



Insurance & Banking Subcommittee

**Tuesday, January 23, 2018
12:00 pm
Sumner Hall (404 HOB)**

**Richard Corcoran
Speaker**

**Danny Burgess
Chair**

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Insurance & Banking Subcommittee

Start Date and Time: Tuesday, January 23, 2018 12:00 pm
End Date and Time: Tuesday, January 23, 2018 03:00 pm
Location: Sumner Hall (404 HOB)
Duration: 3.00 hrs

Consideration of the following bill(s):

CS/HB 1021 Florida Insurance Code Exemption for Nonprofit Religious Organizations by Health Innovation Subcommittee, Altman

HB 1073 Department of Financial Services by Hager

CS/HB 1127 Pub. Rec. and Meetings/Citizens Property Insurance Corporation by Oversight, Transparency & Administration Subcommittee, Lee

Consideration of the following bill(s) with proposed committee substitute(s):

PCS for HB 97 -- Florida Hurricane Catastrophe Fund

PCS for HB 465 -- Insurance

(Revised 1/19)

Pursuant to Rule 7.11, the deadline for amendments to bills on the agenda by non-appointed members shall be 6:00 p.m., Monday, January 22, 2018.

By request of Chair Burgess, all Insurance & Banking Subcommittee members are asked to have amendments to bills on the agenda submitted to staff by 6:00 p.m., Monday, January 22, 2018.

NOTICE FINALIZED on 01/19/2018 4:13PM by Locke.Lindsey



The Florida House of Representatives

Commerce Committee

Insurance & Banking Subcommittee

Richard Corcoran
Speaker

Danny Burgess
Chair

AGENDA

January 23, 2018
404 House Office Building
12:00 PM – 3:00 PM

I. Call to Order & Roll Call

II. Consideration of the following bills:

- A. CS/HB 1021 Florida Insurance Code Exemption for Nonprofit Religious Organizations by Altman
- B. HB 1073 Department of Financial Services by Hager
- C. CS/HB 1127 Pub. Rec. and Meetings/Citizens Property Insurance Corporation by Lee
- D. PCS for HB 97 Florida Hurricane Catastrophe Fund by Santiago
- E. PCS for HB 465 Insurance by Santiago

III. Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1021 Florida Insurance Code Exemption for Nonprofit Religious Organizations
SPONSOR(S): Health Innovation Subcommittee; Altman and others
TIED BILLS: IDEN./SIM. **BILLS:** SB 660

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Innovation Subcommittee	12 Y, 0 N, As CS	Grabowski	Crosier
2) Insurance & Banking Subcommittee		Peterson <i>KP</i>	Luczynski <i>MJ</i>
3) Health & Human Services Committee			

SUMMARY ANALYSIS

A health care sharing ministry is an organization that facilitates the sharing of health care expenses among individuals with similar and sincerely held beliefs. These organizations resemble insurance in that members pay monthly membership fees and submit claims when they incur medical bills. However, these organizations are not health insurers in the traditional sense.

Florida law refers to health care sharing ministries as “nonprofit religious organizations.” Section 624.1265, F.S. provides nonprofit religious organizations that meet certain conditions with an explicit exemption from the Florida Insurance Code. This exemption has existed since 2008.

The Patient Protection and Affordable Care Act (PPACA) of 2010 established an individual coverage mandate applicable to most Americans. However, the law also provides an exemption from the coverage mandate to participants in health care sharing ministries.

CS/HB 1021 amends s. 624.1265, F.S., to more closely reflect the federal requirements governing operation of health care sharing ministries. The bill allows for participation by individuals “who share a common set of ethical or religious beliefs.” This change brings the Florida statute into alignment with PPACA, and also expands the opportunity for participation by removing the requirement that participants adhere to the same religion.

The bill also requires nonprofit religious organizations that provide health care sharing services to specify contribution amounts to prospective participants and to report monthly to participants the amount of qualified needs actually funded in the previous month in accordance with criteria set by the organization. The bill establishes a new audit requirement for these organizations and directs such entities to coordinate an annual audit with an independent certified public accounting firm.

CS/HB 1021 also modifies the standard disclaimer that must be provided by nonprofit religious organizations to prospective participants. The disclaimer indicates that these organizations are not insurers and are exempt from the Florida Insurance Code.

The bill has no fiscal impact to state or local government.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Health Care Sharing Ministries

A health care sharing ministry is an organization that facilitates the sharing of health care expenses among individuals with similar and sincerely held beliefs.¹ These organizations resemble insurance in that members pay monthly membership fees and submit claims when they incur medical bills.² However, these organizations are not health insurers in the traditional sense; it is unclear whether they maintain cash reserves and they do not guarantee payment of claims. Some health care sharing ministries act as clearinghouses to allow one or more participants to directly pay the medical expenses of another participant. Other health care sharing ministries receive contributions from members, which are then pooled and held in trust for future reimbursements to eligible participants to pay authorized medical expenses.³

The federal Patient Protection and Affordable Care Act (PPACA) of 2010⁴ defines a “health care sharing ministry” as an organization:

- Which is a non-profit that is tax-exempt under federal law;
- Members of which share a common set of ethical or religious beliefs and share medical expenses among members in accordance with those beliefs and without regard to the state in which a member resides or is employed;
- Members of which retain membership even after they develop a medical condition;
- Which (or a predecessor of which) has been in existence at all times since December 31, 1999, and medical expenses of its members have been shared continuously and without interruption since at least December 31, 1999; and,
- Which conducts an annual audit performed by an independent certified public accounting firm in accordance with generally accepted accounting principles that is made available to the public upon request.⁵

PPACA grants organizations meeting these criteria special status.⁶ PPACA created an individual coverage mandate – meaning that most individuals must obtain health insurance or pay a tax penalty to the federal government.⁷ However, individuals participating in a health care sharing ministry are exempt from this penalty and are considered to have met the individual mandate by virtue of their participation.⁸

Nearly half the states in the U.S. have provided these organizations with wholesale exemptions (hereinafter, “safe harbors”⁹) from state insurance laws.¹⁰

¹ See, e.g., Alliance of Health Care Sharing Ministries, <http://www.healthcaresharing.org/about-us/> (last accessed December 29, 2017).

² Timothy Stoltzfus Jost, *Loopholes in the Affordable Care Act: Regulatory Gaps and Border Crossing Techniques and How to Address Them*, 5 St. Louis U. J. Health L. & Pol’y 27 (2011). Available at <https://scholarlycommons.law.wlu.edu/cgi/viewcontent.cgi?referer=https://scholar.google.com/&httpsredir=1&article=1265&context=wluflac> (last accessed January 12, 2018).

³ Id.

⁴ Patient Protection and Affordable Care Act (PPACA), Pub. L. No. 111-148. On March 30, 2010, PPACA was amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152.

⁵ 26 US Code 5000A(d)(2)(B).

⁶ *Supra* note 4.

⁷ *Supra* note 5.

⁸ U.S. Internal Revenue Service, “Individual Shared Responsibility Provision – Exemptions: Claiming or Reporting,” Available at <https://www.irs.gov/affordable-care-act/individuals-and-families/aca-individual-shared-responsibility-provision-exemptions> (last accessed January 15, 2018).

⁹ A safe harbor law states that certain types of behavior or activities are not considered violations of law as long as they fall within certain parameters.

¹⁰ Benjamin Boyd, *Health Care Sharing Ministries: Scam or Solution?*, 26 J.L. & Health 219 (2013).

Health Care Sharing Ministry Regulation in Florida

The regulatory oversight of insurance companies is generally reserved to the states. In Florida, the Office of Insurance Regulation (OIR) is responsible for all activities concerning insurers and other risk bearing entities, including licensing, rates, policy forms, market conduct, claims, issuance of certificates of authority, solvency, viatical settlements, premium financing, and administrative supervision, as provided under the Florida Insurance Code.^{11,12}

Florida has provided a safe harbor to health care sharing ministries since 2008, expressly stating that such organizations are exempt from regulation as insurers¹³ by the OIR.¹⁴ Section 624.1265, F.S., outlines criteria that must be met in order for an entity to be defined as a “nonprofit religious organization” for purposes of the exemption.¹⁵ An entity seeking this designation must:

- Meet the qualifications established under Title 26, s. 501 of the Internal Revenue Code;
- Limit its participants to members of the same religion;
- Act as an organizational clearinghouse for information between participants who have financial, physical, or medical needs and participants who have the ability to pay for the benefit of those participants who have financial, physical, or medical needs;
- Provide for the financial or medical needs of a participant through payments directly from one participant to another participant; and,
- Suggest amounts that participants may voluntarily give with no assumption of risk or promise to pay among the participants or between the participants.¹⁶

In addition to these requirements, the law gives nonprofit religious organizations certain authority to manage membership. These organizations may establish qualifications of participation relating to the health of a prospective participant.¹⁷ For example, nonprofit religious organizations may exclude individuals with pre-existing or complex health conditions from participation. This practice is known as medical underwriting.¹⁸ Nonprofit religious organizations also may cancel the membership of a participant when he or she indicates unwillingness to participate by virtue of failing to make a payment to another participant for a period in excess of 60 days.¹⁹

Lastly, current law directs nonprofit religious organizations to provide each participant with written notice indicating that the organization is not an insurance company and is not subject to the regulatory requirements or consumer protections of the Florida Insurance Code.²⁰

Available at <http://engagedscholarship.csuohio.edu/jlh/vol26/iss2/4> (last accessed January 13, 2018).

¹¹ S. 20.121(3)(a)1., F.S. The OIR’s commissioner is the agency head for purposes of final agency action, and its rulemaking body is the Financial Services Commission (the Governor and the Cabinet).

¹² The Florida Insurance Code consists of Chapters 624-632, 634, 635, 636, 641, 642, 648, and 651, F.S.

¹³ Over the years, health care sharing ministries have been involved in litigation with state regulators over whether their services are “insurance” for purposes of state insurance codes. See Benjamin Boyd, *Health Care Sharing Ministries: Scam or Solution*, 26 J.L. & Health 219 (2013) pp. 233-239 (discussing regulatory issues between health care sharing ministries and various state regulators).

¹⁴ S. 624.1265, F.S.

¹⁵ The Florida Insurance Code refers to “nonprofit religious organizations” and not “health care sharing ministries”. In practice, the terms are equivalent.

¹⁶ S. 624.1265(1), F.S.

¹⁷ S. 624.1265(2), F.S.

¹⁸ See, for example, Gary Claxton, et al. “Pre-existing Conditions and Medical Underwriting in the Individual Insurance Market Prior to the ACA,” Henry J. Kaiser Family Foundation, December 12, 2016. Available at <https://www.kff.org/health-reform/issue-brief/pre-existing-conditions-and-medical-underwriting-in-the-individual-insurance-market-prior-to-the-aca/> (last accessed January 13, 2018).

¹⁹ S. 624.1265(2), F.S.

²⁰ S. 624.1265(3), F.S.

Effect of Proposed Changes

CS/HB 1021 amends S. 624.1265, F.S., to more closely reflect the PPACA. The bill amends the participation requirements associated with nonprofit religious organizations and modifies disclaimers that must be provided to participants.

From a membership perspective, the bill allows for participation by individuals “who share a common set of ethical or religious beliefs”. Under current law, participation is limited to individuals “of the same religion,” which is a more restrictive standard. This change brings the Florida statute into alignment with PPACA, and also expands the opportunity for participation.

Currently, s. 624.1265, F.S., dictates that the nonprofit religious organizations act as an organizational clearinghouse for information between participants who have financial, physical, or medical needs and participants who have the ability to pay for the benefit of those participants. The bill replaces the term “organizational clearinghouse” with the term “facilitator” to require that the nonprofit religious organization act as a facilitator among participants who have financial, physical, or medical needs²¹ to assist those with financial or medical needs in accordance with criteria established by the nonprofit religious organization. There does not seem to be a substantive difference between these terms.

The bill expands existing law to clarify that nonprofit religious organizations may facilitate the sharing of health costs either by pooling contributions from participants or directing payments from one participant to another.

The bill requires that nonprofit religious organizations set contribution levels for participants and to report monthly to participants the amount of qualified needs actually funded in the previous month in accordance with criteria set by the organization.

The bill establishes an annual audit requirement for nonprofit religious organizations that does not currently exist in Florida law. It requires a nonprofit religious organization that provides medical cost sharing services to arrange for an annual audit to be performed by an independent certified public accounting firm in accordance with generally accepted accounting principles. The findings of this audit must be made available to the public by providing a copy upon request or by posting on the nonprofit religious organization’s website.

Lastly, the bill amends the disclaimer that must be provided to participants, which explicitly reflects the nonprofit religious organization’s exemption from the Florida Insurance Code including its consumer protections.

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

B. SECTION DIRECTORY:

Section 1: Amends s. 624.1265, F.S., relating to nonprofit religious organization exemption.

Section 2: Provides for an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

²¹ The bill omits the term “physical” from the list of needs that must be addressed by nonprofit religious organizations under the statute. The effects of this change are not entirely clear.

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 17, 2018, the Health Innovation Subcommittee adopted a strike-all amendment that made several modifications to the bill. The strike-all amendment:

- Reinstated the term “physical” in the list of conditions included in S. 624.1265(1)(c), which requires nonprofit religious organizations to consider such needs for purposes of financial assistance;
- Reflected that nonprofit religious organizations may facilitate medical cost sharing through either the pooling of contributions from participants or direct payments from one participant to another; and,
- Revised the universal disclaimer that must be provided by nonprofit religious organizations to prospective participants. This disclaimer specifies that services provided by a nonprofit religious organization do not constitute health insurance and are not regulated by the Florida Insurance Code.

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

1 A bill to be entitled
 2 An act relating to the Florida Insurance Code
 3 exemption for nonprofit religious organizations;
 4 amending s. 624.1265, F.S.; revising criteria under
 5 which a nonprofit religious organization that
 6 facilitates the sharing of contributions among its
 7 participants for financial, physical, or medical needs
 8 is exempt from requirements of the code; revising
 9 construction; revising requirements for a notice
 10 provided by the organization; providing an effective
 11 date.

12
 13 Be It Enacted by the Legislature of the State of Florida:

14
 15 Section 1. Section 624.1265, Florida Statutes, is amended
 16 to read:

17 624.1265 Nonprofit religious organization exemption;
 18 authority; notice.—

19 (1) A nonprofit religious organization is not subject to
 20 the requirements of the Florida Insurance Code if the nonprofit
 21 religious organization:

22 (a) Qualifies under Title 26, s. 501 of the Internal
 23 Revenue Code of 1986, as amended;

24 (b) Limits its participants to those members who share a
 25 common set of ethical or religious beliefs ~~of the same religion;~~

26 (c) Acts as a facilitator among ~~an organizational~~
 27 ~~clearinghouse for information between~~ participants who have
 28 financial, physical, or medical needs to assist those with
 29 financial or medical needs in accordance with criteria
 30 established by the nonprofit religious organization ~~and~~
 31 ~~participants who have the ability to pay for the benefit of~~
 32 ~~those participants who have financial, physical, or medical~~
 33 ~~needs;~~

34 (d) Provides for the financial or medical needs of a
 35 participant through contributions from other participants, or
 36 through payments directly from one participant to another
 37 participant; and

38 (e) Provides amounts that participants may contribute,
 39 with no assumption of risk and no promise to pay:

- 40 1. Among the participants; or
 41 2. By the nonprofit religious organization to the
 42 participants;

43 (f) Provides monthly to the participants the total dollar
 44 amount of qualified needs actually shared in the previous month
 45 in accordance with criteria established by the nonprofit
 46 religious organization; and

47 (g) Conducts an annual audit that is performed by an
 48 independent certified public accounting firm in accordance with
 49 generally accepted accounting principles and that is made
 50 available to the public by providing a copy upon request or by

51 posting on the nonprofit religious organization's website
 52 ~~suggests amounts that participants may voluntarily give with no~~
 53 ~~assumption of risk or promise to pay among the participants or~~
 54 ~~between the participants.~~

55 (2) This section does not prevent:

56 (a) The organization described in subsection (1) from
 57 acting as a facilitator among participants who have financial or
 58 medical needs to assist those with financial or medical needs in
 59 accordance with criteria established by the organization;
 60 ~~establishing qualifications of participation relating to the~~
 61 ~~health of a prospective participant, does not prevent~~

62 (b) A participant from limiting the financial or medical
 63 needs that may be eligible for payment; or, ~~and does not prevent~~

64 (c) The organization from canceling the membership of a
 65 participant when such participant indicates his or her
 66 unwillingness to participate by failing to meet the conditions
 67 of membership ~~make a payment to another participant~~ for a period
 68 in excess of 60 days.

69 (3) The nonprofit religious organization described in
 70 subsection (1) shall provide a written disclaimer on or
 71 accompanying all applications and guideline materials
 72 distributed by or on behalf of the nonprofit religious
 73 organization. The disclaimer must read in substance: "Notice:
 74 The organization facilitating the sharing of medical expenses is
 75 not an insurance company, and neither its guidelines nor plan of

76 operation is an insurance policy. Membership is not offered
77 through an insurance company, and the organization is not
78 subject to the regulatory requirements or consumer protections
79 of the Florida Insurance Code. Whether anyone chooses to assist
80 you with your medical bills will be totally voluntary because no
81 other participant is compelled by law to contribute toward your
82 medical bills. As such, participation in the organization or a
83 subscription to any of its documents should never be considered
84 to be insurance. Regardless of whether you receive any payments
85 for medical expenses or whether this organization continues to
86 operate, you are always personally responsible for the payment
87 of your own medical bills." ~~each prospective participant in the~~
88 ~~organizational clearinghouse written notice that the~~
89 ~~organization is not an insurance company, that membership is not~~
90 ~~offered through an insurance company, and that the organization~~
91 ~~is not subject to the regulatory requirements or consumer~~
92 ~~protections of the Florida Insurance Code.~~

93 Section 2. This act shall take effect July 1, 2018.

INSURANCE & BANKING SUBCOMMITTEE

**CS/HB 1021 by Rep. Altman
Florida Insurance Code
Exemption for Nonprofit Religious Organizations**

**AMENDMENT SUMMARY
January 23, 2018**

Amendment 1 by Rep. Altman (Strike-all): The amendment makes a series of minor nonsubstantive changes to clarify the effect of the bill.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

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

3 Representative Altman offered the following:

4

5 **Amendment**

6 Remove everything after the enacting clause and insert:

7 Section 1. Section 624.1265, Florida Statutes, is amended
8 to read:

9 624.1265 Nonprofit religious organization exemption;
10 authority; notice.-

11 (1) A nonprofit religious organization is not subject to
12 the requirements of the Florida Insurance Code if the nonprofit
13 religious organization:

14 (a) Qualifies under Title 26, s. 501 of the Internal
15 Revenue Code of 1986, as amended;

16 (b) Limits its participants to those members who share a



Amendment No. 1

17 common set of ethical or religious beliefs of the same religion;

18 (c) Acts as a facilitator among an organizational
19 ~~clearinghouse for information between~~ participants who have
20 financial, physical, or medical needs to assist those with
21 financial, physical, or medical needs in accordance with
22 criteria established by the nonprofit religious organization and
23 ~~participants who have the ability to pay for the benefit of~~
24 ~~those participants who have financial, physical, or medical~~
25 ~~needs;~~

26 (d) Provides for the financial or medical needs of a
27 participant through contributions from other participants, or
28 through payments directly from one participant to another
29 participant;~~and~~

30 (e) Provides amounts that participants may contribute,
31 with no assumption of risk and no promise to pay:

32 1. Among the participants; or

33 2. By the nonprofit religious organization to the
34 participants;

35 (f) Provides a monthly accounting to the participants of
36 the total dollar amount of qualified needs actually shared in
37 the previous month in accordance with criteria established by
38 the nonprofit religious organization; and

39 (g) Conducts an annual audit that is performed by an
40 independent certified public accounting firm in accordance with
41 generally accepted accounting principles and that is made

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Amendment No. 1

42 available to the public by providing a copy upon request or by
43 posting on the nonprofit religious organization's website
44 ~~suggests amounts that participants may voluntarily give with no~~
45 ~~assumption of risk or promise to pay among the participants or~~
46 ~~between the participants.~~

47 (2) This section does not prevent:

48 (a) ~~The organization described in subsection (1) from~~
49 ~~establishing qualifications of participation relating to the~~
50 ~~health of a prospective participant, does not prevent A~~
51 ~~participant from limiting the financial or medical needs that~~
52 ~~may be eligible for payment; or, and does not prevent~~

53 (b) The nonprofit religious organization from canceling
54 the membership of a participant when such participant indicates
55 his or her unwillingness to participate by failing to meet the
56 conditions of membership ~~make a payment to another participant~~
57 for a period in excess of 60 days.

58 (3) The nonprofit religious organization ~~described in~~
59 ~~subsection (1)~~ shall provide a written disclaimer on or
60 accompanying all applications and guideline materials
61 distributed by or on behalf of the nonprofit religious
62 organization. The disclaimer must read in substance: "Notice:
63 The organization facilitating the sharing of medical expenses is
64 not an insurance company, and neither its guidelines nor plan of
65 operation is an insurance policy. Membership is not offered
66 through an insurance company, and the organization is not

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Amendment No. 1

67 subject to the regulatory requirements or consumer protections
68 of the Florida Insurance Code. Whether anyone chooses to assist
69 you with your medical bills will be totally voluntary because no
70 other participant is compelled by law to contribute toward your
71 medical bills. As such, participation in the organization or a
72 subscription to any of its documents should never be considered
73 to be insurance. Regardless of whether you receive any payments
74 for medical expenses or whether this organization continues to
75 operate, you are always personally responsible for the payment
76 of your own medical bills." ~~each prospective participant in the~~
77 ~~organizational clearinghouse written notice that the~~
78 ~~organization is not an insurance company, that membership is not~~
79 ~~offered through an insurance company, and that the organization~~
80 ~~is not subject to the regulatory requirements or consumer~~
81 ~~protections of the Florida Insurance Code.~~

82

83 Section 2. Section 2. This act shall take effect July 1,
84 2018.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1073 Department of Financial Services
SPONSOR(S): Hager
TIED BILLS: IDEN./SIM. BILLS: SB 1292

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee		Bowen JB	Luczynski nj
2) Government Operations & Technology Appropriations Subcommittee			
3) Commerce Committee			

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 remain in licensed care or 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;
- Allowing for the transfer of excess funds from the Consumer Protection Trust Fund to be used for operational costs in the Division of Funeral, Cemetery and Consumer Services;
- 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 while active in the military.

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 does not impact state or local expenditures or local revenues. It has a minimal impact on state government revenues and an indeterminate fiscal impact on the private sector.

The bill has an effective date of July 1, 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, 4, 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

A child who is living in licensed care on his or her 18th birthday and who has not achieved permanency under s. 39.6251, F.S., is eligible to remain in licensed care if he or she is:

- Completing secondary education or a program leading to an equivalent credential;
- Enrolled in an institution that provides postsecondary or vocational education;
- Participating in a program that promotes or eliminates barriers to employment;
- Employed for at least 80 hours a month; or
- Unable to participate in the above programs due to certain circumstances.⁴

The Road-to-Independence 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.⁵ 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.⁶

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

¹ s. 17.64(2), F.S.

² s. 17.64(1), F.S.

³ s. 39.6035(1), F.S.

⁴ s. 39.6251(2), F.S.

⁵ s. 409.1451, F.S.

⁶ s. 409.1451(2), F.S.

foster youth offered by DFS and require completion of the curriculum with a passing score before receiving aftercare services or before leaving care.

The bill adds that a child can be eligible to remain in licensed care after his or her 18th birthday, if he or she has completed the financial literacy curriculum for foster youth offered by DFS with a passing score.

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 through the Road-to-Independence Program.

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."⁷

Risk Management (Section 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.⁸ 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.⁹ DFS is required to submit an annual report on the state insurance program, including agency return-to-work programs;¹⁰ 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.¹¹

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.¹² 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.¹³

In 2017, HB 1107¹⁴ 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

⁷ DIVISION OF RISK MANAGEMENT, <https://myfloridacfo.com/Division/Risk/default.htm> (last visited Jan. 19, 2018).

⁸ s. 284.50(1), F.S.

⁹ 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.

¹⁰ s. 284.42(1), F.S.

¹¹ Department of Financial Services, Agency Analysis of 2018 House Bill 1073, p. 3 (Dec. 29, 2017).

¹² *Id.*

¹³ *Id.*

¹⁴ Chapter No. 2017-185, L.O.F.

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.

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, which will allow DRM to efficiently perform its duties of 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 includes licenses for cemetery operators, embalmers, intern embalmers, apprentice embalmers, funeral directors and intern funeral directors.

Preneed Funeral Contract Consumer Protection Trust Fund (Section 9)

The Legislature established the Preneed Funeral Contract Consumer Protection Trust Fund (CPTF) to provide restitution for people who entered into a preneed contract and the preneed licensee failed to provide the benefit of the preneed contract.¹⁵ A "preneed contract" is any arrangement or method, of which the provider of funeral merchandise or services has actual knowledge, whereby any person agrees to furnish funeral merchandise or service in the future. Examples of burial or funeral merchandise are caskets, outer burial containers, urns, monuments, flowers, and register books. A

¹⁵ s. 497.456, F.S.

“burial service” is any service offered or provided in connection with the final disposition, memorialization, interment, entombment, or inurnment of human remains or cremated remains.¹⁶

For each preneed funeral contract written, the preneed licensee pays a fee¹⁷ into the CPTF. The CPTF currently has a balance of approximately \$8,800,000¹⁸ and there is no cap on the amount that may be maintained. In the past 10 years, the CPTF had a maximum annual expenditure of approximately \$202,000.¹⁹ And in six out of the past 10 years the expenditures did not exceed \$100,000.²⁰ For the past 10 years the annual revenue of the fund has been over \$250,000 per year.²¹ The following chart shows the fees, interest, total revenues, and expenditures for the CPTF for the past 10 years.²²

Fiscal Year	Fees	Interest	Total	Expenditures
FY 2007/2008	\$139,577.63	\$398,485.17	\$538,062.80	\$60,570.72
FY 2008/2009	\$76,708.36	\$201,281.59	\$277,989.95	\$77,228.30
FY 2009/2010	\$94,698.50	\$197,442.18	\$292,140.68	\$64,173.61
FY 2010/2011	\$112,763.95	\$202,032.01	\$314,795.96	\$65,495.47
FY 2011/2012	\$99,041.00	\$197,219.38	\$296,260.38	\$166,814.22
FY 2012/2013	\$100,691.00	\$154,291.34	\$254,982.34	\$92,196.40
FY 2013/2014	\$193,268.00	\$93,228.11	\$286,496.11	\$92,840.13
FY 2014/2015	\$115,475.50	\$136,885.82	\$252,361.32	\$202,471.51
FY 2015/2016	\$117,436.00	\$133,891.42	\$251,327.42	\$149,851.68
FY 2016/2017	\$120,573.45	\$137,720.16	\$258,293.61	\$178,839.87

FCCS is currently using outdated technology and database systems, many of which are unsupported by the DFS’s Office of Information Technology. The outdated technology prevents them from, among other things, operating an online application system.²³

Effect of the bill

The bill requires DFS to transfer CPTF funds in excess of \$5 million to the Regulatory Trust Fund for the purpose of providing for the payment of expenses of the licensing authority in carrying out its responsibilities under ch. 497, F.S., and as prescribed by rule.

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.²⁴

Managing General Agent Licensure (Sections 11, 12, 14, 15, 16, 17, 19, 24, 25, 26, 27, 28, 34, & 45)

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, and acting as an agent for the insurer, whether known as a managing general agent, manager,

¹⁶ s. 497.005 (7), (9), (61), F.S.

¹⁷ The amount paid into the CPTF varies from \$2.50 to \$10 based on the type and price of the preneed contract. s. 497.456(2), F.S.

¹⁸ Department of Financial Services, Agency Analysis of 2018 House Bill 1073, p. 4 (Dec. 29, 2017).

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ INSURANCE DIVISION OF AGENT AND AGENCY SERVICES, <https://myfloridacfo.com/Division/Agents/> (last visited Jan. 19, 2018).

or other similar term, who, 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 and also adjusts or pays claim and/or negotiates insurance on behalf of the insurer.²⁵

A&A currently licenses approximately 150 new MGA licensees per year.²⁶ To be a MGA requires a MGA license but this license type has no prelicensing requirements or formal examination to determine eligibility.²⁷ 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.²⁸ A general lines agent²⁹ is one who sells one or more of the following lines of insurance: property,³⁰ casualty,³¹ including commercial liability insurance underwritten by a risk retention group, a commercial self-insurance fund,³² or a workers' compensation self-insurance fund;³³ surety,³⁴ health;³⁵ and, marine.³⁶ This is inconsistent with the National Association of Insurance Commissioners' Model Act MDL-225, Managing General Agents Act,³⁷ 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 a MGA appointment. 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 & 46)

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.³⁸ A&A currently tracks its licensees against the Florida Clerk's database to identify existing licensees convicted or pleading to felony charges.³⁹ 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.⁴⁰

²⁵ s. 626.015(16)(a), F.S.

²⁶ Department of Financial Services, Agency Analysis of 2018 House Bill 1073, p. 5 (Dec. 29, 2017).

²⁷ *Id.*

²⁸ s. 626.731(1)(f), F.S.

²⁹ s. 626.015(5), F.S.

³⁰ s. 624.604, F.S.

³¹ s. 624.605, F.S.

³² As defined in s. 624.462, F.S.

³³ Pursuant to s. 624.4621, F.S.

³⁴ s. 626.606, F.S.

³⁵ ss. 624.603 and 627.6482, F.S.

³⁶ s. 624.607, F.S.

³⁷ <http://www.naic.org/store/free/MDL-225.pdf> (last visited Jan. 21, 2018).

³⁸ ss. 626.202 and 648.34(4), F.S.

³⁹ Department of Financial Services, Agency Analysis of 2018 House Bill 1073, p. 5 (Dec. 29, 2017).

⁴⁰ *Id.*

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.⁴¹

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.

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.⁴²

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.⁴³ If a credit and character report is requested by DFS, it must be completed on a form furnished by DFS.⁴⁴

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.⁴⁵

Exchange of Business (Sections 13, 29 & 30)

Under current "exchange of business" or "excess or rejected business" laws, brokering agents⁴⁶ are permitted to write up to 24 policies for an insurer each year without being appointed by the insurer.⁴⁷ Once an agent has written more than 24 policies, the insurer must report them to DFS under the

⁴¹ 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.

⁴² s. 626.221(2)(j), F.S.

⁴³ s. 626.521, F.S.

⁴⁴ s. 626.521(2), F.S.

⁴⁵ s. 626.451(2), F.S.

⁴⁶ 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."

⁴⁷ s. 626.752, F.S.

exchange of business appointment type.⁴⁸ This appointment type costs \$30 per year.⁴⁹ 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.

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 should help DFS to better 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.⁵⁰ 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.⁵¹

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.

Origination, Acceptance, and Placement of Surplus Line Business (Section 36)

Surplus lines insurance refers to a category of insurance for which the admitted market is unable or unwilling to provide coverage.⁵² Surplus lines insurers are not "authorized" insurers as defined in the Insurance Code,⁵³ which means they do not obtain a certificate of authority from OIR to transact insurance in Florida.⁵⁴ Rather, surplus lines insurers are "unauthorized" insurers,²⁰ but may transact surplus lines insurance if they are made eligible by OIR. A surplus lines agent is an individual licensed to handle the placement of insurance coverages with unauthorized insurers and to place such coverages with authorized insurers as to which the licensee is not licensed as an agent.⁵⁵

⁴⁸ s. 626.752(5), F.S.

⁴⁹ s. 624.501(19)(e), F.S.

⁵⁰ ss. 626.8732(5) and 626.8734(4), F.S.

⁵¹ s. 626.451(2), F.S.

⁵² The admitted market is comprised of insurance companies licensed to transact insurance in Florida. The administration of surplus lines insurance business is managed by the Florida Surplus Lines Services Office. s. 626.921, F.S.

⁵³ The Insurance Code is chapters 624-632, 634, 635, 636, 641, 642, 648, and 651, F.S. s. 624.01, F.S.

⁵⁴ s. 624.09(1), F.S.

²⁰ s. 624.09(2), F.S.

⁵⁵ s. 62.914(1), F.S.

Effect of the bill

The bill allows a MGA to be appointed as a surplus lines agent without being licensed. DFS has noted this as a drafting error and has indicated their intention to remedy it. See Drafting Issues or Other Comments Section below.

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 38)

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.⁵⁶ DFS may pay for tips relating to crimes involving, among others, explosives and arson resulting in injury to another.⁵⁷

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 39)

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.⁵⁸ Currently, one member of the Board must be appointed for a term of one year, 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.⁵⁹

Effect of the bill

The bill provides for each member to serve a four-year term after the completion of the initial appointment term. This is expected to help reduce vacancies and retain qualified members on the board.⁶⁰

Fire Suppression Equipment; License to Install or Maintain (Sections 40 & 41)

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.⁶¹ Fire equipment dealer licenses are renewed every two years,⁶² making this language contradictory.

Individuals performing the work of servicing, recharging, repairing, hydrotesting, installing, testing, or inspecting fire extinguishers or preengineered systems must possess a valid and subsisting permit.⁶³

⁵⁶ s. 626.9892(2), F.S.

⁵⁷ *Id.*

⁵⁸ s. 633.302(4), F.S.

⁵⁹ s. 633.302(3), F.S.

⁶⁰ Department of Financial Services, Agency Analysis of 2018 House Bill 1073, p. 9 (Dec. 29, 2017).

⁶¹ s. 633.304(2), F.S.

⁶² Department of Financial Services, Agency Analysis of 2018 House Bill 1073, p. 6 (Dec. 29, 2017).

⁶³ s. 633.304(3), F.S.

These permittees must be employees of a fire equipment dealer licensee.⁶⁴ 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.⁶⁵ The SFM may require proof of such insurance on a form provided by the SFM.⁶⁶

Effect of the bill

The bill clarifies ambiguous language to allow an inactive fire equipment dealers to maintain their license in an inactive status for up to four years. It 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.⁶⁷

Firefighter and Volunteer Firefighter Training and Certification (Sections 42 & 43)

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.⁶⁸ A Special Certificate of Compliance only authorizes an individual to serve as an administrative and command head of a fire service provider.⁶⁹

Additionally, a fire service provider may not employ an individual unless they have a valid Firefighter Certificate of Compliance.⁷⁰

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.

⁶⁴ *Id.*

⁶⁵ ss. 633.304(4)(d)(3) and 633.318(7), F.S.

⁶⁶ *Id.*

⁶⁷ Department of Financial Services, Agency Analysis of 2018 House Bill 1073, p. 9 (Dec. 29, 2017).

⁶⁸ s. 633.408, F.S.

⁶⁹ s. 633.408(6)(b), F.S.

⁷⁰ s. 633.416(1)(a), F.S.

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 10);
- 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 23);
- 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 37); 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 44).

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. 39.6251, F.S., relating to continuing care for young adults.

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. 497.456, F.S., relating to Preneed Funeral Contract Consumer Protection Trust Fund.

Section 10: Amends s. 624.317, F.S., relating to investigation of agents, adjusters, administrators, service companies, and others.

Section 11: 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 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. 626.929, F.S., relating to origination, acceptance, placement of surplus lines business.
- Section 37:** Amends s. 626.930, F.S., relating to records of surplus lines agent.
- Section 38:** Amends s. 626.9892, F.S., relating to Anti-Fraud Reward Program; reporting of insurance fraud.
- Section 39:** Amends s. 633.302, F.S., relating to Florida Fire Safety Board; membership; duties; meetings; officers; quorum; compensation; seal.
- Section 40:** Amends s. 633.304, F.S., relating to fire suppression equipment; license to install or maintain.
- Section 41:** Amends s. 633.318, F.S., relating to certificate application and issuance; permit issuance; examination and investigation of applicant.
- Section 42:** Amends s. 633.408, F.S., relating to firefighter and volunteer firefighter training and certification.
- Section 43:** Amends s. 633.416, F.S., relating to firefighter employment and volunteer firefighter service; saving clause.
- Section 44:** Amends s. 633.444, F.S., relating to Division powers and duties; Florida State Fire College.

Section 45: Amends s. 648.27, F.S., relating to licenses and appointments; general.

Section 46: Amends s. 648.34, F.S., relating to bail bond agents; qualifications.

Section 47: Reenacts s. 626.8734, F.S., relating to nonresident all-lines adjuster license qualifications.

Section 48: Provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The fiscal impact on state government revenues is unknown. The Florida Department of Law Enforcement has indicated that changing the managing general agent license to an appointment could result in a loss of revenue because they will no longer be required to undergo a state and national criminal history record check.⁷¹

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The direct economic impact is indeterminate. The bill provides for some minor 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.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

⁷¹ Florida Department of Law Enforcement, Agency Analysis of 2018 House Bill 1073. p. 3 (Jan. 9, 2018).

B. RULE-MAKING AUTHORITY:

The bill does not grant any new rulemaking authority. However, several sections of the bill will require DFS to make minor amendments to existing rules.

C. DRAFTING ISSUES OR OTHER COMMENTS:

DFS has indicated that the inclusion of Section 36 was a drafting error. The sponsor has expressed his intention to remedy the error in an amendment.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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 certain child
16 transition plans to address financial literacy;
17 specifying requirements for the Department of Children
18 and Families and community-based providers relating to
19 a certain financial literacy curriculum offered by the
20 department; amending s. 39.6251, F.S.; revising
21 conditions under which certain children are eligible
22 to remain in licensed care; amending s. 284.50, F.S.;
23 requiring safety coordinators of state governmental
24 departments to complete, within a certain timeframe,
25 safety coordinator training offered by the department;

26 requiring certain agencies to report certain return-
 27 to-work information to the department; authorizing the
 28 department to disclose certain personal identifying
 29 information of injured or deceased employees which is
 30 exempt from disclosure under the Workers' Compensation
 31 Law to department-contracted vendors for certain
 32 purposes; requiring agencies to provide certain risk
 33 management program information to the Division of Risk
 34 Management for certain purposes; specifying
 35 requirements for agencies in reviewing and responding
 36 to certain information and communications provided by
 37 the division; amending s. 409.1451, F.S.; revising
 38 conditions under which a young adult is eligible for
 39 postsecondary education services and support under the
 40 Road-to-Independence Program; amending s. 414.411,
 41 F.S.; replacing the Department of Economic Opportunity
 42 with the Department of Education in a list of entities
 43 to which a public assistance recipient may be required
 44 to provide written consent for certain investigative
 45 inquiries; amending s. 497.168, F.S.; providing an
 46 exemption from specified application fees for members
 47 and certain veterans of the United States Armed
 48 Forces; requiring such members and veterans to provide
 49 certain documentation of good standing or honorable
 50 discharge; amending s. 497.456, F.S.; specifying the

51 date when the department must annually review the
 52 status of the Preneed Funeral Contract Consumer
 53 Protection Trust Fund; requiring the department to
 54 transfer, for certain purposes, trust fund sums in
 55 excess of a specified amount to the Regulatory Trust
 56 Fund each year; amending s. 624.317, F.S.; authorizing
 57 the department to conduct investigations of any,
 58 rather than specified, agents subject to its
 59 jurisdiction; amending ss. 624.34, 624.4094, 624.501,
 60 624.509, and 625.071, F.S.; conforming provisions to
 61 changes made by the act; amending s. 626.112, F.S.;
 62 requiring a managing general agent to hold a currently
 63 effective producer license rather than a managing
 64 general agent license; amending s. 626.171, F.S.;
 65 deleting applicability of licensing provisions as to
 66 managing general agents; making a technical change;
 67 amending s. 626.202, F.S.; providing that certain
 68 applicants are not required to resubmit fingerprints
 69 to the department under certain circumstances;
 70 authorizing the department to require these applicants
 71 to file fingerprints under certain circumstances;
 72 providing an exemption from fingerprinting
 73 requirements for members and certain veterans of the
 74 United States Armed Forces; requiring such members and
 75 veterans to provide certain documentation of good

76 standing or honorable discharge; amending s. 626.207,
 77 F.S.; conforming a provision to changes made by the
 78 act; amending s. 626.221, F.S.; adding a designation
 79 that exempts applicants for licensure as an all-lines
 80 adjuster from an examination requirement; amending s.
 81 626.451, F.S.; deleting a requirement for law
 82 enforcement agencies and state attorney's offices to
 83 notify the department or the Office of Insurance
 84 Regulation of certain felony dispositions; deleting a
 85 requirement for the state attorney to provide the
 86 department or office a certified copy of an
 87 information or indictment against a managing general
 88 agent; conforming a provision to changes made by the
 89 act; amending s. 626.521, F.S.; revising requirements
 90 for credit and character reports secured and kept by
 91 insurers or employers appointing certain insurance
 92 representatives; amending s. 626.731, F.S.; deleting a
 93 certain qualification for licensure as a general lines
 94 agent; amending s. 626.7351, F.S.; revising a
 95 qualification for licensure as a customer
 96 representative; amending s. 626.744, F.S.; conforming
 97 a provision to changes made by the act; amending s.
 98 626.745, F.S.; revising conditions under which service
 99 representatives and managing general agents may engage
 100 in certain activities; amending ss. 626.7451 and

101 626.7455, F.S.; conforming provisions to changes made
 102 by the act; amending s. 626.752, F.S.; revising a
 103 requirement for the Brokering Agent's Register
 104 maintained by brokering agents; revising the limit on
 105 certain personal lines risks an insurer may receive
 106 from an agent within a specified timeframe before the
 107 insurer must comply with certain reporting
 108 requirements for that agent; amending s. 626.793,
 109 F.S.; revising the limit on certain risks that certain
 110 insurers may receive from a life agent within a
 111 specified timeframe before the insurer must comply
 112 with certain reporting requirements for that agent;
 113 amending s. 626.837, F.S.; revising the limit on
 114 certain risks that certain insurers may receive from a
 115 health agent within a specified timeframe before the
 116 insurer must comply with certain reporting
 117 requirements for that agent; amending s. 626.8732,
 118 F.S.; deleting a requirement for a licensed
 119 nonresident public adjuster to submit a certain annual
 120 affidavit to the department; amending s. 626.8734,
 121 F.S.; deleting a requirement for a nonresident
 122 independent adjuster to submit a certain annual
 123 affidavit to the department; amending s. 626.88, F.S.;
 124 conforming a provision to changes made by the act;
 125 amending s. 626.927, F.S.; revising conditions under

126 | which an individual may be licensed as a surplus lines
 127 | agent solely for the purpose of placing certain
 128 | coverages with surplus lines insurers; amending s.
 129 | 626.929, F.S.; revising a condition under which a
 130 | managing general agent may accept and place certain
 131 | surplus lines business and compensate certain agents;
 132 | amending s. 626.930, F.S.; revising a requirement
 133 | relating to the location of a surplus lines agent's
 134 | surplus lines business records; amending s. 626.9892,
 135 | F.S.; authorizing the department to pay a specified
 136 | amount of rewards under the Anti-Fraud Reward Program
 137 | for information leading to the arrest and conviction
 138 | of persons guilty of arson; amending s. 633.302, F.S.;
 139 | providing for an additional 4-year term for members of
 140 | the Florida Fire Safety Board after their initial
 141 | terms; amending s. 633.304, F.S.; revising
 142 | circumstances under which an inactive fire equipment
 143 | dealer license is void; specifying the timeframe when
 144 | an inactive license must be reactivated; specifying
 145 | that permittees performing certain work on fire
 146 | equipment may be contracted rather than employed;
 147 | revising a requirement for a certain proof-of-
 148 | insurance form to be provided by the insurer rather
 149 | than the State Fire Marshal; amending s. 633.318,
 150 | F.S.; revising a requirement for a certain proof-of-

151 insurance form to be provided by the insurer rather
 152 than the State Fire Marshal; amending s. 633.408,
 153 F.S.; specifying prerequisites and retention
 154 requirements for a Special Certificate of Compliance
 155 that authorizes an individual to serve as an
 156 administrative and command head of a fire service
 157 provider; amending s. 633.416, F.S.; authorizing fire
 158 service providers to employ individuals who received
 159 equivalent training while active in the United States
 160 Department of Defense; requiring the Division of State
 161 Fire Marshal to verify the equivalency of such
 162 training before the individual begins employment;
 163 requiring such individual to obtain a Firefighter
 164 Certificate of Compliance within a specified
 165 timeframe; making a technical change; amending s.
 166 633.444, F.S.; deleting a requirement for the Division
 167 of State Fire Marshal to develop a staffing and
 168 funding formula for the Florida State Fire College;
 169 amending s. 648.27, F.S.; revising conditions under
 170 which a managing general agent must also be licensed
 171 as a bail bond agent; conforming a provision to
 172 changes made by the act; amending s. 648.34, F.S.;
 173 providing that individuals applying for bail bond
 174 agent licensure are not required to resubmit
 175 fingerprints to the department under certain

176 circumstances; authorizing the department to require
 177 such individuals to file fingerprints under certain
 178 circumstances; reenacting s. 626.8734(1)(b), F.S.,
 179 relating to nonresident all-lines adjuster license
 180 qualifications, to incorporate the amendment made to
 181 s. 626.221, F.S., in a reference thereto; providing an
 182 effective date.

183

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

185

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

188 17.64 Division of Treasury to make reproductions of
 189 certain warrants, records, and documents.—

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

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

209 (3) Electronic copies ~~Photographs or microphotographs in~~
 210 ~~the form of film or prints~~ of any records made in compliance
 211 with ~~the provisions of~~ this section ~~shall~~ have the same force
 212 and effect as the originals ~~thereof would~~ have, and must ~~shall~~
 213 be treated as originals for the purpose of their admissibility
 214 in evidence. Duly certified or authenticated reproductions of
 215 such electronic images must ~~photographs or microphotographs~~
 216 ~~shall~~ be admitted in evidence equally with the original
 217 electronic images ~~photographs or microphotographs~~.

218 Section 2. Paragraph (e) of subsection (2) of section
 219 20.121, Florida Statutes, is amended to read:

220 20.121 Department of Financial Services.—There is created
 221 a Department of Financial Services.

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

224 (e) The Division of Investigative and Forensic Services,
 225 which shall function as a criminal justice agency for purposes

226 of ss. 943.045-943.08. The division may conduct investigations
 227 within or outside of this state as it deems necessary. If,
 228 during an investigation, the division has reason to believe that
 229 any criminal law of this state has or may have been violated, it
 230 shall refer any records tending to show such violation to state
 231 or federal law enforcement or prosecutorial agencies and shall
 232 provide investigative assistance to those agencies as required.

233 The division shall include the following bureaus and office:

- 234 1. The Bureau of Forensic Services;
- 235 2. The Bureau of Fire, ~~and~~ Arson, and Explosives
 236 Investigations; ~~and~~
- 237 3. The Office of Fiscal Integrity, which shall have a
 238 separate budget;-
- 239 4. The Bureau of Insurance Fraud; and
- 240 5. The Bureau of Workers' Compensation Fraud.

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

243 39.6035 Transition plan.-

244 (1) During the 180-day period after a child reaches 17
 245 years of age, the department and the community-based care
 246 provider, in collaboration with the caregiver and any other
 247 individual whom the child would like to include, shall assist
 248 the child in developing a transition plan. The required
 249 transition plan is in addition to standard case management
 250 requirements. The transition plan must address specific options

251 for the child to use in obtaining services, including housing,
 252 health insurance, education, financial literacy, a driver
 253 license, and workforce support and employment services. The plan
 254 must also consider establishing and maintaining naturally
 255 occurring mentoring relationships and other personal support
 256 services. The transition plan may be as detailed as the child
 257 chooses. In developing the transition plan, the department and
 258 the community-based provider shall:

259 (a) Provide the child with the documentation required
 260 pursuant to s. 39.701(3); ~~and~~

261 (b) Coordinate the transition plan with the independent
 262 living provisions in the case plan and, for a child with
 263 disabilities, the Individuals with Disabilities Education Act
 264 transition plan; ~~and-~~

265 (c) Provide information for the financial literacy
 266 curriculum for foster youth offered by the Department of
 267 Financial Services, and require completion of the curriculum
 268 with a passing score before receiving aftercare services or
 269 before leaving care as attested by the child's guardian ad
 270 litem.

271 Section 4. Subsection (2) of section 39.6251, Florida
 272 Statutes, is amended to read:

273 39.6251 Continuing care for young adults.—

274 (2) The primary goal for a child in care is permanency. A
 275 child who is living in licensed care on his or her 18th birthday

276 and who has not achieved permanency under s. 39.621 is eligible
 277 to remain in licensed care under the jurisdiction of the court
 278 and in the care of the department. A child is eligible to remain
 279 in licensed care if he or she ~~is~~:

280 (a) Is completing secondary education or a program leading
 281 to an equivalent credential;

282 (b) Is enrolled in an institution that provides
 283 postsecondary or vocational education;

284 (c) Is participating in a program or activity designed to
 285 promote or eliminate barriers to employment;

286 (d) Is employed for at least 80 hours per month; ~~or~~

287 (e) Has completed the financial literacy curriculum for
 288 foster youth offered by the Department of Financial Services
 289 with a passing score; or

290 (f) ~~(e)~~ Is unable to participate in programs or activities
 291 listed in paragraphs (a)-(d) full time due to a physical,
 292 intellectual, emotional, or psychiatric condition that limits
 293 participation. Any such barrier to participation must be
 294 supported by documentation in the child's case file or school or
 295 medical records of a physical, intellectual, or psychiatric
 296 condition that impairs the child's ability to perform one or
 297 more life activities.

298 Section 5. Section 284.50, Florida Statutes, is amended to
 299 read:

300 284.50 Loss prevention program; safety coordinators;

301 Interagency Advisory Council on Loss Prevention; employee
 302 recognition program; return-to-work programs; disclosure of
 303 certain workers' compensation-related information by the
 304 Department of Financial Services; risk management programs.-

305 (1) The head of each department of state government,
 306 except the Legislature, shall designate a safety coordinator.
 307 Such safety coordinator must be an employee of the department
 308 and must hold a position which has responsibilities comparable
 309 to those of an employee in the Senior Management System. The
 310 Department of Financial Services shall provide appropriate
 311 training to the safety coordinators to permit them to
 312 effectively perform their duties within their respective
 313 departments. Within 1 year after being appointed by his or her
 314 department head, the safety coordinator shall complete safety
 315 coordinator training offered by the Department of Financial
 316 Services. Each safety coordinator shall, at the direction of his
 317 or her department head:

318 (a) Develop and implement the loss prevention program, a
 319 comprehensive departmental safety program which shall include a
 320 statement of safety policy and responsibility.

321 (b) Provide for regular and periodic facility and
 322 equipment inspections.

323 (c) Investigate job-related employee accidents of his or
 324 her department.

325 (d) Establish a program to promote increased safety

326 awareness among employees.

327 (2) There shall be an Interagency Advisory Council on Loss
 328 Prevention composed of the safety coordinators from each
 329 department and representatives designated by the Division of
 330 State Fire Marshal and the Division of Risk Management. The
 331 chair of the council is ~~shall be~~ the Director of the Division of
 332 Risk Management or his or her designee. The council shall meet
 333 at least quarterly to discuss safety problems within state
 334 government, to attempt to find solutions for these problems,
 335 and, when possible, to assist in the implementation of the
 336 solutions. If the safety coordinator of a department or office
 337 is unable to attend a council meeting, an alternate, selected by
 338 the department head or his or her designee, shall attend the
 339 meeting to represent and provide input for that department or
 340 office on the council. The council is further authorized to
 341 provide for the recognition of employees, agents, and volunteers
 342 who make exceptional contributions to the reduction and control
 343 of employment-related accidents. The necessary expenses for the
 344 administration of this program of recognition shall be
 345 considered an authorized administrative expense payable from the
 346 State Risk Management Trust Fund.

347 (3) The Department of Financial Services and all agencies
 348 that are provided workers' compensation insurance coverage by
 349 the State Risk Management Trust Fund and employ more than 3,000
 350 full-time employees shall establish and maintain return-to-work

351 programs for employees who are receiving workers' compensation
 352 benefits. The programs must ~~shall~~ have the primary goal of
 353 enabling injured workers to remain at work or return to work to
 354 perform job duties within the physical or mental functional
 355 limitations and restrictions established by the workers'
 356 treating physicians. If no limitation or restriction is
 357 established in writing by a worker's treating physician, the
 358 worker is ~~shall be~~ deemed to be able to fully perform the same
 359 work duties he or she performed before the injury. Agencies
 360 employing more than 3,000 full-time employees shall report
 361 return-to-work information to the Department of Financial
 362 Services to support the Department of Financial Services'
 363 mandatory reporting requirements on agency return-to-work
 364 efforts under s. 284.42(1)(b).

365 (4) Notwithstanding s. 440.1851, the Department of
 366 Financial Services may disclose the personal identifying
 367 information of an injured or deceased employee to a department-
 368 contracted vendor for the purpose of ascertaining a claimant's
 369 claims history to investigate the compensability of a claim or
 370 to identify and prevent fraud.

371 (5)-(4) The Division of Risk Management shall evaluate each
 372 agency's risk management programs, including, but not limited
 373 to, return-to-work, safety, and loss prevention programs, at
 374 least once every 5 years. Reports, including, but not limited
 375 to, any recommended corrective action, resulting from such

376 evaluations must ~~shall~~ be provided to the head of the agency
 377 being evaluated, the Chief Financial Officer, and the director
 378 of the Division of Risk Management. The agency head must provide
 379 to the Division of Risk Management a response to all report
 380 recommendations within 45 days and a plan to implement any
 381 corrective action to be taken as part of the response. If the
 382 agency disagrees with any final report recommendations,
 383 including, but not limited to, any recommended corrective
 384 action, or if the agency fails to implement any recommended
 385 corrective action within a reasonable time, the division shall
 386 submit the evaluation report to the legislative appropriations
 387 committees. Each agency shall provide risk management program
 388 information to the Division of Risk Management to support the
 389 Division of Risk Management's mandatory evaluation and reporting
 390 requirements in this subsection.

391 (6) Each agency shall:

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

394 (b) Identify any discrepancies between the Division of
 395 Risk Management's records and the agency's records and report
 396 such discrepancies to the Division of Risk Management in
 397 writing; and

398 (c) Review and respond to communications from the Division
 399 of Risk Management identifying unsafe or inappropriate
 400 conditions, policies, procedures, trends, equipment, or actions

401 or incidents that have led or may lead to accidents or claims
 402 involving the state.

403 Section 6. Paragraph (a) of subsection (2) of section
 404 409.1451, Florida Statutes, is amended to read:

405 409.1451 The Road-to-Independence Program.--

406 (2) POSTSECONDARY EDUCATION SERVICES AND SUPPORT.--

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

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

415 2. Spent at least 6 months in licensed care before
 416 reaching his or her 18th birthday;

417 3. Earned a standard high school diploma pursuant to s.
 418 1002.3105(5), s. 1003.4281, or s. 1003.4282, or its equivalent
 419 pursuant to s. 1003.435;

420 4. Has been admitted for enrollment as a full-time student
 421 or its equivalent in an eligible postsecondary educational
 422 institution as provided in s. 1009.533. For purposes of this
 423 section, the term "full-time" means 9 credit hours or the
 424 vocational school equivalent. A student may enroll part-time if
 425 he or she has a recognized disability or is faced with another

426 challenge or circumstance that would prevent full-time
 427 attendance. A student needing to enroll part-time for any reason
 428 other than having a recognized disability must get approval from
 429 his or her academic advisor;

430 5. Has reached 18 years of age but is not yet 23 years of
 431 age;

432 6. Has applied, with assistance from the young adult's
 433 caregiver and the community-based lead agency, for any other
 434 grants and scholarships for which he or she may qualify;

435 7. Submitted a Free Application for Federal Student Aid
 436 which is complete and error free; ~~and~~

437 8. Signed an agreement to allow the department and the
 438 community-based care lead agency access to school records; ~~and~~

439 9. Has completed with a passing score the financial
 440 literacy curriculum for foster youth offered by the Department
 441 of Financial Services.

442 Section 7. Subsection (1) of section 414.411, Florida
 443 Statutes, is amended to read:

444 414.411 Public assistance fraud.—

445 (1) The Department of Financial Services shall investigate
 446 all public assistance provided to residents of the state or
 447 provided to others by the state. In the course of such
 448 investigation the department shall examine all records,
 449 including electronic benefits transfer records and make inquiry
 450 of all persons who may have knowledge as to any irregularity

451 incidental to the disbursement of public moneys, food
 452 assistance, or other items or benefits authorizations to
 453 recipients. All public assistance recipients, as a condition
 454 precedent to qualification for public assistance under chapter
 455 409, chapter 411, or this chapter, must first give in writing,
 456 to the Agency for Health Care Administration, the Department of
 457 Health, the Department of Education ~~Economic Opportunity~~, and
 458 the Department of Children and Families, as appropriate, and to
 459 the Department of Financial Services, consent to make inquiry of
 460 past or present employers and records, financial or otherwise.

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

463 497.168 Members of Armed Forces in good standing with
 464 administrative boards.-

465 (3) A member of the United States Armed Forces or a
 466 veteran of the United States Armed Forces who was honorably
 467 discharged within the 24-month period before the date of an
 468 application for licensure is exempt from the initial application
 469 filing fees under ss. 497.263(2)(r), 497.281(1), 497.368(1),
 470 497.369(1), 497.370(1), 497.371, 497.373(1), 497.374(1), and
 471 497.375(1)(a). A qualified individual shall provide a copy of a
 472 military identification card, military dependent identification
 473 card, military service record, military personnel file, veteran
 474 record, Form DD-214, NGB Form 22, or separation document that
 475 indicates such member or veteran of the United States Armed

476 Forces is currently in good standing or was honorably
 477 discharged.

478 Section 9. Subsection (12) of section 497.456, Florida
 479 Statutes, is amended to read:

480 497.456 Preneed Funeral Contract Consumer Protection Trust
 481 Fund.—

482 (12) Notwithstanding the fee structure in subsection (2),
 483 the department shall review the status of the trust fund on or
 484 before August 31 of each year annually, and if it determines
 485 that the amount in the trust fund exceeds \$5 million, the
 486 department must transfer any funds in excess of this amount to
 487 the Regulatory Trust Fund for the purpose of providing for the
 488 payment of expenses of the licensing authority in carrying out
 489 its responsibilities under this chapter and as prescribed by
 490 rule. Additionally, if the department determines that the
 491 uncommitted trust fund balance exceeds \$1 million, the licensing
 492 authority may by rule lower the required payments to the trust
 493 fund to an amount not less than \$1 per preneed contract.

494 Section 10. Subsection (1) of section 624.317, Florida
 495 Statutes, is amended to read:

496 624.317 Investigation of agents, adjusters,
 497 administrators, service companies, and others.—If it has reason
 498 to believe that any person has violated or is violating any
 499 provision of this code, or upon the written complaint signed by
 500 any interested person indicating that any such violation may

501 exist:

502 (1) The department shall conduct such investigation as it
 503 deems necessary of the accounts, records, documents, and
 504 transactions pertaining to or affecting the insurance affairs of
 505 any ~~general agent, surplus lines agent,~~ adjuster, ~~managing~~
 506 ~~general agent, insurance agent,~~ insurance agency, customer
 507 representative, service representative, or other person subject
 508 to its jurisdiction, subject to the requirements of s. 626.601.

509 Section 11. Subsection (2) of section 624.34, Florida
 510 Statutes, is amended to read:

511 624.34 Authority of Department of Law Enforcement to
 512 accept fingerprints of, and exchange criminal history records
 513 with respect to, certain persons.—

514 (2) The Department of Law Enforcement may accept
 515 fingerprints of individuals who apply for a license as an agent,
 516 customer representative, adjuster, service representative, or
 517 navigator, ~~or managing general agent~~ or the fingerprints of the
 518 majority owner, sole proprietor, partners, officers, and
 519 directors of a corporation or other legal entity that applies
 520 for licensure with the department or office under the Florida
 521 Insurance Code.

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

524 624.4094 Bail bond premiums.—

525 (1) The Legislature finds that a significant portion of

526 bail bond premiums is retained by the licensed bail bond agents
 527 or appointed ~~licensed~~ managing general agents. For purposes of
 528 reporting in financial statements required to be filed with the
 529 office pursuant to s. 624.424, direct written premiums for bail
 530 bonds by a domestic insurer in this state shall be reported net
 531 of any amounts retained by licensed bail bond agents or
 532 appointed ~~licensed~~ managing general agents. However, in no case
 533 shall the direct written premiums for bail bonds be less than
 534 6.5 percent of the total consideration received by the agent for
 535 all bail bonds written by the agent. This subsection also
 536 applies to any determination of compliance with s. 624.4095.

537 Section 13. Paragraph (e) of subsection (19) of section
 538 624.501, Florida Statutes, is amended to read:

539 624.501 Filing, license, appointment, and miscellaneous
 540 fees.—The department, commission, or office, as appropriate,
 541 shall collect in advance, and persons so served shall pay to it
 542 in advance, fees, licenses, and miscellaneous charges as
 543 follows:

544 (19) Miscellaneous services:

545 (e) Insurer's registration fee for agent exchanging
 546 business more than four ~~24~~ times in a calendar year under s.
 547 626.752, s. 626.793, or s. 626.837, registration fee per agent
 548 per year.....\$30.00

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

551 624.509 Premium tax; rate and computation.—

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

563 (a) An amount equal to 1.75 percent of the gross amount of
 564 such receipts on account of life and health insurance policies
 565 covering persons resident in this state and on account of all
 566 other types of policies and contracts, except annuity policies
 567 or contracts taxable under paragraph (b) and bail bond policies
 568 or contracts taxable under paragraph (c), covering property,
 569 subjects, or risks located, resident, or to be performed in this
 570 state, omitting premiums on reinsurance accepted, and less
 571 return premiums or assessments, but without deductions:

- 572 1. For reinsurance ceded to other insurers;
- 573 2. For moneys paid upon surrender of policies or
- 574 certificates for cash surrender value;
- 575 3. For discounts or refunds for direct or prompt payment

576 of premiums or assessments; and

577 4. On account of dividends of any nature or amount paid
 578 and credited or allowed to holders of insurance policies;
 579 certificates; or surety, indemnity, reciprocal, or
 580 interinsurance contracts or agreements;

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

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

588 Section 15. Section 625.071, Florida Statutes, is amended
 589 to read:

590 625.071 Special reserve for bail and judicial bonds.—In
 591 lieu of the unearned premium reserve required on surety bonds
 592 under s. 625.051, the office may require any surety insurer or
 593 limited surety insurer to set up and maintain a reserve on all
 594 bail bonds or other single-premium bonds without definite
 595 expiration date, furnished in judicial proceedings, equal to the
 596 lesser of 35 percent of the bail premiums in force or \$7 per
 597 \$1,000 of bail liability. Such reserve shall be reported as a
 598 liability in financial statements required to be filed with the
 599 office. Each insurer shall file a supplementary schedule showing
 600 bail premiums in force and bail liability and the associated

601 special reserve for bail and judicial bonds with financial
 602 statements required by s. 624.424. Bail premiums in force do not
 603 include amounts retained by licensed bail bond agents or
 604 appointed ~~licensed~~ managing general agents, but may not be less
 605 than 6.5 percent of the total consideration received for all
 606 bail bonds in force.

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

609 626.112 License and appointment required; agents, customer
 610 representatives, adjusters, insurance agencies, service
 611 representatives, managing general agents.-

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

616 Section 17. Section 626.171, Florida Statutes, is amended
 617 to read:

618 626.171 Application for license as an agent, customer
 619 representative, adjuster, service representative, ~~managing~~
 620 ~~general agent,~~ or reinsurance intermediary.-

621 (1) The department may not issue a license as agent,
 622 customer representative, adjuster, service representative,
 623 ~~managing general agent,~~ or reinsurance intermediary to any
 624 person except upon written application filed with the
 625 department, meeting the qualifications for the license applied

626 for as determined by the department, and payment in advance of
 627 all applicable fees. The application must be made under the oath
 628 of the applicant and be signed by the applicant. An applicant
 629 may permit a third party to complete, submit, and sign an
 630 application on the applicant's behalf, but is responsible for
 631 ensuring that the information on the application is true and
 632 correct and is accountable for any misstatements or
 633 misrepresentations. The department shall accept the uniform
 634 application for nonresident agent licensing. The department may
 635 adopt revised versions of the uniform application by rule.

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

637 (a) His or her full name, age, social security number,
 638 residence address, business address, mailing address, contact
 639 telephone numbers, including a business telephone number, and e-
 640 mail address.

641 (b) A statement indicating the method the applicant used
 642 or is using to meet any required prelicensing education,
 643 knowledge, experience, or instructional requirements for the
 644 type of license applied for.

645 (c) Whether he or she has been refused or has voluntarily
 646 surrendered or has had suspended or revoked a license to solicit
 647 insurance by the department or by the supervising officials of
 648 any state.

649 (d) Whether any insurer or any managing general agent
 650 claims the applicant is indebted under any agency contract or

651 otherwise and, if so, the name of the claimant, the nature of
 652 the claim, and the applicant's defense thereto, if any.

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

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

656 (g) The applicant's native language.

657 (h) The highest level of education achieved by the
 658 applicant.

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

661 (j) Such other or additional information as the department
 662 may deem proper to enable it to determine the character,
 663 experience, ability, and other qualifications of the applicant
 664 to hold himself or herself out to the public as an insurance
 665 representative.

666

667 However, the application must contain a statement that an
 668 applicant is not required to disclose his or her race or
 669 ethnicity, gender, or native language, that he or she will not
 670 be penalized for not doing so, and that the department will use
 671 this information exclusively for research and statistical
 672 purposes and to improve the quality and fairness of the
 673 examinations.

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

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

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

697 (6) Members of the United States Armed Forces and their
 698 spouses, and veterans of the United States Armed Forces who have
 699 retired within 24 months before application for licensure, are
 700 exempt from the application filing fee prescribed in s. 624.501.

701 Qualified individuals must provide a copy of a military
 702 identification card, military dependent identification card,
 703 military service record, military personnel file, veteran
 704 record, discharge paper, ~~or separation document,~~ or a separation
 705 document that indicates such members of the United States Armed
 706 Forces are currently in good standing or were honorably
 707 discharged.

708 (7) Pursuant to the federal Personal Responsibility and
 709 Work Opportunity Reconciliation Act of 1996, each party is
 710 required to provide his or her social security number in
 711 accordance with this section. Disclosure of social security
 712 numbers obtained through this requirement must ~~shall~~ be limited
 713 to the purpose of administration of the Title IV-D program for
 714 child support enforcement.

715 Section 18. Section 626.202, Florida Statutes, is amended
 716 to read:

717 626.202 Fingerprinting requirements.-

718 (1) The requirements for completion and submission of
 719 fingerprints under this chapter are deemed to be met when an
 720 individual currently licensed under this chapter seeks
 721 additional licensure and has previously submitted fingerprints
 722 to the department within the past 48 months. However, the
 723 department may require the individual to file fingerprints if it
 724 has reason to believe that an applicant or licensee has been
 725 found guilty of, or pleaded guilty or nolo contendere to, a

726 felony or a crime related to the business of insurance in this
 727 state or any other state or jurisdiction.

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

739 (3) If there is a change in ownership or control of any
 740 entity licensed under this chapter, or if a new partner,
 741 officer, or director is employed or appointed, a set of
 742 fingerprints of the new owner, partner, officer, or director
 743 must be filed with the department or office within 30 days after
 744 the change. The acquisition of 10 percent or more of the voting
 745 securities of a licensed entity is considered a change of
 746 ownership or control. The fingerprints must be taken by a law
 747 enforcement agency or other department-approved entity and be
 748 accompanied by the fingerprint processing fee in s. 624.501.

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

751 626.207 Disqualification of applicants and licensees;
752 penalties against licensees; rulemaking authority.-

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

757 Section 20. Paragraph (j) of subsection (2) of section
758 626.221, Florida Statutes, is amended to read:

759 626.221 Examination requirement; exemptions.-

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

762 (j) An applicant for license as an all-lines adjuster who
763 has the designation of Accredited Claims Adjuster (ACA) from a
764 regionally accredited postsecondary institution in this state,
765 Associate in Claims (AIC) from the Insurance Institute of
766 America, Professional Claims Adjuster (PCA) from the
767 Professional Career Institute, Professional Property Insurance
768 Adjuster (PPIA) from the HurriClaim Training Academy, Certified
769 Adjuster (CA) from ALL LINES Training, Certified Claims Adjuster
770 (CCA) from AE21 Incorporated, Claims Adjuster Certified
771 Professional (CACP) from WebCE, Inc., or Universal Claims
772 Certification (UCC) from Claims and Litigation Management
773 Alliance (CLM) whose curriculum has been approved by the
774 department and which includes comprehensive analysis of basic
775 property and casualty lines of insurance and testing at least

776 equal to that of standard department testing for the all-lines
 777 adjuster license. The department shall adopt rules establishing
 778 standards for the approval of curriculum.

779 Section 21. Present subsections (6) and (7) of section
 780 626.451, Florida Statutes, are redesignated as subsections (5)
 781 and (6), respectively, and subsections (1) and (5) and present
 782 subsection (6) of that section are amended, to read:

783 626.451 Appointment of agent or other representative.—

784 (1) Each appointing entity or person designated by the
 785 department to administer the appointment process appointing an
 786 agent, adjuster, service representative, customer
 787 representative, or managing general agent in this state shall
 788 file the appointment with the department or office and, at the
 789 same time, pay the applicable appointment fee and taxes. Every
 790 appointment is ~~shall be~~ subject to the prior issuance of the
 791 appropriate agent's, adjuster's, service representative's, or
 792 customer representative's, ~~or managing general agent's~~ license.

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

798 (5)(6) Upon the filing of an information or indictment
 799 against an agent, adjuster, service representative, or customer
 800 representative, ~~or managing general agent,~~ the state attorney

801 shall immediately furnish the department or office a certified
 802 copy of the information or indictment.

803 Section 22. Section 626.521, Florida Statutes, is amended
 804 to read:

805 626.521 ~~Character,~~ Credit and character reports.—

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

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

824 ~~(3) As to an applicant for an adjuster's or reinsurance~~
 825 ~~intermediary's license who is to be self-employed, the~~

826 ~~department may secure, at the cost of the applicant, a full~~
 827 ~~detailed credit and character report made by an established and~~
 828 ~~reputable independent reporting service relative to the~~
 829 ~~applicant.~~

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

839 (3)~~(5)~~ Information contained in credit or character
 840 reports furnished to or secured by the department under this
 841 section is confidential and exempt from ~~the provisions of s.~~
 842 119.07(1).

843 Section 23. Paragraph (f) of subsection (1) of section
 844 626.731, Florida Statutes, is amended to read:

845 626.731 Qualifications for general lines agent's license.-

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

850 ~~(f) The applicant is not a service representative, a~~

851 ~~managing general agent in this state, or a special agent or~~
 852 ~~similar service representative of a health insurer which also~~
 853 ~~transacts property, casualty, or surety insurance; except that~~
 854 ~~the president, vice president, secretary, or treasurer,~~
 855 ~~including a member of the board of directors, of a corporate~~
 856 ~~insurer, if otherwise qualified under and meeting the~~
 857 ~~requirements of this part, may be licensed and appointed as a~~
 858 ~~local resident agent.~~

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

861 626.7351 Qualifications for customer representative's
 862 license.—The department shall not grant or issue a license as
 863 customer representative to any individual found by it to be
 864 untrustworthy or incompetent, or who does not meet each of the
 865 following qualifications:

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

869 Section 25. Section 626.744, Florida Statutes, is amended
 870 to read:

871 626.744 Service representatives, ~~managing general agents;~~
 872 application for license.—The application for a license as
 873 service representative must ~~or the application for a license as~~
 874 ~~managing general agent shall~~ show the applicant's name,
 875 residence address, name of employer, position or title, type of

876 work to be performed by the applicant in this state, and any
 877 additional information which the department may reasonably
 878 require.

879 Section 26. Section 626.745, Florida Statutes, is amended
 880 to read:

881 626.745 Service representatives, managing general agents;
 882 managers; activities.—Individuals employed by insurers or their
 883 managers, general agents, or representatives as service
 884 representatives, and as managing general agents employed for the
 885 purpose of or engaged in assisting agents in negotiating and
 886 effecting contracts of insurance, shall engage in such
 887 activities ~~when, and~~ only when licensed as or, accompanied by a
 888 general lines ~~an~~ agent duly licensed and appointed ~~as a resident~~
 889 ~~licensee and appointee~~ under this code.

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

892 626.7451 Managing general agents; required contract
 893 provisions.—No person acting in the capacity of a managing
 894 general agent shall place business with an insurer unless there
 895 is in force a written contract between the parties which sets
 896 forth the responsibility for a particular function, specifies
 897 the division of responsibilities, and contains the following
 898 minimum provisions:

899 (11) An appointed ~~A licensed~~ managing general agent, when
 900 placing business with an insurer under this code, may charge a

901 per-policy fee not to exceed \$25. ~~In no instance shall~~ The
 902 aggregate of per-policy fees for a placement of business
 903 authorized under this section, when combined with any other per-
 904 policy fee charged by the insurer, may not result in per-policy
 905 fees that ~~which~~ exceed the aggregate amount of \$25. The per-
 906 policy fee must ~~shall~~ be a component of the insurer's rate
 907 filing and must ~~shall~~ be fully earned.

908

909 For the purposes of this section and ss. 626.7453 and 626.7454,
 910 the term "controlling person" or "controlling" has the meaning
 911 set forth in s. 625.012(5)(b)1., and the term "controlled
 912 person" or "controlled" has the meaning set forth in s.
 913 625.012(5)(b)2.

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

916 626.7455 Managing general agent; responsibility of
 917 insurer.--

918 (1) An insurer may not ~~No insurer shall~~ enter into an
 919 agreement with any person to manage the business written in this
 920 state by the general lines agents appointed by the insurer or
 921 appointed by the managing general agent on behalf of the insurer
 922 unless the person is properly licensed as an agent and appointed
 923 as a managing general agent in this state. An insurer is ~~shall~~
 924 ~~be~~ responsible for the acts of its managing general agent when
 925 the agent acts within the scope of his or her authority.

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

928 626.752 Exchange of business.-

929 (3)

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

945 (5) Within 15 days after the last day of each month, any
 946 insurer accepting business under this section shall report to
 947 the department the name, address, telephone number, and social
 948 security number of each agent from which the insurer received
 949 more than four ~~24~~ personal lines risks during the calendar year,
 950 except for risks being removed from the Citizens Property

951 Insurance Corporation and placed with that insurer by a
 952 brokering agent. Once the insurer has reported pursuant to this
 953 subsection an agent's name to the department, additional reports
 954 on the same agent shall not be required. However, the fee set
 955 forth in s. 624.501 must ~~shall~~ be paid for the agent by the
 956 insurer for each year until the insurer notifies the department
 957 that the insurer is no longer accepting business from the agent
 958 pursuant to this section. The insurer may require that the agent
 959 reimburse the insurer for the fee.

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

962 626.793 Excess or rejected business.-

963 (4) Within 15 days after the last day of each month, any
 964 insurer accepting business under this section shall report to
 965 the department the name, address, telephone number, and social
 966 security number of each agent from which the insurer received
 967 more than four ~~24~~ risks during the calendar year. Once the
 968 insurer has reported an agent's name to the department pursuant
 969 to this subsection, additional reports on the same agent shall
 970 not be required. However, the fee set forth in s. 624.501 must
 971 ~~shall~~ be paid for the agent by the insurer for each year until
 972 the insurer notifies the department that the insurer is no
 973 longer accepting business from the agent pursuant to this
 974 section. The insurer may require that the agent reimburse the
 975 insurer for the fee.

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

978 626.837 Excess or rejected business.—

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

992 Section 32. Subsection (5) of section 626.8732, Florida
 993 Statutes, is amended to read:

994 626.8732 Nonresident public adjuster's qualifications,
 995 bond.—

996 ~~(5) After licensure as a nonresident public adjuster, as a~~
 997 ~~condition of doing business in this state, the licensee must~~
 998 ~~annually on or before January 1, on a form prescribed by the~~
 999 ~~department, submit an affidavit certifying that the licensee is~~
 1000 ~~familiar with and understands the insurance code and rules~~

1001 ~~adopted thereunder and the provisions of the contracts~~
 1002 ~~negotiated or to be negotiated. Compliance with this filing~~
 1003 ~~requirement is a condition precedent to the issuance,~~
 1004 ~~continuation, reinstatement, or renewal of a nonresident public~~
 1005 ~~adjuster's appointment.~~

1006 Section 33. Subsection (4) of section 626.8734, Florida
 1007 Statutes, is amended to read:

1008 626.8734 Nonresident all-lines adjuster license
 1009 qualifications.-

1010 ~~(4) As a condition of doing business in this state as a~~
 1011 ~~nonresident independent adjuster, the appointee must submit an~~
 1012 ~~affidavit to the department certifying that the licensee is~~
 1013 ~~familiar with and understands the insurance laws and~~
 1014 ~~administrative rules of this state and the provisions of the~~
 1015 ~~contracts negotiated or to be negotiated. Compliance with this~~
 1016 ~~filing requirement is a condition precedent to the issuance,~~
 1017 ~~continuation, reinstatement, or renewal of a nonresident~~
 1018 ~~independent adjuster's appointment.~~

1019 Section 34. Paragraph (h) of subsection (1) of section
 1020 626.88, Florida Statutes, is amended to read:

1021 626.88 Definitions.-For the purposes of this part, the
 1022 term:

1023 (1) "Administrator" is any person who directly or
 1024 indirectly solicits or effects coverage of, collects charges or
 1025 premiums from, or adjusts or settles claims on residents of this

1026 state in connection with authorized commercial self-insurance
 1027 funds or with insured or self-insured programs which provide
 1028 life or health insurance coverage or coverage of any other
 1029 expenses described in s. 624.33(1) or any person who, through a
 1030 health care risk contract as defined in s. 641.234 with an
 1031 insurer or health maintenance organization, provides billing and
 1032 collection services to health insurers and health maintenance
 1033 organizations on behalf of health care providers, other than any
 1034 of the following persons:

1035 (h) A person appointed ~~licensed~~ as a managing general
 1036 agent in this state, whose activities are limited exclusively to
 1037 the scope of activities conveyed under such appointment ~~license~~.
 1038

1039 A person who provides billing and collection services to health
 1040 insurers and health maintenance organizations on behalf of
 1041 health care providers shall comply with the provisions of ss.
 1042 627.6131, 641.3155, and 641.51(4).

1043 Section 35. Subsection (2) of section 626.927, Florida
 1044 Statutes, is amended to read:

1045 626.927 Licensing of surplus lines agent.-

1046 (2) Any individual, while licensed as ~~and appointed as a~~
 1047 ~~managing general agent as defined in s. 626.015, or service~~
 1048 ~~representative as defined in s. 626.015, and who otherwise~~
 1049 ~~possesses all of the other qualifications of a general lines~~
 1050 agent under this code, and who has a minimum of 1 year of ~~year's~~

1051 experience working for a licensed surplus lines agent or who has
 1052 successfully completed 60 class hours in surplus and excess
 1053 lines in a course approved by the department, may, upon taking
 1054 and successfully passing a written examination as to surplus
 1055 lines, as given by the department, be licensed as a surplus
 1056 lines agent solely for the purpose of placing with surplus lines
 1057 insurers property, marine, casualty, or surety coverages
 1058 originated by general lines agents, ~~except that no examination~~
 1059 ~~as for a general lines agent's license shall be required of any~~
 1060 ~~managing general agent or service representative who held a~~
 1061 ~~Florida surplus lines agent's license as of January 1, 1959.~~

1062 Section 36. Subsection (2) of section 626.929, Florida
 1063 Statutes, is amended to read:

1064 626.929 Origination, acceptance, placement of surplus
 1065 lines business.—

1066 (2) A managing general agent, while also licensed and
 1067 appointed as a surplus lines agent under this part, may accept
 1068 and place solely such surplus lines business as is originated by
 1069 a Florida-licensed general lines agent appointed and licensed as
 1070 to the kinds of insurance involved and may compensate such agent
 1071 therefor.

1072 Section 37. Subsection (3) of section 626.930, Florida
 1073 Statutes, is amended to read:

1074 626.930 Records of surplus lines agent.—

1075 (3) Each surplus lines agent shall maintain all surplus

1076 lines business records in his or her general lines agency
 1077 office, ~~if licensed as a general lines agent, or in his or her~~
 1078 managing general agency office, ~~if licensed as a managing~~
 1079 ~~general agent or the full-time salaried employee of such general~~
 1080 ~~agent.~~

1081 Section 38. Subsection (2) of section 626.9892, Florida
 1082 Statutes, is amended to read:

1083 626.9892 Anti-Fraud Reward Program; reporting of insurance
 1084 fraud.—

1085 (2) The department may pay rewards of up to \$25,000 to
 1086 persons providing information leading to the arrest and
 1087 conviction of persons committing crimes investigated by the
 1088 department arising from violations of s. 440.105, s. 624.15, s.
 1089 626.9541, s. 626.989, s. 790.164, s. 790.165, s. 790.166, s.
 1090 806.01, s. 806.031, s. 806.10, s. 806.111, s. 817.233, or s.
 1091 817.234.

1092 Section 39. Subsection (3) of section 633.302, Florida
 1093 Statutes, is amended to read:

1094 633.302 Florida Fire Safety Board; membership; duties;
 1095 meetings; officers; quorum; compensation; seal.—

1096 (3) The State Fire Marshal's term on the board, or that of
 1097 her or his designee, must ~~shall~~ coincide with the State Fire
 1098 Marshal's term of office. Of the other six members of the board,
 1099 one member must ~~shall~~ be appointed for an initial ~~a~~ term of 1
 1100 year, one member for an initial ~~a~~ term of 2 years, two members

1101 for initial terms of 3 years, and two members for initial terms
 1102 of 4 years. After the initial term, each member will have a 4-
 1103 year term. All terms expire on June 30 of the last year of the
 1104 term. When the term of a member expires, the State Fire Marshal
 1105 shall appoint a member to fill the vacancy for a term of 4
 1106 years. The State Fire Marshal may remove any appointed member
 1107 for cause. A vacancy in the membership of the board for any
 1108 cause must ~~shall~~ be filled by appointment by the State Fire
 1109 Marshal for the balance of the unexpired term.

1110 Section 40. Subsection (2), paragraph (a) of subsection
 1111 (3), and paragraphs (b), (c), and (d) of subsection (4) of
 1112 section 633.304, Florida Statutes, are amended to read:

1113 633.304 Fire suppression equipment; license to install or
 1114 maintain.—

1115 (2) A person who holds a valid fire equipment dealer
 1116 license may maintain such license in an inactive status during
 1117 which time he or she may not engage in any work under the
 1118 definition of the license held. An inactive status license is
 1119 ~~shall be~~ void after 4 years ~~or when the license is renewed,~~
 1120 ~~whichever comes first.~~ However, an inactive status license must
 1121 be reactivated before December 31 of each odd-numbered year. An
 1122 inactive status license may not be reactivated unless the
 1123 continuing education requirements of this chapter have been
 1124 fulfilled.

1125 (3) Each individual actually performing the work of

1126 servicing, recharging, repairing, hydrotesting, installing,
 1127 testing, or inspecting fire extinguishers or preengineered
 1128 systems must possess a valid and subsisting permit issued by the
 1129 division. Permittees are limited as to specific type of work
 1130 performed to allow work no more extensive than the class of
 1131 license held by the licensee under whom the permittee is
 1132 working. Permits will be issued by the division as follows:

1133 (a) Portable permit: "Portable permittee" means a person
 1134 who is limited to performing work no more extensive than the
 1135 employing or contractually related licensee in the servicing,
 1136 recharging, repairing, installing, or inspecting all types of
 1137 portable fire extinguishers.

1138
 1139 Any fire equipment permittee licensed pursuant to this
 1140 subsection who does not want to engage in servicing, inspecting,
 1141 recharging, repairing, hydrotesting, or installing halon
 1142 equipment must file an affidavit on a form provided by the
 1143 division so stating. Permits will be issued by the division to
 1144 show the work authorized thereunder. It is unlawful, unlicensed
 1145 activity for a person or firm to falsely hold himself or herself
 1146 out to perform any service, inspection, recharge, repair,
 1147 hydrotest, or installation except as specifically described in
 1148 the permit.

1149 (4)

1150 (b) After initial licensure, each licensee or permittee

1151 must successfully complete a course or courses of continuing
 1152 education for fire equipment technicians of at least 16 hours. A
 1153 license or permit may not be renewed unless the licensee or
 1154 permittee produces documentation of the completion of at least
 1155 16 hours of continuing education for fire equipment technicians
 1156 during the biennial licensure period. A person who is both a
 1157 licensee and a permittee shall ~~be required to~~ complete 16 hours
 1158 of continuing education during each renewal period. Each
 1159 licensee shall ensure that all permittees in his or her
 1160 employment or through a contractual agreement meet their
 1161 continuing education requirements. The State Fire Marshal shall
 1162 adopt rules describing the continuing education requirements and
 1163 shall have the authority upon reasonable belief, to audit a fire
 1164 equipment dealer to determine compliance with continuing
 1165 education requirements.

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

1176 such permittee, and the permit issued in pursuance of such
 1177 application must also set forth the name of such licensee. A
 1178 permit is valid solely for use by the holder thereof in his or
 1179 her employment by, or contractual relationship with, the
 1180 licensee named in the permit.

1181 (d) A license of any class may not be issued or renewed by
 1182 the division and a license of any class does not remain
 1183 operative unless:

1184 1. The applicant has submitted to the State Fire Marshal
 1185 evidence of registration as a Florida corporation or evidence of
 1186 compliance with s. 865.09.

1187 2. The State Fire Marshal or his or her designee has by
 1188 inspection determined that the applicant possesses the equipment
 1189 required for the class of license sought. The State Fire Marshal
 1190 shall give an applicant a reasonable opportunity to correct any
 1191 deficiencies discovered by inspection. To obtain such
 1192 inspection, an applicant with facilities located outside this
 1193 state must:

1194 a. Provide a notarized statement from a professional
 1195 engineer licensed by the applicant's state of domicile
 1196 certifying that the applicant possesses the equipment required
 1197 for the class of license sought and that all such equipment is
 1198 operable; or

1199 b. Allow the State Fire Marshal or her or his designee to
 1200 inspect the facility. All costs associated with the State Fire

1201 Marshal's inspection must ~~shall~~ be paid by the applicant. The
 1202 State Fire Marshal, in accordance with s. 120.54, may adopt
 1203 rules to establish standards for the calculation and
 1204 establishment of the amount of costs associated with any
 1205 inspection conducted by the State Fire Marshal under this
 1206 section. Such rules must ~~shall~~ include procedures for invoicing
 1207 and receiving funds in advance of the inspection.

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

1226 provided to the State Fire Marshal. An insurer that ~~which~~
 1227 provides such coverage shall notify the State Fire Marshal of
 1228 any change in coverage or of any termination, cancellation, or
 1229 nonrenewal of any coverage.

1230 4. The applicant applies to the State Fire Marshal,
 1231 provides proof of experience, and successfully completes a
 1232 prescribed training course offered by the State Fire College or
 1233 an equivalent course approved by the State Fire Marshal. This
 1234 subparagraph does not apply to any holder of or applicant for a
 1235 permit under paragraph (g) or to a business organization or a
 1236 governmental entity seeking initial licensure or renewal of an
 1237 existing license solely for the purpose of inspecting,
 1238 servicing, repairing, marking, recharging, and maintaining fire
 1239 extinguishers used and located on the premises of and owned by
 1240 such organization or entity.

1241 5. The applicant has a current retestor identification
 1242 number that is appropriate for the license for which the
 1243 applicant is applying and that is listed with the United States
 1244 Department of Transportation.

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

1251 State Fire Marshal, or his or her designee in accordance with
 1252 policies and procedures of the State Fire Marshal. An applicant
 1253 shall pay a nonrefundable examination fee of \$50 for each
 1254 examination or reexamination scheduled. A reexamination may not
 1255 be scheduled sooner than 30 days after any administration of an
 1256 examination to an applicant. An applicant may not be permitted
 1257 to take an examination for any level of license more than a
 1258 total of four times during 1 year, regardless of the number of
 1259 applications submitted. As a prerequisite to licensure of the
 1260 applicant, he or she:

1261 a. Must be at least 18 years of age.

1262 b. Must have 4 years of proven experience as a fire
 1263 equipment permittee at a level equal to or greater than the
 1264 level of license applied for or have a combination of education
 1265 and experience determined to be equivalent thereto by the State
 1266 Fire Marshal. Having held a permit at the appropriate level for
 1267 the required period constitutes the required experience.

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

1276 convicted of any such felony, the applicant is ~~shall be~~ excluded
 1277 from licensure for a period of 4 years after expiration of
 1278 sentence or final release by the Florida Commission on Offender
 1279 Review unless the applicant, before the expiration of the 4-year
 1280 period, has received a full pardon or has had her or his civil
 1281 rights restored.

1282
 1283 This subparagraph does not apply to any holder of or applicant
 1284 for a permit under paragraph (g) or to a business organization
 1285 or a governmental entity seeking initial licensure or renewal of
 1286 an existing license solely for the purpose of inspecting,
 1287 servicing, repairing, marking, recharging, hydrotesting, and
 1288 maintaining fire extinguishers used and located on the premises
 1289 of and owned by such organization or entity.

1290 Section 41. Subsection (7) of section 633.318, Florida
 1291 Statutes, is amended to read:

1292 633.318 Certificate application and issuance; permit
 1293 issuance; examination and investigation of applicant.—

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

1301 coverage as required, for any length of time, shall result in
 1302 the immediate suspension of the certificate until proof of
 1303 insurance is provided to the State Fire Marshal.

1304 Section 42. Paragraph (b) of subsection (6) of section
 1305 633.408, Florida Statutes, is amended to read:

1306 633.408 Firefighter and volunteer firefighter training and
 1307 certification.—

1308 (6)

1309 (b) A Special Certificate of Compliance only authorizes an
 1310 individual to serve as an administrative and command head of a
 1311 fire service provider.

1312 1. An individual desiring to obtain a Special Certificate
 1313 of Compliance may not be employed as a fire chief, fire
 1314 coordinator, fire director, or fire administrator for a period
 1315 of more than 1 year without obtaining certification.

1316 2. An individual desiring to obtain a Special Certificate
 1317 of Compliance may not serve as a command officer or function in
 1318 a position dictating incident outcomes or objectives before
 1319 achieving certification.

1320 3. Retention requirements for a Special Certificate of
 1321 Compliance must be similar to those provided in s. 633.414.

1322 Section 43. Subsection (1) of section 633.416, Florida
 1323 Statutes, is amended, present subsections (7) and (8) of that
 1324 section are redesignated as subsections (8) and (9),
 1325 respectively, and a new subsection (7) is added to that section,

1326 to read:

1327 633.416 Firefighter employment and volunteer firefighter
1328 service; saving clause.-

1329 (1) A fire service provider may not employ an individual
1330 to:

1331 (a) Extinguish fires for the protection of life or
1332 property or to supervise individuals who perform such services
1333 unless the individual holds a current and valid Firefighter
1334 Certificate of Compliance; or

1335 (b) Serve as the administrative and command head of a fire
1336 service provider for a period in excess of 1 year unless the
1337 individual holds a current and valid Firefighter Certificate of
1338 Compliance or Special Certificate of Compliance pursuant to s.
1339 633.408.

1340 (7) A fire service provider may employ individuals who
1341 have received equivalent training while active in the United
1342 States Department of Defense. The standard of equivalency of
1343 training must be verified by the division before such an
1344 individual's employment begins. Such individual must obtain a
1345 Firefighter Certificate of Compliance within 24 months after
1346 employment.

1347 Section 44. Paragraph (e) of subsection (1) of section
1348 633.444, Florida Statutes, is amended to read:

1349 633.444 Division powers and duties; Florida State Fire
1350 College.-

1351 (1) The division, in performing its duties related to the
 1352 Florida State Fire College, specified in this part, shall:

1353 ~~(e) Develop a staffing and funding formula for the Florida~~
 1354 ~~State Fire College. The formula must include differential~~
 1355 ~~funding levels for various types of programs, must be based on~~
 1356 ~~the number of full-time equivalent students and information~~
 1357 ~~obtained from scheduled attendance counts taken the first day of~~
 1358 ~~each program, and must provide the basis for the legislative~~
 1359 ~~budget request. As used in this section, a full-time equivalent~~
 1360 ~~student is equal to a minimum of 900 hours in a technical~~
 1361 ~~certificate program and 400 hours in a degree-seeking program.~~
 1362 ~~The funding formula must be as prescribed pursuant to s.~~
 1363 ~~1011.62, must include procedures to document daily attendance,~~
 1364 ~~and must require that attendance records be retained for audit~~
 1365 ~~purposes.~~

1366 Section 45. Subsection (8) of section 648.27, Florida
 1367 Statutes, is amended to read:

1368 648.27 Licenses and appointments; general.-

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

1376 | general agent to supervise or manage bail bond business written
 1377 | in this state must also be licensed as a bail bond agent. In the
 1378 | case of an entity, at least one owner, officer, or director at
 1379 | each office location must be licensed as a bail bond agent.

1380 | Section 46. Present subsection (6) of section 648.34,
 1381 | Florida Statutes, is redesignated as subsection (7), and a new
 1382 | subsection (6) is added to that section, to read:

1383 | 648.34 Bail bond agents; qualifications.—

1384 | (6) The completion and submission of fingerprints as
 1385 | required by this chapter are deemed to be met when an individual
 1386 | has previously submitted fingerprints to the department in
 1387 | support of an application for licensure under this chapter
 1388 | within the past 48 months. However, the department may require
 1389 | the individual to file fingerprints if it has reason to believe
 1390 | that an applicant or licensee has been found guilty of, or
 1391 | pleaded guilty or nolo contendere to, a felony or a crime
 1392 | related to the business of insurance in this or any other state
 1393 | or jurisdiction.

1394 | Section 47. For the purpose of incorporating the amendment
 1395 | made by this act to section 626.221, Florida Statutes, in a
 1396 | reference thereto, paragraph (b) of subsection (1) of section
 1397 | 626.8734, Florida Statutes, is reenacted to read:

1398 | 626.8734 Nonresident all-lines adjuster license
 1399 | qualifications.—

1400 | (1) The department shall issue a license to an applicant

1401 for a nonresident all-lines adjuster license upon determining
 1402 that the applicant has paid the applicable license fees required
 1403 under s. 624.501 and:

1404 (b) Has passed to the satisfaction of the department a
 1405 written Florida all-lines adjuster examination of the scope
 1406 prescribed in s. 626.241(6); however, the requirement for the
 1407 examination does not apply to:

1408 1. An applicant who is licensed as an all-lines adjuster
 1409 in his or her home state if that state has entered into a
 1410 reciprocal agreement with the department;

1411 2. An applicant who is licensed as a nonresident all-lines
 1412 adjuster in a state other than his or her home state and a
 1413 reciprocal agreement with the appropriate official of the state
 1414 of licensure has been entered into with the department; or

1415 3. An applicant who holds a certification set forth in s.
 1416 626.221(2)(j).

1417 Section 48. This act shall take effect July 1, 2018.

INSURANCE & BANKING SUBCOMMITTEE

HB 1073 by Rep. Hager
Department of Financial Services

AMENDMENT SUMMARY January 23, 2018

Amendment 1 by Rep. Hager (Strike-all): The strike all:

- Makes a technical amendment to update a cross reference related 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 Preened Funeral Contract Consumer Protection Trust Fund (CPTF) to the Regulatory Trust Fund to be 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.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

- ADOPTED _____ (Y/N)
- ADOPTED AS AMENDED _____ (Y/N)
- ADOPTED W/O OBJECTION _____ (Y/N)
- FAILED TO ADOPT _____ (Y/N)
- WITHDRAWN _____ (Y/N)
- OTHER _____

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

3 Representative Hager offered the following:

4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

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

9 17.64 Division of Treasury to make reproductions of
 10 certain warrants, records, and documents.-

11 (1) Electronic images, photographs, microphotographs, or
 12 reproductions on film of warrants, vouchers, or checks are ~~shall~~
 13 ~~be~~ deemed to be original records for all purposes; and any copy
 14 or reproduction thereof ~~made from such original film~~, duly
 15 certified by the Division of Treasury as a true and correct copy
 16 or reproduction ~~made from such film~~, is ~~shall~~ be deemed to be a



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17 transcript, exemplification, or certified copy of the original
18 warrant, voucher, or check such copy represents, and must shall
19 in all cases and in all courts and places be admitted and
20 received in evidence with the like force and effect as the
21 original thereof might be.

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

30 (3) Electronic copies ~~Photographs or microphotographs in~~
31 ~~the form of film or prints~~ of any records made in compliance
32 with ~~the provisions of~~ this section ~~shall~~ have the same force
33 and effect as the originals ~~thereof would~~ have, and must shall
34 be treated as originals for the purpose of their admissibility
35 in evidence. Duly certified or authenticated reproductions of
36 such electronic images must ~~photographs or microphotographs~~
37 ~~shall~~ be admitted in evidence equally with the original
38 electronic images ~~photographs or microphotographs~~.

39 Section 2. Paragraph (e) of subsection (2) of section
40 20.121, Florida Statutes, is amended to read:



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41 20.121 Department of Financial Services.—There is created
42 a Department of Financial Services.

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

45 (e) The Division of Investigative and Forensic Services,
46 which shall function as a criminal justice agency for purposes
47 of ss. 943.045-943.08. The division may conduct investigations
48 within or outside of this state as it deems necessary. If,
49 during an investigation, the division has reason to believe that
50 any criminal law of this state has or may have been violated, it
51 shall refer any records tending to show such violation to state
52 or federal law enforcement or prosecutorial agencies and shall
53 provide investigative assistance to those agencies as required.
54 The division shall include the following bureaus and office:

- 55 1. The Bureau of Forensic Services;
- 56 2. The Bureau of Fire, ~~and~~ Arson, and Explosives
57 Investigations; and
- 58 3. The Office of Fiscal Integrity, which shall have a
59 separate budget;—
- 60 4. The Bureau of Insurance Fraud; and
- 61 5. The Bureau of Workers' Compensation Fraud.

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

64 39.6035 Transition plan.—



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65 (1) During the 180-day period after a child reaches 17
66 years of age, the department and the community-based care
67 provider, in collaboration with the caregiver and any other
68 individual whom the child would like to include, shall assist
69 the child in developing a transition plan. The required
70 transition plan is in addition to standard case management
71 requirements. The transition plan must address specific options
72 for the child to use in obtaining services, including housing,
73 health insurance, education, financial literacy, a driver
74 license, and workforce support and employment services. The plan
75 must also consider establishing and maintaining naturally
76 occurring mentoring relationships and other personal support
77 services. The transition plan may be as detailed as the child
78 chooses. In developing the transition plan, the department and
79 the community-based provider shall:

80 (a) Provide the child with the documentation required
81 pursuant to s. 39.701(3); ~~and~~

82 (b) Coordinate the transition plan with the independent
83 living provisions in the case plan and, for a child with
84 disabilities, the Individuals with Disabilities Education Act
85 transition plan; ~~and-~~

86 (c) Provide information for the financial literacy
87 curriculum for foster youth offered by the Department of
88 Financial Services, and require completion of the curriculum
89 with a passing score before receiving aftercare services or

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90 continuing care services as attested by the child's guardian ad
91 litem.

92 Section 4. Subsection (2) of section 39.6251, Florida
93 Statutes, is amended to read:

94 39.6251 Continuing care for young adults.—

95 (2) The primary goal for a child in care is permanency. A
96 child who is living in licensed care on his or her 18th birthday
97 and who has not achieved permanency under s. 39.621 is eligible
98 to remain in licensed care under the jurisdiction of the court
99 and in the care of the department. A child is eligible to remain
100 in licensed care if he or she is:

101 (a) Completing secondary education or a program leading to
102 an equivalent credential;

103 (b) Enrolled in an institution that provides postsecondary
104 or vocational education;

105 (c) Participating in a program or activity designed to
106 promote or eliminate barriers to employment;

107 (d) Employed for at least 80 hours per month; ~~or~~

108 (e) Completing the financial literacy curriculum for
109 foster youth offered by the Department of Financial Services; or

110 (f) ~~(e)~~ Unable to participate in programs or activities
111 listed in paragraphs (a) - (e) ~~(a) - (d)~~ full time due to a
112 physical, intellectual, emotional, or psychiatric condition that
113 limits participation. Any such barrier to participation must be
114 supported by documentation in the child's case file or school or

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115 medical records of a physical, intellectual, or psychiatric
116 condition that impairs the child's ability to perform one or
117 more life activities.

118 Section 5. Section 284.40, Florida Statutes, is amended to
119 read:

120 284.40 Division of Risk Management; disclosure of certain
121 workers' compensation-related information by the Department of
122 Financial Services.—

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

126 (2) The claim files maintained by the Division of Risk
127 Management shall be confidential, shall be only for the usage by
128 the Department of Financial Services in fulfilling its duties
129 and responsibilities under this part, and shall be exempt from
130 the provisions of s. 119.07(1).

131 (3) Upon certification by the division director or his or
132 her designee to the custodian of any records maintained by the
133 Department of Children and Families, Department of Health,
134 Agency for Health Care Administration, or Department of Elderly
135 Affairs that such records are necessary to investigate a claim
136 against the Department of Children and Families, Department of
137 Health, Agency for Health Care Administration, or Department of
138 Elderly Affairs being handled by the Division of Risk
139 Management, the records shall be released to the division



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140 subject to the provisions of subsection (2), any conflicting
141 provisions as to the confidentiality of such records
142 notwithstanding.

143 (4) Notwithstanding s. 440.1851, the Department of
144 Financial Services may disclose the personal identifying
145 information of an injured or deceased employee to a department-
146 contracted vendor for the purpose of ascertaining a claimant's
147 claims history to investigate the compensability of a claim or
148 to identify and prevent fraud.

149 Section 6. Section 284.50, Florida Statutes, is amended to
150 read:

151 284.50 Loss prevention program; safety coordinators;
152 Interagency Advisory Council on Loss Prevention; employee
153 recognition program; return-to-work programs; risk management
154 programs.-

155 (1) The head of each department of state government,
156 except the Legislature, shall designate a safety coordinator.
157 Such safety coordinator must be an employee of the department
158 and must hold a position which has responsibilities comparable
159 to those of an employee in the Senior Management System. The
160 Department of Financial Services shall provide appropriate
161 training to the safety coordinators to permit them to
162 effectively perform their duties within their respective
163 departments. Within 1 year after being appointed by his or her
164 department head, the safety coordinator shall complete safety

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165 coordinator training offered by the Department of Financial
166 Services. Each safety coordinator shall, at the direction of his
167 or her department head:

168 (a) Develop and implement the loss prevention program, a
169 comprehensive departmental safety program which shall include a
170 statement of safety policy and responsibility.

171 (b) Provide for regular and periodic facility and
172 equipment inspections.

173 (c) Investigate job-related employee accidents of his or
174 her department.

175 (d) Establish a program to promote increased safety
176 awareness among employees.

177 (2) There shall be an Interagency Advisory Council on Loss
178 Prevention composed of the safety coordinators from each
179 department and representatives designated by the Division of
180 State Fire Marshal and the Division of Risk Management. The
181 chair of the council is ~~shall be~~ the Director of the Division of
182 Risk Management or his or her designee. The council shall meet
183 at least quarterly to discuss safety problems within state
184 government, to attempt to find solutions for these problems,
185 and, when possible, to assist in the implementation of the
186 solutions. If the safety coordinator of a department or office
187 is unable to attend a council meeting, an alternate, selected by
188 the department head or his or her designee, shall attend the
189 meeting to represent and provide input for that department or

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190 office on the council. The council is further authorized to
191 provide for the recognition of employees, agents, and volunteers
192 who make exceptional contributions to the reduction and control
193 of employment-related accidents. The necessary expenses for the
194 administration of this program of recognition shall be
195 considered an authorized administrative expense payable from the
196 State Risk Management Trust Fund.

197 (3) The Department of Financial Services and all agencies
198 that are provided workers' compensation insurance coverage by
199 the State Risk Management Trust Fund and employ more than 3,000
200 full-time employees shall establish and maintain return-to-work
201 programs for employees who are receiving workers' compensation
202 benefits. The programs must ~~shall~~ have the primary goal of
203 enabling injured workers to remain at work or return to work to
204 perform job duties within the physical or mental functional
205 limitations and restrictions established by the workers'
206 treating physicians. If no limitation or restriction is
207 established in writing by a worker's treating physician, the
208 worker is ~~shall be~~ deemed to be able to fully perform the same
209 work duties he or she performed before the injury. Agencies
210 employing more than 3,000 full-time employees shall report
211 return-to-work information to the Department of Financial
212 Services to support the Department of Financial Services'
213 mandatory reporting requirements on agency return-to-work
214 efforts under s. 284.42(1)(b).

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215 (4) The Division of Risk Management shall evaluate each
216 agency's risk management programs, including, but not limited
217 to, return-to-work, safety, and loss prevention programs, at
218 least once every 5 years. Reports, including, but not limited
219 to, any recommended corrective action, resulting from such
220 evaluations must ~~shall~~ be provided to the head of the agency
221 being evaluated, the Chief Financial Officer, and the director
222 of the Division of Risk Management. The agency head must provide
223 to the Division of Risk Management a response to all report
224 recommendations within 45 days and a plan to implement any
225 corrective action to be taken as part of the response. If the
226 agency disagrees with any final report recommendations,
227 including, but not limited to, any recommended corrective
228 action, or if the agency fails to implement any recommended
229 corrective action within a reasonable time, the division shall
230 submit the evaluation report to the legislative appropriations
231 committees. Each agency shall provide risk management program
232 information to the Division of Risk Management to support the
233 Division of Risk Management's mandatory evaluation and reporting
234 requirements in this subsection.

235 (5) Each agency shall:

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

238 (b) Identify any discrepancies between the Division of
239 Risk Management's records and the agency's records and report

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240 such discrepancies to the Division of Risk Management in
241 writing; and

242 (c) Review and respond to communications from the Division
243 of Risk Management identifying unsafe or inappropriate
244 conditions, policies, procedures, trends, equipment, or actions
245 or incidents that have led or may lead to accidents or claims
246 involving the state.

247 Section 7. Paragraph (a) of subsection (2) and paragraph
248 (b) of subsection (3) of section 409.1451, Florida Statutes, are
249 amended to read:

250 409.1451 The Road-to-Independence Program.—

251 (2) POSTSECONDARY EDUCATION SERVICES AND SUPPORT.—

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

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

260 2. Spent at least 6 months in licensed care before
261 reaching his or her 18th birthday;

262 3. Earned a standard high school diploma pursuant to s.
263 1002.3105(5), s. 1003.4281, or s. 1003.4282, or its equivalent
264 pursuant to s. 1003.435;

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265 4. Has been admitted for enrollment as a full-time student
266 or its equivalent in an eligible postsecondary educational
267 institution as provided in s. 1009.533. For purposes of this
268 section, the term "full-time" means 9 credit hours or the
269 vocational school equivalent. A student may enroll part-time if
270 he or she has a recognized disability or is faced with another
271 challenge or circumstance that would prevent full-time
272 attendance. A student needing to enroll part-time for any reason
273 other than having a recognized disability must get approval from
274 his or her academic advisor;

275 5. Has reached 18 years of age but is not yet 23 years of
276 age;

277 6. Has applied, with assistance from the young adult's
278 caregiver and the community-based lead agency, for any other
279 grants and scholarships for which he or she may qualify;

280 7. Submitted a Free Application for Federal Student Aid
281 which is complete and error free; ~~and~~

282 8. Signed an agreement to allow the department and the
283 community-based care lead agency access to school records; ~~and-~~

284 9. Has completed with a passing score the financial
285 literacy curriculum for foster youth offered by the Department
286 of Financial Services.

287 (3) AFTERCARE SERVICES.—

288 (b) Aftercare services include, but are not limited to,
289 the following:

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- 290 1. Mentoring and tutoring.
291 2. Mental health services and substance abuse counseling.
292 3. Life skills classes, including credit management and
293 preventive health activities.
294 4. Parenting classes.
295 5. Job and career skills training.
296 6. Counselor consultations.
297 7. Temporary financial assistance for necessities,
298 including, but not limited to, education supplies,
299 transportation expenses, security deposits for rent and
300 utilities, furnishings, household goods, and other basic living
301 expenses.
302 8. Financial literacy skills training pursuant to s.
303 39.6035(1)(c).
304

305 The specific services to be provided under this paragraph shall
306 be determined by an assessment of the young adult and may be
307 provided by the community-based care provider or through
308 referrals in the community.

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

311 414.411 Public assistance fraud.—

312 (1) The Department of Financial Services shall investigate
313 all public assistance provided to residents of the state or
314 provided to others by the state. In the course of such



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315 investigation the department shall examine all records,
316 including electronic benefits transfer records and make inquiry
317 of all persons who may have knowledge as to any irregularity
318 incidental to the disbursement of public moneys, food
319 assistance, or other items or benefits authorizations to
320 recipients. All public assistance recipients, as a condition
321 precedent to qualification for public assistance under chapter
322 409, chapter 411, or this chapter, must first give in writing,
323 to the Agency for Health Care Administration, the Department of
324 Health, the Department of Education ~~Economic Opportunity~~, and
325 the Department of Children and Families, as appropriate, and to
326 the Department of Financial Services, consent to make inquiry of
327 past or present employers and records, financial or otherwise.

328 (3) The results of such investigation shall be reported by
329 the Department of Financial Services to the appropriate
330 legislative committees, the Agency for Health Care
331 Administration, the Department of Health, the Department of
332 Education ~~Economic Opportunity~~, and the Department of Children
333 and Families, and to such others as the department may
334 determine.

335 Section 9. Subsection (3) is added to section 497.168,
336 Florida Statutes, to read:

337 497.168 Members of Armed Forces in good standing with
338 administrative boards.—



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339 (3) A member of the United States Armed Forces or a
340 veteran of the United States Armed Forces who was honorably
341 discharged within the 24-month period before the date of an
342 initial application for licensure is exempt from the initial
343 application filing fees under ss. 497.281(1), 497.368(1)(a),
344 497.369(1)(a), 497.369(5), 497.370(1), 497.371, 497.373(1)(a),
345 497.373(3), 497.374(1)(a), 497.374(5), and 497.375(1)(a).

346 Section 10. Subsection (14) is added to section 497.456,
347 Florida Statutes, to read:

348 497.456 Preneed Funeral Contract Consumer Protection Trust
349 Fund.—

350 (14)(a) On or before August 31, 2018, the department may
351 transfer up to \$2 million from the Preneed Funeral Contract
352 Consumer Protection Trust Fund to the Regulatory Trust Fund for
353 the purpose of acquiring information technology infrastructure
354 and payment of related expenses of the licensing authority in
355 carrying out its responsibilities under this chapter and as
356 prescribed by rule.

357 (b) On or before August 31 of each year, the department
358 may transfer any interest accrued or earned from investment of
359 the funds in the Preneed Funeral Contract Consumer Protection
360 Trust Fund during the prior fiscal year of the state, as defined
361 in s. 216.011(1)(o), to the Regulatory Trust Fund for the
362 purpose of providing for the payment of expenses of the



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363 licensing authority in carrying out its responsibilities under
364 this chapter and as prescribed by rule.

365 (c) This subsection expires on August 31, 2022.

366 Section 11. Subsection (1) of section 624.317, Florida
367 Statutes, is amended to read:

368 624.317 Investigation of agents, adjusters,
369 administrators, service companies, and others.—If it has reason
370 to believe that any person has violated or is violating any
371 provision of this code, or upon the written complaint signed by
372 any interested person indicating that any such violation may
373 exist:

374 (1) The department shall conduct such investigation as it
375 deems necessary of the accounts, records, documents, and
376 transactions pertaining to or affecting the insurance affairs of
377 any ~~general agent, surplus lines agent,~~ adjuster, ~~managing~~
378 ~~general agent, insurance agent,~~ insurance agency, customer
379 representative, service representative, or other person subject
380 to its jurisdiction, subject to the requirements of s. 626.601.

381 Section 12. Subsection (2) of section 624.34, Florida
382 Statutes, is amended to read:

383 624.34 Authority of Department of Law Enforcement to
384 accept fingerprints of, and exchange criminal history records
385 with respect to, certain persons.—

386 (2) The Department of Law Enforcement may accept
387 fingerprints of individuals who apply for a license as an agent,

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388 customer representative, adjuster, service representative, or
389 navigator, ~~or managing general agent~~ or the fingerprints of the
390 majority owner, sole proprietor, partners, officers, and
391 directors of a corporation or other legal entity that applies
392 for licensure with the department or office under the Florida
393 Insurance Code.

394 Section 13. Section 624.4073, Florida Statutes, is amended
395 to read:

396 624.4073 Officers and directors of insolvent insurers.—Any
397 person who was an officer or director of an insurer doing
398 business in this state and who served in that capacity within
399 the 2-year period before ~~prior to~~ the date the insurer became
400 insolvent, for any insolvency that occurs on or after July 1,
401 2002, may not thereafter serve as an officer or director of an
402 insurer authorized in this state or have direct or indirect
403 control over the selection or appointment of an officer or
404 director through contract, trust, or by operation of law, unless
405 the officer or director demonstrates that his or her personal
406 actions or omissions were not a significant contributing cause
407 to the insolvency.

408 Section 14. Subsection (1) of section 624.4094, Florida
409 Statutes, is amended to read:

410 624.4094 Bail bond premiums.—

411 (1) The Legislature finds that a significant portion of
412 bail bond premiums is retained by the licensed bail bond agents

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413 or appointed licensed managing general agents. For purposes of
 414 reporting in financial statements required to be filed with the
 415 office pursuant to s. 624.424, direct written premiums for bail
 416 bonds by a domestic insurer in this state shall be reported net
 417 of any amounts retained by licensed bail bond agents or
 418 appointed licensed managing general agents. However, in no case
 419 shall the direct written premiums for bail bonds be less than
 420 6.5 percent of the total consideration received by the agent for
 421 all bail bonds written by the agent. This subsection also
 422 applies to any determination of compliance with s. 624.4095.

423 Section 15. Paragraph (e) of subsection (19) of section
 424 624.501, Florida Statutes, is amended to read:

425 624.501 Filing, license, appointment, and miscellaneous
 426 fees.—The department, commission, or office, as appropriate,
 427 shall collect in advance, and persons so served shall pay to it
 428 in advance, fees, licenses, and miscellaneous charges as
 429 follows:

430 (19) Miscellaneous services:

431 (e) Insurer's registration fee for agent exchanging
 432 business more than four ~~24~~ times in a calendar year under s.
 433 626.752, s. 626.793, or s. 626.837, registration fee per agent
 434 per year \$30.00

435 Section 16. Subsection (1) of section 624.509, Florida
 436 Statutes, is amended to read:

437 624.509 Premium tax; rate and computation.—



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438 (1) In addition to the license taxes provided for in this
439 chapter, each insurer shall also annually, and on or before
440 March 1 in each year, except as to wet marine and transportation
441 insurance taxed under s. 624.510, pay to the Department of
442 Revenue a tax on insurance premiums, premiums for title
443 insurance, or assessments, including membership fees and policy
444 fees and gross deposits received from subscribers to reciprocal
445 or interinsurance agreements, and on annuity premiums or
446 considerations, received during the preceding calendar year, the
447 amounts thereof to be determined as set forth in this section,
448 to wit:

449 (a) An amount equal to 1.75 percent of the gross amount of
450 such receipts on account of life and health insurance policies
451 covering persons resident in this state and on account of all
452 other types of policies and contracts, except annuity policies
453 or contracts taxable under paragraph (b) and bail bond policies
454 or contracts taxable under paragraph (c), covering property,
455 subjects, or risks located, resident, or to be performed in this
456 state, omitting premiums on reinsurance accepted, and less
457 return premiums or assessments, but without deductions:

- 458 1. For reinsurance ceded to other insurers;
- 459 2. For moneys paid upon surrender of policies or
460 certificates for cash surrender value;
- 461 3. For discounts or refunds for direct or prompt payment
462 of premiums or assessments; and

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463 4. On account of dividends of any nature or amount paid
464 and credited or allowed to holders of insurance policies;
465 certificates; or surety, indemnity, reciprocal, or
466 interinsurance contracts or agreements;

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

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

474 Section 17. Section 625.071, Florida Statutes, is amended
475 to read:

476 625.071 Special reserve for bail and judicial bonds.—In
477 lieu of the unearned premium reserve required on surety bonds
478 under s. 625.051, the office may require any surety insurer or
479 limited surety insurer to set up and maintain a reserve on all
480 bail bonds or other single-premium bonds without definite
481 expiration date, furnished in judicial proceedings, equal to the
482 lesser of 35 percent of the bail premiums in force or \$7 per
483 \$1,000 of bail liability. Such reserve shall be reported as a
484 liability in financial statements required to be filed with the
485 office. Each insurer shall file a supplementary schedule showing
486 bail premiums in force and bail liability and the associated
487 special reserve for bail and judicial bonds with financial

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488 statements required by s. 624.424. Bail premiums in force do not
489 include amounts retained by licensed bail bond agents or
490 appointed ~~licensed~~ managing general agents, but may not be less
491 than 6.5 percent of the total consideration received for all
492 bail bonds in force.

493 Section 18. Subsection (5) of section 626.112, Florida
494 Statutes, is amended to read:

495 626.112 License and appointment required; agents, customer
496 representatives, adjusters, insurance agencies, service
497 representatives, managing general agents.-

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

502 Section 19. Section 626.171, Florida Statutes, is amended
503 to read:

504 626.171 Application for license as an agent, customer
505 representative, adjuster, service representative, ~~managing~~
506 ~~general agent~~, or reinsurance intermediary.-

507 (1) The department may not issue a license as agent,
508 customer representative, adjuster, service representative,
509 ~~managing general agent~~, or reinsurance intermediary to any
510 person except upon written application filed with the
511 department, meeting the qualifications for the license applied
512 for as determined by the department, and payment in advance of

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513 all applicable fees. The application must be made under the oath
514 of the applicant and be signed by the applicant. An applicant
515 may permit a third party to complete, submit, and sign an
516 application on the applicant's behalf, but is responsible for
517 ensuring that the information on the application is true and
518 correct and is accountable for any misstatements or
519 misrepresentations. The department shall accept the uniform
520 application for nonresident agent licensing. The department may
521 adopt revised versions of the uniform application by rule.

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

523 (a) His or her full name, age, social security number,
524 residence address, business address, mailing address, contact
525 telephone numbers, including a business telephone number, and e-
526 mail address.

527 (b) A statement indicating the method the applicant used
528 or is using to meet any required prelicensing education,
529 knowledge, experience, or instructional requirements for the
530 type of license applied for.

531 (c) Whether he or she has been refused or has voluntarily
532 surrendered or has had suspended or revoked a license to solicit
533 insurance by the department or by the supervising officials of
534 any state.

535 (d) Whether any insurer or any managing general agent
536 claims the applicant is indebted under any agency contract or



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537 otherwise and, if so, the name of the claimant, the nature of
538 the claim, and the applicant's defense thereto, if any.

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

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

542 (g) The applicant's native language.

543 (h) The highest level of education achieved by the
544 applicant.

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

547 (j) Such other or additional information as the department
548 may deem proper to enable it to determine the character,
549 experience, ability, and other qualifications of the applicant
550 to hold himself or herself out to the public as an insurance
551 representative.

552

553 However, the application must contain a statement that an
554 applicant is not required to disclose his or her race or
555 ethnicity, gender, or native language, that he or she will not
556 be penalized for not doing so, and that the department will use
557 this information exclusively for research and statistical
558 purposes and to improve the quality and fairness of the
559 examinations.

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

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562 (4) An applicant for a license as an agent, customer
563 representative, adjuster, service representative, ~~managing~~
564 ~~general agent~~, or reinsurance intermediary must submit a set of
565 the individual applicant's fingerprints, or, if the applicant is
566 not an individual, a set of the fingerprints of the sole
567 proprietor, majority owner, partners, officers, and directors,
568 to the department and must pay the fingerprint processing fee
569 set forth in s. 624.501. Fingerprints must ~~shall~~ be used to
570 investigate the applicant's qualifications pursuant to s.
571 626.201. The fingerprints must ~~shall~~ be taken by a law
572 enforcement agency, designated examination center, or other
573 department-approved entity. The department shall require all
574 designated examination centers to have fingerprinting equipment
575 and to take fingerprints from any applicant or prospective
576 applicant who pays the applicable fee. The department may not
577 approve an application for licensure as an agent, customer
578 service representative, adjuster, service representative,
579 ~~managing general agent~~, or reinsurance intermediary if
580 fingerprints have not been submitted.

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

583 (6) Members of the United States Armed Forces and their
584 spouses, and veterans of the United States Armed Forces who have
585 retired within 24 months before application for licensure, are
586 exempt from the application filing fee prescribed in s. 624.501.

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587 Qualified individuals must provide a copy of a military
588 identification card, military dependent identification card,
589 military service record, military personnel file, veteran
590 record, discharge paper, ~~or separation document~~, or a separation
591 document that indicates such members of the United States Armed
592 Forces are currently in good standing or were honorably
593 discharged.

594 (7) Pursuant to the federal Personal Responsibility and
595 Work Opportunity Reconciliation Act of 1996, each party is
596 required to provide his or her social security number in
597 accordance with this section. Disclosure of social security
598 numbers obtained through this requirement must shall be limited
599 to the purpose of administration of the Title IV-D program for
600 child support enforcement.

601 Section 20. Section 626.202, Florida Statutes, is amended
602 to read:

603 626.202 Fingerprinting requirements.-

604 (1) The requirements for completion and submission of
605 fingerprints under this chapter are deemed to be met when an
606 individual currently licensed under this chapter seeks
607 additional licensure and has previously submitted fingerprints
608 to the department within the past 48 months. However, the
609 department may require the individual to file fingerprints if it
610 has reason to believe that an applicant or licensee has been
611 found guilty of, or pleaded guilty or nolo contendere to, a

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612 felony or a crime related to the business of insurance in this
613 state or any other state or jurisdiction.

614 (2) The requirements for completion and submission of
615 fingerprints under this chapter are waived for members of the
616 United States Armed Forces and veterans of the United States
617 Armed Forces who were honorably discharged within the 24-month
618 period before the date of an application for licensure. A
619 qualified individual shall provide a copy of a military
620 identification card, military service record, military personnel
621 file, veteran record, Form DD-214, NGB Form 22, or separation
622 document that indicates such member or veteran of the United
623 States Armed Forces is currently in good standing or was
624 honorably discharged.

625 (3) If there is a change in ownership or control of any
626 entity licensed under this chapter, or if a new partner,
627 officer, or director is employed or appointed, a set of
628 fingerprints of the new owner, partner, officer, or director
629 must be filed with the department or office within 30 days after
630 the change. The acquisition of 10 percent or more of the voting
631 securities of a licensed entity is considered a change of
632 ownership or control. The fingerprints must be taken by a law
633 enforcement agency or other department-approved entity and be
634 accompanied by the fingerprint processing fee in s. 624.501.

635 Section 21. Subsection (9) of section 626.207, Florida
636 Statutes, is amended to read:

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637 626.207 Disqualification of applicants and licensees;
638 penalties against licensees; rulemaking authority.-

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

643 Section 22. Paragraph (j) of subsection (2) of section
644 626.221, Florida Statutes, is amended to read:

645 626.221 Examination requirement; exemptions.-

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

648 (j) An applicant for license as an all-lines adjuster who
649 has the designation of Accredited Claims Adjuster (ACA) from a
650 regionally accredited postsecondary institution in this state,
651 Associate in Claims (AIC) from the Insurance Institute of
652 America, Professional Claims Adjuster (PCA) from the
653 Professional Career Institute, Professional Property Insurance
654 Adjuster (PPIA) from the HurriClaim Training Academy, Certified
655 Adjuster (CA) from ALL LINES Training, Certified Claims Adjuster
656 (CCA) from AE21 Incorporated, Claims Adjuster Certified
657 Professional (CACP) from WebCE, Inc., or Universal Claims
658 Certification (UCC) from Claims and Litigation Management
659 Alliance (CLM) whose curriculum has been approved by the
660 department and which includes comprehensive analysis of basic
661 property and casualty lines of insurance and testing at least

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662 equal to that of standard department testing for the all-lines
663 adjuster license. The department shall adopt rules establishing
664 standards for the approval of curriculum.

665 Section 23. Subsection (7) of section 626.451, Florida
666 Statutes, is renumbered as subsection (6), and subsections (1)
667 and (5) and present subsection (6) of that section are amended,
668 to read:

669 626.451 Appointment of agent or other representative.—

670 (1) Each appointing entity or person designated by the
671 department to administer the appointment process appointing an
672 agent, adjuster, service representative, customer
673 representative, or managing general agent in this state shall
674 file the appointment with the department or office and, at the
675 same time, pay the applicable appointment fee and taxes. Every
676 appointment is ~~shall be~~ subject to the prior issuance of the
677 appropriate agent's, adjuster's, service representative's, or
678 customer representative's, ~~or managing general agent's~~ license.

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

684 (5)~~(6)~~ Upon the filing of an information or indictment
685 against an agent, adjuster, service representative, or customer
686 representative, ~~or managing general agent,~~ the state attorney

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687 shall immediately furnish the department or office a certified
688 copy of the information or indictment.

689 Section 24. Section 626.521, Florida Statutes, is amended
690 to read:

691 626.521 ~~Character,~~ Credit and character reports.-

692 (1) Before appointing ~~As to each applicant who~~ for the
693 first time in this state an ~~is applying and qualifying for a~~
694 ~~license as~~ agent, adjuster, service representative, customer
695 representative, or managing general agent, the appointing
696 insurer or employer shall ~~its manager or general agent in this~~
697 ~~state, in the case of agents, or the appointing general lines~~
698 ~~agent, in the case of customer representatives, or the employer,~~
699 ~~in the case of service representatives and of adjusters who are~~
700 ~~not to be self-employed, shall coincidentally with such~~
701 ~~appointment or employment~~ secure and thereafter keep on file a
702 full detailed credit and character report ~~made by an established~~
703 ~~and reputable independent reporting service,~~ relative to the
704 individual so appointed ~~or employed.~~ This subsection does not
705 apply to licensees who self-appoint pursuant to s. 624.501.

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



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711 ~~(3) As to an applicant for an adjuster's or reinsurance~~
712 ~~intermediary's license who is to be self employed, the~~
713 ~~department may secure, at the cost of the applicant, a full~~
714 ~~detailed credit and character report made by an established and~~
715 ~~reputable independent reporting service relative to the~~
716 ~~applicant.~~

717 ~~(4) Each person who for the first time in this state is~~
718 ~~applying and qualifying for a license as a reinsurance~~
719 ~~intermediary shall file with her or his application for license~~
720 ~~a full, detailed credit and character report for the 5 year~~
721 ~~period immediately prior to the date of application for license,~~
722 ~~made by an established and reputable independent reporting~~
723 ~~service, relative to the individual if a partnership or sole~~
724 ~~proprietorship, or the officers if a corporation or other legal~~
725 ~~entity.~~

726 ~~(3)(5)~~ Information contained in credit or character
727 reports furnished to or secured by the department under this
728 section is confidential and exempt from ~~the provisions of s.~~
729 ~~119.07(1).~~

730 Section 25. Paragraph (f) of subsection (1) of section
731 626.731, Florida Statutes, is amended to read:

732 626.731 Qualifications for general lines agent's license.—

733 (1) The department shall not grant or issue a license as
734 general lines agent to any individual found by it to be



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735 untrustworthy or incompetent or who does not meet each of the
736 following qualifications:

737 ~~(f) The applicant is not a service representative, a~~
738 ~~managing general agent in this state, or a special agent or~~
739 ~~similar service representative of a health insurer which also~~
740 ~~transacts property, casualty, or surety insurance; except that~~
741 ~~the president, vice president, secretary, or treasurer,~~
742 ~~including a member of the board of directors, of a corporate~~
743 ~~insurer, if otherwise qualified under and meeting the~~
744 ~~requirements of this part, may be licensed and appointed as a~~
745 ~~local resident agent.~~

746 Section 26. Subsection (6) of section 626.7351, Florida
747 Statutes, is amended to read:

748 626.7351 Qualifications for customer representative's
749 license.—The department shall not grant or issue a license as
750 customer representative to any individual found by it to be
751 untrustworthy or incompetent, or who does not meet each of the
752 following qualifications:

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

756 Section 27. Section 626.744, Florida Statutes, is amended
757 to read:

758 626.744 Service representatives, ~~managing general agents;~~
759 application for license.—The application for a license as

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760 service representative must ~~or the application for a license as~~
761 ~~managing general agent shall~~ show the applicant's name,
762 residence address, name of employer, position or title, type of
763 work to be performed by the applicant in this state, and any
764 additional information which the department may reasonably
765 require.

766 Section 28. Section 626.745, Florida Statutes, is amended
767 to read:

768 626.745 Service representatives, managing general agents;
769 managers; activities.—Individuals employed by insurers or their
770 managers, general agents, or representatives as service
771 representatives, and as managing general agents employed for the
772 purpose of or engaged in assisting agents in negotiating and
773 effecting contracts of insurance, shall engage in such
774 activities ~~when, and only when~~ licensed as or, accompanied by a
775 general lines ~~an agent duly licensed and appointed as a resident~~
776 ~~licensee and appointee~~ under this code.

777 Section 29. Subsection (11) of section 626.7451, Florida
778 Statutes, is amended to read:

779 626.7451 Managing general agents; required contract
780 provisions.—No person acting in the capacity of a managing
781 general agent shall place business with an insurer unless there
782 is in force a written contract between the parties which sets
783 forth the responsibility for a particular function, specifies



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784 the division of responsibilities, and contains the following
785 minimum provisions:

786 (11) An appointed ~~A-licensed~~ managing general agent, when
787 placing business with an insurer under this code, may charge a
788 per-policy fee not to exceed \$25. ~~In no instance shall~~ The
789 aggregate of per-policy fees for a placement of business
790 authorized under this section, when combined with any other per-
791 policy fee charged by the insurer, may not result in per-policy
792 fees that ~~which~~ exceed the aggregate amount of \$25. The per-
793 policy fee must ~~shall~~ be a component of the insurer's rate
794 filing and must ~~shall~~ be fully earned.

795

796 For the purposes of this section and ss. 626.7453 and 626.7454,
797 the term "controlling person" or "controlling" has the meaning
798 set forth in s. 625.012(5)(b)1., and the term "controlled
799 person" or "controlled" has the meaning set forth in s.
800 625.012(5)(b)2.

801 Section 30. Subsection (1) of section 626.7455, Florida
802 Statutes, is amended to read:

803 626.7455 Managing general agent; responsibility of
804 insurer.-

805 (1) An insurer may not ~~No insurer shall~~ enter into an
806 agreement with any person to manage the business written in this
807 state by the general lines agents appointed by the insurer or
808 appointed by the managing general agent on behalf of the insurer

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809 unless the person is properly licensed as an agent and appointed
810 as a managing general agent in this state. An insurer is ~~shall~~
811 ~~be~~ responsible for the acts of its managing general agent when
812 the agent acts within the scope of his or her authority.

813 Section 31. Paragraph (e) of subsection (3) and subsection
814 (5) of section 626.752, Florida Statutes, are amended to read:

815 626.752 Exchange of business.—

816 (3)

817 (e) The brokering agent shall maintain an appropriate and
818 permanent Brokering Agent's Register, which must ~~shall~~ be a
819 permanent record of bound journal in which chronologically
820 numbered transactions that are entered no later than the day in
821 which the brokering agent's application bearing the same number
822 is signed by the applicant. The numbers must ~~shall~~ reflect an
823 annual aggregate through numerical sequence and be preceded by
824 the last two digits of the current year. The initial entry must
825 ~~shall~~ contain the number of the transaction, date, time, date of
826 binder, date on which coverage commences, name and address of
827 applicant, type of coverage desired, name of insurer binding the
828 risk or to whom the application is to be submitted, and the
829 amount of any premium collected therefor. By no later than the
830 date following policy delivery, the policy number and coverage
831 expiration date must ~~shall~~ be added to the register.

832 (5) Within 15 days after the last day of each month, any
833 insurer accepting business under this section shall report to

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834 the department the name, address, telephone number, and social
835 security number of each agent from which the insurer received
836 more than four ~~24~~ personal lines risks during the calendar year,
837 except for risks being removed from the Citizens Property
838 Insurance Corporation and placed with that insurer by a
839 brokering agent. Once the insurer has reported pursuant to this
840 subsection an agent's name to the department, additional reports
841 on the same agent shall not be required. However, the fee set
842 forth in s. 624.501 must ~~shall~~ be paid for the agent by the
843 insurer for each year until the insurer notifies the department
844 that the insurer is no longer accepting business from the agent
845 pursuant to this section. The insurer may require that the agent
846 reimburse the insurer for the fee.

847 Section 32. Subsection (4) of section 626.793, Florida
848 Statutes, is amended to read:

849 626.793 Excess or rejected business.—

850 (4) Within 15 days after the last day of each month, any
851 insurer accepting business under this section shall report to
852 the department the name, address, telephone number, and social
853 security number of each agent from which the insurer received
854 more than four ~~24~~ risks during the calendar year. Once the
855 insurer has reported an agent's name to the department pursuant
856 to this subsection, additional reports on the same agent shall
857 not be required. However, the fee set forth in s. 624.501 must
858 ~~shall~~ be paid for the agent by the insurer for each year until

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859 the insurer notifies the department that the insurer is no
860 longer accepting business from the agent pursuant to this
861 section. The insurer may require that the agent reimburse the
862 insurer for the fee.

863 Section 33. Subsection (5) of section 626.837, Florida
864 Statutes, is amended to read:

865 626.837 Excess or rejected business.—

866 (5) Within 15 days after the last day of each month, any
867 insurer accepting business under this section shall report to
868 the department the name, address, telephone number, and social
869 security number of each agent from which the insurer received
870 more than four ~~24~~ risks during the calendar year. Once the
871 insurer has reported pursuant to this subsection an agent's name
872 to the department, additional reports on the same agent shall
873 not be required. However, the fee set forth in s. 624.501 must
874 ~~shall~~ be paid for the agent by the insurer for each year until
875 the insurer notifies the department that the insurer is no
876 longer accepting business from the agent pursuant to this
877 section. The insurer may require that the agent reimburse the
878 insurer for the fee.

879 Section 34. Subsection (5) of section 626.8732, Florida
880 Statutes, is amended to read:

881 626.8732 Nonresident public adjuster's qualifications,
882 bond.—



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883 ~~(5) After licensure as a nonresident public adjuster, as a~~
884 ~~condition of doing business in this state, the licensee must~~
885 ~~annually on or before January 1, on a form prescribed by the~~
886 ~~department, submit an affidavit certifying that the licensee is~~
887 ~~familiar with and understands the insurance code and rules~~
888 ~~adopted thereunder and the provisions of the contracts~~
889 ~~negotiated or to be negotiated. Compliance with this filing~~
890 ~~requirement is a condition precedent to the issuance,~~
891 ~~continuation, reinstatement, or renewal of a nonresident public~~
892 ~~adjuster's appointment.~~

893 Section 35. Subsection (4) of section 626.8734, Florida
894 Statutes, is amended to read:

895 626.8734 Nonresident all-lines adjuster license
896 qualifications.-

897 ~~(4) As a condition of doing business in this state as a~~
898 ~~nonresident independent adjuster, the appointee must submit an~~
899 ~~affidavit to the department certifying that the licensee is~~
900 ~~familiar with and understands the insurance laws and~~
901 ~~administrative rules of this state and the provisions of the~~
902 ~~contracts negotiated or to be negotiated. Compliance with this~~
903 ~~filing requirement is a condition precedent to the issuance,~~
904 ~~continuation, reinstatement, or renewal of a nonresident~~
905 ~~independent adjuster's appointment.~~

906 Section 36. Paragraph (h) of subsection (1) of section
907 626.88, Florida Statutes, is amended to read:

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908 626.88 Definitions.—For the purposes of this part, the
909 term:

910 (1) "Administrator" is any person who directly or
911 indirectly solicits or effects coverage of, collects charges or
912 premiums from, or adjusts or settles claims on residents of this
913 state in connection with authorized commercial self-insurance
914 funds or with insured or self-insured programs which provide
915 life or health insurance coverage or coverage of any other
916 expenses described in s. 624.33(1) or any person who, through a
917 health care risk contract as defined in s. 641.234 with an
918 insurer or health maintenance organization, provides billing and
919 collection services to health insurers and health maintenance
920 organizations on behalf of health care providers, other than any
921 of the following persons:

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

925
926 A person who provides billing and collection services to health
927 insurers and health maintenance organizations on behalf of
928 health care providers shall comply with the provisions of ss.
929 627.6131, 641.3155, and 641.51(4).

930 Section 37. Subsection (2) of section 626.927, Florida
931 Statutes, is amended to read:

932 626.927 Licensing of surplus lines agent.—

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933 (2) Any individual, while licensed as and ~~appointed as a~~
934 ~~managing general agent as defined in s. 626.015, or service~~
935 ~~representative as defined in s. 626.015, and who otherwise~~
936 ~~possesses all of the other qualifications of a general lines~~
937 agent under this code, and who has a minimum of 1 year of year's
938 experience working for a licensed surplus lines agent or who has
939 successfully completed 60 class hours in surplus and excess
940 lines in a course approved by the department, may, upon taking
941 and successfully passing a written examination as to surplus
942 lines, as given by the department, be licensed as a surplus
943 lines agent solely for the purpose of placing with surplus lines
944 insurers property, marine, casualty, or surety coverages
945 originated by general lines agents; ~~except that no examination~~
946 ~~as for a general lines agent's license shall be required of any~~
947 ~~managing general agent or service representative who held a~~
948 ~~Florida surplus lines agent's license as of January 1, 1959.~~

949 Section 38. Subsection (3) of section 626.930, Florida
950 Statutes, is amended to read:

951 626.930 Records of surplus lines agent.-

952 (3) Each surplus lines agent shall maintain all surplus
953 lines business records in his or her general lines agency
954 office, ~~if licensed as a general lines agent, or in his or her~~
955 ~~managing general agency office, if licensed as a managing~~
956 ~~general agent or the full-time salaried employee of such general~~
957 agent.

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958 Section 39. Subsection (2) of section 626.9892, Florida
959 Statutes, is amended to read:

960 626.9892 Anti-Fraud Reward Program; reporting of insurance
961 fraud.—

962 (2) The department may pay rewards of up to \$25,000 to
963 persons providing information leading to the arrest and
964 conviction of persons committing crimes investigated by the
965 department arising from violations of s. 440.105, s. 624.15, s.
966 626.9541, s. 626.989, s. 790.164, s. 790.165, s. 790.166, s.
967 806.01, s. 806.031, s. 806.10, s. 806.111, s. 817.233, or s.
968 817.234.

969 Section 40. Subsection (3) of section 633.302, Florida
970 Statutes, is amended to read:

971 633.302 Florida Fire Safety Board; membership; duties;
972 meetings; officers; quorum; compensation; seal.—

973 (3) The State Fire Marshal's term on the board, or that of
974 her or his designee, shall coincide with the State Fire
975 Marshal's term of office. ~~Of the other six members of the board,~~
976 ~~one member shall be appointed for a term of 1 year, one member~~
977 ~~for a term of 2 years, two members for terms of 3 years, and two~~
978 ~~members for terms of 4 years.~~ All terms are for 4 years and
979 expire on June 30 of the last year of the term. When the term of
980 a member expires, the State Fire Marshal shall appoint a member
981 to fill the vacancy for a term of 4 years. The State Fire
982 Marshal may remove any appointed member for cause. A vacancy in

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983 the membership of the board for any cause must ~~shall~~ be filled
984 by appointment by the State Fire Marshal for the balance of the
985 unexpired term.

986 Section 41. Subsection (2), paragraph (a) of subsection
987 (3), and paragraphs (b), (c), and (d) of subsection (4) of
988 section 633.304, Florida Statutes, are amended to read:

989 633.304 Fire suppression equipment; license to install or
990 maintain.-

991 (2) A person who holds a valid fire equipment dealer
992 license may maintain such license in an inactive status during
993 which time he or she may not engage in any work under the
994 definition of the license held. An inactive status license is
995 ~~shall be void after 4 years after the approval date of the~~
996 inactive status application. To maintain inactive status, the
997 inactive licensee must submit proof of continuing education and
998 the inactive status fee before December 31 of each odd-numbered
999 year or when the license is renewed, whichever comes first. An
1000 ~~inactive status license may not be reactivated unless the~~
1001 ~~continuing education requirements of this chapter have been~~
1002 ~~fulfilled.~~

1003 (3) Each individual actually performing the work of
1004 servicing, recharging, repairing, hydrotesting, installing,
1005 testing, or inspecting fire extinguishers or preengineered
1006 systems must possess a valid and subsisting permit issued by the
1007 division. Permittees are limited as to specific type of work

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1008 performed to allow work no more extensive than the class of
1009 license held by the licensee under whom the permittee is
1010 working. Permits will be issued by the division as follows:

1011 (a) Portable permit: "Portable permittee" means a person
1012 who is limited to performing work no more extensive than the
1013 employing or contractually related licensee in the servicing,
1014 recharging, repairing, installing, or inspecting all types of
1015 portable fire extinguishers.

1016

1017 Any fire equipment permittee licensed pursuant to this
1018 subsection who does not want to engage in servicing, inspecting,
1019 recharging, repairing, hydrotesting, or installing halon
1020 equipment must file an affidavit on a form provided by the
1021 division so stating. Permits will be issued by the division to
1022 show the work authorized thereunder. It is unlawful, unlicensed
1023 activity for a person or firm to falsely hold himself or herself
1024 out to perform any service, inspection, recharge, repair,
1025 hydrotest, or installation except as specifically described in
1026 the permit.

1027 (4)

1028 (b) After initial licensure, each licensee or permittee
1029 must successfully complete a course or courses of continuing
1030 education for fire equipment technicians of at least 16 hours. A
1031 license or permit may not be renewed unless the licensee or
1032 permittee produces documentation of the completion of at least

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1033 16 hours of continuing education for fire equipment technicians
1034 during the biennial licensure period. A person who is both a
1035 licensee and a permittee shall ~~be required to~~ complete 16 hours
1036 of continuing education during each renewal period. Each
1037 licensee shall ensure that all permittees in his or her
1038 employment or through a contractual agreement meet their
1039 continuing education requirements. The State Fire Marshal shall
1040 adopt rules describing the continuing education requirements and
1041 shall have the authority upon reasonable belief, to audit a fire
1042 equipment dealer to determine compliance with continuing
1043 education requirements.

1044 (c) The forms of such licenses and permits and
1045 applications therefor must ~~shall~~ be prescribed by the State Fire
1046 Marshal; in addition to such other information and data as that
1047 officer determines is appropriate and required for such forms,
1048 there must ~~shall~~ be included in such forms the following
1049 matters. Each such application must be in such form as to
1050 provide that the data and other information set forth therein
1051 shall be sworn to by the applicant or, if a corporation, by an
1052 officer thereof. An application for a permit must include the
1053 name of the licensee employing, or contractually related to,
1054 such permittee, and the permit issued in pursuance of such
1055 application must also set forth the name of such licensee. A
1056 permit is valid solely for use by the holder thereof in his or



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1057 her employment by, or contractual relationship with, the
1058 licensee named in the permit.

1059 (d) A license of any class may not be issued or renewed by
1060 the division and a license of any class does not remain
1061 operative unless:

1062 1. The applicant has submitted to the State Fire Marshal
1063 evidence of registration as a Florida corporation or evidence of
1064 compliance with s. 865.09.

1065 2. The State Fire Marshal or his or her designee has by
1066 inspection determined that the applicant possesses the equipment
1067 required for the class of license sought. The State Fire Marshal
1068 shall give an applicant a reasonable opportunity to correct any
1069 deficiencies discovered by inspection. To obtain such
1070 inspection, an applicant with facilities located outside this
1071 state must:

1072 a. Provide a notarized statement from a professional
1073 engineer licensed by the applicant's state of domicile
1074 certifying that the applicant possesses the equipment required
1075 for the class of license sought and that all such equipment is
1076 operable; or

1077 b. Allow the State Fire Marshal or her or his designee to
1078 inspect the facility. All costs associated with the State Fire
1079 Marshal's inspection must ~~shall~~ be paid by the applicant. The
1080 State Fire Marshal, in accordance with s. 120.54, may adopt
1081 rules to establish standards for the calculation and

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1082 establishment of the amount of costs associated with any
1083 inspection conducted by the State Fire Marshal under this
1084 section. Such rules must ~~shall~~ include procedures for invoicing
1085 and receiving funds in advance of the inspection.

1086 3. The applicant has submitted to the State Fire Marshal
1087 proof of insurance providing coverage for comprehensive general
1088 liability for bodily injury and property damage, products
1089 liability, completed operations, and contractual liability. The
1090 State Fire Marshal shall adopt rules providing for the amounts
1091 of such coverage, but such amounts may not be less than \$300,000
1092 for Class A or Class D licenses, \$200,000 for Class B licenses,
1093 and \$100,000 for Class C licenses; and the total coverage for
1094 any class of license held in conjunction with a Class D license
1095 may not be less than \$300,000. The State Fire Marshal may, at
1096 any time after the issuance of a license or its renewal, require
1097 upon demand, and in no event more than 30 days after notice of
1098 such demand, the licensee to provide proof of insurance, on the
1099 insurer's a form ~~provided by the State Fire Marshal~~, containing
1100 confirmation of insurance coverage as required by this chapter.
1101 Failure, for any length of time, to provide proof of insurance
1102 coverage as required must ~~shall~~ result in the immediate
1103 suspension of the license until proof of proper insurance is
1104 provided to the State Fire Marshal. An insurer that ~~which~~
1105 provides such coverage shall notify the State Fire Marshal of

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1106 any change in coverage or of any termination, cancellation, or
1107 nonrenewal of any coverage.

1108 4. The applicant applies to the State Fire Marshal,
1109 provides proof of experience, and successfully completes a
1110 prescribed training course offered by the State Fire College or
1111 an equivalent course approved by the State Fire Marshal. This
1112 subparagraph does not apply to any holder of or applicant for a
1113 permit under paragraph (g) or to a business organization or a
1114 governmental entity seeking initial licensure or renewal of an
1115 existing license solely for the purpose of inspecting,
1116 servicing, repairing, marking, recharging, and maintaining fire
1117 extinguishers used and located on the premises of and owned by
1118 such organization or entity.

1119 5. The applicant has a current retestor identification
1120 number that is appropriate for the license for which the
1121 applicant is applying and that is listed with the United States
1122 Department of Transportation.

1123 6. The applicant has passed, with a grade of at least 70
1124 percent, a written examination testing his or her knowledge of
1125 the rules and statutes governing the activities authorized by
1126 the license and demonstrating his or her knowledge and ability
1127 to perform those tasks in a competent, lawful, and safe manner.
1128 Such examination must ~~shall~~ be developed and administered by the
1129 State Fire Marshal, or his or her designee in accordance with
1130 policies and procedures of the State Fire Marshal. An applicant

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1131 shall pay a nonrefundable examination fee of \$50 for each
1132 examination or reexamination scheduled. A reexamination may not
1133 be scheduled sooner than 30 days after any administration of an
1134 examination to an applicant. An applicant may not be permitted
1135 to take an examination for any level of license more than a
1136 total of four times during 1 year, regardless of the number of
1137 applications submitted. As a prerequisite to licensure of the
1138 applicant, he or she:

1139 a. Must be at least 18 years of age.

1140 b. Must have 4 years of proven experience as a fire
1141 equipment permittee at a level equal to or greater than the
1142 level of license applied for or have a combination of education
1143 and experience determined to be equivalent thereto by the State
1144 Fire Marshal. Having held a permit at the appropriate level for
1145 the required period constitutes the required experience.

1146 c. Must not have been convicted of a felony or a crime
1147 punishable by imprisonment of 1 year or more under the law of
1148 the United States or of any state thereof or under the law of
1149 any other country. "Convicted" means a finding of guilt or the
1150 acceptance of a plea of guilty or nolo contendere in any federal
1151 or state court or a court in any other country, without regard
1152 to whether a judgment of conviction has been entered by the
1153 court having jurisdiction of the case. If an applicant has been
1154 convicted of any such felony, the applicant is ~~shall be~~ excluded
1155 from licensure for a period of 4 years after expiration of

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1156 sentence or final release by the Florida Commission on Offender
1157 Review unless the applicant, before the expiration of the 4-year
1158 period, has received a full pardon or has had her or his civil
1159 rights restored.

1160

1161 This subparagraph does not apply to any holder of or applicant
1162 for a permit under paragraph (g) or to a business organization
1163 or a governmental entity seeking initial licensure or renewal of
1164 an existing license solely for the purpose of inspecting,
1165 servicing, repairing, marking, recharging, hydrotesting, and
1166 maintaining fire extinguishers used and located on the premises
1167 of and owned by such organization or entity.

1168 Section 42. Subsection (7) of section 633.318, Florida
1169 Statutes, is amended to read:

1170 633.318 Certificate application and issuance; permit
1171 issuance; examination and investigation of applicant.—

1172 (7) The State Fire Marshal may, at any time subsequent to
1173 the issuance of the certificate or its renewal, require, upon
1174 demand and in no event more than 30 days after notice of the
1175 demand, the certificateholder to provide proof of insurance
1176 coverage on the insurer's a form ~~provided by the State Fire~~
1177 ~~Marshal~~ containing confirmation of insurance coverage as
1178 required by this chapter. Failure to provide proof of insurance
1179 coverage as required, for any length of time, shall result in



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1180 the immediate suspension of the certificate until proof of
1181 insurance is provided to the State Fire Marshal.

1182 Section 43. Paragraph (b) of subsection (6) of section
1183 633.408, Florida Statutes, is amended to read:

1184 633.408 Firefighter and volunteer firefighter training and
1185 certification.—

1186 (6)

1187 (b) A Special Certificate of Compliance only authorizes an
1188 individual to serve as an administrative and command head of a
1189 fire service provider.

1190 1. An individual desiring to obtain a Special Certificate
1191 of Compliance may not be employed as a fire chief, fire
1192 coordinator, fire director, or fire administrator for a period
1193 of more than 1 year without obtaining certification.

1194 2. An individual desiring to obtain a Special Certificate
1195 of Compliance may not serve as a command officer or function in
1196 a position dictating incident outcomes or objectives before
1197 achieving certification.

1198 3. Retention requirements for a Special Certificate of
1199 Compliance must be similar to those provided in s. 633.414.

1200 Section 44. Subsection (1) of section 633.416, Florida
1201 Statutes, is amended, present subsections (7) and (8) of that
1202 section are renumbered as subsections (8) and (9), respectively,
1203 and a new subsection (7) is added to that section, to read:



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1204 633.416 Firefighter employment and volunteer firefighter
1205 service; saving clause.—

1206 (1) A fire service provider may not employ an individual
1207 to:

1208 (a) Extinguish fires for the protection of life or
1209 property or to supervise individuals who perform such services
1210 unless the individual holds a current and valid Firefighter
1211 Certificate of Compliance; or

1212 (b) Serve as the administrative and command head of a fire
1213 service provider for a period in excess of 1 year unless the
1214 individual holds a current and valid Firefighter Certificate of
1215 Compliance or Special Certificate of Compliance pursuant to s.
1216 633.408.

1217 (7) A fire service provider may employ veterans who were
1218 honorably discharged and who received training equivalent to the
1219 requirements under this chapter. The standard of equivalency of
1220 training must be verified by the division before such an
1221 individual's employment begins. Such individual must obtain a
1222 Firefighter Certificate of Compliance within 24 months after
1223 employment.

1224 Section 45. Paragraph (e) of subsection (1) of section
1225 633.444, Florida Statutes, is amended to read:

1226 633.444 Division powers and duties; Florida State Fire
1227 College.—



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1228 (1) The division, in performing its duties related to the
1229 Florida State Fire College, specified in this part, shall:

1230 ~~(e) Develop a staffing and funding formula for the Florida~~
1231 ~~State Fire College. The formula must include differential~~
1232 ~~funding levels for various types of programs, must be based on~~
1233 ~~the number of full-time equivalent students and information~~
1234 ~~obtained from scheduled attendance counts taken the first day of~~
1235 ~~each program, and must provide the basis for the legislative~~
1236 ~~budget request. As used in this section, a full-time equivalent~~
1237 ~~student is equal to a minimum of 900 hours in a technical~~
1238 ~~certificate program and 400 hours in a degree-seeking program.~~
1239 ~~The funding formula must be as prescribed pursuant to s.~~
1240 ~~1011.62, must include procedures to document daily attendance,~~
1241 ~~and must require that attendance records be retained for audit~~
1242 ~~purposes.~~

1243 Section 46. Subsection (8) of section 648.27, Florida
1244 Statutes, is amended to read:

1245 648.27 Licenses and appointments; general.—

1246 (8) ~~An application for a managing general agent's license~~
1247 ~~must be made by an insurer who proposes to employ or appoint an~~
1248 ~~individual, partnership, association, or corporation as a~~
1249 ~~managing general agent. Such application shall contain the~~
1250 ~~information required by s. 626.744, and the applicant shall pay~~
1251 ~~the same fee as a managing general agent licensed pursuant to~~
1252 ~~that section. An individual who is appointed as a managing~~

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Amendment No. 1

1253 general agent to supervise or manage bail bond business written
1254 in this state must also be licensed as a bail bond agent. In the
1255 case of an entity, at least one owner, officer, or director at
1256 each office location must be licensed as a bail bond agent.

1257 Section 47. Present subsection (6) of section 648.34,
1258 Florida Statutes, is renumbered as subsection (7), and a new
1259 subsection (6) is added to that section, to read:

1260 648.34 Bail bond agents; qualifications.-

1261 (6) The requirements for completion and submission of
1262 fingerprints under this chapter are deemed to be met when an
1263 individual currently licensed under this chapter seeks
1264 additional licensure and has previously submitted fingerprints
1265 to the department in support of an application for licensure
1266 under this chapter within the past 48 months. However, the
1267 department may require the individual to file fingerprints if it
1268 has reason to believe that an applicant or licensee has been
1269 found guilty of, or pleaded guilty or nolo contendere to, a
1270 felony or a crime related to the business of insurance in this
1271 or any other state or jurisdiction.

1272 Section 48. For the purpose of incorporating the amendment
1273 made by this act to section 626.221, Florida Statutes, in a
1274 reference thereto, paragraph (b) of subsection (1) of section
1275 626.8734, Florida Statutes, is reenacted to read:

1276 626.8734 Nonresident all-lines adjuster license
1277 qualifications.-

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Amendment No. 1

1278 (1) The department shall issue a license to an applicant
1279 for a nonresident all-lines adjuster license upon determining
1280 that the applicant has paid the applicable license fees required
1281 under s. 624.501 and:

1282 (b) Has passed to the satisfaction of the department a
1283 written Florida all-lines adjuster examination of the scope
1284 prescribed in s. 626.241(6); however, the requirement for the
1285 examination does not apply to:

1286 1. An applicant who is licensed as an all-lines adjuster
1287 in his or her home state if that state has entered into a
1288 reciprocal agreement with the department;

1289 2. An applicant who is licensed as a nonresident all-lines
1290 adjuster in a state other than his or her home state and a
1291 reciprocal agreement with the appropriate official of the state
1292 of licensure has been entered into with the department; or

1293 3. An applicant who holds a certification set forth in s.
1294 626.221(2)(j).

1295 Section 49. This act shall take effect July 1, 2018.

1296 -----

1297 **T I T L E A M E N D M E N T**

1298 Remove everything before the enacting clause and insert:

1299 A bill to be entitled

1300 An act relating to the Department of Financial

1301 Services; amending s. 17.64, F.S.; providing that

1302 electronic images of warrants, vouchers, or checks in



Amendment No. 1

1303 the Division of Treasury are deemed to be original
1304 records; revising the applicable medium, from film or
1305 print to electronic, in provisions relating to copies
1306 and reproductions of records and documents of the
1307 division; amending s. 20.121, F.S.; renaming the
1308 Bureau of Fire and Arson Investigations within the
1309 Division of Investigative and Forensic Services as the
1310 Bureau of Fire, Arson, and Explosives Investigations;
1311 creating the Bureau of Insurance Fraud and the Bureau
1312 of Workers' Compensation Fraud within the division;
1313 amending s. 39.6035, F.S.; requiring certain child
1314 transition plans to address financial literacy;
1315 specifying requirements for the Department of Children
1316 and Families and community-based providers relating to
1317 a certain financial literacy curriculum offered by the
1318 department; amending s. 39.6251, F.S.; revising
1319 conditions under which certain children are eligible
1320 to remain in licensed care; amending s. 284.40, F.S.;
1321 authorizing the department to disclose certain
1322 personal identifying information of injured or
1323 deceased employees which is exempt from disclosure
1324 under the Workers' Compensation Law to department-
1325 contracted vendors for certain purposes; amending s.
1326 284.50, F.S.; requiring safety coordinators of state
1327 governmental departments to complete, within a certain

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1328 timeframe, safety coordinator training offered by the
1329 department; requiring certain agencies to report
1330 certain return-to-work information to the department;
1331 requiring agencies to provide certain risk management
1332 program information to the Division of Risk Management
1333 for certain purposes; specifying requirements for
1334 agencies in reviewing and responding to certain
1335 information and communications provided by the
1336 division; amending s. 409.1451, F.S.; revising
1337 conditions under which a young adult is eligible for
1338 postsecondary education services and support under the
1339 Road-to-Independence Program; conforming a provision
1340 to changes made by the act; amending s. 414.411, F.S.;
1341 replacing the Department of Economic Opportunity with
1342 the Department of Education in a list of entities to
1343 which a public assistance recipient may be required to
1344 provide written consent for certain investigative
1345 inquiries and to which the department must report
1346 investigation results; amending s. 497.168, F.S.;
1347 providing an exemption from specified application fees
1348 for members and certain veterans of the United States
1349 Armed Forces; amending s. 497.456, F.S.; authorizing
1350 the department, on or before a specified date, to
1351 transfer up to a specified amount from the Preneed
1352 Funeral Contract Consumer Protection Trust Fund to the

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1353 Regulatory Trust Fund for a certain purpose;
1354 authorizing the department to annually transfer earned
1355 or accrued interest from the Preneed Funeral Contract
1356 Consumer Protection Trust Fund to the Regulatory Trust
1357 Fund for a certain purpose; providing for expiration;
1358 amending s. 624.317, F.S.; authorizing the department
1359 to conduct investigations of any, rather than
1360 specified, agents subject to its jurisdiction;
1361 amending s. 624.34, F.S.; conforming a provision to
1362 changes made by the act; amending s. 624.4073, F.S.;
1363 prohibiting certain officers or directors of insolvent
1364 insurers from having direct or indirect control over
1365 certain selection or appointment of officers or
1366 directors, except under certain circumstances;
1367 amending ss. 624.4094, 624.501, 624.509, and 625.071,
1368 F.S.; conforming provisions to changes made by the
1369 act; amending s. 626.112, F.S.; requiring a managing
1370 general agent to hold a currently effective producer
1371 license rather than a managing general agent license;
1372 amending s. 626.171, F.S.; deleting applicability of
1373 licensing provisions as to managing general agents;
1374 making a technical change; amending s. 626.202, F.S.;
1375 providing that certain applicants are not required to
1376 resubmit fingerprints to the department under certain
1377 circumstances; authorizing the department to require

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1378 these applicants to file fingerprints under certain
1379 circumstances; providing an exemption from
1380 fingerprinting requirements for members and certain
1381 veterans of the United States Armed Forces; requiring
1382 such members and veterans to provide certain
1383 documentation of good standing or honorable discharge;
1384 amending s. 626.207, F.S.; conforming a provision to
1385 changes made by the act; amending s. 626.221, F.S.;
1386 adding a designation that exempts applicants for
1387 licensure as an all-lines adjuster from an examination
1388 requirement; amending s. 626.451, F.S.; deleting a
1389 requirement for law enforcement agencies and state
1390 attorney's offices to notify the department or the
1391 Office of Insurance Regulation of certain felony
1392 dispositions; deleting a requirement for the state
1393 attorney to provide the department or office a
1394 certified copy of an information or indictment against
1395 a managing general agent; conforming a provision to
1396 changes made by the act; amending s. 626.521, F.S.;
1397 revising requirements for credit and character reports
1398 secured and kept by insurers or employers appointing
1399 certain insurance representatives; providing
1400 applicability; amending s. 626.731, F.S.; deleting a
1401 certain qualification for licensure as a general lines
1402 agent; amending s. 626.7351, F.S.; revising a

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1403 qualification for licensure as a customer
1404 representative; amending s. 626.744, F.S.; conforming
1405 a provision to changes made by the act; amending s.
1406 626.745, F.S.; revising conditions under which service
1407 representatives and managing general agents may engage
1408 in certain activities; amending ss. 626.7451 and
1409 626.7455, F.S.; conforming provisions to changes made
1410 by the act; amending s. 626.752, F.S.; revising a
1411 requirement for the Brokering Agent's Register
1412 maintained by brokering agents; revising the limit on
1413 certain personal lines risks an insurer may receive
1414 from an agent within a specified timeframe before the
1415 insurer must comply with certain reporting
1416 requirements for that agent; amending s. 626.793,
1417 F.S.; revising the limit on certain risks that certain
1418 insurers may receive from a life agent within a
1419 specified timeframe before the insurer must comply
1420 with certain reporting requirements for that agent;
1421 amending s. 626.837, F.S.; revising the limit on
1422 certain risks that certain insurers may receive from a
1423 health agent within a specified timeframe before the
1424 insurer must comply with certain reporting
1425 requirements for that agent; amending s. 626.8732,
1426 F.S.; deleting a requirement for a licensed
1427 nonresident public adjuster to submit a certain annual

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Amendment No. 1

1428 affidavit to the department; amending s. 626.8734,
1429 F.S.; deleting a requirement for a nonresident
1430 independent adjuster to submit a certain annual
1431 affidavit to the department; amending s. 626.88, F.S.;
1432 conforming a provision to changes made by the act;
1433 amending s. 626.927, F.S.; revising conditions under
1434 which an individual may be licensed as a surplus lines
1435 agent solely for the purpose of placing certain
1436 coverages with surplus lines insurers; amending s.
1437 626.930, F.S.; revising a requirement relating to the
1438 location of a surplus lines agent's surplus lines
1439 business records; amending s. 626.9892, F.S.;
1440 authorizing the department to pay a specified amount
1441 of rewards under the Anti-Fraud Reward Program for
1442 information leading to the arrest and conviction of
1443 persons guilty of arson; amending s. 633.302, F.S.;
1444 revising the duration of the terms of members of the
1445 Florida Fire Safety Board; amending s. 633.304, F.S.;
1446 revising circumstances under which an inactive fire
1447 equipment dealer license is void; specifying the
1448 timeframe when an inactive license must be
1449 reactivated; specifying that permittees performing
1450 certain work on fire equipment may be contracted
1451 rather than employed; revising a requirement for a
1452 certain proof-of-insurance form to be provided by the

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1453 insurer rather than the State Fire Marshal; amending
1454 s. 633.318, F.S.; revising a requirement for a certain
1455 proof-of-insurance form to be provided by the insurer
1456 rather than the State Fire Marshal; amending s.
1457 633.408, F.S.; specifying prerequisites and retention
1458 requirements for a Special Certificate of Compliance
1459 that authorizes an individual to serve as an
1460 administrative and command head of a fire service
1461 provider; amending s. 633.416, F.S.; authorizing fire
1462 service providers to employ honorably discharged
1463 veterans who received specified training; requiring
1464 the Division of State Fire Marshal to verify the
1465 equivalency of such training before the individual
1466 begins employment; requiring such individual to obtain
1467 a Firefighter Certificate of Compliance within a
1468 specified timeframe; making a technical change;
1469 amending s. 633.444, F.S.; deleting a requirement for
1470 the Division of State Fire Marshal to develop a
1471 staffing and funding formula for the Florida State
1472 Fire College; amending s. 648.27, F.S.; revising
1473 conditions under which a managing general agent must
1474 also be licensed as a bail bond agent; conforming a
1475 provision to changes made by the act; amending s.
1476 648.34, F.S.; providing that certain individuals
1477 applying for bail bond agent licensure are not

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1478 required to resubmit fingerprints to the department
1479 under certain circumstances; authorizing the
1480 department to require such individuals to file
1481 fingerprints under certain circumstances; reenacting
1482 s. 626.8734(1)(b), F.S., relating to nonresident all-
1483 lines adjuster license qualifications, to incorporate
1484 the amendment made to s. 626.221, F.S., in a reference
1485 thereto; providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1127 Pub. Rec./Citizens Property Insurance Corporation
SPONSOR(S): Oversight, Transparency & Administration Subcommittee; Lee, Jr.
TIED BILLS: IDEN./SIM. BILLS: SB 1880

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR or BUDGET/POLICY CHIEF. Row 1: 1) Oversight, Transparency & Administration Subcommittee, 13 Y, 0 N, As CS, Moore, Harrington. Row 2: 2) Insurance & Banking Subcommittee, Peterson KP, Luczynski MJ. Row 3: 3) Government Accountability Committee.

SUMMARY ANALYSIS

The Information Technology (IT) Security Act requires the Agency for State Technology and state agency heads to meet certain requirements relating to IT security. The act provides public record exemptions for certain information related to state agency IT security.

The bill creates public record exemptions for Citizens Property Insurance Corporation (Citizens) that are similar to those currently in law for state agencies. The bill provides that records held by Citizens that identify detection, investigation, or response practices for suspected or confirmed IT security incidents, including suspected or confirmed breaches, are confidential and exempt from public record requirements. In addition, portions of risk assessments, evaluations, audits, and other reports of Citizens' IT security program for its data, information, and IT resources that are held by Citizens are confidential and exempt. Such records, and portions thereof, are only confidential and exempt if disclosure would facilitate unauthorized access to or unauthorized modification, disclosure, or destruction of:

- Physical or virtual data or information; or
IT resources, including:
Information relating to the security of Citizens' technologies, processes, and practices designed to protect networks, computers, data processing software, and data from attack, damage, or unauthorized access; or
Physical or virtual security information that relates to Citizens' existing or proposed IT systems.

The bill also creates a public meeting exemption for meetings and portions thereof that would reveal the above-described IT security information.

The exemptions are retroactive and apply to records or portions of public meetings, recordings, and transcripts held by Citizens before, on, or after the effective date of the bill.

The bill provides for repeal of the exemptions on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature. The bill provides a public necessity statement as required by the State Constitution.

The bill may have a minimal fiscal impact on the state. See Fiscal Comments section.

Article I, s 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record or public meeting exemption. The bill creates new public record and public meeting exemptions; thus, it requires a two-thirds vote for final passage.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Public Records Law

Article I, s. 24(a) of the State Constitution sets forth the state's public policy regarding access to government records. This section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government.

Public policy regarding access to government records is addressed further in the Florida Statutes. Section 119.07(1), F.S., guarantees every person a right to inspect and copy any state, county, or municipal record.

Public Meetings Law

Article I, s. 24(b) of the State Constitution sets forth the state's public policy regarding access to government meetings. It requires all meetings of any collegial public body of the executive branch of state government or of any collegial public body of a county, municipality, school district, or special district, at which official acts are to be taken or at which public business of such body is to be transacted or discussed to be open and noticed to the public.

Public policy regarding access to government meetings is also addressed in the Florida Statutes. Section 286.011, F.S., known as the "Government in the Sunshine Law" or "Sunshine Law," further requires all meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision at which official acts are to be taken to be open to the public at all times. The board or commission must provide reasonable notice of all public meetings.¹ Minutes of a public meeting must be promptly recorded and be open to public inspection.²

No resolution, rule, or formal action is considered binding unless action is taken or made at a public meeting.³ Acts taken by a board or commission in violation of this requirement are considered void,⁴ though a failure to comply with open meeting requirements may be cured by independent final action by the board or commission fully in compliance with public meeting requirements.⁵

Public Record and Public Meeting Exemptions

Art. I, s. 24(c) of the State Constitution authorizes the Legislature to provide by general law for the exemption of records and meetings from the requirements of Art. I, s. 24(a) and (b) of the State Constitution. The general law must state with specificity the public necessity justifying the exemption (public necessity statement) and must be no broader than necessary to accomplish its purpose.

The Open Government Sunset Review Act⁶ further provides that a public record or a public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allow the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.

¹ Section 286.011(1), F.S.

² Section 286.011(2), F.S.

³ Section 286.011(1), F.S.

⁴ *Grapski v. City of Alachua*, 31 So. 3d 193 (Fla. 1st DCA 2010).

⁵ *Finch v. Seminole County School Board*, 995 So. 2d 1068 (Fla. 5th DCA 2008).

⁶ See s. 119.15, F.S.

- Protect sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protect trade or business secrets.⁷

The Open Government Sunset Review Act requires the automatic repeal of a newly created exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.⁸

Public Record Exemptions Related to Information Technology

The Information Technology (IT) Security Act⁹ requires the Agency for State Technology (AST) and state agency¹⁰ heads to meet certain requirements relating to IT security. The IT Security Act provides that the following state agency information is confidential and exempt¹¹ from public record requirements:

- Comprehensive risk assessments;¹²
- Internal policies and procedures that, if disclosed, could facilitate the unauthorized modification, disclosure, or destruction of data or information technology (IT) resources;¹³ and
- The results of internal audits and evaluations.¹⁴

Such confidential and exempt information must be disclosed to the Auditor General, the Cybercrime Office within the Department of Law Enforcement (DLE), AST, and, for agencies under the jurisdiction of the Governor, the Chief Inspector General.¹⁵

In addition, the IT Security Act provides that records held by a state agency that identify detection, investigation, or response practices for suspected or confirmed IT security incidents, including suspected or confirmed breaches, are confidential and exempt.¹⁶ Portions of risk assessments, evaluations, external audits, and other reports of a state agency's IT security program for the data, information, and IT resources of the state agency that are held by a state agency are confidential and exempt from public record requirements.¹⁷ Such records, and portions thereof, are only confidential and exempt if disclosure would facilitate the unauthorized access to or the unauthorized modification, disclosure, or destruction of:

- Physical or virtual data or information; or
- IT resources, including:

⁷ Section 119.15(6)(b), F.S.

⁸ Section 119.15(3), F.S.

⁹ Section 282.318, F.S.

¹⁰ The term "state agency" means any official, officer, commission, board, authority, council, committee, or department of the executive branch of state government; the Justice Administrative Commission; and the Public Service Commission. The term does not include university boards of trustees or state universities. As used in part I of this chapter, except as otherwise specifically provided, the term does not include the Department of Legal Affairs, the Department of Agriculture and Consumer Services, or the Department of Financial Services. Section 282.0041(23), F.S.

¹¹ There is a difference between records the Legislature designates exempt from public records requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *Williams v. City of Minneola*, 575 So. 2d 683, 687 (Fla. 5th DCA 1991) *review denied*, 589 So. 2d 289 (Fla. 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released by the custodian of public records to anyone other than the persons or entities specifically designated in statute. See *WFTV, Inc. v. Sch. Bd. of Seminole Cnty*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004), *review denied*, 892 So. 2d 1015 (Fla. 2004); Op. Att'y Gen. Fla. 85-692 (1985).

¹² Section 282.318(4)(d), F.S.

¹³ Section 282.318(4)(e), F.S.

¹⁴ Section 282.318(4)(g), F.S.

¹⁵ Section 282.318(4)(d), (e), and (g), F.S.

¹⁶ Section 282.318(4)(i), F.S.

¹⁷ Section 282.318(5), F.S.

- Information relating to the security of the state agency's technologies, processes, and practices designed to protect networks, computers, data processing software, and data from attack, damage, or unauthorized access; or
- Physical or virtual security information that relates to the state agency's existing or proposed IT systems.¹⁸

Such confidential and exempt records, and portions thereof, must be made available to the Auditor General, the Cybercrime Office within DLE, AST, and, for agencies under the jurisdiction of the Governor, the Chief Inspector General. In addition, the records, and portions thereof, may be released to a local government, another state agency, or a federal agency for IT security purposes or in furtherance of the state agency's official duties.¹⁹

Citizens Property Insurance Corporation

Citizens Property Insurance Corporation (Citizens) is a state-created, not-for-profit, tax-exempt governmental entity whose public purpose is to provide property insurance coverage to those unable to find affordable coverage in the voluntary admitted²⁰ market. It is not a private insurance company.²¹

Records and meetings held by Citizens regarding information security incidents, such as investigations into security breaches, security technologies, processes and practices as well as security risk assessments are subject to Florida open records laws.^{22,23} Public disclosure of this information presents a significant security risk and would reveal weaknesses within Citizens' computer networks, raising the potential for exploitation.

Section 282.318, F.S., exempts from Open Meeting and Public Records laws data and information from technology systems owned, contracted, or maintained by a state agency.

However, s. 282.318(2), F.S., defines "state agency" as having the same meaning as provided in s. 282.0041, F.S. State agency is defined in s. 282.0041(23), F.S., as meaning:

[A]ny official, officer, commission, board, authority, council, committee, or department of the executive branch of state government; the Justice Administrative Commission; and the Public Service Commission.

Because Citizens is not created within the executive branch, it is not covered by the definition.

Therefore, Citizens is vulnerable to the disclosure of information and records which, if disclosed, could potentially compromise the confidentiality, integrity, and availability of its information technology system. Such system contains highly sensitive policyholder, insurer, claims, financial, accounting and banking, personnel, and other records.²⁴

Effect of the Bill

The bill creates public record and public meeting exemptions to protect data and records pertaining to the security of the Citizens information networks from disclosure. The bill provides that records held by Citizens that identify detection, investigation, or response practices for suspected or confirmed IT

¹⁸ Section 282.318(4)(i) and (5), F.S.

¹⁹ *Id.*

²⁰ Admitted market means insurance companies licensed to transact insurance in Florida.

²¹ Section 627.351(6)(a).1., F.S.

²² FLA. CONST. art. I, s. 24 (c).

²³ Chapter 119, F.S.

²⁴ Section 627.351(6)(x), F.S., requires Citizens to hold the following records as confidential and exempt from disclosure under Florida's public record laws: underwriting files, claim files, certain audit files, attorney-client privileged material, certain proprietary information licensed to Citizens, employee assistance program information, information relating to the medical condition or medical status of a Citizens employee, certain information relating to contract negotiations, and certain records related to closed meetings.

security incidents, including suspected or confirmed breaches, are confidential and exempt from public record requirements. In addition, portions of risk assessments, evaluations, audits, and other reports of Citizens' IT security program for its data, information, and IT resources that are held by Citizens are confidential and exempt. Such records, and portions thereof, are only confidential and exempt if disclosure would facilitate unauthorized access to or unauthorized modification, disclosure, or destruction of:

- Physical or virtual data or information; or
- IT resources, including:
 - Information relating to the security of Citizens' technologies, processes, and practices designed to protect networks, computers, data processing software, and data from attack, damage, or unauthorized access; or
 - Physical or virtual security information that relates to Citizens' existing or proposed IT systems.

The bill also creates a public meeting exemption for meetings and portions thereof that would reveal the above-described IT security information. Recordings or transcripts of such closed portions of meetings must be taken. Recordings or transcripts are confidential and exempt from public record requirements, unless a court, following an in camera review, determines that the meeting was not restricted to the discussion of confidential and exempt data and information. In the event of such a judicial determination, only that portion of a transcript that reveals nonexempt data and information may be disclosed to a third party.

The bill requires the confidential and exempt records related to the public meeting exemption to be available to the Auditor General, the Cybercrime Office of DLE, and the Office of Insurance Regulation. Such records and portions of meetings, recordings, and transcripts may also be available to a state or federal agency for security purposes or in furtherance of the agency's official duties.

The public record exemptions are retroactive and apply to records or portions of public meetings, recordings, and transcripts held by Citizens before, on, or after the effective date of the bill.

The bill provides a public necessity statement as required by the State Constitution, specifying that the public record and public meeting exemptions are necessary to ensure effective investigations of IT security breaches, to prevent identity theft and other crimes, and to prevent the disclosure of weaknesses in Citizens' data security.

The bill provides for repeal of the exemptions on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

B. SECTION DIRECTORY:

Section 1. creates s. 627.352, F.S., relating to security of data and information technology in Citizens Property Insurance Corporation.

Section 2. provides a public necessity statement.

Section 3. provides an effective date of upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to impact state government revenues.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to impact local government revenues.

2. Expenditures:

The bill does not appear to impact local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill may create a minimal fiscal impact on Citizens because staff responsible for complying with public record requests and public meeting requirements could require training related to the creation of the public record and public meeting exemptions. In addition, Citizens could incur costs associated with redacting the exempt information prior to releasing a record. The costs, however, would be absorbed, as they are part of the day-to-day responsibilities of Citizens.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record or public meeting exemption. The bill creates public record and public meeting exemptions; thus, it requires a two-thirds vote for final passage.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a public necessity statement for a newly created or expanded public record or public meeting exemption. The bill creates public record and public meeting exemptions; thus, it includes a public necessity statement.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires a newly created public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill creates public record exemptions for records held by Citizens that identify detection, investigation, or response practices for suspected or confirmed IT security incidents in addition to a public meeting exemption for portions of public meetings that would reveal such data and information. As such, the exemptions do not appear to be in conflict with the constitutional requirement that the exemptions be no broader than necessary to accomplish the stated purpose.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 17, 2018, the Oversight, Transparency & Administration Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment:

- Expanded the bill's relating to clause to include public meetings;
- Changed the effective date of the bill to "upon becoming a law;" and
- Changed the automatic repeal date of the bill from October 2, 2022, to October 2, 2023.

This analysis is drafted to the committee substitute as approved by the Oversight, Transparency & Administration Subcommittee.

1 A bill to be entitled
 2 An act relating to public records and public meetings;
 3 creating s. 627.352, F.S.; providing an exemption from
 4 public records requirements for certain records held
 5 by the Citizens Property Insurance Corporation which
 6 identify detection, investigation, or response
 7 practices for suspected or confirmed information
 8 technology security incidents; creating an exemption
 9 from public records requirements for certain portions
 10 of risk assessments, evaluations, audits, and other
 11 reports of the corporation's information technology
 12 security program; creating an exemption from public
 13 meetings requirements for portions of public meetings
 14 which would reveal such data and information;
 15 providing an exemption from public records
 16 requirements for a specified period for the recording
 17 and transcript of a closed meeting; authorizing
 18 disclosure of confidential and exempt information to
 19 certain agencies and officers; providing for future
 20 legislative review and repeal; providing a statement
 21 of public necessity; providing retroactive
 22 application; providing an effective date.

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

26 Section 1. Section 627.352, Florida Statutes, is created
 27 to read:

28 627.352 Security of data and information technology in
 29 Citizens Property Insurance Corporation.-

30 (1) The following data and information from technology
 31 systems owned by, under contract with, or maintained by Citizens
 32 Property Insurance Corporation are confidential and exempt from
 33 s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

34 (a) Records held by the corporation which identify
 35 detection, investigation, or response practices for suspected or
 36 confirmed information technology security incidents, including
 37 suspected or confirmed breaches, if the disclosure of such
 38 records would facilitate unauthorized access to or unauthorized
 39 modification, disclosure, or destruction of:

40 1. Data or information, whether physical or virtual; or

41 2. Information technology resources, including:

42 a. Information relating to the security of the
 43 corporation's technologies, processes, and practices designed to
 44 protect networks, computers, data processing software, and data
 45 from attack, damage, or unauthorized access; or

46 b. Security information, whether physical or virtual,
 47 which relates to the corporation's existing or proposed
 48 information technology systems.

49 (b) Those portions of risk assessments, evaluations,
 50 audits, and other reports of the corporation's information

51 technology security program for its data, information, and
 52 information technology resources which are held by the
 53 corporation, if the disclosure of such records would facilitate
 54 unauthorized access to or the unauthorized modification,
 55 disclosure, or destruction of:

- 56 1. Data or information, whether physical or virtual; or
- 57 2. Information technology resources, which include:
 - 58 a. Information relating to the security of the
 - 59 corporation's technologies, processes, and practices designed to
 - 60 protect networks, computers, data processing software, and data
 - 61 from attack, damage, or unauthorized access; or
 - 62 b. Security information, whether physical or virtual,
 - 63 which relates to the corporation's existing or proposed
 - 64 information technology systems.

65 (2) Those portions of a public meeting as specified in s.
 66 286.011 which would reveal data and information described in
 67 subsection (1) are exempt from s. 286.011 and s. 24(b), Art. I
 68 of the State Constitution. No exempt portion of an exempt
 69 meeting may be off the record. All exempt portions of such a
 70 meeting must be recorded and transcribed. The recording and
 71 transcript of the meeting must remain confidential and exempt
 72 from disclosure under s. 119.07(1) and s. 24(a), Art. 1 of the
 73 State Constitution unless a court of competent jurisdiction,
 74 following an in camera review, determines that the meeting was
 75 not restricted to the discussion of data and information made

76 confidential and exempt by this section. In the event of such a
 77 judicial determination, only that portion of the transcript
 78 which reveals nonexempt data and information may be disclosed to
 79 a third party.

80 (3) The records and portions of public meeting recordings
 81 and transcripts described in subsection (2) must be available to
 82 the Auditor General, the Cybercrime Office of the Department of
 83 Law Enforcement, and the Office of Insurance Regulation. Such
 84 records and portions of meetings, recordings, and transcripts
 85 may be made available to a state or federal agency for security
 86 purposes or in furtherance of the agency's official duties.

87 (4) The exemptions listed in this section apply to such
 88 records or portions of public meetings, recordings, and
 89 transcripts held by the corporation before, on, or after the
 90 effective date of this act.

91 (5) This section is subject to the Open Government Sunset
 92 Review Act in accordance with s. 119.15 and shall stand repealed
 93 on October 2, 2023, unless reviewed and saved from repeal
 94 through reenactment by the Legislature.

95 Section 2. (1)(a) The Legislature finds that it is a
 96 public necessity that the following data or information from
 97 technology systems owned, under contract, or maintained by the
 98 corporation be confidential and exempt from s. 119.07 (1),
 99 Florida Statutes, and s. 24 (a), Article I of the State
 100 Constitution:

101 1. Records held by the corporation which identify
 102 detection, investigation, or response practices for suspected or
 103 confirmed information technology security incidents, including
 104 suspected or confirmed breaches, if the disclosure of such
 105 records would facilitate unauthorized access to or unauthorized
 106 modification, disclosure, or destruction of:

107 a. Data or information, whether physical or virtual; or

108 b. Information technology resources, which include:

109 (I) Information relating to the security of the
 110 corporation's technologies, processes, and practices designed to
 111 protect networks, computers, data processing software, and data
 112 from attack, damage, or unauthorized access; or

113 (II) Security information, whether physical or virtual,
 114 which relates to the corporation's existing or proposed
 115 information technology systems.

116 2. Those portions of risk assessments, evaluations,
 117 audits, and other reports of the corporation's information
 118 technology security program for its data, information, and
 119 information technology resources which are held by the
 120 corporation, if the disclosure of such records would facilitate
 121 unauthorized access to or the unauthorized modification,
 122 disclosure, or destruction of:

123 a. Data or information, whether physical or virtual; or

124 b. Information technology resources, which include:

125 (I) Information relating to the security of the

126 corporation's technologies, processes, and practices designed to
 127 protect networks, computers, data processing software, and data
 128 from attack, damage, or unauthorized access; or

129 (II) Security information, whether physical or virtual,
 130 which relates to the corporation's existing or proposed
 131 information technology systems.

132 (b) The Legislature also finds that those portions of a
 133 public meeting as specified in s. 286.011, Florida Statutes,
 134 which would reveal data and information described in subsection
 135 (1) are exempt from s. 286.011, Florida Statutes, and s. 24 (b),
 136 Article I of the State Constitution. The recording and
 137 transcript of the meeting must remain confidential and exempt
 138 from disclosure under s. 119. 07 (1), Florida Statutes, and s.
 139 24 (a), Article I of the State Constitution unless a court of
 140 competent jurisdiction, following an in camera review,
 141 determines that the meeting was not restricted to the discussion
 142 of data and information made confidential and exempt by this
 143 section. In the event of such a judicial determination, only
 144 that portion of the transcript which reveals nonexempt data and
 145 information may be disclosed to a third party.

146 (c) The Legislature further finds that it is a public
 147 necessity that records held by the corporation which identify
 148 detection, investigation, or response practices for suspected or
 149 confirmed information technology security incidents, including
 150 suspected or confirmed breaches, be made confidential and exempt

151 from s. 119.07 (1), Florida Statutes, and s. 24 (a), Article I
 152 of the State Constitution if the disclosure of such records
 153 would facilitate unauthorized access to or the unauthorized
 154 modification, disclosure, or destruction of:

155 1. Data or information, whether physical or virtual; or

156 2. Information technology resources, which include:

157 a. Information relating to the security of the
 158 corporation's technologies, processes, and practices designed to
 159 protect networks, computers, data processing software, and data
 160 from attack, damage, or unauthorized access; or

161 b. Security information, whether physical or virtual,
 162 which relates to the corporation's existing or proposed
 163 information technology systems.

164 (d) Such records must be made confidential and exempt for
 165 the following reasons:

166 1. Records held by the corporation which identify
 167 information technology detection, investigation, or response
 168 practices for suspected or confirmed information technology
 169 security incidents or breaches are likely to be used in the
 170 investigations of the incidents or breaches. The release of such
 171 information could impede the investigation and impair the
 172 ability of reviewing entities to effectively and efficiently
 173 execute their investigative duties. In addition, the release of
 174 such information before an active investigation is completed
 175 could jeopardize the ongoing investigation.

176 2. An investigation of an information technology security
 177 incident or breach is likely to result in the gathering of
 178 sensitive personal information, including identification numbers
 179 and personal financial and health information. Such information
 180 could be used to commit identity theft or other crimes. In
 181 addition, release of such information could subject possible
 182 victims of the security incident or breach to further harm.

183 3. Disclosure of a record, including a computer forensic
 184 analysis, or other information that would reveal weaknesses in
 185 the corporation's data security could compromise that security
 186 in the future if such information were available upon conclusion
 187 of an investigation or once an investigation ceased to be
 188 active.

189 4. Such records are likely to contain proprietary
 190 information about the security of the system at issue. The
 191 disclosure of such information could result in the
 192 identification of vulnerabilities and further breaches of that
 193 system. In addition, the release of such information could give
 194 business competitors an unfair advantage and weaken the security
 195 technology supplier supplying the proprietary information in the
 196 marketplace.

197 5. The disclosure of such records could potentially
 198 compromise the confidentiality, integrity, and availability of
 199 the corporation's data and information technology resources. It
 200 is a public necessity that this information be made confidential

201 in order to protect the technology systems, resources, and data
 202 of the corporation. The Legislature further finds that this
 203 public records exemption be given retroactive application
 204 because it is remedial in nature.

205 (2) (a) The Legislature also finds that it is a public
 206 necessity that portions of risk assessments, evaluations,
 207 audits, and other reports of the corporation's information
 208 technology security program for its data, information, and
 209 information technology resources which are held by the
 210 corporation be made confidential and exempt from s. 119.07 (1),
 211 Florida Statutes, and s. 24 (a), Article I of the State
 212 Constitution if the disclosure of such portions of records would
 213 facilitate unauthorized access to or the unauthorized
 214 modification, disclosure, or destruction of:

- 215 1. Data or information, whether physical or virtual; or
- 216 2. Information technology resources, which include:
 - 217 a. Information relating to the security of the
 - 218 corporation's technologies, processes, and practices designed to
 - 219 protect networks, computers, data processing software, and data
 - 220 from attack, damage, or unauthorized access; or
 - 221 b. Security information, whether physical or virtual,
 - 222 which relates to the corporation's existing or proposed
 - 223 information technology systems.

224 (b) The Legislature finds that it is valuable, prudent,
 225 and critical to the corporation to have an independent entity

226 conduct a risk assessment, an audit, or an evaluation or
 227 complete a report of the corporation's information technology
 228 program or related systems. Such documents would likely include
 229 an analysis of the corporation's current information technology
 230 program or systems which could clearly identify vulnerabilities
 231 or gaps in current systems or processes and propose
 232 recommendations to remedy identified vulnerabilities.

233 (3) (a) The Legislature further finds that it is a public
 234 necessity that those portions of a public meeting which could
 235 reveal information described in this section be made exempt from
 236 s. 286.011, Florida Statutes, and s. 24 (b), Article I of the
 237 State Constitution. It is a public necessity that such meetings
 238 be made exempt from the open meetings requirements in order to
 239 protect the corporation's information technology systems,
 240 resources, and data. The information disclosed during portions
 241 of meetings would clearly identify the corporation's information
 242 technology systems and its vulnerabilities. This disclosure
 243 would jeopardize the information technology security of the
 244 corporation and compromise the integrity and availability of the
 245 corporation's data and information technology resources.

246 (b) The Legislature further finds that it is a public
 247 necessity that the recording and transcript of those portions of
 248 meetings specified in paragraph (a) be made confidential and
 249 exempt from s. 119.07 (1), Florida Statutes, and s. 24 (a),
 250 Article I of the State Constitution unless a court determines

251 that the meeting was not restricted to the discussion of data
 252 and information made confidential and exempt by this act. It is
 253 a public necessity that the resulting recordings and transcripts
 254 be made confidential and exempt from the public records
 255 requirements in order to protect the corporation's information
 256 technology systems, resources, and data. The disclosure of such
 257 recordings and transcripts would clearly identify the
 258 corporation's information technology systems and its
 259 vulnerabilities. This disclosure would jeopardize the
 260 information technology security of the corporation and
 261 compromise the integrity and availability of the corporation's
 262 data and information technology resources.

263 (c) The Legislature further finds that this public meeting
 264 and public records exemption must be given retroactive
 265 application because it is remedial in nature.

266 Section 3. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 97 Florida Hurricane Catastrophe Fund
SPONSOR(S): Insurance & Banking Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Insurance & Banking Subcommittee		Peterson <i>KP</i>	Luczynski <i>MJ</i>

SUMMARY ANALYSIS

The Florida Hurricane Catastrophe Fund (FHCF or Fund) is a tax-exempt trust fund that contracts with each admitted residential property insurer to provide reimbursement for a portion of the insurer's losses that are caused by hurricanes. The purpose of the FHCF is to protect and advance the state's interest in maintaining insurance capacity in Florida by providing a stable and ongoing source of reimbursement.

The FHCF charges insurers the actuarially indicated premium for the coverage it provides, based on the insurer's particular risk of hurricane loss. The FHCF reimburses an insurer for a selected percentage of the insurer's hurricane losses above the insurer's retention (deductible), up to a maximum payout. The current coverage options are 90 percent, 75 percent, or 45 percent, as selected by the insurer when it executes its FHCF reimbursement contract.

Florida law sets the maximum amount the FHCF reimburses insurers each year for the mandatory coverage. This is the FHCF's capacity or maximum obligation. Under current law, the FHCF's maximum obligation with respect to all contracts covering a particular contract year is \$17 billion. When the cash balance of the FHCF is insufficient to cover losses from a hurricane, the law authorizes the FHCF to issue revenue bonds. These post-event bonds are funded by emergency assessments on all property and casualty insurance premiums paid by policyholders (subject to certain exceptions), including surplus lines policyholders. The current premium collected by the FHCF includes a 25 percent cash build-up factor that was enacted by the Legislature in 2009 to bolster the FHCF's cash reserves, thereby reducing its reliance on assessment-funded bonding.

The proposed committee substitute (PCS) creates an additional coverage option for insurers of 60 percent, which will give insurers more flexibility in developing and funding their risk transfer programs.

The PCS revises the cash build-up factor to fluctuate, beginning with the 2019-2020 contract year, based on the projected Fund balance. "Projected fund balance" is defined as the projected year-end balance for the prior contract year as published in the October Florida Administrative Register and adjusted for incurred losses. When the projected Fund balance is less than \$14 billion, the cash build-up factor is 25 percent. When the projected Fund balance is at or above \$16 billion, the cash build-up factor is zero. Between \$14 and \$16 billion, the cash build-up factor scales at 5 percent increments for every \$500 million shift in the projected Fund balance, e.g., 20 percent/\$14 billion up to \$14.5 billion; 15 percent/\$14.5 billion up to \$15 billion, etc.

Finally, the PCS clarifies the intent of the Legislature that emergency assessments be levied only to fund bonds. The authority of the State Board of Administration is expressly limited consistent with this intent.

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

The proposed committee substitute is effective upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

The Florida Hurricane Catastrophe Fund (FHCF or Fund) is a tax-exempt trust fund that contracts with each admitted residential property insurer,¹ including Citizens Property Insurance Corporation, to provide reimbursement for a portion of the insurer's losses that are caused by hurricanes.² Participation in the FHCF is mandatory. The purpose of the FHCF is to protect and advance the state's interest in maintaining insurance capacity in Florida by providing a stable and ongoing source of reimbursement. The FHCF fulfills its mission by providing reliable, dependable, and predictable coverage that is limited to catastrophic losses, and by providing timely and adequate payments.³

Historically, the FHCF has been able to sell reinsurance that is less expensive than reinsurance sold by private reinsurance companies, thereby enabling insurers to write more residential property insurance in the state than would otherwise be written and generating significant premium savings for policyholders. This is because:⁴

1. The FHCF operating cost is less than 1 percent of the annual premium collected, whereas, the operating costs for private reinsurance can range from 10 percent to 15 percent of the premium collected.
2. The FHCF does not pay reinsurance brokerage commissions.
3. The FHCF has no underwriting costs.
4. The FHCF is a tax-exempt entity that does not pay federal income taxes or state taxes.
5. The FHCF has the ability to issue tax-exempt debt, which results in lower financing costs should it become necessary to finance losses with revenue bonds.
6. The FHCF does not include a factor for profit for reinsurance sold by the FHCF.
7. The FHCF does not include a risk load for reinsurance sold by the FHCF.

The State Board of Administration (SBA) administers the FHCF, which reimburses a property insurer for a selected percentage of the insurer's hurricane losses above the insurer's retention (deductible), up to a maximum payout. The current coverage options are 90 percent, 75 percent, or 45 percent, as selected by the insurer when it executes its FHCF reimbursement contract.⁵ Retention is the amount of losses below which an insurer is not entitled to reimbursement from the Fund. Total annual retention for the Fund is calculated according to a statutory formula; each individual insurer's retention is based on its share of the total retention. Total retention for the 2017-2018 contract year is \$7 billion.

The FHCF charges insurers the actuarially indicated premium for the coverage it provides, based on the insurer's particular risk of hurricane loss, as modeled by hurricane loss projection models accepted by the Florida Commission on Hurricane Loss Projection Methodology.⁶ "Actuarially indicated" means "an amount determined according to principles of actuarial science to be adequate, but not excessive,

¹ Residential coverage includes both personal lines residential coverage (homeowner, mobile homeowner, dwelling, tenant, condominium unit owner, cooperative unit owner, and similar policies) and commercial lines residential coverage (condominium association, cooperative association, apartment building, and similar policies) coverage. s. 627.4025(1), F.S..

² s. 215.555, F.S. The Legislature created the FHCF in 1993 after Hurricane Andrew.

³ State Board of Administration, *Florida Hurricane Catastrophe Fund 2016 Annual Report*, p. 4, available at https://www.sbafla.com/fhcf/Portals/FHCF/Content/Reports/Annual/20170606_FHCF_2016_AnnualReport_A.pdf?ver=2017-07-06-085215-943 (last visited Jan. 17, 2018).

⁴ State Board of Administration, *Florida Hurricane Catastrophe Fund Fiscal Year 2014-2015 Annual Report*, p. 16, available at https://www.sbafla.com/fhcf/Portals/FHCF/Content/Reports/Annual/20160330_FHCF_AnnualRpt2014_15.pdf?ver=2016-06-08-121801-380 (last visited Jan. 17, 2018).

⁵ Reimbursement contracts run from June 1 – May 31.

⁶ The Florida Commission on Hurricane Loss Projection Methodology is an independent body of experts created by the Florida Legislature in 1995 for the purpose of developing standards and reviewing hurricane loss models used in the development of residential property insurance rates and the calculation of probable maximum loss levels.

in the aggregate, to pay current and future obligations and expenses of the fund....”⁷ The premium is based on each insurer’s reported insured value (exposure), the location of the property insured, the construction type of the property insured, the deductible amounts for the property insured, and other factors.

Florida law sets the maximum amount the FHCF reimburses insurers each year for the mandatory coverage. This is the FHCF’s capacity or maximum obligation. Under current law, the FHCF’s maximum obligation with respect to all contracts covering a particular contract year is \$17 billion. An insurer’s maximum reimbursement is the insurer’s proportional share of the FHCF’s statutory maximum obligation (\$17 billion), not to exceed the insurer’s proportional share of the actual claims-paying capacity. “Actual claims-paying capacity” is the sum of the Fund’s cash balance (from premiums and investment income) as of December 31 of the contract year, risk transfer recoveries (reinsurance proceeds), and debt financing (post-event bonds). The capacity does not increase until the FHCF’s cash, risk transfer, and bonding ability exceed \$34 billion. Controlling the Fund’s capacity in this manner allows the FHCF to accumulate funds in years where there are no hurricanes to pay the maximum mandatory coverage obligations for claims resulting from hurricanes in back-to-back seasons. It also reduces the Fund’s potential reliance on post-event bonding. For the 2017-2018 contract year, the Fund’s estimated claims-paying capacity⁸ reflects a projected year-end cash balance of \$15 billion, \$1 billion of reinsurance, and post-event borrowing capacity of \$7.9 billion. The total estimated claims-paying capacity of \$23.9 billion exceeds the Fund’s \$17 billion single-season reimbursement obligation. The estimate does not take into account any potential losses from Hurricane Irma, which made landfall in Florida on September 10, 2017.⁹

When the cash balance of the FHCF is insufficient to cover losses from a hurricane, the law authorizes the FHCF to issue revenue bonds. These post-event bonds are funded by emergency assessments on all property and casualty insurance premiums paid by policyholders (other than workers’ compensation, accident and health, federal flood, and medical malpractice), including surplus lines policyholders. Annual assessments are capped at 6 percent of premium with respect to losses from any one year and a maximum of 10 percent of premium to fund hurricane losses from multiple years. Revenue bonds issued by the FHCF may be amortized over a term up to 30 years. Thus, the FHCF may levy assessments for as long as 30 years.

Cash Build-up Factor

The premium charged by the FHCF includes an additional 25 percent cash build-up factor. The Legislature enacted the cash build-up factor in 2009 when the cash balance of the Fund was near a historic low and the potential risk of assessments was at a near historic high. The factor was phased in over a 5-year period beginning with the 2009-2010 contract year and has remained at the 25 percent level since the 2013-2014 contract year. The estimated reimbursement premium paid by insurers for the 2017-2018 contract year is \$1.128 billion. The premium includes: a base premium of \$902.3 million and a cash build-up factor amount of \$225.7 million.¹⁰

Effect of the Proposed Committee Substitute

The proposed committee substitute (PCS) creates an additional coverage option for insurers of 60 percent, which will give insurers more flexibility in developing and funding their risk transfer programs.

The PCS revises the cash build-up factor to fluctuate, beginning with the 2019-2020 contract year, based on the projected Fund balance. “Projected fund balance” is defined as the projected year-end balance for the prior contract year as published in the October Florida Administrative Register, adjusted for incurred losses made on or before the date on which the independent actuarial consultant signs the

⁷ s. 215.555(2)(a), F.S.

⁸ The estimated claims-paying capacity provides participating insurers with data necessary to assist them in determining their retention and projected payout from the fund for loss reimbursement purposes.

⁹ Mandatory year-end proof of loss reports were due to the FHCF December 31, 2107.

¹⁰ Conversation with John Kuczowski, Manager of External Affairs, State Board of Administration (Jan. 17, 2018).

report of the proposed premium formula. When the projected Fund balance is less than \$14 billion, the cash build-up factor is 25 percent. When the projected Fund balance is at or above \$16 billion, the cash build-up factor is zero. Between \$14 and \$16 billion, the cash build-up factor scales at 5 percent increments for every \$500 million shift in the projected Fund balance.

Cash Build-Up Factor	Projected Fund Balance
25%	Less than \$14 billion
20%	\$14 billion, but less than \$14.5 billion
15%	\$14.5 billion, but less than \$15 billion
10%	\$15 billion, but less than \$15.5 billion
5%	\$15.5 billion, but less than \$16 billion
0%	At least \$16 billion

Finally, the PCS clarifies the intent of the Legislature that emergency assessments be levied only to fund bonds. The authority of the SBA is expressly limited consistent with this intent.

B. SECTION DIRECTORY:

Section 1. Amends s. 215.555, F.S., relating to Florida Hurricane Catastrophe Fund.

Section 2. Provides an effective date of upon becoming a law.

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:

A reduction in the cash build-up factor will reduce the premium collected by the FHCF from insurers, which, in turn, will result in a reduction in premiums charged to policyholders. In preparing its fiscal analysis, the FHCF used \$2,013 as the average homeowners insurance premium (based on current data of the Office of Insurance Regulation), and assumed that the FHCF premiums account for 10 percent of that premium. Based on these assumptions, the FHCF estimates that for every 5 percent

reduction in the cash build-up factor, homeowners premiums will decrease by 0.4 percent, or \$8.05, annually.

Cash Build-Up Factor	Percentage Impact on Average Homeowners Premium	Annual Savings (Based on 2018 Premium Amount)
25%	No change	\$0
20%	0.4% lower than 2018 premium	\$8.05
15%	0.8% lower than 2018 premium	\$16.10
10%	1.2% lower than 2018 premium	\$24.15
5%	1.6% lower than 2018 premium	\$32.21
0%	2.0% lower than 2018 premium	\$40.26

By reducing the cash build-up factor, the PCS potentially reduces the FHCF's ability to pay losses out of its cash balance. In turn, this could increase the FHCF's reliance on post-event bonds, which are backed by emergency assessments on substantially all property and casualty insurance policies. The FHCF creates direct benefits only for the residential property insurance market. Thus, individuals and entities that will not benefit from any premium reduction attributable to reducing the cash build-up factor could be required to pay for its added potential risk.

FHCF assessments are levied on the full amount of a policyholder's premium; whereas, the cash build-up factor is levied against only that portion of a residential property insurance policyholder's premium which is attributable to the cost of FHCF coverage. Thus, any reduction in the premiums of residential property owners attributable to a reduction in the cash build-up factor could be more than offset by a future assessment to cover bonds needed to offset a shortage of cash that could result from the losses after one or more significant hurricanes.

The PCS eliminates the cash build-up factor when the projected Fund is at or above \$16 billion. Without the premium revenues generated by the cash build-up factor, the FHCF believes its subsequent season capacity is unlikely to grow significantly. Subsequent season capacity is a key factor in stabilizing the property insurance market because insurers that want to stay in the Florida market look for assurance that FHCF coverage will remain available even after the next catastrophic "big one."¹¹

Because the PCS ties the cash build-up factor directly to the value of the projected Fund, policyholders may see larger swings in the cost of their residential property insurance premiums than would occur if the changes in the factor were phased in over time. This would be most likely to occur in a year when the Fund balance is significantly affected by payouts for hurricane losses. In that case, the cash build-up factor could change from zero to 25 percent in one year, i.e., at renewal. Reinstatement of the cash build-up factor following a major loss could create sticker shock for policyholders at a time of great stress in the marketplace. After a major loss, potential reinsurance price spikes and other factors could generate large premium increases for policyholders, which could be intensified by likely increases in FHCF premiums paid by insurers in the contract year following the loss.¹²

¹¹ State Board of Administration, Agency Analysis of 2018 House Bill 97, p. 6 (Nov. 8, 2017).

¹² *Id.*

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The proposed committee substitute does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The proposed committee substitute neither authorizes nor requires administrative rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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A bill to be entitled
An act relating to the Florida Hurricane Catastrophe
Fund; amending s. 215.555, F.S.; providing a retention
multiple; providing an additional coverage option;
revising the calculation and application of the cash
build-up factor; revising the authority to levy
emergency assessments; providing an effective date.

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

Section 1. Paragraph (e) of subsection (2), paragraph
(b) of subsection (4), paragraph (b) of subsection (5), and
paragraph (b) of subsection (6) of section 215.555, Florida
Statutes, are amended to read:

215.555 Florida Hurricane Catastrophe Fund.—

(2) DEFINITIONS.—As used in this section:

(e) "Retention" means the amount of losses below which an
insurer is not entitled to reimbursement from the fund. An
insurer's retention shall be calculated as follows:

1. The board shall calculate and report to each insurer
the retention multiples for that year. For the contract year
beginning June 1, 2005, the retention multiple shall be equal to
\$4.5 billion divided by the total estimated reimbursement
premium for the contract year; for subsequent years, the
retention multiple shall be equal to \$4.5 billion, adjusted

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26 based upon the reported exposure for the contract year occurring
 27 2 years before the particular contract year to reflect the
 28 percentage growth in exposure to the fund for covered policies
 29 since 2004, divided by the total estimated reimbursement premium
 30 for the contract year. Total reimbursement premium for purposes
 31 of the calculation under this subparagraph shall be estimated
 32 using the assumption that all insurers have selected the 90-
 33 percent coverage level.

34 2. The retention multiple as determined under subparagraph
 35 1. shall be adjusted to reflect the coverage level elected by
 36 the insurer. For insurers electing the 90-percent coverage
 37 level, the adjusted retention multiple is 100 percent of the
 38 amount determined under subparagraph 1. For insurers electing
 39 the 75-percent coverage level, the retention multiple is 120
 40 percent of the amount determined under subparagraph 1. For
 41 insurers electing the 60-percent coverage level, the retention
 42 multiple is 150 percent of the amount determined under
 43 subparagraph 1. For insurers electing the 45-percent coverage
 44 level, the adjusted retention multiple is 200 percent of the
 45 amount determined under subparagraph 1.

46 3. An insurer shall determine its provisional retention by
 47 multiplying its provisional reimbursement premium by the
 48 applicable adjusted retention multiple and shall determine its
 49 actual retention by multiplying its actual reimbursement premium
 50 by the applicable adjusted retention multiple.

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51 4. For insurers who experience multiple covered events
 52 causing loss during the contract year, beginning June 1, 2005,
 53 each insurer's full retention shall be applied to each of the
 54 covered events causing the two largest losses for that insurer.
 55 For each other covered event resulting in losses, the insurer's
 56 retention shall be reduced to one-third of the full retention.
 57 The reimbursement contract shall provide for the reimbursement
 58 of losses for each covered event based on the full retention
 59 with adjustments made to reflect the reduced retentions on or
 60 after January 1 of the contract year provided the insurer
 61 reports its losses as specified in the reimbursement contract.

62 (4) REIMBURSEMENT CONTRACTS.-

63 (b)1. The contract shall contain a promise by the board to
 64 reimburse the insurer for 45 percent, 60 percent, 75 percent, or
 65 90 percent of its losses from each covered event in excess of
 66 the insurer's retention, plus 5 percent of the reimbursed losses
 67 to cover loss adjustment expenses. The 60 percent coverage level
 68 shall be available beginning with the 2019-2020 contract year.

69 2. The insurer must elect one of the percentage coverage
 70 levels specified in this paragraph and may, upon renewal of a
 71 reimbursement contract, elect a lower percentage coverage level
 72 if no revenue bonds issued under subsection (6) after a covered
 73 event are outstanding, or elect a higher percentage coverage
 74 level, regardless of whether or not revenue bonds are
 75 outstanding. All members of an insurer group must elect the same

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76 percentage coverage level. Any joint underwriting association,
 77 risk apportionment plan, or other entity created under s.
 78 627.351 must elect the 90-percent coverage level.

79 3. The contract shall provide that reimbursement amounts
 80 shall not be reduced by reinsurance paid or payable to the
 81 insurer from other sources.

82 (5) REIMBURSEMENT PREMIUMS.—

83 (b) The State Board of Administration shall select an
 84 independent consultant to develop a formula for determining the
 85 actuarially indicated premium to be paid to the fund. The
 86 formula shall specify, for each zip code or other limited
 87 geographical area, the amount of premium to be paid by an
 88 insurer for each \$1,000 of insured value under covered policies
 89 in that zip code or other area. In establishing premiums, the
 90 board shall consider the coverage elected under paragraph (4) (b)
 91 and any factors that tend to enhance the actuarial
 92 sophistication of ratemaking for the fund, including
 93 deductibles, type of construction, type of coverage provided,
 94 relative concentration of risks, and other such factors deemed
 95 by the board to be appropriate. Beginning with the premium
 96 formula for the 2019-2020 contract year, the premium formula
 97 must provide for a cash build-up factor as follows:

98 1. As used in this paragraph, the term "projected fund
 99 balance" means the projected year-end balance of the fund as of
 100 December 31 of the prior contract year as published in the

101 Florida Administrative Register in October, adjusted for any
 102 changes in the fund's total incurred losses made on or before
 103 the date on which the independent actuarial consultant signs the
 104 report of the proposed premium formula.

105 2. When the projected fund balance is less than \$14
 106 billion, the factor is 25 percent. When the projected fund
 107 balance is at least \$14 billion, but less than \$14.5 billion,
 108 the factor is 20 percent. When the projected fund balance is at
 109 least \$14.5 billion, but less than \$15 billion, the factor is 15
 110 percent. When the projected fund balance is at least \$15
 111 billion, but less than \$15.5 billion, the factor is 10 percent.
 112 When the fund balance is at least \$15.5 billion, but less than
 113 \$16 billion, the factor is 5 percent. When the fund balance is
 114 at least \$16 billion, the factor is zero. ~~For the 2009-2010~~
 115 ~~contract year, the factor is 5 percent. For the 2010-2011~~
 116 ~~contract year, the factor is 10 percent. For the 2011-2012~~
 117 ~~contract year, the factor is 15 percent. For the 2012-2013~~
 118 ~~contract year, the factor is 20 percent. For the 2013-2014~~
 119 ~~contract year and thereafter, the factor is 25 percent.~~

120 3. The formula may provide for a procedure to determine
 121 the premiums to be paid by new insurers that begin writing
 122 covered policies after the beginning of a contract year, taking
 123 into consideration when the insurer starts writing covered
 124 policies, the potential exposure of the insurer, the potential
 125 exposure of the fund, the administrative costs to the insurer

126 and to the fund, and any other factors deemed appropriate by the
 127 board. The formula must be approved by unanimous vote of the
 128 board. The board may, at any time, revise the formula pursuant
 129 to the procedure provided in this paragraph.

130 (6) REVENUE BONDS.—

131 (b) Emergency assessments.—

132 1. a. If the board determines that the amount of revenue
 133 produced under subsection (5) is insufficient to fund the
 134 obligations, costs, and expenses of the fund and the
 135 corporation, including repayment of revenue bonds and that
 136 portion of the debt service coverage not met by reimbursement
 137 premiums, the board shall direct the Office of Insurance
 138 Regulation to levy, by order, an emergency assessment on direct
 139 premiums for all property and casualty lines of business in this
 140 state, including property and casualty business of surplus lines
 141 insurers regulated under part VIII of chapter 626, but not
 142 including any workers' compensation premiums or medical
 143 malpractice premiums.

144 b. As used in this subsection, the term "property and
 145 casualty business" includes all lines of business identified in
 146 the ~~on Form 2,~~ Exhibit of Premiums and Losses, in the annual
 147 statement required of authorized property and casualty insurers
 148 under ~~by~~ s. 624.424 and any rule adopted under this section,
 149 except for those lines identified as accident and health
 150 insurance and except for policies written under the National

151 Flood Insurance Program. The assessment shall be specified as a
 152 percentage of direct written premium and is subject to annual
 153 adjustments by the board in order to meet debt obligations. The
 154 same percentage applies to all policies in lines of business
 155 subject to the assessment issued or renewed during the 12-month
 156 period beginning on the effective date of the assessment.

157 2. A premium is not subject to an annual assessment under
 158 this paragraph in excess of 6 percent of premium with respect to
 159 obligations arising out of losses attributable to any one
 160 contract year, and a premium is not subject to an aggregate
 161 annual assessment under this paragraph in excess of 10 percent
 162 of premium. An annual assessment under this paragraph continues
 163 as long as the revenue bonds issued with respect to which the
 164 assessment was imposed are outstanding, including any bonds the
 165 proceeds of which were used to refund the revenue bonds, unless
 166 adequate provision has been made for the payment of the bonds
 167 under the documents authorizing issuance of the bonds.

168 3. Emergency assessments shall be collected from
 169 policyholders. Emergency assessments shall be remitted by
 170 insurers as a percentage of direct written premium for the
 171 preceding calendar quarter as specified in the order from the
 172 Office of Insurance Regulation. The office shall verify the
 173 accurate and timely collection and remittance of emergency
 174 assessments and shall report the information to the board in a
 175 form and at a time specified by the board. Each insurer

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176 collecting assessments shall provide the information with
 177 respect to premiums and collections as may be required by the
 178 office to enable the office to monitor and verify compliance
 179 with this paragraph.

180 4. With respect to assessments of surplus lines premiums,
 181 each surplus lines agent shall collect the assessment at the
 182 same time as the agent collects the surplus lines tax required
 183 by s. 626.932, and the surplus lines agent shall remit the
 184 assessment to the Florida Surplus Lines Service Office created
 185 by s. 626.921 at the same time as the agent remits the surplus
 186 lines tax to the Florida Surplus Lines Service Office. The
 187 emergency assessment on each insured procuring coverage and
 188 filing under s. 626.938 shall be remitted by the insured to the
 189 Florida Surplus Lines Service Office at the time the insured
 190 pays the surplus lines tax to the Florida Surplus Lines Service
 191 Office. The Florida Surplus Lines Service Office shall remit the
 192 collected assessments to the fund or corporation as provided in
 193 the order levied by the Office of Insurance Regulation. The
 194 Florida Surplus Lines Service Office shall verify the proper
 195 application of such emergency assessments and shall assist the
 196 board in ensuring the accurate and timely collection and
 197 remittance of assessments as required by the board. The Florida
 198 Surplus Lines Service Office shall annually calculate the
 199 aggregate written premium on property and casualty business,
 200 other than workers' compensation and medical malpractice,

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201 procured through surplus lines agents and insureds procuring
 202 coverage and filing under s. 626.938 and shall report the
 203 information to the board in a form and at a time specified by
 204 the board.

205 5. Any assessment authority not used for a particular
 206 contract year may be used for a subsequent contract year. If,
 207 for a subsequent contract year, the board determines that the
 208 amount of revenue produced under subsection (5) is insufficient
 209 to fund the obligations, costs, and expenses of the fund and the
 210 corporation, including repayment of revenue bonds and that
 211 portion of the debt service coverage not met by reimbursement
 212 premiums, the board shall direct the Office of Insurance
 213 Regulation to levy an emergency assessment up to an amount not
 214 exceeding the amount of unused assessment authority from a
 215 previous contract year or years, plus an additional 4 percent
 216 provided that the assessments in the aggregate do not exceed the
 217 limits specified in subparagraph 2.

218 6. The assessments otherwise payable to the corporation
 219 under this paragraph shall be paid to the fund unless the Office
 220 of Insurance Regulation and the Florida Surplus Lines Service
 221 Office received a notice from the corporation and the fund,
 222 which shall be conclusive and upon which they may rely without
 223 further inquiry, that the corporation has issued bonds and the
 224 fund has no agreements in effect with local governments under
 225 paragraph (c). On or after the date of the notice and until the

226 date the corporation has no bonds outstanding, the fund shall
 227 have no right, title, or interest in or to the assessments,
 228 except as provided in the fund's agreement with the corporation.

229 7. Emergency assessments are not premium and are not
 230 subject to the premium tax, to the surplus lines tax, to any
 231 fees, or to any commissions. An insurer is liable for all
 232 assessments that it collects and must treat the failure of an
 233 insured to pay an assessment as a failure to pay the premium. An
 234 insurer is not liable for uncollectible assessments.

235 8. If an insurer is required to return an unearned
 236 premium, it shall also return any collected assessment
 237 attributable to the unearned premium. A credit adjustment to the
 238 collected assessment may be made by the insurer with regard to
 239 future remittances that are payable to the fund or corporation,
 240 but the insurer is not entitled to a refund.

241 9. If a surplus lines insured or an insured who has
 242 procured coverage and filed under s. 626.938 is entitled to the
 243 return of an unearned premium, the Florida Surplus Lines Service
 244 Office shall provide a credit or refund to the agent or such
 245 insured for the collected assessment attributable to the
 246 unearned premium before remitting the emergency assessment
 247 collected to the fund or corporation.

248 10. The intent of the Legislature is that emergency
 249 assessments be levied only in the context of debt financing
 250 under this subsection. The authority to direct the Office of

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251 Insurance Regulation to levy emergency assessments under this
252 paragraph applies only in circumstances where debt issued under
253 this subsection is outstanding or where the issuance of such
254 debt has been authorized.

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

INSURANCE & BANKING SUBCOMMITTEE

**PCS for HB 97 by Rep. Santiago
Florida Hurricane Catastrophe Fund**

**AMENDMENT SUMMARY
January 23, 2018**

Amendment 1 by Rep. Santiago (Lines 81-82): Reduces the maximum obligation of the Florida Hurricane Catastrophe Fund from \$17 billion to \$14 billion over a 3-year period beginning with the 2019-2020 contract year.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

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

3 Representative Santiago offered the following:

4

5 **Amendment (with directory and title amendments)**

6 Between lines 81 and 82, insert:

7 (c)1. The contract shall also provide that the obligation
 8 of the board with respect to all contracts covering a particular
 9 contract year shall not exceed the actual claims-paying capacity
 10 of the fund up to the a limit specified in this subparagraph.

11 a. For the 2018-2019 contract year, the limit is ~~of~~ \$17
 12 billion.

13 b. For the 2019-2020 contract year, the limit is \$16
 14 billion.

15 c. For the 2020-2021 contract year, the limit is \$15
 16 billion.

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Amendment No. 1

17 d. For the 2021-2022 contract year and subsequent contract
18 years, the limit is \$14 billion for that contract year, unless
19 ~~the board determines that there is sufficient estimated claims-~~
20 ~~paying capacity to provide \$17 billion of capacity for the~~
21 ~~current contract year and an additional \$17 billion of capacity~~
22 ~~for subsequent contract years. If the board makes such a~~
23 ~~determination, the estimated claims-paying capacity for the~~
24 ~~particular contract year shall be determined by adding to the~~
25 ~~\$17 billion limit one-half of the fund's estimated claims-paying~~
26 ~~capacity in excess of \$34 billion. However, the dollar growth in~~
27 ~~the limit may not increase in any year by an amount greater than~~
28 ~~the dollar growth of the balance of the fund as of December 31,~~
29 ~~less any premiums or interest attributable to optional coverage,~~
30 ~~as defined by rule, which occurred over the prior calendar year.~~

31 2. In May and October of the contract year, the
32 board shall publish in the Florida Administrative
33 Register a statement of the fund's estimated borrowing
34 capacity, the fund's estimated claims-paying capacity,
35 and the projected balance of the fund as of December
36 31. After the end of each calendar year, the board
37 shall notify insurers of the estimated borrowing
38 capacity, estimated claims-paying capacity, and the
39 balance of the fund as of December 31 to provide
40 insurers with data necessary to assist them in
41 determining their retention and projected payout from

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Amendment No. 1

42 the fund for loss reimbursement purposes. In
 43 conjunction with the development of the premium
 44 formula, as provided for in subsection (5), the board
 45 shall publish factors or multiples that assist
 46 insurers in determining their retention and projected
 47 payout for the next contract year. For all regulatory
 48 and reinsurance purposes, an insurer may calculate its
 49 projected payout from the fund as its share of the
 50 total fund premium for the current contract year
 51 multiplied by the sum of the projected balance of the
 52 fund as of December 31 and the estimated borrowing
 53 capacity for that contract year as reported under this
 54 subparagraph.

55
56

D I R E C T O R Y A M E N D M E N T

58 Remove lines 11-12 and insert:
 59 Section 1. Paragraph (e) of subsection (2), paragraphs (b)
 60 and (c) of subsection (4), paragraph (b) of subsection (5), and
 61

62
63

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

64 Between lines 4 and 5, insert:
 65 specifying maximum limits of coverage for a contract year;
 66

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HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 465 Insurance
SPONSOR(S): Insurance & Banking Subcommittee
TIED BILLS: IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Insurance & Banking Subcommittee		Lloyd <i>Lu...</i>	Luczynski <i>LF</i>

SUMMARY ANALYSIS

The bill makes the following changes regarding insurance:

- **Foreign Insurer Stock Valuation** – 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, including permissibility in the insurer’s domicile state.
- **Exemption to Adjuster Examination Requirement** – provides an exemption to the adjuster licensing exam to individuals who receives a Claims Adjuster Certified Professional (CACP) designation from WebCE, Inc.
- **Surplus Lines Export Eligibility** – lowers from \$1,000,000 to \$700,000 the threshold for exporting a homeowner’s property insurance risk to a surplus lines insurer following a single coverage rejection.
- **Surplus Lines Insurer Eligibility** – repeals a requirement that conflicts with federal law; however, it does not affect the current eligibility determination process implemented in the state.
- **Surplus Lines Tax** – provides for a uniform surplus lines tax of 4.936 percent of gross premiums, regardless of where the risk is located, rather than the tax rate of each state where the risk is located.
- **Personal Financial and Health Information Privacy** – 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.
- **Execution of Insurance Policies** – provides that an insurer may elect to issue a policy that is not executed by one of several specified insurer representatives and the policy is not invalid despite not being executed.
- **Notice of Policy Change** – requires that a property and casualty insurer summarize policy changes on the required Notice of Change in Policy Terms that is issued at policy renewal, rather than merely issuing a notice (i.e., requires content more informative than merely the phrase “Notice of Change in Policy Terms”).
- **Property Insurance Claim Mediation** – provides that a third-party assignee may request mediation of a property insurance claim; except, an insurer is not required to participate in mediations requested by the assignee.
- **Proof of Mailing** – 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.
- **Transportation Network Company Related Automobile Liability Insurance Exclusions** – allows private passenger motor vehicle insurers to generally exclude coverage of transportation network services provided by a named insured, rather than limiting the exclusion to specific motor vehicles.
- **Filing Exception for Specialty Insurers** – authorizes specialty insurers to disclaim a presumption of control regarding acquisition of stocks, interests, and assets of other companies in the same manner as insurers. It also creates a public records exemption applicable to divestiture filings related to specialty insurers.
- **Confidentiality of Documents Submitted to the Office of Insurance Regulation** – expands the confidentiality of documents submitted to the Office of Insurance Regulation (OIR) under Own-Risk and Solvency Assessment requirements to make them inadmissible as evidence in any private civil action, regardless of from whom they were obtained, rather than only when they are obtained from OIR.
- **Reciprocal Insurer Reserve Requirements** – revises unearned premium reserve requirements.
- **Delivery of Policies** – authorizes motor vehicle service agreement companies and health maintenance organizations (HMO) to deliver agreements and HMO contracts, respectively, in the same manner as currently required for insurers, including the posting of boilerplate contents on a website and requiring delivery within 60 days, rather than 45 days and 10 days, respectively.

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

The bill is effective upon becoming law.

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

STORAGE NAME: pcs0465a.IBS.DOCX

DATE: 1/21/2018

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Foreign Insurer Stock Valuation

Chapter 625, F.S., regulates the financial dealings of insurers admitted to do insurance business in this state and empowers OIR to regulate and oversee their financial conduct. Among other things, the law provides for the valuation of a variety of assets held by the insurer, which contribute to the insurer's financial stability and, in the event of troubled assets, possible instability or insolvency.

Assets held in the form of stock in a subsidiary corporation are subject to maximum percentages of investments by the insurer, as follows:

- If the insurer's surplus, including investments in subsidiaries, does not exceed \$100 million, the maximum percentage of investment in the subsidiaries may not exceed the lesser of:
 - 10 percent of admitted assets;¹ or,
 - 50 percent of the surplus in excess of minimum required surplus.²
- If the insurer's surplus, including investments in subsidiaries, is \$100 million, or more, the maximum percentage investment in the subsidiaries may not exceed:
 - 25 percent of admitted assets.

The valuation of the stock held in the subsidiary may not exceed the net value established using only the assets of the subsidiary eligible under part II of ch. 625, F.S. The valuation of stocks and securities must be consistent with methods published by the National Association of Insurance Commissioners (NAIC).³

Part II of ch. 625, F.S., regulates the valuation of investments by domestic insurers and commercially domiciled insurers.⁴ However, the law also provides that "[t]he investment portfolio of a foreign or alien insurer shall be as permitted by the laws of its domicile if of a quality substantially as high as that required under [ch. 625, F.S.] for similar funds of like domestic insurers."⁵

There are multiple private organizations that engage in the evaluation and rating of insurance companies for the purposes of identifying the financial strength of insurers.⁶ These financial strength ratings allow potential investors to make informed decisions regarding possible investment in the rated insurer. The rating companies use similar terminology, but each has a proprietary method to establish their rating results. While the rating results are similar, it is necessary to review the rating organization's own explanation of its approach and methods to understand the subtle differences that occur when a particular insurer is rated by multiple rating organizations. A.M. Best's Financial Strength Rating is divided between "Secure," with ratings between A++ and B+, or "Vulnerable," with ratings of B or lower. Among the "Secure" ratings, A++ and A+ are described as "Superior," A and A- are described as "Excellent," and B++ and B+ are described as "Good" in terms of A.M. Best's opinion of the company's ability to meet financial obligations.⁷

¹ "Admitted assets" are "assets recognized and accepted by state insurance laws in determining the solvency of insurers and reinsurers. To make it easier to assess an insurance company's financial position, state statutory accounting rules do not permit certain assets to be included on the balance sheet. Only assets that can be easily sold in the event of liquidation or borrowed against, and receivables for which payment can be reasonably anticipated, are included in admitted assets." <https://www.iii.org/resource-center/iii-glossary/A> (last visited Jan. 15, 2018).

² s. 625.151(3)(a), F.S.

³ s. 625.151(4), F.S.

⁴ s. 625.301, F.S.

⁵ s. 625.340, F.S.

⁶ Financial strength rating organizations include: A.M. Best (www.ambest.com), Fitch (www.fitchratings.com), Moody's Investor Services (www.moody.com), Standard & Poor's (www.standardandpoors.com), and Demotech (www.demotech.com).

⁷ See A.M. BEST COMPANY, Guide to Best's Financial Strength Ratings, <http://www.ambest.com/ratings/guide.pdf> (Last visited Jan. 15, 2018).

Effect of the Bill

The bill provides that the stock of a subsidiary corporation or related entity of a foreign insurer is exempt from the limitations on valuation and investment requirements ss. 625.151(3) and 625.325, F.S., for solvency evaluation purposes. The exemption applies if the investment is allowed under the laws of the insurer's domicile state if that state is a member of NAIC. In addition, the subsidiary's stock must be valued by NAIC's Securities Valuation Office (SVO)⁸ with a rating of 1, 2, or 3 or be exempt from NAIC filing and carry a rating assigned by a nationally recognized statistical rating organization that is equivalent to SVO's rating.⁹

Exemptions to Adjuster Examination Requirement

An adjuster is "an individual employed by a property/casualty insurer to evaluate losses and settle policyholder claims."¹⁰ An adjuster may be licensed as either an "all-lines adjuster" or a "public adjuster."¹¹ An all-lines adjuster "is a person who, for money, commission, or any other thing of value, directly or indirectly undertakes on behalf of a public adjuster or an insurer to ascertain and determine the amount of any claim, loss, or damage payable under an insurance contract or undertakes to effect settlement of such claim, loss, or damage."¹² Subject to certain exceptions, a public adjuster is someone that is paid by an insured to prepare and file a claim against their insurer.¹³ Adjusters are commonly understood as an insurer's representative in an insurance claim. The public is not generally aware of the role of a public adjuster, but access to their services becomes competitive following natural disasters or other mass loss/claim events (e.g., hurricanes, tornadoes, floods, and fires).

Among other requirements, an applicant must pass an examination to obtain an adjuster's license; however, the examination requirement is waived if they have attained certain professional designations that document their successful completion of professional education coursework. This is true for applicants for life and health agents,¹⁴ general lines agents,¹⁵ adjusters,¹⁶ resident or nonresident all-lines adjusters,¹⁷ and non-resident agents.¹⁸ An examination is not required for all-lines adjuster applicants with the following professional designations:

- Accredited Claims Adjuster (ACA) from a regionally accredited postsecondary institution in this state;
- Associate in Claims (AIC) from the Insurance Institute of America;
- Professional Claims Adjuster (PCA) from the Professional Career Institute;
- Professional Property Insurance Adjuster (PPIA) from the HurriClaim Training Academy;

⁸ <http://www.naic.org/svo.htm> (last visited Jan. 14, 2018).

⁹ NAIC has published tables of equivalent ratings comparing SVO ratings to ratings published by nationally recognized statistical rating organizations. http://www.naic.org/documents/svo_naic_aro.pdf (last visited Jan. 14, 2018).

¹⁰ <https://www.iii.org/resource-center/iii-glossary/A> (last visited Jan. 20, 2018).

¹¹ s. 626.864, F.S. An individual may be licensed as either an all-lines adjuster or a public adjuster, but not both. An all-lines adjuster may be appointed as one, but no more than one at a time, of the following: independent adjuster, public adjuster apprentice, or company employee adjuster.

¹² ss. 626.015(2) and 626.8548, F.S.

¹³ s. 626.854, F.S. A "public adjuster" is any person, except a duly licensed attorney at law as exempted under s. 626.860, who, for money, commission, or any other thing of value, directly or indirectly prepares, completes, or files an insurance claim for an insured or third-party claimant or who, for money, commission, or any other thing of value, acts on behalf of, or aids an insured or third-party claimant in negotiating for or effecting the settlement of a claim or claims for loss or damage covered by an insurance contract or who advertises for employment as an adjuster of such claims. The term also includes any person who, for money, commission, or any other thing of value, directly or indirectly solicits, investigates, or adjusts such claims on behalf of a public adjuster, an insured, or a third-party claimant. The term does not include a person who photographs or inventories damaged personal property or business personal property or a person performing duties under another professional license, if such person does not otherwise solicit, adjust, investigate, or negotiate for or attempt to effect the settlement of a claim. s. 626.854(1), F.S.

¹⁴ s. 626.221(g), F.S.

¹⁵ s. 626.221(h), F.S.

¹⁶ *Id.*

¹⁷ s. 626.221(j), F.S.

¹⁸ s. 626.211(l), F.S.

- Certified Adjuster (CA) from ALL LINES Training;
- Certified Claims Adjuster (CCA) from AE21 Incorporated; or
- Universal Claims Certification (UCC) from Claims and Litigation Management Alliance (CLM).

DFS must approve the curriculum, which must include comprehensive analysis of basic property and casualty lines of insurance and testing at least equal to that of standard department testing for the all-lines adjuster license.¹⁹ The curriculum must include 40 hours of instruction covering all of the topics in the all-lines adjuster Examination Content Outline adopted by DFS.²⁰ DFS only approves curriculum related to adjuster licensing for designations listed in s. 626.221(2)(j), F.S.

WebCE, Inc., is a national provider of professional and continuing educational courses.²¹ They provide education related to multiple professions, including: insurance, financial planning, accounting, and tax. Participants can obtain the following professional designations from WebCE: Certified Financial Planner (CFP), Certified Investment Management Analyst (CIMA), Certified Private Wealth Advisor (CPWA), and Certified Fraud Examiner (CFE). WebCE provides continuing education to insurance professionals with courses in subjects of life and health, property and casualty, adjuster, and limited lines.

Effect of the Bill

The bill provides an exemption to the all-lines adjuster licensing exam requirements to individuals who receive a Claims Adjuster Certified Professional (CACP) designation from WebCE, Inc.

Surplus Lines

Surplus lines insurance refers to a category of insurance for which the admitted market is unable or unwilling to provide coverage.²² There are three basic categories of surplus lines risks:

- Specialty risks that have unusual underwriting characteristics or underwriting characteristics that admitted insurers view as undesirable;
- Niche risks for which admitted carriers do not have a filed policy form or rate; and
- Capacity risks that are risks where an insured needs higher coverage limits than those that are available in the admitted market.

Surplus lines insurers are not “authorized” insurers as defined in the Insurance Code,²³ which means they do not obtain a certificate of authority from OIR to transact insurance in Florida.²⁴ Rather, surplus lines insurers are “unauthorized” insurers,²⁵ but may transact surplus lines insurance if they are made eligible by OIR.

Export Eligibility

“To export” a policy means to place it with an unauthorized insurer under the Surplus Lines Law.²⁶ Unless an exception applies, before an insurance agent can place insurance in the surplus lines market, the insurance agent must make a diligent effort to procure the desired coverage from admitted insurers.²⁷ “Diligent effort” means seeking and coverage being rejected from at least three authorized insurers in the admitted market; however, if the cost to replace a residential dwelling is \$1,000,000 or more, then only one coverage rejection is needed prior to export. In that case, diligent effort is seeking

¹⁹ s. 626.221(2)(j), F.S. In addition, DFS must adopt rules establishing standards for the approval of curriculum.

²⁰ Rule 69B-227.320, F.A.C.

²¹ <https://www.webce.com/> (last visited Jan. 20, 2018).

²² The admitted market is comprised of insurance companies licensed to transact insurance in Florida. The administration of surplus lines insurance business is managed by the Florida Surplus Lines Service Office. s. 626.921, F.S.

²³ The Insurance Code is chapters 624-632, 634, 635, 636, 641, 642, 648, and 651, F.S. s. 624.01, F.S.

²⁴ s. 624.09(1), F.S.

²⁵ s. 624.09(2), F.S.

²⁶ s. 626.914(3), F.S.

²⁷ s. 626.916(1)(a), F.S.

and being denied coverage from at least one authorized insurer in the admitted market.²⁸ The law further specifies that:²⁹

- The premium rate for policies written by a surplus lines insurer cannot be less than the premium rate used by a majority of authorized insurers for the same coverage on similar risks;
- The policy exported cannot provide coverage or rates that are more favorable than those that are used by the majority of authorized insurers actually writing similar coverages on similar risks;
- The deductibles must be the same as those used by one or more authorized insurers, unless the coverage is for fire or windstorm; and
- For personal residential property risks,³⁰ the policyholder must be advised in writing that coverage may be available and less expensive from Citizens Property Insurance Corporation (Citizens).

As of January 1, 2017, Citizens decreased the maximum coverage limit for dwellings from \$1,000,000 to \$700,000 statewide, except for Miami-Dade and Monroe counties.³¹

Effect of the Bill

The bill allows homeowner's property insurance for a residential dwelling with a replacement cost of \$700,000 or more to be exported to a surplus lines insurer following a single coverage rejection. This reduces, from three to one, the number of coverage rejections required prior to exportation for homes valued between \$700,000 and \$1,000,000.

Insurer Registration

The Florida Surplus Lines Service Office (FSLSO)³² must file a written request with OIR in order for a surplus lines insurer to become eligible to underwrite insurance risks in Florida.³³ Subsequent to the adoption of this requirement, Congress passed the Nonadmitted and Reinsurance Reform Act of 2010 (NRRRA).³⁴ The NRRRA requires the eligibility of surplus lines insurers to be determined in compliance with its criteria, unless the state has adopted nationwide uniform eligibility requirements.³⁵ OIR has implemented such eligibility determination standards that may be accessed directly by interested surplus lines insurers. Accordingly, surplus lines insurers apply directly to OIR rather than having FSLSO make the written request. The statute requiring such a written request by FSLSO has become superfluous because it conflicts with NRRRA and is no longer implemented.

Effect of the Bill

The bill repeals the requirement that FSLSO submit written requests to OIR for eligibility purposes.

Tax

Surplus lines policies are taxed at five percent of all gross premiums.³⁶ However, a surplus lines policy written in Florida may cover risks that are only partially located in this state. This is because the

²⁸ s. 626.914(4), F.S.

²⁹ s. 626.916(1), F.S.

³⁰ Personal residential policies include homeowners, mobile homeowners, dwelling fire, tenants, condominium unit owners, and similar policies.

³¹ <https://www.citizensfla.com/-/20160726-maximum-coverage-limit-decreased> (last visited Jan. 14, 2018).

³² s. 626.921, F.S.

³³ OIR uses an online system to receive and process requests for authority to do insurance business in Florida.

<https://www.floir.com/iportal> (last visited Jan. 20, 2018).

³⁴ 15 U.S.C. § 8201 *et seq.*

³⁵ 15 U.S.C. § 8204.

³⁶ s. 626.932(1), F.S. The surplus lines premium taxes of the many states, District of Columbia, Puerto Rico, and Virgin Islands vary from a low of 1 percent in Iowa to a high of 9 percent in Puerto Rico. Four jurisdictions apply a higher tax rate than Florida (AL, KS, OK, and Puerto Rico). Seven jurisdictions tax surplus lines premiums at the same rate as Florida, i.e., 5 percent (LA, MO, NJ, NC,

insured's business, property, or other risks cross state lines. Since not all states use gross premiums as the taxable base nor use the same tax rate, this can lead to disparities in cost associated with the applicable premium tax law of other states.

The law provides that, if Florida is the "home" state, as defined under applicable federal law,³⁷ the tax is computed on the gross premium to facilitate uniform application of the tax rate to the gross premiums paid on multi-state risks. The law also provides that the surplus lines premium tax is limited to the tax rate in the state where the risk is located. This causes the surplus lines agent to calculate and the FLSO to collect premium tax in a manner that coordinates the tax rate of premiums covering risks located in Florida and other states. This results in an effective tax rate on total taxable premiums that is lower than the statutory five percent.

Effect of the Bill

The bill repeals the provision requiring premium tax to be calculated at the rate of the tax allowed in the state where the risk is located. In order to avoid an unintended increase in premium tax revenue that would result if the five percent surplus lines premiums tax applicable to risks located in this state were applied to risks located other states, the bill lowers the tax to 4.936 percent.³⁸ On average, the tax rate will remain unchanged and the burden on surplus lines agents will be simplified (i.e., they will only have to apply Florida's tax rate, rather than applying the tax rate of multiple states to various portions of premiums within a single policy).

Personal Financial and Health Information Privacy

DFS and the Financial Services Commission (Commission) are required to adopt rules governing the use of a consumer's non-public personal financial and health information by regulated entities.³⁹ The rules must be consistent with and not more restrictive than the requirements of Title V of the Gramm-Leach-Bliley Act of 1999. However, in December 2015, the Gramm-Leach-Bliley Act was amended by the Fixing America's Surface Transportation (FAST) Act.⁴⁰ The law governing DFS and Commission rules on privacy of consumer's non-public personal financial and health information does not yet incorporate this change. FAST added the following exception to the annual notice requirement found in Section 503 of the Gramm-Leach-Bliley Act:⁴¹

- (f) Exception to Annual Notice Requirement.--A financial institution that--
 - (1) provides nonpublic personal information only in accordance with the provisions of subsection (b)(2) or (e) of section 502 or regulations prescribed under section 504(b), and
 - (2) has not changed its policies and practices with regard to disclosing nonpublic personal information from the policies and practices that were disclosed in the most recent disclosure sent to consumers in accordance with this section,

shall not be required to provide an annual disclosure under this section until such time as the financial institution fails to comply with any criteria described in paragraph (1) or (2).

OH, TN, and the Virgin Islands). The remaining 41 jurisdictions apply a tax rate lower than Florida. United States Government Accountability Office, REPORT TO CONGRESSIONAL COMMITTEES, PROPERTY AND CASUALTY INSURANCE, EFFECTS OF THE NONADMITTED AND REINSURANCE REFORM ACT OF 2010, GAO-14-136, January 2014, <https://www.gao.gov/assets/670/660245.pdf> (last visited Jan. 20, 2018).

³⁷ 15 U.S.C. § 8201 *et seq.*

³⁸ The Florida Surplus Lines Service Office reports that they received \$235.8 million in tax revenues on \$4.7768 billion in total taxable premium in 2017 ($0.2358 / 4.7768 = 4.936\%$). Email from Sheila Pearson, Controller, Florida Surplus Lines Service Office, Re: HB 465 - impact of proposed change to s. 626.932, F.S. (Jan. 17, 2018).

³⁹ s. 626.9651, F.S.

⁴⁰ <https://www.congress.gov/bill/114th-congress/house-bill/22/text> (last visited Jan. 14, 2018).

⁴¹ 15 U.S.C. §6803.

Effect of the Bill

The bill incorporates FAST's amendment of the Gramm-Leach-Bliley Act for purposes of privacy standards applicable to rules adopted by DFS and the Commission. This nullifies any existing rules and prohibits any new rules that would require an annual notice that would be exempted by FAST.

Execution of Insurance Policies

Part II of ch. 627, F.S., specifies numerous requirements applicable to insurance contracts.⁴² These requirements apply to all aspects of the insurance transaction from the initial application to the cancellation, non-renewal, or lapse of the policy. This includes requirements concerning the execution of the policy.⁴³ The policy must be executed in the name of and on behalf of the insurer by its officer, attorney in fact, employee, or representative duly authorized by the insurer. A facsimile signature of one of the specified persons is acceptable and the policy cannot be made invalid because the facsimile signature is that of an individual who did not have the authority to execute the policy on the date of issuance.

Effect of the Bill

The bill provides that an insurer may elect to issue an insurance policy without being executed by one of the specified insurer representatives. If such a policy is issued, it is not invalid despite not being executed.

Notice of Policy Change

An insurer is prohibited from changing policy terms at renewal, unless they issue a notice of change in policy terms.⁴⁴ A change in policy terms includes, the modification, addition, or deletion of any term, coverage, duty, or condition from the previous policy, not including typographical or scrivener's errors or the application of mandated legislative changes. The notice may not be used to add optional coverages that increase premium, unless the policyholder affirmatively accepts the optional coverage.

The policyholder must receive advance written notice of the change.⁴⁵ If the insurer fails to issue the notice, coverage continues until the next renewal occurs (with proper service of notice) or replacement coverage is obtained. The notice is required to be titled a "Notice of Change in Policy Terms." However, there is no explicit requirement for any other specific content of the notice. OIR has not adopted a rule interpreting the applicable statute.

Section 627.43141(7), F.S., states that the intent of the law is to:

- Allow an insurer to make a change in policy terms without nonrenewing those policyholders that the insurer wishes to continue insuring;
- Alleviate concern and confusion to the policyholder caused by the required policy nonrenewal for the limited issue if an insurer intends to renew the insurance policy, but the new policy contains a change in policy terms; and,
- Encourage policyholders to discuss their coverages with their insurance agents.

Despite the stated intent, it is arguable that a bare notice with the title "Notice of Change in Policy Terms" and containing no meaningful explanation of the change in policy terms complies with the law.

⁴² Section 627.401, F.S., provides limited exceptions to the applicability of part II of ch. 627, F.S.

⁴³ s. 627.416, F.S.

⁴⁴ s. 627.43141(2), F.S.

⁴⁵ The written notice may be issued with the notice of renewal premium or consistent with the timeline for issuing a notice of non-renewal provided by law. *Id.*

Effect of the Bill

The bill requires that an insurer summarize policy changes on the required notice upon renewal, rather than merely issuing a properly titled notice (i.e., requires content more informative than merely the phrase "Notice of Change in Policy Terms").

Property Insurance Claim Mediation

DFS administers alternative dispute resolution programs for various types of insurance. DFS has mediation programs for property insurance⁴⁶ and automobile insurance⁴⁷ claims. DFS has a neutral evaluation program, similar to mediation, for sinkhole insurance claims.⁴⁸ DFS approves mediators used in the two mediation programs and certifies the neutral evaluators used in neutral evaluations for sinkhole insurance claims.⁴⁹

For property insurance claims⁵⁰ involving personal lines and commercial residential claims, only the policyholder, as a first-party claimant, or the insurer may request mediation under DFS' program.⁵¹ This means that third parties cannot utilize the program. This is true even if the policyholder assigns their policy benefit rights to the third party.⁵² The insurer must notify the policyholder of the right to mediation under the program upon receipt of the claim. The mediation costs are generally the responsibility of the insurer.

Effect of the Bill

The bill provides that a third party who receives rights to policy benefits through an assignment may request mediation of a property insurance claim; except, an insurer is not required to participate in a mediation requested by the third-party assignee. It also conforms terminology in the applicable section of law to change the term "insured" to the term "policyholder." The terms are currently used interchangeably in the statute. This makes it clear that the purchaser of the policy is the one with mediation rights, except as provided by the bill.

Proof of Mailing

When cancelling or non-renewing a policy, motor vehicle insurers are required to mail the cancellation or non-renewal to the first named insured on the policy and the applicable insurance agent at least 45 days prior to the effective date of the cancellation or non-renewal. In the case of non-payment of premium, only a 10-day notice is required. A policy that has been in effect for less than 60 days cannot be cancelled. The reason for the cancellation must be included in the notice. The insurer may also transfer the policy to an insurer under the same ownership or management upon proper notice. For each of these required notices the insurer must use United States postal proof of mailing, certified mail, or registered mail.⁵³

⁴⁶ s. 627.7015, F.S.

⁴⁷ s. 626.745, F.S.

⁴⁸ s. 627.7074, F.S.

⁴⁹ ss. 627.7015, 627.7074, and 627.745, F.S.

⁵⁰ An eligible claim is one that does not involve: suspected fraud; there is no coverage under the policy; one where the insurer reasonably believes the policyholder has made material misrepresentations relevant to the claim and request for payment has been denied for that reason; one for less than \$500 (unless agreed to by the parties); or, windstorm or hurricane loss if the required notice of claim was not issued in compliance with law. s. 627.7015(9), F.S.

⁵¹ Policyholders may have the assistance of legal counsel during the mediation process. Litigants in the county and circuit court may be referred to the program. Commercial coverages, private passenger motor vehicle coverages, and liability coverages of property insurance policies are not eligible for the property insurance mediation program. s. 627.7015(1), F.S.

⁵² s. 627.7015(1), F.S.

⁵³ s. 627.728, F.S. While certified mail and registered mail are both services currently offered by the United States Postal Service (USPS), "proof of mailing" is not a service offered. <https://www.usps.com/ship/insurance-extra-services.htm> (last visited Jan. 14, 2018). However, "certificate of mailing" is a service offered that documents presentation of the item to USPS.

Effect of the Bill

The bill permits use of the Intelligent Mail barcode,⁵⁴ or similar method approved by the United States Postal Service, to be used to establish proof that required motor vehicle insurance notices of cancellation, non-renewal, or transfer of insurer were mailed.

Transportation Network Company Related Automobile Liability Insurance Exclusions

While a transportation network company (TNC) driver⁵⁵ is logged on to the TNC's digital network but is not engaged in a prearranged ride, a TNC⁵⁶ (i.e., a ridesharing company like Uber, Lyft, and Sidecar) or TNC driver must have automobile insurance that provides:

- Primary automobile liability coverage of at least \$50,000 for death and bodily injury per person, \$100,000 for death and bodily injury per incident, and \$25,000 for property damage; and
- Personal injury protection benefits that meet the minimum coverage amounts required under the Florida Motor Vehicle No-Fault Law.⁵⁷ The amount of insurance required is \$10,000 for emergency medical disability, \$2,500 non-emergency medical, and \$5,000 for death.⁵⁸

A TNC driver is required to secure coverage while they are logged on to the TNC's digital network, but if the driver fails to do so, the TNC is required to provide coverage for the driver and vehicle. An insurer that provides an automobile liability insurance policy under part XI of ch. 627, F.S.,⁵⁹ may exclude any and all coverage afforded under the policy issued to an owner or operator of a TNC vehicle for any loss or injury that occurs while a TNC driver is logged on to a digital network or while a TNC driver provides a prearranged ride.⁶⁰ This right to exclude all coverage may apply to any coverage included in an automobile insurance policy, including, but not limited to:

- Liability coverage for bodily injury and property damage;
- Uninsured and underinsured motorist coverage;
- Medical payments coverage;
- Comprehensive physical damage coverage;
- Collision physical damage coverage; and
- Personal injury protection.

The exclusions apply notwithstanding any requirement under the Financial Responsibility Law of 1955.⁶¹ An automobile insurer that excludes the coverage described above does not have a duty to defend or indemnify any claim expressly excluded thereunder. Some insurers offer policy addendums for the driver to purchase coverage of TNC activities.

Automobile liability insurance policies cover automobiles identified on the policy and the policyholder when operating other motor vehicles. However, s. 627.728(8)(b)1., F.S., appears to limit TNC related exclusions to specific motor vehicles. It uses the specific term "that vehicle" rather than a general term

⁵⁴ <https://postalpro.usps.com/> (last visited Jan. 14, 2018).

⁵⁵ A "TNC driver" means an individual who: 1. Receives connections to potential riders and related services from a transportation network company; and 2. In return for compensation, uses a TNC vehicle to offer or provide a prearranged ride to a rider upon connection through a digital network. s. 627.728(1)(f), F.S.

⁵⁶ "Transportation Network Company" or "TNC" means an entity operating in this state pursuant to this section using a digital network to connect a rider to a TNC driver, who provides prearranged rides. A TNC is not deemed to own, control, operate, direct, or manage the TNC vehicles or TNC drivers that connect to its digital network, except where agreed to by written contract, and is not a taxicab association or for-hire vehicle owner. An individual, corporation, partnership, sole proprietorship, or other entity that arranges medical transportation for individuals qualifying for Medicaid or Medicare pursuant to a contract with the state or a managed care organization is not a TNC. This section does not prohibit a TNC from providing prearranged rides to individuals who qualify for Medicaid or Medicare if it meets the requirements of this section. s. 627.728(1)(e), F.S.

⁵⁷ ss. 627.730-627.7405, F.S.

⁵⁸ s. 627.736, F.S.

⁵⁹ Part XI of ch. 627, F.S., relates to motor vehicle and casualty insurance contracts.

⁶⁰ s. 627.728(8)(b), F.S.

⁶¹ ch. 324, F.S.

like “a vehicle.” Arguably, current law allows a coverage exclusion applicable to a particular vehicle while the vehicle is used as a TNC vehicle, but it does not explicitly allow a coverage exclusion applicable to the named insured(s) when operating as TNC driver using another vehicle, which is not listed on policy. In other words, a question arises over whether the coverage exclusion applies to a vehicle that the insured borrows and uses as a TNC vehicle.

Effect of the Bill

The bill allows private passenger motor vehicle liability insurers to generally exclude coverage of a named insured’s TNC related activities, rather than limiting the exclusion to a specific motor vehicle.

Filing Exception for Specialty Insurers

In 2014, the Legislature passed CS/CS/SB 1308,⁶² which implemented new elements of NAIC Model Acts related to risk-based capital, holding company systems, standard valuation, and actuarial opinions and memorandum. This was primarily in response to the financial crisis of 2008. The financial crisis was affected by the impact of common ownership and control of insurance and financial services companies, such that when one company became financially troubled or insolvent, the value and solvency of related companies also became affected. This led regulators to have an interest in knowing and understanding the web of controlling interests among related companies. This legislation created a presumption of control in certain interests and acquisitions among related companies.

While not a portion of a model act, the 2014 bill allowed insurers to overcome the presumption of control by either filing a disclaimer of control on a form prescribed by OIR or by providing a copy of the applicable Schedule 13G on file with the federal Securities and Exchange Commission (SEC).

After a disclaimer is filed, the insurer is relieved of any further duty to register or report under s. 628.461, F.S., unless OIR disallows the disclaimer. Specialty insurers must meet similar requirements addressing solvency and organizational risk controls as those created for insurers; however they do not have the option of filing their SEC Schedule 13G to rebut the presumption of control.

Specialty insurers are defined as:⁶³

- Motor vehicle service agreement companies;
- Home warranty associations;
- Service warranty associations;
- Prepaid limited health service organizations;
- Authorized health maintenance organizations;
- Authorized prepaid health clinics;
- Legal expense insurance corporations;
- Providers licensed to operate a facility that undertakes to provide continuing care;
- Multiple-employer welfare arrangements;
- Premium finance companies; and
- Corporations authorized to accept donor annuity agreements.

Effect of the Bill

The bill adds viatical settlement providers to the list of specialty insurers and allows any specialty insurer to overcome the presumption of control by filing with OIR a disclaimer of control on an OIR form or a copy of their SEC Schedule 13G. The bill also provides that a notice filed with OIR by a person divesting controlling stock in an insurer under s. 628.4615, F.S., is a confidential and exempt public record. See section III. A., Constitutional Issues, *below*.

⁶² Ch. 2014-101, Laws of Fla.

⁶³ s. 627.4615(1), F.S.

Confidentiality of Documents Submitted to the Office of Insurance Regulation

In 2011, as part of NAIC's Solvency Modernization Initiative, NAIC adopted a new insurance regulatory tool: the Own Risk and Solvency Assessment (ORSA). ORSA requires insurance companies to issue their own assessment of their current and future risk through an internal risk self-assessment process and allows regulators to form an enhanced view of an insurer's ability to withstand financial stress, particularly on a holding company's level.⁶⁴ In essence, an ORSA is an internal process undertaken by an insurer or insurance group to assess the adequacy of its risk management and current and prospective solvency positions under normal and severe stress scenarios. An ORSA requires insurers to analyze all reasonably foreseeable and relevant material risks (i.e., underwriting, credit, market, operational, liquidity risks, etc.) that could have an impact on an insurer's ability to meet its policyholder obligations.

The "O" in ORSA represents the insurer's "own" assessment of their current and future risks. Insurers and insurance groups are required to articulate their own judgment about risk management and the adequacy of their capital position. This is meant to encourage management to anticipate potential capital needs and to take action proactively, and serves as an early warning mechanism for insurance regulators. ORSA is not a one-off exercise - it is a continuous evolving process and should be a component of an insurer's enterprise risk-management framework. Moreover, there is no mechanical way of conducting an ORSA; how to conduct the ORSA is left to each insurer to decide, and actual results and contents of an ORSA report will vary from company to company. The output is a set of documents that demonstrate the results of management's self-assessment.

Effective January 1, 2018, ORSA is an NAIC accreditation standard for state insurance regulators. During the 2016 Regular Session, the Legislature passed CS/CS/HB 1422⁶⁵ and CS/CS/HB 1416⁶⁶ adopting ORSA requirements for Florida regulated insurers and providing a public record exemption for information produced to OIR in required ORSA filings, respectively.

The law requires insurers or insurance groups to:

- Maintain a risk management framework for identifying, assessing, monitoring, managing, and reporting on its material, relevant risks;
 - This requirement may be satisfied by being a member of an insurance group with a risk management framework applicable to the insurer's operations.
- Conduct an ORSA at least annually (and whenever there have been significant changes to the risk profile of the insurer or the insurance group), consistent with and comparable to the process in the ORSA Guidance Manual;⁶⁷ and
- File an ORSA summary report, based on the ORSA Guidance Manual with their domestic regulator or lead state (for an insurance group), beginning in 2017, which must:
 - Be submitted once every calendar year;
 - Include notification to OIR of its proposed annual submission date by December 1, 2016; initial ORSA summary report must be submitted by December 31, 2017;
 - Include a brief description of material changes and updates from the prior year's report;
 - Be signed by the chief risk officer or chief executive officer responsible for overseeing the enterprise risk management process; provide a copy to the board of directors or appropriate board committee; and
 - Be prepared in accordance with the ORSA Guidance Manual; the insurer must maintain and make documentation and supporting information available for OIR examination.

⁶⁴ NAIC, *Own Risk and Solvency Assessment (ORSA)*, at http://www.naic.org/cipr_topics/topic_own_risk_solvency_assessment.htm (last visited Jan. 15, 2018).

⁶⁵ Ch. 2016-206, Laws of Fla.

⁶⁶ Ch. 2016-205, Laws of Fla.

⁶⁷ The bill defines "ORSA guidance manual" as the ORSA manual developed and adopted by NAIC. See NAIC, *ORSA Guidance Manual* (Jul. 2014), at http://www.naic.org/store/free/ORSA_manual.pdf (last visited Jan. 15, 2018).

The law provides that an ORSA summary report and certain other related information are confidential and exempt public record information. In addition, that information in required ORSA filings is privileged, may not be produced by OIR in response to a subpoena or discovery request directed to OIR, and, if such information is obtained from OIR, it is not admissible in evidence in any private civil action.⁶⁸

Effect of the Bill

The bill expands the confidentiality of documents submitted to OIR under ORSA requirements to prohibit these documents from being admitted as evidence in a private civil action regardless of the source of the ORSA documents, rather than only when they are obtained from OIR. This change relates to use of these documents while in private hands and not to public record information held by the state.

Reciprocal Insurer Reserve Requirements

Reciprocal insurance is a risk-pooling alternative to stock or mutual insurance.⁶⁹ Reciprocal insurance involves an exchange of reciprocal agreements of indemnity among participants who are known as “subscribers.”⁷⁰ The subscribers generally have something in common. There are currently four companies active in Florida and licensed as reciprocal insurers under s. 629.401, F.S.⁷¹

The agreements of indemnity are exchanged through an attorney-in-fact, whose powers are set forth by the subscribers.⁷² “In general, the attorney in fact manages the reciprocal’s finances and handles underwriting, claims administration and investments.”⁷³

Twenty-five or more persons domiciled in Florida may organize a domestic reciprocal insurer and apply to OIR for authority to transact insurance.⁷⁴ Reciprocal insurers may transact any kind of insurance other than life or title.⁷⁵

Reciprocal insurers offering property insurance are required to maintain an unearned premium⁷⁶ reserve consistent with the requirement generally applicable to property insurers under the Insurance Code.⁷⁷ This reserve requirement ensures the availability of funds for transfer to loss reserves when losses are incurred during the policy period or refunds that become due before the premium is earned, among other things. Premiums ceded to reinsurers for the purchase of reinsurance may be deducted from unearned premiums.

⁶⁸ s. 628.8015(4), F.S.

⁶⁹ See Kevin Moriarty, *Twenty Things You’d Always Wanted to Know about Reciprocal (But May Not Have Thought to Ask)*, THE RISK RETENTION REPORTER, July 2003.

⁷⁰ ss. 629.011 and 629.021, F.S.

⁷¹ <https://www.floir.com/CompanySearch/> (last visited Jan. 21, 2018). Under “Company Type,” select “Reciprocal.”

⁷² ss. 629.011 and 629.101, F.S.

⁷³ Moriarty, *supra* note 69.

⁷⁴ s. 629.081(1), F.S.

⁷⁵ s. 629.041(1), F.S.

⁷⁶ “Unearned premium” is the portion of a premium already received by the insurer under which protection has not yet been provided.

The entire premium is not earned until the policy period expires, even though premiums are typically paid in advance.

<https://www.iii.org/resource-center/iii-glossary> (last visited Jan. 13, 2018).

⁷⁷ s. 625.051, F.S. This section does not apply to title insurers. s. 625.051(5), F.S.

Property insurers are required to retain unearned premiums on reserve in the following proportions based upon the length of the policy period, as follows:

Policy Term	Proportion Required to be Reserved
1 year or less	1/2
2 years	1 st year 3/4
	2 nd year 1/4
3 years	1 st year 5/6
	2 nd year 1/2
	3 rd year 1/6
4 years	1 st year 7/8
	2 nd year 5/8
	3 rd year 3/8
	4 th year 1/8
5 years	1 st year 9/10
	2 nd year 7/10
	3 rd year 1/2
	4 th year 3/10
	5 th year 1/10
Over 5 years	pro rata

In the alternative, insurers are allowed to calculate unearned premium reserves on monthly or more frequent pro rata basis. In other words, the insurer may reduce unearned premium reserves on a one-year policy at the rate of 1/12 per month or, for a two-year policy at 1/24 per month, and so on. Reciprocal insurers must calculate unearned premium reserves on a monthly or more frequent basis.⁷⁸

NAIC has developed a model act for regulation of reciprocals. Section 7., Reserves, of NAIC Model Act 356, Model Indemnity Contracts Act,⁷⁹ provides for an unearned premium reserve, as follows:

There shall at all times be maintained as a reserve a sum in cash or convertible securities equal to fifty percent (50%) of the net annual deposits collected and credited to the accounts of the subscribers on policies having one year or less to run and pro rata on those for longer periods. Net annual deposits shall be construed to mean the advance payments of subscribers after deducting the amounts specifically provided in the subscribers' agreements, for expenses. The sum shall at no time be less than \$25,000, and if at any time fifty percent (50%) of the deposits so collected and credited shall not equal that amount, then the subscribers, or their attorney for them, shall make up any deficiency.

Effect of the Bill

The bill revises the unearned premium reserve requirement that must be met by a reciprocal insurer, regardless of the line of insurance underwritten. The reciprocal insurer must retain 50 percent of "net written premiums" on policies having a policy period of one year or less. "Net written premiums" means premium payments made or due from subscribers after deducting expenses specified in the

⁷⁸ s. 629.401(6)(b)24., F.S. OIR may require reciprocal insurers to calculate unearned premium reserves on a different time basis. Marine and transportation risk premiums are not earned until the trip is completed and must be entirely kept in unearned premium reserve until then.

⁷⁹ <http://www.naic.org/store/free/MDL-356.pdf> (last visited Jan. 13, 2018).

subscriber's agreement, including reinsurance costs and subscriber fees. To take the deduction from "net written premiums" for subscriber fees, the power of attorney agreement must contain an explicit provision to return subscriber fees on a pro rata basis for cancelled policies. The bill requires an unearned premium reserve of \$100,000, at all times, and provides a mechanism to return the reserve to that amount if it is not maintained at the required amount.

Delivery of Policies by Motor Vehicle Service Agreement Companies and Health Maintenance Organizations

The law requires every insurance policy⁸⁰ to be mailed or delivered to the insured (policyholder) within 60 days after the insurance takes effect.⁸¹ Insurance policies are typically only delivered when the policy is issued and are not delivered each time the policy is renewed.

Insurers are allowed to post insurance policies not containing policyholder personal identifiable information for certain types of insurance on the insurer's website instead of mailing or delivering the policy to the insured. Only policies for property and casualty insurance are allowed to be posted online. Casualty insurance includes automobile policies, workers' compensation policies, liability policies, and malpractice policies, among others.⁸² Property insurance policies include homeowner's, tenant's, condominium unit owner's, mobile home owner's, condominium association, and commercial business property insurance policies.⁸³ The policy information posted online is general in nature.

The policy declarations page, which contains personal information about the policyholder, is provided to the policyholder in another manner, usually by mail. The declarations page must also identify the exact policy form purchased by the policyholder so the policyholder can find the policy on the insurer's website.

If an insurer opts to post an insurance policy online instead of mailing it, the policy must be easily accessible on the insurer's website and posted in a format that allows the policy to be printed by the policyholder free of charge. Insurers posting policies on their website must notify each policyholder of their right to request and obtain a paper or electronic copy of the policy without charge, but policyholder consent is not required for an insurer to post an insurance policy online. Insurers must also notify policyholders of this right if the insurer changes a policy. Insurers posting policies online must archive expired policies for five years on the insurer's website and archived policies must be available to policyholders at their request.

Effect of the Bill

The bill requires motor vehicle service agreement companies and health maintenance organizations (HMO) to deliver motor vehicle service agreements and HMO contracts in compliance with the standards applicable to insurers. This changes the timeline for delivery of a motor vehicle service agreement from 45 days to 60 days and for HMO contracts from ten days from enrollment to 60 days. It also allows posting of the non-personal portions of agreements and contracts, as applicable, on a website in the manner allowed for policies by insurers. The personal portions of these documents would be delivered by other allowable means, usually mailing.

B. SECTION DIRECTORY:

Section 1. Amends s. 624.4212, F.S., relating to confidentiality of proprietary business and other information.

Section 2. Amends s. 625.151, F.S., relating to valuation of other securities.

⁸⁰ s. 627.402, F.S., defines policy to include endorsements, riders, and clauses. Reinsurance, wet marine and transportation insurance, title insurance, and credit life or credit disability insurance policies do not have to be mailed or delivered. s. 627.401, F.S.

⁸¹ s. 627.421, F.S.

⁸² s. 624.605, F.S.

⁸³ See s. 624.604, F.S., defining property insurance and s. 627.4025, F.S., defining residential property insurance.

Section 3. Amends s. 625.325, F.S., relating to investments in subsidiaries and related corporations.

Section 4. Amends s. 626.221, F.S., relating to examination requirement; exemptions.

Section 5. Amends s. 626.914, F.S., relating to definitions.

Section 6. Repeals s. 626.918(2)(a), F.S., relating to eligible surplus lines insurers.

Section 7. Amends s. 626.932, F.S., relating to surplus lines tax.

Section 8. Amends s. 626.9651, F.S., relating to privacy.

Section 9. Amends s. 627.416, F.S., relating to execution of policies.

Section 10. Amends s. 627.43141, F.S., relating to notice of change in policy terms.

Section 11. Amends s. 627.7015, F.S., relating to alternative procedure for resolution of disputed property insurance claims.

Section 12. Amends s. 627.728, F.S., relating to cancellations; nonrenewals.

Section 13. Amends s. 627.748, F.S., relating to transportation network companies.

Section 14. Amends s. 628.4615, F.S., relating to specialty insurers; acquisition of controlling stock, ownership interest, assets, or control; merger or consolidation.

Section 15. Amends s. 628.8015, F.S., relating to own-risk and solvency assessment; corporate governance annual disclosure.

Section 16. Amends s. 629.401, F.S., relating to insurance exchange.

Section 17. Amends s. 634.121, F.S., relating to forms, required procedures, provisions.

Section 18. Amends s. 641.3107, F.S., relating to delivery of contract.

Section 19. Provides an effective date of upon becoming law.

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:

Reducing the number of coverage rejections required prior to exportation of a residential dwelling valued between \$700,000 and \$1,000,000 to the surplus lines market may remove some of these risks from the admitted market in the state. Owners in this home value range may find it easier to obtain coverage at a price acceptable to them.

Changes to the proof of mailing requirements may create savings for insurers.

Allowing private passenger motor vehicle insurers to generally exclude motor vehicles used to provide transportation network services will reduce losses incurred by the insurer. Since the transportation network company is required to provide coverage when the driver fails to do so, a general exclusion applicable to the driver's policy may increase losses incurred by the company's insurer.

Exempting certain monies from a reciprocal insurer's reserve requirements will reduce the amount of funds that must be retained in reserves and allow it to be utilized by the reciprocal insurer for other purposes.

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:

Section 1 of the bill provides that a notice filed with OIR by a person divesting controlling stock in an insurer under s. 628.4615, F.S., is a confidential and exempt public record. Article I, section 24 of the Florida Constitution requires public record exemptions be passed by a separate bill that contains only public record exemptions. There is no bill filed to comply with this provision in support of the proposed public records exemption.

B. RULE-MAKING AUTHORITY:

The bill neither authorizes nor requires administrative rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to insurance; amending s. 624.4212,
 3 F.S.; exempting from public records requirements a
 4 certain notice relating to divestiture of controlling
 5 stock in a specialty insurer which is filed with the
 6 Office of Insurance Regulation; amending s. 625.151,
 7 F.S.; providing an exception from valuation rules for
 8 stocks in subsidiaries for certain foreign insurers
 9 under certain conditions; amending s. 625.325, F.S.;
 10 exempting foreign insurers from investment
 11 requirements relating to subsidiaries and corporations
 12 under certain conditions; amending s. 626.221, F.S.;
 13 providing an exception from an examination requirement
 14 for an all-lines adjuster license applicant with a
 15 specified designation; repealing s. 626.918(2)(a) ,
 16 F.S., relating to Eligible surplus lines insurers;
 17 amending s. 626.914, F.S.; revising the definition of
 18 the term "diligent effort" to decrease the replacement
 19 cost threshold for a residential structure for
 20 purposes of proving rejection of coverage by
 21 authorized insurers; amending s. 626.932, F.S.;
 22 deleting a provision relating to a surplus lines tax
 23 threshold; amending s. 626.9651, F.S.; revising
 24 requirements for rules adopted by the Department of
 25 Financial Services and the Financial Services

26 Commission relating to the privacy of certain consumer
 27 information; amending s. 627.416, F.S.; revising
 28 requirements for execution of insurance policies;
 29 amending s. 627.7015, F.S.; authorizing insurers to
 30 participate in mediations requested by third parties;
 31 revising terminology; revising the definition of the
 32 term "claim" to specify that any material issue of
 33 fact must relate to a loss arising from a declared
 34 state of emergency; amending s. 627.728, F.S.;

35 providing that an Intelligent Mail barcode or a
 36 similar United States Postal Service tracking method
 37 are sufficient proof of notice for certain motor
 38 vehicle insurance notices; amending s. 627.748, F.S.;

39 revising circumstances in which insurers may exclude
 40 coverage for owners or operators of transportation
 41 network company vehicles; amending s. 628.4615, F.S.;

42 revising the definition of the term "specialty
 43 insurer" to include viatical settlement providers;
 44 specifying requirements and procedures for a person
 45 seeking to rebut a presumption of control in a
 46 specialty insurer; providing construction; providing
 47 requirements and procedures for a controlling person
 48 seeking to divest a controlling interest in a
 49 specialty insurer; requiring the office to make
 50 certain determinations; specifying the confidentiality

51 of a certain notice and information; providing
 52 applicability; conforming cross-references; amending
 53 s. 628.8015, F.S.; revising the type of documents that
 54 are confidential; amending s. 629.401, F.S.; revising
 55 reserve requirements for reciprocal insurers; amending
 56 s. 634.121, F.S.; defining terms; providing that
 57 provisions relating to the delivery of insurance
 58 policy documents by insurers to policyholders apply to
 59 certain motor vehicle service agreements provided by
 60 motor vehicle service agreement companies; conforming
 61 provisions to changes made by the act; amending s.
 62 641.27, F.S.; creating an exception to public
 63 procurement of contracts; requiring the Financial
 64 Services Commission to adopt rules regarding insurer
 65 examination contracts; specifying rule requirements;
 66 providing an effective date.

67

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

69

70 Section 1. Paragraph (b) of subsection (2) of section
 71 624.4212, Florida Statutes, is amended to read:

72 624.4212 Confidentiality of proprietary business and other
 73 information.—

74 (2) Proprietary business information contained in the
 75 following items held by the office is confidential and exempt

76 from s. 119.07(1) and s. 24(a), Art. I of the State
 77 Constitution:

78 (b) A notice filed with the office by the person or
 79 affiliated person who seeks to divest controlling stock in an
 80 insurer pursuant to s. 628.461 or s. 628.4615.

81 Section 2. Paragraph (c) is added to subsection (3) of
 82 section 625.151, Florida Statutes, to read:

83 625.151 Valuation of other securities.—

84 (3) Stock of a subsidiary corporation of an insurer may
 85 ~~shall~~ not be valued at an amount in excess of the net value
 86 thereof as based upon those assets only of the subsidiary which
 87 would be eligible under part II for investment of the funds of
 88 the insurer directly.

89 (c) This subsection does not apply to stock of a
 90 subsidiary corporation or related entities of a foreign insurer
 91 that is permissible under the laws of its state of domicile if
 92 the state of domicile is a member of the National Association of
 93 Insurance Commissioners.

94 Section 3. Subsection (7) is added to section 625.325,
 95 Florida Statutes, to read:

96 625.325 Investments in subsidiaries and related
 97 corporations.—

98 (7) APPLICABILITY.—This section does not apply to a
 99 foreign insurer's investments in its subsidiaries or related
 100 corporations if:

101 (a) The foreign insurer is domiciled in a state that is a
 102 member of the National Association of Insurance Commissioners
 103 (NAIC).

104 (b) Such investments in the foreign insurer's subsidiaries
 105 or related corporations are:

106 1. Permitted under the laws of the foreign insurer's state
 107 of domicile.

108 2.a. Assigned a rating of 1, 2, or 3 by the NAIC's
 109 Securities Valuation Office (SVO); or

110 b. Qualify for the NAIC's filing exemption rule and
 111 assigned a rating by a nationally recognized statistical rating
 112 organization that would be equivalent to a rating of 1, 2, or 3
 113 by the SVO.

114 Section 4. Paragraph (j) of subsection (2) of section
 115 626.221, Florida Statutes, is amended to read:

116 626.221 Examination requirement; exemptions.—

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

119 (j) An applicant for license as an all-lines adjuster who
 120 has the designation of Accredited Claims Adjuster (ACA) from a
 121 regionally accredited postsecondary institution in this state,
 122 Associate in Claims (AIC) from the Insurance Institute of
 123 America, Professional Claims Adjuster (PCA) from the
 124 Professional Career Institute, Professional Property Insurance
 125 Adjuster (PPIA) from the HurriClaim Training Academy, Certified

126 Adjuster (CA) from ALL LINES Training, Certified Claims Adjuster
 127 (CCA) from AE21 Incorporated, Claims Adjuster Certified
 128 Professional (CACP) from WebCE, Inc., or Universal Claims
 129 Certification (UCC) from Claims and Litigation Management
 130 Alliance (CLM) whose curriculum has been approved by the
 131 department and which includes comprehensive analysis of basic
 132 property and casualty lines of insurance and testing at least
 133 equal to that of standard department testing for the all-lines
 134 adjuster license. The department shall adopt rules establishing
 135 standards for the approval of curriculum.

136 Section 5. Subsection (4) of section 626.914, Florida
 137 Statutes, is amended to read:

138 626.914 Definitions.—As used in this Surplus Lines Law,
 139 the term:

140 (4) "Diligent effort" means seeking coverage from and
 141 having been rejected by at least three authorized insurers
 142 currently writing this type of coverage and documenting these
 143 rejections. However, if the residential structure has a dwelling
 144 replacement cost of \$700,000 ~~\$1 million~~ or more, the term means
 145 seeking coverage from and having been rejected by at least one
 146 authorized insurer currently writing this type of coverage and
 147 documenting this rejection.

148 Section 6. Paragraph (a) of subsection (2) of section
 149 626.918, Florida Statutes, is repealed.

150 Section 7. Subsections (1) and (3) of section 626.932,

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

151 Florida Statutes, are amended to read:

152 626.932 Surplus lines tax.—

153 (1) The premiums charged for surplus lines coverages are
 154 subject to a premium receipts tax of 4.936 percent ~~5 percent~~ of
 155 all gross premiums charged for such insurance. The surplus lines
 156 agent shall collect from the insured the amount of the tax at
 157 the time of the delivery of the cover note, certificate of
 158 insurance, policy, or other initial confirmation of insurance,
 159 in addition to the full amount of the gross premium charged by
 160 the insurer for the insurance. The surplus lines agent is
 161 prohibited from absorbing such tax or, as an inducement for
 162 insurance or for any other reason, rebating all or any part of
 163 such tax or of his or her commission.

164 (3) If a surplus lines policy covers risks or exposures
 165 only partially in this state and the state is the home state as
 166 defined in the federal Nonadmitted and Reinsurance Reform Act of
 167 2010 (NRRA), the tax payable must ~~shall~~ be computed on the gross
 168 premium. ~~The tax must not exceed the tax rate where the risk or~~
 169 ~~exposure is located.~~

170 Section 8. Section 626.9651, Florida Statutes, is amended
 171 to read:

172 626.9651 Privacy.—The department and commission must ~~shall~~
 173 each adopt rules consistent with other provisions of the Florida
 174 Insurance Code to govern the use of a consumer's nonpublic
 175 personal financial and health information. These rules must be

176 based on, consistent with, and not more restrictive than the
 177 Privacy of Consumer Financial and Health Information Regulation,
 178 adopted September 26, 2000, by the National Association of
 179 Insurance Commissioners; however, the rules must permit the use
 180 and disclosure of nonpublic personal health information for
 181 scientific, medical, or public policy research, in accordance
 182 with federal law. In addition, these rules must be consistent
 183 with, and not more restrictive than, the standards contained in
 184 Title V of the Gramm-Leach-Bliley Act of 1999, Pub. L. No. 106-
 185 102, as amended in Title LXXV of the Fixing America's Surface
 186 Transportation (FAST) Act, Pub. L. No. 114-94. If the office
 187 determines that a health insurer or health maintenance
 188 organization is in compliance with, or is actively undertaking
 189 compliance with, the consumer privacy protection rules adopted
 190 by the United States Department of Health and Human Services, in
 191 conformance with the Health Insurance Portability and
 192 Affordability Act, that health insurer or health maintenance
 193 organization is in compliance with this section.

194 Section 9. Subsection (1) of section 627.416, Florida
 195 Statutes, is amended and subsection (4) is added to read:

196 627.416 Execution of policies.—

197 (1) Except as set forth in subsection (4), ~~every~~ insurance
 198 policy shall be executed in the name of and on behalf of the
 199 insurer by its officer, attorney in fact, employee, or
 200 representative duly authorized by the insurer.

201 (4) An insurer may elect to issue an insurance policy that
 202 is not executed by an officer, attorney in fact, employee, or
 203 representative, provided that such policy may not be rendered
 204 invalid by reason of the lack of execution thereof.

205 Section 10. Subsection (2) of section 627.43141, Florida
 206 Statutes, is amended to read:

207 627.43141 Notice of change in policy terms.—

208 (2) A renewal policy may contain a change in policy terms.
 209 If such change occurs, the insurer shall give the named insured
 210 advance written notice summarizing ~~of~~ the change, which may be
 211 enclosed along with the written notice of renewal premium
 212 required under ss. 627.4133 and 627.728 or sent separately
 213 within the timeframe required under the Florida Insurance Code
 214 for the provision of a notice of nonrenewal to the named insured
 215 for that line of insurance. The insurer must also provide a
 216 sample copy of the notice to the named insured's insurance agent
 217 before or at the same time that notice is provided to the named
 218 insured. Such notice shall be entitled "Notice of Change in
 219 Policy Terms."

220 Section 11. Subsections (1), (3), (6), and (9) of section
 221 627.7015, Florida Statutes, are amended to read:

222 627.7015 Alternative procedure for resolution of disputed
 223 property insurance claims.—

224 (1) This section sets forth a nonadversarial alternative
 225 dispute resolution procedure for a mediated claim resolution

226 conference prompted by the need for effective, fair, and timely
 227 handling of property insurance claims. There is a particular
 228 need for an informal, nonthreatening forum for helping parties
 229 who elect this procedure to resolve their claims disputes
 230 because most homeowner and commercial residential insurance
 231 policies obligate policyholders to participate in a potentially
 232 expensive and time-consuming adversarial appraisal process
 233 before litigation. The procedure set forth in this section is
 234 designed to bring the parties together for a mediated claims
 235 settlement conference without any of the trappings or drawbacks
 236 of an adversarial process. Before resorting to these procedures,
 237 policyholders and insurers are encouraged to resolve claims as
 238 quickly and fairly as possible. This section is available with
 239 respect to claims under personal lines and commercial
 240 residential policies before commencing the appraisal process, or
 241 before commencing litigation. Mediation may be requested only by
 242 the policyholder, as a first-party claimant, a third-party, as
 243 an assignee of the policy benefits, or the insurer. However, an
 244 insurer is not required to participate in any mediation
 245 requested by a third-party assignee of the policy benefits. If
 246 requested by the policyholder, participation by legal counsel is
 247 permitted. Mediation under this section is also available to
 248 litigants referred to the department by a county court or
 249 circuit court. This section does not apply to commercial
 250 coverages, to private passenger motor vehicle insurance

251 coverages, or to disputes relating to liability coverages in
 252 policies of property insurance.

253 (3) The costs of mediation must ~~shall~~ be reasonable, and
 254 the insurer must ~~shall~~ bear all of the cost of conducting
 255 mediation conferences, except as otherwise provided in this
 256 section. If a policyholder ~~an insured~~ fails to appear at the
 257 conference, the conference must ~~shall~~ be rescheduled upon the
 258 policyholder's ~~insured's~~ payment of the costs of a rescheduled
 259 conference. If the insurer fails to appear at the conference,
 260 the insurer must ~~shall~~ pay the policyholder's ~~insured's~~ actual
 261 cash expenses incurred in attending the conference if the
 262 insurer's failure to attend was not due to a good cause
 263 acceptable to the department. An insurer will be deemed to have
 264 failed to appear if the insurer's representative lacks authority
 265 to settle the full value of the claim. The insurer shall incur
 266 an additional fee for a rescheduled conference necessitated by
 267 the insurer's failure to appear at a scheduled conference. The
 268 fees assessed by the administrator must ~~shall~~ include a charge
 269 necessary to defray the expenses of the department related to
 270 its duties under this section and must ~~shall~~ be deposited in the
 271 Insurance Regulatory Trust Fund.

272 (6) Mediation is nonbinding; however, if a written
 273 settlement is reached, the policyholder ~~insured~~ has 3 business
 274 days within which the policyholder ~~insured~~ may rescind the
 275 settlement unless the policyholder ~~insured~~ has cashed or

276 deposited any check or draft disbursed to the policyholder
 277 ~~insured~~ for the disputed matters as a result of the conference.
 278 If a settlement agreement is reached and is not rescinded, it is
 279 ~~shall be~~ binding and acts ~~act~~ as a release of all specific
 280 claims that were presented in that mediation conference.

281 (9) For purposes of this section, the term "claim" refers
 282 to any dispute between an insurer and a policyholder relating to
 283 a material issue of fact other than a dispute:

284 (a) With respect to which the insurer has a reasonable
 285 basis to suspect fraud;

286 (b) When ~~Where~~, based on agreed-upon facts as to the cause
 287 of loss, there is no coverage under the policy;

288 (c) With respect to which the insurer has a reasonable
 289 basis to believe that the policyholder has intentionally made a
 290 material misrepresentation of fact which is relevant to the
 291 claim, and the entire request for payment of a loss has been
 292 denied on the basis of the material misrepresentation;

293 (d) With respect to which the amount in controversy is
 294 less than \$500, unless the parties agree to mediate a dispute
 295 involving a lesser amount; or

296 (e) With respect to a windstorm or hurricane loss that
 297 does not comply with s. 627.70132.

298 Section 12. Subsection (5) of section 627.728, Florida
 299 Statutes, is amended to read:

300 627.728 Cancellations; nonrenewals.—

301 (5) United States postal proof of mailing, ~~or~~ certified or
 302 registered mailing, or other mailing using the Intelligent Mail
 303 barcode or other similar tracking method used or approved by the
 304 United States Postal Service of notice of cancellation, of
 305 intention not to renew, or of reasons for cancellation, or of
 306 the intention of the insurer to issue a policy by an insurer
 307 under the same ownership or management, to the first-named
 308 insured at the address shown in the policy is ~~shall be~~
 309 sufficient proof of notice.

310 Section 13. Paragraph (b) of subsection (8) of section
 311 627.748, Florida Statutes, is amended to read:

312 627.748 Transportation network companies.—

313 (8) TRANSPORTATION NETWORK COMPANY AND INSURER;
 314 DISCLOSURE; EXCLUSIONS.—

315 (b)1. An insurer that provides an automobile liability
 316 insurance policy under this part may exclude any and all
 317 coverage afforded under the policy issued to an owner or
 318 operator of a TNC vehicle ~~while driving that vehicle~~ for any
 319 loss or injury that occurs while a TNC driver is logged on to a
 320 digital network and driving a motor vehicle, or when ~~while~~ a TNC
 321 driver provides a prearranged ride. Exclusions imposed under
 322 this subsection are limited to coverage while a TNC driver is
 323 logged on to a digital network or while a TNC driver provides a
 324 prearranged ride. This right to exclude all coverage may apply
 325 to any coverage included in an automobile insurance policy,

326 including, but not limited to:

- 327 a. Liability coverage for bodily injury and property
- 328 damage;
- 329 b. Uninsured and underinsured motorist coverage;
- 330 c. Medical payments coverage;
- 331 d. Comprehensive physical damage coverage;
- 332 e. Collision physical damage coverage; and
- 333 f. Personal injury protection.

334 2. The exclusions described in subparagraph 1. apply
 335 notwithstanding any requirement under chapter 324. These
 336 exclusions do not affect or diminish coverage otherwise
 337 available for permissive drivers or resident relatives under the
 338 personal automobile insurance policy of the TNC driver or owner
 339 of the TNC vehicle who are not occupying the TNC vehicle at the
 340 time of loss. This section does not require that a personal
 341 automobile insurance policy provide coverage while the TNC
 342 driver is logged on to a digital network, while the TNC driver
 343 is engaged in a prearranged ride, or while the TNC driver
 344 otherwise uses a vehicle to transport riders for compensation.

345 3. This section must not be construed to require an
 346 insurer to use any particular policy language or reference to
 347 this section in order to exclude any and all coverage for any
 348 loss or injury that occurs while a TNC driver is logged on to a
 349 digital network or while a TNC driver provides a prearranged
 350 ride.

351 4. This section does not preclude an insurer from
 352 providing primary or excess coverage for the TNC driver's
 353 vehicle by contract or endorsement.

354 Section 14. Present subsections (11) through (14) of
 355 section 628.4615, Florida Statutes, are redesignated as
 356 subsections (12) through (15), respectively, subsections (1) and
 357 (7) of that section are amended, and a new subsection (11) is
 358 added to that section, to read:

359 628.4615 Specialty insurers; acquisition of controlling
 360 stock, ownership interest, assets, or control; merger or
 361 consolidation.—

362 (1) For the purposes of this section, the term "specialty
 363 insurer" means any person holding a license or certificate of
 364 authority as:

365 (a) A motor vehicle service agreement company authorized
 366 to issue motor vehicle service agreements as those terms are
 367 defined in s. 634.011;

368 (b) A home warranty association authorized to issue "home
 369 warranties" as those terms are defined in s. 634.301;

370 (c) A service warranty association authorized to issue
 371 "service warranties" as those terms are defined in s.
 372 634.401(13) and (14);

373 (d) A prepaid limited health service organization
 374 authorized to issue prepaid limited health service contracts, as
 375 those terms are defined in chapter 636;

- 376 (e) An authorized health maintenance organization
- 377 operating pursuant to s. 641.21;
- 378 (f) An authorized prepaid health clinic operating pursuant
- 379 to s. 641.405;
- 380 (g) A legal expense insurance corporation authorized to
- 381 engage in a legal expense insurance business pursuant to s.
- 382 642.021;
- 383 (h) A provider that is licensed to operate a facility that
- 384 undertakes to provide continuing care as those terms are defined
- 385 in s. 651.011;
- 386 (i) A multiple-employer welfare arrangement operating
- 387 pursuant to ss. 624.436-624.446;
- 388 (j) A premium finance company authorized to finance
- 389 insurance premiums pursuant to s. 627.828; ~~or~~
- 390 (k) A corporation authorized to accept donor annuity
- 391 agreements pursuant to s. 627.481; or-
- 392 (l) A viatical settlement provider authorized to do
- 393 business in this state under part X of chapter 626.
- 394 (7) The office may disapprove any acquisition subject to
- 395 ~~the provisions of~~ this section by any person or any affiliated
- 396 person of such person who:
- 397 (a) Willfully violates this section;
- 398 (b) In violation of an order of the office issued pursuant
- 399 to subsection (12) ~~(11)~~, fails to divest himself or herself of
- 400 any stock or ownership interest obtained in violation of this

401 section or fails to divest himself or herself of any direct or
 402 indirect control of such stock or ownership interest, within 25
 403 days after such order; or

404 (c) In violation of an order issued by the office pursuant
 405 to subsection (12) ~~(11)~~, acquires an additional stock or
 406 ownership interest in a specialty insurer or controlling company
 407 or direct or indirect control of such stock or ownership
 408 interest, without complying with this section.

409 (11) A person may rebut a presumption of control by filing
 410 a disclaimer of control with the office on a form prescribed by
 411 the commission. The disclaimer must fully disclose all material
 412 relationships and bases for affiliation between the person and
 413 the specialty insurer as well as the basis for disclaiming the
 414 affiliation. In lieu of such form, a person or acquiring party
 415 may file with the office a copy of a Schedule 13G filed with the
 416 Securities and Exchange Commission pursuant to Rule 13d-1(b) or
 417 (c), 17 C.F.R. s. 240.13d-1, under the Securities Exchange Act
 418 of 1934, as amended. After a disclaimer has been filed, the
 419 specialty insurer is relieved of any duty to register or report
 420 under this section which may arise out of the specialty
 421 insurer's relationship with the person unless the office
 422 disallows the disclaimer.

423 Section 15. Subsection (4) of section 628.8015, Florida
 424 Statutes, is amended to read:

425 628.8015 Own-risk and solvency assessment; corporate

426 governance annual disclosure.-

427 (4) CONFIDENTIALITY.-The required filings and related
 428 documents submitted pursuant to subsections (2) and (3) are
 429 privileged such that they may not be produced in response to a
 430 subpoena or other discovery directed to the office, and any such
 431 filings and related documents, ~~if obtained from the office,~~ are
 432 not admissible in evidence in any private civil action. However,
 433 the department or office may use these filings and related
 434 documents in the furtherance of any regulatory or legal action
 435 brought against an insurer as part of the official duties of the
 436 department or office. A waiver of any applicable claim of
 437 privilege in these filings and related documents may not occur
 438 because of a disclosure to the office under this section,
 439 because of any other provision of the Insurance Code, or because
 440 of sharing under s. 624.4212. The office or a person receiving
 441 these filings and related documents, while acting under the
 442 authority of the office, or with whom such filings and related
 443 documents are shared pursuant to s. 624.4212, is not permitted
 444 or required to testify in any private civil action concerning
 445 any such filings or related documents.

446 Section 16. Paragraph (b) of subsection (6) of section
 447 629.401, Florida Statutes, is amended to read:

448 629.401 Insurance exchange.-

449 (6)

450 (b) In addition to the insurance laws specified in

451 paragraph (a), the office shall regulate the exchange pursuant
 452 to the following powers, rights, and duties:

453 1. General examination powers.—The office shall examine
 454 the affairs, transactions, accounts, records, and assets of any
 455 security fund, exchange, members, and associate brokers as often
 456 as it deems advisable. The examination may be conducted by the
 457 accredited examiners of the office at the offices of the entity
 458 or person being examined. The office shall examine in like
 459 manner each prospective member or associate broker applying for
 460 membership in an exchange.

461 2. Office approval and applications of underwriting
 462 members.—No underwriting member shall commence operation without
 463 the approval of the office. Before commencing operation, an
 464 underwriting member shall provide a written application
 465 containing:

466 a. Name, type, and purpose of the underwriting member.

467 b. Name, residence address, business background, and
 468 qualifications of each person associated or to be associated in
 469 the formation or financing of the underwriting member.

470 c. Full disclosure of the terms of all understandings and
 471 agreements existing or proposed among persons so associated
 472 relative to the underwriting member, or the formation or
 473 financing thereof, accompanied by a copy of each such agreement
 474 or understanding.

475 d. Full disclosure of the terms of all understandings and

476 | agreements existing or proposed for management or exclusive
 477 | agency contracts.

478 | 3. Investigation of underwriting member applications.—In
 479 | connection with any proposal to establish an underwriting
 480 | member, the office shall make an investigation of:

481 | a. The character, reputation, financial standing, and
 482 | motives of the organizers, incorporators, or subscribers
 483 | organizing the proposed underwriting member.

484 | b. The character, financial responsibility, insurance
 485 | experience, and business qualifications of its proposed
 486 | officers.

487 | c. The character, financial responsibility, business
 488 | experience, and standing of the proposed stockholders and
 489 | directors, or owners.

490 | 4. Notice of management changes.—An underwriting member
 491 | shall promptly give the office written notice of any change
 492 | among the directors or principal officers of the underwriting
 493 | member within 30 days after such change. The office shall
 494 | investigate the new directors or principal officers of the
 495 | underwriting member. The office's investigation shall include an
 496 | investigation of the character, financial responsibility,
 497 | insurance experience, and business qualifications of any new
 498 | directors or principal officers. As a result of the
 499 | investigation, the office may require the underwriting member to
 500 | replace any new directors or principal officers.

501 5. Alternate financial statement.—In lieu of any financial
 502 examination, the office may accept an audited financial
 503 statement.

504 6. Correction and reconstruction of records.—If the office
 505 finds any accounts or records to be inadequate, or inadequately
 506 kept or posted, it may employ experts to reconstruct, rewrite,
 507 post, or balance them at the expense of the person or entity
 508 being examined if such person or entity has failed to maintain,
 509 complete, or correct such records or accounts after the office
 510 has given him or her or it notice and reasonable opportunity to
 511 do so.

512 7. Obstruction of examinations.—Any person or entity who
 513 or which willfully obstructs the office or its examiner in an
 514 examination is guilty of a misdemeanor of the second degree,
 515 punishable as provided in s. 775.082 or s. 775.083.

516 8. Filing of annual statement.—Each underwriting member
 517 shall file with the office a full and true statement of its
 518 financial condition, transactions, and affairs. The statement
 519 shall be filed on or before March 1 of each year, or within such
 520 extension of time as the office for good cause grants, and shall
 521 be for the preceding calendar year. The statement shall contain
 522 information generally included in insurer financial statements
 523 prepared in accordance with generally accepted insurance
 524 accounting principles and practices and in a form generally
 525 utilized by insurers for financial statements, sworn to by at

526 | least two executive officers of the underwriting member. The
 527 | form of the financial statements shall be the approved form of
 528 | the National Association of Insurance Commissioners or its
 529 | successor organization. The commission may by rule require each
 530 | insurer to submit any part of the information contained in the
 531 | financial statement in a computer-readable form compatible with
 532 | the office's electronic data processing system. In addition to
 533 | information furnished in connection with its annual statement,
 534 | an underwriting member must furnish to the office as soon as
 535 | reasonably possible such information about its transactions or
 536 | affairs as the office requests in writing. All information
 537 | furnished pursuant to the office's request must be verified by
 538 | the oath of two executive officers of the underwriting member.

539 | 9. Record maintenance.—Each underwriting member shall have
 540 | and maintain its principal place of business in this state and
 541 | shall keep therein complete records of its assets, transactions,
 542 | and affairs in accordance with such methods and systems as are
 543 | customary for or suitable to the kind or kinds of insurance
 544 | transacted.

545 | 10. Examination of agents.—If the department has reason to
 546 | believe that any agent, as defined in s. 626.015 or s. 626.914,
 547 | has violated or is violating any provision of the insurance law,
 548 | or upon receipt of a written complaint signed by any interested
 549 | person indicating that any such violation may exist, the
 550 | department shall conduct such examination as it deems necessary

551 of the accounts, records, documents, and transactions pertaining
 552 to or affecting the insurance affairs of such agent.

553 11. Written reports of office.—The office or its examiner
 554 shall make a full and true written report of any examination.
 555 The report shall contain only information obtained from
 556 examination of the records, accounts, files, and documents of or
 557 relative to the person or entity examined or from testimony of
 558 individuals under oath, together with relevant conclusions and
 559 recommendations of the examiner based thereon. The office shall
 560 furnish a copy of the report to the person or entity examined
 561 not less than 30 days prior to filing the report in its office.
 562 If such person or entity so requests in writing within such 30-
 563 day period, the office shall grant a hearing with respect to the
 564 report and shall not file the report until after the hearing and
 565 after such modifications have been made therein as the office
 566 deems proper.

567 12. Admissibility of reports.—The report of an examination
 568 when filed shall be admissible in evidence in any action or
 569 proceeding brought by the office against the person or entity
 570 examined, or against his or her or its officers, employees, or
 571 agents. The office or its examiners may at any time testify and
 572 offer other proper evidence as to information secured or matters
 573 discovered during the course of an examination, whether or not a
 574 written report of the examination has been either made,
 575 furnished, or filed in the office.

576 13. Publication of reports.—After an examination report
 577 has been filed, the office may publish the results of any such
 578 examination in one or more newspapers published in this state
 579 whenever it deems it to be in the public interest.

580 14. Consideration of examination reports by entity
 581 examined.—After the examination report of an underwriting member
 582 has been filed, an affidavit shall be filed with the office, not
 583 more than 30 days after the report has been filed, on a form
 584 furnished by the office and signed by the person or a
 585 representative of any entity examined, stating that the report
 586 has been read and that the recommendations made in the report
 587 will be considered within a reasonable time.

588 15. Examination costs.—Each person or entity examined by
 589 the office shall pay to the office the expenses incurred in such
 590 examination.

591 16. Exchange costs.—An exchange shall reimburse the office
 592 for any expenses incurred by it relating to the regulation of
 593 the exchange and its members, except as specified in
 594 subparagraph 15.

595 17. Powers of examiners.—Any examiner appointed by the
 596 office, as to the subject of any examination, investigation, or
 597 hearing being conducted by him or her, may administer oaths,
 598 examine and cross-examine witnesses, and receive oral and
 599 documentary evidence, and shall have the power to subpoena
 600 witnesses, compel their attendance and testimony, and require by

601 subpoena the production of books, papers, records, files,
 602 correspondence, documents, or other evidence which the examiner
 603 deems relevant to the inquiry. If any person refuses to comply
 604 with any such subpoena or to testify as to any matter concerning
 605 which he or she may be lawfully interrogated, the Circuit Court
 606 of Leon County or the circuit court of the county wherein such
 607 examination, investigation, or hearing is being conducted, or of
 608 the county wherein such person resides, on the office's
 609 application may issue an order requiring such person to comply
 610 with the subpoena and to testify; and any failure to obey such
 611 an order of the court may be punished by the court as a contempt
 612 thereof. Subpoenas shall be served, and proof of such service
 613 made, in the same manner as if issued by a circuit court.
 614 Witness fees and mileage, if claimed, shall be allowed the same
 615 as for testimony in a circuit court.

616 18. False testimony.—Any person willfully testifying
 617 falsely under oath as to any matter material to any examination,
 618 investigation, or hearing shall upon conviction thereof be
 619 guilty of perjury and shall be punished accordingly.

620 19. Self-incrimination.—

621 a. If any person asks to be excused from attending or
 622 testifying or from producing any books, papers, records,
 623 contracts, documents, or other evidence in connection with any
 624 examination, hearing, or investigation being conducted by the
 625 office or its examiner, on the ground that the testimony or

626 evidence required of the person may tend to incriminate him or
627 her or subject him or her to a penalty or forfeiture, and the
628 person notwithstanding is directed to give such testimony or
629 produce such evidence, he or she shall, if so directed by the
630 office and the Department of Legal Affairs, nonetheless comply
631 with such direction; but the person shall not thereafter be
632 prosecuted or subjected to any penalty or forfeiture for or on
633 account of any transaction, matter, or thing concerning which he
634 or she may have so testified or produced evidence, and no
635 testimony so given or evidence so produced shall be received
636 against him or her upon any criminal action, investigation, or
637 proceeding; except that no such person so testifying shall be
638 exempt from prosecution or punishment for any perjury committed
639 by him or her in such testimony, and the testimony or evidence
640 so given or produced shall be admissible against him or her upon
641 any criminal action, investigation, or proceeding concerning
642 such perjury, nor shall he or she be exempt from the refusal,
643 suspension, or revocation of any license, permission, or
644 authority conferred, or to be conferred, pursuant to the
645 insurance law.

646 b. Any such individual may execute, acknowledge, and file
647 with the office a statement expressly waiving such immunity or
648 privilege in respect to any transaction, matter, or thing
649 specified in such statement, and thereupon the testimony of such
650 individual or such evidence in relation to such transaction,

651 matter, or thing may be received or produced before any judge or
 652 justice, court, tribunal, grand jury, or otherwise; and if such
 653 testimony or evidence is so received or produced, such
 654 individual shall not be entitled to any immunity or privileges
 655 on account of any testimony so given or evidence so produced.

656 20. Penalty for failure to testify.—Any person who refuses
 657 or fails, without lawful cause, to testify relative to the
 658 affairs of any member, associate broker, or other person when
 659 subpoenaed and requested by the office to so testify, as
 660 provided in subparagraph 17., shall, in addition to the penalty
 661 provided in subparagraph 17., be guilty of a misdemeanor of the
 662 second degree, punishable as provided in s. 775.082 or s.
 663 775.083.

664 21. Name selection.—No underwriting member shall be formed
 665 or authorized to transact insurance in this state under a name
 666 which is the same as that of any authorized insurer or is so
 667 nearly similar thereto as to cause or tend to cause confusion or
 668 under a name which would tend to mislead as to the type of
 669 organization of the insurer. Before incorporating under or using
 670 any name, the underwriting syndicate or proposed underwriting
 671 syndicate shall submit its name or proposed name to the office
 672 for the approval of the office.

673 22. Capitalization.—An underwriting member approved on or
 674 after July 2, 1987, shall provide an initial paid-in capital and
 675 surplus of \$3 million and thereafter shall maintain a minimum

676 policyholder surplus of \$2 million in order to be permitted to
 677 write insurance. Underwriting members approved prior to July 2,
 678 1987, shall maintain a minimum policyholder surplus of \$1
 679 million. After June 29, 1988, underwriting members approved
 680 prior to July 2, 1987, must maintain a minimum policyholder
 681 surplus of \$1.5 million to write insurance. After June 29, 1989,
 682 underwriting members approved prior to July 2, 1987, must
 683 maintain a minimum policyholder surplus of \$1.75 million to
 684 write insurance. After December 30, 1989, all underwriting
 685 members, regardless of the date they were approved, must
 686 maintain a minimum policyholder surplus of \$2 million to write
 687 insurance. Except for that portion of the paid-in capital and
 688 surplus which shall be maintained in a security fund of an
 689 exchange, the paid-in capital and surplus shall be invested by
 690 an underwriting member in a manner consistent with ss. 625.301-
 691 625.340. The portion of the paid-in capital and surplus in any
 692 security fund of an exchange shall be invested in a manner
 693 limited to investments for life insurance companies under the
 694 Florida insurance laws.

695 23. Limitations on coverage written.-

696 a. Limit of risk.-No underwriting member shall expose
 697 itself to any loss on any one risk in an amount exceeding 10
 698 percent of its surplus to policyholders. Any risk or portion of
 699 any risk which shall have been reinsured in an assuming
 700 reinsurer authorized or approved to do such business in this

701 state shall be deducted in determining the limitation of risk
 702 prescribed in this section.

703 b. Restrictions on premiums written.—If the office has
 704 reason to believe that the underwriting member's ratio of actual
 705 or projected annual gross written premiums to policyholder
 706 surplus exceeds 8 to 1 or the underwriting member's ratio of
 707 actual or projected annual net premiums to policyholder surplus
 708 exceeds 4 to 1, the office may establish maximum gross or net
 709 annual premiums to be written by the underwriting member
 710 consistent with maintaining the ratios specified in this sub-
 711 subparagraph.

712 (I) Projected annual net or gross premiums shall be based
 713 on the actual writings to date for the underwriting member's
 714 current calendar year, its writings for the previous calendar
 715 year, or both. Ratios shall be computed on an annualized basis.

716 (II) For purposes of this sub-subparagraph, the term
 717 "gross written premiums" means direct premiums written and
 718 reinsurance assumed.

719 c. Surplus as to policyholders.—For the purpose of
 720 determining the limitation on coverage written, surplus as to
 721 policyholders shall be deemed to include any voluntary reserves,
 722 or any part thereof, which are not required by or pursuant to
 723 law and shall be determined from the last sworn statement of
 724 such underwriting member with the office, or by the last report
 725 or examination filed by the office, whichever is more recent at

726 the time of assumption of such risk.

727 24. Unearned premium reserves.~~There shall at all times be~~
 728 maintained an unearned premium reserve equal to fifty percent
 729 (50%) of the net written premiums of the subscribers on policies
 730 having one year or less to run, and pro rata on those for longer
 731 periods, ~~All unearned premium reserves for business written on~~
 732 ~~the exchange shall be calculated on a monthly or more frequent~~
 733 ~~basis or on such other basis as determined by the office,~~ except
 734 that all premiums on any marine or transportation insurance trip
 735 risk shall be deemed unearned until the trip is terminated. For
 736 the purpose of this subparagraph, "net written premiums" shall
 737 mean the premium payments made by subscribers plus the premiums
 738 due from subscribers, after deducting the amounts specifically
 739 provided in the subscribers' agreements for expenses, including
 740 reinsurance costs and fees paid to the attorney in fact,
 741 provided that the power of attorney agreement contains an
 742 explicit provision requiring the attorney in fact to refund any
 743 unearned subscribers fees on a pro-rata basis for cancelled
 744 policies. If there is no such provision, then the unearned
 745 premium reserve shall be calculated without any adjustment for
 746 fees paid to the attorney in fact. If the unearned premium
 747 reserves at any time do not amount to \$100,000, then there shall
 748 be maintained on deposit at the exchange at all times additional
 749 funds in cash or eligible securities which, together with the
 750 unearned premium reserves, equal \$100,000. In calculating the

751 foregoing reserves, the amount of the attorney's bond, as filed
 752 with the office and as required by s. 629.121, shall be included
 753 as part thereof. If at any time the unearned premium reserves is
 754 less than the foregoing requirements, the subscribers, or the
 755 attorney in fact, shall advance funds to make up the deficiency.
 756 Such advances shall only be repaid out of the surplus of the
 757 exchange and only after receiving written approval from the
 758 office.

759 25. Loss reserves.—All underwriting members of an exchange
 760 shall maintain loss reserves, including a reserve for incurred
 761 but not reported claims. The reserves shall be subject to review
 762 by the office, and, if loss experience shows that an
 763 underwriting member's loss reserves are inadequate, the office
 764 shall require the underwriting member to maintain loss reserves
 765 in such additional amount as is needed to make them adequate.

766 26. Distribution of profits.—An underwriting member shall
 767 not distribute any profits in the form of cash or other assets
 768 to owners except out of that part of its available and
 769 accumulated surplus funds which is derived from realized net
 770 operating profits on its business and realized capital gains. In
 771 any one year such payments to owners shall not exceed 30 percent
 772 of such surplus as of December 31 of the immediately preceding
 773 year, unless otherwise approved by the office. No distribution
 774 of profits shall be made that would render an underwriting
 775 member either impaired or insolvent.

776 27. Stock dividends.—A stock dividend may be paid by an
 777 underwriting member out of any available surplus funds in excess
 778 of the aggregate amount of surplus advanced to the underwriting
 779 member under subparagraph 29.

780 28. Dividends from earned surplus.—A dividend otherwise
 781 lawful may be payable out of an underwriting member's earned
 782 surplus even though the total surplus of the underwriting member
 783 is then less than the aggregate of its past contributed surplus
 784 resulting from issuance of its capital stock at a price in
 785 excess of the par value thereof.

786 29. Borrowing of money by underwriting members.—

787 a. An underwriting member may borrow money to defray the
 788 expenses of its organization, provide it with surplus funds, or
 789 for any purpose of its business, upon a written agreement that
 790 such money is required to be repaid only out of the underwriting
 791 member's surplus in excess of that stipulated in such agreement.
 792 The agreement may provide for interest not exceeding 15 percent
 793 simple interest per annum. The interest shall or shall not
 794 constitute a liability of the underwriting member as to its
 795 funds other than such excess of surplus, as stipulated in the
 796 agreement. No commission or promotion expense shall be paid in
 797 connection with any such loan. The use of any surplus note and
 798 any repayments thereof shall be subject to the approval of the
 799 office.

800 b. Money so borrowed, together with any interest thereon

801 if so stipulated in the agreement, shall not form a part of the
 802 underwriting member's legal liabilities except as to its surplus
 803 in excess of the amount thereof stipulated in the agreement, nor
 804 be the basis of any setoff; but until repayment, financial
 805 statements filed or published by an underwriting member shall
 806 show as a footnote thereto the amount thereof then unpaid,
 807 together with any interest thereon accrued but unpaid.

808 30. Liquidation, rehabilitation, and restrictions.—The
 809 office, upon a showing that a member or associate broker of an
 810 exchange has met one or more of the grounds contained in part I
 811 of chapter 631, may restrict sales by type of risk, policy or
 812 contract limits, premium levels, or policy or contract
 813 provisions; increase surplus or capital requirements of
 814 underwriting members; issue cease and desist orders; suspend or
 815 restrict a member's or associate broker's right to transact
 816 business; place an underwriting member under conservatorship or
 817 rehabilitation; or seek an order of liquidation as authorized by
 818 part I of chapter 631.

819 31. Prohibited conduct.—The following acts by a member,
 820 associate broker, or affiliated person shall constitute
 821 prohibited conduct:

822 a. Fraud.

823 b. Fraudulent or dishonest acts committed by a member or
 824 associate broker prior to admission to an exchange, if the facts
 825 and circumstances were not disclosed to the office upon

826 application to become a member or associate broker.
 827 c. Conduct detrimental to the welfare of an exchange.
 828 d. Unethical or improper practices or conduct,
 829 inconsistent with just and equitable principles of trade as set
 830 forth in, but not limited to, ss. 626.951-626.9641 and 626.973.
 831 e. Failure to use due diligence to ascertain the insurance
 832 needs of a client or a principal.
 833 f. Misstatements made under oath or upon an application
 834 for membership on an exchange.
 835 g. Failure to testify or produce documents when requested
 836 by the office.
 837 h. Willful violation of any law of this state.
 838 i. Failure of an officer or principal to testify under
 839 oath concerning a member, associate broker, or other person's
 840 affairs as they relate to the operation of an exchange.
 841 j. Violation of the constitution and bylaws of the
 842 exchange.
 843 32. Penalties for participating in prohibited conduct.-
 844 a. The office may order the suspension of further
 845 transaction of business on the exchange of any member or
 846 associate broker found to have engaged in prohibited conduct. In
 847 addition, any member or associate broker found to have engaged
 848 in prohibited conduct may be subject to reprimand, censure,
 849 and/or a fine not exceeding \$25,000 imposed by the office.
 850 b. Any member which has an affiliated person who is found

851 to have engaged in prohibited conduct shall be subject to
 852 involuntary withdrawal or in addition thereto may be subject to
 853 suspension, reprimand, censure, and/or a fine not exceeding
 854 \$25,000.

855 33. Reduction of penalties.—Any suspension, reprimand,
 856 censure, or fine may be remitted or reduced by the office on
 857 such terms and conditions as are deemed fair and equitable.

858 34. Other offenses.—Any member or associate broker that is
 859 suspended shall be deprived, during the period of suspension, of
 860 all rights and privileges of a member or of an associate broker
 861 and may be proceeded against by the office for any offense
 862 committed either before or after the date of suspension.

863 35. Reinstatement.—Any member or associate broker that is
 864 suspended may be reinstated at any time on such terms and
 865 conditions as the office may specify.

866 36. Remittance of fines.—Fines imposed under this section
 867 shall be remitted to the office and shall be paid into the
 868 Insurance Regulatory Trust Fund.

869 37. Failure to pay fines.—When a member or associate
 870 broker has failed to pay a fine for 15 days after it becomes
 871 payable, such member or associate broker shall be suspended,
 872 unless the office has granted an extension of time to pay such
 873 fine.

874 38. Changes in ownership or assets.—In the event of a
 875 major change in the ownership or a major change in the assets of

876 an underwriting member, the underwriting member shall report
 877 such change in writing to the office within 30 days of the
 878 effective date thereof. The report shall set forth the details
 879 of the change. Any change in ownership or assets of more than 5
 880 percent shall be considered a major change.

881 39. Retaliation.—

882 a. When by or pursuant to the laws of any other state or
 883 foreign country any taxes, licenses, or other fees, in the
 884 aggregate, and any fines, penalties, deposit requirements, or
 885 other material obligations, prohibitions, or restrictions are or
 886 would be imposed upon an exchange or upon the agents or
 887 representatives of such exchange which are in excess of such
 888 taxes, licenses, and other fees, in the aggregate, or which are
 889 in excess of such fines, penalties, deposit requirements, or
 890 other obligations, prohibitions, or restrictions directly
 891 imposed upon similar exchanges or upon the agents or
 892 representatives of such exchanges of such other state or country
 893 under the statutes of this state, so long as such laws of such
 894 other state or country continue in force or are so applied, the
 895 same taxes, licenses, and other fees, in the aggregate, or
 896 fines, penalties, deposit requirements, or other material
 897 obligations, prohibitions, or restrictions of whatever kind
 898 shall be imposed by the office upon the exchanges, or upon the
 899 agents or representatives of such exchanges, of such other state
 900 or country doing business or seeking to do business in this

901 state.

902 b. Any tax, license, or other obligation imposed by any
 903 city, county, or other political subdivision or agency of a
 904 state, jurisdiction, or foreign country on an exchange, or on
 905 the agents or representatives on an exchange, shall be deemed to
 906 be imposed by such state, jurisdiction, or foreign country
 907 within the meaning of sub-subparagraph a.

908 40. Agents.—

909 a. Agents as defined in ss. 626.015 and 626.914 who are
 910 broker members or associate broker members of an exchange shall
 911 be allowed only to place on an exchange the same kind or kinds
 912 of business that the agent is licensed to place pursuant to
 913 Florida law. Direct Florida business as defined in s. 626.916 or
 914 s. 626.917 shall be written through a broker member who is a
 915 surplus lines agent as defined in s. 626.914. The activities of
 916 each broker member or associate broker with regard to an
 917 exchange shall be subject to all applicable provisions of the
 918 insurance laws of this state, and all such activities shall
 919 constitute transactions under his or her license as an insurance
 920 agent for purposes of the Florida insurance law.

921 b. Premium payments and other requirements.—If an
 922 underwriting member has assumed the risk as to a surplus lines
 923 coverage and if the premium therefor has been received by the
 924 surplus lines agent who placed such insurance, then in all
 925 questions thereafter arising under the coverage as between the

926 underwriting member and the insured, the underwriting member
 927 shall be deemed to have received the premium due to it for such
 928 coverage; and the underwriting member shall be liable to the
 929 insured as to losses covered by such insurance, and for unearned
 930 premiums which may become payable to the insured upon
 931 cancellation of such insurance, whether or not in fact the
 932 surplus lines agent is indebted to the underwriting member with
 933 respect to such insurance or for any other cause.

934 41. Improperly issued contracts, riders, and
 935 endorsements.-

936 a. Any insurance policy, rider, or endorsement issued by
 937 an underwriting member and otherwise valid which contains any
 938 condition or provision not in compliance with the requirements
 939 of this section shall not be thereby rendered invalid, except as
 940 provided in s. 627.415, but shall be construed and applied in
 941 accordance with such conditions and provisions as would have
 942 applied had such policy, rider, or endorsement been in full
 943 compliance with this section. In the event an underwriting
 944 member issues or delivers any policy for an amount which exceeds
 945 any limitations otherwise provided in this section, the
 946 underwriting member shall be liable to the insured or his or her
 947 beneficiary for the full amount stated in the policy in addition
 948 to any other penalties that may be imposed.

949 b. Any insurance contract delivered or issued for delivery
 950 in this state governing a subject or subjects of insurance

951 resident, located, or to be performed in this state which,
 952 pursuant to the provisions of this section, the underwriting
 953 member may not lawfully insure under such a contract shall be
 954 cancelable at any time by the underwriting member, any provision
 955 of the contract to the contrary notwithstanding; and the
 956 underwriting member shall promptly cancel the contract in
 957 accordance with the request of the office therefor. No such
 958 illegality or cancellation shall be deemed to relieve the
 959 underwriting syndicate of any liability incurred by it under the
 960 contract while in force or to prohibit the underwriting
 961 syndicate from retaining the pro rata earned premium thereon.
 962 This provision does not relieve the underwriting syndicate from
 963 any penalty otherwise incurred by the underwriting syndicate.

964 42. Satisfaction of judgments.—

965 a. Every judgment or decree for the recovery of money
 966 heretofore or hereafter entered in any court of competent
 967 jurisdiction against any underwriting member shall be fully
 968 satisfied within 60 days from and after the entry thereof or, in
 969 the case of an appeal from such judgment or decree, within 60
 970 days from and after the affirmance of the judgment or decree by
 971 the appellate court.

972 b. If the judgment or decree is not satisfied as required
 973 under sub-subparagraph a., and proof of such failure to satisfy
 974 is made by filing with the office a certified transcript of the
 975 docket of the judgment or the decree together with a certificate

976 by the clerk of the court wherein the judgment or decree remains
 977 unsatisfied, in whole or in part, after the time provided in
 978 sub-subparagraph a., the office shall forthwith prohibit the
 979 underwriting member from transacting business. The office shall
 980 not permit such underwriting member to write any new business
 981 until the judgment or decree is wholly paid and satisfied and
 982 proof thereof is filed with the office under the official
 983 certificate of the clerk of the court wherein the judgment was
 984 recovered, showing that the judgment or decree is satisfied of
 985 record, and until the expenses and fees incurred in the case are
 986 also paid by the underwriting syndicate.

987 43. Tender and exchange offers.—No person shall conclude a
 988 tender offer or an exchange offer or otherwise acquire 5 percent
 989 or more of the outstanding voting securities of an underwriting
 990 member or controlling company or purchase 5 percent or more of
 991 the ownership of an underwriting member or controlling company
 992 unless such person has filed with, and obtained the approval of,
 993 the office and sent to such underwriting member a statement
 994 setting forth:

995 a. The identity of, and background information on, each
 996 person by whom, or on whose behalf, the acquisition is to be
 997 made; and, if the acquisition is to be made by or on behalf of a
 998 corporation, association, or trust, the identity of and
 999 background information on each director, officer, trustee, or
 1000 other natural person performing duties similar to those of a

1001 director, officer, or trustee for the corporation, association,
 1002 or trust.

1003 b. The source and amount of the funds or other
 1004 consideration used, or to be used, in making the acquisition.

1005 c. Any plans or proposals which such person may have to
 1006 liquidate such member, to sell its assets, or to merge or
 1007 consolidate it.

1008 d. The percentage of ownership which such person proposes
 1009 to acquire and the terms of the offer or exchange, as the case
 1010 may be.

1011 e. Information as to any contracts, arrangements, or
 1012 understandings with any party with respect to any securities of
 1013 such member or controlling company, including, but not limited
 1014 to, information relating to the transfer of any securities,
 1015 option arrangements, or puts or calls or the giving or
 1016 withholding of proxies, naming the party with whom such
 1017 contract, arrangements, or understandings have been entered and
 1018 giving the details thereof.

1019 f. The office may disapprove any acquisition subject to
 1020 the provisions of this subparagraph by any person or any
 1021 affiliated person of such person who:

1022 (I) Willfully violates this subparagraph;

1023 (II) In violation of an order of the office issued
 1024 pursuant to sub-subparagraph j., fails to divest himself or
 1025 herself of any stock obtained in violation of this subparagraph,

1026 or fails to divest himself or herself of any direct or indirect
 1027 control of such stock, within 25 days after such order; or

1028 (III) In violation of an order issued by the office
 1029 pursuant to sub-subparagraph j., acquires additional stock of
 1030 the underwriting member or controlling company, or direct or
 1031 indirect control of such stock, without complying with this
 1032 subparagraph.

1033 g. The person or persons filing the statement required by
 1034 this subparagraph have the burden of proof. The office shall
 1035 approve any such acquisition if it finds, on the basis of the
 1036 record made during any proceeding or on the basis of the filed
 1037 statement if no proceeding is conducted, that:

1038 (I) Upon completion of the acquisition, the underwriting
 1039 member will be able to satisfy the requirements for the approval
 1040 to write the line or lines of insurance for which it is
 1041 presently approved;

1042 (II) The financial condition of the acquiring person or
 1043 persons will not jeopardize the financial stability of the
 1044 underwriting member or prejudice the interests of its
 1045 policyholders or the public;

1046 (III) Any plan or proposal which the acquiring person has,
 1047 or acquiring persons have, made:

1048 (A) To liquidate the insurer, sell its assets, or merge or
 1049 consolidate it with any person, or to make any other major
 1050 change in its business or corporate structure or management; or

1051 (B) To liquidate any controlling company, sell its assets,
 1052 or merge or consolidate it with any person, or to make any major
 1053 change in its business or corporate structure or management
 1054 which would have an effect upon the underwriting member

1055
 1056 is fair and free of prejudice to the policyholders of the
 1057 underwriting member or to the public;

1058 (IV) The competence, experience, and integrity of those
 1059 persons who will control directly or indirectly the operation of
 1060 the underwriting member indicate that the acquisition is in the
 1061 best interest of the policyholders of the underwriting member
 1062 and in the public interest;

1063 (V) The natural persons for whom background information is
 1064 required to be furnished pursuant to this subparagraph have such
 1065 backgrounds as to indicate that it is in the best interests of
 1066 the policyholders of the underwriting member, and in the public
 1067 interest, to permit such persons to exercise control over such
 1068 underwriting member;

1069 (VI) The officers and directors to be employed after the
 1070 acquisition have sufficient insurance experience and ability to
 1071 assure reasonable promise of successful operation;

1072 (VII) The management of the underwriting member after the
 1073 acquisition will be competent and trustworthy and will possess
 1074 sufficient managerial experience so as to make the proposed
 1075 operation of the underwriting member not hazardous to the

1076 insurance-buying public;

1077 (VIII) The management of the underwriting member after the
 1078 acquisition will not include any person who has directly or
 1079 indirectly through ownership, control, reinsurance transactions,
 1080 or other insurance or business relations unlawfully manipulated
 1081 the assets, accounts, finances, or books of any insurer or
 1082 underwriting member or otherwise acted in bad faith with respect
 1083 thereto;

1084 (IX) The acquisition is not likely to be hazardous or
 1085 prejudicial to the underwriting member's policyholders or the
 1086 public; and

1087 (X) The effect of the acquisition of control would not
 1088 substantially lessen competition in insurance in this state or
 1089 would not tend to create a monopoly therein.

1090 h. No vote by the stockholder of record, or by any other
 1091 person, of any security acquired in contravention of the
 1092 provisions of this subparagraph is valid. Any acquisition of any
 1093 security contrary to the provisions of this subparagraph is
 1094 void. Upon the petition of the underwriting member or
 1095 controlling company, the circuit court for the county in which
 1096 the principal office of such underwriting member is located may,
 1097 without limiting the generality of its authority, order the
 1098 issuance or entry of an injunction or other order to enforce the
 1099 provisions of this subparagraph. There shall be a private right
 1100 of action in favor of the underwriting member or controlling

1101 company to enforce the provisions of this subparagraph. No
 1102 demand upon the office that it perform its functions shall be
 1103 required as a prerequisite to any suit by the underwriting
 1104 member or controlling company against any other person, and in
 1105 no case shall the office be deemed a necessary party to any
 1106 action by such underwriting member or controlling company to
 1107 enforce the provisions of this subparagraph. Any person who
 1108 makes or proposes an acquisition requiring the filing of a
 1109 statement pursuant to this subparagraph, or who files such a
 1110 statement, shall be deemed to have thereby designated the Chief
 1111 Financial Officer as such person's agent for service of process
 1112 under this subparagraph and shall thereby be deemed to have
 1113 submitted himself or herself to the administrative jurisdiction
 1114 of the office and to the jurisdiction of the circuit court.

1115 i. Any approval by the office under this subparagraph does
 1116 not constitute a recommendation by the office for an
 1117 acquisition, tender offer, or exchange offer. It is unlawful for
 1118 a person to represent that the office's approval constitutes a
 1119 recommendation. A person who violates the provisions of this
 1120 sub-subparagraph is guilty of a felony of the third degree,
 1121 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
 1122 The statute-of-limitations period for the prosecution of an
 1123 offense committed under this sub-subparagraph is 5 years.

1124 j. Upon notification to the office by the underwriting
 1125 member or a controlling company that any person or any

1126 affiliated person of such person has acquired 5 percent or more
 1127 of the outstanding voting securities of the underwriting member
 1128 or controlling company without complying with the provisions of
 1129 this subparagraph, the office shall order that the person and
 1130 any affiliated person of such person cease acquisition of any
 1131 further securities of the underwriting member or controlling
 1132 company; however, the person or any affiliated person of such
 1133 person may request a proceeding, which proceeding shall be
 1134 convened within 7 days after the rendering of the order for the
 1135 sole purpose of determining whether the person, individually or
 1136 in connection with any affiliated person of such person, has
 1137 acquired 5 percent or more of the outstanding voting securities
 1138 of an underwriting member or controlling company. Upon the
 1139 failure of the person or affiliated person to request a hearing
 1140 within 7 days, or upon a determination at a hearing convened
 1141 pursuant to this sub-subparagraph that the person or affiliated
 1142 person has acquired voting securities of an underwriting member
 1143 or controlling company in violation of this subparagraph, the
 1144 office may order the person and affiliated person to divest
 1145 themselves of any voting securities so acquired.

1146 k.(I) The office shall, if necessary to protect the public
 1147 interest, suspend or revoke the certificate of authority of any
 1148 underwriting member or controlling company:

1149 (A) The control of which is acquired in violation of this
 1150 subparagraph;

1151 (B) That is controlled, directly or indirectly, by any
 1152 person or any affiliated person of such person who, in violation
 1153 of this subparagraph, has obtained control of an underwriting
 1154 member or controlling company; or

1155 (C) That is controlled, directly or indirectly, by any
 1156 person who, directly or indirectly, controls any other person
 1157 who, in violation of this subparagraph, acquires control of an
 1158 underwriting member or controlling company.

1159 (II) If any underwriting member is subject to suspension
 1160 or revocation pursuant to sub-sub-subparagraph (I), the
 1161 underwriting member shall be deemed to be in such condition, or
 1162 to be using or to have been subject to such methods or practices
 1163 in the conduct of its business, as to render its further
 1164 transaction of insurance presently or prospectively hazardous to
 1165 its policyholders, creditors, or stockholders or to the public.

1166 1.(I) For the purpose of this sub-sub-subparagraph, the
 1167 term "affiliated person" of another person means:

1168 (A) The spouse of such other person;

1169 (B) The parents of such other person and their lineal
 1170 descendants and the parents of such other person's spouse and
 1171 their lineal descendants;

1172 (C) Any person who directly or indirectly owns or
 1173 controls, or holds with power to vote, 5 percent or more of the
 1174 outstanding voting securities of such other person;

1175 (D) Any person 5 percent or more of the outstanding voting

1176 securities of which are directly or indirectly owned or
 1177 controlled, or held with power to vote, by such other person;

1178 (E) Any person or group of persons who directly or
 1179 indirectly control, are controlled by, or are under common
 1180 control with such other person; or any officer, director,
 1181 partner, copartner, or employee of such other person;

1182 (F) If such other person is an investment company, any
 1183 investment adviser of such company or any member of an advisory
 1184 board of such company;

1185 (G) If such other person is an unincorporated investment
 1186 company not having a board of directors, the depositor of such
 1187 company; or

1188 (H) Any person who has entered into an agreement, written
 1189 or unwritten, to act in concert with such other person in
 1190 acquiring or limiting the disposition of securities of an
 1191 underwriting member or controlling company.

1192 (II) For the purposes of this section, the term
 1193 "controlling company" means any corporation, trust, or
 1194 association owning, directly or indirectly, 25 percent or more
 1195 of the voting securities of one or more underwriting members.

1196 m. The commission may adopt, amend, or repeal rules that
 1197 are necessary to implement the provisions of this subparagraph,
 1198 pursuant to chapter 120.

1199 44. Background information.—The information as to the
 1200 background and identity of each person about whom information is

1201 required to be furnished pursuant to sub-subparagraph 43.a.
 1202 shall include, but shall not be limited to:

1203 a. Such person's occupations, positions of employment, and
 1204 offices held during the past 10 years.

1205 b. The principal business and address of any business,
 1206 corporation, or other organization in which each such office was
 1207 held or in which such occupation or position of employment was
 1208 carried on.

1209 c. Whether, at any time during such 10-year period, such
 1210 person was convicted of any crime other than a traffic
 1211 violation.

1212 d. Whether, during such 10-year period, such person has
 1213 been the subject of any proceeding for the revocation of any
 1214 license and, if so, the nature of such proceeding and the
 1215 disposition thereof.

1216 e. Whether, during such 10-year period, such person has
 1217 been the subject of any proceeding under the federal Bankruptcy
 1218 Act or whether, during such 10-year period, any corporation,
 1219 partnership, firm, trust, or association in which such person
 1220 was a director, officer, trustee, partner, or other official has
 1221 been subject to any such proceeding, either during the time in
 1222 which such person was a director, officer, trustee, partner, or
 1223 other official, or within 12 months thereafter.

1224 f. Whether, during such 10-year period, such person has
 1225 been enjoined, either temporarily or permanently, by a court of

1226 competent jurisdiction from violating any federal or state law
 1227 regulating the business of insurance, securities, or banking, or
 1228 from carrying out any particular practice or practices in the
 1229 course of the business of insurance, securities, or banking,
 1230 together with details of any such event.

1231 45. Security fund.—All underwriting members shall be
 1232 members of the security fund of any exchange.

1233 46. Underwriting member defined.—Whenever the term
 1234 "underwriting member" is used in this subsection, it shall be
 1235 construed to mean "underwriting syndicate."

1236 47. Offsets.—Any action, requirement, or constraint
 1237 imposed by the office shall reduce or offset similar actions,
 1238 requirements, or constraints of any exchange.

1239 48. Restriction on member ownership.—

1240 a. Investments existing prior to July 2, 1987.—The
 1241 investment in any member by brokers, agents, and intermediaries
 1242 transacting business on the exchange, and the investment in any
 1243 such broker, agent, or intermediary by any member, directly or
 1244 indirectly, shall in each case be limited in the aggregate to
 1245 less than 20 percent of the total investment in such member,
 1246 broker, agent, or intermediary, as the case may be. After
 1247 December 31, 1987, the aggregate percent of the total investment
 1248 in such member by any broker, agent, or intermediary and the
 1249 aggregate percent of the total investment in any such broker,
 1250 agent, or intermediary by any member, directly or indirectly,

1251 shall not exceed 15 percent. After June 30, 1988, such aggregate
 1252 percent shall not exceed 10 percent and after December 31, 1988,
 1253 such aggregate percent shall not exceed 5 percent.

1254 b. Investments arising on or after July 2, 1987.—The
 1255 investment in any underwriting member by brokers, agents, or
 1256 intermediaries transacting business on the exchange, and the
 1257 investment in any such broker, agent, or intermediary by any
 1258 underwriting member, directly or indirectly, shall in each case
 1259 be limited in the aggregate to less than 5 percent of the total
 1260 investment in such underwriting member, broker, agent, or
 1261 intermediary.

1262 49. "Underwriting manager" defined.—"Underwriting manager"
 1263 as used in this subparagraph includes any person, partnership,
 1264 corporation, or organization providing any of the following
 1265 services to underwriting members of the exchange:

1266 a. Office management and allied services, including
 1267 correspondence and secretarial services.

1268 b. Accounting services, including bookkeeping and
 1269 financial report preparation.

1270 c. Investment and banking consultations and services.

1271 d. Underwriting functions and services including the
 1272 acceptance, rejection, placement, and marketing of risk.

1273 50. Prohibition of underwriting manager investment.—Any
 1274 direct or indirect investment in any underwriting manager by a
 1275 broker member or any affiliated person of a broker member or any

1276 direct or indirect investment in a broker member by an
 1277 underwriting manager or any affiliated person of an underwriting
 1278 manager is prohibited. "Affiliated person" for purposes of this
 1279 subparagraph is defined in subparagraph 43.

1280 51. An underwriting member may not accept reinsurance on
 1281 an assumed basis from an affiliate or a controlling company, nor
 1282 may a broker member or management company place reinsurance from
 1283 an affiliate or controlling company of theirs with an
 1284 underwriting member. "Affiliate and controlling company" for
 1285 purposes of this subparagraph is defined in subparagraph 43.

1286 52. Premium defined.—"Premium" is the consideration for
 1287 insurance, by whatever name called. Any "assessment" or any
 1288 "membership," "policy," "survey," "inspection," "service" fee or
 1289 charge or similar fee or charge in consideration for an
 1290 insurance contract is deemed part of the premium.

1291 53. Rules.—The commission shall adopt rules necessary for
 1292 or as an aid to the effectuation of any provision of this
 1293 section.

1294 Section 17. Subsection (6) of section 634.121, Florida
 1295 Statutes, is amended to read:

1296 634.121 Forms, required procedures, provisions.—

1297 (6) Each service agreement, which includes a copy of the
 1298 application form, must be mailed, delivered, or otherwise
 1299 provided ~~electronically transmitted~~ to the agreement holder as
 1300 provided in s. 627.421. As used in that section, the term:

1301 (a) "Insurer" includes a motor vehicle service agreement
 1302 company.

1303 (b) "Insured" includes a motor vehicle service agreement
 1304 holder.

1305 (c) "Insurance policies and endorsements," "policy and
 1306 endorsements," "policy," and "policy form and endorsement form"
 1307 includes a motor vehicle service agreement and related
 1308 endorsement forms.

1309 (d) If the motor vehicle service agreement company elects
 1310 to post motor vehicle service agreements on its Internet website
 1311 in lieu of mailing or delivery to agreement holders the motor
 1312 vehicle service agreement company must comply with the
 1313 requirements of 627.421(4) within 45 days after the date of
 1314 purchase. Electronic transmission of a service agreement
 1315 constitutes delivery to the agreement holder. The electronic
 1316 transmission must notify the agreement holder of his or her
 1317 right to receive the service agreement via United States mail
 1318 rather than electronic transmission. If the agreement holder
 1319 communicates to the service agreement company electronically or
 1320 in writing that he or she does not agree to receipt by
 1321 electronic transmission, a paper copy of the service agreement
 1322 shall be provided to the agreement holder.

1323 Section 18. Section 641.3107, Florida Statutes, is amended
 1324 to read:

1325 641.3107 Delivery of contract. ~~Unless delivered upon~~

1326 ~~execution or issuance,~~ a health maintenance contract,
 1327 certificate of coverage, endorsements and riders, or member
 1328 handbook shall be mailed, ~~or~~ delivered, or otherwise provided to
 1329 the subscriber or, in the case of a group health maintenance
 1330 contract, to the employer or other person who will hold the
 1331 contract on behalf of the subscriber group, as provided in s.
 1332 627.421. As used in that section, the term:

1333 (a) "Insurer" includes a health maintenance organization.

1334 (b) "Insured" includes a subscriber or, in the case of a
 1335 group health maintenance contract, to the employer or other
 1336 person who will hold the contract on behalf of the subscriber
 1337 group.

1338 (c) "Insurance policies and endorsements," "policy and
 1339 endorsements," "policy," and "policy form and endorsement form"
 1340 includes health maintenance contract, endorsement and riders,
 1341 certificate of coverage, or member handbook .

1342 (d) If the health maintenance organization elects to post
 1343 health maintenance contracts on its Internet website in lieu of
 1344 mailing or delivery to subscribers or the person who will hold
 1345 the contract on behalf of a subscriber group the health
 1346 maintenance organization must comply with the requirements of
 1347 627.421(4) within 10 working days from approval of the
 1348 enrollment form by the health maintenance organization or by the
 1349 effective date of coverage, whichever occurs first. However, if
 1350 the employer or other person who will hold the contract on

1351 ~~behalf of the subscriber group requires retroactive enrollment~~
 1352 ~~of a subscriber, the organization shall deliver the contract,~~
 1353 ~~certificate, or member handbook to the subscriber within 10 days~~
 1354 ~~after receiving notice from the employer of the retroactive~~
 1355 ~~enrollment.~~ This section does not apply to the delivery of those
 1356 contracts specified in s. 641.31(13).

1357 Section 19. This act shall take effect upon becoming a
 1358 law.

INSURANCE & BANKING SUBCOMMITTEE

**PCS for HB 465 by Rep. Santiago
Insurance**

**AMENDMENT SUMMARY
January 23, 2018**

Amendment 1 by Rep. Santiago (Line 70): The amendment removes section 1 of the proposed committee substitute that proposes a public records exemption related to filings by specialty insurers.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Insurance & Banking
 2 Subcommittee
 3 Representative Santiago offered the following:

Amendment (with title amendment)

Remove lines 70-80



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

Remove lines 2-6 and insert:

An act relating to insurance; amending s. 625.151,