Viewing, 41(3) BEHAVIOR THERAPY (2010), available at https://contextualscience.org/system/files/Twohig_Crosby_2010.pdf (last visited Jan. 14, 2018).

²⁷ U.S. DEPARTMENT OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, *OJP Fact Sheet, Fast Facts*, Dec. 2011, http://ojp.gov/newsroom/factsheets/ojpdfs_humantrafficking.html (last visited Jan. 14, 2018).

²⁸ The federal Trafficking Victims Protection Act defines "commercial sex act" as any sex act on account of which anything of value is given to or received by any person. 22 U.S.C. s. 7102(4).

²⁹ S. 787.06, F.S.

³⁰ *Supra* note 27.

³¹ Alisdair A. Gillespie, CHILD PORNOGRAPHY: LAW AND POLICY 108-109 (2011), available at <https://books.google.com/books?id=uL2sAgAAQBAJ&pg=PA108#v=onepage&q&f=false> (last visited Jan. 14, 2018).

³² Id.

³³ Utah S.C.R. 9 (2016); Arkansas H.R. 1042 (2017); Louisiana H.C.R. 100 (2017); South Dakota S.C.R. 4 (2017); Tennessee S.J.R. 35 (2017).

³⁴ Canada. Parliament. House of Commons. Standing Committee on Health. (2017 July). *Report on the Public Health Effects of the Ease of Access and Viewing of Online Violent and Degrading Sexually Explicit Material on Children, Women, and Men*. 42nd Parliament, 1st session. Available: <http://www.ourcommons.ca/DocumentViewer/en/42-1/HESA/report-11/page-5> (last visited Jan. 16, 2018).

Effect of the Resolution:

CS/HR 157 recognizes pornography as a public health risk and acknowledges the need for education, prevention, research, and policy change to protect the citizens of Florida.

In support of the resolution, CS/HR 157 finds that:

- Advances in technology expose children to pornography at an alarming rate and 27 percent of young adults report first viewing pornography before the onset of puberty;
- Pornography can serve as the main source of sexual education for children and is contributing to their hypersexualization;
- Pornography depicts children and young people in a hypersexualized manner and children who view such images are at a higher risk for developing low self-esteem, an eating disorder, and a desire to engage in dangerous sexual behavior;
- Pornography objectifies women, normalizes violence and abuse of women and children, depicts rape and abuse as harmless, and is related to the increased demand for sex trafficking, prostitution, and child pornography;
- There are correlations between pornography use and: mental and physical illnesses; difficulty forming or maintaining intimate relationships; unhealthy brain development and cognitive function; deviant, problematic, or dangerous sexual behavior;
- Recent research indicates that one can develop a compulsive disorder in which excessive amounts of pornography are consumed, resulting in the user consuming increasingly more shocking material or withdrawing from daily life functions to satisfy the compulsion;
- Pornography can lead to a reluctance to enter into marriage, dissatisfaction in marriage, and marital infidelity; and
- Efforts to prevent exposure to pornography, to educate individuals and families of pornography's potential harmful effects, and to develop pornography recovery programs should be systematic.

Legislative resolutions do not have the force of law and are not subject to the Governor's approval and veto powers.

B. SECTION DIRECTORY:

Not applicable.

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 resolution does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 18, 2018, the Health and Human Services Committee adopted an amendment that revised the "whereas" clauses of the bill and declared that:

- Pornography is creating a public health risk.
- Systematic efforts should be made to educate individuals and families about pornography's potential harms.
- Pornography can serve as the main source of sexual education for children.
- Pornography depicts children and young people in a hypersexualized manner and that children who view these images are more likely to experience various negative health consequences.
- Pornography is related to the increased demand for sex trafficking, prostitution, and child pornography.
- Research has found correlations between pornography use and various negative health consequences.
- Recent research indicates that one can develop a compulsive disorder related to problematic pornography viewing.
- Pornography can have a detrimental effect on families.

The bill was reported favorably as a committee substitute. The analysis is drafted to the committee substitute as passed by the Health and Human Services Committee.

House Resolution

A resolution recognizing the public health risk created by pornography.

WHEREAS, pornography is creating a public health risk and contributing to the hypersexualization of children and teens, and

WHEREAS, efforts to prevent exposure to pornography, to educate individuals and families concerning pornography's potential harmful effects, and to develop pornography recovery programs should be systematic, and

WHEREAS, due to advances in technology and the widespread availability of the Internet, children are exposed to pornography at an alarming rate and it can serve as their main source of education regarding human sexuality, and

WHEREAS, twenty-seven percent of young adults between the ages of 25 and 30 report that they first viewed pornography before the onset of puberty, and

WHEREAS, pornography depicts children and young people in a hypersexualized manner and a child who views such images is at a higher risk of developing low self-esteem, an eating disorder, and a desire to engage in dangerous sexual behavior, and

WHEREAS, pornography objectifies women, normalizes violence and the abuse of women and children, depicts rape and abuse as

25 harmless, and is related to the increased demand for sex
 26 trafficking, prostitution, and child pornography, and

27 WHEREAS, pornography has potential detrimental effects on
 28 the user and research has found correlations between pornography
 29 use and mental and physical illnesses; difficulty forming or
 30 maintaining intimate relationships; unhealthy brain development
 31 and cognitive function; deviant, problematic, or dangerous
 32 sexual behaviors, and

33 WHEREAS, recent research indicates that one can develop a
 34 compulsive disorder in which excessive amounts of pornography
 35 are consumed, resulting in the user consuming increasingly more
 36 shocking material or withdrawing from daily life functions to
 37 satisfy the compulsion, and

38 WHEREAS, pornography can have a detrimental effect on
 39 families, including a reluctance to enter into marriage,
 40 dissatisfaction in marriage, and marital infidelity, NOW,
 41 THEREFORE,

42
 43 Be It Resolved by the House of Representatives of the State of
 44 Florida:

45
 46 That the State of Florida recognizes the public health risk
 47 created by pornography and acknowledges the need for education,
 48 prevention, research, and policy change to protect the citizens
 49 of this state.

COMMERCE COMMITTEE

CS/HR 157 by Rep. Spano Public Health Risk Created by Pornography

AMENDMENT SUMMARY February 13, 2018

Amendment 1 by Rep. Moskowitz (Strike-all): recognizes the public health risk created by certain cancers. Includes conforming whereas clauses.

Amendment 2 by Rep. Moskowitz (Strike-all): recognizes the public health risk created by restless leg syndrome. Includes conforming whereas clauses.

Amendment 3 by Rep. Moskowitz (Strike-all): recognizes the public health risk created by MS-13. Includes conforming whereas clauses.

Amendment 4 by Rep. Moskowitz (Strike-all): recognizes the public health risk created by influenza. Includes conforming whereas clauses.

Amendment 5 by Rep. Moskowitz (Strike-all): recognizes the public health risk created by human trafficking. Includes conforming whereas clauses.

Amendment 6 by Rep. Moskowitz (Title): recognizes the public health risk created by an American actress.

Amendment 7 by Rep. Moskowitz (Strike-all): recognizes the public health risk created by Nazis and White Nationalists. Includes conforming whereas clauses.

Amendment 8 by Rep. Moskowitz (Strike-all): recognizes the public health risk created by gun-related deaths and school shootings. Includes conforming whereas clauses.

Amendment 9 by Rep. Moskowitz (Strike-all): recognizes the public health risk created by opioids. Includes conforming whereas clauses.



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: Commerce Committee

2 Representative Moskowitz offered the following:

3

4 **Amendment (with title amendment)**

5 Remove everything after the resolving clause and insert:

6 That the State of Florida recognizes the public health risk
7 created by breast cancer, lung cancer, testicular cancer, and
8 ovarian cancer and acknowledges the need for education,
9 prevention, research, and policy changes to protect the citizens
10 of this state.

11

12

13

T I T L E A M E N D M E N T

14

Remove everything before the resolving clause and insert:



Amendment No. 1

15 A resolution recognizing the public health risk
16 created by breast cancer, lung cancer, testicular
17 cancer, and ovarian cancer.

18
19 WHEREAS, breast cancer, lung cancer, testicular cancer, and
20 ovarian cancer are creating a public health risk, and

21 WHEREAS, deaths from breast cancer numbered 2,904 in
22 Florida in 2016, and

23 WHEREAS, deaths from breast cancer numbered 40,610
24 nationally in 2017, and

25 WHEREAS, deaths from lung cancer numbered 11,206 in Florida
26 in 2016, and

27 WHEREAS, deaths from lung cancer numbered 155,870
28 nationally in 2017, and

29 WHEREAS, deaths from ovarian cancer numbered 970 in Florida
30 in 2017, and

31 WHEREAS, deaths from ovarian cancer numbered 14,080
32 nationally in 2017, and

33 WHEREAS, deaths from testicular cancer numbered 410
34 nationally in 2017, and

35 WHEREAS, the estimated number of new cases of testicular
36 cancer in 2017 is now 8,850, NOW, THEREFORE,

Amendment No. 2

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: Commerce Committee

2 Representative Moskowitz offered the following:

3
4 **Amendment (with title amendment)**

5 Remove everything after the resolving clause and insert:

6 That the State of Florida recognizes the public health risk
7 created by Restless Leg Syndrome and acknowledges the need for
8 education, prevention, and policy change to protect the citizens
9 of this state.

10
11 -----
12 **T I T L E A M E N D M E N T**

13 Remove everything before the resolving clause and insert:

14 A resolution recognizing the public health risk
15 created by Restless Leg Syndrome (RLS).
16

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HR 157 (2018)

Amendment No. 2

17 WHEREAS, Florida hospitals have found that Restless Leg
18 Syndrome (RLS) may affect as many as 1 in 10 people nationwide,
19 and

20 WHEREAS, 5 million adults in the United States have
21 moderate to severe RLS, and

22 WHEREAS, 1 million children of school age have RLS, and

23 WHEREAS, health professionals have found that symptoms
24 continue longer and become more frequent with age, NOW,

25 THEREFORE,



Amendment No. 3

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: Commerce Committee

2 Representative Moskowitz offered the following:

3

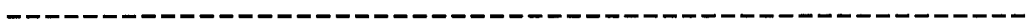
4 **Amendment (with title amendment)**

5 Remove everything after the resolving clause and insert:

6 That the State of Florida recognizes the public health risk
7 created by MS-13 and acknowledges the need for education,
8 prevention, research, and policy change to protect the citizens
9 of this state.

10

11



12

T I T L E A M E N D M E N T

13 Remove everything before the resolving clause and insert:

14 A resolution recognizing the public health risk
15 created by MS-13.

16



Amendment No. 3

17 WHEREAS, the Federal Bureau of Investigation finds that MS-
18 13 perpetrates violence, including assaults and homicides, and

19 WHEREAS, the Federal Bureau of Investigation finds that MS-
20 13 operates in 42 states and the District of Columbia, and

21 WHEREAS, Federal Bureau of Investigation finds that MS-13
22 has between 6,000 and 10,000 members nationwide, and

23 WHEREAS, is heavily involved in the illegal drug trade,

24 NOW, THEREFORE,



Amendment No. 4

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: Commerce Committee

2 Representative Moskowitz offered the following:

4 **Amendment (with title amendment)**

5 Remove everything after the resolving clause and insert:
6 That the State of Florida recognizes the public health risk
7 created by influenza and acknowledges the need for education,
8 prevention, and policy change to protect the citizens of this
9 state.

11 -----
12 **T I T L E A M E N D M E N T**

13 Remove everything before the resolving clause and insert:

14
15 A resolution recognizing the public health risk
16 created by influenza.



Amendment No. 4

17
18 WHEREAS, the World Health Organization finds that there are
19 3 million to 5 million cases of influenza each year, and
20 WHEREAS, this results in an estimated 290,000 to 650,000
21 deaths from influenza each year, and
22 WHEREAS, during the 2018 influenza season over 20 children
23 have died, and
24 WHEREAS, the World Health Organization finds that the
25 deaths associated with influenza occur among people age 65 or
26 older, and
27 WHEREAS, the State of Florida has a large population that
28 is age 65 and older, NOW, THEREFORE,



Amendment No. 5

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: Commerce Committee

2 Representative Moskowitz offered the following:

3
4 **Amendment (with title amendment)**

5 Remove everything after the resolving clause and insert:

6 That the State of Florida recognizes the public health risk
7 created by human trafficking and acknowledges the need for
8 education, prevention, and policy changes to protect the
9 citizens of this state.

10
11 -----
12 **T I T L E A M E N D M E N T**

13 Remove everything before the resolving clause and insert:

14 A resolution recognizing the public health risk
15 created by human trafficking.
16



Amendment No. 5

17 WHEREAS, in 2009, the Legislature affirmed that human
18 trafficking is a form of modern-day slavery, and,

19 WHEREAS, the Department of Children and Families reported
20 1,900 documented cases of human trafficking in Florida in 2016,
21 and

22 WHEREAS, this statistic showed a 54 percent increase from
23 the previous year, and

24 WHEREAS, the International Labor Organization estimates
25 that there are 4.5 million people trapped in forced sexual
26 exploitation globally, NOW, THEREFORE,



Amendment No. 6

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: Commerce Committee

2 Representative Moskowitz offered the following:

4 **Amendment (with title amendment)**

5 -----

6 **T I T L E A M E N D M E N T**

7 Remove lines 2-3 and insert:

8 A resolution recognizing the public health risk
9 created by Stormy Daniels, an American pornographic
10 actress.



Amendment No. 7

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: Commerce Committee
 2 Representative Moskowitz offered the following:

Amendment (with title amendment)

Remove lines 46-49 and insert:

6 That the State of Florida recognizes the public health risk
 7 created by Nazis and White Nationalists and acknowledges the
 8 need for education, prevention, research, and policy change to
 9 protect the citizens of this state.

11 -----
 12 **T I T L E A M E N D M E N T**

Remove lines 2-41 and insert:

14 A resolution recognizing the public health risk
 15 created by Nazis and White Nationalists.



Amendment No. 7

17 WHEREAS, the Federal Bureau of Investigation finds Nazis
18 and White Nationalists as much of a threat as ISIS, and

19 WHEREAS, the Federal Bureau of Investigation has over 1,000
20 open cases on Nazi and White Nationalist hate groups as
21 evidenced by recent testimony in Congress, and

22 WHEREAS, violence from Nazis and White Nationalists has
23 risen in the past year as evidenced by law enforcement
24 testimony, and

25 WHEREAS, the Nazis killed up to 6 million members of the
26 Jewish faith, 7 million civilians in the USSR, 3 million Soviet
27 prisoners of war, 1.8 million Polish civilians, 312,000 Serbian
28 civilians, up to 250,000 people who live with disabilities, and
29 70,000 homosexuals, NOW, THEREFORE,



Amendment No. 8

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: Commerce Committee

2 Representative Moskowitz offered the following:

3
4 **Amendment (with title amendment)**

5 Remove everything after the resolving clause and insert:

6 That the State of Florida recognizes the public health risk
7 created by gun-related deaths and school shootings and
8 acknowledges the need for education, prevention, research, and
9 policy change to protect the citizens of this state.

10
11 -----
12 **T I T L E A M E N D M E N T**

13 Remove everything before the resolving clause and insert:

14 A resolution recognizing the public health risk
15 created by gun-related deaths and school shootings.
16



Amendment No. 8

17 WHEREAS, school shootings have been on the rise since the
18 year 2000, and

19 WHEREAS, since January 1, 2018, there have been 28 mass
20 shootings in the United States, and

21 WHEREAS, four of these mass shootings have taken place in
22 Florida, leaving 16 injured and 3 dead, and

23 WHEREAS, the Pulse nightclub shooting took place in
24 Orlando, Florida, claiming the lives of 49 people and wounding
25 58 and,

26 WHEREAS, the Pulse nightclub shooting is considered the
27 deadliest incident of violence against LGBT people in U.S.
28 history and,

29 WHEREAS, the Pulse nightclub shooting is the deadliest
30 terror attack since the September 11th attacks in 2001 and,

31 WHEREAS, data obtained from Florida medical examiners show
32 that between 2010 and 2015, 3,200 children age 17 and younger
33 were killed or injured by firearms, and

34 WHEREAS, this data shows that a child in Florida was shot,
35 on average, every 17 hours, and

36 WHEREAS, the Federal Bureau of Investigation has found that
37 mass shootings are becoming deadlier, NOW, THEREFORE,



Amendment No. 9

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: Commerce Committee

2 Representative Moskowitz offered the following:

3
4 **Amendment (with title amendment)**

5 Remove everything after the resolving clause and insert:

6 That the State of Florida recognizes the public health risk
7 created by opioids and acknowledges the need for education,
8 prevention, research, and policy change to protect the citizens
9 of this state.

10
11 -----
12 **T I T L E A M E N D M E N T**

13 Remove everything before the resolving clause and insert:

14 A resolution recognizing the public health risk
15 created by opioids.
16



Amendment No. 9

17 WHEREAS, Florida has found a growing number of opioid-
18 related deaths, and

19 WHEREAS, Governor Rick Scott and the Federal Centers for
20 Disease Control and Prevention have declared a state and
21 national opioid epidemic, and

22 WHEREAS, in 2015, Florida had 3,900 opioid-related deaths,
23 and

24 WHEREAS, in 2016, Florida had a 35 percent increase in
25 opioid-related deaths, and

26 WHEREAS, in 2015, over 33,000 opioid-related deaths were
27 recorded nationwide, NOW, THEREFORE,

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 425 Physician Fee Sharing Task Force
SPONSOR(S): Health Quality Subcommittee; Plasencia and others
TIED BILLS: IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Quality Subcommittee	14 Y, 0 N, As CS	Siples	McElroy
2) Commerce Committee		Peterson <i>KP</i>	Hamon <i>K.W.H.</i>
3) Health & Human Services Committee			

SUMMARY ANALYSIS

The federal Ethics in Patient Referrals Act of 1989, commonly known as the Stark Law, prohibits physicians from referring patients to receive designated health services that are payable by Medicare or Medicaid from entities with which the physician or an immediate family member has a financial relationship, unless an exception applies.

Similarly, the Florida Patient Self-Referral Act of 1992 prohibits a Florida health care provider from referring a patient for a designated health service to an entity in which the health care provider has an investment interest, regardless of payor. Designated health services include clinical laboratory services, physical therapy services, comprehensive rehabilitation services, diagnostic imaging services, and radiation services. A health care provider is also prohibited from referring a patient for any other health care item or service that the provider has an investment interest in, with limited exceptions.

Florida and federal law also prohibits a health care provider from offering, paying, soliciting or receiving a kickback, directly or indirectly, overtly or covertly, in cash or in kind for referring or soliciting a patient. Violations of the prohibition of the Florida law are considered patient brokering.

CS/HB 425 creates a task force within the Department of Health (DOH) to address the issues related to barriers to innovation and modernization of provider payment models created by federal law, and requires the task force to report its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 1, 2018.

The bill requires the task force members to serve without compensation or reimbursement for per diem and travel expenses. DOH must use existing and available resources to administer and support the activities of the task force.

The bill has an insignificant negative fiscal impact on DOH, which must be absorbed within existing resources. The bill has no fiscal impact on local governments.

The bill is effective upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Florida Patient Self-Referral Act of 1992

The Patient Self-Referral Act of 1992 (Act) prohibits the referral of patients by a health care provider for specified services or treatments when the referring health care provider has a financial interest in the service or treatment to be provided.¹ The prohibition against patient self-referral stems from a concern that a health care practitioner with a personal financial involvement may overutilize health care services, thus driving up the cost of health care and possibly adversely affecting quality.²

The Act prohibits a health care provider³ from referring a patient for a designated health service to an entity in which the health care provider has an investment interest.⁴ Designated health services include clinical laboratory services, physical therapy services, comprehensive rehabilitation services, diagnostic imaging services, and radiation services.⁵ Additionally, a health care provider is prohibited from referring a patient for any other health care item or service in which the health care provider has an investment interest, unless:

- **For entities whose shares are publicly traded:**
 - The provider's investment interest is in registered securities purchased on a national exchange or over-the-counter market and issued by a publicly held corporation; and
 - The entities total assets at the end of the corporation's most recent fiscal quarter exceeded \$50 million;
- **For entities other than a publicly held corporation:**
 - No more than 50 percent of the value of the investment interests are held by investors who are in a position to make referrals to the entity;
 - The terms under which an investment interest is offered to an investor who is in a position to make referrals to the entity are no different from the terms offered to investors who are not in a position to make such referrals;
 - The terms under which an investment interest is offered to an investor who is in a position to make referrals to the entity are not related to the previous or expected volume of referrals from that investor to the entity; and
 - There is no requirement that an investor make referrals or be in a position to make referrals to the entity as a condition for becoming or remaining an investor; and
- **With respect to either such entity or publicly held corporation:**
 - The entity or corporation does not loan funds to or guarantee a loan for an investor who is in a position to make referrals to the entity or corporation if the investor uses any part of such loan to obtain the investment interest; and
 - The amount distributed to an investor representing a return on the investment interest is directly proportional to the amount of the capital investment, including the fair-market value of any preoperational services rendered, and invested in the entity or corporation by that investor.

¹ Section 456.053, F.S.

² Section 456.053(2), F.S.

³ Section 456.053(3)(i), F.S., defines "health care provider" as a Florida-licensed allopathic physician, osteopathic physician, chiropractic physician, podiatric physician, or any health care provider licensed in an optometric or dentistry profession.

⁴ Section 456.053(5)(a), F.S.

⁵ Section 456.053(3)(c), F.S.

The Act provides exceptions to the prohibited referrals, which include any order, recommendation, or plan of care by a:⁶

- Radiologist for diagnostic-imaging services;
- Physician specializing in the provision of radiation therapy services for such services;
- Medical oncologist for drugs and solutions to be prepared and administered intravenously to such oncologist's patient, as well as for the supplies and equipment used in connection with treating such a patient for cancer and related complications;
- Cardiologist for cardiac catheterization services;
- Pathologist for diagnostic clinical laboratory tests and pathological examination services, if furnished by or under the supervision of such pathologist pursuant to a consultation requested by another physician;
- Health care provider who is the sole provider or member of a group practice for designated services or other health care items or services that are prescribed or provided solely for such referring health care provider's or group practice's own patients, and that are provided or performed by or under the direct supervision of such referring health care provider or group practice;
- Health care provider for services provided by a licensed ambulatory surgical center (ASC);
- Urologist for lithotripsy services;
- Dentist for dental services performed by an employee of or a health care provider who is an independent contractor with the dentist or group practice of which the dentist is a member;
- Physician for infusion therapy services to a patient of that physician or a member of that physician's group practice;
- Nephrologist for renal dialysis services and supplies;
- Health care provider whose principal professional practice consists of treating patients in their private residences for services to be rendered in such private residences, except for services rendered by a licensed home health agency; and
- Health care provider for sleep-related testing.

A health care provider who has an investment interest in an entity to which he or she refers a patient must disclose such interest to the patient on a written form that details the patient's right to obtain the services elsewhere along with at least two alternative sources from which the patient could receive the services.⁷

A health care provider found to have violated the Act could be subject to one or more disciplinary actions or penalties, including:

- A penalty of up to \$100,000 for each arrangement if a health care provider or other entity enters into an arrangement that has the principal purpose of assuring referrals between the provider and the entity;⁸
- Discipline by his or her appropriate board and hospitals are subject to penalties imposed by the Agency for Health Care Administration (AHCA);⁹ and
- Being charged with a first degree misdemeanor and subject to additional penalties and disciplinary action by his or her respective board if a health care provider fails to comply with the notice provisions of the Act and s. 456.052, F.S., which requires a physician to disclose to a patient if he or she has a financial interest in an entity to which the patient is being referred.¹⁰

⁶ Section 456.053(3)(o), F.S.

⁷ Sections 456.053(5)(j) and 456.052, F.S.

⁸ Section 456.053(5)(f), F.S.

⁹ Section 456.053(5)(g), F.S.

¹⁰ Section 456.053(5)(j), F.S.

A claim for payment for a service provided pursuant to a referral prohibited by the Act may not be made and any such payments received must be refunded.¹¹ Additionally, any person who knows or should know that such a claim is prohibited and who presents or causes to be presented such a claim, is subject to a fine of up to \$15,000 per service to be imposed and collected by that person's regulatory board.¹²

The Stark Law

Similar to the Act, the federal Ethics in Patient Referrals Act of 1989, commonly referred to as the Stark Law,¹³ prohibits physicians from referring patients to receive designated health services that are payable by Medicare or Medicaid from entities with which the physician or an immediate family member has a financial relationship, unless an exception applies.¹⁴ Under the Stark law, designated health services include:¹⁵

- Clinical laboratory services;
- Physical therapy;
- Occupational therapy;
- Outpatient speech-language pathology services;
- Radiology services, including magnetic resonance imaging (MRI), computerized axial tomography scans, and ultrasound services;
- Radiation therapy services and supplies;
- Durable medical equipment and supplies;
- Parenteral and enteral nutrients, equipment, and supplies;
- Prosthetics, orthotics, and prosthetic devices and supplies;
- Home health services;
- Outpatient prescription drugs; and
- Inpatient and outpatient hospital services.

The Stark Law is a strict liability statute, which means no specific intent to violate the law is needed.¹⁶ The Stark Law prohibits the submission, or causing the submission, of claims in violation of the law's restrictions on referrals.¹⁷ Physicians who violate the Stark Law may be assessed fines and/or monetary penalties, subject to repayment, or be excluded from participation in the federal health care programs.¹⁸ A violation of the Stark Law may also result in liability under the False Claims Act, also referred to as the Lincoln Law. The False Claims Act imposes civil liability on individuals who knowingly defraud federal governmental programs.¹⁹

The Stark Law includes a number of exceptions to the prohibition on self-referral for the designated health services, including:²⁰

- Physician services personally provided by or provided under the personal supervision of another physician who is a member of the referring physician's group practice;

¹¹ Section 456.053(5)(c)-(d), F.S.

¹² Section 456.053(5)(e), F.S.

¹³ 42 U.S.C. s. 1395nn.

¹⁴ Centers for Medicare & Medicaid Services, *Physician Self Referral*, (Jan. 5, 2015), available at <https://www.cms.gov/Medicare/Fraud-and-Abuse/PhysicianSelfReferral/index.html> (last visited January 27, 2018).

¹⁵ *Supra* note 13.

¹⁶ Department of Health and Human Services, Office of Inspector General, *A Roadmap for New Physicians: Avoiding Medicare and Medicaid Fraud and Abuse*, available at https://oig.hhs.gov/compliance/physician-education/roadmap_web_version.pdf (last visited January 27, 2018).

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ See 31 U.S.C. ss. 3729-3733.

²⁰ 42 C.F.R. s. 411.355. Specific conditions for exclusion may apply.

- Certain in-office ancillary services that are personally furnished by or provided under the supervision of the referring physician or another physician who is a member of the referring physician's group practice;
- Services furnished by an organization to its enrollees, such as certain health management organizations or health care prepayment plan;
- Services provided by an academic medical center if the referring physician is a bona fide employee, has a bona fide faculty appointment at the affiliated medical school, and provides substantial academic services or clinical teaching;
- Certain implants furnished at an ASC, such as cochlear implants, intraocular lenses, and other implanted prosthetic devices or durable medical equipment;
- Erythropoietin or other dialysis-related drugs that meet certain conditions;
- Preventive screening tests, immunizations, and vaccines;
- Eyeglasses and contact lenses following cataract surgery; and
- Intra-family rural referrals if the referring physician or family member makes reasonable inquiries as to the availability of other persons or entities to furnish the designated health service.

The Stark Law also contains a number of exceptions to the referral prohibition related to other compensation arrangements including, but not limited to:²¹

- The rental of office space or equipment with terms that are consistent with fair-market value and without consideration of any past or future referrals made between the parties;
- Bona fide employment relationships with remuneration that is consistent with the fair-market value of the services, does not take into account (directly or indirectly) the volume or value of referrals by the referring physician, and is commercially reasonable even if no referrals were made to the employer;
- Personal services arrangements with terms that do not exceed fair-market value and do not take into account the volume or value of any referrals or other business generated between the parties;
- Physician incentive plans if no specific payment is made to reduce or limit medically necessary services provided with respect to a specific individual enrolled with the entity;
- Physician recruitment arrangements paid by a hospital to induce a physician to relocate his or her practice to the geographic area served by the hospital in order to become a part of the hospital's medical staff, provided that the arrangement is not conditioned on the physician's referral of patients to the hospital, and the amount of remuneration does not take into account the volume or value of referrals;
- Certain isolated transactions, such as a one-time sale of property or a practice as long as the amount of remuneration is consistent with fair-market value and does not take into account the volume or value of any referrals by the referring physician;
- Certain arrangements with hospitals;
- Certain group practice arrangements made with hospitals;
- Payments made by a physician for laboratory services or other items or services if paid at fair-market value;
- Bona fide charitable donations by a physician;
- Nonmonetary compensation;
- Fair-market value compensation that is set in advance and not determined in a manner that takes into account the volume or value of any referrals by the referring physician;
- Incidental benefits for medical staff;
- Risk-sharing agreements between a physician and a managed care or independent practice association, as long as it does not violate the anti-kickback statute;
- Certain obstetrical malpractice insurance subsidies;
- Investments in group practices;

- ASCs as long as the remuneration does not include any payment that is a return on investment interest; additional restrictions apply for an ASC for which all the investors are surgeons or physicians, or is partly owned by a hospital;
- Price reductions offered to eligible managed care organizations;
- Electronic prescribing items and services;
- Electronic health records items and services;
- Medicare Coverage Gap Discount Program; and
- Local transportation.

While the Stark Law governs services that are federally-funded, Florida's Patient Self-Referral Act applies to all health care services provided in Florida. The Florida law is more restrictive, but does not frustrate the intent of the Stark Law.²²

Anti-Kickback and Patient Brokering Prohibitions

Federal and State Anti-Kickback Statutes

Federal law prohibits payment for the referral of an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made under a federal health care program.²³ Violation of the federal anti-kickback statute is a felony that is punishable by a fine of up to \$25,000 or up to 5 years in prison, or both.²⁴ However, there are several exceptions to the federal statute, including, but not limited to:

- Discounts properly disclosed and appropriately reflected in the costs claimed and charges made by the provider or entity;
- Payments between employers and employees for employment in the provision of covered items or services;
- Certain amounts paid to vendors;
- Waivers of co-insurance; and
- The waiver of any cost-sharing provisions by a pharmacy.

In Florida, both facilities and individual health care practitioners are prohibited from providing or receiving kickbacks for the referral of patients. Section 395.0185, F.S., prohibits any person from paying a commission, bonus, kickback,²⁵ or rebate or engaging in any form of split-fee arrangement with a physician, surgeon, organization, or person for patients referred to a licensed facility.²⁶ A health care provider is also specifically prohibited from offering, paying, soliciting or receiving a kickback, directly or indirectly, overtly or covertly, in cash or in kind for referring or soliciting a patient.²⁷

Patient Brokering

Florida's patient brokering statute, s. 817.505, F.S., makes it unlawful for any person to engage in patient brokering. Patient brokering is paying to induce, or make a payment in return for, a referral of a patient to or from a health care provider or health care facility. Such payments include commissions, bonuses, rebates, kickbacks, bribes, split-fee arrangements, in cash or in kind, provided directly or indirectly.²⁸ A violation of the patient brokering statute is a third degree felony,²⁹ and may also be

²² *Fresenius Medical Care Holdings, Inc. v. Tucker*, 704 F.3d 935 (11th Cir. 2013).

²³ 42 U.S.C. s. 1320a-7b(b).

²⁴ *Id.*

²⁵ A kickback is a remuneration or payment, by or behalf of a health care provider to any person as an incentive or inducement to refer patients for past or future services (s. 456.054(1), F.S.)

²⁶ AHCA enforces this provision and if the violator is not licensed by AHCA, the law authorizes AHCA to impose a fine of up to \$1,000 nonetheless, and to recommend disciplinary action to the appropriate licensing board.

²⁷ Section 456.054, F.S. Violations of this provision are considered patient brokering.

²⁸ Section 817.505(1), F.S.

remedied by an injunction or any other enforcement process. Private entities bringing an action under the patient brokering statute may recover reasonable expenses, including attorney fees.³⁰

The patient brokering statute has been used in cases involving split-fee arrangements. For example, it was used in an assignment of benefits case in which a non-provider suggested a patient go to a particular MRI facility, paid the facility for the MRI and billed the insurer a greater amount.³¹ It has also been used in self-referral arrangements. For example, it was used in a case where an arrangement by which a series of shell companies, nominal owners, and independent contractors were used to conceal relationships that generated a high volume of personal injury protection patients to a particular provider through a toll-free referral number.³²

Fee-Splitting by Physicians

A physician is subject to disciplinary action against his or her license if the physician pays or receives a commission, bonus, kickback, or rebate, or engages in a split-fee arrangement in any form with a physician, organization, agency, or person, either directly or indirectly, for patients referred to health care providers, including but not limited to:³³

- Hospitals;
- Nursing homes;
- Clinical laboratories;
- ASCs; or
- Pharmacies.

In *Crow v. Agency for Health Care Administration*, the court upheld the Board of Medicine's interpretation of the statute that would permit a salary arrangement that is based on the fees generated for the professional services provided by the physician, as well as those services provided under the physician's direct supervision (such as an advanced registered nurse practitioner or physician assistant).³⁴

Effect of Proposed Changes

CS/HB 425 creates the Physician Fee Sharing Task force within DOH to develop and evaluate policy proposals to identify and address barriers created by the Stark Law to innovation and modernization of provider payment models. The task force must develop and evaluate policy proposals related to:

- Implementing and maintaining alternative payment models;
- Increasing or extending existing safe harbor provisions to include physician practice groups; and
- Reforming the liability standard for violations.

The task is comprised, at a minimum, of the following 26 members:

- The State Surgeon General or his or her designee, who serves as the chair of the task force;
- The Secretary of AHCA or his or her designee;
- The Attorney General or his or her designee;

²⁹ A third degree felony is punishable by not more than five years of imprisonment and not more than a \$5,000 fine. (ss. 775.082, 775.083, F.S.)

³⁰ Section 817.505(4), (6), F.S.

³¹ *Medical Management Group of Orlando, Inc. v. State Farm Mut. Auto. Ins. Co.*, 811 So. 2d 705 (Fla. 5th DCA 2002).

³² *State Farm Mut. Auto. Ins. Co. v. Physicians Group of Sarasota, L.L.C.*, 9 F. Supp. 3d 1303 (M.D. Fla. Mar. 25, 2014) (denying motion to dismiss).

³³ Sections 458.331(1)(i) and 459.015(1)(j), F.S. However, this does not prevent a physician from receiving a fee for professional consultation services.

³⁴ 669 So.2d 1160 (Fla. 5th DCA 1996).

- Two members of the Legislature appointed by the Governor;
- Two members of the Senate appointed by the President of the Senate;
- Two members of the House of Representatives appointed by the Speaker of the House of Representatives;
- Two representatives of hospitals or facilities licensed under chapter 395, who each regularly deal with health care fraud and abuse matters, particularly those relating to the federal False Claims Act, federal Ethics in Patient Referrals Act of 1989, and anti-kickback issues, appointed by the Secretary of AHCA;
- A general counsel of a health insurer or his or her designee, who is familiar with health care fraud and abuse matters, particularly those relating to the federal False Claims Act, federal Ethics in Patient Referrals Act of 1989, and anti-kickback issues, appointed by the Secretary of AHCA;
- Five health care practitioners, each of whom practices in a different area of medicine, appointed by the State Surgeon General;
- A representative of an organization that represents health care practitioners and who is familiar with health care fraud and abuse matters, particularly those relating to the federal False Claims Act, federal Ethics in Patient Referrals Act of 1989, and anti-kickback issues, appointed by the President of the Senate.
- A representative of the Florida Bar, whose practice area primarily involves health care fraud and abuse matters, particularly those relating to the federal False Claims Act, federal Ethics in Patient Referrals Act of 1989, and anti-kickback issues, appointed by the Executive Director of the Florida Bar;
- Two representatives from companies whose primary business function is the development and deployment of a certified electronic health record, appointed by the Speaker of the House of Representatives;
- Two representatives from companies whose primary business function is the development and deployment of health information technology, such as population health or data analytics, which is not a certified electronic health record, appointed by the President of the Senate;
- Two representatives from a company whose primary business function is the development and deployment of smart medical devices, such as remote patient monitoring, appointed by the Speaker of the House of Representatives; and
- A representative from an investment company whose investment portfolio is comprised of at least 20 percent health information technology investments, appointed by the President of the Senate.

The bill requires the task force to conduct its first meeting by June 1, 2018, and to meet as often as needed to fulfill its responsibilities. The task force may meet in person, by teleconference, or by other electronic means. The task force must submit a report of its findings, conclusions, and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 1, 2018.

The bill requires task force members to serve without compensation and prohibits reimbursement for per diem or travel expenses. The bill requires DOH to use existing and available resources to administer and support the activities of the task force.

The section of law created by the bill expires January 1, 2019.

The bill is effective upon becoming a law.

B. SECTION DIRECTORY:

Section 1: Creates s. 456.0541, F.S, relating to physician fee sharing task force.

Section 2: Provides the bill takes effect upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

DOH will incur an insignificant negative fiscal impact; however, the bill requires DOH to use existing and available resources to administer and support the activities of the task force.

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:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The task force is required to report to the Governor and Legislature on issues that are not within the jurisdiction of either and is not required to communicate to Congress its findings.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 29, 2018, the Health Quality Subcommittee adopted a strike-all amendment, which did the following:

- Eliminated authorization for physicians to participate in fee sharing;

- Created the Physician Fee Sharing Task Force to address barriers to innovation and modernization of health care provider payment models.

The bill was reported favorably as a committee substitute. This analysis is drafted to the committee substitute as passed by the Health Quality Subcommittee.

1 A bill to be entitled
 2 An act relating to physician fee sharing task force;
 3 creating s. 456.0541, F.S.; establishing the Physician
 4 Fee Sharing Task Force within the Department of
 5 Health; providing for duties, membership, and meetings
 6 of the task force; requiring a report to the Governor
 7 and Legislature by a specified date; providing for
 8 expiration of the task force; providing an effective
 9 date.

10
 11 Be It Enacted by the Legislature of the State of Florida:

12
 13 Section 1. Section 456.0541, Florida Statutes is created
 14 to read:

15 456.0541 Physician Fee Sharing Task Force.-

16 (1) The Physician Fee Sharing Task Force is created within
 17 the department. The department shall use existing and available
 18 resources to administer and support the activities of the task
 19 force under this section.

20 (2) Members of the task force shall serve without
 21 compensation and are not entitled to reimbursement for per diem
 22 or travel expenses. The task force shall consist, at a minimum,
 23 of the following members:

24 (a) The State Surgeon General or his or her designee, who
 25 shall serve as the chair of the task force.

26 (b) The Secretary of Health Care Administration or his or
 27 her designee.

28 (c) The Attorney General or his or her designee.

29 (d) Two members of the Legislature appointed by the
 30 Governor.

31 (e) Two members of the Senate appointed by the President
 32 of the Senate.

33 (f) Two members of the House of Representatives appointed
 34 by the Speaker of the House of Representatives.

35 (g) Two representatives of hospitals or facilities
 36 licensed under chapter 395, who each regularly deal with health
 37 care fraud and abuse matters, particularly those relating to the
 38 federal False Claims Act, federal Ethics in Patient Referrals
 39 Act of 1989, and anti-kickback issues, appointed by the
 40 Secretary of Health Care Administration.

41 (h) One general counsel of a health insurer or his or her
 42 designee, who is familiar with health care fraud and abuse
 43 matters, particularly those relating to the federal False Claims
 44 Act, federal Ethics in Patient Referrals Act of 1989, and anti-
 45 kickback issues, appointed by the Secretary of Health Care
 46 Administration.

47 (i) Five health care practitioners, each of whom practices
 48 in a different area of medicine, appointed by the State Surgeon
 49 General.

50 (j) One representative of an organization that represents

51 health care practitioners and who is familiar with health care
 52 fraud and abuse matters, particularly those relating to the
 53 federal False Claims Act, federal Ethics in Patient Referrals
 54 Act of 1989, and anti-kickback issues, appointed by the
 55 President of the Senate.

56 (k) One representative of the Florida Bar, whose practice
 57 area primarily involves health care fraud and abuse matters,
 58 particularly those relating to the federal False Claims Act,
 59 federal Ethics in Patient Referrals Act of 1989, and anti-
 60 kickback issues, appointed by the Executive Director of the
 61 Florida Bar.

62 (l) Two representatives from companies whose primary
 63 business function is the development and deployment of a
 64 certified electronic health record, appointed by the Speaker of
 65 the House of Representatives.

66 (m) Two representatives from companies whose primary
 67 business function is the development and deployment of health
 68 information technology, such as population health or data
 69 analytics, which is not a certified electronic health record,
 70 appointed by the President of the Senate.

71 (n) Two representatives from a company whose primary
 72 business function is the development and deployment of smart
 73 medical devices, such as remote patient monitoring, appointed by
 74 the Speaker of the House of Representatives.

75 (o) One representative from an investment company whose

76 investment portfolio is comprised of at least 20-percent health
77 information technology investments, appointed by the President
78 of the Senate.

79 (3) The task force shall develop and evaluate policy
80 proposals to address barriers to innovation and modernization of
81 provider payment models created by the federal Ethics in Patient
82 Referrals Act of 1989, including policy proposals for:

83 (a) Implementing and maintaining alternative payment
84 models.

85 (b) Increasing or extending existing safe harbor
86 provisions to include physician practice groups.

87 (c) Reforming the liability standard for violations.

88 (4) The task force shall convene its first meeting by June
89 1, 2018, and shall meet as often as necessary to fulfill its
90 responsibilities under this section. Meetings may be conducted
91 in person, by teleconference, or by other electronic means.

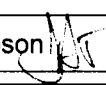
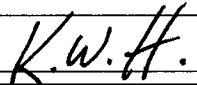
92 (5) The task force shall submit a report by December 1,
93 2018, to the Governor, the President of the Senate, and the
94 Speaker of the House of Representatives that includes its
95 findings, conclusions, and recommendations.

96 (6) This section expires January 1, 2019.

97 Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 645 Young Farmers and Ranchers
SPONSOR(S): Agriculture & Natural Resources Appropriations Subcommittee, Raburn
TIED BILLS: IDEN./SIM. **BILLS:** SB 872

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Property Rights Subcommittee	13 Y, 0 N	Thompson	Smith
2) Agriculture & Natural Resources Appropriations Subcommittee	13 Y, 0 N, As CS	White	Pigott
3) Commerce Committee		Thompson 	Hamon 

SUMMARY ANALYSIS

Florida is one of the nation's top ten most productive agricultural states. However, according to research, the overall number of farms is declining.

The bill creates within the Department of Agriculture and Consumer Services (DACS) the Florida Young Farmer and Rancher Advisory Council. The council is to consist of 12 members appointed by the Commissioner of Agriculture. The bill authorizes the council to submit annually to the commissioner findings and recommendations for mitigating challenges facing aspiring farmers and ranchers in the early stages of their careers, and to examine issues that include, but are not limited to, access to land, availability of credit and capital, and access to business skills training.

The bill requires DACS to establish on its website a clearinghouse for resources available to young and beginning farmers and ranchers, including, but not limited to, local, state, federal, and private sources of grants, loans, and scholarships, as well as general resources on finance and business planning. The bill requires the clearinghouse to include resources available to beginning agricultural producers who are defined as veterans under s. 1.01, F.S.

The bill will have an insignificant negative fiscal impact on state government that can be absorbed within existing resources. See *Fiscal Analysis and Economic Impact Statement*.

The bill provides an effective date of July 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Florida Agriculture

Florida had 47,100 commercial farms in 2016, using approximately 9.41 million acres of farmland. There were 5,600 farms with sales exceeding \$100,000, and the average farm size was 200 acres. Florida ranks 18th among all states in number of farms and 30th in land in farms.¹

Florida is one of the nation's top ten most productive agricultural states.² However, the number of farms is declining throughout the state.³ In the 1990s, the agricultural economy increased only five percent compared to 25 percent and 50 percent in previous decades.⁴

There are no grant programs or councils administered by the Department of Agriculture and Consumer Services (DACS) to assist young farmers and ranchers. DACS does provide resources through its Agricultural Industry,⁵ Grant Opportunity,⁶ and Business Development⁷ webpages. At this time, financial resource content is limited to assisting growers with export operations.

Effect of Proposed Changes

The bill creates within DACS the Florida Young Farmer and Rancher Advisory Council, and requires DACS to establish on its website the Florida Young Farmer and Rancher Resource Clearinghouse.

Florida Young Farmer and Rancher Advisory Council

The bill creates within DACS the Florida Young Farmer and Rancher Advisory Council. The council is to consist of 12 members appointed by the Commissioner of Agriculture. The commissioner is required to initially appoint six members for a one-year term, and six members for a two-year term. Thereafter, members must be appointed for two-year terms.

The bill provides that the meetings, powers, duties, procedures, and recordkeeping of the council shall be pursuant to s. 570.232, F.S.

The bill specifically authorizes the council to do the following:

- Submit annually to the commissioner findings and recommendations for mitigating challenges facing aspiring farmers and ranchers in the early stages of their careers; and

¹ United States Department of Agriculture National Agricultural Statistics Service, Statistical Bulletin 2017, at A-6, https://www.nass.usda.gov/Statistics_by_State/Florida/Publications/Annual_Statistical_Bulletin/2017/ASB-2017.pdf (last visited January 24, 2018).

² University of Florida IFAS Extension, *Expanding Florida's Farming Business to Incorporate Tourism*, <http://edis.ifas.ufl.edu/fr242> (last visited January 24, 2018).

³ *Id.*

⁴ *Id.*

⁵ Information pertaining to the agricultural industry may be retrieved from <http://www.freshfromflorida.com/Agriculture-Industry/Search-by-Industry>.

⁶ Information pertaining to grant opportunities can be retrieved from <http://www.freshfromflorida.com/Business-Services/Grant-Opportunities>.

⁷ Information pertaining to business development can be retrieved from <http://www.freshfromflorida.com/Divisions-Offices/Marketing-and-Development/Agriculture-Industry/Business-Development-Resources/Exporting-Florida-Agricultural-Products>.

- Examine issues that include, but are not limited to, access to land, availability of credit and capital, and access to business skills training.

Florida Young Farmer and Rancher Resource Clearinghouse

The bill requires DACS to establish on its website a clearinghouse for resources available to young and beginning farmers and ranchers, including, but not limited to, local, state, federal, and private sources of grants, loans, and scholarships, as well as general resources on finance and business planning. The bill requires the clearinghouse to include resources available to beginning agricultural producers who are defined as veterans under s. 1.01, F.S.

B. SECTION DIRECTORY:

- Section 1** Creates s. 570.843, F.S.; relating to the Florida Young Farmer and Rancher Advisory Council.
- Section 2** Creates s. 570.844, F.S.; relating to the Florida Young Farmer and Rancher Resource Clearinghouse.
- Section 3** Provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill has an insignificant negative fiscal impact on DACS. The bill will create an increase in workload relating to the Advisory Council and Clearinghouse, but DACS indicates that this workload can be absorbed within existing resources.⁸

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

⁸ Florida Department of Agriculture and Consumer Services, Agency Analysis of 2018 House Bill 645, p. 2 (Jan. 18, 2018).
STORAGE NAME: h0645d.COM.DOCX
DATE: 2/9/2018

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:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 6, 2018, the Agriculture & Natural Resources Appropriations Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment removed the Florida Young Farmer and Rancher Matching Grant Program from the bill.

The bill analysis is drafted to the committee substitute as passed by the Agriculture & Natural Resources Appropriations Subcommittee.

1 A bill to be entitled
 2 An act relating to young farmers and ranchers;
 3 creating s. 570.843, F.S.; creating the Young Farmer
 4 and Rancher Advisory Council within the department;
 5 specifying membership of the council; providing for
 6 staggered terms; specifying the meetings, powers,
 7 duties, procedures, and recordkeeping of the council;
 8 specifying that the council may submit findings and
 9 recommendations to the Commissioner of Agriculture;
 10 specifying the issues the council may examine;
 11 creating s. 570.844, F.S.; requiring the department to
 12 establish a clearinghouse on its website for resources
 13 to assist young and beginning farmers and ranchers;
 14 providing an effective date.

15
 16 Be It Enacted by the Legislature of the State of Florida:

17
 18 Section 1. Section 570.843, Florida Statutes, is created
 19 to read:

20 570.843 Florida Young Farmer and Rancher Advisory
 21 Council.—

22 (1) There is created within the department the Florida
 23 Young Farmer and Rancher Advisory Council, to consist of 12
 24 members to be appointed by the commissioner. Initially, 6
 25 members shall be appointed by the commissioner for a 1-year term

26 | and 6 members for a 2-year term. Thereafter, members shall be
 27 | appointed for 2-year terms.

28 | (2) The meetings, powers, duties, procedures, and
 29 | recordkeeping of the Florida Young Farmers and Ranchers Advisory
 30 | Council shall be pursuant to s. 570.232.

31 | (3) The council may submit to the commissioner, annually,
 32 | findings and recommendations for mitigating challenges facing
 33 | aspiring farmers and ranchers in the early stages of their
 34 | careers. The council may examine issues that include, but are
 35 | not limited to, access to land, availability of credit and
 36 | capital, and access to business skills training.

37 | Section 2. Section 570.844, Florida Statutes, is created
 38 | to read:

39 | 570.844 Florida Young Farmer and Rancher Resource
 40 | Clearinghouse.—The department shall establish on its website a
 41 | clearinghouse for resources available to young and beginning
 42 | farmers and ranchers, including, but not limited to, local,
 43 | state, federal, and private sources of grants, loans, and
 44 | scholarships, as well as general resources on finance and
 45 | business planning. This must include resources available to
 46 | beginning agricultural producers who are defined as veterans
 47 | under s. 1.01.

48 | Section 3. This act shall take effect July 1, 2018.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 1073 Department of Financial Services
SPONSOR(S): Government Operations & Technology Appropriations Subcommittee; Insurance and Banking Subcommittee, Hager
TIED BILLS: **IDEN./SIM. BILLS:** CS/CS/SB 1292

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	14 Y, 0 N, As CS	Bowen	Luczynski
2) Government Operations & Technology Appropriations Subcommittee	11 Y, 0 N, As CS	Helping	Topp
3) Commerce Committee		Bowen <i>JB</i>	Hamon <i>K.W.H.</i>

SUMMARY ANALYSIS

The bill modifies several areas regulated by the Department of Financial Services (DFS), including:

- Deeming electronic images of all records as original documents as used by the Division of Treasury;
- Requiring that financial literacy curriculum be completed before a child may receive post-secondary support services. It also requires that financial literacy be addressed in a foster youth's transition plan;
- Exempting qualifying veterans from certain application fees for licensure under the Florida Funeral, Cemetery, and Consumer Services Act;
- Changing the managing general agent license to an appointment and allows a general lines agent to obtain a managing general agent appointment;
- Deeming fingerprint submissions to be valid for 48 months for currently licensed individuals seeking additional licensure under ch. 626, F.S., and for bail bond agents under ch. 648, F.S.;
- Reducing the number of insurance policies that can be written each year, with an insurer by an unappointed agent from 24 to 4;
- Eliminating an affidavit requirement for nonresident public and all-lines insurance adjusters;
- Adding that DFS may utilize the Anti-Fraud Reward Program to pay rewards for tips relating to arson;
- Clarifying the terms of members of the Florida Fire and Safety Board;
- Allowing franchisees to operate under the fire equipment dealer license of their parent company;
- Modifying the requirements for the firefighter Special Certificate of Compliance; and
- Allowing fire service providers to employ veterans who have received equivalent training.

Regarding the Division of Risk Management (DRM), the bill:

- Makes it mandatory that agency safety coordinators complete the safety coordinator training offered by DFS within one year of being appointed to his or her position;
- Requires agencies to report to DFS on their return-to-work and risk management programs;
- Requires each agency to communicate with DRM about discrepancies in claims and loss records, and about any inquiries identifying conditions or trends that may lead to claims involving the state; and
- Allows DRM to share personal identifying information of individual workers' compensation claims with its contracted vendors, for the purpose of ascertaining claimant history to investigate the compensability of a claim or to identify and prevent fraud.

The bill has an insignificant negative fiscal impact on state government revenues and an indeterminate fiscal impact on the private sector (See *Fiscal Analysis and Economic Impact Statement*). The bill does not affect local expenditures or local revenues.

The bill has an effective date of July 1, 2018.

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

STORAGE NAME: h1073d.COM.DOCX

DATE: 2/9/2018

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Reproductions of Certain Warrants, Records, and Documents (Section 1)

Current law authorizes the Division of Treasury to reproduce documents¹ and deems photographs, microphotographs, or reproductions on film of documents to be original records.² Use of these mediums is an obsolete method for fulfilling warrant image requests.

Effect of the bill

The bill deems electronic images of warrants, vouchers, or checks to be original records for all purposes. It also replaces the applicable medium from film or print to electronic, in provisions relating to copies and reproductions of records and documents of the division.

Financial Literacy for Foster Youth (Sections 3 & 6)

Foster care transition plans must be developed during the 180-day period after a child reaches 17 years of age. The transition plan must be developed by the child, with assistance from the Department of Children and Families (DCF) and the community-based care provider, in collaboration with the caregiver and any other individual the child would like to include. The transition plan is in addition to standard case management requirements and must address specific options for the child to use in obtaining services, including housing, health insurance, education, a driver license, and workforce support and employment services.³

The Road-to-Independence Program (Program) provides young adults, who were previously living in licensed care, an opportunity to receive postsecondary education services and support if certain conditions are met.⁴ Among other conditions, the young adult must have earned a high school diploma, been admitted to a postsecondary educational institution, have reached 18 years of age but is not yet 23 years old, applied for any available scholarship and grants, submitted a Free Application for Federal Student Aid, and signed an agreement to allow DCF to access his or her school records.⁵ The Program also makes aftercare services available to young adults who were previously living in licensed care and are currently not receiving funds available under s. 409.1451(2), F.S., to pursue postsecondary education.⁶ Aftercare services include mentoring and tutoring, various skills trainings, mental health and substance abuse counseling, temporary financial assistance for necessities, and financial literacy skills training.⁷

Effect of the bill

The bill adds a requirement that the transition plan also address financial literacy. It also requires that DCF and the community-based provider provide information for the financial literacy curriculum for foster youth offered by DFS.

The bill adds an additional condition that the young adult complete the financial literacy curriculum for foster youth with a passing score in order to receive postsecondary education services and support

¹ s. 17.64(2), F.S.

² s. 17.64(1), F.S.

³ s. 39.6035(1), F.S.

⁴ s. 409.1451, F.S.

⁵ s. 409.1451(2), F.S.

⁶ s. 409.1451(3), F.S.

⁷ s. 409.1452(3)(b), F.S.

through the Road-to-Independence Program. Additionally, the bill provides that the financial literacy skills training available under aftercare services shall be the curriculum offered by DFS.

DIVISION OF RISK MANAGEMENT

The Division of Risk Management (DRM) is responsible for the management of claims reported by or against state agencies and universities for coverage under the self-insurance fund known as the "State Risk Management Trust Fund."⁸

Risk Management (Section 4 & 5)

Under current law, the head of each department of state government, except the Legislature, must designate a safety coordinator and DFS must provide the appropriate training to the safety coordinators.⁹ Currently, there is no requirement that safety coordinators attend the training provided by DFS.

In accordance with s. 284.50(3), F.S., DFS and all agencies employing more than 3,000 full-time employees must maintain return-to-work programs for employees receiving workers' compensation benefits.¹⁰ DFS is required to submit an annual report on the state insurance program, including agency return-to-work programs;¹¹ however, there is currently no requirement that agencies with return-to-work programs report any program information to DFS. According to DFS, several do not voluntarily provide return-to-work program information, and therefore DFS is not able to provide a complete and accurate report.¹²

Additionally, under s. 284.50(4), F.S., DRM is required to evaluate each agency's risk management programs at least once every five years. There is currently no statutory requirement that agencies provide the information DRM needs to perform such evaluation.

DRM routinely sends agencies reports of their claims and losses for review and notifies agencies of any unsafe conditions, trends, incidents, etc., that may lead to accidents or claims involving the state.¹³ Currently, agencies are not required to notify DRM of any discrepancies between the reports and their records nor are they required to respond to communications from DRM identifying conditions or trends that may lead to claims involving the state.¹⁴

In 2017, HB 1107¹⁵ was passed, creating s. 440.1851, F.S., to restrict DFS's sharing of personal identifying information on workers' compensation claims by making the information confidential and exempt from public record disclosure requirements. This change had the unintended consequence of restricting the information that DRM can share with its contracted vendors to perform its duty of administering state employee workers' compensation claims. Under s. 440.1851, F.S., DRM's data sharing agreements with vendors, such as Insurance Services Office/Verisk Analytics, may be prohibited and, thus, is keeping DRM from sharing such information with the vendors. This hinders DRM in its efforts to obtain an accurate history of preexisting conditions, investigate compensability, and prevent fraud.

⁸ DIVISION OF RISK MANAGEMENT, <https://myfloridacfo.com/Division/Risk/default.htm> (last visited Jan. 19, 2018).

⁹ s. 284.50(1), F.S.

¹⁰ Return-to-work programs aim to enable injured workers to remain at work or return to work to perform job duties within the physical or mental functional limitations and restrictions. s. 284.50(3), F.S.

¹¹ s. 284.42(1), F.S.

¹² Department of Financial Services, Agency Analysis of 2018 House Bill 1073, p. 3 (Dec. 29, 2017).

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Ch. 2017-185, Laws of Fla.

Effect of the bill

The bill makes the following changes to the state's safety management programs:

- Makes it mandatory that the safety coordinators complete the safety coordinator training offered by DFS within one year of being appointed to his or her position;
- Requires agencies employing more than 3,000 full-time employees to report return-to-work information to DFS to assist in their mandatory reporting requirement under s. 284.42(1)(b), F.S.;
- Requires each agency to provide risk management program information to DRM in support of the DRM's requirement to evaluate and report on agency risk management programs as mandated in s. 284.50(4), F.S.;
- Requires each agency to review information provided by DRM on claims and losses and identify and report any discrepancies between the agency's records and DRM's records;
- Requires each agency to respond to communications from DRM identifying conditions or trends that may lead to claims involving the state; and
- Allows DRM to participate in data sharing agreements with its contracted vendors when administering workers' compensation claims.

DIVISION OF FUNERAL, CEMETERY, AND CONSUMER SERVICES

The Board of Funeral, Cemetery, and Consumer Services within DFS is charged with regulating cemeteries, funeral directing, embalming, preneed sales, monument establishments, cremation, crematories, and direct disposition under ch. 497, F.S., The Division of Funeral, Cemetery, and Consumer Services (FCCS) within DFS administers the provisions of ch. 497, F.S., on behalf of the board.

Exemptions for Members of the United States Armed Forces from Certain Application Fees (Section 8)

Effect of the bill

The bill exempts certain members of the United States Armed Forces or veterans of the United States Armed Forces from the initial application filing fee for certain licenses under FCCS. To qualify for the exemption, a veteran applicant must have been honorably discharged within 24-months before the date of application for licensure. Applicants must provide appropriate identification or documentation as specified in the bill to prove they qualify. The exemption, among others, includes licenses for embalmers, intern embalmers, apprentice embalmers, funeral directors, and intern funeral directors.

DIVISION OF AGENT AND AGENCY SERVICES

The Division of Agent and Agency Services (A&A) regulates and manages the licensure of insurance agents, adjusters, limited surety (bail bond) agents, and other insurance-related entities.¹⁶

Managing General Agent Licensure (Sections 10, 12, 14, 15, 16, 17, 19, 21, 23, 24, 25, 26, 27, 28, 30, 34, & 44)

A managing general agent (MGA) is defined as any person managing all or part of the insurance business of an insurer, including the management of a separate division, department, or underwriting office. In addition, the MGA, when acting as an agent for the insurer, with or without authority, separately or together with affiliates, produces directly or indirectly, or underwrites an amount of gross direct written premium equal to or more than five percent of the policyholder surplus as reported in the last annual statement of the insurer in any single quarter or year. The definition also includes that an MGA adjusts or pays claims and/or negotiates reinsurance on behalf of the insurer.¹⁷

¹⁶ INSURANCE DIVISION OF AGENT AND AGENCY SERVICES, <https://myfloridacfo.com/Division/Agents/> (last visited Jan. 19, 2018).

¹⁷ s. 626.015(16)(a), F.S.

A&A currently licenses approximately 150 new MGA licensees per year.¹⁸ To be a MGA requires a MGA license but this license type has no prelicensing requirements or formal examination to determine eligibility.¹⁹ To obtain this license, the only requirements are to complete the application, be eligible to work in the United States, and submit fingerprints for a background evaluation.

Under s. 626.731, F.S., a general lines agent may not hold a MGA license.²⁰ A general lines agent²¹ is one who sells one or more of the following lines of insurance: property,²² casualty,²³ including commercial liability insurance underwritten by a risk retention group, a commercial self-insurance fund,²⁴ or a workers' compensation self-insurance fund;²⁵ surety;²⁶ health;²⁷ and, marine.²⁸ This is inconsistent with the National Association of Insurance Commissioners' Model Act MDL-225, Managing General Agents Act;²⁹ because the Act states that, a person shall not be a MGA without being a licensed agent in the state.

Effect of the bill

The bill eliminates the MGA license, but not the role of an MGA. It requires an MGA to be a licensed agent and have an MGA appointment (See *Fiscal Comments*). These changes will clarify some of the inconsistency in the MGA statutes. The bill makes technical changes throughout ch. 626, F.S., to conform terminology to these changes.

Fingerprinting Requirements (Sections 18 & 45)

Current law requires a submission of fingerprints and a fingerprint-processing fee of \$50 with each application for an insurance license and each application for licensure as a bail bonds agent.³⁰ A&A currently tracks its licensees against the Florida Clerk's database to identify existing licensees convicted or pleading to felony charges.³¹ According to DFS, the fingerprinting requirement is unnecessary for those already licensed because it informs A&A of information they already knew through the Florida Clerk's database.³²

Effect of the bill

Under the bill, an individual who is currently licensed under ch. 626, F.S., or ch. 648, F.S., and has submitted fingerprints in the past 48 months is not required to resubmit fingerprints or pay the fingerprint processing fee when applying for an additional license.³³

The bill also waives the fingerprint submission requirement for members of the United States Armed Forces and veterans who were honorably discharged within 24 months of the date of an application for licensure.

¹⁸ Department of Financial Services, Agency Analysis of 2018 House Bill 1073, p. 5 (Dec. 29, 2017).

¹⁹ *Id.*

²⁰ s. 626.731(1)(f), F.S.

²¹ s. 626.015(5), F.S.

²² s. 624.604, F.S.

²³ s. 624.605, F.S.

²⁴ As defined in s. 624.462, F.S.

²⁵ Pursuant to s. 624.4621, F.S.

²⁶ s. 626.606, F.S.

²⁷ ss. 624.603 and 627.6482, F.S.

²⁸ s. 624.607, F.S.

²⁹ <http://www.naic.org/store/free/MDL-225.pdf> (last visited Jan. 21, 2018).

³⁰ ss. 626.202 and 648.34(4), F.S.

³¹ Department of Financial Services, Agency Analysis of 2018 House Bill 1073, p. 5 (Dec. 29, 2017).

³² *Id.*

³³ DFS may still require fingerprints if they have reason to believe that the applicant has been found guilty of, or pleaded nolo contendere to, a felony or crime related to the business of insurance.

All-lines Adjuster Examination Requirements (Section 20)

Under s. 626.221, F.S., DFS may not issue any license as an agent or adjuster to any individual who has not taken and passed a written examination. However, there are exemptions from examination, including for applicants who have certain professional designations or certificates.³⁴

Effect of the bill

The bill adds Claims Adjuster Certified Professional from WebCE, Inc. to the list of professional designations that exempt an applicant from the all-lines adjuster licensure exam requirement.

Credit and Character Reports (Section 22)

Credit and character reports must be secured from an established and reputable independent reporting service. They must be secured and kept on file by the appointing insurer or employer for first-time applicants as agents, services representatives, customer representatives, or managing general agents, in the state.³⁵ If a credit and character report is requested by DFS, it must be completed on a form furnished by DFS.³⁶

Effect of the bill

The bill clarifies language and changes the time at which a credit and character report must be completed to before appointment rather than before licensure because the licensure process does not involve appointing entities.

The bill removes the requirement that a credit and character report request by DFS be completed on a form furnished by DFS. It also removes the requirement that the credit and character report be done by an “established and reputable independent reporting service” because there are no standards to determine “established and reputable independent reporting service;” hence, it is unenforceable. Additionally, the appointing insurer or employer is required to certify to DFS that the licensee is of good moral character and reputation, and is fit to engage in the insurance business.³⁷ The bill also adds that the requirements for credit and character reports do not apply to licensees who self-appoint pursuant to s. 624.501, F.S.

Exchange of Business (Sections 13, 29, 30 & 31)

Under current “exchange of business” or “excess or rejected business” laws, brokering agents³⁸ are permitted to write up to 24 policies for an insurer each year without being appointed by the insurer.³⁹ Once an agent has written more than 24 policies, the insurer must report them to DFS under the exchange of business appointment type.⁴⁰ This appointment type costs \$30 per year.⁴¹ Under s. 626.451(3), F.S., an appointment of an agent by an insurer is a certification to DFS that the insurer is willing to be bound by the acts of the agent, within the scope of the licensee’s employment or appointment.

Brokering agents are required to maintain a “bound journal” to record chronologically numbered insurance transactions.

³⁴ s. 626.221(2)(j), F.S.

³⁵ s. 626.521, F.S.

³⁶ s. 626.521(2), F.S.

³⁷ s. 626.451(2), F.S.

³⁸ Brokering agent is defined in s. 626.751(1)(a), F.S., as “an originating general lines agent placing business with a company with which he or she is not appointed.”

³⁹ s. 626.752, F.S.

⁴⁰ s. 626.752(5), F.S.

⁴¹ s. 624.501(19)(e), F.S.

Effect of the bill

The bill changes the requirement from “bound journal” to “permanent record of” to allow for electronic recordkeeping.

The bill reduces the number of policies that can be written each year by a brokering agent from 24 to four. The change in statute will allow DFS to protect consumers by increasing the number of policies written by agents that have been appointed by an insurer and are therefore bound by the acts of the agent.

Nonresident Public and All-lines Adjuster’s Qualifications (Sections 32 & 33)

Current law requires nonresident public and nonresident all-lines adjusters, wishing to do business in Florida, to submit an affidavit certifying that the licensee is familiar with and understands the insurance code, administrative rules of the state, and the provisions of the contracts negotiated or to be negotiated as a condition precedent to the issuance, continuation, reinstatement, or renewal of appointment.⁴² Insurance companies who appoint licensees are already required to certify to A&A that the licensee is of good moral character and is fit to engage in the insurance business.⁴³

Effect of the bill

The bill eliminates the affidavit requirement for non-resident public and all-lines adjusters because it is duplicative with the certification of good moral character and fitness by the appointing insurance company.

DIVISION OF STATE FIRE MARSHAL

The Florida State Fire Marshal is dedicated to protecting life, property and the environment from the devastation of fire. Their focus and efforts foster a fire safe environment through engineering, education and enforcement. The Division of State Fire Marshall (SFM) is comprised of the Bureau of Fire Prevention and the Bureau of Fire Standards and Training.

Anti-Fraud Reward Program (Section 37)

The Anti-Fraud Reward Program authorizes DFS to pay rewards of up to \$25,000 to persons providing information leading to the arrest and conviction of persons committing various crimes relating to insurance fraud.⁴⁴ DFS may pay for tips relating to crimes involving, among others, explosives and arson resulting in injury to another.⁴⁵

Effect of the bill

The bill adds that DFS may also utilize the Anti-Fraud Reward Program to pay rewards for tips leading to the arrest and conviction of persons committing the crime of arson.

Florida Fire Safety Board (Section 38)

The Florida Fire Safety Board (Board) consists of seven members that act as an advisory board for the SFM. They advise on administrative rules, codes, standards, and training.⁴⁶ Currently, the initial term for board members is as follows: one member of the Board must be appointed for a term of one year,

⁴² ss. 626.8732(5) and 626.8734(4), F.S.

⁴³ s. 626.451(2), F.S.

⁴⁴ s. 626.9892(2), F.S.

⁴⁵ *Id.*

⁴⁶ s. 633.302(4), F.S.

one member for a term of two years, two members for a term of three years, and two members for a term of four years.⁴⁷

Effect of the bill

The bill clarifies that each member of the Board shall serve a four-year term and removes language relating to the initial staggered terms. The initial terms are no longer necessary because the board is already established and the change is intended to remove confusing language and add clarity.

Fire Suppression Equipment; License to Install or Maintain (Sections 39 & 40)

Current law allows a person with a valid fire equipment dealer license to maintain their license in an inactive status for four years or when the license is renewed, whichever comes first.⁴⁸ Fire equipment dealer licenses are renewed every two years,⁴⁹ making this language contradictory.

Individuals performing the work of servicing, recharging, repairing, hydrotesting, installing, testing, or inspecting fire extinguishers or pre-engineered systems must possess a valid and subsisting permit.⁵⁰ These permittees must be employees of a fire equipment dealer licensee.⁵¹ Current law does not allow a franchisee to operate under the license of their parent company; the franchisee is required to obtain its own license.

Fire equipment dealers and fire protection system contractors are required to submit to the SFM proof of insurance providing coverage for comprehensive general liability for bodily injury and property damage, products liability, completed operations, and contractual liability.⁵² The SFM may require proof of such insurance on a form provided by the SFM.⁵³

Effect of the bill

The bill clarifies ambiguous language to allow inactive fire equipment dealers to maintain their license in an inactive status for up to four years. It clarifies that in order to maintain the license in an inactive status; the inactive licensee must submit proof of continuing education and the inactive status fee every two years. The bill also allows franchisees to operate under the license of their parent company.

The bill also deletes the requirement that fire equipment dealer and fire protection system contractors furnish proof of insurance on a form provided by the SFM. According to DFS, industry practice is to use Accord forms to show proof of insurance and this change reflects that practice.⁵⁴

Firefighter and Volunteer Firefighter Training and Certification (Sections 41 & 42)

Under current law, the SFM may establish requirements to be issued a Firefighter Certificate of Compliance, a Volunteer Firefighter Certificate of Compliance, and a Special Certificate of Compliance.⁵⁵ A Special Certificate of Compliance only authorizes an individual to serve as an administrative and command head of a fire service provider.⁵⁶

⁴⁷ s. 633.302(3), F.S. Current law does not explicitly indicate that the staggered terms were only for the initial board members when the board was first established, which has caused confusion.

⁴⁸ s. 633.304(2), F.S.

⁴⁹ Department of Financial Services, Agency Analysis of 2018 House Bill 1073, p. 6 (Dec. 29, 2017).

⁵⁰ s. 633.304(3), F.S.

⁵¹ *Id.*

⁵² ss. 633.304(4)(d)(3) and 633.318(7), F.S.

⁵³ *Id.*

⁵⁴ Department of Financial Services, Agency Analysis of 2018 House Bill 1073, p. 9 (Dec. 29, 2017).

⁵⁵ s. 633.408, F.S.

⁵⁶ s. 633.408(6)(b), F.S.

Additionally, a fire service provider may not employ an individual unless they have a valid Firefighter Certificate of Compliance.⁵⁷

Effect of the bill

The bill adds the following requirements for the Special Certificate of Compliance:

- Requires that an individual who is employed as a fire chief, coordinator, director, or administrator must obtain certification within one year;
- Prohibits an individual from serving as a command officer or in a position dictating incident outcomes or objectives before achieving certification; and
- Requires that retention requirements must be similar to those for firefighters and volunteer firefighters.

The bill also allows a fire service provider to employ individuals who have received equivalent training while active in the United States Department of Defense. The individual must obtain a Firefighter Certificate of Compliance within two years of employment.

Miscellaneous

Effect of the bill

The bill:

- Makes a technical change to fix an incorrect reference to the Department of Economic Opportunity with the Department of Education in a list of entities to which a public assistance recipient may be required to provide written consent for certain investigative inquiries (Section 7);
- The bill renames the Bureau of Fire and Arson Investigations as the Bureau of Fire, Arson, and Explosives Investigations. It also creates the Bureau of Insurance Fraud and the Bureau of Workers' Compensation Fraud (Section 2);
- Clarifies terminology related to insurance agents (Section 9);
- Deletes requirement that law enforcement or the state attorney's office notify DFS of criminal actions against licensees because monthly data matching between DFS and the clerks of courts system has made it unnecessary (Section 21);
- Makes a technical change to delete a contradiction and no longer applicable qualification for a general lines agent license (Section 25);
- Clarifies requirements for licensing of surplus lines agents and deletes an examination exemption that is no longer applicable (Section 35);
- Clarifies that surplus lines agents shall maintain their records in either his or her general lines agency office or managing general agency office (Section 36); and
- Deletes the responsibility of the SFM to develop a staffing and funding formula for the Florida State Fire College because it was delegated to Marion County through a memorandum of agreement in 2008 (Section 43).

B. SECTION DIRECTORY:

Section 1: Amends s. 17.64, F.S., relating to Division of Treasury to make reproductions of certain warrants, records, and documents.

Section 2: Amends s. 20.121, F.S., relating to Department of Financial Services.

Section 3: Amends s. 39.6035, F.S., relating to transition plan.

Section 4: Amends s. 284.40, F.S., relating to Division of Risk Management.

- Section 5:** Amends s. 284.50, F.S., relating to Loss prevention program; safety coordinators; Interagency Advisory Council on Loss Prevention; employee recognition program.
- Section 6:** Amends s. 409.1451, F.S., relating to the Road-to-Independence Program.
- Section 7:** Amends s. 414.411, F.S., relating to public assistance fraud.
- Section 8:** Amends s. 497.168, F.S., relating to member of Armed Forces in good standing with administrative boards.
- Section 9:** Amends s. 624.317, F.S., relating to investigation of agents, adjusters, administrators, service companies, and others.
- Section 10:** Amends s. 624.34, F.S., relating to authority of Department of Law Enforcement to accept fingerprints of, and exchange criminal history records with respect to, certain persons.
- Section 11:** Amends s. 624.4073, F.S., relating to Officers and directors of insolvent insurers.
- Section 12:** Amends s. 624.4094, F.S., relating to bail bond premiums.
- Section 13:** Amends s. 624.501, F.S., relating to filing, license, appointment, and miscellaneous fees.
- Section 14:** Amends s. 624.509, F.S., relating to premium tax; rate and computation.
- Section 15:** Amends s. 625.071, F.S., relating to special reserve for bail and judicial bonds.
- Section 16:** Amends s. 626.112, F.S., relating to license and appointment required; agents, customer representatives, adjusters, insurance agencies, service representatives, managing general agents.
- Section 17:** Amends s. 626.171, F.S., relating to application for license as an agent, customer representative, adjuster, service representative, managing general agent, or reinsurance intermediary.
- Section 18:** Amends s. 626.202, F.S., relating to fingerprinting requirements.
- Section 19:** Amends s. 626.207, F.S., relating to disqualification of applicants and licensees; penalties against licensees; rulemaking authority.
- Section 20:** Amends s. 626.221, F.S., relating to examination requirement; exemptions.
- Section 21:** Amends s. 626.451, F.S., relating to appointment of agent or other representative.
- Section 22:** Amends s. 626.521, F.S., relating to character, credit reports.
- Section 23:** Amends s. 626.731, F.S., relating to qualifications for general lines agent's license.
- Section 24:** Amends s. 626.7351, F.S., relating to qualifications for customer representative's license.
- Section 25:** Amends s. 626.744, F.S., relating to service representatives, managing general agents; application for license.
- Section 26:** Amends s. 626.745, F.S., relating to service representatives, managing general agents; managers; activities.
- Section 27:** Amends s. 626.7451, F.S., relating to managing general agents; required contract provisions.
- Section 28:** Amends s. 626.7455, F.S., relating to managing general agent; responsibility of insurer.
- Section 29:** Amends s. 626.752, F.S., relating to exchange of business.
- Section 30:** Amends s. 626.793, F.S., relating to excess or rejected business.
- Section 31:** Amends s. 626.837, F.S., relating to excess or rejected business.
- Section 32:** Amends s. 626.8732, F.S., relating to nonresident public adjuster's qualifications, bond.
- Section 33:** Amends s. 626.8734, F.S., relating to nonresident all-lines adjuster license qualifications.
- Section 34:** Amends s. 626.88, F.S., relating to definitions.

- Section 35:** Amends s. 626.927, F.S., relating to licensing of surplus lines agent.
- Section 36:** Amends s. 626.930, F.S., relating to records of surplus lines agent.
- Section 37:** Amends s. 626.9892, F.S., relating to Anti-Fraud Reward Program; reporting of insurance fraud.
- Section 38:** Amends s. 633.302, F.S., relating to Florida Fire Safety Board; membership; duties; meetings; officers; quorum; compensation; seal.
- Section 39:** Amends s. 633.304, F.S., relating to fire suppression equipment; license to install or maintain.
- Section 40:** Amends s. 633.318, F.S., relating to certificate application and issuance; permit issuance; examination and investigation of applicant.
- Section 41:** Amends s. 633.408, F.S., relating to firefighter and volunteer firefighter training and certification.
- Section 42:** Amends s. 633.416, F.S., relating to firefighter employment and volunteer firefighter service; saving clause.
- Section 43:** Amends s. 633.444, F.S., relating to Division powers and duties; Florida State Fire College.
- Section 44:** Amends s. 648.27, F.S., relating to licenses and appointments; general.
- Section 45:** Amends s. 648.34, F.S., relating to bail bond agents; qualifications.
- Section 46:** Reenacts s. 626.8734, F.S., relating to nonresident all-lines adjuster license qualifications.
- Section 47:** Provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill eliminates the managing general agent (MGA) license. However, the bill requires that an MGA have an agent license, which will offset any loss of license revenues.

The Florida Department of Law Enforcement (FDLE) has indicated that eliminating the managing general agent license could result in a loss of revenue as the former MGA licensees will no longer be required to undergo a state and national criminal history record check for both the MGA license and the agent license.⁵⁸ However, any reduction in revenue to FDLE will likely be insignificant.

DFS will likely have an insignificant fiscal impact from the loss in revenue from license fee waivers for veterans of the United States Armed Forces.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

⁵⁸ Florida Department of Law Enforcement, Agency Analysis of 2018 House Bill 1073, p. 3 (Jan. 9, 2018).
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DATE: 2/9/2018

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The direct economic impact is indeterminate. The bill provides insignificant cost savings for various licenses and could potentially result in minor increases for insurers when agents who are not appointed by the insurers make sales under the exchange of business laws. There will be a savings for veterans of the United States Armed Forces who are applicable for license fee waivers under the Division of Funeral, Cemetery, and Consumer Services.

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 will require DFS to make minor amendments to existing rules.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 23, 2018, the Insurance & Banking Subcommittee considered the bill, adopted a strike-all, and reported the bill favorably as a committee substitute. The strike-all:

- Updates a cross reference relating to an exception where a child in licensed care (e.g., foster care) may continue receiving care despite not meeting certain requirements.
- Removes the application fee waiver for cemetery operator licensure and adds additional application fee waivers under the Florida Funeral, Cemetery, and Consumer Services Act for members or veterans of the United States Armed Forces.
- Changes the provisions for the transfer of funds from the Preadopted Funeral Contract Consumer Protection Trust Fund (CPTF) to the Regulatory Trust Fund to an initial one-time transfer of up to \$2 million and to annually transfer the accrued interest from the preceding fiscal year for five years starting in 2018.
- Clarifies what the transferred funds from the CPTF may be used to fund and provides that the authority to transfer funds expires on August 31, 2022.
- Adds that former officers and directors of insolvent insurers may not have direct or indirect control over the selection of officers or directors of an admitted insurer.
- Adds that the requirements for credit and character reports do not apply to licensees who self-appoint.
- Clarifies requirements for maintaining an inactive fire equipment dealer license.
- Clarifies that members of the Florida Fire Safety Board shall serve four-year terms.
- Makes various technical changes.

On February 6, 2018, the Government Operations & Technology Appropriations Subcommittee considered the bill, adopted two amendments, and reported the bill favorably as a committee substitute for committee substitute. The amendments:

- Remove a section allowing DFS to transfer \$2 million and interest from the Preneed Funeral Contract Consumer Protection Trust Fund to the Regulatory Trust Fund for the purpose of acquiring information technology infrastructure; and
- Remove the requirement that the financial literacy curriculum be completed in order to remain in licensed care.

The staff analysis has been updated to reflect the committee substitute for committee substitute.

1 A bill to be entitled
 2 An act relating to the Department of Financial
 3 Services; amending s. 17.64, F.S.; providing that
 4 electronic images of warrants, vouchers, or checks in
 5 the Division of Treasury are deemed to be original
 6 records; revising the applicable medium, from film or
 7 print to electronic, in provisions relating to copies
 8 and reproductions of records and documents of the
 9 division; amending s. 20.121, F.S.; renaming the
 10 Bureau of Fire and Arson Investigations within the
 11 Division of Investigative and Forensic Services as the
 12 Bureau of Fire, Arson, and Explosives Investigations;
 13 creating the Bureau of Insurance Fraud and the Bureau
 14 of Workers' Compensation Fraud within the division;
 15 amending s. 39.6035, F.S.; requiring child transition
 16 plans to address financial literacy by providing
 17 specified information; amending s. 284.40, F.S.;
 18 authorizing the department to disclose certain
 19 personal identifying information of injured or
 20 deceased employees which is exempt from disclosure
 21 under the Workers' Compensation Law to department-
 22 contracted vendors for certain purposes; amending s.
 23 284.50, F.S.; requiring safety coordinators of state
 24 governmental departments to complete, within a certain
 25 timeframe, safety coordinator training offered by the

26 department; requiring certain agencies to report
27 certain return-to-work information to the department;
28 requiring agencies to provide certain risk management
29 program information to the Division of Risk Management
30 for certain purposes; specifying requirements for
31 agencies in reviewing and responding to certain
32 information and communications provided by the
33 division; amending s. 409.1451, F.S.; revising
34 conditions under which a young adult is eligible for
35 postsecondary education services and support under the
36 Road-to-Independence Program; conforming a provision
37 to changes made by the act; amending s. 414.411, F.S.;
38 replacing the Department of Economic Opportunity with
39 the Department of Education in a list of entities to
40 which a public assistance recipient may be required to
41 provide written consent for certain investigative
42 inquiries and to which the department must report
43 investigation results; amending s. 497.168, F.S.;
44 providing an exemption from specified application fees
45 for members and certain veterans of the United States
46 Armed Forces; amending s. 624.317, F.S.; authorizing
47 the department to conduct investigations of any,
48 rather than specified, agents subject to its
49 jurisdiction; amending s. 624.34, F.S.; conforming a
50 provision to changes made by the act; amending s.

51 624.4073, F.S.; prohibiting certain officers or
 52 directors of insolvent insurers from having direct or
 53 indirect control over certain selection or appointment
 54 of officers or directors, except under certain
 55 circumstances; amending ss. 624.4094, 624.501,
 56 624.509, and 625.071, F.S.; conforming provisions to
 57 changes made by the act; amending s. 626.112, F.S.;
 58 requiring a managing general agent to hold a currently
 59 effective producer license rather than a managing
 60 general agent license; amending s. 626.171, F.S.;
 61 deleting applicability of licensing provisions as to
 62 managing general agents; making a technical change;
 63 amending s. 626.202, F.S.; providing that certain
 64 applicants are not required to resubmit fingerprints
 65 to the department under certain circumstances;
 66 authorizing the department to require these applicants
 67 to file fingerprints under certain circumstances;
 68 providing an exemption from fingerprinting
 69 requirements for members and certain veterans of the
 70 United States Armed Forces; requiring such members and
 71 veterans to provide certain documentation of good
 72 standing or honorable discharge; amending s. 626.207,
 73 F.S.; conforming a provision to changes made by the
 74 act; amending s. 626.221, F.S.; adding a designation
 75 that exempts applicants for licensure as an all-lines

76 adjuster from an examination requirement; amending s.
 77 626.451, F.S.; deleting a requirement for law
 78 enforcement agencies and state attorney's offices to
 79 notify the department or the Office of Insurance
 80 Regulation of certain felony dispositions; deleting a
 81 requirement for the state attorney to provide the
 82 department or office a certified copy of an
 83 information or indictment against a managing general
 84 agent; conforming a provision to changes made by the
 85 act; amending s. 626.521, F.S.; revising requirements
 86 for credit and character reports secured and kept by
 87 insurers or employers appointing certain insurance
 88 representatives; providing applicability; amending s.
 89 626.731, F.S.; deleting a certain qualification for
 90 licensure as a general lines agent; amending s.
 91 626.7351, F.S.; revising a qualification for licensure
 92 as a customer representative; amending s. 626.744,
 93 F.S.; conforming a provision to changes made by the
 94 act; amending s. 626.745, F.S.; revising conditions
 95 under which service representatives and managing
 96 general agents may engage in certain activities;
 97 amending ss. 626.7451 and 626.7455, F.S.; conforming
 98 provisions to changes made by the act; amending s.
 99 626.752, F.S.; revising a requirement for the
 100 Brokering Agent's Register maintained by brokering

101 agents; revising the limit on certain personal lines
 102 risks an insurer may receive from an agent within a
 103 specified timeframe before the insurer must comply
 104 with certain reporting requirements for that agent;
 105 amending s. 626.793, F.S.; revising the limit on
 106 certain risks that certain insurers may receive from a
 107 life agent within a specified timeframe before the
 108 insurer must comply with certain reporting
 109 requirements for that agent; amending s. 626.837,
 110 F.S.; revising the limit on certain risks that certain
 111 insurers may receive from a health agent within a
 112 specified timeframe before the insurer must comply
 113 with certain reporting requirements for that agent;
 114 amending s. 626.8732, F.S.; deleting a requirement for
 115 a licensed nonresident public adjuster to submit a
 116 certain annual affidavit to the department; amending
 117 s. 626.8734, F.S.; deleting a requirement for a
 118 nonresident independent adjuster to submit a certain
 119 annual affidavit to the department; amending s.
 120 626.88, F.S.; conforming a provision to changes made
 121 by the act; amending s. 626.927, F.S.; revising
 122 conditions under which an individual may be licensed
 123 as a surplus lines agent solely for the purpose of
 124 placing certain coverages with surplus lines insurers;
 125 amending s. 626.930, F.S.; revising a requirement

126 relating to the location of a surplus lines agent's
 127 surplus lines business records; amending s. 626.9892,
 128 F.S.; authorizing the department to pay a specified
 129 amount of rewards under the Anti-Fraud Reward Program
 130 for information leading to the arrest and conviction
 131 of persons guilty of arson; amending s. 633.302, F.S.;
 132 revising the duration of the terms of members of the
 133 Florida Fire Safety Board; amending s. 633.304, F.S.;
 134 revising circumstances under which an inactive fire
 135 equipment dealer license is void; specifying the
 136 timeframe when an inactive license must be
 137 reactivated; specifying that permittees performing
 138 certain work on fire equipment may be contracted
 139 rather than employed; revising a requirement for a
 140 certain proof-of-insurance form to be provided by the
 141 insurer rather than the State Fire Marshal; amending
 142 s. 633.318, F.S.; revising a requirement for a certain
 143 proof-of-insurance form to be provided by the insurer
 144 rather than the State Fire Marshal; amending s.
 145 633.408, F.S.; specifying prerequisites and retention
 146 requirements for a Special Certificate of Compliance
 147 that authorizes an individual to serve as an
 148 administrative and command head of a fire service
 149 provider; amending s. 633.416, F.S.; authorizing fire
 150 service providers to employ honorably discharged

151 veterans who received specified training; requiring
 152 the Division of State Fire Marshal to verify the
 153 equivalency of such training before the individual
 154 begins employment; requiring such individual to obtain
 155 a Firefighter Certificate of Compliance within a
 156 specified timeframe; making a technical change;
 157 amending s. 633.444, F.S.; deleting a requirement for
 158 the Division of State Fire Marshal to develop a
 159 staffing and funding formula for the Florida State
 160 Fire College; amending s. 648.27, F.S.; revising
 161 conditions under which a managing general agent must
 162 also be licensed as a bail bond agent; conforming a
 163 provision to changes made by the act; amending s.
 164 648.34, F.S.; providing that certain individuals
 165 applying for bail bond agent licensure are not
 166 required to resubmit fingerprints to the department
 167 under certain circumstances; authorizing the
 168 department to require such individuals to file
 169 fingerprints under certain circumstances; reenacting
 170 s. 626.8734(1)(b), F.S., relating to nonresident all-
 171 lines adjuster license qualifications, to incorporate
 172 the amendment made to s. 626.221, F.S., in a reference
 173 thereto; providing an effective date.

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

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Section 1. Section 17.64, Florida Statutes, is amended to read:

17.64 Division of Treasury to make reproductions of certain warrants, records, and documents.-

(1) Electronic images, photographs, microphotographs, or reproductions on film of warrants, vouchers, or checks are ~~shall~~ ~~be~~ deemed to be original records for all purposes; and any copy or reproduction thereof ~~made from such original film~~, duly certified by the Division of Treasury as a true and correct copy or reproduction ~~made from such film~~, is ~~shall~~ be deemed to be a transcript, exemplification, or certified copy of the original warrant, voucher, or check such copy represents, and must ~~shall~~ in all cases and in all courts and places be admitted and received in evidence with the like force and effect as the original thereof might be.

(2) The Division of Treasury may electronically ~~photograph, microphotograph, or reproduce on film~~, all records and documents of the division, as the Chief Financial Officer, in his or her discretion, selects; and the division may destroy any such documents or records after they have been reproduced electronically ~~photographed~~ and filed and after audit of the division has been completed for the period embracing the dates of such documents and records.

(3) Electronic copies ~~Photographs or microphotographs in~~

201 ~~the form of film or prints~~ of any records made in compliance
 202 with ~~the provisions of~~ this section ~~shall~~ have the same force
 203 and effect as the originals ~~thereof would~~ have, and must ~~shall~~
 204 be treated as originals for the purpose of their admissibility
 205 in evidence. Duly certified or authenticated reproductions of
 206 such electronic images ~~must~~ ~~photographs or microphotographs~~
 207 ~~shall~~ be admitted in evidence equally with the original
 208 electronic images ~~photographs or microphotographs~~.

209 Section 2. Paragraph (e) of subsection (2) of section
 210 20.121, Florida Statutes, is amended to read:

211 20.121 Department of Financial Services.—There is created
 212 a Department of Financial Services.

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

215 (e) The Division of Investigative and Forensic Services,
 216 which shall function as a criminal justice agency for purposes
 217 of ss. 943.045-943.08. The division may conduct investigations
 218 within or outside of this state as it deems necessary. If,
 219 during an investigation, the division has reason to believe that
 220 any criminal law of this state has or may have been violated, it
 221 shall refer any records tending to show such violation to state
 222 or federal law enforcement or prosecutorial agencies and shall
 223 provide investigative assistance to those agencies as required.
 224 The division shall include the following bureaus and office:

225 1. The Bureau of Forensic Services;

226 2. The Bureau of Fire, ~~and~~ Arson, and Explosives
 227 Investigations; ~~and~~

228 3. The Office of Fiscal Integrity, which shall have a
 229 separate budget; ~~and~~

230 4. The Bureau of Insurance Fraud; and

231 5. The Bureau of Workers' Compensation Fraud.

232 Section 3. Subsection (1) of section 39.6035, Florida
 233 Statutes, is amended to read:

234 39.6035 Transition plan.—

235 (1) During the 180-day period after a child reaches 17
 236 years of age, the department and the community-based care
 237 provider, in collaboration with the caregiver and any other
 238 individual whom the child would like to include, shall assist
 239 the child in developing a transition plan. The required
 240 transition plan is in addition to standard case management
 241 requirements. The transition plan must address specific options
 242 for the child to use in obtaining services, including housing,
 243 health insurance, education, financial literacy, a driver
 244 license, and workforce support and employment services. The plan
 245 must also consider establishing and maintaining naturally
 246 occurring mentoring relationships and other personal support
 247 services. The transition plan may be as detailed as the child
 248 chooses. In developing the transition plan, the department and
 249 the community-based provider shall:

250 (a) Provide the child with the documentation required

251 pursuant to s. 39.701(3); ~~and~~

252 (b) Coordinate the transition plan with the independent
 253 living provisions in the case plan and, for a child with
 254 disabilities, the Individuals with Disabilities Education Act
 255 transition plan; and-

256 (c) Provide information for the financial literacy
 257 curriculum for youth offered by the Department of Financial
 258 Services.

259 Section 4. Section 284.40, Florida Statutes, is amended to
 260 read:

261 284.40 Division of Risk Management; disclosure of certain
 262 workers' compensation-related information by the Department of
 263 Financial Services.-

264 (1) It shall be the responsibility of the Division of Risk
 265 Management of the Department of Financial Services to administer
 266 this part and the provisions of s. 287.131.

267 (2) The claim files maintained by the Division of Risk
 268 Management shall be confidential, shall be only for the usage by
 269 the Department of Financial Services in fulfilling its duties
 270 and responsibilities under this part, and shall be exempt from
 271 the provisions of s. 119.07(1).

272 (3) Upon certification by the division director or his or
 273 her designee to the custodian of any records maintained by the
 274 Department of Children and Families, Department of Health,
 275 Agency for Health Care Administration, or Department of Elderly

276 Affairs that such records are necessary to investigate a claim
 277 against the Department of Children and Families, Department of
 278 Health, Agency for Health Care Administration, or Department of
 279 Elderly Affairs being handled by the Division of Risk
 280 Management, the records shall be released to the division
 281 subject to the provisions of subsection (2), any conflicting
 282 provisions as to the confidentiality of such records
 283 notwithstanding.

284 (4) Notwithstanding s. 440.1851, the Department of
 285 Financial Services may disclose the personal identifying
 286 information of an injured or deceased employee to a department-
 287 contracted vendor for the purpose of ascertaining a claimant's
 288 claims history to investigate the compensability of a claim or
 289 to identify and prevent fraud.

290 Section 5. Section 284.50, Florida Statutes, is amended to
 291 read:

292 284.50 Loss prevention program; safety coordinators;
 293 Interagency Advisory Council on Loss Prevention; employee
 294 recognition program; return-to-work programs; risk management
 295 programs.-

296 (1) The head of each department of state government,
 297 except the Legislature, shall designate a safety coordinator.
 298 Such safety coordinator must be an employee of the department
 299 and must hold a position which has responsibilities comparable
 300 to those of an employee in the Senior Management System. The

301 Department of Financial Services shall provide appropriate
 302 training to the safety coordinators to permit them to
 303 effectively perform their duties within their respective
 304 departments. Within 1 year after being appointed by his or her
 305 department head, the safety coordinator shall complete safety
 306 coordinator training offered by the Department of Financial
 307 Services. Each safety coordinator shall, at the direction of his
 308 or her department head:

309 (a) Develop and implement the loss prevention program, a
 310 comprehensive departmental safety program which shall include a
 311 statement of safety policy and responsibility.

312 (b) Provide for regular and periodic facility and
 313 equipment inspections.

314 (c) Investigate job-related employee accidents of his or
 315 her department.

316 (d) Establish a program to promote increased safety
 317 awareness among employees.

318 (2) There shall be an Interagency Advisory Council on Loss
 319 Prevention composed of the safety coordinators from each
 320 department and representatives designated by the Division of
 321 State Fire Marshal and the Division of Risk Management. The
 322 chair of the council is ~~shall be~~ the Director of the Division of
 323 Risk Management or his or her designee. The council shall meet
 324 at least quarterly to discuss safety problems within state
 325 government, to attempt to find solutions for these problems,

326 and, when possible, to assist in the implementation of the
327 solutions. If the safety coordinator of a department or office
328 is unable to attend a council meeting, an alternate, selected by
329 the department head or his or her designee, shall attend the
330 meeting to represent and provide input for that department or
331 office on the council. The council is further authorized to
332 provide for the recognition of employees, agents, and volunteers
333 who make exceptional contributions to the reduction and control
334 of employment-related accidents. The necessary expenses for the
335 administration of this program of recognition shall be
336 considered an authorized administrative expense payable from the
337 State Risk Management Trust Fund.

338 (3) The Department of Financial Services and all agencies
339 that are provided workers' compensation insurance coverage by
340 the State Risk Management Trust Fund and employ more than 3,000
341 full-time employees shall establish and maintain return-to-work
342 programs for employees who are receiving workers' compensation
343 benefits. The programs must ~~shall~~ have the primary goal of
344 enabling injured workers to remain at work or return to work to
345 perform job duties within the physical or mental functional
346 limitations and restrictions established by the workers'
347 treating physicians. If no limitation or restriction is
348 established in writing by a worker's treating physician, the
349 worker is ~~shall be~~ deemed to be able to fully perform the same
350 work duties he or she performed before the injury. Agencies

351 employing more than 3,000 full-time employees shall report
 352 return-to-work information to the Department of Financial
 353 Services to support the Department of Financial Services'
 354 mandatory reporting requirements on agency return-to-work
 355 efforts under s. 284.42(1)(b).

356 (4) The Division of Risk Management shall evaluate each
 357 agency's risk management programs, including, but not limited
 358 to, return-to-work, safety, and loss prevention programs, at
 359 least once every 5 years. Reports, including, but not limited
 360 to, any recommended corrective action, resulting from such
 361 evaluations must ~~shall~~ be provided to the head of the agency
 362 being evaluated, the Chief Financial Officer, and the director
 363 of the Division of Risk Management. The agency head must provide
 364 to the Division of Risk Management a response to all report
 365 recommendations within 45 days and a plan to implement any
 366 corrective action to be taken as part of the response. If the
 367 agency disagrees with any final report recommendations,
 368 including, but not limited to, any recommended corrective
 369 action, or if the agency fails to implement any recommended
 370 corrective action within a reasonable time, the division shall
 371 submit the evaluation report to the legislative appropriations
 372 committees. Each agency shall provide risk management program
 373 information to the Division of Risk Management to support the
 374 Division of Risk Management's mandatory evaluation and reporting
 375 requirements in this subsection.

- 376 (5) Each agency shall:
 377 (a) Review information provided by the Division of Risk
 378 Management on claims and losses;
 379 (b) Identify any discrepancies between the Division of
 380 Risk Management's records and the agency's records and report
 381 such discrepancies to the Division of Risk Management in
 382 writing; and
 383 (c) Review and respond to communications from the Division
 384 of Risk Management identifying unsafe or inappropriate
 385 conditions, policies, procedures, trends, equipment, or actions
 386 or incidents that have led or may lead to accidents or claims
 387 involving the state.

388 Section 6. Paragraph (a) of subsection (2) and paragraph
 389 (b) of subsection (3) of section 409.1451, Florida Statutes, are
 390 amended to read:

391 409.1451 The Road-to-Independence Program.—

392 (2) POSTSECONDARY EDUCATION SERVICES AND SUPPORT.—

393 (a) A young adult is eligible for services and support
 394 under this subsection if he or she:

- 395 1. Was living in licensed care on his or her 18th birthday
 396 or is currently living in licensed care; or was at least 16
 397 years of age and was adopted from foster care or placed with a
 398 court-approved dependency guardian after spending at least 6
 399 months in licensed care within the 12 months immediately
 400 preceding such placement or adoption;

- 401 2. Spent at least 6 months in licensed care before
 402 reaching his or her 18th birthday;
- 403 3. Earned a standard high school diploma pursuant to s.
 404 1002.3105(5), s. 1003.4281, or s. 1003.4282, or its equivalent
 405 pursuant to s. 1003.435;
- 406 4. Has been admitted for enrollment as a full-time student
 407 or its equivalent in an eligible postsecondary educational
 408 institution as provided in s. 1009.533. For purposes of this
 409 section, the term "full-time" means 9 credit hours or the
 410 vocational school equivalent. A student may enroll part-time if
 411 he or she has a recognized disability or is faced with another
 412 challenge or circumstance that would prevent full-time
 413 attendance. A student needing to enroll part-time for any reason
 414 other than having a recognized disability must get approval from
 415 his or her academic advisor;
- 416 5. Has reached 18 years of age but is not yet 23 years of
 417 age;
- 418 6. Has applied, with assistance from the young adult's
 419 caregiver and the community-based lead agency, for any other
 420 grants and scholarships for which he or she may qualify;
- 421 7. Submitted a Free Application for Federal Student Aid
 422 which is complete and error free; ~~and~~
- 423 8. Signed an agreement to allow the department and the
 424 community-based care lead agency access to school records; and-
- 425 9. Has completed with a passing score the financial

426 literacy curriculum for foster youth offered by the Department
 427 of Financial Services.

428 (3) AFTERCARE SERVICES.—

429 (b) Aftercare services include, but are not limited to,
 430 the following:

- 431 1. Mentoring and tutoring.
- 432 2. Mental health services and substance abuse counseling.
- 433 3. Life skills classes, including credit management and
 434 preventive health activities.
- 435 4. Parenting classes.
- 436 5. Job and career skills training.
- 437 6. Counselor consultations.
- 438 7. Temporary financial assistance for necessities,
 439 including, but not limited to, education supplies,
 440 transportation expenses, security deposits for rent and
 441 utilities, furnishings, household goods, and other basic living
 442 expenses.
- 443 8. Financial literacy skills training pursuant to s.
 444 39.6035(1)(c).

445
 446 The specific services to be provided under this paragraph shall
 447 be determined by an assessment of the young adult and may be
 448 provided by the community-based care provider or through
 449 referrals in the community.

450 Section 7. Subsections (1) and (3) of section 414.411,

451 Florida Statutes, are amended to read:

452 414.411 Public assistance fraud.—

453 (1) The Department of Financial Services shall investigate
 454 all public assistance provided to residents of the state or
 455 provided to others by the state. In the course of such
 456 investigation the department shall examine all records,
 457 including electronic benefits transfer records and make inquiry
 458 of all persons who may have knowledge as to any irregularity
 459 incidental to the disbursement of public moneys, food
 460 assistance, or other items or benefits authorizations to
 461 recipients. All public assistance recipients, as a condition
 462 precedent to qualification for public assistance under chapter
 463 409, chapter 411, or this chapter, must first give in writing,
 464 to the Agency for Health Care Administration, the Department of
 465 Health, the Department of Education ~~Economic Opportunity~~, and
 466 the Department of Children and Families, as appropriate, and to
 467 the Department of Financial Services, consent to make inquiry of
 468 past or present employers and records, financial or otherwise.

469 (3) The results of such investigation shall be reported by
 470 the Department of Financial Services to the appropriate
 471 legislative committees, the Agency for Health Care
 472 Administration, the Department of Health, the Department of
 473 Education ~~Economic Opportunity~~, and the Department of Children
 474 and Families, and to such others as the department may
 475 determine.

476 Section 8. Subsection (3) is added to section 497.168,
 477 Florida Statutes, to read:

478 497.168 Members of Armed Forces in good standing with
 479 administrative boards.—

480 (3) A member of the United States Armed Forces or a
 481 veteran of the United States Armed Forces who was honorably
 482 discharged within the 24-month period before the date of an
 483 initial application for licensure is exempt from the initial
 484 application filing fees under ss. 497.281(1), 497.368(1)(a),
 485 497.369(1)(a), 497.369(5), 497.370(1), 497.371, 497.373(1)(a),
 486 497.373(3), 497.374(1)(a), 497.374(5), and 497.375(1)(a).

487 Section 9. Subsection (1) of section 624.317, Florida
 488 Statutes, is amended to read:

489 624.317 Investigation of agents, adjusters,
 490 administrators, service companies, and others.—If it has reason
 491 to believe that any person has violated or is violating any
 492 provision of this code, or upon the written complaint signed by
 493 any interested person indicating that any such violation may
 494 exist:

495 (1) The department shall conduct such investigation as it
 496 deems necessary of the accounts, records, documents, and
 497 transactions pertaining to or affecting the insurance affairs of
 498 any ~~general agent, surplus lines agent,~~ adjuster, ~~managing~~
 499 ~~general agent, insurance agent,~~ insurance agency, customer
 500 representative, service representative, or other person subject

501 to its jurisdiction, subject to the requirements of s. 626.601.

502 Section 10. Subsection (2) of section 624.34, Florida
 503 Statutes, is amended to read:

504 624.34 Authority of Department of Law Enforcement to
 505 accept fingerprints of, and exchange criminal history records
 506 with respect to, certain persons.—

507 (2) The Department of Law Enforcement may accept
 508 fingerprints of individuals who apply for a license as an agent,
 509 customer representative, adjuster, service representative, or
 510 navigator, ~~or managing general agent~~ or the fingerprints of the
 511 majority owner, sole proprietor, partners, officers, and
 512 directors of a corporation or other legal entity that applies
 513 for licensure with the department or office under the Florida
 514 Insurance Code.

515 Section 11. Section 624.4073, Florida Statutes, is amended
 516 to read:

517 624.4073 Officers and directors of insolvent insurers.—Any
 518 person who was an officer or director of an insurer doing
 519 business in this state and who served in that capacity within
 520 the 2-year period before ~~prior to~~ the date the insurer became
 521 insolvent, for any insolvency that occurs on or after July 1,
 522 2002, may not thereafter serve as an officer or director of an
 523 insurer authorized in this state or have direct or indirect
 524 control over the selection or appointment of an officer or
 525 director through contract, trust, or by operation of law, unless

526 the officer or director demonstrates that his or her personal
 527 actions or omissions were not a significant contributing cause
 528 to the insolvency.

529 Section 12. Subsection (1) of section 624.4094, Florida
 530 Statutes, is amended to read:

531 624.4094 Bail bond premiums.—

532 (1) The Legislature finds that a significant portion of
 533 bail bond premiums is retained by the licensed bail bond agents
 534 or appointed ~~licensed~~ managing general agents. For purposes of
 535 reporting in financial statements required to be filed with the
 536 office pursuant to s. 624.424, direct written premiums for bail
 537 bonds by a domestic insurer in this state shall be reported net
 538 of any amounts retained by licensed bail bond agents or
 539 appointed ~~licensed~~ managing general agents. However, in no case
 540 shall the direct written premiums for bail bonds be less than
 541 6.5 percent of the total consideration received by the agent for
 542 all bail bonds written by the agent. This subsection also
 543 applies to any determination of compliance with s. 624.4095.

544 Section 13. Paragraph (e) of subsection (19) of section
 545 624.501, Florida Statutes, is amended to read:

546 624.501 Filing, license, appointment, and miscellaneous
 547 fees.—The department, commission, or office, as appropriate,
 548 shall collect in advance, and persons so served shall pay to it
 549 in advance, fees, licenses, and miscellaneous charges as
 550 follows:

551 (19) Miscellaneous services:

552 (e) Insurer's registration fee for agent exchanging
553 business more than four ~~24~~ times in a calendar year under s.
554 626.752, s. 626.793, or s. 626.837, registration fee per agent
555 per year.....\$30.00

556 Section 14. Subsection (1) of section 624.509, Florida
557 Statutes, is amended to read:

558 624.509 Premium tax; rate and computation.-

559 (1) In addition to the license taxes provided for in this
560 chapter, each insurer shall also annually, and on or before
561 March 1 in each year, except as to wet marine and transportation
562 insurance taxed under s. 624.510, pay to the Department of
563 Revenue a tax on insurance premiums, premiums for title
564 insurance, or assessments, including membership fees and policy
565 fees and gross deposits received from subscribers to reciprocal
566 or interinsurance agreements, and on annuity premiums or
567 considerations, received during the preceding calendar year, the
568 amounts thereof to be determined as set forth in this section,
569 to wit:

570 (a) An amount equal to 1.75 percent of the gross amount of
571 such receipts on account of life and health insurance policies
572 covering persons resident in this state and on account of all
573 other types of policies and contracts, except annuity policies
574 or contracts taxable under paragraph (b) and bail bond policies
575 or contracts taxable under paragraph (c), covering property,

576 subjects, or risks located, resident, or to be performed in this
 577 state, omitting premiums on reinsurance accepted, and less
 578 return premiums or assessments, but without deductions:

- 579 1. For reinsurance ceded to other insurers;
- 580 2. For moneys paid upon surrender of policies or
 581 certificates for cash surrender value;
- 582 3. For discounts or refunds for direct or prompt payment
 583 of premiums or assessments; and
- 584 4. On account of dividends of any nature or amount paid
 585 and credited or allowed to holders of insurance policies;
 586 certificates; or surety, indemnity, reciprocal, or
 587 interinsurance contracts or agreements;

588 (b) An amount equal to 1 percent of the gross receipts on
 589 annuity policies or contracts paid by holders thereof in this
 590 state; and

591 (c) An amount equal to 1.75 percent of the direct written
 592 premiums for bail bonds, excluding any amounts retained by
 593 licensed bail bond agents or appointed ~~licensed~~ managing general
 594 agents.

595 Section 15. Section 625.071, Florida Statutes, is amended
 596 to read:

597 625.071 Special reserve for bail and judicial bonds.—In
 598 lieu of the unearned premium reserve required on surety bonds
 599 under s. 625.051, the office may require any surety insurer or
 600 limited surety insurer to set up and maintain a reserve on all

601 | bail bonds or other single-premium bonds without definite
 602 | expiration date, furnished in judicial proceedings, equal to the
 603 | lesser of 35 percent of the bail premiums in force or \$7 per
 604 | \$1,000 of bail liability. Such reserve shall be reported as a
 605 | liability in financial statements required to be filed with the
 606 | office. Each insurer shall file a supplementary schedule showing
 607 | bail premiums in force and bail liability and the associated
 608 | special reserve for bail and judicial bonds with financial
 609 | statements required by s. 624.424. Bail premiums in force do not
 610 | include amounts retained by licensed bail bond agents or
 611 | appointed ~~licensed~~ managing general agents, but may not be less
 612 | than 6.5 percent of the total consideration received for all
 613 | bail bonds in force.

614 | Section 16. Subsection (5) of section 626.112, Florida
 615 | Statutes, is amended to read:

616 | 626.112 License and appointment required; agents, customer
 617 | representatives, adjusters, insurance agencies, service
 618 | representatives, managing general agents.—

619 | (5) A ~~No~~ person may not ~~shall~~ be, act as, or represent or
 620 | hold himself or herself out to be a managing general agent
 621 | unless he or she then holds a currently effective producer
 622 | license and a managing general agent ~~license and~~ appointment.

623 | Section 17. Section 626.171, Florida Statutes, is amended
 624 | to read:

625 | 626.171 Application for license as an agent, customer

626 representative, adjuster, service representative, ~~managing~~
627 ~~general agent~~, or reinsurance intermediary.-

628 (1) The department may not issue a license as agent,
629 customer representative, adjuster, service representative,
630 ~~managing general agent~~, or reinsurance intermediary to any
631 person except upon written application filed with the
632 department, meeting the qualifications for the license applied
633 for as determined by the department, and payment in advance of
634 all applicable fees. The application must be made under the oath
635 of the applicant and be signed by the applicant. An applicant
636 may permit a third party to complete, submit, and sign an
637 application on the applicant's behalf, but is responsible for
638 ensuring that the information on the application is true and
639 correct and is accountable for any misstatements or
640 misrepresentations. The department shall accept the uniform
641 application for nonresident agent licensing. The department may
642 adopt revised versions of the uniform application by rule.

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

644 (a) His or her full name, age, social security number,
645 residence address, business address, mailing address, contact
646 telephone numbers, including a business telephone number, and e-
647 mail address.

648 (b) A statement indicating the method the applicant used
649 or is using to meet any required prelicensing education,
650 knowledge, experience, or instructional requirements for the

651 type of license applied for.

652 (c) Whether he or she has been refused or has voluntarily
 653 surrendered or has had suspended or revoked a license to solicit
 654 insurance by the department or by the supervising officials of
 655 any state.

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

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

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

663 (g) The applicant's native language.

664 (h) The highest level of education achieved by the
 665 applicant.

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

668 (j) Such other or additional information as the department
 669 may deem proper to enable it to determine the character,
 670 experience, ability, and other qualifications of the applicant
 671 to hold himself or herself out to the public as an insurance
 672 representative.

673

674 However, the application must contain a statement that an
 675 applicant is not required to disclose his or her race or

676 ethnicity, gender, or native language, that he or she will not
677 be penalized for not doing so, and that the department will use
678 this information exclusively for research and statistical
679 purposes and to improve the quality and fairness of the
680 examinations.

681 (3) Each application must ~~shall~~ be accompanied by payment
682 of any applicable fee.

683 (4) An applicant for a license as an agent, customer
684 representative, adjuster, service representative, ~~managing~~
685 ~~general agent~~, or reinsurance intermediary must submit a set of
686 the individual applicant's fingerprints, or, if the applicant is
687 not an individual, a set of the fingerprints of the sole
688 proprietor, majority owner, partners, officers, and directors,
689 to the department and must pay the fingerprint processing fee
690 set forth in s. 624.501. Fingerprints must ~~shall~~ be used to
691 investigate the applicant's qualifications pursuant to s.
692 626.201. The fingerprints must ~~shall~~ be taken by a law
693 enforcement agency, designated examination center, or other
694 department-approved entity. The department shall require all
695 designated examination centers to have fingerprinting equipment
696 and to take fingerprints from any applicant or prospective
697 applicant who pays the applicable fee. The department may not
698 approve an application for licensure as an agent, customer
699 service representative, adjuster, service representative,
700 ~~managing general agent~~, or reinsurance intermediary if

701 fingerprints have not been submitted.

702 (5) The application for license filing fee prescribed in
703 s. 624.501 is not subject to refund.

704 (6) Members of the United States Armed Forces and their
705 spouses, and veterans of the United States Armed Forces who have
706 retired within 24 months before application for licensure, are
707 exempt from the application filing fee prescribed in s. 624.501.
708 Qualified individuals must provide a copy of a military
709 identification card, military dependent identification card,
710 military service record, military personnel file, veteran
711 record, discharge paper, ~~or separation document~~, or a separation
712 document that indicates such members of the United States Armed
713 Forces are currently in good standing or were honorably
714 discharged.

715 (7) Pursuant to the federal Personal Responsibility and
716 Work Opportunity Reconciliation Act of 1996, each party is
717 required to provide his or her social security number in
718 accordance with this section. Disclosure of social security
719 numbers obtained through this requirement must ~~shall~~ be limited
720 to the purpose of administration of the Title IV-D program for
721 child support enforcement.

722 Section 18. Section 626.202, Florida Statutes, is amended
723 to read:

724 626.202 Fingerprinting requirements.—

725 (1) The requirements for completion and submission of

726 fingerprints under this chapter are deemed to be met when an
 727 individual currently licensed under this chapter seeks
 728 additional licensure and has previously submitted fingerprints
 729 to the department within the past 48 months. However, the
 730 department may require the individual to file fingerprints if it
 731 has reason to believe that an applicant or licensee has been
 732 found guilty of, or pleaded guilty or nolo contendere to, a
 733 felony or a crime related to the business of insurance in this
 734 state or any other state or jurisdiction.

735 (2) The requirements for completion and submission of
 736 fingerprints under this chapter are waived for members of the
 737 United States Armed Forces and veterans of the United States
 738 Armed Forces who were honorably discharged within the 24-month
 739 period before the date of an application for licensure. A
 740 qualified individual shall provide a copy of a military
 741 identification card, military service record, military personnel
 742 file, veteran record, Form DD-214, NGB Form 22, or separation
 743 document that indicates such member or veteran of the United
 744 States Armed Forces is currently in good standing or was
 745 honorably discharged.

746 (3) If there is a change in ownership or control of any
 747 entity licensed under this chapter, or if a new partner,
 748 officer, or director is employed or appointed, a set of
 749 fingerprints of the new owner, partner, officer, or director
 750 must be filed with the department or office within 30 days after

751 the change. The acquisition of 10 percent or more of the voting
 752 securities of a licensed entity is considered a change of
 753 ownership or control. The fingerprints must be taken by a law
 754 enforcement agency or other department-approved entity and be
 755 accompanied by the fingerprint processing fee in s. 624.501.

756 Section 19. Subsection (9) of section 626.207, Florida
 757 Statutes, is amended to read:

758 626.207 Disqualification of applicants and licensees;
 759 penalties against licensees; rulemaking authority.—

760 (9) Section 112.011 does not apply to any applicants for
 761 licensure under the Florida Insurance Code, including, but not
 762 limited to, agents, agencies, adjusters, adjusting firms, or
 763 customer representatives, ~~or managing general agents.~~

764 Section 20. Paragraph (j) of subsection (2) of section
 765 626.221, Florida Statutes, is amended to read:

766 626.221 Examination requirement; exemptions.—

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

769 (j) An applicant for license as an all-lines adjuster who
 770 has the designation of Accredited Claims Adjuster (ACA) from a
 771 regionally accredited postsecondary institution in this state,
 772 Associate in Claims (AIC) from the Insurance Institute of
 773 America, Professional Claims Adjuster (PCA) from the
 774 Professional Career Institute, Professional Property Insurance
 775 Adjuster (PPIA) from the HurriClaim Training Academy, Certified

776 Adjuster (CA) from ALL LINES Training, Certified Claims Adjuster
 777 (CCA) from AE21 Incorporated, Claims Adjuster Certified
 778 Professional (CACP) from WebCE, Inc., or Universal Claims
 779 Certification (UCC) from Claims and Litigation Management
 780 Alliance (CLM) whose curriculum has been approved by the
 781 department and which includes comprehensive analysis of basic
 782 property and casualty lines of insurance and testing at least
 783 equal to that of standard department testing for the all-lines
 784 adjuster license. The department shall adopt rules establishing
 785 standards for the approval of curriculum.

786 Section 21. Subsection (7) of section 626.451, Florida
 787 Statutes, is renumbered as subsection (6), and subsections (1)
 788 and (5) and present subsection (6) of that section are amended,
 789 to read:

790 626.451 Appointment of agent or other representative.—

791 (1) Each appointing entity or person designated by the
 792 department to administer the appointment process appointing an
 793 agent, adjuster, service representative, customer
 794 representative, or managing general agent in this state shall
 795 file the appointment with the department or office and, at the
 796 same time, pay the applicable appointment fee and taxes. Every
 797 appointment is ~~shall be~~ subject to the prior issuance of the
 798 appropriate agent's, adjuster's, service representative's, or
 799 customer representative's, ~~or managing general agent's~~ license.

800 ~~(5) Any law enforcement agency or state attorney's office~~

801 ~~that is aware that an agent, adjuster, service representative,~~
 802 ~~customer representative, or managing general agent has pleaded~~
 803 ~~guilty or nolo contendere to or has been found guilty of a~~
 804 ~~felony shall notify the department or office of such fact.~~

805 (5)~~(6)~~ Upon the filing of an information or indictment
 806 against an agent, adjuster, service representative, or customer
 807 representative, ~~or managing general agent,~~ the state attorney
 808 shall immediately furnish the department or office a certified
 809 copy of the information or indictment.

810 Section 22. Section 626.521, Florida Statutes, is amended
 811 to read:

812 626.521 ~~Character,~~ Credit and character reports.—

813 (1) Before appointing ~~As to each applicant who~~ for the
 814 first time in this state an ~~is applying and qualifying for a~~
 815 ~~license as~~ agent, adjuster, service representative, customer
 816 representative, or managing general agent, the appointing
 817 insurer or employer shall ~~its manager or general agent in this~~
 818 ~~state, in the case of agents, or the appointing general lines~~
 819 ~~agent, in the case of customer representatives, or the employer,~~
 820 ~~in the case of service representatives and of adjusters who are~~
 821 ~~not to be self-employed, shall coincidentally with such~~
 822 ~~appointment or employment~~ secure and thereafter keep on file a
 823 full detailed credit and character report ~~made by an established~~
 824 ~~and reputable independent reporting service,~~ relative to the
 825 individual so appointed ~~or employed.~~ This subsection does not

826 apply to licensees who self-appoint pursuant to s. 624.501.

827 (2) If requested by the department, the insurer, ~~manager,~~
 828 ~~general agent, general lines agent,~~ or employer, as the case may
 829 be, must ~~shall~~ furnish to the department, ~~on a form adopted and~~
 830 ~~furnished by the department,~~ such information as it reasonably
 831 requires relative to such individual and investigation.

832 ~~(3) As to an applicant for an adjuster's or reinsurance~~
 833 ~~intermediary's license who is to be self-employed, the~~
 834 ~~department may secure, at the cost of the applicant, a full~~
 835 ~~detailed credit and character report made by an established and~~
 836 ~~reputable independent reporting service relative to the~~
 837 ~~applicant.~~

838 ~~(4) Each person who for the first time in this state is~~
 839 ~~applying and qualifying for a license as a reinsurance~~
 840 ~~intermediary shall file with her or his application for license~~
 841 ~~a full, detailed credit and character report for the 5-year~~
 842 ~~period immediately prior to the date of application for license,~~
 843 ~~made by an established and reputable independent reporting~~
 844 ~~service, relative to the individual if a partnership or sole~~
 845 ~~proprietorship, or the officers if a corporation or other legal~~
 846 ~~entity.~~

847 (3)(5) Information contained in credit or character
 848 reports furnished to or secured by the department under this
 849 section is confidential and exempt from ~~the provisions of s.~~
 850 119.07(1).

851 Section 23. Paragraph (f) of subsection (1) of section
 852 626.731, Florida Statutes, is amended to read:

853 626.731 Qualifications for general lines agent's license.—

854 (1) The department shall not grant or issue a license as
 855 general lines agent to any individual found by it to be
 856 untrustworthy or incompetent or who does not meet each of the
 857 following qualifications:

858 ~~(f) The applicant is not a service representative, a~~
 859 ~~managing general agent in this state, or a special agent or~~
 860 ~~similar service representative of a health insurer which also~~
 861 ~~transacts property, casualty, or surety insurance; except that~~
 862 ~~the president, vice president, secretary, or treasurer,~~
 863 ~~including a member of the board of directors, of a corporate~~
 864 ~~insurer, if otherwise qualified under and meeting the~~
 865 ~~requirements of this part, may be licensed and appointed as a~~
 866 ~~local resident agent.~~

867 Section 24. Subsection (6) of section 626.7351, Florida
 868 Statutes, is amended to read:

869 626.7351 Qualifications for customer representative's
 870 license.—The department shall not grant or issue a license as
 871 customer representative to any individual found by it to be
 872 untrustworthy or incompetent, or who does not meet each of the
 873 following qualifications:

874 (6) Upon the issuance of the license applied for, the
 875 applicant is not an agent or, a service representative, ~~or a~~

876 ~~managing general agent.~~

877 Section 25. Section 626.744, Florida Statutes, is amended
878 to read:

879 626.744 Service representatives, ~~managing general agents;~~
880 application for license.—The application for a license as
881 service representative must ~~or the application for a license as~~
882 ~~managing general agent shall~~ show the applicant's name,
883 residence address, name of employer, position or title, type of
884 work to be performed by the applicant in this state, and any
885 additional information which the department may reasonably
886 require.

887 Section 26. Section 626.745, Florida Statutes, is amended
888 to read:

889 626.745 Service representatives, managing general agents;
890 managers; activities.—Individuals employed by insurers or their
891 managers, general agents, or representatives as service
892 representatives, and as managing general agents employed for the
893 purpose of or engaged in assisting agents in negotiating and
894 effecting contracts of insurance, shall engage in such
895 activities ~~when, and~~ only when licensed as or, accompanied by a
896 general lines ~~an~~ agent duly licensed and appointed ~~as a resident~~
897 ~~licensee and appointee~~ under this code.

898 Section 27. Subsection (11) of section 626.7451, Florida
899 Statutes, is amended to read:

900 626.7451 Managing general agents; required contract

901 provisions.—No person acting in the capacity of a managing
 902 general agent shall place business with an insurer unless there
 903 is in force a written contract between the parties which sets
 904 forth the responsibility for a particular function, specifies
 905 the division of responsibilities, and contains the following
 906 minimum provisions:

907 (11) An appointed ~~A licensed~~ managing general agent, when
 908 placing business with an insurer under this code, may charge a
 909 per-policy fee not to exceed \$25. ~~In no instance shall~~ The
 910 aggregate of per-policy fees for a placement of business
 911 authorized under this section, when combined with any other per-
 912 policy fee charged by the insurer, may not result in per-policy
 913 fees that ~~which~~ exceed the aggregate amount of \$25. The per-
 914 policy fee must ~~shall~~ be a component of the insurer's rate
 915 filing and must ~~shall~~ be fully earned.

916
 917 For the purposes of this section and ss. 626.7453 and 626.7454,
 918 the term "controlling person" or "controlling" has the meaning
 919 set forth in s. 625.012(5)(b)1., and the term "controlled
 920 person" or "controlled" has the meaning set forth in s.
 921 625.012(5)(b)2.

922 Section 28. Subsection (1) of section 626.7455, Florida
 923 Statutes, is amended to read:

924 626.7455 Managing general agent; responsibility of
 925 insurer.—

926 (1) An insurer may not ~~No insurer shall~~ enter into an
 927 agreement with any person to manage the business written in this
 928 state by the general lines agents appointed by the insurer or
 929 appointed by the managing general agent on behalf of the insurer
 930 unless the person is properly licensed as an agent and appointed
 931 as a managing general agent in this state. An insurer is ~~shall~~
 932 ~~be~~ responsible for the acts of its managing general agent when
 933 the agent acts within the scope of his or her authority.

934 Section 29. Paragraph (e) of subsection (3) and subsection
 935 (5) of section 626.752, Florida Statutes, are amended to read:

936 626.752 Exchange of business.—

937 (3)

938 (e) The brokering agent shall maintain an appropriate and
 939 permanent Brokering Agent's Register, which must ~~shall~~ be a
 940 permanent record of ~~bound journal in which~~ chronologically
 941 numbered transactions that are entered no later than the day in
 942 which the brokering agent's application bearing the same number
 943 is signed by the applicant. The numbers must ~~shall~~ reflect an
 944 annual aggregate through numerical sequence and be preceded by
 945 the last two digits of the current year. The initial entry must
 946 ~~shall~~ contain the number of the transaction, date, time, date of
 947 binder, date on which coverage commences, name and address of
 948 applicant, type of coverage desired, name of insurer binding the
 949 risk or to whom the application is to be submitted, and the
 950 amount of any premium collected therefor. By no later than the

951 date following policy delivery, the policy number and coverage
 952 expiration date must ~~shall~~ be added to the register.

953 (5) Within 15 days after the last day of each month, any
 954 insurer accepting business under this section shall report to
 955 the department the name, address, telephone number, and social
 956 security number of each agent from which the insurer received
 957 more than four ~~24~~ personal lines risks during the calendar year,
 958 except for risks being removed from the Citizens Property
 959 Insurance Corporation and placed with that insurer by a
 960 brokering agent. Once the insurer has reported pursuant to this
 961 subsection an agent's name to the department, additional reports
 962 on the same agent shall not be required. However, the fee set
 963 forth in s. 624.501 must ~~shall~~ be paid for the agent by the
 964 insurer for each year until the insurer notifies the department
 965 that the insurer is no longer accepting business from the agent
 966 pursuant to this section. The insurer may require that the agent
 967 reimburse the insurer for the fee.

968 Section 30. Subsection (4) of section 626.793, Florida
 969 Statutes, is amended to read:

970 626.793 Excess or rejected business.-

971 (4) Within 15 days after the last day of each month, any
 972 insurer accepting business under this section shall report to
 973 the department the name, address, telephone number, and social
 974 security number of each agent from which the insurer received
 975 more than four ~~24~~ risks during the calendar year. Once the

976 insurer has reported an agent's name to the department pursuant
 977 to this subsection, additional reports on the same agent shall
 978 not be required. However, the fee set forth in s. 624.501 must
 979 ~~shall~~ be paid for the agent by the insurer for each year until
 980 the insurer notifies the department that the insurer is no
 981 longer accepting business from the agent pursuant to this
 982 section. The insurer may require that the agent reimburse the
 983 insurer for the fee.

984 Section 31. Subsection (5) of section 626.837, Florida
 985 Statutes, is amended to read:

986 626.837 Excess or rejected business.—

987 (5) Within 15 days after the last day of each month, any
 988 insurer accepting business under this section shall report to
 989 the department the name, address, telephone number, and social
 990 security number of each agent from which the insurer received
 991 more than four ~~24~~ risks during the calendar year. Once the
 992 insurer has reported pursuant to this subsection an agent's name
 993 to the department, additional reports on the same agent shall
 994 not be required. However, the fee set forth in s. 624.501 must
 995 ~~shall~~ be paid for the agent by the insurer for each year until
 996 the insurer notifies the department that the insurer is no
 997 longer accepting business from the agent pursuant to this
 998 section. The insurer may require that the agent reimburse the
 999 insurer for the fee.

1000 Section 32. Subsection (5) of section 626.8732, Florida

1001 Statutes, is amended to read:

1002 626.8732 Nonresident public adjuster's qualifications,
1003 bond.-

1004 ~~(5) After licensure as a nonresident public adjuster, as a~~
1005 ~~condition of doing business in this state, the licensee must~~
1006 ~~annually on or before January 1, on a form prescribed by the~~
1007 ~~department, submit an affidavit certifying that the licensee is~~
1008 ~~familiar with and understands the insurance code and rules~~
1009 ~~adopted thereunder and the provisions of the contracts~~
1010 ~~negotiated or to be negotiated. Compliance with this filing~~
1011 ~~requirement is a condition precedent to the issuance,~~
1012 ~~continuation, reinstatement, or renewal of a nonresident public~~
1013 ~~adjuster's appointment.~~

1014 Section 33. Subsection (4) of section 626.8734, Florida
1015 Statutes, is amended to read:

1016 626.8734 Nonresident all-lines adjuster license
1017 qualifications.-

1018 ~~(4) As a condition of doing business in this state as a~~
1019 ~~nonresident independent adjuster, the appointee must submit an~~
1020 ~~affidavit to the department certifying that the licensee is~~
1021 ~~familiar with and understands the insurance laws and~~
1022 ~~administrative rules of this state and the provisions of the~~
1023 ~~contracts negotiated or to be negotiated. Compliance with this~~
1024 ~~filing requirement is a condition precedent to the issuance,~~
1025 ~~continuation, reinstatement, or renewal of a nonresident~~

1026 ~~independent adjuster's appointment.~~

1027 Section 34. Paragraph (h) of subsection (1) of section
1028 626.88, Florida Statutes, is amended to read:

1029 626.88 Definitions.—For the purposes of this part, the
1030 term:

1031 (1) "Administrator" is any person who directly or
1032 indirectly solicits or effects coverage of, collects charges or
1033 premiums from, or adjusts or settles claims on residents of this
1034 state in connection with authorized commercial self-insurance
1035 funds or with insured or self-insured programs which provide
1036 life or health insurance coverage or coverage of any other
1037 expenses described in s. 624.33(1) or any person who, through a
1038 health care risk contract as defined in s. 641.234 with an
1039 insurer or health maintenance organization, provides billing and
1040 collection services to health insurers and health maintenance
1041 organizations on behalf of health care providers, other than any
1042 of the following persons:

1043 (h) A person appointed ~~licensed~~ as a managing general
1044 agent in this state, whose activities are limited exclusively to
1045 the scope of activities conveyed under such appointment ~~license~~.

1046
1047 A person who provides billing and collection services to health
1048 insurers and health maintenance organizations on behalf of
1049 health care providers shall comply with the provisions of ss.
1050 627.6131, 641.3155, and 641.51(4).

1051 Section 35. Subsection (2) of section 626.927, Florida
 1052 Statutes, is amended to read:

1053 626.927 Licensing of surplus lines agent.—

1054 (2) Any individual, while licensed as ~~and appointed as a~~
 1055 ~~managing general agent as defined in s. 626.015, or service~~
 1056 ~~representative as defined in s. 626.015, and who otherwise~~
 1057 ~~possesses all of the other qualifications of a general lines~~
 1058 agent under this code, and who has a minimum of 1 year of ~~year's~~
 1059 experience working for a licensed surplus lines agent or who has
 1060 successfully completed 60 class hours in surplus and excess
 1061 lines in a course approved by the department, may, upon taking
 1062 and successfully passing a written examination as to surplus
 1063 lines, as given by the department, be licensed as a surplus
 1064 lines agent solely for the purpose of placing with surplus lines
 1065 insurers property, marine, casualty, or surety coverages
 1066 originated by general lines agents; ~~except that no examination~~
 1067 ~~as for a general lines agent's license shall be required of any~~
 1068 ~~managing general agent or service representative who held a~~
 1069 ~~Florida surplus lines agent's license as of January 1, 1959.~~

1070 Section 36. Subsection (3) of section 626.930, Florida
 1071 Statutes, is amended to read:

1072 626.930 Records of surplus lines agent.—

1073 (3) Each surplus lines agent shall maintain all surplus
 1074 lines business records in his or her general lines agency
 1075 office, ~~if licensed as a general lines agent, or in his or her~~

1076 managing general agency office, ~~if licensed as a managing~~
 1077 ~~general agent or the full-time salaried employee of such general~~
 1078 ~~agent.~~

1079 Section 37. Subsection (2) of section 626.9892, Florida
 1080 Statutes, is amended to read:

1081 626.9892 Anti-Fraud Reward Program; reporting of insurance
 1082 fraud.—

1083 (2) The department may pay rewards of up to \$25,000 to
 1084 persons providing information leading to the arrest and
 1085 conviction of persons committing crimes investigated by the
 1086 department arising from violations of s. 440.105, s. 624.15, s.
 1087 626.9541, s. 626.989, s. 790.164, s. 790.165, s. 790.166, s.
 1088 806.01, s. 806.031, s. 806.10, s. 806.111, s. 817.233, or s.
 1089 817.234.

1090 Section 38. Subsection (3) of section 633.302, Florida
 1091 Statutes, is amended to read:

1092 633.302 Florida Fire Safety Board; membership; duties;
 1093 meetings; officers; quorum; compensation; seal.—

1094 (3) The State Fire Marshal's term on the board, or that of
 1095 her or his designee, shall coincide with the State Fire
 1096 Marshal's term of office. ~~Of the other six members of the board,~~
 1097 ~~one member shall be appointed for a term of 1 year, one member~~
 1098 ~~for a term of 2 years, two members for terms of 3 years, and two~~
 1099 ~~members for terms of 4 years.~~ All terms are for 4 years and
 1100 expire on June 30 of the last year of the term. When the term of

1101 a member expires, the State Fire Marshal shall appoint a member
 1102 to fill the vacancy for a term of 4 years. The State Fire
 1103 Marshal may remove any appointed member for cause. A vacancy in
 1104 the membership of the board for any cause must ~~shall~~ be filled
 1105 by appointment by the State Fire Marshal for the balance of the
 1106 unexpired term.

1107 Section 39. Subsection (2), paragraph (a) of subsection
 1108 (3), and paragraphs (b), (c), and (d) of subsection (4) of
 1109 section 633.304, Florida Statutes, are amended to read:

1110 633.304 Fire suppression equipment; license to install or
 1111 maintain.—

1112 (2) A person who holds a valid fire equipment dealer
 1113 license may maintain such license in an inactive status during
 1114 which time he or she may not engage in any work under the
 1115 definition of the license held. An inactive status license is
 1116 ~~shall be void after~~ 4 years after the approval date of the
 1117 inactive status application. To maintain inactive status, the
 1118 inactive licensee must submit proof of continuing education and
 1119 the inactive status fee before December 31 of each odd-numbered
 1120 year or when the license is renewed, whichever comes first. An
 1121 ~~inactive status license may not be reactivated unless the~~
 1122 ~~continuing education requirements of this chapter have been~~
 1123 ~~fulfilled.~~

1124 (3) Each individual actually performing the work of
 1125 servicing, recharging, repairing, hydrotesting, installing,

1126 testing, or inspecting fire extinguishers or preengineered
 1127 systems must possess a valid and subsisting permit issued by the
 1128 division. Permittees are limited as to specific type of work
 1129 performed to allow work no more extensive than the class of
 1130 license held by the licensee under whom the permittee is
 1131 working. Permits will be issued by the division as follows:

1132 (a) Portable permit: "Portable permittee" means a person
 1133 who is limited to performing work no more extensive than the
 1134 employing or contractually related licensee in the servicing,
 1135 recharging, repairing, installing, or inspecting all types of
 1136 portable fire extinguishers.

1137
 1138 Any fire equipment permittee licensed pursuant to this
 1139 subsection who does not want to engage in servicing, inspecting,
 1140 recharging, repairing, hydrotesting, or installing halon
 1141 equipment must file an affidavit on a form provided by the
 1142 division so stating. Permits will be issued by the division to
 1143 show the work authorized thereunder. It is unlawful, unlicensed
 1144 activity for a person or firm to falsely hold himself or herself
 1145 out to perform any service, inspection, recharge, repair,
 1146 hydrotest, or installation except as specifically described in
 1147 the permit.

1148 (4)

1149 (b) After initial licensure, each licensee or permittee
 1150 must successfully complete a course or courses of continuing

1151 education for fire equipment technicians of at least 16 hours. A
 1152 license or permit may not be renewed unless the licensee or
 1153 permittee produces documentation of the completion of at least
 1154 16 hours of continuing education for fire equipment technicians
 1155 during the biennial licensure period. A person who is both a
 1156 licensee and a permittee shall ~~be required to~~ complete 16 hours
 1157 of continuing education during each renewal period. Each
 1158 licensee shall ensure that all permittees in his or her
 1159 employment or through a contractual agreement meet their
 1160 continuing education requirements. The State Fire Marshal shall
 1161 adopt rules describing the continuing education requirements and
 1162 shall have the authority upon reasonable belief, to audit a fire
 1163 equipment dealer to determine compliance with continuing
 1164 education requirements.

1165 (c) The forms of such licenses and permits and
 1166 applications therefor must ~~shall~~ be prescribed by the State Fire
 1167 Marshal; in addition to such other information and data as that
 1168 officer determines is appropriate and required for such forms,
 1169 there must ~~shall~~ be included in such forms the following
 1170 matters. Each such application must be in such form as to
 1171 provide that the data and other information set forth therein
 1172 shall be sworn to by the applicant or, if a corporation, by an
 1173 officer thereof. An application for a permit must include the
 1174 name of the licensee employing, or contractually related to,
 1175 such permittee, and the permit issued in pursuance of such

1176 application must also set forth the name of such licensee. A
 1177 permit is valid solely for use by the holder thereof in his or
 1178 her employment by, or contractual relationship with, the
 1179 licensee named in the permit.

1180 (d) A license of any class may not be issued or renewed by
 1181 the division and a license of any class does not remain
 1182 operative unless:

1183 1. The applicant has submitted to the State Fire Marshal
 1184 evidence of registration as a Florida corporation or evidence of
 1185 compliance with s. 865.09.

1186 2. The State Fire Marshal or his or her designee has by
 1187 inspection determined that the applicant possesses the equipment
 1188 required for the class of license sought. The State Fire Marshal
 1189 shall give an applicant a reasonable opportunity to correct any
 1190 deficiencies discovered by inspection. To obtain such
 1191 inspection, an applicant with facilities located outside this
 1192 state must:

1193 a. Provide a notarized statement from a professional
 1194 engineer licensed by the applicant's state of domicile
 1195 certifying that the applicant possesses the equipment required
 1196 for the class of license sought and that all such equipment is
 1197 operable; or

1198 b. Allow the State Fire Marshal or her or his designee to
 1199 inspect the facility. All costs associated with the State Fire
 1200 Marshal's inspection must ~~shall~~ be paid by the applicant. The

1201 State Fire Marshal, in accordance with s. 120.54, may adopt
 1202 rules to establish standards for the calculation and
 1203 establishment of the amount of costs associated with any
 1204 inspection conducted by the State Fire Marshal under this
 1205 section. Such rules must ~~shall~~ include procedures for invoicing
 1206 and receiving funds in advance of the inspection.

1207 3. The applicant has submitted to the State Fire Marshal
 1208 proof of insurance providing coverage for comprehensive general
 1209 liability for bodily injury and property damage, products
 1210 liability, completed operations, and contractual liability. The
 1211 State Fire Marshal shall adopt rules providing for the amounts
 1212 of such coverage, but such amounts may not be less than \$300,000
 1213 for Class A or Class D licenses, \$200,000 for Class B licenses,
 1214 and \$100,000 for Class C licenses; and the total coverage for
 1215 any class of license held in conjunction with a Class D license
 1216 may not be less than \$300,000. The State Fire Marshal may, at
 1217 any time after the issuance of a license or its renewal, require
 1218 upon demand, and in no event more than 30 days after notice of
 1219 such demand, the licensee to provide proof of insurance, on the
 1220 insurer's a form ~~provided by the State Fire Marshal~~, containing
 1221 confirmation of insurance coverage as required by this chapter.
 1222 Failure, for any length of time, to provide proof of insurance
 1223 coverage as required must ~~shall~~ result in the immediate
 1224 suspension of the license until proof of proper insurance is
 1225 provided to the State Fire Marshal. An insurer that ~~which~~

1226 provides such coverage shall notify the State Fire Marshal of
 1227 any change in coverage or of any termination, cancellation, or
 1228 nonrenewal of any coverage.

1229 4. The applicant applies to the State Fire Marshal,
 1230 provides proof of experience, and successfully completes a
 1231 prescribed training course offered by the State Fire College or
 1232 an equivalent course approved by the State Fire Marshal. This
 1233 subparagraph does not apply to any holder of or applicant for a
 1234 permit under paragraph (g) or to a business organization or a
 1235 governmental entity seeking initial licensure or renewal of an
 1236 existing license solely for the purpose of inspecting,
 1237 servicing, repairing, marking, recharging, and maintaining fire
 1238 extinguishers used and located on the premises of and owned by
 1239 such organization or entity.

1240 5. The applicant has a current retestor identification
 1241 number that is appropriate for the license for which the
 1242 applicant is applying and that is listed with the United States
 1243 Department of Transportation.

1244 6. The applicant has passed, with a grade of at least 70
 1245 percent, a written examination testing his or her knowledge of
 1246 the rules and statutes governing the activities authorized by
 1247 the license and demonstrating his or her knowledge and ability
 1248 to perform those tasks in a competent, lawful, and safe manner.
 1249 Such examination must ~~shall~~ be developed and administered by the
 1250 State Fire Marshal, or his or her designee in accordance with

1251 policies and procedures of the State Fire Marshal. An applicant
 1252 shall pay a nonrefundable examination fee of \$50 for each
 1253 examination or reexamination scheduled. A reexamination may not
 1254 be scheduled sooner than 30 days after any administration of an
 1255 examination to an applicant. An applicant may not be permitted
 1256 to take an examination for any level of license more than a
 1257 total of four times during 1 year, regardless of the number of
 1258 applications submitted. As a prerequisite to licensure of the
 1259 applicant, he or she:

1260 a. Must be at least 18 years of age.

1261 b. Must have 4 years of proven experience as a fire
 1262 equipment permittee at a level equal to or greater than the
 1263 level of license applied for or have a combination of education
 1264 and experience determined to be equivalent thereto by the State
 1265 Fire Marshal. Having held a permit at the appropriate level for
 1266 the required period constitutes the required experience.

1267 c. Must not have been convicted of a felony or a crime
 1268 punishable by imprisonment of 1 year or more under the law of
 1269 the United States or of any state thereof or under the law of
 1270 any other country. "Convicted" means a finding of guilt or the
 1271 acceptance of a plea of guilty or nolo contendere in any federal
 1272 or state court or a court in any other country, without regard
 1273 to whether a judgment of conviction has been entered by the
 1274 court having jurisdiction of the case. If an applicant has been
 1275 convicted of any such felony, the applicant is ~~shall be~~ excluded

1276 from licensure for a period of 4 years after expiration of
 1277 sentence or final release by the Florida Commission on Offender
 1278 Review unless the applicant, before the expiration of the 4-year
 1279 period, has received a full pardon or has had her or his civil
 1280 rights restored.

1281
 1282 This subparagraph does not apply to any holder of or applicant
 1283 for a permit under paragraph (g) or to a business organization
 1284 or a governmental entity seeking initial licensure or renewal of
 1285 an existing license solely for the purpose of inspecting,
 1286 servicing, repairing, marking, recharging, hydrotesting, and
 1287 maintaining fire extinguishers used and located on the premises
 1288 of and owned by such organization or entity.

1289 Section 40. Subsection (7) of section 633.318, Florida
 1290 Statutes, is amended to read:

1291 633.318 Certificate application and issuance; permit
 1292 issuance; examination and investigation of applicant.-

1293 (7) The State Fire Marshal may, at any time subsequent to
 1294 the issuance of the certificate or its renewal, require, upon
 1295 demand and in no event more than 30 days after notice of the
 1296 demand, the certificateholder to provide proof of insurance
 1297 coverage on the insurer's a form ~~provided by the State Fire~~
 1298 ~~Marshal~~ containing confirmation of insurance coverage as
 1299 required by this chapter. Failure to provide proof of insurance
 1300 coverage as required, for any length of time, shall result in

1301 the immediate suspension of the certificate until proof of
 1302 insurance is provided to the State Fire Marshal.

1303 Section 41. Paragraph (b) of subsection (6) of section
 1304 633.408, Florida Statutes, is amended to read:

1305 633.408 Firefighter and volunteer firefighter training and
 1306 certification.—

1307 (6)

1308 (b) A Special Certificate of Compliance only authorizes an
 1309 individual to serve as an administrative and command head of a
 1310 fire service provider.

1311 1. An individual desiring to obtain a Special Certificate
 1312 of Compliance may not be employed as a fire chief, fire
 1313 coordinator, fire director, or fire administrator for a period
 1314 of more than 1 year without obtaining certification.

1315 2. An individual desiring to obtain a Special Certificate
 1316 of Compliance may not serve as a command officer or function in
 1317 a position dictating incident outcomes or objectives before
 1318 achieving certification.

1319 3. Retention requirements for a Special Certificate of
 1320 Compliance must be similar to those provided in s. 633.414.

1321 Section 42. Subsection (1) of section 633.416, Florida
 1322 Statutes, is amended, present subsections (7) and (8) of that
 1323 section are renumbered as subsections (8) and (9), respectively,
 1324 and a new subsection (7) is added to that section, to read:

1325 633.416 Firefighter employment and volunteer firefighter

1326 service; saving clause.-

1327 (1) A fire service provider may not employ an individual
1328 to:

1329 (a) Extinguish fires for the protection of life or
1330 property or to supervise individuals who perform such services
1331 unless the individual holds a current and valid Firefighter
1332 Certificate of Compliance; or

1333 (b) Serve as the administrative and command head of a fire
1334 service provider for a period in excess of 1 year unless the
1335 individual holds a current and valid Firefighter Certificate of
1336 Compliance or Special Certificate of Compliance pursuant to s.
1337 633.408.

1338 (7) A fire service provider may employ veterans who were
1339 honorably discharged and who received training equivalent to the
1340 requirements under this chapter. The standard of equivalency of
1341 training must be verified by the division before such an
1342 individual's employment begins. Such individual must obtain a
1343 Firefighter Certificate of Compliance within 24 months after
1344 employment.

1345 Section 43. Paragraph (e) of subsection (1) of section
1346 633.444, Florida Statutes, is amended to read:

1347 633.444 Division powers and duties; Florida State Fire
1348 College.-

1349 (1) The division, in performing its duties related to the
1350 Florida State Fire College, specified in this part, shall:

1351 ~~(c) Develop a staffing and funding formula for the Florida~~
 1352 ~~State Fire College. The formula must include differential~~
 1353 ~~funding levels for various types of programs, must be based on~~
 1354 ~~the number of full-time equivalent students and information~~
 1355 ~~obtained from scheduled attendance counts taken the first day of~~
 1356 ~~each program, and must provide the basis for the legislative~~
 1357 ~~budget request. As used in this section, a full-time equivalent~~
 1358 ~~student is equal to a minimum of 900 hours in a technical~~
 1359 ~~certificate program and 400 hours in a degree-seeking program.~~
 1360 ~~The funding formula must be as prescribed pursuant to s.~~
 1361 ~~1011.62, must include procedures to document daily attendance,~~
 1362 ~~and must require that attendance records be retained for audit~~
 1363 ~~purposes.~~

1364 Section 44. Subsection (8) of section 648.27, Florida
 1365 Statutes, is amended to read:

1366 648.27 Licenses and appointments; general.-

1367 (8) ~~An application for a managing general agent's license~~
 1368 ~~must be made by an insurer who proposes to employ or appoint an~~
 1369 ~~individual, partnership, association, or corporation as a~~
 1370 ~~managing general agent. Such application shall contain the~~
 1371 ~~information required by s. 626.744, and the applicant shall pay~~
 1372 ~~the same fee as a managing general agent licensed pursuant to~~
 1373 ~~that section. An individual who is appointed as a managing~~
 1374 ~~general agent to supervise or manage bail bond business written~~
 1375 ~~in this state must also be licensed as a bail bond agent. In the~~

1376 case of an entity, at least one owner, officer, or director at
1377 each office location must be licensed as a bail bond agent.

1378 Section 45. Present subsection (6) of section 648.34,
1379 Florida Statutes, is renumbered as subsection (7), and a new
1380 subsection (6) is added to that section, to read:

1381 648.34 Bail bond agents; qualifications.—

1382 (6) The requirements for completion and submission of
1383 fingerprints under this chapter are deemed to be met when an
1384 individual currently licensed under this chapter seeks
1385 additional licensure and has previously submitted fingerprints
1386 to the department in support of an application for licensure
1387 under this chapter within the past 48 months. However, the
1388 department may require the individual to file fingerprints if it
1389 has reason to believe that an applicant or licensee has been
1390 found guilty of, or pleaded guilty or nolo contendere to, a
1391 felony or a crime related to the business of insurance in this
1392 or any other state or jurisdiction.

1393 Section 46. For the purpose of incorporating the amendment
1394 made by this act to section 626.221, Florida Statutes, in a
1395 reference thereto, paragraph (b) of subsection (1) of section
1396 626.8734, Florida Statutes, is reenacted to read:

1397 626.8734 Nonresident all-lines adjuster license
1398 qualifications.—

1399 (1) The department shall issue a license to an applicant
1400 for a nonresident all-lines adjuster license upon determining

1401 that the applicant has paid the applicable license fees required
 1402 under s. 624.501 and:

1403 (b) Has passed to the satisfaction of the department a
 1404 written Florida all-lines adjuster examination of the scope
 1405 prescribed in s. 626.241(6); however, the requirement for the
 1406 examination does not apply to:

1407 1. An applicant who is licensed as an all-lines adjuster
 1408 in his or her home state if that state has entered into a
 1409 reciprocal agreement with the department;

1410 2. An applicant who is licensed as a nonresident all-lines
 1411 adjuster in a state other than his or her home state and a
 1412 reciprocal agreement with the appropriate official of the state
 1413 of licensure has been entered into with the department; or

1414 3. An applicant who holds a certification set forth in s.
 1415 626.221(2)(j).

1416 Section 47. This act shall take effect July 1, 2018.

COMMERCE COMMITTEE

CS/CS/HB 1073 by Rep. Hager Department of Financial Services

AMENDMENT SUMMARY February 13, 2018

Amendment 1 by Rep. Hager (Line 259): The amendment:

- Authorizes the Chief Financial Officer to develop the Florida Open Financial Statement System, which would be an interactive repository for governmental financial statements.
- Prohibits a life agent from modifying a life insurance contract to name the life agent or a family member of the life agent as the beneficiary unless the life agent or family member has an insurable interest in the life of such person.
- Clarifies and expands the circumstances under which a life agent may serve as a trustee or guardian or accept the authority to act under a power of attorney to include a life agent who is:
 - Acting as a fiduciary;
 - Licensed as a certified public accountant; and
 - Registered as an investment advisor, or a representative thereof, under federal law or registered as a dealer, investment adviser, or associated person under state law.
- Deletes exemptions for veterans from certain application fees for licensure under the Division of Florida Funeral, Cemetery, and Consumer Services within the Department of Financial Services (DFS).
- Deletes the waiver for fingerprint submission requirements for applicants for licensure for members of the United States Armed Forces and veterans under the Division of Agent and Agency Services within DFS.
- Makes technical changes relating to the licensing of surplus lines agents and financial literacy for youth aging out of foster care.
- Authorizes a fire extinguisher serial number to be affixed rather than stamped on the manufacturer's identification and instruction plate.

Amendment 2 by Rep. Beshears (Line 475): The amendment clarifies that the required sworn statements by the employer (i.e., insurance buyer) and the agent regarding applications for workers' compensation insurance coverage are not required to be notarized.

Amendment 3 by Rep. Miller (Line 613): The amendment provides that the stock of a subsidiary corporation or related entity of a foreign insurer is exempt from certain limitations on valuation and investment requirements for solvency evaluation purposes in certain circumstances.

Amendment 4 by Rep. Stark (Line 613): The amendment provides that the regulatory filing requirements applicable to local government self-insurance funds during their first five years of offering workers' compensation or property and casualty coverage do not apply to such funds created before January 1, 2018.

Amendment 5 by Rep. Miller (Line 1050): The amendment repeals a requirement related to the eligibility of surplus lines insurers that conflicts with federal law; however, it does not affect the current eligibility determination process implemented in the state.

Amendment 6 by Rep. Eagle (Line 1078): The amendment incorporates a recent amendment of the Gramm-Leach-Bliley Act for purposes of privacy standards applicable to certain notices required by rules adopted by the Department of Financial Services and the Financial Services Commission.

Amendment 7 by Rep. Eagle (Line 1089): The amendment permits motor vehicle insurers to use the Intelligent Mail barcode, or similar method approved by the United States Postal Service, to document proof of mailing of certain required notices.

Amendment 8 by Rep. Antone (Line 1303): The amendment requires the Division of State Fire Marshal (division) to establish, by rule, courses to provide training for career and volunteer firefighters related to cancer and mental health risks within the fire service. Such training must be a requirement for obtaining a Firefighter Certificate of Compliance, a Volunteer Firefighter Certificate of Completion, or a Special Certificate of Compliance. The training must include cancer and mental health awareness, prevention, mitigation, and treatment as well as lifestyle, environmental, inherited, and occupational risks and must emphasize appropriate behavior, attitude, and cultural changes within the fire service. The training is required to be available to currently certified firefighters. It also authorizes the division to adopt rules for providing education and training related to cancer and mental health risks within the fire service. [This amendment is the subject of CS/HB 309.]



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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: Commerce Committee
 2 Representative Hager offered the following:

Amendment (with title amendment)

Remove lines 259-1288 and insert:

Section 4. Section 218.32, Florida Statutes, is amended to read:

218.32 Annual financial reports; local governmental entities.-

(1) (a) Each local governmental entity that is determined to be a reporting entity, as defined by generally accepted accounting principles, and each independent special district as defined in s. 189.012, shall submit to the department a copy of its annual financial report for the previous fiscal year in a format prescribed by the department. The annual financial report must include a list of each local governmental entity included



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17 in the report and each local governmental entity that failed to
18 provide financial information as required by paragraph (b). The
19 chair of the governing body and the chief financial officer of
20 each local governmental entity shall sign the annual financial
21 report submitted pursuant to this subsection attesting to the
22 accuracy of the information included in the report. The county
23 annual financial report must be a single document that covers
24 each county agency.

25 (b) Each component unit, as defined by generally accepted
26 accounting principles, of a local governmental entity shall
27 provide the local governmental entity, within a reasonable time
28 period as established by the local governmental entity, with
29 financial information necessary to comply with the reporting
30 requirements contained in this section.

31 (c) Each regional planning council created under s.
32 186.504, each local government finance commission, board, or
33 council, and each municipal power corporation created as a
34 separate legal or administrative entity by interlocal agreement
35 under s. 163.01(7) shall submit to the department a copy of its
36 audit report and an annual financial report for the previous
37 fiscal year in a format prescribed by the department.

38 (d) Each local governmental entity that is required to
39 provide for an audit under s. 218.39(1) must submit a copy of
40 the audit report and annual financial report to the department
41 within 45 days after the completion of the audit report but no

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42 later than 9 months after the end of the fiscal year.

43 (e) Each local governmental entity that is not required to
44 provide for an audit under s. 218.39 must submit the annual
45 financial report to the department no later than 9 months after
46 the end of the fiscal year. The department shall consult with
47 the Auditor General in the development of the format of annual
48 financial reports submitted pursuant to this paragraph. The
49 format must include balance sheet information used by the
50 Auditor General pursuant to s. 11.45(7)(f). The department must
51 forward the financial information contained within the annual
52 financial reports to the Auditor General in electronic form.
53 This paragraph does not apply to housing authorities created
54 under chapter 421.

55 (f) If the department does not receive a completed annual
56 financial report from a local governmental entity within the
57 required period, it shall notify the Legislative Auditing
58 Committee and the Special District Accountability Program of the
59 Department of Economic Opportunity of the entity's failure to
60 comply with the reporting requirements.

61 (g) Each local governmental entity's website must provide
62 a link to the department's website to view the entity's annual
63 financial report submitted to the department pursuant to this
64 section. If the local governmental entity does not have an
65 official website, the county government's website must provide
66 the required link for the local governmental entity.

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67 (h) It is the intent of the Legislature to create the
68 Florida Open Financial Statement System, an interactive
69 repository for governmental financial statements.

70 1. The Chief Financial Officer may consult with
71 stakeholders, including the department, the Auditor General, a
72 representative of a municipality or county, a representative of
73 a special district, a municipal bond investor, and an
74 information technology professional employed in the private
75 sector, for input on the design and implementation of the
76 Florida Open Financial Statement System.

77 2. The Chief Financial Officer may choose contractors to
78 build one or more eXtensible Business Reporting Language (XBRL)
79 taxonomies suitable for state, county, municipal, and special
80 district financial filings and to create a software tool that
81 enables financial statement filers to easily create XBRL
82 documents consistent with the taxonomy or taxonomies. The Chief
83 Financial Officer shall recruit and select contractors through
84 an open request for proposals process pursuant to chapter 287.

85 3. The Chief Financial Officer shall require all work to be
86 completed no later than December 31, 2021.

87 4. If the Chief Financial Officer deems the work products
88 adequate, all local governmental financial statements pertaining
89 to fiscal years ending on or after September 1, 2022, must be
90 filed in XBRL format and must meet the validation requirements
91 of the relevant taxonomy.

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92 5. A local government that commences filing in XBRL format
93 may not be required to make filings in Portable Document Format.

94 Section 5. Section 284.40, Florida Statutes, is amended to
95 read:

96 284.40 Division of Risk Management; disclosure of certain
97 workers' compensation-related information by the Department of
98 Financial Services.—

99 (1) It shall be the responsibility of the Division of Risk
100 Management of the Department of Financial Services to administer
101 this part and the provisions of s. 287.131.

102 (2) The claim files maintained by the Division of Risk
103 Management shall be confidential, shall be only for the usage by
104 the Department of Financial Services in fulfilling its duties
105 and responsibilities under this part, and shall be exempt from
106 the provisions of s. 119.07(1).

107 (3) Upon certification by the division director or his or
108 her designee to the custodian of any records maintained by the
109 Department of Children and Families, Department of Health,
110 Agency for Health Care Administration, or Department of Elderly
111 Affairs that such records are necessary to investigate a claim
112 against the Department of Children and Families, Department of
113 Health, Agency for Health Care Administration, or Department of
114 Elderly Affairs being handled by the Division of Risk
115 Management, the records shall be released to the division
116 subject to the provisions of subsection (2), any conflicting



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117 provisions as to the confidentiality of such records
118 notwithstanding.

119 (4) Notwithstanding s. 440.1851, the Department of
120 Financial Services may disclose the personal identifying
121 information of an injured or deceased employee to a department-
122 contracted vendor for the purpose of ascertaining a claimant's
123 claims history to investigate the compensability of a claim or
124 to identify and prevent fraud.

125 Section 6. Section 284.50, Florida Statutes, is amended to
126 read:

127 284.50 Loss prevention program; safety coordinators;
128 Interagency Advisory Council on Loss Prevention; employee
129 recognition program; return-to-work programs; risk management
130 programs.—

131 (1) The head of each department of state government,
132 except the Legislature, shall designate a safety coordinator.
133 Such safety coordinator must be an employee of the department
134 and must hold a position which has responsibilities comparable
135 to those of an employee in the Senior Management System. The
136 Department of Financial Services shall provide appropriate
137 training to the safety coordinators to permit them to
138 effectively perform their duties within their respective
139 departments. Within 1 year after being appointed by his or her
140 department head, the safety coordinator shall complete safety
141 coordinator training offered by the Department of Financial

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142 Services. Each safety coordinator shall, at the direction of his
143 or her department head:

144 (a) Develop and implement the loss prevention program, a
145 comprehensive departmental safety program which shall include a
146 statement of safety policy and responsibility.

147 (b) Provide for regular and periodic facility and
148 equipment inspections.

149 (c) Investigate job-related employee accidents of his or
150 her department.

151 (d) Establish a program to promote increased safety
152 awareness among employees.

153 (2) There shall be an Interagency Advisory Council on Loss
154 Prevention composed of the safety coordinators from each
155 department and representatives designated by the Division of
156 State Fire Marshal and the Division of Risk Management. The
157 chair of the council is ~~shall be~~ the Director of the Division of
158 Risk Management or his or her designee. The council shall meet
159 at least quarterly to discuss safety problems within state
160 government, to attempt to find solutions for these problems,
161 and, when possible, to assist in the implementation of the
162 solutions. If the safety coordinator of a department or office
163 is unable to attend a council meeting, an alternate, selected by
164 the department head or his or her designee, shall attend the
165 meeting to represent and provide input for that department or
166 office on the council. The council is further authorized to

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167 provide for the recognition of employees, agents, and volunteers
168 who make exceptional contributions to the reduction and control
169 of employment-related accidents. The necessary expenses for the
170 administration of this program of recognition shall be
171 considered an authorized administrative expense payable from the
172 State Risk Management Trust Fund.

173 (3) The Department of Financial Services and all agencies
174 that are provided workers' compensation insurance coverage by
175 the State Risk Management Trust Fund and employ more than 3,000
176 full-time employees shall establish and maintain return-to-work
177 programs for employees who are receiving workers' compensation
178 benefits. The programs must ~~shall~~ have the primary goal of
179 enabling injured workers to remain at work or return to work to
180 perform job duties within the physical or mental functional
181 limitations and restrictions established by the workers'
182 treating physicians. If no limitation or restriction is
183 established in writing by a worker's treating physician, the
184 worker is ~~shall~~ be deemed to be able to fully perform the same
185 work duties he or she performed before the injury. Agencies
186 employing more than 3,000 full-time employees shall report
187 return-to-work information to the Department of Financial
188 Services to support the Department of Financial Services'
189 mandatory reporting requirements on agency return-to-work
190 efforts under s. 284.42(1)(b).

191 (4) The Division of Risk Management shall evaluate each



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192 agency's risk management programs, including, but not limited
193 to, return-to-work, safety, and loss prevention programs, at
194 least once every 5 years. Reports, including, but not limited
195 to, any recommended corrective action, resulting from such
196 evaluations must ~~shall~~ be provided to the head of the agency
197 being evaluated, the Chief Financial Officer, and the director
198 of the Division of Risk Management. The agency head must provide
199 to the Division of Risk Management a response to all report
200 recommendations within 45 days and a plan to implement any
201 corrective action to be taken as part of the response. If the
202 agency disagrees with any final report recommendations,
203 including, but not limited to, any recommended corrective
204 action, or if the agency fails to implement any recommended
205 corrective action within a reasonable time, the division shall
206 submit the evaluation report to the legislative appropriations
207 committees. Each agency shall provide risk management program
208 information to the Division of Risk Management to support the
209 Division of Risk Management's mandatory evaluation and reporting
210 requirements in this subsection.

211 (5) Each agency shall:

212 (a) Review information provided by the Division of Risk
213 Management on claims and losses;

214 (b) Identify any discrepancies between the Division of
215 Risk Management's records and the agency's records and report
216 such discrepancies to the Division of Risk Management in

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217 writing; and

218 (c) Review and respond to communications from the Division
219 of Risk Management identifying unsafe or inappropriate
220 conditions, policies, procedures, trends, equipment, or actions
221 or incidents that have led or may lead to accidents or claims
222 involving the state.

223 Section 7. Paragraph (b) of subsection (3) of section
224 409.1451, Florida Statutes, is amended to read:

225 409.1451 The Road-to-Independence Program.—

226 (b) Aftercare services include, but are not limited to,
227 the following:

- 228 1. Mentoring and tutoring.
- 229 2. Mental health services and substance abuse counseling.
- 230 3. Life skills classes, including credit management and
231 preventive health activities.
- 232 4. Parenting classes.
- 233 5. Job and career skills training.
- 234 6. Counselor consultations.
- 235 7. Temporary financial assistance for necessities,
236 including, but not limited to, education supplies,
237 transportation expenses, security deposits for rent and
238 utilities, furnishings, household goods, and other basic living
239 expenses.
- 240 8. Financial literacy skills training pursuant to s.
241 39.6035(1)(c).

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243 The specific services to be provided under this paragraph shall
244 be determined by an assessment of the young adult and may be
245 provided by the community-based care provider or through
246 referrals in the community.

247 Section 8. Subsections (1) and (3) of section 414.411,
248 Florida Statutes, are amended to read:

249 414.411 Public assistance fraud.—

250 (1) The Department of Financial Services shall investigate
251 all public assistance provided to residents of the state or
252 provided to others by the state. In the course of such
253 investigation the department shall examine all records,
254 including electronic benefits transfer records and make inquiry
255 of all persons who may have knowledge as to any irregularity
256 incidental to the disbursement of public moneys, food
257 assistance, or other items or benefits authorizations to
258 recipients. All public assistance recipients, as a condition
259 precedent to qualification for public assistance under chapter
260 409, chapter 411, or this chapter, must first give in writing,
261 to the Agency for Health Care Administration, the Department of
262 Health, the Department of Education ~~Economic Opportunity~~, and
263 the Department of Children and Families, as appropriate, and to
264 the Department of Financial Services, consent to make inquiry of
265 past or present employers and records, financial or otherwise.

266 (3) The results of such investigation shall be reported by

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267 the Department of Financial Services to the appropriate
268 legislative committees, the Agency for Health Care
269 Administration, the Department of Health, the Department of
270 Education ~~Economic Opportunity~~, and the Department of Children
271 and Families, and to such others as the department may
272 determine.

273 Section 9. Subsection (1) of section 624.317, Florida
274 Statutes, is amended to read:

275 624.317 Investigation of agents, adjusters,
276 administrators, service companies, and others.—If it has reason
277 to believe that any person has violated or is violating any
278 provision of this code, or upon the written complaint signed by
279 any interested person indicating that any such violation may
280 exist:

281 (1) The department shall conduct such investigation as it
282 deems necessary of the accounts, records, documents, and
283 transactions pertaining to or affecting the insurance affairs of
284 any ~~general agent, surplus lines agent,~~ adjuster, ~~managing~~
285 ~~general agent, insurance agent,~~ insurance agency, customer
286 representative, service representative, or other person subject
287 to its jurisdiction, subject to the requirements of s. 626.601.

288 Section 10. Subsection (2) of section 624.34, Florida
289 Statutes, is amended to read:

290 624.34 Authority of Department of Law Enforcement to
291 accept fingerprints of, and exchange criminal history records

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292 with respect to, certain persons.—

293 (2) The Department of Law Enforcement may accept
294 fingerprints of individuals who apply for a license as an agent,
295 customer representative, adjuster, service representative, or
296 navigator, ~~or managing general agent~~ or the fingerprints of the
297 majority owner, sole proprietor, partners, officers, and
298 directors of a corporation or other legal entity that applies
299 for licensure with the department or office under the Florida
300 Insurance Code.

301 Section 11. Section 624.4073, Florida Statutes, is amended
302 to read:

303 624.4073 Officers and directors of insolvent insurers.—Any
304 person who was an officer or director of an insurer doing
305 business in this state and who served in that capacity within
306 the 2-year period before ~~prior to~~ the date the insurer became
307 insolvent, for any insolvency that occurs on or after July 1,
308 2002, may not thereafter serve as an officer or director of an
309 insurer authorized in this state or have direct or indirect
310 control over the selection or appointment of an officer or
311 director through contract, trust, or by operation of law, unless
312 the officer or director demonstrates that his or her personal
313 actions or omissions were not a significant contributing cause
314 to the insolvency.

315 Section 12. Subsection (1) of section 624.4094, Florida
316 Statutes, is amended to read:

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317 624.4094 Bail bond premiums.-

318 (1) The Legislature finds that a significant portion of
319 bail bond premiums is retained by the licensed bail bond agents
320 or appointed ~~licensed~~ managing general agents. For purposes of
321 reporting in financial statements required to be filed with the
322 office pursuant to s. 624.424, direct written premiums for bail
323 bonds by a domestic insurer in this state shall be reported net
324 of any amounts retained by licensed bail bond agents or
325 appointed ~~licensed~~ managing general agents. However, in no case
326 shall the direct written premiums for bail bonds be less than
327 6.5 percent of the total consideration received by the agent for
328 all bail bonds written by the agent. This subsection also
329 applies to any determination of compliance with s. 624.4095.

330 Section 13. Paragraph (e) of subsection (19) of section
331 624.501, Florida Statutes, is amended to read:

332 624.501 Filing, license, appointment, and miscellaneous
333 fees.-The department, commission, or office, as appropriate,
334 shall collect in advance, and persons so served shall pay to it
335 in advance, fees, licenses, and miscellaneous charges as
336 follows:

337 (19) Miscellaneous services:

338 (e) Insurer's registration fee for agent exchanging
339 business more than four ~~24~~ times in a calendar year under s.
340 626.752, s. 626.793, or s. 626.837, registration fee per agent
341 per year \$30.00



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342 Section 14. Subsection (1) of section 624.509, Florida
343 Statutes, is amended to read:

344 624.509 Premium tax; rate and computation.—

345 (1) In addition to the license taxes provided for in this
346 chapter, each insurer shall also annually, and on or before
347 March 1 in each year, except as to wet marine and transportation
348 insurance taxed under s. 624.510, pay to the Department of
349 Revenue a tax on insurance premiums, premiums for title
350 insurance, or assessments, including membership fees and policy
351 fees and gross deposits received from subscribers to reciprocal
352 or interinsurance agreements, and on annuity premiums or
353 considerations, received during the preceding calendar year, the
354 amounts thereof to be determined as set forth in this section,
355 to wit:

356 (a) An amount equal to 1.75 percent of the gross amount of
357 such receipts on account of life and health insurance policies
358 covering persons resident in this state and on account of all
359 other types of policies and contracts, except annuity policies
360 or contracts taxable under paragraph (b) and bail bond policies
361 or contracts taxable under paragraph (c), covering property,
362 subjects, or risks located, resident, or to be performed in this
363 state, omitting premiums on reinsurance accepted, and less
364 return premiums or assessments, but without deductions:

- 365 1. For reinsurance ceded to other insurers;
366 2. For moneys paid upon surrender of policies or

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367 certificates for cash surrender value;

368 3. For discounts or refunds for direct or prompt payment
369 of premiums or assessments; and

370 4. On account of dividends of any nature or amount paid
371 and credited or allowed to holders of insurance policies;
372 certificates; or surety, indemnity, reciprocal, or
373 interinsurance contracts or agreements;

374 (b) An amount equal to 1 percent of the gross receipts on
375 annuity policies or contracts paid by holders thereof in this
376 state; and

377 (c) An amount equal to 1.75 percent of the direct written
378 premiums for bail bonds, excluding any amounts retained by
379 licensed bail bond agents or appointed ~~licensed~~ managing general
380 agents.

381 Section 15. Section 625.071, Florida Statutes, is amended
382 to read:

383 625.071 Special reserve for bail and judicial bonds.—In
384 lieu of the unearned premium reserve required on surety bonds
385 under s. 625.051, the office may require any surety insurer or
386 limited surety insurer to set up and maintain a reserve on all
387 bail bonds or other single-premium bonds without definite
388 expiration date, furnished in judicial proceedings, equal to the
389 lesser of 35 percent of the bail premiums in force or \$7 per
390 \$1,000 of bail liability. Such reserve shall be reported as a
391 liability in financial statements required to be filed with the

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392 office. Each insurer shall file a supplementary schedule showing
393 bail premiums in force and bail liability and the associated
394 special reserve for bail and judicial bonds with financial
395 statements required by s. 624.424. Bail premiums in force do not
396 include amounts retained by licensed bail bond agents or
397 appointed licensed managing general agents, but may not be less
398 than 6.5 percent of the total consideration received for all
399 bail bonds in force.

400 Section 16. Subsection (5) of section 626.112, Florida
401 Statutes, is amended to read:

402 626.112 License and appointment required; agents, customer
403 representatives, adjusters, insurance agencies, service
404 representatives, managing general agents.-

405 (5) A No person may not shall be, act as, or represent or
406 hold himself or herself out to be a managing general agent
407 unless he or she then holds a currently effective producer
408 license and a managing general agent license and appointment.

409 Section 17. Section 626.171, Florida Statutes, is amended
410 to read:

411 626.171 Application for license as an agent, customer
412 representative, adjuster, service representative, ~~managing~~
413 ~~general agent,~~ or reinsurance intermediary.-

414 (1) The department may not issue a license as agent,
415 customer representative, adjuster, service representative,
416 ~~managing general agent,~~ or reinsurance intermediary to any

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417 person except upon written application filed with the
418 department, meeting the qualifications for the license applied
419 for as determined by the department, and payment in advance of
420 all applicable fees. The application must be made under the oath
421 of the applicant and be signed by the applicant. An applicant
422 may permit a third party to complete, submit, and sign an
423 application on the applicant's behalf, but is responsible for
424 ensuring that the information on the application is true and
425 correct and is accountable for any misstatements or
426 misrepresentations. The department shall accept the uniform
427 application for nonresident agent licensing. The department may
428 adopt revised versions of the uniform application by rule.

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

430 (a) His or her full name, age, social security number,
431 residence address, business address, mailing address, contact
432 telephone numbers, including a business telephone number, and e-
433 mail address.

434 (b) A statement indicating the method the applicant used
435 or is using to meet any required prelicensing education,
436 knowledge, experience, or instructional requirements for the
437 type of license applied for.

438 (c) Whether he or she has been refused or has voluntarily
439 surrendered or has had suspended or revoked a license to solicit
440 insurance by the department or by the supervising officials of
441 any state.

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

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

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

449 (g) The applicant's native language.

450 (h) The highest level of education achieved by the
451 applicant.

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

454 (j) Such other or additional information as the department
455 may deem proper to enable it to determine the character,
456 experience, ability, and other qualifications of the applicant
457 to hold himself or herself out to the public as an insurance
458 representative.

459

460 However, the application must contain a statement that an
461 applicant is not required to disclose his or her race or
462 ethnicity, gender, or native language, that he or she will not
463 be penalized for not doing so, and that the department will use
464 this information exclusively for research and statistical
465 purposes and to improve the quality and fairness of the
466 examinations.

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467 (3) Each application must ~~shall~~ be accompanied by payment
468 of any applicable fee.

469 (4) An applicant for a license as an agent, customer
470 representative, adjuster, service representative, ~~managing~~
471 ~~general agent~~, or reinsurance intermediary must submit a set of
472 the individual applicant's fingerprints, or, if the applicant is
473 not an individual, a set of the fingerprints of the sole
474 proprietor, majority owner, partners, officers, and directors,
475 to the department and must pay the fingerprint processing fee
476 set forth in s. 624.501. Fingerprints must ~~shall~~ be used to
477 investigate the applicant's qualifications pursuant to s.
478 626.201. The fingerprints must ~~shall~~ be taken by a law
479 enforcement agency, designated examination center, or other
480 department-approved entity. The department shall require all
481 designated examination centers to have fingerprinting equipment
482 and to take fingerprints from any applicant or prospective
483 applicant who pays the applicable fee. The department may not
484 approve an application for licensure as an agent, customer
485 service representative, adjuster, service representative,
486 ~~managing general agent~~, or reinsurance intermediary if
487 fingerprints have not been submitted.

488 (5) The application for license filing fee prescribed in
489 s. 624.501 is not subject to refund.

490 (6) Members of the United States Armed Forces and their
491 spouses, and veterans of the United States Armed Forces who have



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492 retired within 24 months before application for licensure, are
493 exempt from the application filing fee prescribed in s. 624.501.
494 Qualified individuals must provide a copy of a military
495 identification card, military dependent identification card,
496 military service record, military personnel file, veteran
497 record, discharge paper, ~~or separation document~~, or a separation
498 document that indicates such members of the United States Armed
499 Forces are currently in good standing or were honorably
500 discharged.

501 (7) Pursuant to the federal Personal Responsibility and
502 Work Opportunity Reconciliation Act of 1996, each party is
503 required to provide his or her social security number in
504 accordance with this section. Disclosure of social security
505 numbers obtained through this requirement must ~~shall~~ be limited
506 to the purpose of administration of the Title IV-D program for
507 child support enforcement.

508 Section 18. Section 626.202, Florida Statutes, is amended
509 to read:

510 626.202 Fingerprinting requirements.—

511 (1) The requirements for completion and submission of
512 fingerprints under this chapter are deemed to be met when an
513 individual currently licensed under this chapter seeks
514 additional licensure and has previously submitted fingerprints
515 to the department within the past 48 months. However, the
516 department may require the individual to file fingerprints if it



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517 has reason to believe that an applicant or licensee has been
518 found guilty of, or pleaded guilty or nolo contendere to, a
519 felony or a crime related to the business of insurance in this
520 state or any other state or jurisdiction.

521 (2) If there is a change in ownership or control of any
522 entity licensed under this chapter, or if a new partner,
523 officer, or director is employed or appointed, a set of
524 fingerprints of the new owner, partner, officer, or director
525 must be filed with the department or office within 30 days after
526 the change. The acquisition of 10 percent or more of the voting
527 securities of a licensed entity is considered a change of
528 ownership or control. The fingerprints must be taken by a law
529 enforcement agency or other department-approved entity and be
530 accompanied by the fingerprint processing fee in s. 624.501.

531 Section 19. Subsection (9) of section 626.207, Florida
532 Statutes, is amended to read:

533 626.207 Disqualification of applicants and licensees;
534 penalties against licensees; rulemaking authority.—

535 (9) Section 112.011 does not apply to any applicants for
536 licensure under the Florida Insurance Code, including, but not
537 limited to, agents, agencies, adjusters, adjusting firms, or
538 ~~customer representatives, or managing general agents.~~

539 Section 20. Paragraph (j) of subsection (2) of section
540 626.221, Florida Statutes, is amended to read:

541 626.221 Examination requirement; exemptions.—

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

544 (j) An applicant for license as an all-lines adjuster who
545 has the designation of Accredited Claims Adjuster (ACA) from a
546 regionally accredited postsecondary institution in this state,
547 Associate in Claims (AIC) from the Insurance Institute of
548 America, Professional Claims Adjuster (PCA) from the
549 Professional Career Institute, Professional Property Insurance
550 Adjuster (PPIA) from the HurriClaim Training Academy, Certified
551 Adjuster (CA) from ALL LINES Training, Certified Claims Adjuster
552 (CCA) from AE21 Incorporated, Claims Adjuster Certified
553 Professional (CACP) from WebCE, Inc., or Universal Claims
554 Certification (UCC) from Claims and Litigation Management
555 Alliance (CLM) whose curriculum has been approved by the
556 department and which includes comprehensive analysis of basic
557 property and casualty lines of insurance and testing at least
558 equal to that of standard department testing for the all-lines
559 adjuster license. The department shall adopt rules establishing
560 standards for the approval of curriculum.

561 Section 21. Subsection (7) of section 626.451, Florida
562 Statutes, is renumbered as subsection (6), and subsections (1)
563 and (5) and present subsection (6) of that section are amended,
564 to read:

565 626.451 Appointment of agent or other representative.—

566 (1) Each appointing entity or person designated by the

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567 department to administer the appointment process appointing an
568 agent, adjuster, service representative, customer
569 representative, or managing general agent in this state shall
570 file the appointment with the department or office and, at the
571 same time, pay the applicable appointment fee and taxes. Every
572 appointment is ~~shall be~~ subject to the prior issuance of the
573 appropriate agent's, adjuster's, service representative's, or
574 customer representative's, ~~or managing general agent's~~ license.

575 ~~(5) Any law enforcement agency or state attorney's office~~
576 ~~that is aware that an agent, adjuster, service representative,~~
577 ~~customer representative, or managing general agent has pleaded~~
578 ~~guilty or nolo contendere to or has been found guilty of a~~
579 ~~felony shall notify the department or office of such fact.~~

580 (5) ~~(6)~~ Upon the filing of an information or indictment
581 against an agent, adjuster, service representative, or customer
582 representative, ~~or managing general agent,~~ the state attorney
583 shall immediately furnish the department or office a certified
584 copy of the information or indictment.

585 Section 22. Section 626.521, Florida Statutes, is amended
586 to read:

587 626.521 ~~Character,~~ Credit and character reports.—

588 (1) Before appointing ~~As to each applicant who~~ for the
589 first time in this state an ~~is applying and qualifying for a~~
590 ~~license as~~ agent, adjuster, service representative, customer
591 representative, or managing general agent, the appointing

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592 insurer or employer shall ~~its manager or general agent in this~~
593 ~~state, in the case of agents, or the appointing general lines~~
594 ~~agent, in the case of customer representatives, or the employer,~~
595 ~~in the case of service representatives and of adjusters who are~~
596 ~~not to be self-employed, shall coincidentally with such~~
597 ~~appointment or employment~~ secure and thereafter keep on file a
598 full detailed credit and character report ~~made by an established~~
599 ~~and reputable independent reporting service,~~ relative to the
600 individual so appointed ~~or employed.~~ This subsection does not
601 apply to licensees who self-appoint pursuant to s. 624.501.

602 (2) If requested by the department, the insurer, ~~manager,~~
603 ~~general agent, general lines agent,~~ or employer, as the case may
604 be, must shall furnish to the department, ~~on a form adopted and~~
605 ~~furnished by the department,~~ such information as it reasonably
606 requires relative to such individual and investigation.

607 (3) ~~As to an applicant for an adjuster's or reinsurance~~
608 ~~intermediary's license who is to be self-employed, the~~
609 ~~department may secure, at the cost of the applicant, a full~~
610 ~~detailed credit and character report made by an established and~~
611 ~~reputable independent reporting service relative to the~~
612 ~~applicant.~~

613 (4) ~~Each person who for the first time in this state is~~
614 ~~applying and qualifying for a license as a reinsurance~~
615 ~~intermediary shall file with her or his application for license~~
616 ~~a full, detailed credit and character report for the 5-year~~



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617 ~~period immediately prior to the date of application for license,~~
618 ~~made by an established and reputable independent reporting~~
619 ~~service, relative to the individual if a partnership or sole~~
620 ~~proprietorship, or the officers if a corporation or other legal~~
621 ~~entity.~~

622 ~~(3)(5)~~ Information contained in credit or character
623 reports furnished to or secured by the department under this
624 section is confidential and exempt from the provisions of s.
625 119.07(1).

626 Section 23. Paragraph (f) of subsection (1) of section
627 626.731, Florida Statutes, is amended to read:

628 626.731 Qualifications for general lines agent's license.-

629 (1) The department shall not grant or issue a license as
630 general lines agent to any individual found by it to be
631 untrustworthy or incompetent or who does not meet each of the
632 following qualifications:

633 ~~(f) The applicant is not a service representative, a~~
634 ~~managing general agent in this state, or a special agent or~~
635 ~~similar service representative of a health insurer which also~~
636 ~~transacts property, casualty, or surety insurance; except that~~
637 ~~the president, vice president, secretary, or treasurer,~~
638 ~~including a member of the board of directors, of a corporate~~
639 ~~insurer, if otherwise qualified under and meeting the~~
640 ~~requirements of this part, may be licensed and appointed as a~~
641 ~~local resident agent.~~

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642 Section 24. Subsection (6) of section 626.7351, Florida
643 Statutes, is amended to read:

644 626.7351 Qualifications for customer representative's
645 license.—The department shall not grant or issue a license as
646 customer representative to any individual found by it to be
647 untrustworthy or incompetent, or who does not meet each of the
648 following qualifications:

649 (6) Upon the issuance of the license applied for, the
650 applicant is not an agent or, a service representative, ~~or a~~
651 ~~managing general agent~~.

652 Section 25. Section 626.744, Florida Statutes, is amended
653 to read:

654 626.744 Service representatives, ~~managing general agents~~;
655 application for license.—The application for a license as
656 service representative must ~~or the application for a license as~~
657 ~~managing general agent shall~~ show the applicant's name,
658 residence address, name of employer, position or title, type of
659 work to be performed by the applicant in this state, and any
660 additional information which the department may reasonably
661 require.

662 Section 26. Section 626.745, Florida Statutes, is amended
663 to read:

664 626.745 Service representatives, managing general agents;
665 managers; activities.—Individuals employed by insurers or their
666 managers, general agents, or representatives as service

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667 representatives, and as managing general agents employed for the
668 purpose of or engaged in assisting agents in negotiating and
669 effecting contracts of insurance, shall engage in such
670 activities ~~when, and only when~~ licensed as or, accompanied by a
671 general lines ~~an~~ agent duly licensed and appointed as ~~a resident~~
672 ~~licensee and appointee~~ under this code.

673 Section 27. Subsection (11) of section 626.7451, Florida
674 Statutes, is amended to read:

675 626.7451 Managing general agents; required contract
676 provisions.—No person acting in the capacity of a managing
677 general agent shall place business with an insurer unless there
678 is in force a written contract between the parties which sets
679 forth the responsibility for a particular function, specifies
680 the division of responsibilities, and contains the following
681 minimum provisions:

682 (11) An appointed ~~A licensed~~ managing general agent, when
683 placing business with an insurer under this code, may charge a
684 per-policy fee not to exceed \$25. ~~In no instance shall~~ The
685 aggregate of per-policy fees for a placement of business
686 authorized under this section, when combined with any other per-
687 policy fee charged by the insurer, may not result in per-policy
688 fees that ~~which~~ exceed the aggregate amount of \$25. The per-
689 policy fee must ~~shall~~ be a component of the insurer's rate
690 filing and must ~~shall~~ be fully earned.

691

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692 For the purposes of this section and ss. 626.7453 and 626.7454,
693 the term "controlling person" or "controlling" has the meaning
694 set forth in s. 625.012(5)(b)1., and the term "controlled
695 person" or "controlled" has the meaning set forth in s.
696 625.012(5)(b)2.

697 Section 28. Subsection (1) of section 626.7455, Florida
698 Statutes, is amended to read:

699 626.7455 Managing general agent; responsibility of
700 insurer.—

701 (1) An insurer may not ~~No insurer shall~~ enter into an
702 agreement with any person to manage the business written in this
703 state by the general lines agents appointed by the insurer or
704 appointed by the managing general agent on behalf of the insurer
705 unless the person is properly licensed as an agent and appointed
706 as a managing general agent in this state. An insurer is ~~shall~~
707 ~~be~~ responsible for the acts of its managing general agent when
708 the agent acts within the scope of his or her authority.

709 Section 29. Paragraph (e) of subsection (3) and subsection
710 (5) of section 626.752, Florida Statutes, are amended to read:

711 626.752 Exchange of business.—

712 (3)

713 (e) The brokering agent shall maintain an appropriate and
714 permanent Brokering Agent's Register, which must ~~shall~~ be a
715 permanent record of bound journal ~~in which~~ chronologically
716 numbered transactions that are entered no later than the day in



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717 which the brokering agent's application bearing the same number
718 is signed by the applicant. The numbers must ~~shall~~ reflect an
719 annual aggregate through numerical sequence and be preceded by
720 the last two digits of the current year. The initial entry must
721 ~~shall~~ contain the number of the transaction, date, time, date of
722 binder, date on which coverage commences, name and address of
723 applicant, type of coverage desired, name of insurer binding the
724 risk or to whom the application is to be submitted, and the
725 amount of any premium collected therefor. By no later than the
726 date following policy delivery, the policy number and coverage
727 expiration date must ~~shall~~ be added to the register.

728 (5) Within 15 days after the last day of each month, any
729 insurer accepting business under this section shall report to
730 the department the name, address, telephone number, and social
731 security number of each agent from which the insurer received
732 more than four ~~24~~ personal lines risks during the calendar year,
733 except for risks being removed from the Citizens Property
734 Insurance Corporation and placed with that insurer by a
735 brokering agent. Once the insurer has reported pursuant to this
736 subsection an agent's name to the department, additional reports
737 on the same agent shall not be required. However, the fee set
738 forth in s. 624.501 must ~~shall~~ be paid for the agent by the
739 insurer for each year until the insurer notifies the department
740 that the insurer is no longer accepting business from the agent
741 pursuant to this section. The insurer may require that the agent

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742 reimburse the insurer for the fee.

743 Section 30. Subsection (4) of section 626.793, Florida
744 Statutes, is amended to read:

745 626.793 Excess or rejected business.—

746 (4) Within 15 days after the last day of each month, any
747 insurer accepting business under this section shall report to
748 the department the name, address, telephone number, and social
749 security number of each agent from which the insurer received
750 more than four ~~24~~ risks during the calendar year. Once the
751 insurer has reported an agent's name to the department pursuant
752 to this subsection, additional reports on the same agent shall
753 not be required. However, the fee set forth in s. 624.501 must
754 ~~shall~~ be paid for the agent by the insurer for each year until
755 the insurer notifies the department that the insurer is no
756 longer accepting business from the agent pursuant to this
757 section. The insurer may require that the agent reimburse the
758 insurer for the fee.

759 Section 31. Section 626.798, Florida Statutes, is amended
760 to read:

761 626.798 Life agent as beneficiary; prohibition.—

762 (1) A ~~No~~ life agent may not place or modify ~~shall, with~~
763 ~~respect to the placement of~~ life insurance coverage with a life
764 insurer covering the life of a person who is not a family member
765 of the life agent, ~~handle in his or her capacity as a life agent~~
766 ~~the placement of such coverage when the~~ life agent ~~placing the~~

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767 ~~coverage~~ or a family member of the life ~~such~~ agent is the named
768 beneficiary under the life insurance policy, or the modification
769 names the life agent or a family member of the life agent the
770 named beneficiary, unless the life agent or family member of the
771 life agent has an insurable interest in the life of such person.

772 (2) A life ~~However, the agent or a family member of the~~
773 life ~~such~~ agent may not serve ~~be designated~~ as a trustee or
774 guardian or accept authority to act under a ~~be granted~~ power of
775 attorney for any person the life agent conducts insurance
776 business with, unless he or she is:

777 (a) A family member of the ~~person~~ ~~policy owner~~ or insured;
778 or

779 (b)1. Acting as a fiduciary;

780 2. Licensed as a certified public accountant under s.
781 473.308; and

782 3.a. Registered under s. 203 of the Investment Advisers Act
783 of 1940 as an investment adviser, or a representative thereof,
784 and compliant with the notice filing requirements of s.
785 517.1201; or

786 b. Registered under s. 517.12, as a dealer, investment
787 adviser, or associated person ~~or is a bank or trust company duly~~
788 ~~authorized to act as a fiduciary.~~

789 (3) For the purposes of this section, ~~the phrase~~

790 (a) "not a Family member," ~~with respect to a life agent,~~
791 means an individual who is ~~not~~ related to the life agent as

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792 father, mother, son, daughter, brother, sister, grandfather,
793 grandmother, uncle, aunt, first cousin, nephew, niece, husband,
794 wife, father-in-law, mother-in-law, brother-in-law, sister-in-
795 law, stepfather, stepmother, stepson, stepdaughter, stepbrother,
796 stepsister, half brother, or half sister.

797 (b) ~~For the purposes of this section, the term "Insurable~~
798 ~~interest" means that the life agent or family member of the life~~
799 ~~agent has an actual, lawful, and substantial economic interest~~
800 ~~in the safety and preservation of the life of the insured or a~~
801 ~~reasonable expectation of benefit or advantage from the~~
802 ~~continued life of the insured.~~

803 Section 32. Subsection (5) of section 626.837, Florida
804 Statutes, is amended to read:

805 626.837 Excess or rejected business.—

806 (5) Within 15 days after the last day of each month, any
807 insurer accepting business under this section shall report to
808 the department the name, address, telephone number, and social
809 security number of each agent from which the insurer received
810 more than four ~~24~~ risks during the calendar year. Once the
811 insurer has reported pursuant to this subsection an agent's name
812 to the department, additional reports on the same agent shall
813 not be required. However, the fee set forth in s. 624.501 must
814 ~~shall~~ be paid for the agent by the insurer for each year until
815 the insurer notifies the department that the insurer is no
816 longer accepting business from the agent pursuant to this

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817 section. The insurer may require that the agent reimburse the
818 insurer for the fee.

819 Section 33. Subsection (5) of section 626.8732, Florida
820 Statutes, is amended to read:

821 626.8732 Nonresident public adjuster's qualifications,
822 bond.-

823 ~~(5) After licensure as a nonresident public adjuster, as a~~
824 ~~condition of doing business in this state, the licensee must~~
825 ~~annually on or before January 1, on a form prescribed by the~~
826 ~~department, submit an affidavit certifying that the licensee is~~
827 ~~familiar with and understands the insurance code and rules~~
828 ~~adopted thereunder and the provisions of the contracts~~
829 ~~negotiated or to be negotiated. Compliance with this filing~~
830 ~~requirement is a condition precedent to the issuance,~~
831 ~~continuation, reinstatement, or renewal of a nonresident public~~
832 ~~adjuster's appointment.~~

833 Section 34. Subsection (4) of section 626.8734, Florida
834 Statutes, is amended to read:

835 626.8734 Nonresident all-lines adjuster license
836 qualifications.-

837 ~~(4) As a condition of doing business in this state as a~~
838 ~~nonresident independent adjuster, the appointee must submit an~~
839 ~~affidavit to the department certifying that the licensee is~~
840 ~~familiar with and understands the insurance laws and~~
841 ~~administrative rules of this state and the provisions of the~~



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842 ~~contracts negotiated or to be negotiated. Compliance with this~~
843 ~~filing requirement is a condition precedent to the issuance,~~
844 ~~continuation, reinstatement, or renewal of a nonresident~~
845 ~~independent adjuster's appointment.~~

846 Section 35. Paragraph (h) of subsection (1) of section
847 626.88, Florida Statutes, is amended to read:

848 626.88 Definitions.—For the purposes of this part, the
849 term:

850 (1) "Administrator" is any person who directly or
851 indirectly solicits or effects coverage of, collects charges or
852 premiums from, or adjusts or settles claims on residents of this
853 state in connection with authorized commercial self-insurance
854 funds or with insured or self-insured programs which provide
855 life or health insurance coverage or coverage of any other
856 expenses described in s. 624.33(1) or any person who, through a
857 health care risk contract as defined in s. 641.234 with an
858 insurer or health maintenance organization, provides billing and
859 collection services to health insurers and health maintenance
860 organizations on behalf of health care providers, other than any
861 of the following persons:

862 (h) A person appointed ~~licensed~~ as a managing general
863 agent in this state, whose activities are limited exclusively to
864 the scope of activities conveyed under such appointment ~~license~~.

865
866 A person who provides billing and collection services to health



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867 insurers and health maintenance organizations on behalf of
868 health care providers shall comply with the provisions of ss.
869 627.6131, 641.3155, and 641.51(4).

870 Section 36. Subsection (2) of section 626.927, Florida
871 Statutes, is amended to read:

872 626.927 Licensing of surplus lines agent.-

873 (1) ~~Any individual while licensed and appointed as a resident~~
874 ~~general lines agent as to property, casualty, and surety~~
875 ~~insurances, and who is deemed by the department to have had~~
876 ~~sufficient experience in the insurance business to be competent~~
877 ~~for the purpose, and who, within the 4 years immediately~~
878 ~~preceding the date the application was submitted, has a minimum~~
879 ~~of 1 year's experience working for a licensed surplus lines~~
880 ~~agent or who has successfully completed 60 class hours in~~
881 ~~surplus and excess lines in a course approved by the department,~~
882 ~~may be licensed as a surplus lines agent, upon taking and~~
883 ~~successfully passing a written examination as to surplus lines,~~
884 ~~as given by the department.~~

885 (2) Any individual, while licensed as and ~~appointed as a~~
886 ~~managing general agent as defined in s. 626.015, or service~~
887 ~~representative as defined in s. 626.015, and who otherwise~~
888 ~~possesses all of the other qualifications of a general lines~~
889 ~~agent under this code, and who has a minimum of 1 year of year's~~
890 ~~experience working for a licensed surplus lines agent or who has~~
891 ~~successfully completed 60 class hours in surplus and excess~~

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892 lines in a course approved by the department, may, upon taking
893 and successfully passing a written examination as to surplus
894 lines, as given by the department, be licensed as a surplus
895 lines agent solely for the purpose of placing with surplus lines
896 insurers property, marine, casualty, or surety coverages
897 originated by general lines agents, ~~except that no examination~~
898 ~~as for a general lines agent's license shall be required of any~~
899 ~~managing general agent or service representative who held a~~
900 ~~Florida surplus lines agent's license as of January 1, 1959.~~

901 (23) Application for the license shall be made to the
902 department on forms as designated and furnished by it.

903 (34) License and appointment fees in the amount specified
904 in s. 624.501 shall be paid to the department in advance. The
905 license and appointment of surplus lines agent continue in force
906 until suspended, revoked, or otherwise terminated. The
907 appointment of a surplus lines agent continues in force until
908 suspended, revoked, or terminated, but is subject to biennial
909 renewal or continuation by the licensee in accordance with
910 procedures prescribed in s. 626.381 for agents in general.

911 (45) Examinations as to surplus lines, as required under
912 subsections (1) ~~and (2)~~, are subject to the provisions of part I
913 as applicable to applicants for licenses in general.

914 (56) An individual who has been licensed by the department
915 as a surplus lines agent as provided in this section may be
916 subsequently appointed without additional written examination if



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917 his or her application for appointment is filed with the
918 department within 48 months after the date of cancellation or
919 expiration of the prior appointment. The department may require
920 an individual to take and successfully pass an examination as
921 for original issuance of license as a condition precedent to the
922 reinstatement or continuation of the licensee's current license
923 or reinstatement or continuation of the licensee's appointment.

924 Section 37. Subsection (3) of section 626.930, Florida
925 Statutes, is amended to read:

926 626.930 Records of surplus lines agent.—

927 (3) Each surplus lines agent shall maintain all surplus
928 lines business records in his or her general lines agency
929 office, ~~if licensed as a general lines agent,~~ or in his or her
930 managing general agency office, ~~if licensed as a managing~~
931 ~~general agent or the full time salaried employee of such general~~
932 ~~agent.~~

933 Section 38. Subsection (2) of section 626.9892, Florida
934 Statutes, is amended to read:

935 626.9892 Anti-Fraud Reward Program; reporting of insurance
936 fraud.—

937 (2) The department may pay rewards of up to \$25,000 to
938 persons providing information leading to the arrest and
939 conviction of persons committing crimes investigated by the
940 department arising from violations of s. 440.105, s. 624.15, s.
941 626.9541, s. 626.989, s. 790.164, s. 790.165, s. 790.166, s.

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942 806.01, s. 806.031, s. 806.10, s. 806.111, s. 817.233, or s.
943 817.234.

944 Section 39. Subsection (3) of section 633.302, Florida
945 Statutes, is amended to read:

946 633.302 Florida Fire Safety Board; membership; duties;
947 meetings; officers; quorum; compensation; seal.-

948 (3) The State Fire Marshal's term on the board, or that of
949 her or his designee, shall coincide with the State Fire
950 Marshal's term of office. ~~Of the other six members of the board,~~
951 ~~one member shall be appointed for a term of 1 year, one member~~
952 ~~for a term of 2 years, two members for terms of 3 years, and two~~
953 ~~members for terms of 4 years.~~ All terms are for 4 years and
954 expire on June 30 of the last year of the term. When the term of
955 a member expires, the State Fire Marshal shall appoint a member
956 to fill the vacancy for a term of 4 years. The State Fire
957 Marshal may remove any appointed member for cause. A vacancy in
958 the membership of the board for any cause must ~~shall~~ be filled
959 by appointment by the State Fire Marshal for the balance of the
960 unexpired term.

961 Section 40. Subsection (2), paragraph (a) of subsection
962 (3), and paragraphs (b), (c), and (d) of subsection (4) of
963 section 633.304, Florida Statutes, are amended to read:

964 633.304 Fire suppression equipment; license to install or
965 maintain.-

966 (2) A person who holds a valid fire equipment dealer

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967 license may maintain such license in an inactive status during
968 which time he or she may not engage in any work under the
969 definition of the license held. An inactive status license is
970 ~~shall be void after 4 years after the approval date of the~~
971 inactive status application. To maintain inactive status, the
972 inactive licensee must submit proof of continuing education and
973 the inactive status fee before December 31 of each odd-numbered
974 year or when the license is renewed, whichever comes first. An
975 ~~inactive status license may not be reactivated unless the~~
976 ~~continuing education requirements of this chapter have been~~
977 ~~fulfilled.~~

978 (3) Each individual actually performing the work of
979 servicing, recharging, repairing, hydrotesting, installing,
980 testing, or inspecting fire extinguishers or preengineered
981 systems must possess a valid and subsisting permit issued by the
982 division. Permittees are limited as to specific type of work
983 performed to allow work no more extensive than the class of
984 license held by the licensee under whom the permittee is
985 working. Permits will be issued by the division as follows:

986 (a) Portable permit: "Portable permittee" means a person
987 who is limited to performing work no more extensive than the
988 employing or contractually related licensee in the servicing,
989 recharging, repairing, installing, or inspecting all types of
990 portable fire extinguishers.

991

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992 Any fire equipment permittee licensed pursuant to this
993 subsection who does not want to engage in servicing, inspecting,
994 recharging, repairing, hydrotesting, or installing halon
995 equipment must file an affidavit on a form provided by the
996 division so stating. Permits will be issued by the division to
997 show the work authorized thereunder. It is unlawful, unlicensed
998 activity for a person or firm to falsely hold himself or herself
999 out to perform any service, inspection, recharge, repair,
1000 hydrotest, or installation except as specifically described in
1001 the permit.

1002 (4)

1003 (b) After initial licensure, each licensee or permittee
1004 must successfully complete a course or courses of continuing
1005 education for fire equipment technicians of at least 16 hours. A
1006 license or permit may not be renewed unless the licensee or
1007 permittee produces documentation of the completion of at least
1008 16 hours of continuing education for fire equipment technicians
1009 during the biennial licensure period. A person who is both a
1010 licensee and a permittee shall ~~be required to~~ complete 16 hours
1011 of continuing education during each renewal period. Each
1012 licensee shall ensure that all permittees in his or her
1013 employment or through a contractual agreement meet their
1014 continuing education requirements. The State Fire Marshal shall
1015 adopt rules describing the continuing education requirements and
1016 shall have the authority upon reasonable belief, to audit a fire

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1017 equipment dealer to determine compliance with continuing
1018 education requirements.

1019 (c) The forms of such licenses and permits and
1020 applications therefor must ~~shall~~ be prescribed by the State Fire
1021 Marshal; in addition to such other information and data as that
1022 officer determines is appropriate and required for such forms,
1023 there must ~~shall~~ be included in such forms the following
1024 matters. Each such application must be in such form as to
1025 provide that the data and other information set forth therein
1026 shall be sworn to by the applicant or, if a corporation, by an
1027 officer thereof. An application for a permit must include the
1028 name of the licensee employing, or contractually related to,
1029 such permittee, and the permit issued in pursuance of such
1030 application must also set forth the name of such licensee. A
1031 permit is valid solely for use by the holder thereof in his or
1032 her employment by, or contractual relationship with, the
1033 licensee named in the permit.

1034 (d) A license of any class may not be issued or renewed by
1035 the division and a license of any class does not remain
1036 operative unless:

1037 1. The applicant has submitted to the State Fire Marshal
1038 evidence of registration as a Florida corporation or evidence of
1039 compliance with s. 865.09.

1040 2. The State Fire Marshal or his or her designee has by
1041 inspection determined that the applicant possesses the equipment

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1042 required for the class of license sought. The State Fire Marshal
1043 shall give an applicant a reasonable opportunity to correct any
1044 deficiencies discovered by inspection. To obtain such
1045 inspection, an applicant with facilities located outside this
1046 state must:

1047 a. Provide a notarized statement from a professional
1048 engineer licensed by the applicant's state of domicile
1049 certifying that the applicant possesses the equipment required
1050 for the class of license sought and that all such equipment is
1051 operable; or

1052 b. Allow the State Fire Marshal or her or his designee to
1053 inspect the facility. All costs associated with the State Fire
1054 Marshal's inspection must ~~shall~~ be paid by the applicant. The
1055 State Fire Marshal, in accordance with s. 120.54, may adopt
1056 rules to establish standards for the calculation and
1057 establishment of the amount of costs associated with any
1058 inspection conducted by the State Fire Marshal under this
1059 section. Such rules must ~~shall~~ include procedures for invoicing
1060 and receiving funds in advance of the inspection.

1061 3. The applicant has submitted to the State Fire Marshal
1062 proof of insurance providing coverage for comprehensive general
1063 liability for bodily injury and property damage, products
1064 liability, completed operations, and contractual liability. The
1065 State Fire Marshal shall adopt rules providing for the amounts
1066 of such coverage, but such amounts may not be less than \$300,000

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1067 for Class A or Class D licenses, \$200,000 for Class B licenses,
1068 and \$100,000 for Class C licenses; and the total coverage for
1069 any class of license held in conjunction with a Class D license
1070 may not be less than \$300,000. The State Fire Marshal may, at
1071 any time after the issuance of a license or its renewal, require
1072 upon demand, and in no event more than 30 days after notice of
1073 such demand, the licensee to provide proof of insurance, on the
1074 insurer's a form ~~provided by the State Fire Marshal~~, containing
1075 confirmation of insurance coverage as required by this chapter.
1076 Failure, for any length of time, to provide proof of insurance
1077 coverage as required must ~~shall~~ result in the immediate
1078 suspension of the license until proof of proper insurance is
1079 provided to the State Fire Marshal. An insurer that ~~which~~
1080 provides such coverage shall notify the State Fire Marshal of
1081 any change in coverage or of any termination, cancellation, or
1082 nonrenewal of any coverage.

1083 4. The applicant applies to the State Fire Marshal,
1084 provides proof of experience, and successfully completes a
1085 prescribed training course offered by the State Fire College or
1086 an equivalent course approved by the State Fire Marshal. This
1087 subparagraph does not apply to any holder of or applicant for a
1088 permit under paragraph (g) or to a business organization or a
1089 governmental entity seeking initial licensure or renewal of an
1090 existing license solely for the purpose of inspecting,
1091 servicing, repairing, marking, recharging, and maintaining fire

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1092 extinguishers used and located on the premises of and owned by
1093 such organization or entity.

1094 5. The applicant has a current retestor identification
1095 number that is appropriate for the license for which the
1096 applicant is applying and that is listed with the United States
1097 Department of Transportation.

1098 6. The applicant has passed, with a grade of at least 70
1099 percent, a written examination testing his or her knowledge of
1100 the rules and statutes governing the activities authorized by
1101 the license and demonstrating his or her knowledge and ability
1102 to perform those tasks in a competent, lawful, and safe manner.
1103 Such examination must ~~shall~~ be developed and administered by the
1104 State Fire Marshal, or his or her designee in accordance with
1105 policies and procedures of the State Fire Marshal. An applicant
1106 shall pay a nonrefundable examination fee of \$50 for each
1107 examination or reexamination scheduled. A reexamination may not
1108 be scheduled sooner than 30 days after any administration of an
1109 examination to an applicant. An applicant may not be permitted
1110 to take an examination for any level of license more than a
1111 total of four times during 1 year, regardless of the number of
1112 applications submitted. As a prerequisite to licensure of the
1113 applicant, he or she:

1114 a. Must be at least 18 years of age.

1115 b. Must have 4 years of proven experience as a fire
1116 equipment permittee at a level equal to or greater than the

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1117 level of license applied for or have a combination of education
1118 and experience determined to be equivalent thereto by the State
1119 Fire Marshal. Having held a permit at the appropriate level for
1120 the required period constitutes the required experience.

1121 c. Must not have been convicted of a felony or a crime
1122 punishable by imprisonment of 1 year or more under the law of
1123 the United States or of any state thereof or under the law of
1124 any other country. "Convicted" means a finding of guilt or the
1125 acceptance of a plea of guilty or nolo contendere in any federal
1126 or state court or a court in any other country, without regard
1127 to whether a judgment of conviction has been entered by the
1128 court having jurisdiction of the case. If an applicant has been
1129 convicted of any such felony, the applicant is ~~shall be~~ excluded
1130 from licensure for a period of 4 years after expiration of
1131 sentence or final release by the Florida Commission on Offender
1132 Review unless the applicant, before the expiration of the 4-year
1133 period, has received a full pardon or has had her or his civil
1134 rights restored.

1135
1136 This subparagraph does not apply to any holder of or applicant
1137 for a permit under paragraph (g) or to a business organization
1138 or a governmental entity seeking initial licensure or renewal of
1139 an existing license solely for the purpose of inspecting,
1140 servicing, repairing, marking, recharging, hydrotesting, and
1141 maintaining fire extinguishers used and located on the premises

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Amendment No. 1

1142 of and owned by such organization or entity.

1143 Section 41. Subsection (2) of section 633.314, Florida
1144 Statutes, is amended to read:

1145 633.314 Sale or use of certain types of fire extinguishers
1146 prohibited; penalty.—

1147 (2) It is unlawful for any person, directly or through an
1148 agent, to sell, offer for sale, or give in this state any make,
1149 type, or model of fire extinguisher, either new or used, unless
1150 such make, type, or model of extinguisher has first been tested
1151 and is currently approved or listed by Underwriters
1152 Laboratories, Inc., Factory Mutual Laboratories, Inc., or
1153 another testing laboratory recognized by the State Fire Marshal
1154 as nationally recognized in accordance with procedures adopted
1155 by rule, taking into account the laboratory's facilities,
1156 procedures, use of nationally recognized standards, and any
1157 other criteria reasonably calculated to reach an informed
1158 determination, and unless such extinguisher carries an
1159 Underwriters Laboratories, Inc., or manufacturer's serial
1160 number. Such serial number must ~~shall~~ be permanently affixed
1161 ~~stamped~~ on the manufacturer's identification and instruction
1162 plate.

1163 -----
1164
1165 T I T L E A M E N D M E N T

1166 Remove lines 17-141 and insert:

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Amendment No. 1

1167 specified information; amending s. 218.32, F.S.; stating the
1168 intent to create the Florida Open Financial Statement System;
1169 authorizing the Chief Financial Officer to choose contracts to
1170 build eXtensible Business Reporting language taxonomies;
1171 requiring that local governmental financial statements be filed
1172 in XBRL format; amending s. 284.40, F.S.; authorizing the
1173 department to disclose certain personal identifying information
1174 of injured or deceased employees which is exempt from disclosure
1175 under the Workers' Compensation Law to department-contracted
1176 vendors for certain purposes; amending s. 284.50, F.S. ;
1177 requiring safety coordinators of state governmental departments
1178 to complete, within a certain timeframe, safety coordinator
1179 training offered by the department; requiring certain agencies
1180 to report certain return-to-work information to the department;
1181 requiring agencies to provide certain risk management program
1182 information to the Division of Risk Management for certain
1183 purposes; specifying requirements for agencies in reviewing and
1184 responding to certain information and communications provided by
1185 the division; amending s. 409.1451, F.S.; conforming a provision
1186 to changes made by the act; amending s. 414.411, F.S.; replacing
1187 the Department of Economic Opportunity with the Department of
1188 Education in a list of entities to which a public assistance
1189 recipient may be required to provide written consent for certain
1190 investigative inquiries and to which the department must report
1191 investigation results; amending s. 624.317, F.S.; authorizing

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1192 the department to conduct investigations of any, rather than
1193 specified, agents subject to its jurisdiction; amending s.
1194 624.34, F.S.; conforming a provision to changes made by the act;
1195 amending s. 624.4073, F.S.; prohibiting certain officers or
1196 directors of insolvent insurers from having direct or indirect
1197 control over certain selection or appointment of officers or
1198 directors, except under certain circumstances; amending ss.
1199 624.4094, 624.501, 624.509, and 625.071, F.S.; conforming
1200 provisions to changes made by the act; amending s. 626.112,
1201 F.S.; requiring a managing general agent to hold a currently
1202 effective producer license rather than a managing general agent
1203 license; amending s. 626.171, F.S.; deleting applicability of
1204 licensing provisions as to managing general agents; making a
1205 technical change; amending s. 626.202, F.S.; providing that
1206 certain applicants are not required to resubmit fingerprints to
1207 the department under certain circumstances; authorizing the
1208 department to require these applicants to file fingerprints
1209 under certain circumstances; amending s. 626.207, F.S.;

1210 conforming a provision to changes made by the act; amending s.
1211 626.221, F.S.; adding a designation that exempts applicants for
1212 licensure as an all-lines adjuster from an examination
1213 requirement; amending s. 626.451, F.S.; deleting a requirement
1214 for law enforcement agencies and state attorney's offices to
1215 notify the department or the Office of Insurance Regulation of
1216 certain felony dispositions; deleting a requirement for the

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Amendment No. 1

1217 state attorney to provide the department or office a certified
1218 copy of an information or indictment against a managing general
1219 agent; conforming a provision to changes made by the act;
1220 amending s. 626.521, F.S.; revising requirements for credit and
1221 character reports secured and kept by insurers or employers
1222 appointing certain insurance representatives; providing
1223 applicability; amending s. 626.731, F.S.; deleting a certain
1224 qualification for licensure as a general lines agent; amending
1225 s. 626.7351, F.S.; revising a qualification for licensure as a
1226 customer representative; amending s. 626.744, F.S.; conforming a
1227 provision to changes made by the act; amending s. 626.745, F.S.;
1228 revising conditions under which service representatives and
1229 managing general agents may engage in certain activities;
1230 amending ss. 626.7451 and 626.7455, F.S.; conforming provisions
1231 to changes made by the act; amending s. 626.752, F.S.; revising
1232 a requirement for the Brokering Agent's Register maintained by
1233 brokering agents; revising the limit on certain personal lines
1234 risks an insurer may receive from an agent within a specified
1235 timeframe before the insurer must comply with certain reporting
1236 requirements for that agent; amending s. 626.793, F.S.; revising
1237 the limit on certain risks that certain insurers may receive
1238 from a life agent within a specified timeframe before the
1239 insurer must comply with certain reporting requirements for that
1240 agent; amending s. 626.798, F.S.; authorizing specified life
1241 agents or family members of life agents to be beneficiary,

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/CS/HB 1073 (2018)

Amendment No. 1

1242 trustee, guardian, or attorney in fact; amending s. 626.837,
1243 F.S.; revising the limit on certain risks that certain insurers
1244 may receive from a health agent within a specified timeframe
1245 before the insurer must comply with certain reporting
1246 requirements for that agent; amending s. 626.8732, F.S.;
1247 deleting a requirement for a licensed nonresident public
1248 adjuster to submit a certain annual affidavit to the department;
1249 amending s. 626.8734, F.S.; deleting a requirement for a
1250 nonresident independent adjuster to submit a certain annual
1251 affidavit to the department; amending s. 626.88, F.S.;
1252 conforming a provision to changes made by the act; amending s.
1253 626.927, F.S.; revising conditions under which an individual may
1254 be licensed as a surplus lines agent solely for the purpose of
1255 placing certain coverages with surplus lines insurers; amending
1256 s. 626.930, F.S.; revising a requirement relating to the
1257 location of a surplus lines agent's surplus lines business
1258 records; amending s. 626.9892, F.S.; authorizing the department
1259 to pay a specified amount of rewards under the Anti-Fraud Reward
1260 Program for information leading to the arrest and conviction of
1261 persons guilty of arson; amending s. 633.302, F.S.; revising the
1262 duration of the terms of members of the Florida Fire Safety
1263 Board; amending s. 633.304, F.S.; revising circumstances under
1264 which an inactive fire equipment dealer license is void;
1265 specifying the timeframe when an inactive license must be
1266 reactivated; specifying that permittees performing certain work

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/CS/HB 1073 (2018)

Amendment No. 1

1267 on fire equipment may be contracted rather than employed;
1268 revising a requirement for a certain proof-of-insurance form to
1269 be provided by the insurer rather than the State Fire Marshal;
1270 amending s. 633.314, F.S.; authorizing fire extinguisher serial
1271 numbers to be permanently affixed rather than stamped to the
1272 manufacturer's identification plate; amending



Amendment No. 2

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: Commerce Committee
 2 Representative Beshears offered the following:

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Amendment (with title amendment)

Between lines 475 and 476, insert:

Section 8. Effective January 1, 2019, subsection (2) of section 440.381, Florida Statutes, is amended to read:

440.381 Application for coverage; reporting payroll; payroll audit procedures; penalties.-

(2) Submission of an application that contains false, misleading, or incomplete information provided with the purpose of avoiding or reducing the amount of premiums for workers' compensation coverage is a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The application must contain a statement that the filing of an application containing false, misleading, or incomplete



Amendment No. 2

17 information provided with the purpose of avoiding or reducing
18 the amount of premiums for workers' compensation coverage is a
19 felony of the third degree, punishable as provided in s.
20 775.082, s. 775.083, or s. 775.084. The application must contain
21 a sworn statement by the employer attesting to the accuracy of
22 the information submitted and acknowledging the provisions of
23 former s. 440.37(4). The application must contain a sworn
24 statement by the agent attesting that the agent explained to the
25 employer or officer the classification codes that are used for
26 premium calculations. The sworn statements by the employer and
27 the agent are not required to be notarized.

28

29

T I T L E A M E N D M E N T

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31

Remove line 43 and insert:

32

investigation results; amending s. 440.381, F.S.; specifying

33

requirements for sworn statements on workers' compensation

34

insurance applications; amending s. 497.168, F.S.;



Amendment No. 3

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: Commerce Committee
2 Representative Miller, M. offered the following:

Amendment (with title amendment)

Between lines 613 and 614, insert:

Section 8. Paragraph (c) is added to subsection (3) of section 625.151, Florida Statutes, to read:

625.151 Valuation of other securities.—

(3) Stock of a subsidiary corporation of an insurer may ~~shall~~ not be valued at an amount in excess of the net value thereof as based upon those assets only of the subsidiary which would be eligible under part II for investment of the funds of the insurer directly.

(c) This subsection does not apply to stock of a subsidiary corporation or related entities of a foreign insurer that is permissible under the laws of its state of domicile if



Amendment No. 3

17 the state of domicile is a member of the National Association of
18 Insurance Commissioners.

19 Section 9. Subsection (7) is added to section 625.325,
20 Florida Statutes, to read:

21 625.325 Investments in subsidiaries and related
22 corporations.-

23 (7) APPLICABILITY.-This section does not apply to a
24 foreign insurer's investments in its subsidiaries or related
25 corporations if:

26 (a) The foreign insurer is domiciled in a state that is a
27 member of the National Association of Insurance Commissioners.

28 (b) Such investments in the foreign insurer's subsidiaries
29 or related corporations are:

30 1. Permitted under the laws of the foreign insurer's state
31 of domicile.

32 2.a. Assigned a rating of 1, 2, or 3 by the Securities
33 Valuation Office of the of the National Association of Insurance
34 Commissioners; or

35 b. Qualify for the National Association of Insurance
36 Commissioners' filing exemption rule and assigned a rating by a
37 nationally recognized statistical rating organization that would
38 be equivalent to a rating of 1, 2, or 3 by the Securities
39 Valuation Office.

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Amendment No. 3

T I T L E A M E N D M E N T

42
43 Remove line 57 and insert:
44 changes made by the act; amending s. 625.151, F.S.; providing an
45 exception from valuation rules for stocks in subsidiaries for
46 certain foreign insurers under certain conditions; amending s.
47 625.325, F.S.; exempting foreign insurers from investment
48 requirements relating to subsidiaries and corporations under
49 certain conditions; amending s. 626.112, F.S.;



Amendment No. 4

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: Commerce Committee
 2 Representative Stark offered the following:

3

4 **Amendment (with title amendment)**

5 Between lines 613 and 614, insert:

6 Section 16. Subsection (3) of section 624.4622, Florida
 7 Statutes, is amended and subsection (2) of that section is
 8 republished to read:

9 624.4622 Local government self-insurance funds.—

10 (2) A local government self-insurance fund that meets the
 11 requirements of this section is not subject to s. 624.4621 and
 12 is not required to file any report with the office under s.
 13 440.38(2)(b) which is uniquely required of group self-insurer
 14 funds qualified under s. 624.4621. If any of the requirements of
 15 this section are not met, the local government self-insurance
 16 fund is subject to the requirements of s. 624.4621.



Amendment No. 4

17 (3) Notwithstanding subsection (2), a local government
18 self-insurance fund created under this section is after October
19 1, 2004, shall initially ~~be~~ subject to the requirements of a
20 commercial fund under s. 624.4621 and, for the first 5 years of
21 its existence, is shall be subject to all the requirements
22 applied to commercial self-insurance funds or to group self-
23 insurance funds, respectively. This subsection does not apply to
24 a local government self-insurance fund created under this
25 section before January 1, 2018.

26
27 -----
28 **T I T L E A M E N D M E N T**

29 Remove line 57 and insert:
30 changes made by the act; amending s. 624.4622, F.S.; revising
31 the applicability of certain requirements to a local government
32 self-insurance fund created after a specified date; creating an
33 exception to the applicability of those requirements; amending
34 s. 626.112, F.S.;



Amendment No. 5

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: Commerce Committee
 2 Representative Miller, M. offered the following:

Amendment (with title amendment)

Between lines 1050 and 1051, insert:

6 Section 35. Paragraph (a) of subsection (2) of section
 7 626.918, Florida Statutes, is repealed.

T I T L E A M E N D M E N T

Remove line 121 and insert:

12 by the act; repealing s. 626.918(2)(a), F.S., relating to
 13 eligibility of certain surplus lines insurers; amending s.
 14 626.927, F.S.; revising



Amendment No. 6

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: Commerce Committee
2 Representative Eagle offered the following:

Amendment (with title amendment)

Between lines 1078 and 1079, insert:

Section 37. Section 626.9651, Florida Statutes, is amended
to read:

626.9651 Privacy.—The department and commission must ~~shall~~
each adopt rules consistent with other provisions of the
Insurance Code to govern the use of a consumer's nonpublic
personal financial and health information. These rules must be
based on, consistent with, and not more restrictive than the
Privacy of Consumer Financial and Health Information Regulation,
adopted September 26, 2000, by the National Association of
Insurance Commissioners; however, the rules must permit the use



Amendment No. 6

16 and disclosure of nonpublic personal health information for
17 scientific, medical, or public policy research, in accordance
18 with federal law. In addition, these rules must be consistent
19 with, and not more restrictive than, the standards contained in
20 Title V of the Gramm-Leach-Bliley Act of 1999, Pub. L. No. 106-
21 102, as amended in Title LXXV of the Fixing America's Surface
22 Transportation (FAST) Act, Pub. L. No. 114-94. If the office
23 determines that a health insurer or health maintenance
24 organization is in compliance with, or is actively undertaking
25 compliance with, the consumer privacy protection rules adopted
26 by the United States Department of Health and Human Services, in
27 conformance with the Health Insurance Portability and
28 Affordability Act, that health insurer or health maintenance
29 organization is in compliance with this section.

30

31

32

T I T L E A M E N D M E N T

33

Remove line 127 and insert:

34

surplus lines business records; amending s. 626.9651, F.S.;

35

revising requirements for rules adopted by the Department of

36

Financial Services and the Financial Services Commission

37

relating to the privacy of certain consumer information;

38

amending s. 626.9892,



Amendment No. 7

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: Commerce Committee
2 Representative Eagle offered the following:

Amendment (with title amendment)

Between lines 1089 and 1090, insert:

Section 38. Subsection (5) of section 627.728, Florida Statutes, is amended to read:

627.728 Cancellations; nonrenewals.—

(5) United States postal proof of mailing, ~~or~~ certified registered mailing, or other mailing using the Intelligent Mail barcode or other similar tracking method used or approved by the United States Postal Service of notice of cancellation, of intention not to renew, or of reasons for cancellation, or of the intention of the insurer to issue a policy by an insurer under the same ownership or management, to the first-named insured at the address shown in the policy, are ~~shall be~~



Amendment No. 7

17 sufficient proof of notice.

18

19 -----

20

T I T L E A M E N D M E N T

21

Remove line 131 and insert:

22

of persons guilty of arson; amending s. 627.728, F.S.; providing

23

requirement for sufficient proof of notice for certain motor

24

vehicle insurance notices; amending s. 633.302, F.S.;



Amendment No. 8

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: Commerce Committee

2 Representative Antone offered the following:

3
4 **Amendment (with title amendment)**

5 Remove lines 1303-1320 and insert:

6 Section 41. Paragraph (d) is added to subsection (1) and
7 paragraph (b) of subsection (6) of section 633.408, Florida
8 Statutes, is amended to read:

9 633.408 Firefighter and volunteer firefighter training and
10 certification.-

11 (1) The division shall establish by rule:

12 (d) Courses to provide training for career and volunteer
13 firefighters related to cancer and mental health risks within
14 the fire service. Such training must be a requirement for
15 obtaining a Firefighter Certificate of Compliance, Volunteer
16 Firefighter Certificate of Completion, or Special Certificate of



Amendment No. 8

17 Compliance. The training must include cancer and mental health
18 awareness, prevention, mitigation, and treatment. The training
19 must specifically include lifestyle, environmental, inherited,
20 and occupational risks, and emphasize appropriate behavior,
21 attitude, and cultural changes within the fire service.

22 Certified firefighters shall have such training made available
23 to them.

24 (6)

25 (b) A Special Certificate of Compliance only authorizes an
26 individual to serve as an administrative and command head of a
27 fire service provider.

28 1. An individual desiring to obtain a Special Certificate
29 of Compliance may not be employed as a fire chief, fire
30 coordinator, fire director, or fire administrator for a period
31 of more than 1 year without obtaining certification.

32 2. An individual desiring to obtain a Special Certificate
33 of Compliance may not serve as a command officer or function in
34 a position dictating incident outcomes or objectives before
35 achieving certification.

36 3. Retention requirements for a Special Certificate of
37 Compliance must be similar to those provided in s. 633.414.

38 Section 42. Subsection (2) of section 633.508, Florida
39 Statutes, is amended to read:

40 633.508 Workplace safety; rulemaking authority; division
41 authority.-

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Amendment No. 8

42 (2) The division shall have the authority to adopt rules
43 for the purpose of ensuring safe working conditions for all
44 firefighter employees by authorizing the enforcement of
45 effective standards, by assisting and encouraging firefighter
46 employers to maintain safe working conditions, and by providing
47 for education and training in the field of safety, including
48 training related to cancer and mental health risks within the
49 fire service. Specifically, the division may by rule adopt the
50 most current edition of all or any part of subparts C through T
51 and subpart Z of 29 C.F.R. s. 1910; the National Fire Protection
52 Association, Inc., Publication 1403, Standard on Live Fire
53 Training Evolutions, as limited by subsection (6); and ANSI A
54 10.4.

55 -----
56
57 **T I T L E A M E N D M E N T**

58 Remove lines 145-149 and insert:

59 633.408, F.S.; requiring the Division of State Fire Marshal to
60 establish specified courses as a part of firefighter and
61 volunteer firefighter training and certification; specifying
62 prerequisites and retention requirements for a Special
63 Certificate of Compliance that authorizes an individual to serve
64 as an administrative and command head of a fire service
65 provider; amending s. 633.508, F.S.; specifying the division's
66 authority to adopt rules for training related to cancer and



Amendment No. 8

67 | mental health risks within the fire service; amending s.
68 | 633.416, F.S.; authorizing fire

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1103 Regional Rural Development Grants
SPONSOR(S): Transportation & Tourism Appropriations Subcommittee, Albritton
TIED BILLS: IDEN./SIM. **BILLS:** CS/SB 1646

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Property Rights Subcommittee	12 Y, 0 N	Thompson	Smith
2) Transportation & Tourism Appropriations Subcommittee	12 Y, 0 N, As CS	Banner	Davis
3) Commerce Committee		Thompson	Hamon <i>K.W.H.</i>

SUMMARY ANALYSIS

Florida has enacted a number of economic development programs in rural areas. Two such programs include the Regional Rural Development Grants Program and the Rural Infrastructure Fund. The Regional Rural Development Grants Program is a state matching grant program established to provide funding to build the professional capacity of regional economic development organizations. The Rural Infrastructure Fund assists units of local government with the planning, preparing, and financing of infrastructure projects that encourage job creation and capital investment.

The bill makes the following modifications to the Regional Rural Development Grants Program:

- Increases the maximum grant amount that can be received by a regional economic development organization serving a rural area of opportunity from \$150,000 to \$250,000;
- Revises the match requirement from an equal amount to a 25 percent annual match;
- Clarifies how grants may be used to build the professional capacity of regional economic development organizations;
- Authorizes grants to be used by an organization to provide technical assistance to local governments;
- Removes the authorization that the Department of Economic Opportunity (DEO) contract for the development of an enterprise zone web portal or website.

The bill makes the following modifications to the Rural Infrastructure Fund:

- Removes the requirement that total project grants be up to 40 percent of the total cost for catalyst site projects;
- Increases the maximum amount that DEO may award for projects that are not located on designated catalyst sites from 30 percent to 50 percent;
- Expands eligible projects and uses to include broadband Internet service; and
- Removes a reference to projects located in an enterprise zone as it relates to DEO's application and funding reevaluation and review requirements.

In addition, the bill creates contract/agreement requirements for both the Regional Rural Development Grants Program and the Rural Infrastructure Fund. Contracts/agreements involving the expenditure of grant funds are to be placed on the regional economic development organization's or DEO's website, respectively, for review 14 days before execution. The bill requires the contracts/agreements to include the purpose, performance standards, budget, value of services, and travel and entertainment expenses.

The fiscal impact of the bill is indeterminate but likely insignificant on DEO's workload and can be absorbed within existing department resources. See the Fiscal Analysis and Economic Impact Statement for discussion.

The effective date of the bill is July 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Regional Rural Development Grants Program

The Regional Rural Development Grants Program is a state matching grant program established to provide funding to build the professional capacity of regional economic development organizations.¹ Grants may also be used by an economic development organization to provide technical assistance to businesses within the rural counties and communities that it serves.²

The Department of Economic Opportunity (DEO) is authorized to approve, on an annual basis, grants to regionally based economic development organizations.³ To be approved, the applying organization must need assistance and provide to DEO:

- Documentation of official commitments of support from each local government represented by the regional organization;
- Demonstration that each local government has made a financial or in-kind commitment to the regional organization;
- Demonstration that the private sector has made financial or in-kind commitments to the regional organization;
- Demonstration that the regional organization is in existence and actively involved in economic development activities serving the region; and
- Demonstration of the manner in which the regional organization coordinates its efforts with those of other local and state organizations.⁴

An organization may receive up to \$50,000 a year, or \$150,000, if located in a rural area of opportunity (RAO).⁵ Grants must be matched by an equivalent amount of nonstate resources.⁶ DEO is authorized to spend up to \$750,000 each fiscal year from funds appropriated to the Rural Community Development Revolving Loan Fund to carry out this program.⁷

DEO is also authorized to contract for the development of an enterprise zone web portal or websites for each enterprise zone which will be used to market the Regional Rural Development Grants Program for job creation in disadvantaged urban and rural enterprise zones.⁸ However, the Florida Enterprise Zone Program expired on December 31, 2015.⁹

Regional Economic Development Organizations

Three regional economic development organizations operate in the state. Each of the three organizations coincides respectively with each of the state's three RAOs. An RAO is a rural community,¹⁰ or a region comprised of rural communities, designated by the Governor, which has been

¹ s. 288.018, F.S.

² s. 288.018(1), F.S.

³ *Id.*

⁴ s. 288.018(2), F.S.

⁵ s. 288.018(1), F.S.

⁶ *Id.*

⁷ s. 288.018(4), F.S.

⁸ s. 288.018(3), F.S.

⁹ s. 290.016, F.S.

¹⁰ s. 288.0656(2)(e), F.S., defines a "rural community" as a county with a population of 75,000 or fewer, a county with a population of 125,000 or fewer, which is contiguous to a county with a population of 75,000 or fewer, a municipality within such a county, or an

adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster, or that presents a unique economic development opportunity of regional impact.¹¹ The Governor by executive order is authorized to designate up to three RAOs as a priority assignment for Rural Economic Development Initiative agencies. This allows the Governor to waive criteria, requirements, or similar provisions of any economic development incentive.¹²

The three designated RAOs are the:

- Northwest RAO, including Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Wakulla, and Washington counties, and the City of Freeport in Walton County.¹³
- South Central RAO, including DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee counties, and the cities of Pahokee, Belle Glade, and South Bay (Palm Beach County), and Immokalee (Collier County).¹⁴
- North Central RAO, including Baker, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Jefferson, Lafayette, Levy, Madison, Putnam, Suwannee, Taylor, and Union counties.¹⁵

There are three regional economic development organizations that operate in the state that coincide with the current RAOs. They are public/private 501c(6) organizations that provide economic development support to the local governments that represent the RAOs. The organizations are:

- Opportunity Florida serving the Northwestern RAO;¹⁶
- Florida's Heartland Rural Economic Development Initiative, Inc. serving the South Central RAO;¹⁷ and
- North Florida Economic Development Partnership serving the North Central RAO.¹⁸

Rural Infrastructure Fund

The Rural Infrastructure Fund is a grant program created to facilitate the planning, preparing, and financing of infrastructure projects in rural communities.¹⁹ The program provides access to federal and state infrastructure funding programs, including, but not limited to, those offered by the U.S. Departments of Agriculture, and Commerce.²⁰ The program funds total infrastructure project grants, infrastructure feasibility grants, and preclearance review grants.

DEO is authorized to award grants for up to 30 percent of the total infrastructure project cost. If an application for funding is for a catalyst site,²¹ DEO may award grants for up to 40 percent of the total infrastructure project cost.²² Eligible projects must be related to specific job-creation or job-retention opportunities, and may also include:

unincorporated federal enterprise community or incorporated rural city with a population of 25,000 or fewer and an employment base focused on traditional agricultural or resource-based industries, located in a county not defined as rural, which has at least three or more of the economic distress factors identified in s. 288.0656(2)(c), F.S., and verified by DEO.

¹¹ s. 288.0656(2)(d), F.S.

¹² s. 288.0656(7)(a), F.S.

¹³ For additional information on Opportunity Florida, see: <http://www.opportunityflorida.com/> (last visited Jan. 17, 2018).

¹⁴ For additional information on Florida's Heartland Regional Economic Development Initiative, Inc., see: <http://flaheartland.com/> (last visited Jan. 17, 2018).

¹⁵ For additional information on the North Florida Economic Development Partnership, see: <http://nflp.org/?/Home> (last visited Jan. 17, 2018).

¹⁶ See generally, Opportunity Florida, available at <http://www.opportunityflorida.com/>, (last visited Jan. 17, 2018).

¹⁷ See generally, Florida's Heartland REDI, Inc., available at <http://flaheartland.com/>, (last visited Jan. 17, 2018). This organization is not directly related to the REDI program administered by the DEO pursuant to s. 288.0656, F.S.

¹⁸ See generally, North Florida Economic Development Partnership, available at <http://nflp.org/>, (last visited Jan. 17, 2018).

¹⁹ See s. 288.0655, F.S.

²⁰ s. 288.0655(2)(b), F.S.

²¹ s. 288.0656(2)(b), F.S., defines "catalyst site" as a parcel or parcels of land within a rural area of opportunity that has been prioritized as a geographic site for economic development through partnerships with state, regional, and local organizations. The site must be reviewed by the rural economic development initiative and approved by DEO for the purposes of locating a catalyst project.

²² s. 288.0655(2)(b), F.S.

- Improving any inadequate infrastructure that has resulted in regulatory action that prohibits economic or community growth; or
- Reducing the costs to community users of proposed infrastructure improvements that exceed such costs in comparable communities.²³

Eligible uses of funds include improvements to public infrastructure for industrial or commercial sites and upgrades to or development of public tourism infrastructure.²⁴ Authorized infrastructure projects include, but are not limited to, the following public or public-private partnership facilities:

- Storm water systems;
- Telecommunications facilities;
- Broadband facilities;
- Roads;
- Nature-based tourism facilities;
- Other physical requirements necessary to facilitate tourism, trade, and economic development activities in the community; and
- Additions to certain electric utility and water and wastewater facilities.²⁵

Effect of Proposed Changes

Regional Rural Development Grants Program

The bill makes several revisions to the Regional Rural Development Grants Program. Specifically, the bill:

- Increases the maximum grant amount that can be received by each of the three regional economic development organizations serving a rural area of opportunity from \$150,000 to \$250,000;
- Revises the match requirement from an equal amount to a 25 percent annual match;
- Clarifies that grants may be used to build the professional capacity of regional economic development organizations for hiring professional staff to develop, facilitate the delivery of, and directly provide needed economic development professional services, including technical assistance, education and leadership development, marketing and project recruitment, and other services that are important for rural economic development; and
- Specifies that grants may be used by an organization to provide technical assistance to local governments, local economic development organizations, and existing and prospective businesses within the communities the organization serves.

The bill requires a contract or agreement that involves the expenditure of grant funds to be placed on the contracting regional economic development organization's website for review at least 14 days before execution. The contract or agreement, including those entered into between another entity and a regional economic development organization, a unit of local government, or an economic development organization substantially underwritten by a unit of local government, must include the following:

- The purpose of the contract or agreement;
- Specific performance standards and responsibilities for each entity;
- A detailed project or contract budget, if applicable;
- The value of any services provided; and
- The projected travel and entertainment expenses for employees and board members, if applicable.

The bill requires a plain language version of the following contracts or agreements to be posted on the contracting regional economic development organization's website:

²³ *Id.*

²⁴ *Id.*

²⁵ s. 288.0655(2)(b)1.&2., F.S.

- With a private entity, municipality, city, town, or vendor of services, supplies, or programs, including marketing; or
- For the purchase, lease, or use of lands, facilities, or properties which involves the expenditure of grant funds which is estimated to exceed \$35,000.

The bill removes the provision authorizing DEO to contract for the development of an enterprise zone web portal or websites for each enterprise zone, which are used to market the Regional Rural Development Grants Program for job creation in disadvantaged urban and rural enterprise zones.

Rural Infrastructure Fund

The bill makes several changes to the Rural Infrastructure Fund. The bill removes the requirement that total project grants be equal to at least 40 percent of the total cost for catalyst site projects, and increases from 30 percent to 50 percent, the percentage of the total cost for projects in rural counties that are not located on designated catalyst sites.

The bill expands the types of authorized eligible projects to include those that improve access to, and the availability of, broadband Internet service. The bill expands the eligible uses of fund requirements to include improvements to broadband Internet service and access in unserved or underserved rural communities.

The bill removes the reference to projects located in an enterprise zone as it relates to factors DEO is required to consider in its Rural Infrastructure Fund application and funding reevaluation and review requirements.

The bill creates contract and agreement posting and review requirements that are similar to those created for the Regional Rural Development Grants Program. The only difference is that a Rural Infrastructure Fund contract or agreement must be placed on DEO's website. The Regional Rural Development Grants Program contract and agreement review requires they be placed on the regional economic development organization's website.

B. SECTION DIRECTORY:

Section 1 Amends s. 288.018, F.S.; relating to the Regional Rural Development Grants Program.

Section 2 Amends s. 288.0655, F.S.; relating to the Rural Infrastructure Fund.

Section 3 Provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill has a negative, though likely insignificant workload impact on DEO related to the posting of certain Rural Infrastructure Fund contracts on its website. Existing, recurring appropriations for both the Regional Rural Development Grant and Rural Infrastructure Fund programs remain unchanged. The bill requires no additional funding.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The fiscal impact on local government revenues is indeterminate. The bill specifies that Regional Rural Development Grant funds may be used to provide technical assistance to local governments.

2. Expenditures:

The bill has a positive fiscal impact on local government expenditures by reducing the amount of non-state matching funds local entities must contribute under both the Regional Rural Development Grant and the Rural Infrastructure Fund.

Currently, the Regional Rural Development Grant requires a one-to-one match of state funds. The bill reduces this match to 25 percent of the total state funds provided.

The bill increases the amount DEO may provide for projects under the Rural Infrastructure Fund effectively reducing the amount of local government funds required.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill has a positive indeterminate impact on the private sector by increasing the maximum amount that may be awarded to regional economic development organizations and decreasing the amount of non-state matching funds required for each award.

The bill has a negative, though likely insignificant workload impact on the regional economic development organizations related to the posting of certain Regional Rural Development Grant contracts online.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 6, 2018, the Transportation and Tourism Appropriations Subcommittee adopted one amendment and approved the bill as a committee substitute. The amendment removed language specifying the names of the three rural economic development organizations.

This analysis is drawn to the bill as amended by the Transportation and Tourism Appropriations Subcommittee.

1 A bill to be entitled

2 An act relating to regional rural development grants;
3 amending s. 288.018, F.S.; providing that regional
4 rural development grants may be used to hire regional
5 economic development organization professional staff;
6 authorizing the use of matching grant funds to provide
7 technical assistance to certain entities; providing a
8 maximum amount of grant funding that certain economic
9 development organizations may receive in a year;
10 revising the amount of required matching funds;
11 deleting a provision authorizing the Department of
12 Economic Opportunity to contract for the development
13 of certain enterprise zone web portals or websites;
14 requiring that contracts or agreements involving the
15 expenditure of grant funds be placed on a certain
16 website for a specified time period; requiring that
17 certain information be included in a contract or
18 agreement involving the expenditure of grant funds;
19 requiring that a plain language version of certain
20 contracts or agreements be placed on a certain
21 website; amending s. 288.0655, F.S.; increasing the
22 percent of the total infrastructure project cost for
23 which the department may award grants; providing that
24 improving access to and availability of broadband
25 Internet service may be included in a project that is

26 eligible for rural infrastructure grant funds;
 27 revising factors that the department must consider
 28 when awarding grant funds; requiring that contracts or
 29 agreements involving the expenditure of grant funds be
 30 placed on a certain website for a specified time
 31 period; requiring that certain information be included
 32 in a contract or agreement involving the expenditure
 33 of grant funds; requiring that a plain language
 34 version of certain contracts or agreements be placed
 35 on a certain website; providing an effective date.
 36

37 Be It Enacted by the Legislature of the State of Florida:
 38

39 Section 1. Subsections (1) and (3) of section 288.018,
 40 Florida Statutes, are amended to read:

41 288.018 Regional Rural Development Grants Program.—

42 (1) The department shall establish a matching grant
 43 program to provide funding to regional ~~regionally based~~ economic
 44 development organizations representing rural counties and
 45 communities to build ~~for the purpose of building~~ the
 46 professional capacity of such regional economic development
 47 ~~their~~ organizations. Building the professional capacity of
 48 regional economic development organizations includes hiring
 49 professional staff to develop, facilitate the delivery of, and
 50 directly provide needed economic development professional

51 services, including technical assistance, education and
52 leadership development, marketing and project recruitment, and
53 other services that are important for rural economic
54 development. ~~Such~~ Matching grants may also be used by a regional
55 ~~an~~ economic development organization to provide technical
56 assistance to local governments, local economic development
57 organizations, and existing and prospective businesses within
58 the rural counties and communities that it serves. The
59 department is authorized to approve, on an annual basis, grants
60 to such regional ~~regionally based~~ economic development
61 organizations. The maximum amount an organization may receive in
62 any year will be \$50,000, or \$250,000 for each of the three
63 regional economic development organizations serving rural areas
64 of opportunity designated pursuant to s. 288.0656. Grant funds
65 received by a regional economic development organization
66 ~~\$150,000 in a rural area of opportunity recommended by the Rural~~
67 ~~Economic Development Initiative and designated by the Governor,~~
68 ~~and must be matched each year by an equivalent amount of~~
69 nonstate resources in an amount equal to 25 percent of the state
70 contribution.

71 (3) (a) A contract or agreement that involves the
72 expenditure of grant funds provided under this section shall be
73 placed on the contracting regional economic development
74 organization's website for review at least 14 days before
75 execution.

76 (b) A contract or agreement that involves the expenditure
 77 of grant funds provided under this section, including a contract
 78 or agreement entered into between another entity and a regional
 79 economic development organization, a unit of local government,
 80 or an economic development organization substantially
 81 underwritten by a unit of local government, shall include:

- 82 1. The purpose of the contract or agreement.
- 83 2. Specific performance standards and responsibilities for
 84 each entity.
- 85 3. A detailed project or contract budget, if applicable.
- 86 4. The value of any services provided.
- 87 5. The projected travel and entertainment expenses for
 88 employees and board members, if applicable.

89 (c) A plain language version of a contract or agreement
 90 with a private entity, municipality, city, town, or vendor of
 91 services, supplies, or programs, including marketing, or for the
 92 purchase or lease or use of lands, facilities, or properties
 93 which involves the expenditure of grant funds provided under
 94 this section and which is estimated to exceed \$35,000 must be
 95 posted on the contracting regional economic development
 96 organization's website. ~~The department may also contract for the~~
 97 ~~development of an enterprise zone web portal or websites for~~
 98 ~~each enterprise zone which will be used to market the program~~
 99 ~~for job creation in disadvantaged urban and rural enterprise~~
 100 ~~zones. Each enterprise zone web page should include downloadable~~

101 ~~links to state forms and information, as well as local message~~
 102 ~~boards that help businesses and residents receive information~~
 103 ~~concerning zone boundaries, job openings, zone programs, and~~
 104 ~~neighborhood improvement activities.~~

105 Section 2. Subsection (5) of section 288.0655, Florida
 106 Statutes, is renumbered as subsection (6), paragraph (b) of
 107 subsection (2) and subsection (4) are amended, and new
 108 subsection (5) is added to that section, to read:

109 288.0655 Rural Infrastructure Fund.—

110 (2)(b) To facilitate access of rural communities and rural
 111 areas of opportunity as defined by the Rural Economic
 112 Development Initiative to infrastructure funding programs of the
 113 Federal Government, such as those offered by the United States
 114 Department of Agriculture and the United States Department of
 115 Commerce, and state programs, including those offered by Rural
 116 Economic Development Initiative agencies, and to facilitate
 117 local government or private infrastructure funding efforts, the
 118 department may award grants for up to 50 ~~30~~ percent of the total
 119 infrastructure project cost. ~~If an application for funding is~~
 120 ~~for a catalyst site, as defined in s. 288.0656, the department~~
 121 ~~may award grants for up to 40 percent of the total~~
 122 ~~infrastructure project cost.~~ Eligible projects must be related
 123 to specific job-creation or job-retention opportunities.
 124 Eligible projects may also include improving any inadequate
 125 infrastructure that has resulted in regulatory action that

126 prohibits economic or community growth or reducing the costs to
 127 community users of proposed infrastructure improvements that
 128 exceed such costs in comparable communities, which includes
 129 improving access to and the availability of broadband Internet
 130 service. Eligible uses of funds shall include improvements to
 131 public infrastructure for industrial or commercial sites, ~~and~~
 132 upgrades to or development of public tourism infrastructure, and
 133 improvements to broadband Internet service and access in
 134 unserved or underserved rural communities. Authorized
 135 infrastructure may include the following public or public-
 136 private partnership facilities: storm water systems;
 137 telecommunications facilities; broadband facilities; roads or
 138 other remedies to transportation impediments; nature-based
 139 tourism facilities; or other physical requirements necessary to
 140 facilitate tourism, trade, and economic development activities
 141 in the community. Authorized infrastructure may also include
 142 publicly or privately owned self-powered nature-based tourism
 143 facilities, publicly owned telecommunications facilities, and
 144 broadband facilities, and additions to the distribution
 145 facilities of the existing natural gas utility as defined in s.
 146 366.04(3)(c), the existing electric utility as defined in s.
 147 366.02, or the existing water or wastewater utility as defined
 148 in s. 367.021(12), or any other existing water or wastewater
 149 facility, which owns a gas or electric distribution system or a
 150 water or wastewater system in this state where:

151 1. A contribution-in-aid of construction is required to
 152 serve public or public-private partnership facilities under the
 153 tariffs of any natural gas, electric, water, or wastewater
 154 utility as defined herein; and

155 2. Such utilities as defined herein are willing and able
 156 to provide such service.

157 (4) By September 1, 2012, the department shall, in
 158 consultation with the organizations listed in subsection (3),
 159 and other organizations, reevaluate existing guidelines and
 160 criteria governing submission of applications for funding,
 161 review and evaluation of such applications, and approval of
 162 funding under this section. The department shall consider
 163 factors including, but not limited to, the project's potential
 164 for enhanced job creation or increased capital investment, the
 165 demonstration and level of local public and private commitment,
 166 whether the project is located ~~in an enterprise zone,~~ in a
 167 community development corporation service area, or in an urban
 168 high-crime area as designated under s. 212.097, the unemployment
 169 rate of the county in which the project would be located, and
 170 the poverty rate of the community.

171 (5) (a) A contract or agreement that involves the
 172 expenditure of grant funds provided under this section shall be
 173 placed on the department's website for review at least 14 days
 174 before execution.

175 (b) A contract or agreement that includes the expenditure

176 of grant funds provided under this section, including a contract
 177 or agreement entered into between an entity and a regional
 178 economic development organization, a unit of local government,
 179 or an economic development organization substantially
 180 underwritten by a unit of local government shall include:

- 181 1. The purpose of the contract or agreement.
- 182 2. Specific performance standards and responsibilities for
 183 each entity.
- 184 3. A detailed project or contract budget, if applicable.
- 185 4. The value of any services provided.
- 186 5. The projected travel and entertainment expenses for
 187 employees and board members, if applicable.

188 (c) A plain language version of a contract or agreement
 189 with a private entity, municipality, city, town, or vendor of
 190 services, supplies, or programs, including marketing, or for the
 191 purchase or lease or use of lands, facilities, or properties
 192 which involves the expenditure of grant funds provided under
 193 this section and which is estimated to exceed \$35,000 must be
 194 posted on the department's website.

195 Section 3. This act shall take effect July 1, 2018.

COMMERCE COMMITTEE

**CS/HB 1103 by Albritton
Regional Rural Development Grants**

**AMENDMENT SUMMARY
February 13, 2018**

Amendment 1 by Rep. Albritton (Line 134): Requires improvements and access to broadband Internet service to be conducted in partnership with dealers of communications services and established by a publicly noticed and competitive selection process.



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: Commerce Committee
2 Representative Albritton offered the following:

Amendment

Remove line 134 and insert:

3
4
5
6 unserved or underserved rural communities, provided such
7 improvements and access to broadband Internet services are
8 conducted through partnerships with dealers of communications
9 services, as defined in s. 202.11(2), established by a publicly
10 noticed and competitively selected process. Authorized

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 6037 Fireworks
SPONSOR(S): Grant
TIED BILLS: IDEN./SIM. BILLS: CS/SB 198

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Careers & Competition Subcommittee	9 Y, 5 N	Brackett	Anstead
2) Commerce Committee		Brackett <i>DB</i>	Hamon <i>K.W.H.</i>

SUMMARY ANALYSIS

In Florida, the sale and use of fireworks is prohibited unless:

- The seller has registered as a distributor, manufacturer, retailer, seasonal retailer, or wholesaler with the State Fire Marshal;
- The seller is selling the fireworks to:
 - Another registered distributor, manufacturer, retailer, seasonal retailer, or wholesaler;
 - A buyer who is allowed to buy fireworks under ch. 791, F.S.
- A buyer has obtained a permit from a municipality for a public display of fireworks and has been determined to be a competent supervisor;
- A buyer has obtained a permit from a board of county commissioners for a public display of fireworks and has obtained a bond; or
- A buyer is using the fireworks to scare birds away from agricultural works or fish hatcheries.

Federal laws regulate the manufacture, sale and use of fireworks. Federal laws provide penalties, including fines, imprisonment, and civil penalties, for anyone who imports, distributes, or sells illegal fireworks.

The bill repeals prohibitions and regulations related to fireworks and sparklers.

The bill specifically repeals the:

- Provisions prohibiting the sale and use of fireworks in Florida;
- Requirement that sparklers must be tested and approved by the State Fire Marshal;
- Criminal penalty for altering a sparkler and selling it or fraudulently selling a product as a sparkler;
- Provision that only registered distributors, manufacturers, retailers, seasonal retailers, and wholesalers may sell fireworks or sparklers;
- Provision that a person performing a public display of fireworks in a municipality must be a competent supervisor;
- Provision that a person performing a public display of fireworks in a county must obtain a bond; and
- Provision allowing counties and municipalities to adopt reasonable rules and regulations for adopting permits for the public display of fireworks.

The bill is expected to have a negative fiscal impact on state government annually in the amount of \$275,000, but may have a positive impact on state government from an indeterminate increase in sales taxes. The bill has an indeterminate impact on local government.

The bill takes effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Florida regulates the sale and use of fireworks pursuant to Chapter 791, F.S. No person may offer for sale, sell at retail, or use or explode any fireworks, unless authorized pursuant to ch. 791, F.S.¹

Fireworks are defined to mean and include, "any combustible or explosive composition or substance or combination of substances or, except as hereinafter provided, any article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation." Fireworks include:

- Blank cartridges and toy cannons in which explosives are used;
- Balloons which require fire underneath to propel them;
- Firecrackers;
- Torpedoes;
- Skyrockets;
- Roman candles;
- Dago bombs; and
- Any fireworks containing any explosives or flammable compound or any tablets or other device containing any explosive substance.²

Fireworks do not include the following, which the sale and use of is permitted at all times:

- Sparklers approved by the State Fire Marshal;
- Toy pistols, toy canes, toy guns, or other devices in which paper caps containing twenty-five hundredths grains or less of explosive compound are used, providing that a person's hand cannot come into contact with the cap when in place for the explosion;
- Toy pistol paper caps which contain less than twenty hundredths grains of explosive mixture; and
- A trick noisemaker, which is a device that produces a small report intended to surprise a user, including a:
 - Party popper;
 - Booby trap;
 - Snapper;
 - Trick match;
 - Cigarette load; and
 - Auto burglar alarm.
- The following novelties;
 - A snake or glow worm, which is a pressed pellet of not more than 10 grams of pyrotechnic composition that produces a large, snakelike ash which expands in length as the pellet burns and that does not contain mercuric thiocyanate; and
 - A smoke device, which is a tube or sphere containing not more than 10 grams of pyrotechnic composition that, upon burning, produces white or colored smoke as the primary effect.³

¹ See ch. 791, F.S.

² s. 791.01(4)(a), F.S.

³ s. 791.01(4)(b) & (c), F.S.

Pursuant to s. 791.012, F.S., the outdoor display of fireworks is governed by the National Fire Protection Association (NFPA) 1121, Code for Fireworks Display, 1995 Edition, approved by the American National Standards Institute.⁴ Any state, county, or municipal law, rule, or ordinance may provide for more stringent regulations, but in no event may any such law, rule, or ordinance provide for less stringent regulations for the outdoor display of fireworks. However, the Code for Fireworks Display does not govern the display of any fireworks on private residential property.⁵

Federal Regulation of Fireworks

Fireworks are defined under the Federal Explosives Laws, which is enforced by the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF). The law defines fireworks into display fireworks, consumer fireworks, and articles pyrotechnic.⁶

“Display fireworks” are defined as “large fireworks designed primarily to produce visible or audible effects by combustion, deflagration, or detonation.” Display fireworks include but are not limited to:

- Aerial shells containing more than 2 grains of explosive materials;
- Aerial shells containing more than 40 grams of pyrotechnic compositions;
- Other display pieces that exceed the limits of explosive materials for consumer fireworks; and
- Fused set pieces containing components which together exceed 50 milligrams of salute powder.⁷

The ATF regulates display fireworks by requiring anyone engaging in the business of manufacturing, importing, or dealing in display fireworks to have an ATF explosive license, and requiring anyone importing for their own use or receiving or transporting display fireworks to have an ATF permit.⁸

“Consumer fireworks” are defined as “any small firework device designed to produce visible effects by combustion and which must comply with the construction, chemical composition, and labeling regulations of the U.S. Consumer Product Safety Commission.” The definition also includes “some small devices designed to produce audible effects...such as whistling devices, ground devices containing 50 mg or less of explosive materials, and aerial devices containing 130 mg or less of explosive materials.”⁹

“Articles pyrotechnic” are defined as “pyrotechnic devices for professional use similar to consumer fireworks in chemical composition and construction but not intended for consumer use.”¹⁰

The ATF generally does not regulate the importation, distribution, and storage of consumer fireworks. However, a manufacturer of consumer fireworks or articles pyrotechnics must have an ATF manufacturer’s license because consumer fireworks contain pyrotechnic compositions, which are classified as explosive materials.¹¹

⁴ The National Fire Protection Association was founded in 1896 and delivers information and knowledge through more than 300 consensus codes and standards, research, training, education, outreach and advocacy; and by partnering with others who share an interest in furthering the mission. The American National Standards Institute is a non-profit organization that aims to strengthen the U.S. market place, protect the environment, and assure the safety and health of consumers by creating and promulgating thousands of standards and guidelines. NFPA, *About NFPA*, <http://www.nfpa.org/about-nfpa> (last visited on Feb. 9, 2018); ANSI, *About ANSI*, https://www.ansi.org/about_ansi/overview/overview?menuid=1 (last visited on Feb. 9, 2018).

⁵ s. 791.012, F.S.

⁶ 27 U.S.C. § 555 (2017) & 27 U.S.C. § 555.11 (2017).

⁷ 27 U.S.C. § 555.11 (2017).

⁸ 27 U.S.C. § 555.26 (2017) & 27 U.S.C. § 555.41 (2017).

⁹ 27 U.S.C. § 555.11 (2017).

¹⁰ *Id.*

¹¹ 27 U.S.C. § 555.11 (2017); 27 U.S.C. § 555.141 (2017); ATF Bureau of Alcohol, Tobacco, Firearms, and Explosives, *Are ‘consumer fireworks’ subject to regulation under the Federal explosive laws?*, <https://www.atf.gov/explosives/qa/are-%E2%80%9Cconsumer-fireworks%E2%80%9D-subject-regulation-under-federal-explosives-laws> (last visited on Jan. 10, 2018); ATF Bureau of Alcohol, Tobacco, Firearms, and Explosives, *Are “Articles Pyrotechnic” subject to the requirements of the Federal*

The U.S. Consumer Product Safety Commission (CPSC) also regulates the use of consumer fireworks under the Federal Hazardous Substances Act (FHSA).¹² The FHSA prohibits the sale to consumers of the most dangerous types of fireworks including:

- Large reloadable mortar shells;
- Cherry bombs;
- Aerial bombs;
- M-80 aerials; and
- Larger firecrackers containing more than 2 grains of explosive materials.¹³

Any person who imports, distributes, or sells a prohibited firework under the FHSA to a consumer is guilty of a misdemeanor and subject to a fine of not more than \$500 and/or imprisonment for not more than 90 days. For second or subsequent offenses, or if the person intended to defraud or mislead, the person is subject to a fine of up to \$250,000 and/or imprisonment for not more than 5 years. Any person who imports, distributes, or sells a prohibited firework under the FHSA to a consumer may also be subject to a civil penalty up to \$100,000 for each violation and up to \$15,000,000 for any series of violations.¹⁴

The CPSC provides an annual report on the number of non-occupational, fireworks-related deaths and injuries in the U.S. during the previous year. The CPSC reported that in 2016 there were an estimated 11,100 injuries involving fireworks in the U.S. The CPSC also reported that there were at least 4 deaths including a 42 year old male in Florida who died from a malfunctioning firework.¹⁵

Public Displays of Fireworks

Chapter 791, F.S., allows the public display of fireworks in municipalities if the display is done by a competent supervisor, and the display does not endanger any person or is hazardous to property. The chiefs of police and firefighters determine whether a supervisor is competent, and the chief of firefighters determines whether a display is hazardous to property or may endanger any person.¹⁶

Chapter 791, F.S., also allows the supervised public display of fireworks outside municipalities by fair associations, amusement parks, and other organizations or groups of individuals if the person doing the display obtains a bond of not less than \$500. The bond will be for the payment of damages that may be caused to a person or property by the fireworks display, any acts of the person doing the display, his or her agents, employees, or subcontractors.¹⁷

Municipalities and the boards of county commissioners have the power to adopt reasonable rules and regulations for the granting of permits for supervised public displays of fireworks. Application for a permit must be made in writing at least 15 days in advance of the display. Upon obtaining a permit a person may engage in the lawful sale, possession, and use, and distribution of fireworks for the display. Permits may not be transferred.¹⁸

explosive regulations?, <https://www.atf.gov/explosives/qa/are-%E2%80%9CArticles-pyrotechnic%E2%80%9D-subject-requirements-federal-explosives-regulations>.

¹² 15 U.S.C. § 1261 (2017).

¹³ 16 U.S.C. § 1500 (2017).

¹⁴ See 15 U.S.C. § 1263 (2017); 15 U.S.C. § 1264 (2017); 18 U.S.C. § 3571 (2017).

¹⁵ Tu, Yongling, *2016 Fireworks Annual Report: Fireworks-Related Deaths and Emergency Department-Treated Injuries During 2016*, 1 & 8 (June 2017).

¹⁶ s. 791.02(1), F.S.

¹⁷ *Id.* & s. 791.03, F.S.

¹⁸ s. 791.02(1), F.S.

State Fire Marshal

Florida's fire prevention and control law, ch. 633, F.S., designates the state's Chief Financial Officer as the State Fire Marshal. The State Fire Marshal, through the Division of State Fire Marshal within the Department of Financial Services (DFS), is charged with enforcing the provisions of ch. 633, F.S., and all other applicable laws relating to fire safety and has the responsibility to minimize the loss of life and property in this state due to fire. Pursuant to this authority, the State Fire Marshal regulates, trains, and certifies fire service personnel and fire safety inspectors; investigates the causes of fires; enforces arson laws; regulates the installation of fire equipment; conducts fire safety inspections of state property; and operates the Florida State Fire College.¹⁹

In addition to these duties, the State Fire Marshal adopts by rule the Florida Fire Prevention Code (FFPC), which contains all fire safety rules that pertain to the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities and the enforcement of such fire safety laws and rules, at ch. 69A-60, F.A.C. The State Fire Marshal adopts a new edition of the FFPC every three years. The FFPC includes national fire safety and life safety standards set forth by the NFPA, including the NFPA's Fire Code (1), Life Safety Code (101) and Guide on Alternative Approaches to Life Safety (101A).²⁰

Sparklers

Sparklers are hand-held or ground-based devices that emit showers of sparks when they are burned. Sparklers do not explode, detonate, contain explosive compounds, are not self-propelled, and have a limited number of combustible chemicals.²¹

All sparklers must be approved by the State Fire Marshal. Sparklers not approved by the State Fire Marshal are considered fireworks. Any person wishing to sell a product as a sparkler in Florida must first submit the product to the State Fire Marshal for testing to determine if the product meets the definition of a sparkler. On February 1 of each year, the State Fire Marshal must publish a list of the approved sparklers. All approved sparklers may be sold until January 31st of the following year.²²

Any person who alters an approved sparkler, so that it is no longer a sparkler, and subsequently sells the altered sparkler as an approved sparkler commits a first-degree misdemeanor. Any person who fraudulently represents a product that is not an approved sparkler as an approved sparkler commits a first-degree misdemeanor.²³

Distributors, Manufacturers, Wholesalers, and Retailers

A distributor is defined as any person who sells sparklers to a wholesaler. A manufacturer is defined as any person engaged in the manufacture or construction of sparklers in Florida. A wholesaler is defined as any person engaged in the business of selling sparklers to a retailer.²⁴

There are two types of retailers in Florida:

- A retailer, who is any person at a fixed place of business who sells sparklers to consumers at retail; and
- A seasonal retailer, who is any person engaged in the business of selling sparklers to consumers at retail from June 20th through July 5th and December 10th through January 2nd.²⁵

¹⁹ s. 633.104, F.S.

²⁰ s. 633.202(2), F.S.

²¹ s. 791.01(8), F.S.

²² s. 791.013(1), F.S.

²³ s. 791.013(2), F.S.

²⁴ s. 791.01(1), (5), & (9), F.S.

²⁵ s. 791.01(6) & (7), F.S.

In order to be a retailer, manufacturer, wholesaler, or distributor a person must register annually with the State Fire Marshal. A retailer who sells sparklers at multiple locations may submit one registration form as long as the retailer lists every location on the registration form.²⁶

The registration form must include the business name, address, telephone number, corporate officers (if a corporation), and a contact person. Annual registration fees are:

- \$1,000 for registration as a manufacturer, distributor, or wholesaler;
- \$200 for registration as a seasonal retailer; and
- \$15 for each location registered by a non-seasonal retailer.²⁷

In addition to being able to sell, manufacture, construct, or sell sparklers depending on the registration, wholesalers, distributors, manufacturers, and retailers may:

- Sell fireworks to other registered wholesalers, manufacturers, and distributors;
- Sell fireworks that are to be shipped out of Florida;
- Sell fireworks to anyone holding a public firework display permit from a board of county commissioners.²⁸

Retailers and seasonal retailers may not sell sparklers, fireworks, or any other product authorized for sale by ch. 791, F.S., unless the retailer or seasonal retailer obtained the product from a registered manufacturer, distributor, or wholesaler. Retailers and seasonal retailers are also required to keep, at every location where sparklers are sold, evidence of purchases from manufacturers, distributors, or wholesalers. The evidence must have the manufacturer, distributor, or wholesaler's registration number, and the specific items purchased by the retailer or seasonal retailer. Each seasonal retailer must also display a copy of his or her registration at each seasonal location.²⁹

Consumer Fireworks Task Force/Limits on Retail Sales Facilities

In 2007, the Legislature found that:

- The state regulation of consumer fireworks in Florida provides an insufficient definition of consumer fireworks and related products used by consumers;
- There is a need for better training and education concerning the safe use of consumer fireworks;
- There should be a mechanism to help local governments fund the clean up following the use of consumer fireworks on public property;
- Local government regulation of the agricultural uses authorized by s. 791.07, F.S., may be inconsistent with legitimate agricultural purposes;
- There is a need for consumer education relating to safety standards in the use of consumer fireworks; and
- There is need for standards concerning tents and other temporary retail facilities selling consumer fireworks; and
- The state would benefit from additional funding for the training and education of fire officials.³⁰

As a result, the Legislature established the Consumer Fireworks Task Force (Task Force), housed within DACS, for the purpose of studying issues concerning consumer fireworks, including the:

- Proper use of consumer fireworks;
- The regulation of sales and temporary sale facilities;
- Regulation of the hours and location of use;

²⁶ s. 791.015(1), F.S.

²⁷ s. 791.015(3), F.S. & Rule 69A-50.005, F.A.C.

²⁸ s. 791.04, F.S.

²⁹ s. 791.02(2), F.S.

³⁰ ch. 2007-67, Laws of Fla.

- Property zoning classifications for sale facilities;
- Funding options for fire official training and education; and
- Funding options for cleanup of expended consumer fireworks products.³¹

The Legislature enacted limits on retail sales facilities for consumer fireworks pending the Legislature's review of the Task Force's report and to ensure uniformity of fire prevention and safety standards. The limits provided that:

- A new permanent retail sales facility engaged in sales permitted under s. 791.07, F.S., may not be opened in Florida after March 8, 2007, unless construction for the permanent retail sales facility received site plan approval and construction began on or before March 8, 2007; and
- The number of permits for temporary retail sales facilities, such as tents, engaged in sales otherwise permitted by s. 791.07, F.S., issued after March 8, 2007, by a county, municipality, or other unit of local government, may not exceed the number of permits the governmental entity issued for such facilities during the 2006 calendar year.³²

The Task Force completed its report, but the Legislature never reviewed the report or removed the limitations. As a result, the Florida Office of the Attorney General determined in an advisory legal opinion that local governments are prohibited from allowing new facilities to be opened for the sale of fireworks, and local governments may only issue as many permits allowing temporary facilities for the sale of fireworks as they had issued in 2006.³³

Agricultural Works and Fish Hatcheries

Pursuant to s. 791.07, F.S., nothing shall prohibit the importation, purchase, sale, or use of fireworks to be used solely and exclusively to scare birds from agricultural works and fish hatcheries. Such use is governed by rules prescribed by the Department of Agriculture and Consumer Services (DACS). There is no age restriction for purchasing fireworks to scare birds from agricultural works and fish hatcheries.

DACS has adopted a rule that requires any person who wishes to use firecrackers to scare birds must first file a written statement, with the sheriff in the county where the agricultural work or fish hatchery is located, attesting that he or she intends to use the firecrackers solely for the purpose of scaring birds.³⁴ A person may purchase firecrackers from an authorized seller upon presenting the seller a copy of the written statement he or she has filed with the sheriff.³⁵

Local news stations have reported that the ability to buy fireworks in order to scare birds is a "loophole" to the prohibition of the purchase of fireworks by people who are not registered with the State Fire Marshal. According to the local news stations, a person must sign a form attesting he or she is purchasing fireworks to scare birds from agricultural works or fish hatcheries, in order to purchase fireworks in Florida.³⁶ The Third District Court of Appeals has held that it is not the responsibility of a seller to check the veracity of a buyer's form attesting he or she is purchasing fireworks to scare birds.³⁷

³¹ *Id.*

³² *Id.*

³³ 2016-05 Fla. Op. Att'y Gen. 37 (2016).

³⁴ Rule 5A-3.001, F.A.C.

³⁵ Rule 5A-3.002, F.A.C.

³⁶ Jenna Bourne, *Fireworks in Florida: What's legal, what's not*, Action News Jax (Jul. 3, 2017),

<http://www.actionnewsjax.com/news/local/fireworks-in-florida-whats-legal-whats-not/548729275> & Kathryn Marsh, *Legal Loophole for Florida Fireworks*, Fox4 (Jun. 28, 2017), <https://www.fox4now.com/news/local-news/legal-loophole-for-florida-fireworks>.

³⁷ See *State v. Miketa*, 824 So. 2d 970 (Fla. 3d DCA 2002).

Effect of the Bill

The bill removes the regulations that require a person to register with the State Fire Marshal in order to manufacture, sell, or distribute fireworks in Florida. The bill also removes the provision prohibiting a person from buying and using fireworks unless the person is exempt under statute. Anyone who manufactures, sells, or uses fireworks must still comply with federal laws and regulations. Additionally, the NFPA 1121, Code for Fireworks Display, 1995 Edition still governs the outdoor display of fireworks that are not on private residential property, and counties and municipalities may provide more stringent regulations than the NFPA 1121, Code for Fireworks Display, 1995 Edition.

Sparklers

The bill repeals the definition of sparklers and the requirement that the State Fire Marshal must approve all sparklers sold in Florida.

The bill repeals the provision that any person who alters a sparkler, so that it is no longer a sparkler, and subsequently sells the altered sparkler as an approved sparkler commits a first-degree misdemeanor. The bill also repeals the provision that any person who fraudulently represents a device that is not an approved sparkler as an approved sparkler commits a first-degree misdemeanor.

Wholesalers, Distributors, Manufacturers, and Retailers

The bill repeals the definition of distributors, manufacturers, retailers, and seasonal retailers. The bill repeals the provision that distributors, manufacturers, retailers, and seasonal retailers must register annually with the State Fire Marshal.

The bill repeals the provisions that allow manufacturers, distributors, and wholesalers to sell fireworks:

- To other registered manufacturers, distributors, and wholesalers;
- That are being shipped out of Florida; and
- To anyone holding a public firework display permit from a board of county commissioners.

The bill repeals the provision that requires:

- All retailers and seasonal retailers to buy sparklers, fireworks, or other products authorized for sale under Chapter 791, F.S. from a registered manufacturer, distributor, or wholesaler;
- All retailers and seasonal retailers to maintain evidence of every purchase of products from manufacturers, distributors, and wholesalers; and
- All seasonal retailers to display their registration at every seasonal retailer location.

Public Displays of Fireworks

The bill repeals the provision that requires that public displays of fireworks in municipalities must not endanger any person or be hazardous to property, and must be done by a competent supervisor who is supervised by the chiefs of police and firefighters.

The bill repeals the provision that a person doing a public display of fireworks outside of a municipality must obtain a bond, in the amount of no less than \$500, for the payment of damages that may be caused either to a person or property by the display, any acts by the person doing the display, his or her agents, employees, or subcontractors.

The bill repeals the provision that provides that municipalities and boards of county commissioners may adopt reasonable rules and regulations for the granting of permits for supervised public display of fireworks.

B. SECTION DIRECTORY:

- Section 1.** Repeals ss. 791.013, 791.015, 791.02, & 791.03, F.S., related to the regulation of fireworks and sparklers.
- Section 2.** Amends s. 791.01, F.S., repeals the definitions of distributor, manufacturer, retailer, seasonal retailer, and wholesaler, and amends the definition of fireworks.
- Section 3.** Amends s. 791.012, F.S., conforming language.
- Section 4.** Amends s. 791.04, F.S., repealing the provision that allows distributors, manufacturers, and wholesalers to sell fireworks under certain conditions.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
See Fiscal Comments.
2. Expenditures:
See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
Unknown.
2. Expenditures:

According to DFS, "Fiscal impacts on local governments may increase due to total regulation of the sparkler industry, as well as the need to respond to more injury calls. According to the National Fire Protection Association (NFPA), fireworks cause more than 18,500 fires each year and U.S. hospital emergency rooms saw an estimated 10,500 people for fireworks injuries in 2014."³⁸

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Private entities wishing to sell sparklers and fireworks will no longer have to register with the State Fire Marshal or send sparklers to the State Fire Marshal for approval.³⁹

D. FISCAL COMMENTS:

According to DFS, the State Fire Marshal issues approximately 4,500 annual registrations for the sale of sparklers, which amounts to an estimated \$275,000 in revenue from annual registration fees. The bill will cause a net annual reduction of \$275,000 in revenue collected by the State.⁴⁰

With new products being offered to consumers, the state should expect an increase in sales taxes. The tax impact is indeterminable at this time.

³⁸ Florida Department of Financial Services, Agency Analysis of 2018 House Bill 6037, p. 2 (Nov. 15, 2017).

³⁹ *Id.*

⁴⁰ *Id.*

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:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to fireworks; repealing ss. 791.013
 3 and 791.015, F.S., relating to the testing and
 4 approval of sparklers and the registration of
 5 manufacturers, distributors, wholesalers, and
 6 retailers of sparklers, respectively; repealing s.
 7 791.02, F.S., relating to the sale and use of
 8 fireworks; repealing s. 791.03, F.S., relating to the
 9 bond of licensees; amending ss. 791.01, 791.012, and
 10 791.04, F.S.; conforming provisions to changes made by
 11 the act; providing an effective date.

12
 13 Be It Enacted by the Legislature of the State of Florida:

14
 15 Section 1. Sections 791.013, 791.015, 791.02, and 791.03,
 16 Florida Statutes, are repealed.

17 Section 2. Section 791.01, Florida Statutes, is amended to
 18 read:

19 791.01 Definitions.—As used in this chapter, the term:

20 ~~(1) "Distributor" means any person engaged in the business~~
 21 ~~of selling sparklers to a wholesaler.~~

22 (1)(2) "Division" means the Division of the State Fire
 23 Marshal of the Department of Financial Services.

24 (2)(3) "Explosive compound" means any chemical compound,
 25 mixture, or device the primary or common purpose of which is to

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26 function by the substantially instantaneous release of gas and
 27 heat.

28 (3)~~(4)~~(a) "Fireworks" means and includes any combustible
 29 or explosive composition or substance or combination of
 30 substances or, except as hereinafter provided, any article
 31 prepared for the purpose of producing a visible or audible
 32 effect by combustion, explosion, deflagration, or detonation.
 33 The term includes blank cartridges and toy cannons in which
 34 explosives are used, the type of balloons which require fire
 35 underneath to propel them, firecrackers, torpedoes, skyrockets,
 36 roman candles, dago bombs, and any fireworks containing any
 37 explosives or flammable compound or any tablets or other device
 38 containing any explosive substance.

39 (b) "Fireworks" does not include sparklers ~~approved by the~~
 40 ~~division pursuant to s. 791.013~~; toy pistols, toy canes, toy
 41 guns, or other devices in which paper caps containing twenty-
 42 five hundredths grains or less of explosive compound are used,
 43 providing they are so constructed that the hand cannot come in
 44 contact with the cap when in place for the explosion; and toy
 45 pistol paper caps which contain less than twenty hundredths
 46 grains of explosive mixture, the sale and use of which shall be
 47 permitted at all times.

48 (c) "Fireworks" also does not include the following
 49 novelties and trick noisemakers:

- 50 1. A snake or glow worm, which is a pressed pellet of not

51 | more than 10 grams of pyrotechnic composition that produces a
 52 | large, snakelike ash which expands in length as the pellet burns
 53 | and that does not contain mercuric thiocyanate.

54 | 2. A smoke device, which is a tube or sphere containing
 55 | not more than 10 grams of pyrotechnic composition that, upon
 56 | burning, produces white or colored smoke as the primary effect.

57 | 3. A trick noisemaker, which is a device that produces a
 58 | small report intended to surprise the user and which includes:

59 | a. A party popper, which is a small plastic or paper
 60 | device containing not more than 16 milligrams of explosive
 61 | composition that is friction sensitive, which is ignited by
 62 | pulling a string protruding from the device, and which expels a
 63 | paper streamer and produces a small report.

64 | b. A booby trap, which is a small tube with a string
 65 | protruding from both ends containing not more than 16 milligrams
 66 | of explosive compound, which is ignited by pulling the ends of
 67 | the string, and which produces a small report.

68 | c. A snapper, which is a small, paper-wrapped device
 69 | containing not more than four milligrams of explosive
 70 | composition coated on small bits of sand, and which, when
 71 | dropped, explodes, producing a small report. A snapper may not
 72 | contain more than 250 milligrams of total sand and explosive
 73 | composition.

74 | d. A trick match, which is a kitchen or book match which
 75 | is coated with not more than 16 milligrams of explosive or

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76 pyrotechnic composition and which, upon ignition, produces a
77 small report or shower of sparks.

78 e. A cigarette load, which is a small wooden peg that has
79 been coated with not more than 16 milligrams of explosive
80 composition and which produces, upon ignition of a cigarette
81 containing one of the pegs, a small report.

82 f. An auto burglar alarm, which is a tube which contains
83 not more than 10 grams of pyrotechnic composition that produces
84 a loud whistle or smoke when ignited and which is ignited by use
85 of a squib. A small quantity of explosive, not exceeding 50
86 milligrams, may also be used to produce a small report.

87
88 The sale and use of items listed in this paragraph are permitted
89 at all times.

90 ~~(5) "Manufacturer" means any person engaged in the~~
91 ~~manufacture or construction of sparklers in this state.~~

92 ~~(6) "Retailer" means any person who, at a fixed place of~~
93 ~~business, is engaged in selling sparklers to consumers at~~
94 ~~retail.~~

95 ~~(7) "Seasonal retailer" means any person engaged in the~~
96 ~~business of selling sparklers at retail in this state from June~~
97 ~~20 through July 5 and from December 10 through January 2 of each~~
98 ~~year.~~

99 (4) ~~(8)~~ "Sparkler" means a device which emits showers of
100 sparks upon burning, does not contain any explosive compounds,

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101 does not detonate or explode, is handheld or ground based,
 102 cannot propel itself through the air, and contains not more than
 103 100 grams of the chemical compound which produces sparks upon
 104 burning. Any sparkler that is not approved by the division is
 105 classified as fireworks.

106 ~~(9) "Wholesaler" means any person engaged in the business~~
 107 ~~of selling sparklers to a retailer.~~

108 Section 3. Section 791.012, Florida Statutes, is amended
 109 to read:

110 791.012 Minimum fireworks safety standards.—The outdoor
 111 display of fireworks in this state shall be governed by the
 112 National Fire Protection Association (NFPA) 1123, Code for
 113 Fireworks Display, 1995 Edition, approved by the American
 114 National Standards Institute. Any state, county, or municipal
 115 law, rule, or ordinance may provide for more stringent
 116 regulations for the outdoor display of fireworks, but in no
 117 event may any such law, rule, or ordinance provide for less
 118 stringent regulations for the outdoor display of fireworks. The
 119 division shall promulgate rules to carry out the provisions of
 120 this section. The Code for Fireworks Display shall not govern
 121 the display of any fireworks on private, residential property
 122 and shall not govern the display of those items included under
 123 s. 791.01(3)(b) and (c) ~~s. 791.01(4)(b) and (e)~~ and authorized
 124 for sale thereunder.

125 Section 4. Section 791.04, Florida Statutes, is amended to

126 read:

127 791.04 Exemptions ~~Sale at wholesale, etc., exempted.-~~
 128 Nothing in this chapter shall be construed to ~~prohibit any~~
 129 ~~manufacturer, distributor, or wholesaler who has registered with~~
 130 ~~the division pursuant to s. 791.015 to sell at wholesale such~~
 131 ~~fireworks as are not herein prohibited; to prohibit the sale of~~
 132 ~~any kind of fireworks at wholesale between manufacturers,~~
 133 ~~distributors, and wholesalers who have registered with the~~
 134 ~~division pursuant to s. 791.015; to prohibit the sale of any~~
 135 ~~kind of fireworks provided the same are to be shipped directly~~
 136 ~~out of state by such manufacturer, distributor, or wholesaler;~~
 137 ~~to prohibit the sale of fireworks to be used by a person holding~~
 138 ~~a permit from any board of county commissioners at the display~~
 139 ~~covered by such permit; or to prohibit the use of fireworks by~~
 140 railroads or other transportation agencies for signal purposes
 141 or illumination or when used in quarrying or for blasting or
 142 other industrial use, or the sale or use of blank cartridges for
 143 a show or theater, or for signal or ceremonial purposes in
 144 athletics or sports, or for use by military organizations, or
 145 organizations composed of the Armed Forces of the United States;
 146 provided, nothing in this chapter shall be construed as barring
 147 the operations of manufacturers, duly licensed, from
 148 manufacturing, experimenting, exploding, and storing such
 149 fireworks in their compounds or proving grounds.

150 Section 5. This act shall take effect upon becoming a law.