

Tab 1	SB 116 by Cruz (CO-INTRODUCERS) Stewart, Berman, Taddeo; (Identical to H 00107) Prescription Insulin Drugs					
257496	A	S	RCS	BI, Cruz	btw L.57 - 58:	01/15 12:44 PM
Tab 2	SB 880 by Baxley; (Compare to CS/H 00437) Nurse Registry					
544540	A	S	RCS	BI, Baxley	Delete L.9 - 23:	01/15 12:44 PM
Tab 3	SB 894 by Rouson (CO-INTRODUCERS) Gruters; (Similar to H 00857) Business Services					
366766	A	S	RCS	BI, Rouson	Delete L.104 - 114:	01/15 12:44 PM
Tab 4	SB 898 by Gruters (CO-INTRODUCERS) Broxson; (Similar to CS/H 00529) Insurance Guaranty Associations					
336280	A	S	RCS	BI, Gruters	Delete L.85:	01/15 12:44 PM
Tab 5	SB 1092 by Bean (CO-INTRODUCERS) Perry; (Similar to CS/H 00487) Fire Prevention and Control					
Tab 6	SB 1188 by Albritton; (Identical to H 01409) Public Records/Records of Insurers/Department of Financial Services					

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

BANKING AND INSURANCE
Senator Broxson, Chair
Senator Rouson, Vice Chair

MEETING DATE: Wednesday, January 15, 2020

TIME: 10:30 a.m.—12:30 p.m.

PLACE: Pat Thomas Committee Room, 412 Knott Building

MEMBERS: Senator Broxson, Chair; Senator Rouson, Vice Chair; Senators Brandes, Gruters, Lee, Perry, Taddeo, and Thurston

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 116 Cruz (Identical H 107, H 109)	Prescription Insulin Drugs; Defining the term "prescription insulin drug"; requiring individual and group health insurance policies, respectively, to cap an insured's monthly cost-sharing obligation for covered prescription insulin drugs at a specified amount; requiring health maintenance contracts to cap a subscriber's monthly cost-sharing obligation for covered prescription insulin drugs at a specified amount, etc. BI 12/10/2019 Temporarily Postponed BI 01/15/2020 Fav/CS AEG AP	Fav/CS Yeas 8 Nays 0
2	SB 880 Baxley (Compare CS/H 437)	Nurse Registry; Revising the definition of the term "attendant care" to include services provided by a licensed nurse registry, etc. BI 01/15/2020 Fav/CS HP RC	Fav/CS Yeas 8 Nays 0
3	SB 894 Rouson (Similar H 857)	Business Services; Creating the Access to Responsible Credit Pilot Program within the Office of Financial Regulation; requiring a program license from the office to advertise, offer, or make program loans or to impose certain charges or fees; specifying requirements for program licensees, program loans, loan repayments, rescissions, interest rates, program loan refinancing, receipts, disclosures and statements provided by program licensees to borrowers, origination fees, insufficient funds fees, and delinquency charges, etc. BI 01/15/2020 Fav/CS AP RC	Fav/CS Yeas 5 Nays 2

COMMITTEE MEETING EXPANDED AGENDA

Banking and Insurance

Wednesday, January 15, 2020, 10:30 a.m.—12:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 898 Gruters (Identical H 529)	Insurance Guaranty Associations; Increasing the obligation of the Florida Insurance Guaranty Association, Incorporated, for certain claims under policies covering certain condominium associations and homeowners' associations; increasing the percentage limit of certain insurer net written premiums up to which the Office of Insurance Regulation may levy certain emergency assessments against insurers, etc. BI 01/15/2020 Fav/CS IT RC	Fav/CS Yeas 8 Nays 0
5	SB 1092 Bean (Identical H 487)	Fire Prevention and Control; Creating the Firefighter Cancer Decontamination Equipment Grant Program within the Division of State Fire Marshal of the Department of Financial Services for certain purposes; requiring the division to administer the program and annually award grants, and distribute equipment and training, to qualifying fire departments in a certain manner; requiring the State Fire Marshal to adopt rules and procedures, etc. BI 01/15/2020 Favorable AEG AP	Favorable Yeas 8 Nays 0
6	SB 1188 Albritton (Identical H 1409)	Public Records/Records of Insurers/Department of Financial Services; Exempting from public records requirements consumer personal financial and health information, certain underwriting files, insurer personnel and payroll records, and consumer claim files that are made or received by the Department of Financial Services acting as receiver as to an insurer; exempting from public records requirements certain reports and documents held by the department relating to insurer own-risk and solvency assessments and corporate governance annual disclosures and certain information received from the National Association of Insurance Commissioners or governments; providing for future legislative review and repeal of the exemptions; providing statements of public necessity, etc. BI 01/15/2020 Favorable GO RC	Favorable Yeas 8 Nays 0

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Banking and Insurance

BILL: CS/SB 116

INTRODUCER: Banking and Insurance Committee; Senator Cruz and others

SUBJECT: Prescription Insulin Drugs

DATE: January 15, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Knudson	BI	Fav/CS
2.	_____	_____	AEG	_____
3.	_____	_____	AP	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 116 requires individual and group health insurance policies and health maintenance organization (HMO) contracts that provide coverage for prescription insulin drugs for the treatment of diabetes to cap the cost sharing of a 30-day supply of such drugs at an amount not to exceed \$100.

Diabetes is a chronic disease caused by the body's inability to create enough insulin or properly use the insulin it produces to break down glucose (blood sugar) to use as energy for the body.¹ When the body cannot respond to insulin or does not make enough insulin, insulin is taken by injection or other means.²

Recent studies have found that the average list price of insulin nearly tripled between 2002 and 2013³ and that cost-sharing or out-of-pocket costs per prescription have doubled over the past 10 years.⁴ The out-of-pocket costs of prescription insulin drugs for insureds or subscribers can vary due to different benefit designs and cost sharing requirements, which includes copayment, coinsurance, and deductible requirements. Due to significant increases in the cost of insulin, many patients with diabetes are going without insulin or rationing their doses, which may place

¹ See Centers for Disease Control and Prevention, *Diabetes Glossary*, <https://www.cdc.gov/diabetes/library/glossary.html#> and <https://www.cdc.gov/diabetes/pdfs/library/socialmedia/diabetes-infographic.pdf> (last viewed Dec. 2, 2019).

² *Id.*

³ *Diabetes Care* 2018;41:1299.

⁴ *JAMA Intern Med.* 1019 Jan; 179(1): 112-114.

an individual at risk for serious health complications. Diabetes is the seventh leading cause of death in the United States.⁵

The Department of Management Services estimates that implementation of the bill will result in a fiscal impact in the range of \$14,000 to \$17,500 per year on the State Group Insurance program.

II. Present Situation:

Diabetes is a condition resulting from the body's inability to use blood glucose for energy.⁶ In Florida, approximately 13.1 percent of the adult population, or 2.4 million people, have diabetes.⁷ Every year, an estimated 105,000 people in Florida are diagnosed with diabetes.⁸

Type 1 and Type 2 diabetes are the two main types of diabetes.⁹ Type 1 diabetes occurs when an individual does not produce enough insulin to enable blood sugar to enter cells for energy. Type 1 diabetes develops most often in young people but can appear in adults. About 5 percent of the people who have diabetes have Type 1. Type 2 diabetes is characterized by high blood glucose levels caused by either a lack of insulin or the body's inability to use insulin efficiently. Type 2 diabetes develops most often in middle-aged and older adults but can appear in children, teens, and young people. About 90 percent of people with diabetes have Type 2.

Access to adequate and affordable health care can be a significant issue for anyone with an illness, but it is particularly critical for individuals who have diabetes or other chronic conditions with the potential to cause death, disability, or serious side effects unless treated with the most appropriate medical care in a timely manner. In recent years, the federal government has approved many innovative treatments for chronic conditions that affect large populations. Some of the benefits of these innovative drugs include fewer side effects, convenience, and greater efficacy.¹⁰ However, the financial burden resulting from out-of-pocket drug costs can lead patients with chronic illnesses to forgo or ration prescribed drugs, ultimately affecting their health. People who have diabetes are at higher risk of serious health complications, such as death, blindness, kidney failure, heart disease, stroke, or loss of toes, feet, or legs.¹¹

⁵ Centers for Disease Control and Prevention, *What is diabetes?* <https://www.cdc.gov/media/presskits/aahd/diabetes.pdf> (last viewed Dec. 2, 2019).

⁶ Centers for Disease Control and Prevention, *Diabetes Glossary*, <https://www.cdc.gov/diabetes/library/glossary.html#> (last viewed Dec. 2, 2019).

⁷ American Diabetes Association, *The Burden of Diabetes in Florida*, <http://main.diabetes.org/dorg/PDFs/Advocacy/burden-of-diabetes/all-states.pdf> (last viewed Dec. 2, 2019).

⁸ *Id.*

⁹ *See About Diabetes, Types of Diabetes*, Centers for Disease Control, <https://www.cdc.gov/diabetes/basics/index.html>. (last viewed Dec. 2, 2019). In addition, to Type 1 and Type 2 Diabetes, gestational diabetes may develop in pregnant women who have never had diabetes. Gestational diabetes usually goes away after childbirth, but increases the mother's risk for Type 2 diabetes later in life.

¹⁰ *See* HEALTH AFFAIRS 35, No. 9 (2016):1595-1603.

¹¹ *See supra* note 3 at 1299 and 1306. An example was provided of an individual with Type 1 diabetes who required four vials of insulin at a monthly out-of-pocket cost of \$1,948 until the family meets the health plan's deductible. The individual began skipping insulin doses due to the high monthly cost, and suffered health complications.

Trends in Projected National Health Expenditures 2018-2027¹²

In 2019, private health insurance spending is expected to increase by 3.3 percent. This trend is the net effect of faster spending growth in many services such as physician and clinical services and prescription drugs. In 2019, prescription drug spending growth is projected to increase by 4.6 percent, due to faster utilization growth from both existing and new drugs, as well as a modest increase in drug price growth. For the remainder of the projection, 2020-27, prescription drug spending is expected to grow by 6.1 percent per year on average, influenced by higher use anticipated from new drugs and efforts by employers and insurers that encourage patients with chronic conditions to treat their disease.

Cost of Insulin

Recent reports note the significant increase in the cost of insulin. One study found that the average list price of insulin has nearly tripled between 2002 and 2013.¹³ Another study, which looked at Type 1 diabetes, noted a rapid increase in total health care spending, driven primarily by gross spending on insulin that doubled over the period. During that time, insulin use rose only modestly. While the composition of insulins used shifted, the price of all types of insulin and insulin products increased, with point-of-sale prices roughly doubling on average between 2012 and 2016. The study concluded that increases in insulin spending were driven primarily by increases in insulin prices, and to a lesser extent, a shift towards use of more expensive products.¹⁴

According to a recent workgroup of the American Diabetes Association, reasons for this price increase "...are not entirely clear but are due to the complexity of drug pricing and of insulin pricing in particular." The workgroup noted that many stakeholders (drug manufacturers, drug wholesalers, pharmacy services administrative organizations, pharmacy benefit managers, health plans, employers, and consumers) are involved in multiple payment and distribution transactions within the supply chain for insulin. Currently, Eli Lilly, Novo Nordisk, and Sanofi are the three insulin drug manufacturers serving the United States.¹⁵

¹² See National Health Expenditure Projections 2018-2027, Forecast Summary, The Office of the Actuary in the Centers for Medicare & Medicaid Services, <https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/NationalHealthExpendData/Downloads/ForecastSummary.pdf> (last viewed Nov. 20, 2019).

¹³ See *supra* note 3, at 1299.

¹⁴ Health Care Cost Institute, *Price of Insulin Prescription Doubled Between 2012 and 2016*. (2017), <https://healthcostinstitute.org/research/publications/entry/spending-on-individuals-with-type-1-diabetes-and-the-role-of-rapidly-increasing-insulin-prices> (last viewed Dec. 2, 2019). The report did not have information on manufacturer rebates or coupons for insulin, because this information is proprietary and not publicly available. The report measured gross spending using the point-of-sale prices that are reported on a claim for a prescription drug. Rebates and coupons result in lower net spending (for both payers and patients).

¹⁵ See *supra* note 3, at 1300.

Federal Patient Protection and Affordable Care Act

The federal Patient Protection and Affordable Care Act (PPACA)¹⁶ requires health insurers and HMOs to make specified coverage available to all individuals, without exclusions for preexisting conditions, and mandates coverage of ten essential health benefits,¹⁷ including prescription drugs, for qualified health plans.

The PPACA prescribes maximum out-of-pocket limits for cost sharing by insureds or subscribers who purchase qualified health plans.¹⁸ The minimum annual deductible is the amount that an individual must pay for medical expenses before the plan will pay any medical costs. The maximum out of pocket cost is the total amount (deductibles, copayments, and coinsurance) an individual must pay for covered services during a plan year. A high-deductible health plan (HDHP) has a higher annual deductible than typical health plans offered by insurers or HMOs, and a maximum limit on the sum of the annual deductible and out-of-pocket medical expenses that an insured or subscriber must pay for covered expenses.¹⁹

Status of Insulin Copayment Cap Legislation in Other States

On May 22, 2019, the governor of Colorado signed legislation that requires an insurer or HMO, which provides coverage for prescription insulin drugs, to cap the maximum amount that an insured or subscriber is required to pay at \$100 per 30-day supply of insulin.²⁰ This cap applies regardless of the amount or type of insulin needed to fill the prescription. However, this law would not preclude an insurer or HMO from capping the cost sharing at less than \$100 per 30-day supply.

In November 2019, similar legislation passed both houses of the Illinois Legislature.²¹ The act requires an insurer or HMO, which provides coverage for prescription insulin drugs, to limit the total amount an insured is required to pay for a covered prescription insulin drug to \$100 per 30-day supply of insulin regardless of the type and amount of insulin needed by the insured. The act also provides an annual cost adjustment increase to this cap based on the percentage change from

¹⁶ The Patient Protection and Affordable Care Act (Pub. Law No. 111–148) was enacted on March 23, 2010. The Health Care and Education Reconciliation Act of 2010 (Pub. Law No. 111–152), which amended and revised several provisions of the Patient Protection and Affordable Care Act, was enacted on Mar. 30, 2010.

¹⁷ 42 U.S.C. s. 18022.

¹⁸ For the 2020 plan year, the out-of-pocket limit for a Marketplace plan or qualified health plan is \$8,200 for an individual plan and \$16,400 for a family plan. See Health.gov, Glossary, <https://www.healthcare.gov/glossary/out-of-pocket-maximum-limit/> (last viewed Dec. 1, 2019).

¹⁹ For 2020, a high deductible health plan (HDHP) is defined as any plan with a deductible of at least \$1,400 for an individual or \$2,800 for a family. An HDHP's total yearly out-of-pocket expenses (including deductibles, copayments, and coinsurance) may not exceed \$6,900 for an individual or \$13,800 for a family. See Health.gov, *High Deductible Plan*, <https://www.healthcare.gov/high-deductible-health-plan/> (last viewed Dec. 1, 2019).

²⁰ House Bill 19-1216, Session Law Ch. 248, https://leg.colorado.gov/sites/default/files/2019a_1216_signed.pdf (last viewed Dec. 2, 2019).

²¹ SB 667, 101st General Assembly of Illinois.

the preceding year in the medical care component of the Consumer Price Index of the Bureau of Labor Statistics of the United States Department of Labor.²²

The Florida Office of Insurance Regulation

The Office of Insurance Regulation (OIR) licenses and regulates the activities of life, health, property, and casualty insurers, health maintenance organizations (HMOs), and other risk-bearing entities.²³

State Group Health Insurance Program

The Department of Management Services (DMS) Division of State Group Insurance (DSGI) administers the state group health insurance program under a cafeteria plan consistent with s. 125 of the Internal Revenue Code.²⁴ To administer the state group health insurance program, the DMS contracts with third party administrators for self-insured health plans, fully insured HMOs, and a pharmacy benefits manager (PBM) for the state employees' Self-Insured Prescription Drug Program (Prescription Drug Program).²⁵

The Prescription Drug Program provides the following four dispensing options: participating 30-day retail pharmacies, participating 90-day retail pharmacies, the PBM's mail-order pharmacies, and the PBM's specialty pharmacies. Specialty drugs, as defined by the PBM, are dispensed by the PBM's specialty pharmacies pursuant to the state contract and plan benefit documents. The Prescription Drug Program covers all federal legend drugs (open formulary) for covered medical conditions and employs very limited utilization review and clinical review for traditional or specialty prescription drugs.²⁶ Copayments (and coinsurance for high deductible plans) for each drug tier are the same for all members.

III. Effect of Proposed Changes:

Sections 1 and 2 create s. 627.64085, F.S., and s. 627.65746, F.S., respectively, to require an individual or group health insurance policy, which provides coverage for prescription insulin drugs, to cap the total amount of cost sharing that an insured is required to pay for such drugs at an amount not to exceed \$100 per 30-day supply, regardless of the amount or type of insulin needed to fill the prescription.

The bill authorizes the Financial Services Commission to adopt rules to implement provisions of the bill. The sections also define the term, "prescription insulin drug."

²² The medical care index is one of eight major groups in the Consumer Price Index (CPI). See Bureau of Labor Statistics of the U.S. Department of Labor *Measuring Price Change in the CPI: Medical Care*, <https://www.bls.gov/cpi/factsheets/medical-care.htm> (last viewed Dec. 2, 2019).

²³ Section 20.121(3), F.S. The Office of Insurance Regulation is a unit within the Financial Services Commission (FSC). The FSC is composed of the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture. The FSC members serve as the agency head for purposes of rulemaking under ss. 120.536-120.565, F.S.

²⁴ Section 110.123, F.S.

²⁵ Section 110.12315, F.S.

²⁶ Effective January 1, 2020, the program will implement a standard control formulary, which will include a list of drugs that are subject to review for medical necessity prior to coverage. [Ch. 2019-100, s. 3, Laws of Fla.]

Section 3 amends s. 627.6699, F.S., to require that the provisions of the bill apply to small group policies.

Section 4 amends s. 641.31, F.S., to require an HMO contract, which provides coverage for prescription insulin drugs, to cap the total amount of cost sharing that a subscriber is required to pay for covered insulin drugs at an amount not to exceed \$100 per 30-day supply, regardless of the amount or type of insulin needed to fill the prescription.

The bill authorizes the Financial Services Commission to adopt rules to implement provisions of the bill. The section also defines the term, “prescription insulin drug.”

Section 5 provides the bill takes effect January 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The implementation of a capped cost sharing for prescription insulin drugs will reduce the financial burden for some insureds and subscribers that have higher cost-sharing requirements for insulin drugs. Access to more affordable insulin drugs may prevent or mitigate future illnesses and complications associated with diabetes.

The impact of the bill on insurers and HMOs is indeterminate. Access to more affordable insulin may result in greater adherence and better outcomes for patients, thereby reducing overall medical and drug expenses associated with diabetes. In 2019, Cigna and Express Scripts introduced their Patient Assurance Program, which caps out-of-pocket costs of insulin at \$25 for a 30-day supply for eligible individuals enrolled in participating non-government funded pharmacy plans managed by Express Scripts, including Cigna and other plans.²⁷

A 2017 study by Milliman evaluated potential approaches to reduce patient cost sharing on insulins through insurance benefit design changes.²⁸ The study analyzed the impact of exempting insulin from the deductible for patients in high deductible health plans only. According to the report, providing out-of-pocket cost relief to members who use insulin increases the total cost to the high deductible health plan. The analysis found that the increase in cost would be approximately 70-95 cents per member per year. The report stated that this cost could be shared among plan members in the form of higher premium (or contribution) levels. The report noted that the cost could be absorbed by the plan sponsor, in the form of a higher medical loss ratio. These estimates do not include assumptions about changes in medical cost because of lowering insulin out-of-pocket costs.

The provisions of the bill would not apply to coverage offered by self-insured employer plans, which are regulated by federal law.²⁹

C. Government Sector Impact:

The Division of State Group Insurance of the Department of Management Services (DMS) notes that implementation of the bill may affect members enrolled in the health maintenance organization and preferred provider organization high-deductible health plans (HDHP) covered by the prescription drug program. In a HDHP, a member's out-of-pocket cost is 30 percent for generic drugs, 30 percent for preferred brand drugs, and 50 percent for non-preferred brand drugs. Based on current insulin claims volume and low enrollment in the HDHP, the third-party administrator for the prescription drug program projects a fiscal impact in the range of \$14,000 to \$17,500 per year.³⁰ This analysis is based on the assumption that each insulin dependent participant will fill only one prescription for insulin in a 30-day period. However, the DMS notes that it is not unusual for sugar levels to vary on a daily basis, which could result in the need for more insulin in a 30-day period. Additional prescription fills within a 30-day period would alter the analyses for both the standard and HDHP HMO and PPO plans.³¹

²⁷ Cigna and Express Scripts. *News Release*, <https://www.cigna.com/newsroom/news-releases/2019/cigna-and-express-scripts-introduce-patient-assurance-program-to-cap-out-of-pocket-costs-at-25-per-30-day-insulin-prescription> (last viewed Dec. 4, 2019).

²⁸ Milliman, *Mitigating out-of-pocket costs for prescription drugs: Supplement brief on exempting insulin from the deductible* (May 30, 2017). On file with Banking and Insurance Committee.

²⁹ Self-insured plans are regulated pursuant to the federal Employee Retirement Income Security Act of 1974 (ERISA).

³⁰ Department of Management Services, SB 116 Legislative Analysis (Sep. 10, 2019).

³¹ *Id.*

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 627.6699 and 641.31.

This bill creates the following sections of the Florida Statutes: 627.64085 and 627.65746.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Banking and Insurance on January 15, 2020:

The CS applies the provisions of the bill to small group policies.

B. Amendments:

None.



257496

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/15/2020	.	
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	.	
	.	

The Committee on Banking and Insurance (Cruz) recommended the following:

Senate Amendment (with title amendment)

Between lines 57 and 58

insert:

Section 3. Paragraph (g) is added to subsection (5) of section 627.6699, Florida Statutes, to read:

627.6699 Employee Health Care Access Act.—

(5) AVAILABILITY OF COVERAGE.—

(g) A health benefit plan covering small employers which is issued or renewed on or after January 1, 2021, must comply with



257496

11 s. 627.65746.

12

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

14 And the title is amended as follows:

15 Between lines 9 and 10

16 insert:

17 amending s. 627.6699, F.S.; requiring health benefit
18 plans covering small employers to comply with such
19 requirement;

By Senator Cruz

18-00074-20

2020116__

1 A bill to be entitled
 2 An act relating to prescription insulin drugs;
 3 creating ss. 627.64085 and 627.65746, F.S.; defining
 4 the term "prescription insulin drug"; requiring
 5 individual and group health insurance policies,
 6 respectively, to cap an insured's monthly cost-sharing
 7 obligation for covered prescription insulin drugs at a
 8 specified amount; providing construction; authorizing
 9 the Financial Services Commission to adopt rules;
 10 amending s. 641.31, F.S.; defining the term
 11 "prescription insulin drug"; requiring health
 12 maintenance contracts to cap a subscriber's monthly
 13 cost-sharing obligation for covered prescription
 14 insulin drugs at a specified amount; providing
 15 construction; authorizing the commission to adopt
 16 rules; providing an effective date.

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

20 Section 1. Section 627.64085, Florida Statutes, is created
 21 to read:

22 627.64085 Cost sharing for prescription insulin drugs;
 23 limits.-

24 (1) As used in this section, the term "prescription insulin
 25 drug" means a prescription drug that contains insulin, is used
 26 to treat diabetes, and has been prescribed as medically
 27 necessary by the treating physician.

28 (2) A health insurance policy that provides coverage for
 29 prescription insulin drugs must cap the total amount of cost

Page 1 of 3

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

18-00074-20

2020116__

30 sharing that an insured is required to pay for a covered
 31 prescription insulin drug at an amount not to exceed \$100 per
 32 30-day supply of the insulin drug, regardless of the amount or
 33 type of insulin needed to fill the insured's prescription.

34 (3) This section does not prevent an insurer from reducing
 35 an insured's cost-sharing obligation by an amount greater than
 36 the amount specified in subsection (2).

37 (4) The commission may adopt rules to administer this
 38 section.

39 Section 2. Section 627.65746, Florida Statutes, is created
 40 to read:

41 627.65746 Cost sharing for prescription insulin drugs;
 42 limits.-

43 (1) As used in this section, the term "prescription insulin
 44 drug" means a prescription drug that contains insulin, is used
 45 to treat diabetes, and has been prescribed as medically
 46 necessary by the treating physician.

47 (2) A group health insurance policy that provides coverage
 48 for prescription insulin drugs must cap the total amount of cost
 49 sharing that an insured is required to pay for a covered
 50 prescription insulin drug at an amount not to exceed \$100 per
 51 30-day supply of the insulin drug, regardless of the amount or
 52 type of insulin needed to fill the insured's prescription.

53 (3) This section does not prevent an insurer from reducing
 54 an insured's cost-sharing obligation by an amount greater than
 55 the amount specified in subsection (2).

56 (4) The commission may adopt rules to administer this
 57 section.

58 Section 3. Subsection (48) is added to section 641.31,

Page 2 of 3

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

18-00074-20

2020116__

59 Florida Statutes, to read:

60 641.31 Health maintenance contracts.—

61 (48) (a) As used in this subsection, the term “prescription
62 insulin drug” means a prescription drug that contains insulin,
63 is used to treat diabetes, and has been prescribed as medically
64 necessary by the treating physician.

65 (b) A health maintenance contract that provides coverage
66 for prescription insulin drugs must cap the total amount of cost
67 sharing that a subscriber is required to pay for a covered
68 prescription insulin drug at an amount not to exceed \$100 per
69 30-day supply of the insulin drug, regardless of the amount or
70 type of insulin needed to fill the subscriber’s prescription.

71 (c) This subsection does not prevent a health maintenance
72 organization from reducing a subscriber’s cost-sharing
73 obligation by an amount greater than the amount specified in
74 paragraph (b).

75 (d) The commission may adopt rules to administer this
76 subsection.

77 Section 4. This act shall take effect January 1, 2021.

Mitigating out-of-pocket costs for prescription drugs: Supplement brief on exempting insulin from the deductible

May 30, 2017



Milliman was engaged by Eli Lilly and Company to evaluate potential approaches to reduce patient cost sharing on insulins through insurance benefit design changes. Our full research report plus additional supplemental material is available publically. This document represents a brief overview of one of the approaches: insulins exempt from the deductible. The reader is encouraged to refer to the more comprehensive material.

CONCEPT:

Insulin would be exempt from the deductible for patients in high deductible health plans. This means that before a patient has met their deductible, they would pay a flat copay or coinsurance percentage for insulin prescriptions. This is in contrast to the status quo, where patients would pay full cost for their insulin prescriptions before they met their deductible. This could create a lower and more predictable out-of-pocket expense for a patient's insulin during the year.

HOW WAS IT MODELED:

Actuaries use algorithms to simulate the impact changes in benefit design would have on actual plan experience. For this research, we used the calendar year 2013 Truven Commercial Claims and Encounters data, which has detailed claims experience for approximately 3.1 million members with integrated high deductible health plan coverage. We restated the plan experience to simulate a benefit design where patients pay a copay or coinsurance for insulin prescriptions that occurred in the deductible phase. All other plan benefit design features were maintained.

TERMINOLOGY

Copay Cost sharing for a service that is a fixed dollar amount

Coinsurance Cost sharing for a service that is a percentage of the amount the provider will be paid

Deductible The out-of-pocket amount a member must spend before the health plan pays any portion of the medical or pharmacy expenses. (Note that preventive services may have no cost sharing.)

HDHP For the purposes of this analysis an integrated high deductible health plan was defined as a plan that had at least a \$1,250 deductible requirement that applied to both medical and pharmacy services.

Out-of-Pocket Maximum The maximum amount a member has to pay out-of-pocket during the plan year. After the member has paid this amount, the health plan pays the total cost of all covered services. (Note that out-of-pocket amounts for out-of-network services may not fully accumulate towards the out-of-pocket maximum.)

Premium The term premium is used in this document to represent the plan paid amounts plus the administrative expenses. The members may only pay a portion of the total premium, with the rest funded by the employer plan sponsor.

THE CONCEPTUAL EFFECTS:

Patients who used insulin in the deductible:

- Would have lower out-of-pocket costs on insulin prescriptions in the deductible.
- Would still incur high out-of-pocket costs on other prescriptions or services until the deductible has been met.
- May have lower annual out-of-pocket costs if they did not reach their out-of-pocket maximum
- May have no change in annual out-of-pocket costs if they exceed their out-of-pocket maximum.

Patients who fill more insulin prescriptions in the deductible would experience a larger benefit from this proposed approach. Members who did not use insulin would not have a change in their experience or annual out-of-pocket cost.

OBSERVATIONS FROM THE ANALYSIS:

The impact of exempting insulin from the deductible would vary based on the number of insulin users enrolled in the high deductible health plan and the rate at which those users fill prescriptions in the deductible. A high-level summary of the estimates based on our analysis are provided below:

- The average reduction in out-of-pocket cost associated with insulin prescriptions filled in the deductible was more than \$600 per year.
- The average reduction in annual out-of-pocket costs for members who had lower total costs was approximately \$560.

Individual plan experience and member experience will differ from these estimates.

THE COST TO PROVIDE THE BENEFIT:

Providing out-of-pocket cost relief to members who use insulin increases the total cost to the high deductible health plan. Our analysis found that the increase in cost would be approximately 70-95 cents per member per year. This cost could be shared among plan members in the form of higher premium (or contribution) levels. The cost could be absorbed by the plan sponsor, in the form of a higher medical loss ratio. These estimates do not include assumptions about changes in medical cost as a result of lowering insulin out-of-pocket costs.

CAVEATS:

Plan sponsors should perform their own analysis or consult an expert before implementing any benefit design change. The experience for any plan sponsor will depend on the prevalence of insulin users and patient specific utilization patterns. The benefit for any patient will depend on their benefit design and the number of insulin prescriptions filled in the deductible. The estimates reflect the prevalence and utilization patterns reflective of the study population. If more insulin-using patients enrolled in the health plan or if more insulin prescriptions were filled in the deductible, the cost to fund this benefit would be higher.

FOR MORE INFORMATION

Read the full analysis at [\[weblink\]](#)
Read the original paper at [\[weblink\]](#)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/15/20

Meeting Date

5116

Bill Number (if applicable)

Topic SB 116 Insulin Affordability

Amendment Barcode (if applicable)

Name Dr. Otis Kirksey

Job Title Director Board Member ADA

Address 2259 Upland Way

Phone 850 284-6873

Street

Tallahassee FL 32311

City

State

Zip

Email otiskirksey@gmail.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing American Diabetes Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

116
Bill Number (if applicable)

Topic Prescription, Insulin Drugs

Amendment Barcode (if applicable)

Name BETH LABASKY

Job Title mother

Address 1500 Village Square Blvd

Phone

Street

Ste 3-116 Tallahassee

Fla 32310

Email bethlabasky@aol.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing myself / nonpaid

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

January 15, 2020

Meeting Date

SB 116

Bill Number (if applicable)

Topic Prescription Insulin Drugs

Amendment Barcode (if applicable)

Name Ivonne Fernandez

Job Title Associate State Director

Address 215 South Monroe Street

Phone 954-850-7262

Street

Tallahassee

FL

32308

Email ifernandez@azrp.org

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/15/20 Meeting Date

116 Bill Number (if applicable)

Topic Prescription Insulin Drugs

Amendment Barcode (if applicable)

Name Steve Winn

Job Title Executive Director

Address 2544 Blairstone Pines Dr. Street

Phone 850-878-7364

Tallahassee FL 32301 City State Zip

Email

Speaking: For Against Information

Waive Speaking: In Support Against (The Chair will read this information into the record.)

Representing Florida Osteopathic Medical Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/15/20
Meeting Date

SB 116
Bill Number (if applicable)

Topic SB 116

Amendment Barcode (if applicable)

Name Veronica Dele Garza

Job Title Government Affairs Director

Address 8707 Zovello Pass
Street

Phone 512/472-7801 / 9838 6017
at

City State Zip

Email vdeleGarza@diabetes.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing American Diabetes Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

January 15, 2020

Meeting Date

SB 116

Bill Number (if applicable)

Topic Prescription Insulin Drugs

Amendment Barcode (if applicable)

Name Doug Bell

Job Title Attorney at Law

Address 119 South Monroe Street, Suite 200

Phone 850-205-9000

Street

Tallahassee

FL

32301

Email doug.bell@mhdfirm.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Academy of Family Physicians ; Florida Chapter, American Academy of Pediatrics

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/15/20

Meeting Date

116

Bill Number (if applicable)

Topic Insulin

Amendment Barcode (if applicable)

Name SHARI Hickey

Job Title Dir. of Leg. Exec. Operations

Address 1430 Piedmont Dr. E

Phone

Street

Tallahassee FL 32308

City

State

Zip

Email

Speaking: [] For [] Against [] Information

Waive Speaking: [x] In Support [] Against (The Chair will read this information into the record.)

Representing FMA

Appearing at request of Chair: [] Yes [x] No

Lobbyist registered with Legislature: [x] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

01/19/2020

Meeting Date

SB 116

Bill Number (if applicable)

Topic SB 116 Insulin Cap

Amendment Barcode (if applicable)

Name Emmabella Rudd

Job Title #Insulin4All Legislative & Policy Lead

Address 3308 Founders Club Drive

Phone 941-807-1290

Street

Sarasota, Florida 34240

City

State

Zip

Email emr19a@my.fsu.edu

Speaking: [X] For [] Against [] Information

Waive Speaking: [X] In Support [] Against (The Chair will read this information into the record.)

Representing #Insulin4All

Appearing at request of Chair: [X] Yes [] No

Lobbyist registered with Legislature: [] Yes [X] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-15-2020

Meeting Date

5B116

Bill Number (if applicable)

Topic insulin cap. / Affordability

Amendment Barcode (if applicable)

Name Meredith Rosser

Job Title _____

Address 15734 E Oakland Ave
Street

Phone 3526364731

Oakland, FL 34787
City State Zip

Email supermom373@mac.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing ADA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/15/2020

Meeting Date

SB116

Bill Number (if applicable)

Topic DESCRIPTION INSURANCE DRUGS

Amendment Barcode (if applicable)

Name CHRIS E. CLARK

Job Title HEALTH COACH

Address 4516 CAVEUDISH CT.
Street

Phone (541)390-2122

TALLAHASSEE FL 32309
City State Zip

Email itri77@gmail.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing MYSELF

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

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1/15/20
Meeting Date

SB 116
Bill Number (if applicable)

Topic Prescription Insulin Drugs

Amendment Barcode (if applicable)

Name Nora Clark

Job Title Asst. Director for Digital & Social Giving with FSU Foundation

Address 4516 Cavendish Court
Tallahassee, FL 32309

Phone 850-567-9107
Email noralyanbclark@gmail.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Self & Chris Clark

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/15/20

Meeting Date

Bill Number (if applicable)

Topic INSULIN affordability

Amendment Barcode (if applicable)

Name Alexandra Iannone

Job Title Development Manager

Address 9700 Philips Hwy Suite 106

Phone 904-8739-2101

Street

Jacksonville

FL

32256

City

State

Zip

Email aiannone@~~100000~~ jdrf.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/15/20
Meeting Date

Bill Number (if applicable)

Topic Insulin Affordability

Amendment Barcode (if applicable)

Name BROOKS Biagini

Job Title Executive Director, JDRF North Florida

Address 9902 Beaver Terrace

Phone 904-629-7022

Jacksonville, FL 32257
City State Zip

Email Bbiagini@JDRF.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing SELF

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

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01/15/20

Meeting Date

SB 116

Bill Number (if applicable)

Topic Prescription Insulin Drugs

Amendment Barcode (if applicable)

Name Charles Fernandez

Job Title Systems Administrator

Address 1260 Continental Court

Phone

Street

Tallahassee

FL

32304

City

State

Zip

Email cfernandez@fsu.edu

Speaking: For Against Information

Waive Speaking: In Support Against (The Chair will read this information into the record.)

Representing TI International

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/15/2020

Meeting Date

SB 116

Bill Number (if applicable)

Topic Insulin copy

Amendment Barcode (if applicable)

Name Timothy Katz

Job Title Corrections Officer

Address [Redacted]

Phone [Redacted]

Street

City

State

Zip

Speaking: [X] For [] Against [] Information

Waive Speaking: [] In Support [] Against (The Chair will read this information into the record.)

Representing Timothy Katz

Appearing at request of Chair: [] Yes [] No

Lobbyist registered with Legislature: [] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/15/2020
Meeting Date

SB 116
Bill Number (if applicable)

Topic Insulin Copay

Amendment Barcode (if applicable)

Name Maria Perez

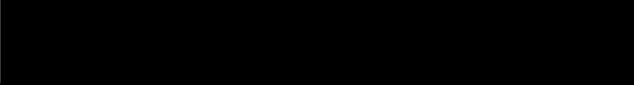
Job Title Corrections Classification Officer

Address 

Phone 

Street



Email 

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Maria Perez

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/15/2020

Meeting Date

SB 116

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Lillian Dinkins

Job Title student

Address 114 Aegean Vista Way

Street

Phone (904) 778-5880

St. Augustine

City

FL

State

32080

Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Student with Diabetes at FSU

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)



The Florida Senate

Committee Agenda Request

To: Senator Doug Broxson, Chair
Committee on Banking and Insurance

Subject: Committee Agenda Request

Date: August 16, 2019

I respectfully request that **Senate Bill #116**, relating to Prescription Insulin Drugs, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in blue ink, appearing to read "Janet Cruz", written over a horizontal line.

Senator Janet Cruz
Florida Senate, District 18

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Banking and Insurance

BILL: CS/SB 880

INTRODUCER: Banking and Insurance Committee and Senator Baxley

SUBJECT: Nurse Registry

DATE: January 15, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Arnold	Knudson	BI	Fav/CS
2.			HP	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 880 authorizes an employer or workers' compensation insurer to use a licensed nurse registry to place authorized compensable attendant care services for the benefit of an injured worker under the Workers' Compensation Law.

The bill takes effect July 1, 2020.

II. Present Situation:

Workers' Compensation Attendant Care Benefits

Workers' compensation provides medical benefits and, in cases where the injured worker is unable to work or earn as much as he or she did before the injury, compensation for lost income (also referred to as "wage replacement" or "indemnity" benefits) for compensable workplace injuries arising out of work performed by an employee in the course and scope of employment.¹ Injured workers are entitled to receive all medically necessary remedial treatment, care, and attendance, including medications, medical supplies, durable medical equipment, and prosthetics, for as long as the nature of the injury and process of recovery requires.² Medical services must be

¹ Section 440.09(1), F.S.

² Section 440.13(2)(a), F.S.

provided by a health care provider authorized by the workers' compensation insurance company prior to being provided (except for emergency care).³

There are several types of medical care provided to injured workers both inside and outside of medical facilities, including emergency, interventional, palliative, rehabilitative, and attendant. "Attendant care" means care rendered by trained professional attendants that is beyond the scope of household duties.⁴ Attendant care includes a wide variety of services from skilled nursing care to unskilled tasks, such as bathing, dressing, personal hygiene, and administration of medications. Most attendant care is provided by licensed medical providers; however, family members may provide and receive carrier payment for non-professional attendant care services, excluding normal household duties.⁵

Providing in-home attendant care has significant advantages for both the injured worker and the carrier. The injured worker can be more comfortable than in an institution and realize better outcomes, both physically and mentally, concurrent with the carrier achieving significant cost savings.⁶ Carriers may use a nurse registry or a home health agency to obtain professional and non-professional attendant care for the injured worker.

Placement of Attendant Care Services Through Nurse Registries and Home Health Agencies

A nurse registry is a business that procures, offers, promises, or attempts to procure health care related contracts for registered nurses, licensed practical nurses, certified nursing assistants, home health aides, homemakers and companions to provide services to patients in their homes and temporary staff to health care facilities or other business entities.⁷ Nurse registries are governed by part II of ch. 408, F.S.,⁸ associated rules in 59A-35, F.A.C., and the nurse registry rules in 59A-19, F.A.C. A nurse registry must be licensed by the Agency for Health Care Administration (AHCA), pursuant to part III of ch. 400, F.S., to offer contracts in Florida.⁹

The providers referred by the nurse registry are hired as independent contractors by the patient, health care facility, or another business entity (e.g., a workers' compensation carrier).¹⁰ This is a key defining feature of a nurse registry: it cannot have any employees except for the administrator, alternate administrator, and office staff. All individuals who enter the home of patients to provide direct care must be independent contractors.

³ Section 440.13(3)(a), F.S.

⁴ Section 440.13(1)(b), F.S. Attendant care must be medically necessary and performed at the direction and control of an authorized treating physician pursuant to a written prescription. Section 440.13(2)(b), F.S.

⁵ The valuation of family-member provided attendant care is limited in both duration and cost. Section 440.13(2)(b), F.S.

⁶ A home health care study performed by the Cleveland Clinic found average per patient savings of \$6,433 in the first year after discharge, decrease in readmissions by 18 percent, and decrease in deaths by 20 percent. Roy Xiao et al., *Impact of Home Health Care on Health Care Resource Utilization Following Hospital Discharge: A Cohort Study*, *The American Journal of Medicine*, April 2018, Volume 131, Issue 4, pp.395-407, e35.

⁷ Section 400.462(21), F.S.

⁸ Section 400.506(2), F.S. A nurse registry is also governed by the provisions in s. 400.506, F.S.

⁹ Section 400.506(1), F.S.

¹⁰ See *supra* Note 7

Home health agencies (HHAs) are organizations that provide health and medical services and medical supplies to an individual in the individual's home or place of residence.¹¹ HHAs are governed by part II of ch. 408, F.S.,¹² associated rules in ch. 59A-35, F.A.C., and ch. 59A-8, F.A.C. Like a nurse registry, an HHA must be licensed by AHCA, pursuant to part III of ch. 400, F.S., to offer contracts in Florida.¹³

The key difference between HHAs and nurse registries is the nature of the employment relationship with the health care professionals with whom they contract. Health care providers who contract with an HHA are employees of that agency. In contrast, health care providers who contract with nurse registries are independent contractors. Additionally, while a nurse registry and an HHA may provide services that are privately paid for by insurance or other means to patients in their home or place of residence and provide staff to health care facilities, schools, or other business entities, a nurse registry does not qualify for Medicare reimbursements; an HHA qualifies for such reimbursement.¹⁴

The Workers' Compensation Law is silent regarding how attendant care providers are selected to provide authorized compensable care for injured workers. A workers' compensation carrier has the discretion to choose attendant care providers directly or to use a nurse registry or HHA to place attendant care providers for the benefit of an injured worker.

III. Effect of Proposed Changes:

Section 1 amends s. 440.13, F.S., to authorize an employer or workers' compensation insurer to use a licensed nurse registry to place authorized, compensable attendant care services for the benefit of an injured worker under the Workers' Compensation Law.

Section 2 provides an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹¹ Section 400.462(12), (14), F.S.

¹² Section 400.464(1), F.S. An HHA is also governed by the provisions in s. 400.464, F.S.

¹³ *Id.*

¹⁴ Centers for Medicare & Medicaid Services, *Medicare & Home Health Care*, <https://www.medicare.gov/sites/default/files/2018-07/10969-medicare-and-home-health-care.pdf> (last visited December 19, 2019).

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 440.13 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Banking and Insurance on January 15, 2020:

Authorizes an employer or workers' compensation insurer to use a licensed nurse registry to place authorized compensable attendant care services for the benefit of an injured worker under the Workers' Compensation Law. Previously the bill referred to the nurse registry providing attendant care services.

B. Amendments:

None.



544540

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/15/2020	.	
	.	
	.	
	.	

The Committee on Banking and Insurance (Baxley) recommended the following:

Senate Amendment (with title amendment)

Delete lines 9 - 23

and insert:

Section 1. Paragraph (b) of subsection (2) of section 440.13, Florida Statutes, is amended to read:

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

(2) MEDICAL TREATMENT; DUTY OF EMPLOYER TO FURNISH.—

(b)1. The employer shall provide appropriate professional



544540

11 or nonprofessional attendant care performed only at the
12 direction and control of a physician when such care is medically
13 necessary. The physician shall prescribe such care in writing.
14 The employer or carrier shall not be responsible for such care
15 until the prescription for attendant care is received by the
16 employer and carrier, which shall specify the time periods for
17 such care, the level of care required, and the type of
18 assistance required. A prescription for attendant care shall not
19 prescribe such care retroactively. The value of nonprofessional
20 attendant care provided by a family member must be determined as
21 follows:

22 a.1. If the family member is not employed or if the family
23 member is employed and is providing attendant care services
24 during hours that he or she is not engaged in employment, the
25 per-hour value equals the federal minimum hourly wage.

26 b.2. If the family member is employed and elects to leave
27 that employment to provide attendant or custodial care, the per-
28 hour value of that care equals the per-hour value of the family
29 member's former employment, not to exceed the per-hour value of
30 such care available in the community at large. A family member
31 or a combination of family members providing nonprofessional
32 attendant care under this paragraph may not be compensated for
33 more than a total of 12 hours per day.

34 c.3. If the family member remains employed while providing
35 attendant or custodial care, the per-hour value of that care
36 equals the per-hour value of the family member's employment, not
37 to exceed the per-hour value of such care available in the
38 community at large.

39 2. The employer or carrier may use a nurse registry



544540

40 pursuant to s. 400.506 for the placement of authorized
41 compensable attendant care services.

42
43 Failure of the carrier to timely comply with this subsection
44 shall be a violation of this chapter and the carrier shall be
45 subject to penalties as provided for in s. 440.525.

46 Section 2. For the purpose of incorporating the amendment
47 made by this act to section 440.13(2)(b), Florida Statutes, in a
48 reference thereto, subsection (16) of section 440.134, Florida
49 Statutes, is reenacted to read:

50 440.134 Workers' compensation managed care arrangement.—

51 (16) When a carrier enters into a managed care arrangement
52 pursuant to this section the employees who are covered by the
53 provisions of such arrangement shall be deemed to have received
54 all the benefits to which they are entitled pursuant to s.
55 440.13(2)(a) and (b). In addition, the employer shall be deemed
56 to have complied completely with the requirements of such
57 provisions. The provisions governing managed care arrangements
58 shall govern exclusively unless specifically stated otherwise in
59 this section.

60
61 ===== T I T L E A M E N D M E N T =====

62 And the title is amended as follows:

63 Delete lines 3 - 5

64 and insert:

65 440.13, F.S.; authorizing the use of licensed nurse
66 registries for the placement of attendant care
67 provided for workers' compensation purposes;
68 reenacting s. 440.134(16), F.S., relating to workers'



544540

69
70
71

compensation managed care arrangements, to incorporate
the amendment made to s. 440.13, F.S., in a reference
thereto; providing an effective date.

By Senator Baxley

12-01059-20

2020880__

1 A bill to be entitled
2 An act relating to the nurse registry; amending s.
3 440.13, F.S.; revising the definition of the term
4 "attendant care" to include services provided by a
5 licensed nurse registry; providing an effective date.
6
7 Be It Enacted by the Legislature of the State of Florida:
8
9 Section 1. Paragraph (b) of subsection (1) of section
10 440.13, Florida Statutes, is amended to read:
11 440.13 Medical services and supplies; penalty for
12 violations; limitations.—
13 (1) DEFINITIONS.—As used in this section, the term:
14 (b) "Attendant care" means care rendered by trained
15 professional attendants which is beyond the scope of household
16 duties, including services provided by a nurse registry licensed
17 pursuant to s. 400.506. Family members may provide
18 nonprofessional attendant care, but may not be compensated under
19 this chapter for care that falls within the scope of household
20 duties and other services normally and gratuitously provided by
21 family members. "Family member" means a spouse, father, mother,
22 brother, sister, child, grandchild, father-in-law, mother-in-
23 law, aunt, or uncle.
24 Section 2. This act shall take effect July 1, 2020.



THE FLORIDA SENATE

COMMITTEES:
Ethics and Elections, *Chair*
Appropriations Subcommittee on Education
Education
Finance and Tax
Health Policy
Judiciary

JOINT COMMITTEE:
Joint Legislative Auditing Committee

SENATOR DENNIS BAXLEY

12th District

December 10, 2019

The Honorable Doug Broxson
318 Senate Office Building
Tallahassee, FL 32399

Dear Chairman Broxson,

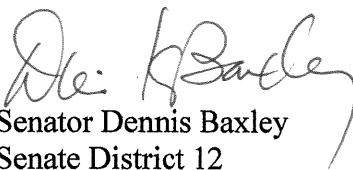
I would like to request that SB 880 Nurse Registry be heard in the next Banking and Insurance Committee meeting.

This good bill defines services provided by a nurse registry as “attendant care” for the purposes of workers’ compensation. The administrative activity of a nurse registry in facilitating the placement of medical care is added to the types of services that are within the definition of “attendant care.”

A nurse registry is a business that procures, offers, promises, or attempts to procure health care related contracts for registered nurses, licensed practical nurses, certified nursing assistants, home health aides, homemakers and companions to provide services to patients in their homes and temporary staff to health care facilities or other business entities. The providers referred by the nurse registry are hired as independent contractors by the patient, health care facility, or another business entity. A workers’ compensation carrier may use a nurse registry to place attendant care services to be rendered to an injured worker.

I appreciate your favorable consideration.

Onward & Upward,


Senator Dennis Baxley
Senate District 12

DKB/dd

cc: James Knudson

320 Senate Office Building, 404 South Monroe St, Tallahassee, Florida 32399-1100 • (850) 487-5012
Email: baxley.dennis@flsenate.gov

Bill Galvano
President of the Senate

David Simmons
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Banking and Insurance

BILL: CS/SB 894

INTRODUCER: Banking and Insurance Committee and Senator Rouson

SUBJECT: Business Services

DATE: January 15, 2020 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Palecki	Knudson	BI	Fav/CS
2.			AP	
3.			RC	

Please see Section IX. for Additional Information:
COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 894 creates the Access to Responsible Credit Pilot Program (Program). The program is intended to allow more Floridians in Broward, Miami-Dade, and Palm Beach counties to obtain responsible, small dollar consumer finance loans and to assist consumers in building their credit. Consumer finance loans are loans of money, credit, goods, and provisions of lines of credit in an amount or to a value of \$25,000. The program creates a new license type to be supervised by the Office of Financial Regulation (OFR). The program would operate under the following terms and conditions:

- A program licensee may make program loans only to residents of Broward, Miami-Dade, and Palm Beach counties.
- Program loans must be unsecured.
- A program licensee may make loans of at least \$300 and no more than \$7,500.
- A program licensee may charge a borrower an origination fee of 6 percent of the principal amount of the program loan, exclusive of the origination fee, or \$90, whichever is less.
- The borrower has the right to rescind a program loan and return the principal amount by the end of the next business day.
- The term of a program loan with a principal balance upon origination of at least \$300, but not more than \$3000, must be at least 120 days, but not more than 36 months. The term of a program loan with a principal balance upon origination of more than \$3000 must be at least 12 months, but not more than 60 months.
- Program loans may not impose a prepayment penalty.

- A program licensee must underwrite each program loan to determine the borrower's ability and willingness to repay. A program licensee must not make a program loan if the borrower's monthly debt service, including the program loan, exceeds 50 percent of the borrower's gross monthly income when borrowing less than \$3,000 and may not exceed 36 percent of the borrower's gross monthly income when borrowing more than \$3,000.
- The OFR must examine each program licensee.
- A program licensee may use access partners to perform marketing, loan servicing, and other services on behalf of the program licensee.
- At least 85 percent of loans annually issued by any program licensee must be to borrowers whose gross monthly income is less than \$6,250.

In order to participate in the program as a lender, a person must be licensed as a consumer finance lender by OFR under ch. 516 F.S.; must demonstrate financial responsibility and experience; and must not be subject to any enforcement action by a state or federal regulatory agency.

The program increases the allowable maximum interest rate for consumer finance loans by 6 percent. The maximum interest rates that may be charged through a program loan must be fixed for the duration of the loan, and are tiered based on the principal amount, as follows:

- 36 percent a year, computed on the first \$3000 of the unpaid principal balance;
- 30 percent a year on any part of the unpaid principal balance from \$3001 to \$4000; and
- 24 percent a year on that part of the unpaid principal balance from \$4001 to \$7,500.

The bill appropriates \$407,520 in nonrecurring funds from the Administrative Trust Fund to the OFR for the 2020-2021 fiscal year to support the modifications to the regulatory enforcement and licensing system (REAL).

The bill has an effective date of January 1, 2021.

II. Present Situation:

State Regulation of Consumer Lending

The Office of Financial Regulation (OFR) provides regulatory oversight of state-chartered financial institutions, securities brokers, investment advisers, mortgage loan originators, deferred presentment providers or payday loan lenders, consumer finance companies, title loan lenders, debt collectors, and other financial service entities. As of December 20, 2019, the Office has 38 distinct entities licensed as consumer finance companies operating at 55 locations located in Palm Beach, Broward, and Miami-Dade counties.¹

¹ Office of Financial Regulation, *Bill Analysis of SB 894*, January 10, 2020 (on file with Senate Banking and Insurance Committee).

Consumer Finance Loans

The Florida Consumer Finance Act (Act)² sets forth licensing requirements for consumer finance lenders and the terms and conditions under which a consumer finance loan is authorized in Florida. A consumer finance loan is a loan of money, credit, goods, or choses in action, including, unless otherwise specifically indicated, provision of a line of credit, in an amount or to a value of \$25,000 or less for which the lender charges, contracts for, collects, or receives interest at a rate greater than 18 percent per annum.³ The Act exempts licensees from the application of s. 687.03, F.S., which provides that loans with an interest rate higher than 18 percent per annum simple interest are usurious. Licenses permit approved lenders to make and collect loans in accordance with the act at a single place of business.⁴

The act expressly does not apply to any person who does business under, and as permitted by, any law of this state or the United States relating to banks, savings banks, trust companies, building and loan associations, credit unions, or industrial loan and investment companies.⁵

The maximum allowable interest rates on consumer finance loans are tiered and limited based on the principal amount that falls within each tier of the loan, as provided below:

- 30 percent a year, computed on the first \$3,000 of the principal amount;
- 24 percent a year on that part of principal between \$3,001 to \$4,000; and
- 18 percent a year on that part of principal between \$4,001 to \$25,000.⁶

The original principal amount of consumer finance loans must be the same as the amount financed as defined by the Federal Truth in Lending Act (TILA) and Regulation Z.⁷ Regulation Z, which implements TILA, requires the calculation and disclosure of the Annual Percentage Rate (APR) for consumer loans.⁸ Florida law requires the APR to be calculated and disclosed as required by TILA and Regulation Z.⁹

In addition to the applicable interest rates described above, the act allows consumer finance lenders to charge borrowers the following charges and fees:¹⁰

- Up to \$25 for investigating the credit and character of the borrower;
- A \$25 annual fee on the anniversary date of each line-of-credit account;
- Brokerage fees for certain loans and appraisals of real property offered as security;
- Intangible personal property tax, if secured by a loan note on real property;
- Documentary excise tax and lawful fees;
- Insurance premiums;

² Chapter 516, F.S.

³ Section 516.01(2), F.S.

⁴ Section 516.01(6) and (7), F.S.

⁵ Section 516.02(4), F.S.

⁶ Section 516.031(1), F.S.

⁷ Regulation Z (12 C.F.R. part 1026, et seq.) is issued by the Bureau of Consumer Financial Protection to implement the Federal Truth in Lending Act, which is contained in title I of the Consumer Credit Protection Act, as amended (15 U.S.C. s. 1601, et seq.).

⁸ 12 C.F.R. part 1026, et seq.

⁹ Section 516.031(2), F.S.

¹⁰ Section 516.031(3), F.S.

- Actual and reasonable attorney fees and court costs;
- Actual and commercially reasonable expenses for recovering the collateral property;
- Delinquency charges of up to \$15 for each payment in default for at least 10 days, if agreed upon in writing before the charge is imposed; and
- A dishonored check charge of up to \$20.

Lastly, the act requires all consumer finance loans to be repayable in equal monthly installments, except for the repayment of lines of credit.¹¹

On October 11, 2019, OFR sent a survey to all 167 licensed consumer finance companies requesting statistical information concerning the licensee's volume of business for calendar years 2014 – 2018. OFR requested all licensees to respond to the survey by December 31, 2019. As of January 6, 2020, 38 licensees, or 23 percent of licensees, have responded. To allow sufficient time for additional licensees to respond, OFR has extended the deadline to respond to January 31, 2020.¹²

California Small Dollar Loan Pilot Program

Based on a business model developed by California-based Progreso Financiero (Progress Financial), the California State Assembly enacted the Affordable Credit Building Opportunities Pilot Program (Pilot Program) in 2010.¹³ The pilot program applied to consumer loans of \$250-\$2,500. The goal was to increase consumers' access to capital by encouraging development of a more robust small dollar loan market in California. This original pilot program met its demise due to a low lender participation rate.¹⁴

In 2015, and again in 2018, California enacted legislation to revise provisions relating to the small-dollar loan pilot program.¹⁵ The current pilot program covers consumer loans of \$300-\$7,500, provides underwriting standards, mandatory reporting to credit bureaus, a cap on the share of gross monthly income that can be consumed by the loan payment (36 percent for loans over \$2500), a ban on credit insurance, and a ban on requiring borrowers to waive their right to sue as a condition of obtaining a loan. It also requires program licensees to reduce interest rates on loans made to borrowers who obtain subsequent loans and meet certain requirements. The current pilot program, like the original, allows the use of "finders" to connect borrowers with lenders. Finders cannot provide advice or counseling to borrowers; they can distribute lenders' marketing materials, provide information about loan terms and conditions, help borrowers with loan applications and obtain borrowers' signatures on documents, and serve other functions. Lender-paid finder fees are capped at \$65 per loan plus \$2 for each payment received by a finder. The fees are paid by lenders, cannot be based on the principal amount of loans, and cannot be

¹¹ Section 516.36, F.S.

¹² Office of Financial Regulation, *Bill Analysis of SB 894*, January 10, 2020 (on file with Senate Banking and Insurance Committee).

¹³ See http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=200920100SB1146 (last visited January 13, 2020).

¹⁴ California Department of Business Oversight, *Annual Report of Activity Under the Pilot Program for Responsible Small Dollar Loans*, https://dbo.ca.gov/wp-content/uploads/sites/296/2019/07/2018-RSDL-Pilot-Program_FINAL.pdf (last visited January 13, 2020).

¹⁵ See http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201520160SB235 (last visited January 13, 2020); *Id.*

passed on to borrowers. According to the California Senate staff analysis, the proponents view the use of finders as a means to lower costs of customer acquisition, which is the largest cost of maintaining a small dollar loan program.¹⁶

Several regulatory changes to the program became effective January 1, 2019. These changes included:

- An increase to the maximum loan amount from \$2,500 to \$7,500 and establishing a debt-to-income cap of 36 percent of the borrower's monthly income for a loan greater than \$2,500;
- Mandatory Department of Business Oversight (DBO) oversight examination at least once every 24 months,
- Authorization for DBO to charge licensees who use one or more finders an examination fee to offset the costs of examination,
- An increase in licensee reporting requirements to include specific information about the finders utilized,
- A requirement that program licensees perform reasonable background checks on finders, and
- A requirement that program licensees to reduce the interest rates on loans made to borrowers who obtain subsequent loans and meet certain requirements.

The California pilot program also requires the state's Department of Business Oversight (DBO) to post a report summarizing findings of the pilot program. The latest Annual Report of Activity under the program, published December 2019, noted the following findings from 2016-2018:¹⁷

- *Lender participation:* DBO received 14 applications from lenders to participate in the program during this time period. Eleven of those applications were eventually approved. As of 2018, a total of 16 lenders participated in the program. DBO noted that while recent changes to the program have near doubled the number of lenders and borrowers participating in the program, the revisions did not significantly impact the volume of lending activity.¹⁸
- *Finders:* In 2016, 25 finders participated in the program at 252 locations. By 2018, the number of finders more than quadrupled, rising to 109 finders participating at 616 locations.
- *Loan applications:* Borrower applications increased by 77.3 percent overall from 2016 to 2018, with loans in the \$300-\$499 range increasing most in popularity. However, the loan approval rate declined during this time period, from 52.4 percent in 2016 to 43.9 percent in 2018.
- *Interest rates:* 94.1 percent of small dollar loans carried an APR of 50 percent or more.
- *Delinquency rates:* Of the 299,542 loans made in 2018, 16.3 percent were delinquent for 7 to 29 days, 6.7 percent were delinquent for 30 to 59 days, and 5.1 percent were delinquent for 60 days or more.
- *Credit scores:* Over this time period, more than 59 percent of borrowers who took out more than one loan saw an increase in their credit score.
- *Loan term:* In 2018, of the 299,542 loans made, 52 percent had terms of 360 days or more. The ratios for other terms were from: 120 days to 179 days, 5.4 percent; 180 days to 269 days, 28.4 percent; and 270 days to 359 days, 13.5 percent.

¹⁶ *Id.*

¹⁷ California Department of Business Oversight, Annual Report of Activity Under the Pilot Program for Responsible Small Dollar Loans, https://dbo.ca.gov/wp-content/uploads/sites/296/2019/07/2018-RSDL-Pilot-Program_FINAL.pdf (last visited January 13, 2020).

¹⁸ *Id.*

- *Loan purpose:* In 2018, borrowers most frequently took out loans to pay bills (23.8 percent of loans), and to build or repair credit (23.4 percent of loans).
- *Finders:* From 2016 through 2018, the total number of applications and loans made using a finder was lower than the total of applications and loans made not using a finder. However, most short term loans (less than 180 days) were made through a finder.¹⁹

III. **Effect of Proposed Changes:**

The bill establishes the Access to Responsible Credit Pilot Program (Program). The program would allow consumers who are residents of Broward, Miami-Dade, or Palm Beach counties to enter into a program loan with a principal amount of at least \$300 and up to a maximum of \$7,500, at an interest rate not to exceed 36 percent per annum. Under current law, licensed consumer finance lenders may make loans in this amount at a maximum interest rate of 30 percent, with no minimum or maximum loan term. At least 85 percent of loans issued annually must be made to borrowers whose gross monthly income is less than \$6,250.

Access to Responsible Credit Pilot Program (Section 1)

Creates s. 516.405, F.S., which states that the Access to Responsible Credit Pilot Program is created within the Office of Financial Regulation (OFR) to allow more Floridians to obtain responsible consumer finance loans with principal amounts of at least \$300 but not more than \$7,500, with the express intention of assisting consumers in building their credit and providing additional consumer protections.

Definitions (Section 2)

The bill creates s. 516.41, F.S., to provide the following definitions for purposes of the pilot program:

- Access partner
- Consumer reporting agency
- Credit score
- Data furnisher
- Pilot program
- Pilot program license
- Program branch office license
- Program licensee
- Program loan
- Refinance program loan

Regulation of Program Licensees (Lenders) and Access Partners (Sections 3 and 5)

Program Licensees (Section 3)

The bill creates s. 516.42, F.S., to provide licensure requirements for persons seeking to participate in the program as lenders. Program licensees must be licensed to make consumer finance loans under ch. 516, F.S., and must already be accepted as a “data furnisher” with a

¹⁹ *Id.*

consumer-reporting agency.²⁰ Additionally, licensees must demonstrate financial responsibility, experience, character, or general fitness, such as to command the confidence of the public and to warrant the belief that the business operated at the licensed or proposed location is lawful, honest, fair, efficient, and within the purposes of ch. 516, F.S.²¹ Licensees may not be subject to the issuance of a cease and desist order; the issuance of a removal order; the denial, suspension, or revocation of a license; or any other action within the authority of OFR, any financial regulatory agency in this state, or any other state or federal regulatory agency that affects the ability of such person to participate in the program. Application forms are to be adopted by rule and will be submitted digitally. Each branch office of a program licensee must be included in the application to OFR. Additional licenses are not required in order for a licensee to offer program loans through access partners or via an electronic access point through which potential borrowers may access the website of the program licensee.

OFR may deny an initial or renewal application for a program license or program branch office license if the applicant or any person with power to direct the management or policies of the applicant's business:

- Fails to demonstrate financial responsibility, experience, character, or general fitness such as to command the confidence of the public and to warrant the belief that the business operated at the licensed or proposed location is lawful, honest, fair, efficient, and within the purposes of this chapter;
- Pled nolo contendere to, or was convicted or found guilty of, a crime involving fraud, dishonest dealing, or any act of moral turpitude, regardless of whether adjudication was withheld; or
- Is subject to the issuance of a cease and desist order; the issuance of a removal order; the denial, suspension, or revocation of a license; or any other action within the authority of the office, any financial regulatory agency in this state, or any other state or federal regulatory agency that affects the applicant's ability to participate in the program.

Program licensees are subject to all other laws and rules governing consumer finance loans under ch. 516, F.S.

A program license must be renewed biennially.

The bill directs the Financial Services Commission to adopt rules to implement this section.

Access Partners (Section 5)

The bill creates s. 516.44, F.S., which allows a program licensee to engage in arrangements with access partners. Only the following entities and agents of such entities may act as access partners:

²⁰ The bill defines "consumer reporting agency" as the term is defined in the federal Fair Credit Reporting Act: "Any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports."

²¹ Section 516.07, F.S., of the Consumer Finance Act subjects licensees to disciplinary action or denial of licensure for failure to demonstrate such actions.

- Banks, as defined in s. 658.12, F.S.
- Credit unions, as defined in s. 657.002, F.S.
- Agents, as defined in s. 626.015, F.S.
- Insurance agencies, as defined in s. 626.015, F.S.
- Tax preparation services
- Money services businesses, as defined in s. 560.103, F.S.
- Authorized vendors, as defined in s. 560.103, F.S.
- Law offices
- Investment advisors, as defined in s. 517.021, F.S.
- Financial services providers
- Public accounting firms, as defined in s. 473.302(7), F.S.

Credit service organizations and loan brokers are ineligible to act as access partners. All access partner arrangements must be in writing; must contain a provision that the access partner agrees to comply with s. 516.44, F.S., and must contain a provision allowing the OFR access to the access partner's books and records related to the access partner's operations under the agreement with the program licensee.

An access partner may engage in the following activities:

- Advertise on behalf of the program licensee;
- Provide written factual information about the program and discuss the program information with a prospective borrower in general terms;
- Notify the prospective borrower of information needed to complete an application under the program;
- Enter information provided by a prospective borrower on a preprinted or electronic application form or in a preformatted computer database;
- Assemble credit applications and other materials obtained in the course of a credit application transaction for submission to the program licensee;
- Contact the program licensee to determine the status of a program loan application;
- Communicate to a borrower a response that is returned by the program licensee's automated underwriting system;
- Obtain a borrower's signature on documents prepared by the program licensee and deliver final copies of the documents to the borrower;
- Disburse program loan proceeds to a borrower;
- Receive a program loan payment from the borrower if this method of payment is acceptable to the borrower; and
- Operate an electronic access point through which a prospective borrower may directly access the website of the program licensee to apply for a program loan.

Any program payments received by an access partner must be applied to the program loan and be deemed received by the program licensee at the time the access partner receives the payment. When payment is made, an access partner must deliver a receipt to the borrower that includes certain information. Additionally, the bill holds a borrower harmless if an access partner fails to transmit, or is delayed in transmitting, a payment to the program licensee. An access partner must maintain records related to disbursements and payments for 2 years.

The bill prohibits an access partner from engaging in the following activities:

- Providing counseling or advice to a borrower or prospective borrower;
- Providing to a borrower or prospective borrower loan-related marketing material that has not been approved by the program licensee;
- Negotiate a loan term between a program licensee and a prospective borrower;
- Offering information pertaining to a single prospective borrower to more than one program licensee, except where a program licensee has provided notification of its denial of a program loan to a borrower;
- Offering the borrower information of any borrower with outstanding program loans to any program licensee, unless for the purpose of assisting a borrower to obtain a refinance loan;
- Charging a borrower any fee for a program loan;
- Performing any service for a program licensee at a pawn shop; and
- Performing any service for a program licensee at a pari-mutual facility or at any facility where covered games²² are conducted.

Access partners are required to provide certain communications and disclosures to program loan applicants related to identifying information of the program licensee and access partner. The bill requires an access partner to make a good faith effort to assist the applicant in making direct contact with the program licensee in cases where an access partner is not permitted to answer questions about the loan program.

The bill allows a program licensee to compensate an access partner in accordance with a written agreement. A program licensee may not compensate an access partner in connection with a loan application unless the loan is consummated. Compensation may not exceed \$65, on average, per program loan consummated but may additionally include \$2 per payment received by the access partner on behalf of the program licensee. Any compensation paid by a program licensee to an access partner may not be charged to the borrower, either directly or indirectly.

The program licensee is responsible for any violations of ch. 516, F.S., committed by an access partner.

Rulemaking

The bill requires the OFR to draft rules implementing ss. 516.42 (relating to requirements for program participation and program license applications), 516.44 (relating to access partners), 516.45 (relating to examinations, investigations, and grounds for disciplinary action) and 516.46, F.S., (relating to annual reports filed by the program licensee and the online summarized report required of the Office). Before the rules become effective, the OFR must appear before the Financial Services Commission (“Commission”), comprised of the Governor and Cabinet, to request permission to notice the proposed rules in the Florida Administrative Register and the OFR must again appear before the Commission to request permission to file the rules for Final Adoption with the Department of State. Since the OFR must appear before the Commission at

²² Covered games are games authorized for the Seminole Tribe of Florida under the Gaming Compact between the Seminole Tribe of Florida and the State of Florida, executed on April 7, 2010. *See* s. 285.710, F.S.

the beginning and end of the rulemaking process, adoption of rules may extend beyond the standard 90-day period.²³

Terms and Conditions of the Small Dollar Loans (Section 4)

The bill creates s. 516.43, F.S., which requires a program licensee to comply with certain conditions in making program loans, including the following:

Residency Requirement, Unsecured, Loan Term, Repayment Schedule, and Right of Rescission

- A program loan must be unsecured.
- For a loan with a principal amount upon origination that is at least \$300 but no more than \$3,000, a program loan must have a minimum term of 120 days and a maximum term of 36 months, for a loan with a principal balance upon origination of more than \$3,000, the minimum term is 12 months and the maximum term is 60 months.
- Program loans may not impose a prepayment penalty.
- A program loan must be repayable by the borrower in substantially equal periodic installments made every 2 weeks, semimonthly, or monthly.
- A program loan must include a borrower's right to rescind the program loan by notifying the program licensee of the borrower's intent to rescind and the return of the principal advanced by the end of the business day after the program loan was consummated.
- A borrower must be a resident of Broward, Miami-Dade, or Palm Beach counties.
- At least 85 percent of program loans annually issued by each program licensee must be provided to borrowers whose gross monthly income is less than \$6,250.
- A borrower may not receive a program loan exceeding \$5,000 unless the borrower previously paid in full a previous program loan, the borrower was never delinquent for more than 7 days on a previous program loan, and the borrower's credit score increased from when the borrower applied for the borrower's first consummated program loan.

Interest Rates

A program loan must apply an interest rate that must be fixed for the term of the loan and be calculated on a simple-interest basis through the application of a daily periodic rate to the actual unpaid principal balance each day. The maximum per annum interest rate assigned corresponds with the portion of the unpaid principal on the loan, as follows:

- For the portion of the principal up to and including \$3,000, the maximum annual interest rate is 36 percent.
- For the portion of the principal over \$3,000, and up to and including \$4,000, the maximum annual interest rate is 30 percent.
- For the portion of the principal over \$4,000 and up to and including \$7,500, the maximum interest rate is 24 percent.

If multiple interest rates are applied to the loan principal, the lender may charge interest at the single annual percentage rate that, if applied according to the actuarial method to each of the

²³ Office of Financial Regulation, *Bill Analysis of SB 894*, January 10, 2020 (on file with Senate Banking and Insurance Committee).

scheduled periodic balances of principal, would produce at maturity the same total of interest as would result from the application of multiple interest rates, based on the assumption that all payments are made as agreed.

The program licensee must reduce the rate on each subsequent loan to the same borrower by at least 1 percent, up to 6 percent, if all the following conditions are met:

- The subsequent program loan is originated no more than 180 days after the prior program loan is fully repaid;
- The borrower was never more than 15 days delinquent on the prior program loan; and
- The prior program loan was outstanding for at least one half of its original term before its repayment.

Prohibition against Multiple, Contemporaneous Program Loans from the Same Licensee

The bill prohibits a program licensee from inducing or permitting any person from becoming obligated to the program licensee under more than one program loan at the same time with the program licensee.

Refinancing

The bill allows the refinancing of a program loan under specified circumstances if the new loan is underwritten in accordance with the underwriting requirements created by the bill. A program licensee may refinance a program loan only if all of the following conditions are met at the time the borrower submits an application to refinance:

- The principal amount payable does not include more than 60 days of unpaid interest accrued on the previous program loan;
- For program loans with an original term of less than 25 months, the borrower has repaid at least 60 percent of the outstanding principal remaining on the existing program loan;
- For program loans with an original term of greater than 25 months but no more than 60 months, the borrower has made current payments for at least 9 months on the program loan; and,
- The borrower is current on his or her outstanding program loan.

Consumer Disclosures and Receipts

The bill requires that a program licensee must provide the same disclosures as required in s. 516.15, F.S.²⁴ However, the bill allows the disclosures to be provided in the languages in which the loans were negotiated.

The bill requires a program licensee or approved access partner to provide the borrower an electronic or physical receipt of payment at the time the borrower makes a payment. The receipt must include the following specified information:

- The borrowers name,
- The amount paid,

²⁴ Section 516.15(1), F.S., requires a lender to deliver to the borrower at the time a loan is made a statement in the English language showing in clear and distinct terms the amount and date of the loan and the date of its maturity; the nature of the security, if any, for the loan; the name and address of the borrower and of the licensee; and the rate of interest charged. However, with respect to a line of credit, the statement need not show a maturity date.

- The date of payment,
- The program loan balance before and after payment,
- The type of payment made, and
- A statement informing the borrower how to contact the lender to ask questions regarding the loan.

The program licensee must maintain an electronic record of each receipt, which must include a copy of the receipt and the date and time the receipt was made.

Fees

The bill allows a program licensee to contract for and receive an origination fee, which may not exceed 6 percent of the principal amount, exclusive of the origination fee, or \$90, whichever is less. A program licensee may not charge a borrower an origination fee more than twice in any 12 month period.

The bill caps the fee for insufficient funds at \$20, and any delinquency charge is capped at \$15 for each calendar month for payments in default for at least 10 days. In attempting to collect a delinquent payment, a program licensee or its wholly owned subsidiary must attempt to collect the payment for 30 days before selling or assigning the unpaid debt to an independent party for collection.

Credit Education

Before disbursing program proceeds to a borrower, a program licensee must direct a borrower to consumer credit counseling services promoted by the OFR or provide a credit education program or materials to the borrower at no cost to the borrower. The borrower is not required to participate in the program.

Program Loan Underwriting

A program licensee must underwrite each program loan to determine the borrower's willingness and ability to repay the program loan. A program licensee may not make a loan if it determines that a borrower's total monthly debt service payments, including the program loan and all outstanding forms of credit that can be independently verified by the program licensee:

- Exceed 50 percent of the borrower's gross monthly income when borrowing less than \$3,000; or
- Exceed 36 percent of the borrower's gross monthly income when borrowing more than \$3,000.

The program licensee is required to seek information and documentation pertaining to all of a borrower's outstanding debt obligations during the loan application and underwriting process, including loans that are self-reported by the borrower but not able to be independently verified. The program licensee shall verify such information using a credit report from at least one consumer reporting agency that compiles and maintains files on consumers on a nationwide basis or through other available electronic debt verification services. The program licensee is not required to consider loans made to a borrower by friends or family in determining the borrower's debt-to-income ratio.

The program licensee is required to verify the borrower's income in determining the debt-to-income ratio using information from:

- Electronic means or services that provide reliable evidence of the borrower's actual income; or
- Internal Revenue Service Form W-2, tax returns, payroll receipts, bank statements, or other third-party documents that provide reasonably reliable evidence of the borrower's actual income.

Waiver of Borrower's Rights

The bill prohibits a program licensee from requiring a borrower to waive any right, penalty, remedy, forum, or procedure. Further, the lender may not require a borrower to agree to the application of laws other than those of Florida or require a borrower to agree to resolve disputes in a jurisdiction outside of Florida. Any waiver, other than a prohibited waiver, must be knowing, voluntary, in writing, and not expressly made as a condition of doing business with the program licensee. A waiver that is required as a condition of doing business with the program licensee is presumed involuntary, unconscionable, against public policy, and unenforceable. The program licensee has the burden of proving that a waiver of any rights, penalties, forums, or procedures was knowing, voluntary, and not expressly made a condition of the contract with the borrower.

Examination of Program Licensees (Section 6)

This bill authorizes the OFR to examine program licensees, each branch office of the program licensee, and access partners. The scope of any investigation or examination of a program licensee or access partner is to be limited to those books, accounts, records, documents, materials, and matters reasonably necessary to determine compliance with the program. A program licensee who violates any applicable provision of ch. 516, F.S., is subject to disciplinary action. Any such disciplinary action is subject to s. 120.60, F.S. The program licensee is also subject to disciplinary action for a violation of s. 516.44, F.S., committed by any of its access partners.

The OFR may take any of the following actions against an access partner:

- Bar the access partner from performing services under the program;
- Bar the access partner from performing services at one or more of its specific locations; and
- Impose an administrative fine of up to \$5,000 in a calendar year.²⁵

The bill authorizes the OFR to waive branch examinations if the OFR finds such examinations are unnecessary for the protection of the public due to the centralized operation of the program licensee or other factors acceptable to the OFR.

The bill provides the OFR rulemaking authority to implement the examination requirements.

²⁵ It is unclear whether the OFR has the authority to take such actions against an access partner, as access partners are not licensed by the OFR, and become subject to s. 516.44, F.S., by virtue of an agreement with the program licensee.

Reporting Requirements (Sections 4, 5, and 7)

Credit Reporting (Section 4)

The bill requires a program licensee to report a borrower's payment performance to at least two consumer-reporting agencies that compile and maintains files on consumers on a nationwide basis. In addition, as part of the credit reporting requirements, a licensee must provide the borrower with the name(s) of the credit reporting agency or agencies to which it will report the borrower's payment history.

Notice to the OFR (Section 5)

The program licensee is required to provide certain information to the OFR within 15 days after entering into a contract with an access partner. Such information includes the access partner's identifying information, and a provision that allows the OFR to request any other information. The program licensee must conduct due diligence with respect to the access partner and confirm to the OFR that the access partner has not filed a bankruptcy or reorganization petition and is not currently subject to an administrative or judicial license suspension or revocation proceeding. The program licensee must confirm to the OFR that the access partner or an affiliated party has not been convicted of a felony and is not subject to a felony indictment. Finally, the program licensee must confirm to OFR that it does not suspect that the access partner has committed a criminal act and that there has not been notification that the access partner is under criminal investigation. The access partner must report changes in this information to the program licensee.

OFR Program Report (Section 7)

A program licensee is required to file, on or before March 15 of each year beginning in year 2022, a report with the OFR in a manner prescribed by rule.

The bill directs the OFR to post a report on its website by January 1, 2023, summarizing the results of the program. The report must include the following information:

- The period covered.
- The number of applicants approved for program licensure.
- The number of program loan applications received by participating program licensees.
- The number and total amount of program loans made.
- The distribution of loan lengths, interest rates, and principal amounts upon origination.
- The number of borrowers who obtained more than one program loan.
- The distribution of the number of program loans per borrower.
- Of the number of borrowers who obtained more than one program loan, the percentage of borrowers whose credit scores increased between successive loans.
- The average size of the increased credit score.
- The income distribution of borrowers upon program loan origination, including the number of borrowers who obtained a program loan and who resided in a low-income or moderate-income census tract at the time of loan application.
- The number of borrowers who obtained program loans for the following purposes, based on borrower responses to:
 - Pay medical expenses.
 - Pay for vehicle repair or a vehicle purchase.

- Pay bills.
- Consolidate debt.
- Build or repair credit history.
- Pay other expenses.
- The number of borrowers who self-report that they did or did not have a bank account at the time of their loan application.

With regard to refinanced program loans, the report must include the following information:

- The number and percentage of borrowers who applied for a refinance program loan.
- Of the borrowers who applied for a refinance loan, the number and percentage of borrowers who obtained a refinance program loan.

In addition, the report must address the performance of program loans as reflected by the following information:

- The number and percentage of borrowers who experienced at least one delinquency lasting between 7 to 29 days, 30 to 59 days, and 60 days or more.
- The distribution of principal loan amounts corresponding to those delinquencies.

The bill prohibits the OFR from publishing an access partner registry in these reports.

The bill provides rulemaking authority for the OFR to implement the reporting requirements.

Access Partner Registry (Section 4)

A program licensee is required to maintain a registry of all access partners that provide services to the program licensee, and to submit a copy of the registry to the OFR along with the annual report, which must be submitted before March 15 of each year beginning in year 2022.

Section 8 provides that ss. 516.40-516.46, F.S., are subject to repeal on January 1, 2030, unless reenacted or superseded by another enacted law before that date.

Section 9 provides the act shall take effect January 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

The bill may need a companion public records exemption bill as information gathered as part of an examination, investigation, or complaint related to a program loan would contain personal identifying and financial information about loan applicants and borrowers. Without a companion public records exemption bill this information could be subject to public inspection.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Indeterminate at this time. The number of lenders, access partners, and borrowers who would participate in this pilot program is unknown at this time. The intent of the program is to provide greater access to small dollar consumer loans. The maximum annual interest rates for such loans under the bill is increased by 6 percent over the maximum interest rates currently authorized for consumer finance loans under ch. 516, F.S. The bill requires a reduction of the interest rate on subsequent loans under the pilot program of at least 1 percent up to 6 percent on subsequent loans if certain conditions are met.

C. Government Sector Impact:

Assuming a comparable number of businesses apply to become a program licensee as in California and existing consumer finance licensees also apply for a program license based on geographical constraints, the OFR estimates that it would need one full-time equivalent position to handle the additional regulatory duties and responsibilities proposed in this bill.

The OFR estimates a fiscal impact for salaries and benefits for one full-time equivalent position is as follows:

- Total recurring costs of \$65,266.32.
- Total non-recurring costs of \$10,000.00.

The OFR would also incur insignificant costs associated with rulemaking which can be absorbed within its current budget.²⁶

Non-recurring costs of \$407,520 would be appropriated from the Administrative Trust Fund to cover the technological impact to the OFR, as the bill will require configuration

²⁶ Office of Financial Regulation, *Bill Analysis of SB 894*, January 10, 2020 (on file with Senate Banking and Insurance Committee).

and other updates to the Office’s Regulatory Enforcement and Licensing (REAL) system internal system and website including the creation of electronic forms for applications and reporting.²⁷

VI. Technical Deficiencies:

VII. None.Related Issues:

None.

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: 516.405, 516.41, 516.42, 516.43, 516.44, 516.45, and 516.46.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Banking and Insurance on January 15, 2020:

The CS makes technical changes to remove “a national bank as defined by s. 658.12, F.S.,” from the definition of access partner, as the definition of “access partner” also includes a bank, as defined in s. 658.12, F.S. As defined in statute, the term “bank” includes a national bank. s. 658.12(2), F.S.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

²⁷ *Id.*



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/15/2020	.	
	.	
	.	
	.	

The Committee on Banking and Insurance (Rouson) recommended the following:

Senate Amendment

Delete lines 104 - 114

and insert:

2. A credit union as defined in s. 657.002.

3. An agent as defined in s. 626.015.

4. An insurance agency as defined in s. 626.015.

5. A tax preparation service.

6. A money services business as defined in s. 560.103.

7. An authorized vendor as defined in s. 560.103.



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- 11 8. A law office.
- 12 9. An investment adviser as defined in s. 517.021.
- 13 10. A financial services provider.
- 14 11. A public accounting firm as defined in s. 473.302(7).

By Senator Rouson

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1 A bill to be entitled
 2 An act relating to business services; creating s.
 3 516.405, F.S.; creating the Access to Responsible
 4 Credit Pilot Program within the Office of Financial
 5 Regulation; providing legislative intent; creating s.
 6 516.41, F.S.; defining terms; creating s. 516.42,
 7 F.S.; requiring a program license from the office to
 8 advertise, offer, or make program loans or to impose
 9 certain charges or fees; providing licensure
 10 requirements; requiring a program licensee's program
 11 branch offices to be licensed; providing program
 12 branch office license and license renewal
 13 requirements; providing circumstances under which the
 14 office may deny initial and renewal applications;
 15 requiring the Financial Services Commission to adopt
 16 rules; creating s. 516.43, F.S.; specifying
 17 requirements for program licensees, program loans,
 18 loan repayments, rescissions, interest rates, program
 19 loan refinancing, receipts, disclosures and statements
 20 provided by program licensees to borrowers,
 21 origination fees, insufficient funds fees, and
 22 delinquency charges; providing that program loans may
 23 be made only in specified counties; requiring that a
 24 specified percentage of program loans annually issued
 25 be provided to borrowers below a specified income;
 26 requiring program licensees to provide certain credit
 27 education information to borrowers and to report
 28 payment performance of borrowers to at least two
 29 consumer reporting agencies; prohibiting the office

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30 from approving a program licensee applicant before the
 31 applicant has been accepted as a data furnisher by a
 32 consumer reporting agency; requiring program licensees
 33 to provide certain credit reporting information to
 34 borrowers; specifying program loan underwriting
 35 requirements for program licensees; prohibiting
 36 program licensees from making program loans under
 37 certain circumstances; requiring program licensees to
 38 seek certain information and documentation;
 39 prohibiting program licensees from requiring certain
 40 waivers from borrowers; providing applicability;
 41 requiring program licensees to maintain a registry of
 42 their access partners and annually provide a copy to
 43 the office; prohibiting the office from publishing a
 44 registry in its annual report; creating s. 516.44,
 45 F.S.; requiring all arrangements between program
 46 licensees and access partners to be specified in
 47 written access partner agreements; providing
 48 requirements for such agreements; specifying access
 49 partner services that may be used by program
 50 licensees; specifying procedures for borrowers'
 51 payment receipts or access partners' disbursement of
 52 program loans; providing recordkeeping requirements;
 53 specifying activities prohibited for access partners;
 54 providing disclosure statement requirements; providing
 55 requirements and prohibitions relating to compensation
 56 paid to access partners; requiring program licensees
 57 to provide the office with a specified notice after
 58 contracting with access partners; defining the term

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59 "affiliated party"; requiring access partners to
 60 provide program licensees with a certain written
 61 notice within a specified time; providing that program
 62 licensees are responsible for violations by their
 63 access partners; requiring the commission to adopt
 64 rules; creating s. 516.45, F.S.; requiring the office
 65 to examine each program licensee; authorizing the
 66 office to waive branch office examinations under
 67 certain circumstances; limiting the scope of certain
 68 examinations and investigations; authorizing the
 69 office to take certain disciplinary action against
 70 program licensees and access partners; requiring the
 71 commission to adopt rules; creating s. 516.46, F.S.;
 72 requiring program licensees to file an annual report
 73 with the office; requiring the office to post an
 74 annual report on its website; specifying information
 75 to be contained in the reports; requiring the
 76 commission to adopt rules; providing for future repeal
 77 of the pilot program; providing an appropriation;
 78 providing an effective date.

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

81
 82 Section 1. Section 516.405, Florida Statutes, is created to
 83 read:

84 516.405 Access to Responsible Credit Pilot Program.-

85 (1) The Access to Responsible Credit Pilot Program is
 86 created within the Office of Financial Regulation to allow more
 87 Floridians to obtain responsible consumer finance loans in

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88 principal amounts of at least \$300 but not more than \$7,500.

89 (2) The pilot program is intended to assist consumers in
 90 building their credit and to provide additional consumer
 91 protections for these loans which exceed current protections
 92 under general law.

93 Section 2. Section 516.41, Florida Statutes, is created to
 94 read:

95 516.41 Definitions.-As used in ss. 516.405-516.46, the
 96 term:

97 (1) "Access partner" means an entity that, at one or more
 98 physical business locations owned or rented by the entity,
 99 performs one or more of the services authorized in s. 516.44(2)
 100 on behalf of a program licensee.

101 (a) The term includes only the following entities and
 102 agents of the entities:

103 1. A bank as defined in s. 658.12.

104 2. A national bank as defined in s. 658.12.

105 3. A credit union as defined in s. 657.002.

106 4. An agent as defined in s. 626.015.

107 5. An insurance agency as defined in s. 626.015.

108 6. A tax preparation service.

109 7. A money services business as defined in s. 560.103.

110 8. An authorized vendor as defined in s. 560.103.

111 9. A law office.

112 10. An investment adviser as defined in s. 517.021.

113 11. A financial services provider.

114 12. A public accounting firm as defined in s. 473.302(7).

115 (b) The term does not include a credit service organization
 116 as defined in s. 817.7001 or a loan broker as defined in s.

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117 687.14.

118 (2) "Consumer reporting agency" has the same meaning as the
 119 term "consumer reporting agency that compiles and maintains
 120 files on consumers on a nationwide basis" in the Fair Credit
 121 Reporting Act, 15 U.S.C. s. 1681a(p).

122 (3) "Credit score" has the same meaning as in the Fair
 123 Credit Reporting Act, 15 U.S.C. s. 1681g(f)(2)(A).

124 (4) "Data furnisher" has the same meaning as the term
 125 "furnisher" in 12 C.F.R. s. 1022.41(c).

126 (5) "Pilot program" or "program" means the Access to
 127 Responsible Credit Pilot Program.

128 (6) "Pilot program license" or "program license" means a
 129 license issued under ss. 516.405-516.46 authorizing a program
 130 licensee to make and collect program loans.

131 (7) "Program branch office license" means a license issued
 132 under the program for each location, other than a program
 133 licensee's or access partner's principal place of business:

134 (a) The address of which appears on business cards,
 135 stationery, or advertising used by the program licensee in
 136 connection with business conducted under this chapter;

137 (b) At which the program licensee's name, advertising or
 138 promotional materials, or signage suggests that program loans
 139 are originated, negotiated, funded, or serviced by the program
 140 licensee; or

141 (c) At which program loans are originated, negotiated,
 142 funded, or serviced by the program licensee.

143 (8) "Program licensee" means a person who is licensed to
 144 make and collect loans under this chapter and who is approved by
 145 the office to participate in the program.

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146 (9) "Program loan" means a consumer finance loan with a
 147 principal amount of at least \$300, but not more than \$7,500,
 148 originated pursuant to ss. 516.405-516.46, excluding the amount
 149 of the origination fee authorized under s. 516.43(3).

150 (10) "Refinance program loan" means a program loan that
 151 extends additional principal to a borrower and replaces and
 152 revises an existing program loan contract with the borrower. A
 153 refinance program loan does not include an extension, a
 154 deferral, or a rewrite of the program loan.

155 Section 3. Section 516.42, Florida Statutes, is created to
 156 read:

157 516.42 Requirements for program participation; program
 158 application requirements.-

159 (1) A person may not advertise, offer, or make a program
 160 loan, or impose any charges or fees pursuant to s. 516.43,
 161 unless the person obtains a pilot program license from the
 162 office.

163 (2) In order to obtain a pilot program license, a person
 164 must:

165 (a)1. Be licensed to make and collect consumer finance
 166 loans under s. 516.05; or

167 2. Submit the application for the license required in s.
 168 516.03 concurrently with the application for the program
 169 license. The application required by s. 516.03 must be approved
 170 and the license under that section must be issued in order to
 171 obtain the program license.

172 (b) Be accepted as a data furnisher by a consumer reporting
 173 agency.

174 (c) Demonstrate financial responsibility, experience,

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175 character, or general fitness, such as to command the confidence
 176 of the public and to warrant the belief that the business
 177 operated at the licensed or proposed location is lawful, honest,
 178 fair, efficient, and within the purposes of this chapter.

179 (d) Not be subject to the issuance of a cease and desist
 180 order; the issuance of a removal order; the denial, suspension,
 181 or revocation of a license; or any other action within the
 182 authority of the office, any financial regulatory agency in this
 183 state, or any other state or federal regulatory agency which
 184 affects the ability of the applicant to participate in the
 185 program.

186 (3)(a) A program applicant must file with the office a
 187 digital application in a form and manner prescribed by
 188 commission rule which contains all of the following information
 189 with respect to the applicant:

190 1. The legal business name and any other name under which
 191 the applicant operates.

192 2. The applicant's main address.

193 3. The applicant's telephone number and e-mail address.

194 4. The address of each program branch office.

195 5. The name, title, address, telephone number, and e-mail
 196 address of the applicant's contact person.

197 6. The applicant's license number, if the applicant is
 198 licensed under s. 516.05.

199 7. A statement as to whether the applicant intends to use
 200 the services of one or more access partners under s. 516.44.

201 8. A statement that the applicant has been accepted as a
 202 data furnisher by a consumer reporting agency and will report to
 203 a consumer reporting agency the payment performance of each

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204 borrower on all program loans.

205 9. The signature and certification of an authorized person
 206 of the applicant.

207 (b) A person who desires to participate in the program but
 208 who is not licensed to make consumer finance loans pursuant to
 209 s. 516.05 must concurrently submit the following digital
 210 applications in a form and manner specified in this chapter to
 211 the office:

212 1. An application pursuant to s. 516.03 for licensure to
 213 make consumer finance loans.

214 2. An application for admission to the program in
 215 accordance with paragraph (a).

216 (4) Except as otherwise provided in ss. 516.405-516.46, a
 217 program licensee is subject to all the laws and rules governing
 218 consumer finance loans under this chapter. A program license
 219 must be renewed biennially.

220 (5) Notwithstanding s. 516.05(3), only one program license
 221 is required for a person to make program loans under ss.
 222 516.405-516.46, regardless of whether the program licensee
 223 offers program loans to prospective borrowers at its own
 224 physical business locations, through access partners, or via an
 225 electronic access point through which a prospective borrower may
 226 directly access the website of the program licensee.

227 (6) Each branch office of a program licensee must be
 228 licensed under this section.

229 (7) The office shall issue a program branch office license
 230 to a program licensee after the office determines that the
 231 program licensee has submitted a completed electronic
 232 application for a program branch office license in a form

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233 prescribed by commission rule. The program branch office license
 234 must be issued in the name of the program licensee that
 235 maintains the branch office. An application is considered
 236 received for purposes of s. 120.60 upon receipt of a completed
 237 application form. The application for a program branch office
 238 license must contain the following information:

239 (a) The legal business name and any other name under which
 240 the applicant operates.

241 (b) The applicant's main address.

242 (c) The applicant's telephone number and e-mail address.

243 (d) The address of each program branch office.

244 (e) The name, title, address, telephone number, and e-mail
 245 address of the applicant's contact person.

246 (f) The applicant's license number, if the applicant is
 247 licensed under this chapter.

248 (g) The signature and certification of an authorized person
 249 of the applicant.

250 (8) Except as provided in subsection (9), a program branch
 251 office license must be renewed biennially at the time of
 252 renewing the program license.

253 (9) Notwithstanding subsection (7), the office may deny an
 254 initial or renewal application for a program license or program
 255 branch office license if the applicant or any person with power
 256 to direct the management or policies of the applicant's
 257 business:

258 (a) Fails to demonstrate financial responsibility,
 259 experience, character, or general fitness, such as to command
 260 the confidence of the public and to warrant the belief that the
 261 business operated at the licensed or proposed location is

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262 lawful, honest, fair, efficient, and within the purposes of this
 263 chapter.

264 (b) Pled nolo contendere to, or was convicted or found
 265 guilty of, a crime involving fraud, dishonest dealing, or any
 266 act of moral turpitude, regardless of whether adjudication was
 267 withheld.

268 (c) Is subject to the issuance of a cease and desist order;
 269 the issuance of a removal order; the denial, suspension, or
 270 revocation of a license; or any other action within the
 271 authority of the office, any financial regulatory agency in this
 272 state, or any other state or federal regulatory agency which
 273 affects the applicant's ability to participate in the program.

274 (10) The commission shall adopt rules to implement this
 275 section.

276 Section 4. Section 516.43, Florida Statutes, is created to
 277 read:

278 516.43 Requirements for program loans.—

279 (1) REQUIREMENTS.—A program licensee shall comply with each
 280 of the following requirements in making program loans:

281 (a) A program loan must be unsecured.

282 (b) A program loan must have:

283 1. A term of at least 120 days, but not more than 36
 284 months, for a loan with a principal balance upon origination of
 285 at least \$300, but not more than \$3,000.

286 2. A term of at least 12 months, but not more than 60
 287 months, for a loan with a principal balance upon origination of
 288 more than \$3,000.

289 (c) A borrower may not receive a program loan for a
 290 principal balance exceeding \$5,000 unless:

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291 1. The borrower has paid in full the outstanding principal,
 292 interest, and fees on a previous program loan;

293 2. The borrower's credit score increased from the time of
 294 application for the borrower's first consummated program loan;
 295 and

296 3. The borrower was never delinquent for more than 7 days
 297 on a previous program loan.

298 (d) A program loan may not impose a prepayment penalty. A
 299 program loan must be repayable by the borrower in substantially
 300 equal, periodic installments, except that the final payment may
 301 be less than the amount of the prior installments. Installments
 302 must be due either every 2 weeks, semimonthly, or monthly.

303 (e) A program loan must include a borrower's right to
 304 rescind the program loan by notifying the program licensee of
 305 the borrower's intent to rescind the program loan and returning
 306 the principal advanced by the end of the business day after the
 307 day the program loan is consummated.

308 (f) Notwithstanding s. 516.031, the maximum annual interest
 309 rate charged on a program loan to the borrower, which must be
 310 fixed for the duration of the program loan, is 36 percent on
 311 that portion of the unpaid principal balance up to and including
 312 \$3,000; 30 percent on that portion of the unpaid principal
 313 balance exceeding \$3,000 and up to and including \$4,000; and 24
 314 percent on that portion of the unpaid principal balance
 315 exceeding \$4,000 and up to and including \$7,500. The original
 316 principal amount of the program loan is equal to the amount
 317 financed as defined by the federal Truth in Lending Act and
 318 Regulation Z of the Board of Governors of the Federal Reserve
 319 System. In determining compliance with the maximum annual

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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320 interest rates in this paragraph, the computations used must be
 321 simple interest through the application of a daily periodic rate
 322 to the actual unpaid principal balance each day and may not be
 323 added-on interest or any other computations.

324 (g) If two or more interest rates are applied to the
 325 principal amount of a program loan, the program licensee may
 326 charge, contract for, and receive interest at that single annual
 327 percentage rate that, if applied according to the actuarial
 328 method to each of the scheduled periodic balances of principal,
 329 would produce at maturity the same total amount of interest as
 330 would result from the application of the two or more rates
 331 otherwise permitted, based upon the assumption that all payments
 332 are made as agreed.

333 (h) The program licensee shall reduce the interest rates
 334 specified in paragraph (f) on each subsequent program loan to
 335 the same borrower by a minimum of 1 percent, up to a maximum of
 336 6 percent, if all of the following conditions are met:

337 1. The subsequent program loan is originated within 180
 338 days after the prior program loan is fully repaid.

339 2. The borrower was never more than 15 days delinquent on
 340 the prior program loan.

341 3. The prior program loan was outstanding for at least one-
 342 half of its original term before its repayment.

343 (i) The program licensee may not induce or permit any
 344 person to become obligated to the program licensee, directly or
 345 contingently, or both, under more than one program loan at the
 346 same time with the program licensee.

347 (j) The program licensee may not refinance a program loan
 348 unless all of the following conditions are met at the time the

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349 borrower submits an application to refinance:
 350 1. The principal amount payable may not include more than
 351 60 days' unpaid interest accrued on the previous program loan
 352 pursuant to s. 516.031(5).
 353 2. For a program loan with an original term up to and
 354 including 25 months, the borrower has repaid at least 60 percent
 355 of the outstanding principal remaining on his or her existing
 356 program loan.
 357 3. For a program loan with an original term of more than 25
 358 months, but not more than 60 months, the borrower has made
 359 current payments for at least 9 months on his or her existing
 360 program loan.
 361 4. The borrower is current on payments for his or her
 362 existing program loan.
 363 5. The program licensee must underwrite the new program
 364 loan in accordance with subsection (7).
 365 (k) In lieu of the provisions of s. 687.08, the program
 366 licensee or, if applicable, its approved access partner shall
 367 make available to the borrower by electronic or physical means a
 368 plain and complete receipt of payment at the time that the
 369 borrower makes a loan payment. For audit purposes, the program
 370 licensee must maintain an electronic record for each receipt
 371 made available to a borrower. The electronic record must include
 372 a copy of the receipt and the date and time that the receipt was
 373 generated. Each receipt made available to the borrower must show
 374 all of the following:
 375 1. The name of the borrower.
 376 2. The name of the access partner, if applicable.
 377 3. The total payment amount received.

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378 4. The date of payment.
 379 5. The program loan balance before and after application of
 380 the payment.
 381 6. The amount of the payment which was applied to the
 382 principal, interest, and fees.
 383 7. The type of payment made by the borrower.
 384 8. The following statement, prominently displayed in a type
 385 size equal to or larger than the type size used to display the
 386 other items on the receipt: "If you have any questions about
 387 your loan now or in the future, you should direct those
 388 questions to ... (name of program licensee) ... by ... (at least
 389 two different ways in which a borrower may contact the program
 390 licensee)...."
 391 (1) A program licensee may make program loans only to
 392 residents of Broward, Miami-Dade, and Palm Beach Counties.
 393 (m) At least 85 percent of program loans annually issued by
 394 a program licensee must be provided to borrowers whose gross
 395 monthly income is less than \$6,250.
 396 (2) WRITTEN DISCLOSURES AND STATEMENTS.—
 397 (a) Notwithstanding s. 516.15(1), the loan contract and all
 398 written disclosures and statements may be provided by a program
 399 licensee to a borrower in English or in the language in which
 400 the loan is negotiated.
 401 (b) The program licensee shall provide to a borrower all
 402 the statements required of licensees under s. 516.15.
 403 (3) ORIGINATION FEES.—Notwithstanding s. 516.031, a program
 404 licensee may:
 405 (a) Contract for and receive an origination fee from a
 406 borrower on a program loan. The program licensee may either

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407 deduct the origination fee from the principal amount of the loan
 408 disbursed to the borrower or capitalize the origination fee into
 409 the principal balance of the loan. The origination fee is fully
 410 earned and nonrefundable immediately upon the making of the
 411 program loan and may not exceed the lesser of 6 percent of the
 412 principal amount of the program loan made to the borrower,
 413 exclusive of the origination fee, or \$90.

414 (b) Not charge a borrower an origination fee more than
 415 twice in any 12-month period.

416 (4) INSUFFICIENT FUNDS FEES AND DELINQUENCY CHARGES.—A
 417 program licensee may:

418 (a) Notwithstanding s. 516.031, require payment from a
 419 borrower of no more than \$20 for fees incurred by the program
 420 licensee from a dishonored payment due to insufficient funds of
 421 the borrower.

422 (b) Notwithstanding s. 516.031(3)(a)9., contract for and
 423 receive a delinquency charge for each payment in default for at
 424 least 7 days if the charge is agreed upon, in writing, between
 425 the program licensee and the borrower before it is imposed.

426 Delinquency charges may be imposed as follows:

427 1. For payments due monthly, the delinquency charge for a
 428 payment in default may not exceed \$15.

429 2. For payments due semimonthly, the delinquency charge for
 430 a payment in default may not exceed \$7.50.

431 3. For payments due every 2 weeks, the delinquency charge
 432 for a payment in default may not exceed \$7.50 if two payments
 433 are due within the same calendar month, and may not exceed \$5 if
 434 three payments are due within the same calendar month.

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436 The program licensee, or any wholly owned subsidiary of the
 437 program licensee, may not sell or assign an unpaid debt to an
 438 independent third party for collection purposes unless the debt
 439 has been delinquent for at least 30 days.

440 (5) CREDIT EDUCATION.—Before disbursement of program loan
 441 proceeds to the borrower, the program licensee must:

442 (a) Direct the borrower to the consumer credit counseling
 443 services offered by an independent third party; or

444 (b) Provide a credit education program or seminar to the
 445 borrower. The borrower is not required to participate in the
 446 education program or seminar. A credit education program or
 447 seminar offered pursuant to this paragraph must be provided at
 448 no cost to the borrower.

449 (6) CREDIT REPORTING.—

450 (a) The program licensee shall report each borrower's
 451 payment performance to at least two consumer reporting agencies.

452 (b) The office may not approve an applicant for the program
 453 license before the applicant has been accepted as a data
 454 furnisher by a consumer reporting agency.

455 (c) The program licensee shall provide each borrower with
 456 the names of the consumer reporting agencies to which it will
 457 report the borrower's payment history.

458 (7) PROGRAM LOAN UNDERWRITING.—

459 (a) The program licensee must underwrite each program loan
 460 to determine a borrower's ability and willingness to repay the
 461 program loan pursuant to the program loan terms. The program
 462 licensee may not make a program loan if it determines that the
 463 borrower's total monthly debt service payments at the time of
 464 origination, including the program loan for which the borrower

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465 is being considered and all outstanding forms of credit that can
 466 be independently verified by the program licensee, exceed 50
 467 percent of the borrower's gross monthly income for a loan of not
 468 more than \$3,000, or exceed 36 percent of the borrower's gross
 469 monthly income for a loan of more than \$3,000.

470 (b)1. The program licensee must seek information and
 471 documentation pertaining to all of a borrower's outstanding debt
 472 obligations during the loan application and underwriting
 473 process, including loans that are self-reported by the borrower
 474 but not available through independent verification. The program
 475 licensee must verify such information using a credit report from
 476 at least one consumer reporting agency or through other
 477 available electronic debt verification services that provide
 478 reliable evidence of a borrower's outstanding debt obligations.

479 2. The program licensee is not required to consider loans
 480 made to a borrower by friends or family in determining the
 481 borrower's debt-to-income ratio.

482 (c) The program licensee must verify the borrower's income
 483 to determine the debt-to-income ratio using information from:

484 1. Electronic means or services that provide reliable
 485 evidence of the borrower's actual income; or

486 2. The Internal Revenue Service Form W-2, tax returns,
 487 payroll receipts, bank statements, or other third-party
 488 documents that provide reasonably reliable evidence of the
 489 borrower's actual income.

490 (8) WAIVERS.—

491 (a) A program licensee may not require, as a condition of
 492 providing the program loan, that the borrower:

493 1. Waive any right, penalty, remedy, forum, or procedure

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494 provided for in any law applicable to the program loan,
 495 including the right to file and pursue a civil action or file a
 496 complaint with or otherwise communicate with the office, a
 497 court, or any other governmental entity.

498 2. Agree to the application of laws other than those of
 499 this state.

500 3. Agree to resolve disputes in a jurisdiction outside of
 501 this state.

502 (b) A waiver that is required as a condition of doing
 503 business with the program licensee is presumed involuntary,
 504 unconscionable, against public policy, and unenforceable.

505 (c) A program licensee may not refuse to do business with
 506 or discriminate against a borrower or an applicant on the basis
 507 of the borrower's or applicant's refusal to waive any right,
 508 penalty, remedy, forum, or procedure, including the right to
 509 file and pursue a civil action or complaint with, or otherwise
 510 communicate with, the office, a court, or any other governmental
 511 entity. The exercise of a person's right to refuse to waive any
 512 right, penalty, remedy, forum, or procedure, including a
 513 rejection of a contract requiring a waiver, does not affect any
 514 otherwise legal terms of a contract or an agreement.

515 (d) This subsection does not apply to any agreement to
 516 waive any right, penalty, remedy, forum, or procedure, including
 517 any agreement to arbitrate a claim or dispute after a claim or
 518 dispute has arisen. This subsection does not affect the
 519 enforceability or validity of any other provision of the
 520 contract.

521 (9) REGISTRY OF ACCESS PARTNERS.—A program licensee shall
 522 maintain a registry of all access partners that provide services

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523 to the program licensee. The program licensee shall provide a
 524 copy of the registry to the office at the time the program
 525 licensee files its report pursuant to s. 516.46(1). The office
 526 may not publish a registry in its report under s. 516.46(2).

527 Section 5. Section 516.44, Florida Statutes, is created to
 528 read:

529 516.44 Access partners.—

530 (1) ACCESS PARTNER AGREEMENT.—All arrangements between a
 531 program licensee and an access partner must be specified in a
 532 written access partner agreement between the parties. The
 533 agreement must contain the following provisions:

534 (a) The access partner agrees to comply with this section
 535 and all rules adopted under this section regarding the
 536 activities of access partners.

537 (b) The office has access to the access partner's books and
 538 records pertaining to the access partner's operations under the
 539 agreement with the program licensee in accordance with s.
 540 516.45(3) and may examine the access partner pursuant to s.
 541 516.45.

542 (2) AUTHORIZED SERVICES.—A program licensee may use the
 543 services of one or more access partners as provided in this
 544 section. An access partner may perform one or more of the
 545 following services from its physical business location for the
 546 program licensee:

547 (a) Distributing, circulating, using, or publishing printed
 548 brochures, flyers, fact sheets, or other written materials
 549 relating to program loans that the program licensee may make or
 550 negotiate. The written materials must be reviewed and approved
 551 in writing by the program licensee before being distributed,

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552 circulated, used, or published.

553 (b) Providing written factual information about program
 554 loan terms, conditions, or qualification requirements to a
 555 prospective borrower which has been prepared by the program
 556 licensee or reviewed and approved in writing by the program
 557 licensee. An access partner may discuss the information with a
 558 prospective borrower in general terms.

559 (c) Notifying a prospective borrower of the information
 560 needed in order to complete a program loan application.

561 (d) Entering information provided by the prospective
 562 borrower on a preprinted or an electronic application form or in
 563 a preformatted computer database.

564 (e) Assembling credit applications and other materials
 565 obtained in the course of a credit application transaction for
 566 submission to the program licensee.

567 (f) Contacting the program licensee to determine the status
 568 of a program loan application.

569 (g) Communicating a response that is returned by the
 570 program licensee's automated underwriting system to a borrower
 571 or a prospective borrower.

572 (h) Obtaining a borrower's signature on documents prepared
 573 by the program licensee and delivering final copies of the
 574 documents to the borrower.

575 (i) Disbursing program loan proceeds to a borrower if this
 576 method of disbursement is acceptable to the borrower, subject to
 577 the requirements of subsection (3). A loan disbursement made by
 578 an access partner under this paragraph is deemed to be made by
 579 the program licensee on the date that the funds are disbursed or
 580 otherwise made available by the access partner to the borrower.

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581 (j) Receiving a program loan payment from the borrower if
 582 this method of payment is acceptable to the borrower, subject to
 583 the requirements of subsection (3).

584 (k) Operating an electronic access point through which a
 585 prospective borrower may directly access the website of the
 586 program licensee to apply for a program loan.

587 (3) RECEIPT OR DISBURSEMENT OF PROGRAM LOAN PAYMENTS.—

588 (a) A loan payment made by a borrower to an access partner
 589 under paragraph (2)(j) must be applied to the borrower's program
 590 loan and deemed received by the program licensee as of the date
 591 on which the payment is received by the access partner.

592 (b) An access partner that receives a loan payment from a
 593 borrower must deliver or cause to be delivered to the borrower a
 594 plain and complete receipt showing all of the information
 595 specified in s. 516.43(1)(k) at the time that the borrower makes
 596 the payment.

597 (c) A borrower who submits a loan payment to an access
 598 partner under this subsection is not liable for a failure or
 599 delay by the access partner in transmitting the payment to the
 600 program licensee.

601 (d) An access partner that disburses or receives loan
 602 payments pursuant to paragraph (2)(i) or paragraph (2)(j) must
 603 maintain records of all disbursements made and loan payments
 604 received for at least 2 years.

605 (4) PROHIBITED ACTIVITIES.—An access partner may not:

606 (a) Provide counseling or advice to a borrower or
 607 prospective borrower with respect to any loan term.

608 (b) Provide loan-related marketing material that has not
 609 previously been approved by the program licensee to a borrower

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610 or a prospective borrower.

611 (c) Negotiate a loan term between a program licensee and a
 612 prospective borrower.

613 (d) Offer information pertaining to a single prospective
 614 borrower to more than one program licensee. However, if a
 615 program licensee has declined to offer a program loan to a
 616 prospective borrower and has so notified the prospective
 617 borrower in writing, the access partner may then offer
 618 information pertaining to that borrower to another program
 619 licensee with whom it has an access partner agreement.

620 (e) Except for the purpose of assisting a borrower in
 621 obtaining a refinance program loan, offer information pertaining
 622 to a prospective borrower to any program licensee if the
 623 prospective borrower has an outstanding program loan.

624 (f) Charge a borrower any fee for a program loan.

625 (g) Perform any service for a program licensee at a
 626 pawnshop as defined in s. 539.001(2).

627 (h) Perform any service for a program licensee at a pari-
 628 mutuel facility as defined in s. 550.002, or at any facility
 629 where covered games, as authorized under s. 285.710, are
 630 conducted.

631 (5) DISCLOSURE STATEMENTS.—

632 (a) At the time that the access partner receives or
 633 processes an application for a program loan, the access partner
 634 shall provide the following statement to the applicant on behalf
 635 of the program licensee, in at least 10-point type, and shall
 636 request that the applicant acknowledge receipt of the statement
 637 in writing:

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639 Your loan application has been referred to us by
 640 ...(name of access partner).... We may pay a fee to
 641 ...(name of access partner)... for the successful
 642 referral of your loan application. If you are approved
 643 for the loan, ...(name of program licensee)... will
 644 become your lender. If you have any questions about
 645 your loan, now or in the future, you should direct
 646 those questions to ...(name of program licensee)... by
 647 ...(insert at least two different ways in which a
 648 borrower may contact the program licensee).... If you
 649 wish to report a complaint about ...(name of access
 650 partner)... or ...(name of program licensee)...
 651 regarding this loan transaction, you may contact the
 652 Division of Consumer Finance of the Office of
 653 Financial Regulation at (850) 487-9687 or
 654 http://www.flofr.com.

655

656 (b) If the loan applicant has questions about the program
 657 loan which the access partner is not permitted to answer, the
 658 access partner must make a good faith effort to assist the
 659 applicant in making direct contact with the program licensee
 660 before the program loan is consummated.

661 (6) COMPENSATION.-
 662 (a) The program licensee may compensate an access partner
 663 in accordance with a written agreement and a compensation
 664 schedule that is agreed to by the program licensee and the
 665 access partner, subject to the requirements in paragraph (b).
 666 (b) The compensation of an access partner by a program
 667 licensee is subject to the following requirements:

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668 1. Compensation may not be paid to an access partner in
 669 connection with a loan application unless the program loan is
 670 consummated.

671 2. The access partner's location for services and other
 672 information required in subsection (7) must be reported to the
 673 office.

674 3. Compensation paid by the program licensee to the access
 675 partner may not exceed \$65 per program loan, on average, plus \$2
 676 per payment received by the access partner on behalf of the
 677 program licensee for the duration of the program loan, and may
 678 not be charged directly or indirectly to the borrower.

679 (7) NOTICE TO OFFICE.-A program licensee that uses the
 680 service of an access partner must notify the office, in a form
 681 and manner prescribed by commission rule, within 15 days after
 682 entering into a contract with an access partner regarding all of
 683 the following:

684 (a) The name, business address, and licensing details of
 685 the access partner and all locations at which the access partner
 686 will perform services under this section.

687 (b) The name and contact information for an employee of the
 688 access partner who is knowledgeable about, and has the authority
 689 to execute, the access partner agreement.

690 (c) The name and contact information of one or more
 691 employees of the access partner who are responsible for that
 692 access partner's referring activities on behalf of the program
 693 licensee.

694 (d) A statement by the program licensee that it has
 695 conducted due diligence with respect to the access partner and
 696 has confirmed that none of the following applies:

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697 1. The filing of a petition under the United States
 698 Bankruptcy Code for bankruptcy or reorganization by the access
 699 partner.

700 2. The commencement of an administrative or a judicial
 701 license suspension or revocation proceeding, or the denial of a
 702 license request or renewal, by any state, the District of
 703 Columbia, any United States territory, or any foreign country in
 704 which the access partner operates, plans to operate, or is
 705 licensed to operate.

706 3. A felony indictment involving the access partner or an
 707 affiliated party.

708 4. The felony conviction, guilty plea, or plea of nolo
 709 contendere, regardless of adjudication, of the access partner or
 710 an affiliated party.

711 5. Any suspected criminal act perpetrated in this state
 712 relating to activities regulated under this chapter by the
 713 access partner.

714 6. Notification by a law enforcement or prosecutorial
 715 agency that the access partner is under criminal investigation,
 716 including, but not limited to, subpoenas to produce records or
 717 testimony and warrants issued by a court of competent
 718 jurisdiction which authorize the search and seizure of any
 719 records relating to a business activity regulated under this
 720 chapter.

721

722 As used in this paragraph, the term "affiliated party" means a
 723 director, officer, control person, employee, or foreign
 724 affiliate of an access partner; or a person who has a
 725 controlling interest in an access partner.

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726 (e) Any other information requested by the office, subject
 727 to the limitations specified in s. 516.45(3).

728 (8) NOTICE OF CHANGES.—An access partner must provide the
 729 program licensee with a written notice sent by registered mail
 730 within 30 days after any change is made to the information
 731 specified in paragraphs (7)(a)-(c) and within 30 days after the
 732 occurrence or knowledge of any of the events specified in
 733 paragraph (7)(d).

734 (9) RESPONSIBILITY FOR ACTS OF AN ACCESS PARTNER.—A program
 735 licensee is responsible for any act of its access partner if the
 736 act is a violation of this chapter.

737 (10) RULEMAKING.—The commission shall adopt rules to
 738 implement this section.

739 Section 6. Section 516.45, Florida Statutes, is created to
 740 read:

741 516.45 Examinations, investigations, and grounds for
 742 disciplinary action.—

743 (1) Notwithstanding any other law, the office shall examine
 744 each program licensee that is accepted into the program in
 745 accordance with this chapter.

746 (2) Notwithstanding subsection (1), the office may waive
 747 one or more branch office examinations if the office finds that
 748 such examinations are not necessary for the protection of the
 749 public due to the centralized operations of the program licensee
 750 or other factors acceptable to the office.

751 (3) The scope of any investigation or examination of a
 752 program licensee or access partner must be limited to those
 753 books, accounts, records, documents, materials, and matters
 754 reasonably necessary to determine compliance with this chapter.

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755 (4) A program licensee who violates any applicable
 756 provision of this chapter is subject to disciplinary action
 757 pursuant to s. 516.07(2). Any such disciplinary action is
 758 subject to s. 120.60. The program licensee is also subject to
 759 disciplinary action for a violation of s. 516.44 committed by
 760 any of its access partners.

761 (5) The office may take any of the following actions
 762 against an access partner who violates s. 516.44:

763 (a) Bar the access partner from performing services under
 764 this chapter.

765 (b) Bar the access partner from performing services at one
 766 or more of its specific locations.

767 (c) Impose an administrative fine on the access partner of
 768 up to \$5,000 in a calendar year.

769 (6) The commission shall adopt rules to implement this
 770 section.

771 Section 7. Section 516.46, Florida Statutes, is created to
 772 read:

773 516.46 Annual reports by program licensees and the office.-

774 (1) By March 15, 2022, and each year thereafter, a program
 775 licensee shall file a report with the office on a form and in a
 776 manner prescribed by commission rule. The report must include
 777 each of the items specified in subsection (2) for the preceding
 778 year using aggregated or anonymized data without reference to
 779 any borrower's nonpublic personal information or any program
 780 licensee's or access partner's proprietary or trade secret
 781 information.

782 (2) By January 1, 2023, and each year thereafter, the
 783 office shall post a report on its website summarizing the use of

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784 the program based on the information contained in the reports
 785 filed in the preceding year by program licensees under
 786 subsection (1). The office's report must publish the information
 787 in the aggregate so as not to identify data by any specific
 788 program licensee. The report must specify the period to which
 789 the report corresponds and must include, but is not limited to,
 790 the following for that period:

791 (a) The number of applicants approved for a program license
 792 by the office.

793 (b) The number of program loan applications received by
 794 program licensees, the number of program loans made under the
 795 program, the total amount loaned, the distribution of loan
 796 lengths upon origination, and the distribution of interest rates
 797 and principal amounts upon origination among those program
 798 loans.

799 (c) The number of borrowers who obtained more than one
 800 program loan and the distribution of the number of program loans
 801 per borrower.

802 (d) Of those borrowers who obtained more than one program
 803 loan and had a credit score by the time of their subsequent
 804 loan, the percentage of those borrowers whose credit scores
 805 increased between successive loans, based on information from at
 806 least one major credit bureau, and the average size of the
 807 increase. In each case, the report must include the name of the
 808 credit score, such as FICO or VantageScore, which the program
 809 licensee is required to disclose.

810 (e) The income distribution of borrowers upon program loan
 811 origination, including the number of borrowers who obtained at
 812 least one program loan and who resided in a low-income or

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813 moderate-income census tract at the time of their loan
 814 applications.

815 (f) The number of borrowers who obtained program loans for
 816 the following purposes, based on the borrowers' responses at the
 817 time of their loan applications indicating the primary purpose
 818 for which the program loans were obtained:

819 1. To pay medical expenses.
 820 2. To pay for vehicle repair or a vehicle purchase.
 821 3. To pay bills.
 822 4. To consolidate debt.
 823 5. To build or repair credit history.
 824 6. To finance a small business.
 825 7. To pay other expenses.

826 (g) The number of borrowers who self-report that they had a
 827 bank account at the time of their loan application and the
 828 number of borrowers who self-report that they did not have a
 829 bank account at the time of their loan application.

830 (h) For refinance program loans:

831 1. The number and percentage of borrowers who applied for a
 832 refinance program loan.

833 2. Of those borrowers who applied for a refinance program
 834 loan, the number and percentage of borrowers who obtained a
 835 refinance program loan.

836 (i) The performance of program loans as reflected by all of
 837 the following:

838 1. The number and percentage of borrowers who experienced
 839 at least one delinquency lasting between 7 and 29 days and the
 840 distribution of principal loan amounts corresponding to those
 841 delinquencies.

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842 2. The number and percentage of borrowers who experienced
 843 at least one delinquency lasting between 30 and 59 days and the
 844 distribution of principal loan amounts corresponding to those
 845 delinquencies.

846 3. The number and percentage of borrowers who experienced
 847 at least one delinquency lasting 60 days or more and the
 848 distribution of principal loan amounts corresponding to those
 849 delinquencies.

850 (3) The commission shall adopt rules to implement this
 851 section.

852 Section 8. Sections 516.405-516.46, Florida Statutes, are
 853 repealed on July 1, 2030, unless reenacted or superseded by
 854 another law enacted by the Legislature before that date.

855 Section 9. For the 2020-2021 fiscal year, the sum of
 856 \$407,520 in nonrecurring funds from the Administrative Trust
 857 Fund is appropriated to the Office of Financial Regulation for
 858 the purpose of implementing this act.

859 Section 10. This act shall take effect January 1, 2021.



2020 AGENCY LEGISLATIVE BILL ANALYSIS Florida Office of Financial Regulation

<u>BILL INFORMATION</u>	
BILL NUMBER:	SB 894
BILL TITLE:	Business Services
BILL SPONSOR:	Senator Rouson
EFFECTIVE DATE:	January 1, 2021

<u>COMMITTEES OF REFERENCE</u>
1) Banking and Insurance
2) Appropriations
3) Rules
4)
5)

<u>CURRENT COMMITTEE</u>
Banking and Insurance

<u>SIMILAR BILLS</u>	
BILL NUMBER:	HB 857
SPONSOR:	Representative Fernandez-Barquin/Perez

<u>PREVIOUS LEGISLATION</u>	
BILL NUMBER:	SB 874
SPONSOR:	Senator Rouson
YEAR:	2019
LAST ACTION:	Died in Messages

<u>IDENTICAL BILLS</u>	
BILL NUMBER:	
SPONSOR:	

Is this bill part of an agency package?
No

<u>BILL ANALYSIS INFORMATION</u>	
DATE OF ANALYSIS:	January 10, 2020
LEAD AGENCY ANALYST:	Alexander J. Anderson, Director of Legislative Affairs (850) 410-9601
ADDITIONAL ANALYST(S):	Gregory C. Oaks, Director, Division of Consumer Finance (850) 410-9601
LEGAL ANALYST:	Tony Cammarata, General Counsel (850) 410-9601
FISCAL ANALYST:	Mark Hammett, Budget Director (850) 410-9601

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

This legislation seeks to create SS. 516.405-516.46, F.S. The new provisions within that statute would establish a pilot program entitled Access to Responsible Credit Pilot Program. The pilot program would begin January 1, 2021 and would expire July 1, 2030, unless reenacted or superseded by another law enacted by the Legislature before that date.

The pilot program would create a new license type under chapter 516, F.S., requiring persons wishing to obtain a program license to submit a program license application and either hold a consumer finance license issued under s. 516.05, F.S., or submit a consumer finance license application concurrently with the program license application.

In addition, the bill would allow for the creation of branch offices. Each branch office would hold a program license.

Additionally, the pilot program would allow a program licensee to utilize access partners to perform certain program loan services on behalf of the program licensee. An access partner would not receive compensation from a program licensee in connection with a program loan application unless the program loan is consummated.

The pilot program would allow consumers to enter into an unsecured program loan with a principal amount of at least \$300 up to a maximum of \$7,500. For loans of at least \$300, but not more than \$3,000, the loan would be for a term of at least 120 days, but not more than 36 months. For loans over \$3,000, the loan would be for a term of at least 12 months, but no more than 60 months. The maximum allowable interest rate that can be charged to a borrower for a loan up to and including \$3,000 is 36%, for a loan over \$3,000 and up to and including \$4,000 is 30%, for a loan over \$4,000 and up to and including \$7,500 is 24%. Additionally, the interest rate must accrue on a simple-interest basis and must be fixed for the duration of the program loan. The borrower has a right to rescind the loan and return the principal advanced by the end of the business day after consummation of the loan. A loan must be paid in substantially equal periodic payments which are due either every two weeks, semimonthly, or monthly; and may not have a prepayment penalty. A program licensee may also charge the borrower an origination fee of six percent (6%) of the principal amount of the loan or \$90, whichever is less. A program licensee must not make a program loan if the borrower's total monthly debt service payments at the time of origination, including the program loan, and all outstanding forms of credit exceed 50 percent (50%) of the borrower's gross monthly income for a loan of \$3,000 or less or exceed 36 percent (36%) of the borrower's gross monthly income for a loan more than \$3,000. A program licensee may make program loans to residents of Broward, Miami-Dade, and Palm Beach counties only and at least 85% of the program loans annually issued by a program licensee must be provided to borrowers whose gross monthly income is less than \$6,250.

The bill also provides the Office with authority to conduct mandatory examinations of a program licensee and to initiate administrative action including a maximum administrative fine of \$5,000 annually.

Lastly, the bill requires a program licensee to file an annual report beginning March 15, 2022 containing aggregated or anonymized data without reference to a particular program licensee's or access partner's proprietary or trade secret information. From this data, the office must produce an annual report beginning January 1, 2023 and posted on its website summarizing the use of the program.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Under the current provisions of chapter 516, F.S., in order to lend any amount up to \$25,000 and charge an interest greater than 18% per annum, a person must be licensed as a consumer finance company. The maximum interest rates on a consumer finance loan are incremental: 30% per annum, computed on the first \$3,000 of the principal amount; 24% per annum computed on the part of the principal amount exceeding \$3,000 and up to \$4,000; and 18% per annum on the part of the principal exceeding \$4,000 and up to \$25,000.

In addition to interest charges, current law allows a consumer finance company licensee to charge the following: an amount up to \$25 for costs related to investigating the character and credit of the borrower; an annual fee of \$25 on each line-of-credit account; charges paid for the brokerage fee on a loan or line of credit of more than \$10,000; a delinquency charge of up to \$15 for each payment in default for at least 10 days if the charge is agreed upon, in writing, between the parties before imposing the charge; and certain other allowable ancillary fees and charges related to the loan. See S. 516.031(3), F.S.

If all or part of the consideration for a new loan contract is the unpaid principal balance of a prior loan, the principal amount payable under the new loan contract may include not more than 60 days' unpaid interest accrued on the prior loan.

There is no minimum or maximum loan term. However, every loan made pursuant to chapter 516, F.S., except for lines of credit, are to be repaid in periodic installments as nearly equal as mathematically practicable, except that the final payment may be less than the amount of the prior installments. Installments may be due every 2 weeks, semimonthly, or monthly.

Each location of a consumer finance company is required to hold a consumer finance license.

Current law does not require reports to be issued by the OFR regarding consumer finance loans.

2. EFFECT OF THE BILL:

The bill would require the Office to draft rule language needed to implement ss. 516.42 (relating to requirements for program participation and program license applications), 516.44 (relating to access partners), 516.45 (relating to examinations, investigations, and grounds for disciplinary action) and 516.46 (relating to annual reports filed by the program licensee and the online summarized report required of the Office). Before the rules become effective, the Office must appear before the Financial Services Commission ("Commission"), comprised of the Governor and Cabinet, to request permission to Notice the Proposed Rules in the Florida Administrative Register and the Office must again appear before the Commission to request permission to file the rules for Final Adoption with the Department of State. Because the Office must appear before the Commission at the beginning and end of the rulemaking process, adoption of rules may extend beyond the standard 90-day period.

Additionally, the legislation directs program license applicants and program branch office license applicants to file electronic applications. Implementation of this provision will require configuration and other updates to the Office's Regulatory Enforcement and Licensing (REAL) system internal system and website including the creation of electronic forms for applications and reporting.

Once the Office receives a program license application, Office staff must examine each application to determine the following:

- Whether the applicant has submitted a completed program loan application in a form and manner prescribed by commission rule (will require rulemaking);
- Whether the applicant holds a consumer finance license with the Office issued pursuant to s. 516.05 or has concurrently submitted a consumer finance license application as required under s. 516.03.;
- Whether the applicant has been accepted by a data furnisher by a consumer reporting agency, which is proven using a statement provided by the applicant that the applicant has been accepted;
- Whether the applicant demonstrates financial responsibility, experience, character and general fitness to command the confidence of the Office. The legislation does not address how an applicant must make such proof. It will be necessary for the Office to draft rules addressing the needed evidence; and
- Whether an applicant is subject to the issuance of a cease and desist order, removal order, denial suspension, or revocation, or any other action within the authority of the Office, any financial regulatory agency in the state of Florida, or any other state or federal regulatory agency which affects the ability of the applicant to participate in the program. The legislation does not define the term "which affects the ability of the applicant to participate in the program," which could lead to litigation if the Office denies an application on this basis. To avoid prolonging the application process and/or engaging in extended litigation, the Office will need to define this term via rule.

Once the Office receives a program branch office license application, the legislation directs the Office to approve the license application if certain requirements are met. As part of that process, Office staff must examine each

application to determine whether the applicant has submitted a completed program loan application in a form and manner prescribed by commission rule (will require rulemaking).

The legislation grants the Office the authority to deny an initial or renewal program license or program branch office license if the applicant or any person with power to direct the management or policies of the applicant's business "Any person with power to direct the management or policies of the applicant's" is not defined in the provisions. (This term will need to be defined through rulemaking):

- Fails to demonstrate financial responsibility, experience, character and general fitness to command the confidence of the Office;
- Pled nolo contendere to, or was convicted or found guilty of, a crime involving fraud, dishonest dealing, or any act of moral turpitude, regardless of whether adjudication was withheld; and
- Is subject to the issuance of a cease and desist order, removal order, denial suspension, or revocation, or any other action within the authority of the Office, any financial regulatory agency in the state of Florida, or any other state or federal regulatory agency which affects the ability of the applicant to participate in the program. As stated above, the Office will need to by rule, define the term "which affects the ability of the applicant to participate in the program."

The legislation specifically states that the Office may deny a program loan application based on an applicant's criminal conviction and pleas; however, the legislation does not address whether the Office may deny an application based on pending criminal prosecution. The legislation does; however, contain a blanket statement applying all laws and rules governing consumer finance loans to program loan applicants (unless otherwise provided in ss. 516.405-516.45), which may allow the Office to proceed under s. 516.05(8). F.S. S. 516.05(8) states, "the office may refuse to process an initial application for a license if the applicant or any person with power to direct the management or policies of the applicant's business is the subject of a pending criminal prosecution in any jurisdiction until conclusion of such criminal prosecution."

The legislation directs the Commission to adopt rules implementing s. 516.44 related to access partners. An access partner is defined in s. 516.41(1) as, "an entity that, at one or more physical business locations owned or rented by the entity, performs one or more of the services authorized in s. 516.44(2) on behalf of the program licensee." The definition includes in the term a listing of select entities and their agents. The bill requires a program licensee to notify the Office in a form and manner prescribed by commission rule, within 15 days after entering into a contract with an access partner regarding the following:

- The access partner's identifying information and licensing details;
- Name and contact info of the access partner employee who is knowledgeable about and has the authority to execute access partner agreements;
- Name and contact info of the access partner employee who is responsible for referring activities;
- A statement by the program licensee that it has conducted due diligence with respect to the access partner and has confirmed that none of the following applies:
 - The filing of a bankruptcy petition under the United States Bankruptcy Code or reorganization by an access partner;
 - The commencement of an administrative or judicial license suspension or revocation proceeding, or the denial of a license request or renewal;
 - A felony indictment involving the access partner or an affiliated party (See General Counsel's comments regarding the term *affiliated party*).
 - A felony conviction, guilty plea, or plea of nolo contendere, regardless of adjudication, of the access partner or affiliated party
 - Any suspected criminal act perpetrated in Florida relating to activities regulated under chapter 516; and
 - Notification by a law enforcement or prosecutorial agency that the access partner is under criminal investigation, including but not limited to, subpoenas and search warrants; and
- Any other information requested by the Office, subject to the limitations of s. 516.45(3) related to exams.

The legislation directs the Commission to adopt rules implementing s.516.45 relating to examinations, investigations, and disciplinary actions. As provided in the bill, the Office is directed to examine licensees in accordance with chapter 516. Chapter 516 requires the Office to examine licensees or other person at intermittent periods as it deems necessary to determine compliance; however, such examinations may not occur more than once a year unless the Office has reason to believe the licensee is not in compliance.

The legislation grants the Office the authority to subject a program licensee to disciplinary action pursuant to s. 516.07(2) for violations of chapter 516 and subjects an access partner to disciplinary action for violations of s.516.44. Disciplinary action taken against an access partner includes the following:

- Barring an access partner from performing services under chapter 516;
- Barring an access partner from performing services at one or more of its specific locations; and
- Imposing an administrative fine of up to \$5,000 in a calendar year.

The legislation directs the Commission to adopt rules implementing s.516.516.46 relating to reports. Under this section, the Office is required to post a report on its website beginning January 1, 2023, and each year thereafter, summarizing information received from the program licensee via a filed report, including:

- Utilization of the pilot program;
- Number of approved program license applicants;
- Number of program loan applications received by an applicant, number of program loans made under the program, total amount loaned, distribution of loan lengths upon origination, distribution of interest rates and principal amounts upon origination;
- Number of borrowers who obtained more than one program loan and the distribution of the number of loans per borrower;
- Of the borrowers who obtained more than one program loan and had a credit score by the time of their subsequent loan, the percentage of those borrowers whose credit scores increased between successive loans, based on information from at least one credit bureau, and the average size of the increase;
- The income distribution of borrowers upon program loan origination, including the number of borrowers who obtained at least one program loan and who resided in a low-income or moderate-income census tract at the time of their loan applications;
- Number of borrowers who received the loan for certain purposes, including but not limited to, medical, bill repayment, vehicle repairs, and debt consolidation;
- The number of borrowers who did and did not self-report a bank account at the time of their loan application;
- For refinance program loans:
 - The number and percentage of borrowers who applied;
 - Of those who applied, the number and percentage of borrowers who obtained a refinance program loan;
 - The performance of program loans as reflected by:
 - The number and percentage of borrowers who experienced at least one delinquency lasting between 7 and 29 days and the distribution of principal loan amounts correspondent to those delinquencies;
 - The number and percentage of borrowers who experienced at least one delinquency lasting between 30 and 59 days and the distribution of principal loan amounts correspondent to those delinquencies;
 - number and percentage of borrowers who experienced at least one delinquency lasting 60 days or more and the distribution of principal loan amounts correspondent to those delinquencies.

3. DOES THE LEGISLATION DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? Y N

If yes, explain:	The bill directs the Financial Services Commission to adopt rules related to application forms; notification of access partners; examinations, investigations, disciplinary action; and filing of program licensee reports. Additionally, the bill grants the Office general rulemaking authority to implement ss. 516.42, 516.44, 516.45 and 516.46, F.S.
Is the change consistent with the agency's core mission?	Y <input type="checkbox"/> N <input checked="" type="checkbox"/>

Rule(s) impacted (provide references to F.A.C., etc.):	The proposed legislation would require the OFR to adopt new rules in rule Chapter 69V-160, F.A.C., and amend sections 69V-160.001, 032, .036, & .111, F.A.C.
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4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

Proponents and summary of position:	Unknown
Opponents and summary of position:	Unknown

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? Y N

If yes, provide a description:	The OFR must post a comprehensive report on its website summarizing the use of the pilot program.
Date Due:	January 1, 2023 and each year thereafter
Bill Section Number(s):	Section 7

6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL? Y N

Board:	
Board Purpose:	
Who Appoints:	
Changes:	
Bill Section Number(s):	

FISCAL ANALYSIS

1. FISCAL IMPACT TO LOCAL GOVERNMENT Y N

Revenues:	Unknown
Expenditures:	Unknown
Does the legislation increase local taxes or fees? If yes, explain.	Unknown
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	N/A

2. FISCAL IMPACT TO STATE GOVERNMENT

Y N

Revenues:	None. The bill does not authorize the agency to charge initial program license application fees, program license biennial renewal fees, initial program branch office application fees, program branch office biennial renewal fees, access partner notification fees, or examination fees.
Expenditures:	<p>OFR resources will be required to process applications; process access partner notices, process complaints; examine records of program licensees and access partners; and, if necessary, initiate enforcement actions for non-compliance or fraud. Based on the June 2018 Annual Report by the California Department of Business Oversight, the state of California had a total of sixteen program licenses. During the calendar year 2018, California received one program license application. As of December 20, 2019, the Office has 38 distinct entities licensed as consumer finance companies operating at 55 locations located in Palm Beach, Broward, and Miami-Dade counties. Assuming a comparable number of businesses apply to become a program licensee as in California and existing consumer finance licensees also apply for a program license based on geographical constraints, the OFR estimates that it would need one full-time equivalent position to handle the additional regulatory duties and responsibilities proposed in this bill.</p> <p>The fiscal impact to the Office for salaries and benefits for one full-time equivalent position is as follows:</p> <p>Total recurring costs of \$65,266.32</p> <p>Total non-recurring costs of \$10,000.00</p> <p>The OFR would also incur insignificant costs associated with rulemaking which can be absorbed within its current budget.</p> <p>See also 'Technology Impact' for the fiscal impact associated with technology implementation.</p>
Does the legislation contain a State Government appropriation?	Yes, non-recurring costs of \$407,520 from the Administrative Trust Fund to cover the technological impact to the Office.
If yes, was this appropriated last year?	No

3. FISCAL IMPACT TO THE PRIVATE SECTOR

Y N

Revenues:	Unknown
Expenditures:	Unknown
Other:	N/A

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?

Y N

If yes, explain impact.	
Bill Section Number:	

TECHNOLOGY IMPACT

1. DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)? Y N

If yes, describe the anticipated impact to the agency including any fiscal impact.	The bill will require configuration and other updates to the Office's Regulatory Enforcement and Licensing (REAL) system internal system and website including the creation of electronic forms for applications and reporting. Implementing such changes would cost the agency an estimated \$407,000.
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FEDERAL IMPACT

1. DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y N

If yes, describe the anticipated impact including any fiscal impact.	<p>This bill defines the term "consumer reporting agency" as that found in the Fair Credit Reporting Act, 15 U.S.C. s. 1681a(p).</p> <p>This bill defines the term "credit score" as that found in the Fair Credit Reporting Act, 15 U.S.C. s. 1681g(f)(2)(A).</p> <p>This bill defines the term, "data furnisher" as that found in 12 C.F.R. s. 1022.41(c).</p> <p>This bill defines the amount financed pursuant to the provisions of the federal Truth in Lending Act and Regulation Z of the Board of Governors of the Federal Reserve System.</p>
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ADDITIONAL COMMENTS

1. Lines 97-100: The definition of access partner includes agents of the entities. It is not clear who the agents are. It is not clear if they affiliated parties as defined in 516.44(7)(d)6. It is not clear if the agents are subject to the provisions of 516.07 and 516.44(7).
2. Lines 103-105: Pursuant to 516.02(4), banks and credit unions are exempt from the requirements of chapter 516.
3. Line 113: Depending on who fits under this definition, exemption of 516.02(4) may apply here as well.
4. Line 113: It is not clear if "financial services providers" hold an occupational license or professional certification.
5. Lines 183-185 & 272-273: As this requirement is different for consumer finance company licensees, it would be helpful to have guidelines here that explain the term "affects the ability of the applicant to participate in the program."
6. Lines 218-219: Requires the biennial licensure of program licenses. Consumer finance licenses are also biennial but renewed every odd-numbered year. Potentially, the agency will have to review and the licensee will have to renew a different license type each year. Perhaps the biennial licensure of program licensees should take place every odd-numbered year as well in order to fall in step with the licensing requirements of consumer finance licenses.
7. Lines 250-252: It is not clear if this requires the biennial licensure of program branch office license. Same problem as noted in paragraph above.
8. 253-257: It is not clear if the term "any person with power to direct the management or policies of the applicant's business include a control person as defined in 516.01(8).
9. Lines 303-307: It is not clear how such notification take place-written, oral, etc.
10. Lines 470-478. This provision appears to be contradictory. The provision requires a program licensee to verify loans that are **not** available through independent verification using a credit report or other electronic debt verification.
11. 700-705: This provision allows an access partner to act on behalf of a program licensee even if the affiliated party is subject to an administrative or judicial licensing action, which results in less protection for borrowers.
12. Lines 714-720: It is unclear if the term **criminal investigation** includes pending criminal prosecutions. If not, this provision allows both the access partner and affiliated party to act on behalf of a program licensee during the pendency of a pending prosecution, resulting in less protection for consumers. Additionally, this provision

- allows an access partner to act on behalf of a program licensee even if the affiliated party is subject to a criminal investigation, again, resulting in less protection for consumers.
13. Lines 706-707: It is not clear whether this provision would include the filing of a criminal “Information” in state criminal court involving the access partner or affiliated party.
 14. Lines 396-400: Provides that the program loan contracts, written disclosures, and statements may be provided to the borrower in English or in the language in which the loan is negotiated; however, the bill does not enable the Office to collect fees for translating the contracts as part of its examination requirement.
 15. Lines 253-257: Provides that the Office may deny an initial or renewal program license or program branch office license if the person is subject to certain actions. This provision fails to define the term “any person with power to direct the management or policies of the applicant’s business.” It is not clear how such persons would acquire the power to direct the management or policies of applicant’s business.
 16. Lines 708-710: The provision directs the program licensee to provide a statement affirming that neither the access partner nor affiliated party were subjects of a felony conviction, guilty plea, or plea of nolo contendere. Perhaps expanding the definition to include misdemeanors and limiting the pending criminal prosecutions to those involving fraud, dishonesty, breach of trust, money laundering, or any other act of moral turpitude would be more effective as it would limit the reporting requirement to significant events and be consistent with other regulatory programs within the Office’s jurisdiction.
 17. Lines 711-713: This language is quite broad and leaves quite a bit of discretion in determining a “suspected criminal act.” Leaving this determination in the hands of the program licensee could potentially create more issues leading to the erroneous inclusion or exclusion of access partners.
 18. Lines 761-768: Provides the Office with the authority to take action against access partners. It’s unclear whether the Office can take such actions against an access partner as the access partner does not hold a license or the equivalent with the Office and is simply subject to s. 516.44 by virtue of its agreement with the program licensee.
 19. The bill does not provide the Office with the legislative authority to collect fees. Without this grant of legislative authority, the Office will not have the necessary revenue to process initial program license applications, process program license biennial renewals, process initial program branch office applications, process program branch office biennial renewals, process access partner notifications, or conduct mandated examinations.
 20. Lines 183-185, 268-273, & 694-727. Overall, there seems to be a disconnect between the licensing criteria for the consumer finance license issued pursuant to s. 516.05, the program license, the program branch office branch license, and access partners. Seemingly, the criteria for the program license and program branch office license are most restrictive, while the consumer finance license and access partner criteria are least restrictive. Perhaps the disconnect can be alleviated by adjusting the licensing requirements so that program loan applicants, program branch office applicants, and access partners are required to conform to the same licensing criteria as consumer finance applicants.
 21. The Office encourages consideration of a companion public records bill. Information gathered as part of an examination, investigation, or complaint related to a program loan would contain personal identifying and financial information about loan applicants and borrowers. Furthermore, lack of a public records exemption for open examinations or investigations could lead to a compromise of the Office’s efforts to thwart possible unlawful activity and prosecute criminal activity.
 22. On October 11, 2019, the Office sent a survey to all 167 licensed consumer finance companies requesting statistical information concerning the licensee’s volume of business for calendar years 2014 – 2018. The Office requested all licensees to respond to the survey by December 31, 2019. As of January 6, 2020, 38 licensees or 23% have responded. To allow sufficient time for additional licensees to respond, the Office has extended the deadline to respond to January 31, 2020.

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

<p>Issues/concerns/comments:</p>	<p>OGC notes the following issues/concerns:</p> <p>Section 516.42 of the bill addresses program license application requirements. Specifically, ss. 516.42(3)(a)9. & (7)(g) require the program license and the program branch office license applications to contain the signature and certification of an authorized person of the applicant. The bill does not define the term "authorized person." Not defining this term may potentially lead to longer processing times for license applications, and possible litigation as the courts would be left with the task of construing the meaning of the term "authorized person".</p> <p>Sections 516.44(7)(d)3. & 4., of the provisions require program licensees, within 15 days after entering into a contract with an access partner, to notify the Office as to whether an access partner or affiliated party is the subject of a felony indictment or if an access partner or affiliated party is the subject of a felony conviction, guilty plea or plea of nolo contendere. The term "affiliated party" is defined in s. 516.44(7)(d)6., which states, "[a]s used in this paragraph, the term "affiliated party" means..." The use of the term "this paragraph" implies that the definition is restricted to s. 516.44(7)(d)6., thus preventing application of the term to other parts of s. 516.44(7)(d), namely section 516.44(7)(d)3. & 4. Confusion surrounding the scope of the definition may create conflict for the Office in enforcing s. 516.44(7)(d). Substituting the term "subsection" would help clarify the reach of the definition.</p> <p>OGC has no additional comments beyond what is stated above.</p>
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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/15/2020 Meeting Date

899 Bill Number (if applicable)

Topic Business Services

Amendment Barcode (if applicable)

Name Pamela Burch Fort

Job Title

Address 104 S. Monroe Street

Phone 850-425-1344

Tallahassee FL 32301 City State Zip

Email TcgLobby@aol.com

Speaking: For Against Information

Waive Speaking: In Support Against (The Chair will read this information into the record.)

Representing Florida State Conference of NAACP

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/15/20

Meeting Date

894

Bill Number (if applicable)

Topic Access to responsible credit pilot program

Amendment Barcode (if applicable)

Name Sven Kaludzinski

Job Title General Counsel

Address 303 2nd Street

Phone (350) 878-7247

Street

San Francisco CA

Email skaludzinski@myawac.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Aura Financial Corporation

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/15

Meeting Date

SB 894

Bill Number (if applicable)

Topic Business Services

Amendment Barcode (if applicable)

Name Eliza Garrett

Job Title SVP Public Affairs

Address 2 Circle Street

Phone 415-828-3224

San Carlos CA 94070

City

State

Zip

Email eliza.garrett@oportm.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Oportun

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/15/20 Meeting Date

894 Bill Number (if applicable)

Topic Business Services

Amendment Barcode (if applicable)

Name Scott Jenkins

Job Title Senior Government Consultant

Address 215 S. Monroe St. Ste 500

Phone 850 661 0829

Street

TCH

FL

32301

City

State

Zip

Email sjenkins@carltonfields.com

Speaking: [] For [x] Against [] Information

Waive Speaking: [] In Support [] Against (The Chair will read this information into the record.)

Representing Florida Financial Services Association

Appearing at request of Chair: [] Yes [] No

Lobbyist registered with Legislature: [x] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/15/20
Meeting Date

894
Bill Number (if applicable)

Topic Business Services

Amendment Barcode (if applicable)

Name Ingrid Delgado

Job Title Associate Director for Social Concerns & Respect Life

Address 201 W Park Av Phone _____
Street

Tallahassee FL 32301 Email _____
City State Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Conference of Catholic Bishops

Appearing at request of Chair: Yes No
Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

January 15, 2020

Meeting Date

SB 894

Bill Number (if applicable)

Topic Business Services

Amendment Barcode (if applicable)

Name Dorene Barker

Job Title Associate State Director

Address 215 South Monroe Street

Phone 850 510 3145

Street

Tallahassee

FL

32308

Email dobarker@aarp.org

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing AARP FL

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/15/20
Meeting Date

SB 894
Bill Number (if applicable)

Topic Business Services

Amendment Barcode (if applicable)

Name Alice Vickers

Job Title Attorney

Address 623 Beard St.

Phone 850 556 3121

19allahassee FL 32303
City State Zip

Email alicevickers@flacp.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Alliance for Consumer Protection

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Banking and Insurance

BILL: CS/SB 898

INTRODUCER: Banking and Insurance Committee and Senators Gruters and Broxson

SUBJECT: Insurance Guaranty Associations

DATE: January 15, 2020 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Palecki	Knudson	BI	Fav/CS
2.			IT	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 898 amends s. 631.57, F.S., which governs the powers and duties of the Florida Insurance Guaranty Association, Incorporated (FIGA). FIGA provides a mechanism for the payment of covered claims of insolvent property and casualty insurance companies. Upon insurer insolvency, FIGA is currently obligated to pay an insured condominium association or homeowners association the lesser of policy limits or the amount of each covered property insurance claim up to \$100,000 multiplied by the number of condominium or other residential units. The bill increases FIGA's obligation by increasing the covered property insurance claim limits to \$200,000 multiplied by the number of condominium or other units.

The bill also increases the amount of funding available to FIGA through emergency assessments levied against insurers for the direct payment of covered claims of insurers rendered insolvent by the effects of a hurricane. The bill authorizes emergency assessments up to 4 percent of an insurer's net written premiums in this state in any one calendar year, which is an increase from the current limit of 2 percent. Such assessments may be used, up to the 4-percent limit, to provide for the full and timely payment of the principal of, redemption premium, if any, and interest on, and related costs of the issuance of municipal and county bonds for the purpose of paying covered claims caused by a hurricane.

The bill has an effective date of July 1, 2020.

II. Present Situation:

Florida Insurance Guaranty Association

Part II of ch. 631, F.S., governs the operations of the Florida Insurance Guaranty Association, Incorporated (FIGA), a nonprofit corporation created to provide a mechanism for the payment of covered claims, including unearned premiums, of insolvent property and casualty insurance companies.¹ A covered claim is an unpaid insurance claim arising out of and within the coverage of the applicable limits of an insurance policy issued by an insurer that has become insolvent.² FIGA was designed with the intent of avoiding excessive delay in payment and financial loss to claimants or policyholders due to the insolvency of an insurer.³ Membership in FIGA is a condition of the authority to transact business in Florida as a property or casualty insurance company.⁴ When a property and casualty insurance company becomes insolvent, FIGA is required to assume the claims of the insurer and pay the claims of the company's policyholders, which includes claims on residential and commercial property insurance, automobile insurance, and liability insurance, among others.

Condominium and Homeowners' Association Claims

For condominium and homeowners' associations that have a responsibility to provide insurance coverage on residential units within the association, FIGA is obligated to pay out the lesser of policy limits or each covered property insurance claim which is less than \$100,000 multiplied by the number of units in the association. For homeowners associations, FIGA is only obligated to pay those covered claims for damage to or loss of residential units and the structures attached to them.⁵ FIGA does not, however, have an obligation to pay covered claims that are funded by the proceeds of municipality and county bonds issued for the purpose of paying claims arising out of the hurricane-related insolvency of an insurer.⁶

FIGA Funding and Assessments

In order to secure funds for the payment of covered claims, the OFR levies assessments based on each insurer's net written premiums in Florida.⁷ Regular assessments levied against any insurer may not exceed more than 2 percent of that insurer's net direct written premiums in this state for the kinds of insurance included within such account in any one calendar year.⁸ To the extent necessary to secure funds for the payment of covered claims of insurers rendered insolvent by the effects of a hurricane, and the reasonable costs to administer such claims, FIGA is authorized

¹ Workers' compensation insurance is excluded from FIGA since the Florida Workers' Compensation Insurance Guaranty Association (FWCIGA) pays covered claims under ch. 440, F.S., Florida's Workers' Compensation Law.

² Section 631.54(4), F.S.

³ Section 631.51(1), F.S.

⁴ Section 631.55(1), F.S.

⁵ Section 631.57(1)(a)3.a., F.S.

⁶ Section 631.57(1)(a)3.b., F.S. Such bonds are payable from and secured by moneys received by or on behalf of the municipality or county from assessments levied under s. 631.57(3)(a), F.S., and assigned and pledged to or on behalf of the municipality or county for the benefit of the holders of the bonds in connection with the assistance program. See s. 631.695(2), F.S.

⁷ Section 631.57(3)(a), F.S.

⁸ Section 631.57(3)(a), F.S.

to levy emergency assessments upon insurers in addition to regular assessments. The emergency assessments levied against any insurer may not exceed 2 percent of that insurer's net written premiums in this state in any one calendar year.⁹ Once an insurance company pays the assessment to FIGA, it may begin to recoup the assessment from its policyholders at policy issuance or renewal. A uniform assessment percentage is collected from policyholders.¹⁰

III. Effect of Proposed Changes:

Section 1 of the bill amends Paragraphs (1)(a) and (3)(e) of s. 631.57, F.S., regarding the powers and duties of FIGA.

Sub-subparagraph 3.a. of paragraph (1)(a) is amended to increase the limit of FIGA obligations for policies covering condominium associations and homeowners associations claims. FIGA's responsibility for covered claims increases from \$100,000 multiplied by the number of condos or other residential units to \$200,000 multiplied by the number of condos or other residential units. This amendment thus doubles the possible claim payout a condominium association or homeowners association could receive upon experiencing both a covered loss and the insolvency of their insurer.

Subparagraph 1. of paragraph (3)(a) is amended to increase the amount of funding available to FIGA via emergency assessments. The percentage of an insurer's net written premiums in this state available to FIGA via an emergency assessment is doubled from 2 to 4 percent of an insurer's net written premiums for any one calendar year.

Subparagraph 2. of paragraph (3)(a) is amended to conform with the amendments to subparagraph 1. Thus, in each year the board of FIGA chooses to participate in the issuance of municipal and county bonds in accordance with s. 631.695, F.S.,¹¹ during which those bonds are secured by emergency assessments and are outstanding, the OIR is authorized to levy emergency assessments upon insurers in an amount up to the 4-percent limit, as required, in order to provide for the full and timely payment of the principal of redemption premium, if any, and interest on, and related costs of issuance of such bonds.

Section 2 of the bill provides an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

⁹ Section 631.57(3)(e), F.S.

¹⁰ Section 631.57(3)(c), F.S.

¹¹ Municipality and county bonds issued for the purpose of paying claims arising out of the hurricane-related insolvency of an insurer. *See* s. 631.695(2), F.S.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Condominium and homeowners' association policyholders of insolvent insurers will be eligible for a higher claim payout and thus stand a better chance of being made whole after suffering a loss or damages.

The increase in the percentage of an insurer's net premiums that are subject to emergency assessments imposes upon insurers a higher potential liability for emergency assessments. Insurers recoup such assessments from their policyholders, so the cost of the increased obligation to pay an emergency assessment of up to 4 percent, rather than 2 percent, is ultimately borne by the policyholders of the assessed insurers. FIGA estimates that its current assessment base is approximately \$19.6 billion dollars, which means that the 2 percent increase in emergency assessment authority would, if utilized, currently result in up to approximately \$390 million dollars in additional assessments.¹²

C. Government Sector Impact:

The bill doubles both the obligation of FIGA to pay a covered claim of an insured condominium association or homeowners association, and the emergency assessment authority of FIGA to pay covered claims caused by a hurricane.

VI. Technical Deficiencies:

None.

VII. None.Related Issues:

None.

¹² Email from Tom Streukens, Executive Director, Florida Insurance Guaranty Association to James Knudson, Staff Director, Florida Senate Banking and Insurance Committee (Jan. 15, 2020) (on file with the Senate Committee on Banking and Insurance).

VIII. Statutes Affected:

This bill substantially amends section 631.57 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Banking and Insurance on January 15, 2020:

The CS makes conforming changes to ensure FIGA can utilize the entirety of the proposed 4-percent emergency assessments in the issuance of bonds.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.



336280

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/15/2020	.	
	.	
	.	
	.	

The Committee on Banking and Insurance (Gruters) recommended the following:

Senate Amendment

Delete line 85
and insert:
assessments are outstanding in amounts up to such 4-percent ~~2-~~
~~percent~~

By Senator Gruters

23-00985-20

2020898__

1 A bill to be entitled
 2 An act relating to insurance guaranty associations;
 3 amending s. 631.57, F.S.; increasing the obligation of
 4 the Florida Insurance Guaranty Association,
 5 Incorporated, for certain claims under policies
 6 covering certain condominium associations and
 7 homeowners' associations; increasing the percentage
 8 limit of certain insurer net written premiums up to
 9 which the Office of Insurance Regulation may levy
 10 certain emergency assessments against insurers;
 11 providing an effective date.
 12
 13 Be It Enacted by the Legislature of the State of Florida:
 14
 15 Section 1. Paragraph (a) of subsection (1) and paragraph
 16 (e) of subsection (3) of section 631.57, Florida Statutes, are
 17 amended to read:
 18 631.57 Powers and duties of the association.—
 19 (1) The association shall:
 20 (a)1. Be obligated to the extent of the covered claims
 21 existing:
 22 a. Prior to adjudication of insolvency and arising within
 23 30 days after the determination of insolvency;
 24 b. Before the policy expiration date if less than 30 days
 25 after the determination; or
 26 c. Before the insured replaces the policy or causes its
 27 cancellation, if she or he does so within 30 days of the
 28 determination.
 29 2. The obligation under subparagraph 1. includes only the

Page 1 of 5

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

23-00985-20

2020898__

30 amount of each covered claim which is in excess of \$100 and is
 31 less than \$300,000, except that policies providing coverage for
 32 homeowner's insurance shall provide for an additional \$200,000
 33 for the portion of a covered claim which relates only to the
 34 damage to the structure and contents.
 35 3.a. Notwithstanding subparagraph 2., the obligation under
 36 subparagraph 1. for policies covering condominium associations
 37 or homeowners' associations, which associations have a
 38 responsibility to provide insurance coverage on residential
 39 units within the association, shall include that amount of each
 40 covered property insurance claim which is less than \$200,000
 41 ~~\$100,000~~ multiplied by the number of condominium units or other
 42 residential units; however, as to homeowners' associations, this
 43 sub-subparagraph applies only to claims for damage or loss to
 44 residential units and structures attached to residential units.
 45 b. Notwithstanding sub-subparagraph a., the association has
 46 no obligation to pay covered claims that are to be paid from the
 47 proceeds of bonds issued under s. 631.695. However, the
 48 association shall assign and pledge the first available moneys
 49 from all or part of the assessments to be made under paragraph
 50 (3) (a) to or on behalf of the issuer of such bonds for the
 51 benefit of the holders of such bonds. The association shall
 52 administer any such covered claims and present valid covered
 53 claims for payment in accordance with the provisions of the
 54 assistance program in connection with which such bonds have been
 55 issued.
 56 4. In no event shall the association be obligated to a
 57 policyholder or claimant in an amount in excess of the
 58 obligation of the insolvent insurer under the policy from which

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23-00985-20

2020898__

59 the claim arises.

60 (3)

61 (e)1. In addition to assessments authorized in paragraph
62 (a), and to the extent necessary to secure the funds for the
63 account specified in s. 631.55(2)(b) for the direct payment of
64 covered claims of insurers rendered insolvent by the effects of
65 a hurricane and to pay the reasonable costs to administer such
66 claims, or to retire indebtedness, including, without
67 limitation, the principal, redemption premium, if any, and
68 interest on, and related costs of issuance of, bonds issued
69 under s. 631.695 and the funding of any reserves and other
70 payments required under the bond resolution or trust indenture
71 pursuant to which such bonds have been issued, the office, upon
72 certification of the board of directors, shall levy emergency
73 assessments upon insurers holding a certificate of authority.
74 The emergency assessments levied against any insurer may not
75 exceed in any one calendar year more than 4 ~~2~~ percent of that
76 insurer's net written premiums in this state for the kinds of
77 insurance within the account specified in s. 631.55(2)(b).

78 2. Emergency assessments authorized under this paragraph
79 shall be levied by the office upon insurers in accordance with
80 paragraph (f), upon certification as to the need for such
81 assessments by the board of directors. If the board participates
82 in the issuance of bonds in accordance with s. 631.695,
83 emergency assessments shall be levied in each year that bonds
84 issued under s. 631.695 and secured by such emergency
85 assessments are outstanding in amounts up to such 2-percent
86 limit as required in order to provide for the full and timely
87 payment of the principal of, redemption premium, if any, and

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2020898__

88 interest on, and related costs of issuance of, such bonds. The
89 emergency assessments are assigned and pledged to the
90 municipality, county, or legal entity issuing bonds under s.
91 631.695 for the benefit of the holders of such bonds in order to
92 provide for the payment of the principal of, redemption premium,
93 if any, and interest on such bonds, the cost of issuance of such
94 bonds, and the funding of any reserves and other payments
95 required under the bond resolution or trust indenture pursuant
96 to which such bonds have been issued, without further action by
97 the association, the office, or any other party. If bonds are
98 issued under s. 631.695 and the association determines to secure
99 such bonds by a pledge of revenues received from the emergency
100 assessments, such bonds, upon such pledge of revenues, shall be
101 secured by and payable from the proceeds of such emergency
102 assessments, and the proceeds of emergency assessments levied
103 under this paragraph shall be remitted directly to and
104 administered by the trustee or custodian appointed for such
105 bonds.

106 3. Emergency assessments used to defease bonds issued under
107 this part may be payable in a single payment or, at the option
108 of the association, may be payable in 12 monthly installments
109 with the first installment being due and payable at the end of
110 the month after an emergency assessment is levied and subsequent
111 installments being due by the end of each succeeding month.

112 4. If emergency assessments are imposed, the report
113 required by s. 631.695(7) must include an analysis of the
114 revenues generated from the emergency assessments imposed under
115 this paragraph.

116 5. If emergency assessments are imposed, the references in

Page 4 of 5

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23-00985-20

2020898__

117 sub-subparagraph (1)(a)3.b. and s. 631.695(2) and (7) to
118 assessments levied under paragraph (a) must include emergency
119 assessments imposed under this paragraph.

120 6. If the board of directors participates in the issuance
121 of bonds in accordance with s. 631.695, an annual assessment
122 under this paragraph shall continue while the bonds issued with
123 respect to which the assessment was imposed are outstanding,
124 including any bonds the proceeds of which were used to refund
125 bonds issued pursuant to s. 631.695, unless adequate provision
126 has been made for the payment of the bonds in the documents
127 authorizing the issuance of such bonds.

128 Section 2. This act shall take effect July 1, 2020.

Knudson, James

From: Tom Streukens <tstreukens@agfgroup.org>
Sent: Wednesday, January 15, 2020 9:53 AM
To: Knudson, James
Subject: RE: FIGA Information Request

James – You are probably heading to the meeting soon so I thought I would send a quick note.

- FIGA assessment capacity will be challenging in a 1-100 year event under current limits due to shift from Citizens over the past decade
- Current \$100K exposure would use all of our emergency assessment and some of our regular assessment for 15-20 years in a 1-100 year storm
- Increase to \$200K will result in \$564M additional exposure ~ 2.9% of our \$19.6B assessment base

From: Knudson, James [mailto:KNUDDSON.JAMES@flsenate.gov]
Sent: Wednesday, January 15, 2020 8:20 AM
To: Tom Streukens <tstreukens@agfgroup.org>
Subject: RE: FIGA Information Request

Thanks Tom

From: Tom Streukens <tstreukens@agfgroup.org>
Sent: Tuesday, January 14, 2020 6:06 PM
To: Knudson, James <KNUDDSON.JAMES@flsenate.gov>
Cc: Timothy J. Meenan - Meenan P.A. (Tim@MeenanLawFirm.com) <Tim@MeenanLawFirm.com>
Subject: RE: FIGA Information Request

James – I had an update from Raymond James this evening and should have something for first thing in the morning. Sorry for the delay. Thanks, Tom

From: Knudson, James [mailto:KNUDDSON.JAMES@flsenate.gov]
Sent: Tuesday, January 14, 2020 9:21 AM
To: Tom Streukens <tstreukens@agfgroup.org>
Subject: RE: FIGA Information Request

Tom,

Wanted to discuss this bill briefly with you. Could you give me a call? 850 487 5361

From: Tom Streukens <tstreukens@agfgroup.org>
Sent: Monday, January 13, 2020 6:06 PM
To: Knudson, James <KNUDDSON.JAMES@flsenate.gov>
Cc: Timothy J. Meenan - Meenan P.A. (Tim@MeenanLawFirm.com) <Tim@MeenanLawFirm.com>
Subject: RE: FIGA Information Request

James,

I spoke with Tim Meenan Friday and immediately reached out to Raymond James to pull together the info we need to assess the impact. They are reviewing updated condo info from Citizens and the FHCF to update the work we did back in 2015. The preliminary analysis from Raymond James confirmed the proposed condo limit increase will create additional exposure and the proposed assessment capacity increase will be definitely be needed to cover the additional exposure. We hope to have the analysis ready late tomorrow or early Wednesday.

On a related note, was the 2% on line 85 supposed to be 4% to make the full emergency assessment available for bonding?

Thanks, Tom

From: Knudson, James [<mailto:KNUDSON.JAMES@flsenate.gov>]

Sent: Monday, January 13, 2020 5:06 PM

To: Tom Streukens <tstreukens@agfgroup.org>

Subject: FIGA Information Request

Tom,

I am looking for any analysis of SB 898, which increases FIGA condo association coverage and emergency assessment authority, conducted or commissioned by FIGA. It would be helpful to include such information in our staff analysis, which we are publishing tomorrow morning.

Thanks,

James Knudson

Staff Director

Florida Senate Banking and Insurance Committee

320 Knott Building

404 South Monroe Street

Tallahassee, FL 32399

(850) 487-5361

knudson.james@flsenate.gov

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Jan 15 / 2020
Meeting Date

898
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Tim Meenan

Job Title _____

Address 400 S. Duval St.
Street
Tallahassee FL
City State Zip

Phone (850) 284-9248

Email Tim@meenanlawfirm.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Insurance Guaranty Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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APPEARANCE RECORD

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1/15/20

Meeting Date

898

Bill Number (if applicable)

Topic FIGA

Amendment Barcode (if applicable)

Name PAUL HANDERHAN

Job Title Consultant, Ramba

Address 120 South Monroe Street

Phone _____

Street

Tallahassee FL 33021

Email _____

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FAIR

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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1/15/20

Meeting Date

898

Bill Number (if applicable)

Topic Insurance Guaranty Associations

Amendment Barcode (if applicable)

Name Travis Moore

Job Title

Address P.O. Box 2020

Phone 727.421.6902

Street

St. Petersburg FL 33731

City

State

Zip

Email travis@moore-relations.com

Speaking: [X] For [] Against [] Information

Waive Speaking: [] In Support [] Against (The Chair will read this information into the record.)

Representing Community Associations Institute

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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1/15/2020

Meeting Date

898

Bill Number (if applicable)

Topic SB 898

Amendment Barcode (if applicable)

Name Mark Anderson

Job Title Lobbyist

Address 110 S Monroe street

Phone 813-205-0698

Tallahassee FL 32301

Email Mark@consiltanderson.com

Speaking: [] For [] Against [] Information

Waive Speaking: [X] In Support [] Against (The Chair will read this information into the record.)

Representing CEOMC

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Banking and Insurance

BILL: SB 1092

INTRODUCER: Senator Bean

SUBJECT: Fire Prevention and Control

DATE: January 14, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Arnold</u>	<u>Knudson</u>	<u>BI</u>	Favorable
2.	_____	_____	<u>AEG</u>	_____
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 1092 creates the Firefighter Cancer Decontamination Equipment Grant Program within the Division of the State Fire Marshal (Division) to provide financial assistance to qualifying fire departments to help procure equipment, supplies, and educational training material designed to mitigate exposure to hazardous, cancer-causing chemicals.

The bill authorizes the State Fire Marshal to adopt rules and procedures to administer the program, including for the approval of applications and development of need-based criteria. Needs-based criteria must include, but are not limited to, decontamination equipment and supply needs of the fire department, the financial needs of the fire department, and the level of nonstate matching funds proposed in the application.

The bill requires grant recipients to:

- Provide a minimum 25 percent nonstate matching funds;
- Report their activity to the Division of State Fire Marshal for submission in the Fire and Emergency Incident Information Reporting System;
- Comply with the Florida Firefighters Occupational Safety and Health Act; and
- Comply with any other rule determined by the State Fire Marshal to effectively implement, administer, and manage the program.

The bill takes effect July 1, 2020.

II. Present Situation:

Division of the State Fire Marshal

State law on fire prevention and control designates the Chief Financial Officer (CFO) as the State Fire Marshal, operating through the Division.¹ Pursuant to this authority, the State Fire Marshal:

- Regulates, trains, and certifies fire service personnel;
- Investigates the causes of fires;
- Enforces arson laws;
- Regulates the installation of fire equipment;
- Conducts firesafety inspections of state property;
- Develops firesafety standards;
- Provides facilities for the analysis of fire debris; and
- Operates the Florida State Fire College.

The Division is comprised of two bureaus: the Bureau of Fire Prevention (BFP) and the Bureau of Fire Standards and Training (BFST).² The BFP conducts fire/life safety inspections and construction plans review on all state-owned buildings; regulates the fireworks and the fire sprinkler industries; inspects and licenses boilers; and certifies suppression industry workers.³ The BFST approves firefighter training curricula; offers fire service training at the Florida State Fire College; and certifies that fire service members meet industry-based standards.⁴

Florida Fire Prevention Code

The State Fire Marshal adopts by rule the Florida Fire Prevention Code (FFPC),⁵ which contains all firesafety laws and rules that pertain to and govern the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities and the enforcement of such firesafety laws and rules.⁶ The State Fire Marshal adopts a new edition of the FFPC every 3 years.⁷ The FFPC includes national firesafety and life safety standards set forth by the National Fire Protection Association (NFPA),⁸ including the NFPA's Fire Code (1), Life Safety Code (101), and Guide on Alternative Approaches to Life Safety (101A).⁹

¹ Section 633.104, F.S.

² Department of Financial Services, Division of the State Fire Marshal, *What We Do*, <https://www.myfloridacfo.com/division/sfm/> (last visited December 19, 2019).

³ *Id.*

⁴ *Id.*

⁵ Section 633.202(2), F.S.

⁶ Section 633.202(1), F.S.

⁷ *Id.*

⁸ Section 633.202(2), F.S. Founded in 1896, the NFPA is a global, nonprofit organization devoted to eliminating death, injury, property and economic loss due to fire, electrical, and related hazards. It has developed over 300 voluntary consensus codes and standards in the areas of fire, electrical, and building safety, which are widely used by state and local officials. National Fire Protection Association, *About NFPA*, <https://www.nfpa.org/about-nfpa> (last visited December 19, 2019).

⁹ The NFPA states that the Guide on Alternative Approaches to Life Safety "is intended to be used in conjunction with the NFPA 101: Life Safety Code, not as a substitute." National Fire Protection Association, *NFPA 101A: A Guides on*

Firesafety Enforcement by Local Governments

State law requires all municipalities, counties, and special districts with firesafety responsibilities to enforce the FFPC as the minimum fire prevention code, which operates uniformly among local government and in conjunction with the Florida Building Code.¹⁰ These local enforcing authorities may adopt more stringent firesafety standards, subject to certain requirements in s. 633.208, F.S., but may not enact firesafety ordinances which conflict with ch. 633, F.S., or any other state law.¹¹

The chiefs of local government fire service providers (or their designees) are authorized to enforce ch. 633, F.S., and the rules prescribed by the State Fire Marshal within their respective jurisdictions as agents of those jurisdictions, not agents of the State Fire Marshal.¹² Each county, municipality, and special district with firesafety enforcement responsibilities is also required to employ or contract with a firesafety inspector (certified by the State Fire Marshal) to conduct all firesafety inspections required by law.¹³

Firefighter Assistance Grant Program

The 2016 Legislature created the Firefighter Assistance Grant Program (FAGP) for the purpose of assisting fire departments in providing firefighter training and procuring necessary firefighter personal protective equipment, self-contained breathing apparatus equipment, and fire engine pumper apparatus equipment.¹⁴ The Division administers FAGP and annually awards grants to volunteer and combination (combination of career and volunteer) fire departments using the annual Florida Fire Service Needs Assessment Survey.¹⁵

The Legislature appropriated \$229,165 in recurring funds from the Insurance Regulatory Trust Fund to the Department of Financial Services and one full-time equivalent position with associated salary rate of \$50,000 for the purpose of implementing FAGP.¹⁶

Firefighter Cancer Initiative

The 2015 Legislature appropriated \$965,000 in nonrecurring funds from General Revenue to create the Firefighter Cancer Initiative (FCI) for the purpose of identifying exposures that account for increased cancer risk among firefighters; expanding access to cancer screenings across the state; enabling prevention and earlier detection of the disease; and developing new technology and methods that measure exposure in the field.¹⁷ The University of Miami Sylvester

Alternative Approaches to Life Safety, <https://www.nfpa.org/codes-and-standards/all-codes-and-standards/list-of-codes-and-standards/detail?code=101A> (last visited December 19, 2019).

¹⁰ Sections 633.108 and 633.208, F.S.

¹¹ Section 633.214(4), F.S. The State Fire Marshal maintains a list of local amendments to the FFPC. This information is available at <https://www.myfloridacfo.com/Division/SFM/bfp/LocalAmendments.htm> (last visited December 19, 2019).

¹² Section 633.118, F.S.

¹³ Section 633.216(1), F.S.

¹⁴ CS/CS/CS/HB 651 (2016 Reg. Session).

¹⁵ *Id.*

¹⁶ Chapter 2016-132, s. 30, L.O.F.

¹⁷ Chapter 2015-232, s. 6, L.O.F.

Comprehensive Cancer Center administers FCI in collaboration with the State Fire Marshal.¹⁸ To date, FCI has participation from more than 3,700 firefighters, distributed more than 4,000 post fire on-scene decontamination kits to fire departments, and secured more than \$2 million in external funding.¹⁹

Each post fire on-scene decontamination kit includes the following tools needed for firefighters to effectively clean their gear after exposure to a fire:

- Flash drive, including education videos and training outline;
- Laminated Field Operation Guide;
- Standard Operating Guideline;
- 5 gallon bucket and leak-proof lid;
- 5 gallon 6 mil clear bags;
- Duct tape;
- Dish soap;
- Short handle scrub brush;
- All-purpose spray bottle;
- Dermal wipes;
- 2 50 foot, 5/8 inch hose lines;
- 2 garden hose nozzles;
- 2 adapters; and
- Collapsible traffic cone.²⁰

Elevated Mortality Patterns and Cancer Incidence Rates in Firefighters

Firefighters are at higher risk of developing and dying from cancer than the general population of the United States due to carcinogenic exposure on the job.²¹ Recent studies quantifying the relationship between occupational exposures and cancer risk indicate firefighters have a 9 percent higher risk of being diagnosed with cancer and a 14 percent higher risk of dying from cancer than the general population in the United States.²² Excess risk has been attributed to several cancer sites, including malignancies of respiratory, digestive, and urinary systems.²³

Carcinogenic exposure is both airborne (inhaled) and bloodborne (transdermal), and is present both on-scene and in the firehouse, as fire and emergency services stations are the collection

¹⁸ Appropriations Project Request 1549 (2019 Reg. Session), https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?FileName=1549_v1.pdf&DocumentType=MemberBudgetRequests&Session=2019&BillNumber=4091 (last visited December 19, 2019).

¹⁹ *Id.*

²⁰ Press Release, Department of Financial Services, *CFO Jimmy Patronis, Sylvester Comprehensive Cancer Center Deliver more than 4,000 Cancer Exposure Decontamination Kits to Florida Firefighters* (August 2, 2018) <https://www.myfloridacfo.com/sitePages/newsroom/pressRelease.aspx?id=5071> (last visited December 19, 2019).

²¹ See Mortality and cancer incidence in a pooled cohort of US firefighters from San Francisco, Chicago, and Philadelphia (1950-2009) available at https://www.cdc.gov/niosh/firefighters/pdfs/OEM_FF_Ca_Study_10-2013.pdf (last visited December 19, 2019).

²² *Id.*

²³ *Id.*, see also Exposure-response relationships for select cancer and non-cancer health outcomes in a cohort of US firefighters from San Francisco, Chicago, and Philadelphia (1950-2009) available at [https://www.cdc.gov/niosh/firefighters/pdfs/Daniels-et-al-\(2015\)-508.pdf](https://www.cdc.gov/niosh/firefighters/pdfs/Daniels-et-al-(2015)-508.pdf) (last visited December 19, 2019).

points for contaminated equipment from emergency scenes.²⁴ Additionally, the increased use of plastics and synthetic materials in modern construction and furnishings has rendered today's house fires more hazardous than house fires of previous generations.²⁵ By some estimates, firefighters may be exposed to as many 90,000 chemicals in the firefighting environment.²⁶

III. Effect of Proposed Changes:

Section 1 creates the Firefighter Cancer Decontamination Equipment Grant Program within the Division to provide financial assistance to qualifying fire departments to help procure equipment, supplies, and educational training material designed to mitigate exposure to hazardous, cancer-causing chemicals.

It authorizes the State Fire Marshal to adopt rules and procedures to administer the program, including for the approval of applications and development of need-based criteria. Needs-based criteria must include, but are not limited to, decontamination equipment and supply needs of the fire department, the financial needs of the fire department, and the level of nonstate matching funds proposed in the application.

It further requires grant recipients to:

- Provide a minimum 25 percent nonstate matching funds;
- Report their activity to the Division of State Fire Marshal for submission in the Fire and Emergency Incident Information Reporting System;
- Comply with the Florida Firefighters Occupational Safety and Health Act; and
- Comply with any other rule determined by the State Fire Marshal to effectively implement, administer, and manage the program.

Section 2 provides an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

²⁴ Federal Emergency Management Agency, US Fire Administration, *Safety and Health Considerations for the Design of Fire and Emergency Medical Services Stations* (May 2018), https://www.usfa.fema.gov/downloads/pdf/publications/design_of_fire_ems_stations.pdf (last visited December 19, 2019).

²⁵ *Id.*

²⁶ Toxic chemicals that may be found in any given firefighting environment include acetaldehyde, acrolein, acrylonitrile, arsenic, benzene, butadiene, coal-tar pitch, carbon monoxide, ethyl benzene, formaldehyde, hydrogen chloride, isocyanates, methyl methacrylate, naphthalene, nickel, polycyclic aromatic hydrocarbons, polybrominated diphenyl ethers, polychlorinated biphenyls, styrene, toluene, toluene diisocyanate, and vinyl chloride.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of Financial Services requested \$150,000 in its legislative budget request to create this program.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 633.137 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Bean

4-00998A-20

20201092__

A bill to be entitled

An act relating to fire prevention and control; creating s. 633.137, F.S.; creating the Firefighter Cancer Decontamination Equipment Grant Program within the Division of State Fire Marshal of the Department of Financial Services for certain purposes; requiring the division to administer the program and annually award grants, and distribute equipment and training, to qualifying fire departments in a certain manner; requiring the State Fire Marshal to adopt rules and procedures; providing application criteria; providing requirements for grant recipients; providing an effective date.

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

Section 1. Section 633.137, Florida Statutes, is created to read:

633.137 Firefighter Cancer Decontamination Equipment Grant Program.—

(1) The Firefighter Cancer Decontamination Equipment Grant Program is created within the division to help protect the health and safety of firefighters in this state. The program shall provide financial assistance to help fire departments, including volunteer fire departments, procure equipment, supplies, and educational training designed to mitigate exposure to hazardous, cancer-causing chemicals.

(2) The division shall administer the program and annually award grants to fire departments on a need-based basis. The

Page 1 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

4-00998A-20

20201092__

division shall distribute equipment and training in a manner that leads to the greatest reduction in incidences of firefighters being exposed to hazardous post-fire contaminants.

(3) The State Fire Marshal shall adopt rules and procedures for the program, including for the approval of applications and development of need-based criteria. This criteria shall include, but are not limited to, the decontamination equipment and supply needs of the fire department, the financial needs of the fire department, and the level of nonstate matching funds proposed in the application. Grant applications must include a minimum of 25 percent nonstate funding.

(4) Grant recipients must:

(a) Report their activity to the division for submission in the Fire and Emergency Incident Information Reporting System created under s. 633.136.

(b) Comply with the Florida Firefighters Occupational Safety and Health Act, ss. 633.502-633.536.

(c) Comply with any other rule determined by the State Fire Marshal to effectively and efficiently implement, administer, and manage the program.

Section 2. This act shall take effect July 1, 2020.

Page 2 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.



The Florida Senate

Committee Agenda Request

To: Senator Doug Broxson, Chair
Committee on Banking and Insurance

Subject: Committee Agenda Request

Date: December 17, 2019

I respectfully request that **Senate Bill 1092**, relating to Fire Prevention and Control, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in blue ink that reads "Aaron Bean".

Senator Aaron Bean
Florida Senate, District 4

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/15/2020
Meeting Date

1092
Bill Number (if applicable)

Topic Fire Prevention & Control

Amendment Barcode (if applicable)

Name Rocco Salvatori

Job Title Firefighter

Address 343 W Madison St

Phone 850-224-7333

Street

Tallahassee

City

FL

State

32301

Zip

Email Rocco@fpfp.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Professional Firefighters

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/15/20 Meeting Date

1092 Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name Jennifer Ungru

Job Title

Address Street

Phone

City

State

Zip

Email

Speaking: For Against Information

Waive Speaking: In Support Against (The Chair will read this information into the record.)

Representing Charlotte County

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

JAN 15, 2020

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB 1092

Meeting Date

Bill Number (if applicable)

Topic Fire Prevention AND Control

Amendment Barcode (if applicable)

Name Chief Ray Colburn

Job Title Executive Director

Address 5289 Palm Dr

Phone 407-468-6622

Street

Melbourne Beach FL 32951

Email ray@ffca.org

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FLORIDA FIRE CHIEFS' ASSOCIATION

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/15/20
Meeting Date

1092
Bill Number (if applicable)

Topic Fire Prevention and Control

Amendment Barcode (if applicable)

Name Meredith Stanfield

Job Title Legislative & Cabinet Affairs Director

Address PL 11 The Capitol
Street

Phone (850) 413-2890

Tallahassee FL 32399
City State Zip

Email Meredith.Stanfield@myflorida.deo.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing CFO Jimmy Patronis

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Banking and Insurance

BILL: SB 1188

INTRODUCER: Senator Albritton

SUBJECT: Public Records/Records of Insurers/Department of Financial Services

DATE: January 14, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Palecki	Knudson	BI	Favorable
2.			GO	
3.			RC	

I. Summary:

SB 1188 creates a public records exemption for certain information held by the Department of Financial Services (DFS) relating to the personal financial and health information of insurance consumers, and underwriting, personnel, payroll, and consumer claim information, which, if not exempted from the public records disclosure requirements of s. 119.07(1), F.S., and s. 24(a), Art. I of the Florida Constitution, may result in public disclosure of traditionally private financial and health information and thereby create the opportunity for theft and fraud, jeopardizing the financial security of the subject person(s).

This bill also creates a public records exemption for certain sensitive business information held by DFS which is protected from public records disclosure requirements if held by the Office of Insurance Regulation (OIR). Disclosure of the exempted information, which includes Own-Risk and Solvency Assessment (ORSA) summary reports, corporate governance annual disclosures, and information received from the NAIC and other governmental entities, would injure the subject insurer or insurance group in the marketplace by providing competitors with confidential business information.

Pursuant to the Open Government Sunset Review Act, this public records exemption is scheduled to repeal October 2, 2025, unless reviewed and saved from repeal through reenactment by the Legislature.

This bill takes effect July 1, 2020.

II. Present Situation:

Access to Public Records – Generally

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ The right to inspect or copy applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.²

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, s. 11.0431, F.S., provides public access requirements for legislative records. Relevant exemptions are codified in s. 11.0431(2)-(3), F.S., and the statutory provisions are adopted in the rules of each house of the legislature.³ Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.⁴ Lastly, ch. 119, F.S., provides requirements for public records held by executive agencies.

Executive Agency Records – The Public Records Act

Chapter 119, F.S., known as the Public Records Act, provides that all state, county and municipal records are open for personal inspection and copying by any person, and that providing access to public records is a duty of each agency.⁵

A public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.⁶ The Florida Supreme Court has interpreted the statutory definition of “public record” to include “material prepared in connection with official agency business which is intended to perpetuate, communicate, or formalize knowledge of some type.”⁷

The Florida Statutes specify conditions under which public access to public records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any public record at any reasonable time, under reasonable conditions, and under supervision by the

¹ FLA. CONST. art. I, s. 24(a).

² *Id.*

³ See Rule 1.48, *Rules and Manual of the Florida Senate*, (2018-2020) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 2, (2018-2020)

⁴ *State v. Wooten*, 260 So. 3d 1060 (Fla. 4th DCA 2018).

⁵ Section 119.01(1), F.S. Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

⁶ Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.”

⁷ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc., Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

custodian of the public record.⁸ A violation of the Public Records Act may result in civil or criminal liability.⁹

The Legislature may exempt public records from public access requirements by passing a general law by a two-thirds vote of both the House and the Senate.¹⁰ The exemption must state with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.¹¹

General exemptions from the public records requirements are contained in the Public Records Act.¹² Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.¹³

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” Custodians of records designated as “exempt” are not prohibited from disclosing the record; rather, the exemption means that the custodian cannot be compelled to disclose the record.¹⁴ Custodians of records designated as “confidential and exempt” may not disclose the record except under circumstances specifically defined by the Legislature.¹⁵

Open Government Sunset Review Act

The Open Government Sunset Review Act¹⁶ (the Act) prescribes a legislative review process for newly created or substantially amended¹⁷ public records or open meetings exemptions, with specified exceptions.¹⁸ It requires the automatic repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.¹⁹

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.²⁰

⁸ Section 119.07(1)(a), F.S.

⁹ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

¹⁰ FLA. CONST. art. I, s. 24(c).

¹¹ *Id. See, e.g., Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999) (holding that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

¹² *See, e.g., s. 119.071(1)(a), F.S.* (exempting from public disclosure examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure).

¹³ *See, e.g., s. 213.053(2)(a), F.S.* (exempting from public disclosure information contained in tax returns received by the Department of Revenue).

¹⁴ *See Williams v. City of Minneola*, 575 So. 2d 683, 687 (Fla. 5th DCA 1991).

¹⁵ *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

¹⁶ Section 119.15, F.S.

¹⁷ An exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings as well as records. Section 119.15(4)(b), F.S.

¹⁸ Section 119.15(2)(a) and (b), F.S., provide that exemptions that are required by federal law or are applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

¹⁹ Section 119.15(3), F.S.

²⁰ Section 119.15(6)(b), F.S.

An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivisions to effectively and efficiently administer a governmental program, and administration would be significantly impaired without the exemption;²¹
- It protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;²² or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.²³

The Act also requires specified questions to be considered during the review process.²⁴ In examining an exemption, the Act directs the Legislature to carefully question the purpose and necessity of reenacting the exemption.

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are required.²⁵ If the exemption is continued without substantive changes or if the exemption is continued and narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless provided for by law.²⁶

Transfer of Records upon Delinquency Proceedings

Along with the Department of Financial Services (DFS), the Office of Insurance Regulation (OIR) is tasked with enforcing the provisions of the Florida Insurance Code, chs. 624-632, 634-636, 641-642, 648 and 651, F.S.²⁷ OIR is responsible for examining the affairs, transactions, accounts, records, and assets of each authorized insurer.²⁸ In the event that the OIR determines that one or more grounds²⁹ for the initiation of delinquency proceedings against an insurer exist,

²¹ Section 119.15(6)(b)1., F.S.

²² Section 119.15(6)(b)2., F.S.

²³ Section 119.15(6)(b)3., F.S.

²⁴ Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

²⁵ See generally s. 119.15, F.S.

²⁶ Section 119.15(7), F.S.

²⁷ See Sections 624.307(1) and 624.01, F.S.

²⁸ Section 624.316(1)(a), F.S.

²⁹ Grounds for rehabilitation generally include, but are not limited to, impairment, insolvency, failure to comply with OIR orders or to submit records for examination, and other violations of law. See Section 631.051, F.S. Grounds for liquidation include imminent or actual insolvency, an attempt or actual commencement of voluntary liquidation or dissolution, and a failure to timely complete organization and obtain a certificate of authority. Section 631.061, F.S. DFS may also apply to the

such as insolvency,³⁰ the Insurers Rehabilitation and Liquidation Act³¹ requires the Director of the OIR to notify DFS of that determination, and to provide DFS with all necessary documentation and evidence, thereby enabling DFS to initiate the delinquency proceeding.³² This documentation and evidence may include confidential and sensitive information. Upon such notice, DFS is tasked with initiating delinquency proceedings pursuant to ch. 631, F.S., which constitute the sole and exclusive method of liquidating, rehabilitating, reorganizing, or conserving an insurer.³³

The nature of DFS's statutory duties regarding delinquency proceedings require DFS to assume custodianship of insurer records. When DFS is appointed as receiver of an insurer during the course of a delinquency proceeding, Florida Statutes expressly vest DFS with the title to all of the property of the insurer, including all of the books and records, wherever located.³⁴ Similarly, orders to rehabilitate or liquidate a domestic insurer must direct DFS to take possession of the property of the insurer.³⁵ Orders to liquidate the business of a United States branch of an alien insurer having trustee assets in this state shall be on the same terms as those prescribed for domestic insurers, but DFS only takes possession of the assets within that branch.³⁶ Orders to conserve the assets of a foreign or alien insurer likewise must require DFS to take possession of the property of the insurer within this state.³⁷

Consumer Personal Financial and Health Information

Insurance companies routinely possess records of policyholders and claimants during the normal course of business which include personal, private financial and medical information.³⁸ Such information held by solvent insurers is not freely available to any person or entity. If such records are made available, it is usually through confidentiality agreements or court orders, and with reference to certain state and federal privileges and confidentiality laws and regulations.³⁹ The Legislature often enacts public records exemptions to restrict disclosure of private financial and medical information, an example of which is found in s. 624.23, F.S., which makes

circuit court for an order appointing it as ancillary receiver of, and directing it to liquidate the business and assets of, a foreign insurer which has assets, business, or claims in this state upon the appointment in the domiciliary state of such insurer of a receiver, liquidator, conservator, rehabilitator, or other officer by whatever name called for the purpose of liquidating the business of such insurer. Section 631.091, F.S. Grounds for conservation of foreign insurers include the same as those for rehabilitation and liquidation, or when the insurer's property has been sequestered in its domiciliary sovereignty or in any other sovereignty. Section 631.071, F.S. Grounds for the conservation of alien insurers are the same, but additionally include an insurer's failures to timely comply with an OIR order to make good an impairment of trustee funds. Section 631.081, F.S.

³⁰ "Insolvency" means that all the assets of the insurer, if made immediately available, would not be sufficient to discharge all its liabilities or that the insurer is unable to pay its debts as they become due in the usual course of business. Section 631.011(14), F.S. Depending on the context, insolvency also includes and is defined as "impairment of surplus" and "impairment of capital" as defined in s. 631.011(13) and (12), F.S., respectively. *Id.*

³¹ Part I of Chapter 631, F.S.

³² Section 631.031(1), F.S.

³³ Section 631.021(3), F.S.

³⁴ See s. 631.141(1)-(2), F.S.

³⁵ See ss. 631.101 and 631.111, F.S., respectively.

³⁶ Section 631.121, F.S.

³⁷ Section 631.131(1), F.S.

³⁸ Department of Financial Services, *Bill Analysis of SB 1188*, January 2, 2020 (on file with the Senate Banking and Insurance Committee).

³⁹ *Id.*

confidential and exempt the personal financial and health information held by the DFS or OIR relating to a consumer's complaint or inquiry regarding a matter or activity regulated under the Florida Insurance Code or s. 440.191, F.S.

ORSA Summary Reports, Corporate Governance Annual Disclosures, and NAIC Information

Section 624.4212(3)(a)-(b), F.S., provides that except for information obtained by OIR that would otherwise be available for public inspection, the following information held by the OIR is confidential and exempt from the disclosure requirements of s. 119.07(1), F.S. and s. 24(a), Art. I of the State Constitution:

- *ORSA Reports.* Own-Risk and Solvency Assessments (ORSA) are internal assessments conducted by insurers and insurance groups of the material and relevant risks associated with their business plan and the sufficiency of their capital resources to support those risks.⁴⁰ An ORSA Summary Report is a high-level ORSA summary of an insurer or insurance group, consisting of a single report or combination of reports.⁴¹ Insurers are required to conduct an ORSA at least annually.⁴² Unless an insurer or insurance group is exempted from this requirement or compliance is otherwise waived, insurers must submit an ORSA summary report to the OIR once every calendar year.⁴³
- *Corporate Governance Annual Disclosures.* Corporate governance annual disclosures are reports filed with the OIR by insurers and insurance groups which describe the corporate governance framework and structure of the insurer or insurance group, the policies and practices for directing senior management and of the most senior governing entity and its significant committees, and the processes by which the board, its committees, and senior management ensure the appropriate amount of oversight to critical risk areas that impact the insurer's business activities.⁴⁴ Insurers, or insurer members of an insurance group of which the OIR is the lead state regulator, must submit corporate governance annual disclosure to the OIR annually.⁴⁵

In addition to being confidential and exempt from the disclosure requirements of s. 119.07(1), F.S. and s. 24(a), Art. I of the State Constitution, both ORSA summary reports and corporate governance annual disclosures, along with related documents, are considered privileged and confidential. OIR may not produce these documents in response to a subpoena or other discovery directed to the OIR, and any such filings and related documents are not admissible as evidence in any private civil action. Disclosure of these records to the OIR under any provision of the Insurance Code or by the OIR pursuant to an exception of the public records exemption does not constitute a waiver of any applicable claim of privilege. The OIR, and any person in receipt of these documents while acting under the authority of the OIR, are not permitted or required to testify in any civil action concerning the documents.⁴⁶

⁴⁰ Section 628.8015(1)(d), F.S.

⁴¹ Section 628.8015(1)(f), F.S.

⁴² Section 628.8015(2)(b), F.S.

⁴³ Section 628.8015(2)(c)1.a.(I), F.S. *See* Section 628.8015(2)(d), F.S., for exemptions, and s. 628.8015(2)(e), F.S., for waiver requirements.

⁴⁴ Section 628.8015(1)(a) and (3)(c)4.a.-d., F.S.

⁴⁵ Section 628.8015(3)(b)1.a.-c., F.S.

⁴⁶ Section 628.8015(4), F.S.

Section 624.4212(4), F.S., provides that information received from the National Association of Insurance Commissioners (NAIC), a governmental entity in this or another state, the Federal Government, or a government of another nation which is confidential or exempt if held by that entity, and which is held by the OIR for use in the performance of its duties relating to insurer valuation and solvency, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

There are limited circumstances under which the OIR may disclose this confidential and exempt information, including:

- Upon the prior written consent of the subject insurer;
- Pursuant to a court order;
- To the Actuarial Board for Counseling and Discipline, upon a request stating that the information is for the purpose of professional disciplinary proceedings and specifying procedures satisfactory for preserving the confidentiality of the information;
- To other states, federal and international agencies, the NAIC and its affiliates and subsidiaries, and state, federal, and international law enforcement authorities, including members of a supervisory college described in s. 628.805, F.S., if the recipient agrees in writing to maintain the confidential and exempt status of the document, material, or other information and has certified in writing its legal authority to maintain such confidentiality; and
- For the purpose of aggregating information on an industrywide basis and disclosing the information to the public, only if the specific identities of the insurers, or persons or affiliated persons, are not revealed.⁴⁷

The Public Records Act is liberally construed in favor of open government, and public records exemptions are construed narrowly and limited to their stated purpose.⁴⁸ The above exemptions expressly apply to ORSA summary reports, corporate governance annual disclosures, and information from NAIC or another government entity when held by OIR. Currently, no public records exemption exists for these records when held by DFS.

III. Effect of Proposed Changes:

Section 1 creates s. 631.195, F.S. Subsection (1) provides definitions of “consumer” and “personal financial and health information.” “Consumer” is defined to encompass prospective purchasers, purchasers, beneficiaries of, and applicants for any insurance product or service, along with the family members and dependents of such persons. “Personal financial and health information” includes information regarding a consumer’s personal health condition, disease, or injury; any history of a consumer’s personal medical diagnosis or treatment; the existence, identification, nature, or value of a consumer’s assets, liabilities, or net worth; the existence or content of, or any individual coverage or status under a consumer’s beneficial interest in, any insurance policy or annuity contract; and the existence, identification, nature, or value of a consumer’s interest in any insurance policy, annuity contract, or trust.

⁴⁷ Section 624.4212(5)(a)-(e), F.S.

⁴⁸ *Marino v. University of Florida*, 107 So. 3d 1231, 1233 (Fla. 1st DCA 2013).

Subsection (2) designates certain insurer records made or received by the Department while acting as receiver as confidential and exempt from the public records disclosure requirements of s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution. These records include personal financial and health information of a consumer, customarily maintained underwriting files, personnel and payroll records, and consumer claim files. The exemptions would create parity for policy holders and claimants regardless of the solvency of their insurance provider.⁴⁹

Subsection (3) designates certain records held by the Department for use in the performance of its duties relating to insurer solvency as confidential and exempt from the public records disclosure requirements of s. 119.07(1), F.S., and s. 24(a), Art. I of the Florida Constitution. These records include ORSA summary reports, corporate governance annual disclosures and supporting documents, and information received from the NAIC or other governmental entity which is confidential and exempt if held by that entity.

Subsection (4) provides that the exemptions in subsections (2) and (3) apply retroactively to those records held by DFS before the date the bill takes effect, along with those records held by DFS on or after that date.

Subsection (5) describes the circumstances under which the records made confidential and exempt by subsections (2) and (3) may be released. Disclosure of these records is authorized upon the following circumstances:

- Upon the written request of any state or federal agency, but only if disclosure is necessary for the receiving entity to perform its duties and responsibilities. Receiving agencies are required to maintain the confidential and exempt status of those records.
- When required by a properly authorized civil, criminal, or regulatory investigation, a subpoena, or a summons issued by a federal, state or local authority;
- When released to the NAIC and its affiliates or subsidiaries, but only if the recipient agrees in writing to maintain the confidential and exempt status of the records;
- When released to the guaranty associations and funds of the various states who are receiving, adjudicating, and paying the claims of an insolvent insurer upon delinquency proceedings. Recipients are required to maintain the confidential and exempt status of the records.
- Upon the written request of a designated employee whose responsibilities include the investigation and disposition of claims relating to suspected fraudulent insurance acts; and
- Upon the written request of a consumer or their legally authorized representative, DFS may release the personal financial and health information of that consumer.

Subsection (6) provides that the section is subject to the Open Government Sunset Review Act, and shall stand repealed on October 2, 2025, unless reviewed and reenacted by the Legislature.

Section 2 provides public necessity statements describing the justifications for the exemptions in Section 1. Subsection (1) indicates that disclosure of the specified financial, health, underwriting, personnel, payroll, and consumer claim information would create the opportunity for theft and fraud, and thereby jeopardize the financial security of the subject person. Limiting disclosure of such information held by DFS protects the financial interests of the subject persons, and

⁴⁹ Department of Financial Services, *Bill Analysis of SB 1188*, January 2, 2020 (on file with the Senate Banking and Insurance Committee).

recognizes the expectation of and right to privacy in all matters concerning a person's financial interests. Furthermore, matters of personal health are traditionally private and disclosure may have a negative effect on a person's business and personal relationships, and could result in detrimental financial consequences.

Subsection (2) provides that it is a public necessity to exempt ORSA summary reports, corporate governance annual disclosures, and information received from the NAIC and other governmental entities. Paragraph (2)(b) indicates that ORSA reports, or substantially similar ORSA reports, and the supporting documents contain highly sensitive and strategic information about an insurer or insurance group which provides the OIR with an effective early warning mechanism for preventing insolvencies, assisting the OIR to protect policy holders and promote a stable insurance market. However, public disclosure of this information would injure the insurer or insurance group by providing competitors with detailed insight into their financial position, risk management strategies, business plans, pricing and market strategies, management systems, and operational protocols.

Paragraph (2)(c) indicates that corporate governance annual disclosures describe the governance structure and internal practices and procedures used in conducting the business affairs of insurers. Insurers use this information to make strategic operational decisions affecting their competitive position, and to manage their financial condition; regulators utilize this information to promote market integrity. Given the sensitive nature of the information, is a public necessity to make such information confidential and exempt, as release would injure the subject insurers or insurance group in the marketplace by providing competitors with confidential business information.

Paragraph (2)(d) indicates that divulgence of confidential or exempt information received from the NAIC or other governments could impede the exchange of information and communication among regulators, thus jeopardizing the ability of regulators to effectively supervise insurers.

Section 3 provides an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

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 bill creating or expanding an exemption to the public records requirements. This bill enacts a new exemption for certain records held by the Department of Financial Services, including financial, health, underwriting, personnel, payroll, and consumer claim information, ORSA summary reports, corporate governance annual disclosures, and confidential information received from NAIC and other governmental entities. Thus, the bill requires a two-thirds vote to be enacted.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. Section 2 of the bill contains a statement of public necessity for justifying the exemption.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the exemptions for financial, health, underwriting, personnel, payroll, and consumer claim information is to protect insurance consumers and employees from fraud, identity theft, and other harm that may result from public disclosure of their financial interests. The purpose of the exemptions for ORSA reports and corporate governance annual disclosures is to protect insurers and insurance groups from competitive harm in the marketplace resulting from public disclosure of confidential business information. The purpose of exempting information received from NAIC or other governmental entities is to encourage the exchange of information among regulators, thereby protecting their ability to effectively supervise insurers and insurance groups. This bill exempts only traditionally private health and financial information and confidential business information from the public records requirements. These exemptions do not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 631.195 of the Florida Statutes.

Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By Senator Albritton

26-00996A-20

20201188__

1 A bill to be entitled
 2 An act relating to public records; creating s.
 3 631.195, F.S.; defining the terms "consumer" and
 4 "personal financial and health information"; exempting
 5 from public records requirements consumer personal
 6 financial and health information, certain underwriting
 7 files, insurer personnel and payroll records, and
 8 consumer claim files that are made or received by the
 9 Department of Financial Services acting as receiver as
 10 to an insurer; exempting from public records
 11 requirements certain reports and documents held by the
 12 department relating to insurer own-risk and solvency
 13 assessments and corporate governance annual
 14 disclosures and certain information received from the
 15 National Association of Insurance Commissioners or
 16 governments; providing retroactive applicability;
 17 providing that exempted records may be released under
 18 specified circumstances; providing for future
 19 legislative review and repeal of the exemptions;
 20 providing statements of public necessity; providing an
 21 effective date.

22
 23 Be It Enacted by the Legislature of the State of Florida:

24
 25 Section 1. Section 631.195, Florida Statutes, is created to
 26 read:

27 631.195 Records of insurers; public records exemptions.-

28 (1) As used in this section, the term:

29 (a) "Consumer" means a prospective purchaser of, a

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30 purchaser of, a beneficiary of, or an applicant for any
 31 insurance product or service. The term also includes a family
 32 member or dependent of such person.
 33 (b) "Personal financial and health information" means:
 34 1. A consumer's personal health condition, disease, or
 35 injury;
 36 2. A history of a consumer's personal medical diagnosis or
 37 treatment;
 38 3. The existence, nature, source, or amount of a consumer's
 39 personal income or expenses;
 40 4. Records of, or relating to, a consumer's personal
 41 financial transactions of any kind;
 42 5. The existence, identification, nature, or value of a
 43 consumer's assets, liabilities, or net worth;
 44 6. The existence or content of, or any individual coverage
 45 or status under a consumer's beneficial interest in, any
 46 insurance policy or annuity contract; or
 47 7. The existence, identification, nature, or value of a
 48 consumer's interest in any insurance policy, annuity contract,
 49 or trust.
 50 (2) The following records, in whatever form, of an insurer
 51 which are made or received by the department, acting as receiver
 52 pursuant to this chapter, are exempt from s. 119.07(1) and s.
 53 24(a), Art. I of the State Constitution:
 54 (a) All personal financial and health information of a
 55 consumer.
 56 (b) Underwriting files of a type customarily maintained by
 57 an insurer transacting lines of insurance similar to those lines
 58 transacted by the insurer.

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59 (c) Personnel and payroll records of the insurer.
 60 (d) Consumer claim files.
 61 (3) The following records held by the department are
 62 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
 63 of the State Constitution:
 64 (a) An ORSA summary report, a substantially similar ORSA
 65 summary report, and supporting documents submitted to the office
 66 pursuant to s. 628.8015.
 67 (b) A corporate governance annual disclosure and supporting
 68 documents submitted to the office pursuant to s. 628.8015.
 69 (c) Information received from the National Association of
 70 Insurance Commissioners, a governmental entity in this or
 71 another state, the Federal Government, or a government of
 72 another nation which is confidential or exempt if held by that
 73 entity and which is held by the department for use in the
 74 performance of its duties relating to insurer solvency.
 75 (4) The exemptions in subsections (2) and (3) apply to
 76 records held by the department before, on, and after July 1,
 77 2020.
 78 (5) Records or portions of records made confidential and
 79 exempt by this section may be released under any of the
 80 following circumstances:
 81 (a) To any state or federal agency, upon written request,
 82 if disclosure is necessary for the receiving entity to perform
 83 its duties and responsibilities. The receiving agency shall
 84 maintain the confidential and exempt status of such record or
 85 portion of such record.
 86 (b) To comply with a properly authorized civil, criminal,
 87 or regulatory investigation or a subpoena or summons by a

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88 federal, state, or local authority.
 89 (c) To the National Association of Insurance Commissioners
 90 and its affiliates and subsidiaries, if the recipient agrees in
 91 writing to maintain the confidential and exempt status of the
 92 records.
 93 (d) To the guaranty associations and funds of the various
 94 states which are receiving, adjudicating, and paying claims of
 95 the insolvent insurer subject to delinquency proceedings
 96 pursuant to this chapter. The receiving guaranty association
 97 shall maintain the confidential and exempt status of such record
 98 or portion of such record.
 99 (e) Upon written request, to persons identified as
 100 designated employees as described in s. 626.989(4)(d), whose
 101 responsibilities include the investigation and disposition of
 102 claims relating to suspected fraudulent insurance acts.
 103 (f) In the case of personal financial and health
 104 information of a consumer, upon written request of the consumer
 105 or the consumer's legally authorized representative.
 106 (6) This section is subject to the Open Government Sunset
 107 Review Act in accordance with s. 119.15 and shall stand repealed
 108 on October 2, 2025, unless reviewed and saved from repeal
 109 through reenactment by the Legislature.
 110 Section 2. (1) The Legislature finds it is a public
 111 necessity to exempt from s. 119.07(1), Florida Statutes, and s.
 112 24(a), Article I of the State Constitution all personal
 113 financial and health information of a consumer, underwriting
 114 files of a type customarily maintained by an insurer transacting
 115 lines of insurance similar to those lines transacted by the
 116 insurer, personnel and payroll records of an insurer, and

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117 consumer claim files that are made or received by the Department
 118 of Financial Services acting as receiver as to an insurer.
 119 Disclosure of financial, health, underwriting, personnel,
 120 payroll, or consumer claim information would create the
 121 opportunity for theft or fraud, thereby jeopardizing the
 122 financial security of a person. Limiting disclosure of such
 123 information held by the department is also necessary in order to
 124 protect the financial interests of the persons to whom that
 125 information pertains. Such information could be used for
 126 fraudulent or other illegal purposes, including identity theft,
 127 and could result in substantial financial harm. Furthermore,
 128 every person has an expectation of and a right to privacy in all
 129 matters concerning his or her financial interests. The
 130 Legislature further finds that it is a public necessity that
 131 health information held by the department be made confidential
 132 and exempt because matters of personal health are traditionally
 133 private and confidential concerns between the patient and his or
 134 her health care provider. The private and confidential nature of
 135 personal health matters pervades both the public and private
 136 health care sectors. Moreover, public disclosure of health
 137 information could have a negative effect upon a person's
 138 business and personal relationships and could also have
 139 detrimental financial consequences.

140 (2) (a) The Legislature further finds that it is a public
 141 necessity to exempt from s. 119.07(1), Florida Statutes, and s.
 142 24(a), Article I of the State Constitution the following records
 143 held by the department:

144 1. An own-risk and solvency assessment (ORSA) summary
 145 report, a substantially similar ORSA summary report, and

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146 supporting documents submitted to the Office of Insurance
 147 Regulation pursuant to s. 628.8015, Florida Statutes;
 148 2. A corporate governance annual disclosure and supporting
 149 documents submitted to the office pursuant to s. 628.8015,
 150 Florida Statutes; and
 151 3. Information received from the National Association of
 152 Insurance Commissioners, a governmental entity in this or
 153 another state, the Federal Government, or a government of
 154 another nation which is confidential or exempt if held by that
 155 entity and which is held by the department for use in the
 156 performance of its duties relating to insurer solvency.
 157 (b) In conducting an ORSA, an insurer or insurance group
 158 identifies and evaluates the material and relevant risks to the
 159 insurer or insurance group and the adequacy of capital resources
 160 to support these risks. The ORSA summary report, substantially
 161 similar ORSA report, and supporting documents contain highly
 162 sensitive and strategic financial information about an insurer
 163 or insurer group. Having a comprehensive and unbiased assessment
 164 provides the office with an effective early warning mechanism
 165 for preventing insolvencies and protecting policyholders and
 166 promotes a stable insurance market. Divulging the ORSA summary
 167 report, substantially similar ORSA summary report, and
 168 supporting documents will injure the insurer or insurance group
 169 by providing competitors with detailed insight into their
 170 financial position, risk management strategies, business plans,
 171 pricing and marketing strategies, management systems, and
 172 operational protocols.
 173 (c) The corporate governance annual disclosure describes an
 174 insurer's governance structure and the internal practices and

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175 procedures used in conducting the business affairs of the
176 company, making strategic operational decisions affecting its
177 competitive position, and managing its financial condition.
178 Release of the corporate governance annual disclosure and
179 supporting documents will injure the insurer or insurance group
180 in the marketplace by providing competitors with the insurer's
181 or the insurance group's confidential business information.
182 Broad disclosure will give state regulators a thorough
183 understanding of the corporate governance structure and internal
184 policies and practices used by insurers and promote market
185 integrity. Effective governance mechanisms will enable insurers
186 to take any necessary corrective actions and achieve strategic
187 goals while allowing the office to perform its regulatory duties
188 effectively and efficiently.

189 (d) Divulgence of confidential or exempt information
190 received from the National Association of Insurance
191 Commissioners or governments could impede the exchange of
192 information and communication among regulators across multiple
193 agencies and jurisdictions and jeopardize the ability of
194 regulators to effectively supervise insurers and groups
195 operating in multiple jurisdictions and engaged in significant
196 cross-border activities.

197 Section 3. This act shall take effect July 1, 2020.



Department of Financial Services (DFS) 2020 Legislative Bill Analysis

BILL INFORMATION

Bill Number:	SB 1188
Bill Title:	Public Records Exemption for Department of Financial Services
Bill Sponsor:	Albritton
Effective Date:	July 1, 2020

ANALYSIS INFORMATION

Agency Contact:	Meredith Stanfield, Legislative Affairs Director, (850) 413-2890
Division Director:	Toma Wilkerson
Program Analyst:	Miriam Victorian
Analysis Date:	January 2, 2019

POLICY ANALYSIS

I. SUMMARY ANALYSIS

SB 1188 would create an exemption for certain personal medical, health, and financial information of consumers contained in the files of an insurance company placed in receivership over whom the Department of Financial Services (DFS) exercises authority as the Court appointed receiver from disclosure under the Florida Public Records statute, Chapter 119, F.S. This bill would also exempt certain corporate governance and solvency risk assessments provided to the Office of Insurance Regulation (OIR) on companies referred to DFS for delinquency proceedings from disclosure absent a subpoena issued by a court in a civil or criminal matter. Finally, the bill permits DFS to withhold from disclosure certain confidential documents and information shared by the National Association of Insurance Commissioners [NAIC] and other state, federal, and foreign regulators from public disclosure.

II. PRESENT SITUATION

Insurance companies routinely keep records of policyholders and claimants during the normal course of business, including personal, private financial and medical information. Such information kept by solvent insurers is not freely available to any person or entity who requests such information without a valid need to know and the ability to restrict dissemination of such information to the public, usually through confidentiality agreements/court orders, and reference to certain state and federal privileges and confidentiality laws and regulations.

Currently, DFS is only permitted to withhold the limited information from a public records request as outlined in section 119.071, F.S., which does not include an individual or their family member's medical and health history; private financial information, such as income, financial transactions, assets, net worth, and expenses; insurance coverage, status as a beneficiary of an insurance policy, and underwriting file. DFS is also not able to withhold certain confidential regulatory information received from other state regulators, the National Association of Insurance Commissioners (NAIC), or other state, federal or foreign regulatory agencies when a public records request is made for same.

III. EFFECT OF PROPOSED CHANGES

This bill would create a public records exemption protecting the personal, private financial and medical information of policyholders and claimants to provide parity with other policyholders and claimants of solvent insurance companies whose records are not subject to public disclosure.

The changes would permit DFS to withhold certain private personal, medical and financial information of policyholders and claimants of insurance companies placed in receivership under DFS' auspices as the court appointed receiver pursuant to Chapter 631, F.S., when a public records request is made pursuant to Chapter 119, F.S. This information is not subject to disclosure, outside of a litigation context involving the policyholder/claimant, to unrelated third parties when their insurer is solvent and regulated by OIR. It is only when their insurer is referred to DFS for delinquency proceedings that their claim records and other private health and financial information becomes subject to the Chapter 119, F.S. The proposed legislation would give these policyholders and claimants the same privacy protections they would have but for the delinquency proceedings.

The new statutory language would additionally exempt certain documents and reports submitted by companies to OIR regarding their corporate governance and own-risk and solvency assessment, as well as, confidential information received by DFS from NAIC, other state, federal and foreign governmental entities. A procedure to release such information would be established whereby DFS may release such information pursuant to a court subpoena, and release such information to the NAIC, other guaranty associations, fraud investigators, and legally authorized personal representatives of consumers.

IV. DOES THE BILL DIRECT OR ALLOW THE DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? Y N

If yes, explain:	
Is the change consistent with the agency's core mission?	Y <input checked="" type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C.):	

V. DOES THE BILL REQUIRE REPORTS OR STUDIES? Y N

If yes, provide a description:	
Date Due:	
Bill Section Number(s):	

VI. DOES THE BILL REQUIRE APPOINTMENTS OR MODIFY EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC.? Y N

Board:	
Board Purpose:	

Who Appoints:	
Changes:	
Bill Section Number(s):	

FISCAL ANALYSIS

I. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? Y N

Revenues:	
Expenditures:	

II. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT? Y N

Revenues:	
Expenditures:	
Does the legislation contain a State Government appropriation?	
If yes, was this appropriated last year?	

III. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR? Y N

Revenues:	
Expenditures:	
Other:	

IV. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES? Y N

If yes, explain impact.	
Bill Section Number:	

TECHNOLOGY IMPACT

- I. **DOES THE BILL IMPACT THE DEPARTMENT’S TECHNOLOGY SYSTEMS (I.E., IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)?** Y N

If yes, describe the anticipated impact to the agency including any fiscal impact.	
--	--

FEDERAL IMPACT

- I. **DOES THE BILL HAVE A FEDERAL IMPACT (I.E., FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)?** Y N

If yes, describe the anticipated impact including any fiscal impact.	
--	--

ADDITIONAL COMMENTS

LEGAL - GENERAL COUNSEL’S OFFICE REVIEW

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Jan 15/2020
Meeting Date

1188
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Tim Meenan

Job Title _____

Address 400 S. Duval St.
Street

Phone 925-4000

Tallahassee
City State Zip

Email Tim@meenanlawfirm.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Insurance Guaranty Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/14

Meeting Date

1188

Bill Number (if applicable)

Topic Public Records/Records of Insurers/DFS

Amendment Barcode (if applicable)

Name Meredith Stanfield

Job Title Director of Legislative & Cabinet Affairs

Address PL 11, The Capitol

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Tallahassee

FL

State

32399

Zip

Email meredith.stanfield@myfloridacfo.com

myfloridacfo.com

Speaking: [] For [] Against [] Information

Waive Speaking: [] In Support [] Against (The Chair will read this information into the record.)

Representing Department of Financial Services

Appearing at request of Chair: [] Yes [x] No

Lobbyist registered with Legislature: [x] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

CourtSmart Tag Report

Room: KN 412
Caption: Senate Banking and Insurance Committee

Case No.:

Type:
Judge:

Started: 1/15/2020 10:34:37 AM

Ends: 1/15/2020 12:28:18 PM

Length: 01:53:42

10:34:46 AM Meeting called to order.
10:35:20 AM TAB 2 - S 880 by Baxley - Nurse Registry
10:35:42 AM Senator Baxley recognized to explain the bill.
10:36:35 AM Roll call vote on
10:37:56 AM TAB 1 - S 116 by Sen. Cruz and others - Insulin Drugs
10:38:21 AM Senator Cruz recognized to present the bill.
10:41:20 AM Amend 257496 - voice vote - adopted
10:44:58 AM Beth Labasky
10:45:58 AM Steve Winn - FL Osteopathic Medical Assoc.
10:47:25 AM Veronica Galze - American Diabetes Association
10:49:58 AM Emmabella Rudd
10:52:24 AM Meredith Rosser - ADA
10:53:39 AM Chris Clark
10:57:29 AM Dr. Otis Kirksey, American Diabetes Association
10:58:37 AM Nora Clark
11:01:18 AM Alexandra Iannone
11:02:08 AM Brooks Biagini
11:04:41 AM Maria Perez
11:12:24 AM Timothy Katz
11:13:50 AM Question on bill -- Senator Lee
11:15:29 AM Senator Taddeo recognized for question
11:19:07 AM Chairman Broxson with comments on bill.
11:22:18 AM Roll call vote on CS/S116 - Favorable
11:23:19 AM TAB 6 S 1188 by Albritton - Public Records/Records of Insurers/DFS
11:24:00 AM Roll call vote on S 1188 - Favorable
11:25:01 AM TAB 4 - S 898 by Gruters - Insurance Guaranty Associations
11:25:27 AM Sen. Gruters explains the bill.
11:26:18 AM Amd. 336280 - Technical Amend - Voice Vote - adopted
11:27:56 AM Roll call vote on CS/SB 898 - Favorable
11:28:23 AM TAB 5 - S 1092 by Bean - Fire Prevention and Control
11:29:55 AM Senator Thurston with question on bill.
11:30:51 AM Roll call vote on S 1092 - Favorable
11:31:28 AM TAB 3 - S 894 by Rouson - Business Services
11:32:45 AM Senator Rouson recognized to present the bill.
11:33:46 AM Amd. 366766 - Voice Vote - Adopted
11:34:18 AM Sen. Thurston recognized for question on bill.
11:35:16 AM Sen. Rouson responds to question.
11:35:39 AM Follow up question by Thurston.
11:36:07 AM Sen. Rouson responds.
11:36:39 AM Question by Thurston.
11:36:51 AM Sen Rouson responds.
11:37:28 AM Senator Lee recognized for question from sponsor.
11:37:43 AM Sen Rouson responds.
11:38:31 AM Sen Lee with question.
11:43:33 AM Sven Kaludzirisk - General Counsel
11:47:26 AM Sen. Lee recognized for question.
11:48:25 AM Senator Gruter with questions of sponsor.
11:49:13 AM Senator Perry with question.
11:50:33 AM Sen. Thurston with question.
11:52:11 AM Senator Broxson with question for sponsor.
11:52:39 AM Sen Gruters with question.
11:53:11 AM Ezra Garrett - Oporton

11:58:49 AM Senator Lee with question.
11:59:48 AM Senator Thurston with question.
12:07:29 PM Alice Vickers - FL Alliance for Consumer Protection
12:20:27 PM Scott Jenkins, FL Financial Services Association
12:21:29 PM Sven Kaludzinsk - General Counsel
12:21:51 PM Question by Sen. Thurston.
12:22:07 PM Question by Sen. Lee
12:24:50 PM Sen. Thurston with questions.
12:26:42 PM Senator Rouson closes on bill.
12:27:32 PM roll call vote - passed
12:28:01 PM ajourned.