

Tab 1 SB 340 by Brandes (CO-INTRODUCERS) Galvano, Simpson, Artiles, Young, Bracy; (Similar to CS/H 00221) Transportation Network Companies

144456	D	S	RCS	BI, Brandes	Delete everything after	03/14 12:06 PM
102860	AA	S	RCS	BI, Brandes	Delete L.18 - 38:	03/14 12:06 PM
546676	AA	S	UNFAV	BI, Farmer	Delete L.384:	03/14 12:06 PM

Tab 2 SB 794 by Brandes; (Compare to CS/H 00339) Motor Vehicle Service Agreement Companies

472694	A	S	RCS	BI, Brandes	Delete L.21 - 78:	03/14 12:06 PM
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Tab 3 SB 812 by Perry; (Similar to CS/H 00805) Insurance Policy Transfers

385072	A	S	L WD	BI, Perry	Delete L.27 - 42:	03/14 12:06 PM
810992	A	S	L WD	BI, Perry	Delete L.27 - 42:	03/14 12:06 PM
924038	A	S	L RCS	BI, Perry	Delete L.27 - 42:	03/14 12:06 PM

Tab 4 SB 814 by Broxson; (Similar to CS/H 00307) Florida Life and Health Insurance Guaranty Association

Tab 5 SB 986 by Stargel; (Identical to H 00925) Department of Financial Services

722534	A	S	RCS	BI, Stargel	Delete L.243 - 1246:	03/14 12:06 PM
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Tab 6 SB 1108 by Artiles; (Similar to CS/H 00383) Public Records/Firefighters and their Spouses and Children

Tab 7 SB 1170 by Hutson (CO-INTRODUCERS) Garcia; (Compare to H 01373) Florida Security for Public Deposits Act

379464	A	S	RCS	BI, Hutson	Delete L.99 - 213:	03/14 12:06 PM
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Tab 8 SPB 7024 by BI; OGSR/Title Insurance Agencies or Insurers/Office of Insurance Regulation

Tab 9 SPB 7026 by BI; OGSR/Reports of Unclaimed Property/Department of Financial Services

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

BANKING AND INSURANCE
Senator Flores, Chair
Senator Steube, Vice Chair

MEETING DATE: Tuesday, March 14, 2017
TIME: 10:00 a.m.—12:00 noon
PLACE: *Toni Jennings Committee Room*, 110 Senate Office Building

MEMBERS: Senator Flores, Chair; Senator Steube, Vice Chair; Senators Bracy, Braynon, Farmer, Gainer, Garcia, Mayfield, and Thurston

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 340 Brandes (Similar CS/H 221)	Transportation Network Companies; Providing that a transportation network company (TNC) driver is not required to register certain vehicles as commercial motor vehicles or for-hire vehicles; providing requirements for a TNC's digital network; providing that specified automobile insurers have a right of contribution against other insurers that provide automobile insurance to the same TNC drivers in satisfaction of certain coverage requirements under certain circumstances, etc. BI 03/14/2017 Fav/CS JU RC	Fav/CS Yeas 7 Nays 2
2	SB 794 Brandes (Compare CS/H 339)	Motor Vehicle Service Agreement Companies; Revising qualifications for a motor vehicle service agreement company to obtain and maintain a license, etc. BI 03/14/2017 Fav/CS CM RC	Fav/CS Yeas 9 Nays 0
3	SB 812 Perry (Similar CS/H 805)	Insurance Policy Transfers; Authorizing an insurer to transfer a personal lines residential or commercial residential property insurance policy to another authorized insurer upon expiration of the policy term if specified conditions are met, etc. BI 03/14/2017 Fav/CS CM RC	Fav/CS Yeas 8 Nays 0
4	SB 814 Broxson (Similar CS/H 307)	Florida Life and Health Insurance Guaranty Association; Revising applicability of the Florida Life and Health Insurance Guaranty Association Act as to specified annuity contracts; specifying the association's maximum liability as to certain health insurance policies, etc. BI 03/14/2017 Favorable AGG AP	Favorable Yeas 8 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Banking and Insurance

Tuesday, March 14, 2017, 10:00 a.m.—12:00 noon

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	SB 986 Stargel (Identical H 925, Compare H 911, S 922)	Department of Financial Services; Replacing, within the Division of Treasury, the Treasury Investment Committee with the Treasury Investment Council; providing applicability of certain requirements relating to payments, warrants, and invoices to payments made in relation to certain agreements funded with federal or state assistance; requiring certification of boiler inspectors; authorizing the department to expend funds for professional development of its employees, etc. BI 03/14/2017 Fav/CS AGG AP	Fav/CS Yeas 8 Nays 0
6	SB 1108 Artiles (Similar CS/H 383)	Public Records/Firefighters and their Spouses and Children; Expanding an exemption from public records requirements for the personal identifying and location information of certain firefighters and their spouses and children to include the personal identifying and location information of former firefighters and their spouses and children; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc. BI 03/14/2017 Favorable GO RC	Favorable Yeas 8 Nays 0
7	SB 1170 Hutson (Compare H 1373)	Florida Security for Public Deposits Act; Redefining terms, which includes the addition of credit unions as qualified public depositories under the Florida Security for Public Deposits Act; specifying the mutual responsibility and contingent liability of certain credit unions designated as qualified public depositories, etc. BI 03/14/2017 Fav/CS RC	Fav/CS Yeas 7 Nays 2
Consideration of proposed bill:			
8	SPB 7024	OGSR/Title Insurance Agencies or Insurers/Office of Insurance Regulation; Amending provisions relating to an exemption from public records requirements for proprietary business information provided to the Office of Insurance Regulation by title insurance agencies or insurers; removing the scheduled repeal of the exemption, etc.	Submitted and Reported Favorably as Committee Bill Yeas 8 Nays 0
Consideration of proposed bill:			

COMMITTEE MEETING EXPANDED AGENDA

Banking and Insurance

Tuesday, March 14, 2017, 10:00 a.m.—12:00 noon

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
9	SPB 7026	OGSR/Reports of Unclaimed Property/Department of Financial Services; Amending provisions relating to an exemption from public records requirements for social security numbers and property identifiers, contained in certain reports of unclaimed property, which are held by the Department of Financial Services; removing the scheduled repeal of the exemption, etc.	Submitted and Reported Favorably as Committee Bill 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 340

INTRODUCER: Banking and Insurance Committee and Senator Brandes and others

SUBJECT: Transportation Network Companies

DATE: March 15, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Billmeier	Knudson	BI	Fav/CS
2.			JU	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 340 creates statewide requirements for transportation network companies (TNCs). TNCs use smartphone technology to connect individuals who want to ride with private drivers for a fee. This bill provides that TNCs will be governed exclusively by state law. The bill provides minimum insurance requirements for TNCs and TNC drivers. When a TNC driver is logged on the digital network but not engaged in a prearranged ride, the following insurance requirements apply:

- Primary automobile liability coverage of at least \$50,000 for death and bodily injury per person, \$100,000 for death and bodily injury per incident, and \$25,000 for property damage; Personal injury protection (PIP) benefits that meet the minimum coverage amounts required under the Florida Motor Vehicle No-Fault Law; and
- Uninsured and underinsured vehicle coverage as required by s. 627.727, F.S.

When a TNC driver is engaged in a prearranged ride, the following insurance requirements apply:

- PIP coverage of at least \$1 million for death, bodily injury, and property damage;
- PIP benefits that meet the minimum coverage amounts required of a limousine under Florida Motor Vehicle No-Fault Law; and
- Uninsured and underinsured vehicle coverage as required by s. 627.727, F.S.

The coverage requirements of this bill may be satisfied by automobile insurance maintained by the TNC driver, by the TNC, or by a combination of the two.

The bill establishes certain TNC driver requirements including background and driving record checks. It prohibits persons from being a TNC driver if they have been convicted of certain crimes or a certain number of moving violations. It provides a procedure for the Department of Financial Services to verify and enforce the background check provisions of the bill.

The bill prohibits local governments from imposing taxes or licensing requirements on TNCs, TNC drivers, or TNC vehicles. It also prohibits local governments from requiring TNCs or TNC drivers to obtain business licenses or similar authorization to operate within a jurisdiction.

In addition, the bill:

- Provides that a TNC is not a common carrier, contract carrier, or motor carrier and does not provide taxicab or for-hire vehicle service;
- Requires a TNC to maintain an agent for service of process;
- Requires a TNC to disclose certain information related to the collection of fares;
- Requires a TNC's digital network to display a photograph of the TNC driver and the license plate number of the TNC vehicle;
- Provides that TNC drivers are independent contractors if certain conditions are met;
- Requires TNCs to implement a zero tolerance policy regarding the use of drugs and alcohol by its drivers;
- Prohibits TNC drivers from accepting rides for compensation outside of the TNC's digital network and from soliciting or accepting street hail;
- Requires TNCs to adopt and TNC drivers to comply with policies related to nondiscrimination and disability access; and
- Requires TNCs to maintain certain records relating to riders and TNC drivers.

II. Present Situation:

Technological advances have led to new methods for consumers to arrange and pay for transportation, including software applications that make use of mobile smartphone applications, Internet web pages, and email and text messages. Ridesharing companies, such as Lyft, Uber, and SideCar, describe themselves as "transportation network companies" (TNCs), rather than as vehicles for hire.

Transportation Network Companies

TNCs use smartphone technology to connect individuals who want to ride with private drivers for a fee. A driver logs onto a phone application and indicates the driver is ready to accept passengers. Potential passengers log on, learn which drivers are nearby, see photographs, receive a fare estimate, and decide whether to accept a ride. If the passenger accepts a ride, the driver is notified and proceeds to pick up the passenger. Once at the destination, payment is made through the phone application. Some state and local governments have taken steps to recognize and regulate companies using these new technologies. Over forty states have enacted legislation regarding transportation network companies.¹

¹ <http://viewer.zmags.com/publication/60841263#/60841263/1> (last accessed March 8, 2017).

Insurance Requirements

Drivers generally use their personal vehicles and most personal automobile policies contain a “livery” exclusion that excludes coverage if the vehicle is carrying passengers for hire.² Consequently, most personal automobile insurance policies do not cover damage or loss when a car is being used for commercial ridesharing. Some ridesharing companies provide insurance for portions of the time when the driver is transporting passengers but such insurance is not required. This could lead to situations where drivers and passengers are involved in accidents and there is no insurance coverage. In 2015, stakeholders agreed to model legislation called the TNC Insurance Compromise Model Bill and have sought passage of model legislation throughout the country.³ Taxis and limousines must maintain a motor vehicle liability policy with minimum limits of \$125,000 per person for bodily injury, up to \$250,000 per incident for bodily injury, and \$50,000 for property damage.⁴

Background Checks

There are different kinds of background checks to determine criminal history. The Florida Department of Law Enforcement (FDLE) conducts “criminal history checks” or “criminal history records checks.” These background checks may include a search of the following databases:

- The Florida Computerized Criminal History Central Repository for Florida arrests for state checks;
- The Florida Computerized Criminal History Central Repository for Florida arrests and the national criminal history database at the FBI for federal arrests and arrests from other states for state and national checks; and
- The Florida Crime Information Center for warrants and domestic violence injunctions.⁵

National criminal history record checks, as well as state checks, are based on the submission of fingerprints.⁶ A check of the national criminal history at the FBI must go through an appropriate state agency (the FDLE in Florida) and requires fingerprinting.⁷

Chapter 435, F.S., deals with employment screening for government agencies. It provides for Level 1 screening which can include a search of criminal history databases, the National Sex Offender Public Website,⁸ and local criminal history checks through local law enforcement agencies. Level 1 screening does not require fingerprinting.⁹ Level 2 screening includes fingerprinting for statewide criminal history records checks through the FDLE and national

² The exclusion in Florida law is mentioned in s. 627.041(8), F.S.

³ http://www.naic.org/documents/committees_c_sharing_econ_wg_related_tnc_insurance_compromise_bill_package.pdf (last accessed March 8, 2017).

⁴ s. 324.032(1), F.S.

⁵ http://www.fdle.state.fl.us/cms/Criminal-History-Records/Documents/BackgroundChecks_FAQ.aspx (last accessed March 9, 2017).

⁶ *Id.*

⁷ See http://www.fdle.state.fl.us/cms/Criminal-History-Records/Documents/BackgroundChecks_FAQ.aspx (last accessed March 9, 2017) and Florida Department of Law Enforcement, *Analysis of SB 340* (January 19, 2017).

⁸ <https://www.nsopw.gov/> (last accessed March 9, 2017). The site contains information from sex offender registries for all 50 states, the District of Columbia, U.S. territories, and Indian Country.

⁹ s. 435.03, F.S.

criminal history records checks through the Federal Bureau of Investigation. It may include local criminal records checks through local law enforcement agencies.¹⁰

Private entities also perform background checks. These entities search available public records throughout the country and compile information from those sources to provide criminal history information. These searches are generally conducted without fingerprinting.

Local Regulation of TNCs

Florida does not regulate TNCs. Some local jurisdictions have enacted local ordinances with different requirements in different jurisdictions¹¹ and other Florida counties and cities have considered local ordinances. Representatives of TNCs have expressed concern that differing regulations in different jurisdictions can lead to confusion among drivers and riders.

III. Effect of Proposed Changes:

SB 340 creates s. 316.68, F.S., relating to transportation network companies. This bill defines a TNC as an entity that uses a digital network¹² to connect a rider¹³ to a TNC drivers¹⁴ who provide prearranged rides. The bill provides that a TNC is “deemed not to own, control, operate, direct, or manage the TNC vehicles or TNC drivers except where agreed to by written contract.” The bill defines “prearranged ride” as the provision of transportation by a TNC driver to a rider, beginning when a TNC driver accepts a ride requested by a rider through a digital network controlled by a TNC, continuing while the TNC driver transports the rider, and ending when the last rider exits from and is no longer occupying the TNC vehicle.¹⁵

The bill provides that an entity that arranges medical transportation for individuals qualifying for Medicaid or Medicare pursuant to a contract with the state or a managed care organization is not a TNC. The bill does not prohibit a TNC from providing prearranged rides to individuals who qualify for Medicaid or Medicare.

Insurance Requirements

The bill provides uniform statewide minimum insurance requirements for TNCs and TNC drivers. Many of the provisions of this bill are found in the National Association of Insurance

¹⁰ s. 435.04, F.S.

¹¹ For example, a Broward County ordinance requires vehicle inspections. A ordinance in Miami Dade County contains insurance requirements.

¹² The bill defines “digital network” as any online-enabled technology application service, website, or system offered or used by a TNC which enables the prearrangement of rides with TNC drivers.

¹³ The bill defines rider as means an individual who uses a digital network to connect with a TNC driver in order to obtain a prearranged ride in the TNC driver’s TNC vehicle between points chosen by the rider.

¹⁴ The bill defines a TNC driver as an individual who receives connections to potential riders and related services from a TNC and uses a TNC vehicle to offer or provide prearranged rides for compensation to riders upon connection to a digital network.

¹⁵ The term does not include a taxicab, for-hire vehicle, or street hail service and does not include ridesharing as defined in s. 341.031, F.S., carpool as defined s. 450.28, F.S., or any other type of service in which the driver receives a fee that does not exceed the driver’s cost to provide the ride.

Commissioners TNC Insurance Compromise Model Bill.¹⁶ This bill requires a TNC or TNC driver to maintain primary automobile insurance that:

- Recognizes that the TNC driver is a TNC driver or otherwise uses a vehicle to transport riders for compensation; and
- Covers the TNC driver while the TNC driver is logged on to the digital network of the TNC or while the TNC driver is engaged in a prearranged ride.

It requires a TNC driver or TNC on behalf of the driver to maintain primary automobile insurance that covers the TNC driver while logged on the digital network or while engaged in a prearranged ride.

When a TNC driver is logged on the digital network but not engaged in a prearranged ride, the following insurance requirements apply:

- Primary automobile liability coverage of at least \$50,000 for death and bodily injury per person, \$100,000 for death and bodily injury per incident, and \$25,000 for property damage;
- PIP benefits that meet the minimum coverage amounts required under ss. 627.730-627.7405, F.S.;¹⁷ and
- Uninsured and underinsured vehicle coverage as required by s. 627.727, F.S.¹⁸

When a TNC driver is engaged in a prearranged ride, the following insurance requirements apply:

- Primary automobile liability coverage of at least \$1 million for death, bodily injury, and property damage;
- PIP benefits that meet the minimum coverage amounts required of a limousine under ss. 627.730-627.7405, F.S.; and
- Uninsured and underinsured vehicle coverage as required by s. 627.727, F.S.

Coverage providing personal injury protection benefits are not required of limousines¹⁹ so the effect of this provision is to require no PIP coverage when a driver is engaged in a prearranged ride.

The coverage requirements of this bill may be satisfied by any of the following:

- Automobile insurance maintained by the TNC driver;
- Automobile insurance maintained by the TNC; or
- A combination of insurance maintained by the TNC and insurance maintained by the TNC driver.

¹⁶ http://www.naic.org/documents/committees_c_sharing_econ_wg_related_tnc_insurance_compromise_bill_package.pdf (last accessed March 7, 2017).

¹⁷ These provisions are known as the No-Fault Law. It requires coverage for personal injury protection to the named insured, relatives residing in the same household, persons operating the insured motor vehicle, passengers in the motor vehicle, and other persons struck by the motor vehicle and suffering bodily injury while not an occupant to a limit of \$10,000 in medical and disability benefits and \$5,000 in death benefits.

¹⁸ Section 627.727, F.S.. requires uninsured motor vehicle coverage is required if a policy provides bodily injury coverage unless it is specifically rejected.

¹⁹ s. 627.733, F.S.

If the TNC driver's insurance has lapsed or does not provide the required coverage, the insurance maintained by the TNC must provide the coverage required by the bill, beginning with the first dollar of a claim, and have the duty to defend such claim. Coverage under an automobile insurance policy maintained by the TNC must not be dependent on a personal automobile insurer first denying a claim, and a personal automobile insurance policy is not required to first deny a claim. An insurer authorized to do business in Florida that is a member of the Florida Insurance Guaranty Association or an eligible surplus lines insurer that has a superior, excellent, exceptional, or equivalent financial strength rating by a rating agency acceptable to the Office of Insurance Regulation must provide the insurance required by the bill. The bill provides that insurance required by the bill satisfies financial responsibility and security requirements for any period when the TNC driver is logged onto the digital network or engaged in a prearranged ride.

The bill requires a TNC driver to carry proof of insurance²⁰ and to provide coverage information to parties directly involved in the accident, automobile insurers, and investigating police officer in the event of an accident. The TNC driver must disclose to the same parties whether he or she was logged on the application or engaged in a prearranged ride at the time of the accident.

If a TNC's insurer makes a payment for a claim covered under comprehensive or collision coverage, the insurer must make payment directly to the business repairing the vehicle or jointly to the owner of the vehicle and the primary lienholder.

Insurance Disclosures

The TNC must disclose to the TNC driver:

- The insurance coverage, including the types of coverage and the limits for each coverage, which the TNC provides while the TNC driver uses a TNC vehicle in connection with the TNC's digital network;
- That the TNC driver's own automobile insurance policy might not provide any coverage while the TNC driver is logged on to the digital network or is engaged in a prearranged ride, depending on the terms of the TNC driver's own automobile insurance policy; and
- That the provision of rides for compensation which are not prearranged rides subjects the driver to the coverage requirements imposed under s. 324.032(1), F.S., and that failure to meet such coverage requirements subjects the TNC driver to criminal penalties.

These disclosures must be made before the TNC driver accepts a request for a prearranged ride.

Insurance Exclusions

An insurer that provides a personal automobile liability insurance policy may exclude any coverage afforded under the policy issued to an owner or operator of a TNC vehicle for any loss or injury that occurs while a TNC driver is logged on to a digital network or while a TNC driver provides a prearranged ride. Exclusions may apply to any coverage included in an automobile insurance policy, including, but not limited to:

- Liability coverage for bodily injury and property damage;
- Uninsured and underinsured motorist coverage;

²⁰ The proof of insurance may be presented through an electronic device such as a phone application.

- Medical payments coverage;
- Comprehensive physical damage coverage;
- Collision physical damage coverage; and
- Personal injury protection.

The exclusions are limited to coverage while a TNC driver is logged on to a digital network or while the TNC driver provides a prearranged ride. The exclusions do not affect or diminish coverage otherwise available for permissive drivers or resident relatives under the personal automobile policy of the TNC driver or owner who are not occupying the TNC vehicle at the time of the loss.

The bill does not require that a personal automobile insurance policy provide coverage while the TNC driver is logged on to a digital network, while the TNC driver is engaged in a prearranged ride, or while the TNC driver otherwise uses a vehicle to transport riders for compensation. However, an insurer may provide primary or excess coverage for the TNC driver's vehicle by contract or endorsement.

If an automobile insurer excludes coverage when a TNC driver is logged on to a digital network or while a TNC driver provides a prearranged ride, the insurer does not have a duty to defend or indemnify any claim expressly excluded. The bill does not invalidate or limit an exclusion contained in a policy, including a policy in use or approved for use in this state before July 1, 2017, which excludes coverage for vehicles used to carry persons or property for a charge or available for hire by the public. If an automobile insurer defends or indemnifies a claim against a TNC driver which is excluded under the terms of its policy, the insurer has a right of contribution against other insurers that provide automobile insurance to the same TNC driver in satisfaction of the coverage requirements at the time of loss.

In a claims coverage investigation, a TNC must immediately provide, upon request by a directly involved party or any insurer of the TNC driver, the precise times that the TNC driver logged on and off the digital network in the 12-hour period immediately preceding and in the 12-hour period immediately following the accident. An insurer must disclose, upon request by any other insurer involved in the particular claim, the applicable coverages, exclusions, and limits provided under any automobile insurance maintained in order to satisfy the requirements of the bill.

TNC Driver is an Independent Contractor

The bill provides that a TNC driver is an independent contractor and not an employee of the TNC if all of the following conditions are met:

- The TNC does not unilaterally prescribe specific hours during which the TNC driver must be logged on to the TNC's digital network;
- The TNC does not prohibit the TNC driver from using digital networks from other TNCs;
- The TNC does not restrict the TNC driver from engaging in any other occupation or business; and
- The TNC and TNC driver agree in writing that the TNC driver is an independent contractor with respect to the TNC.

Whether a person is an employee or an independent contractor can be significant in different circumstances. For example, the general rule is that an employer is liable for the torts of its employees but not liable for the torts of independent contractors. This rule is subject to exceptions.²¹ Independent contractor status is important in unemployment compensation cases²² and workers compensation cases.²³ The bill does not address issues such as tort liability, workers compensation, or unemployment compensation.

Zero Tolerance for Drug and Alcohol Use

The bill requires a TNC to implement a zero-tolerance policy regarding a TNC driver's activities while accessing the TNC's digital network. The zero-tolerance policy must address the use of drugs or alcohol while a TNC driver is providing a prearranged ride or is logged on to the digital network. The bill requires the TNC to provide notice of the policy on its website, as well as procedures to report a complaint about a TNC driver who a rider reasonably suspects was under the influence of drugs or alcohol during the course of the ride. Upon receipt of a rider's complaint alleging a violation of the zero-tolerance policy, the TNC must suspend a TNC driver's ability to accept any ride request through the TNC's digital network as soon as possible and shall conduct an investigation into the reported incident. The suspension must last the duration of the investigation.

TNC Driver Background Check Requirements

The bill places certain requirements on TNC drivers and requires the TNC to do a criminal background check. The bill provides that before an individual is authorized to accept a ride request through a digital network:

- The individual must submit an application to the TNC which includes information regarding his or her address, age, driver license, motor vehicle registration, and other information required by the TNC; and
- The TNC must conduct, or have a third party conduct, a local and national criminal background check.

The local and national criminal background check must include:

- A search of the Multi-State/Multi-Jurisdiction Criminal Records Locator or other similar commercial nationwide database with validation of any records through primary source search; and
- A search of the National Sex Offender Public Website maintained by the United States Department of Justice.

The TNC must conduct the required background check every 3 years. The background check requires by this bill does not require fingerprinting. The bill allows the TNC or a third party to conduct a background check through private companies and does not require that the FDLE conduct the background check. Accordingly, the background check will not access the national criminal history records held by the FBI.

²¹ *McCall v. Alabama Bruno's Inc.*, 647 So.2d 175 (Fla. 1st DCA 1994).

²² *McGillis v. Dept. of Econ. Opportunity*, Case No. 3D15-2758 (Fla. 3d DCA February 1, 2017) (holding that a TNC driver is not an employee for purposes of ch. 443, F.S.).

²³ s. 440.02(15), F.S.

In addition, the bill requires the TNC must obtain and review, or have a third party obtain and review, a driving history research report for the applicant. The TNC may not authorize an individual to act as a TNC driver on its digital network if the driving history research report conducted when the individual first seeks access to the digital network reveals that the individual has had more than three moving violations in the prior 3-year period. The bill does not require the TNC to obtain additional driving history research reports after the initial one.

The TNC may not authorize an individual to act as a TNC driver on its digital network if the background check conducted when the individual first seeks access to the digital network or any subsequent background check reveals that the individual has been convicted, within the past 5 years, of:

- A felony;
- A misdemeanor for driving under the influence of drugs or alcohol, for reckless driving, for hit and run, or for fleeing or attempting to elude a law enforcement officer;
- A misdemeanor for a violent offense²⁴ or sexual battery;²⁵ or
- A crime of lewdness or indecent exposure under chapter 800.

The TNC may not authorize an individual to act as a TNC driver on its digital network if the background check conducted when the individual first seeks access to the digital network or any subsequent background check reveals that the individual has been convicted, within the past 3 years, of driving with a suspended or revoked license.

The TNC may not authorize an individual to act as a TNC driver on its digital network if the background check conducted when the individual first seeks access to the digital network or any subsequent background check reveals that the individual:

- Is a match in the National Sex Offender Public Website maintained by the United States Department of Justice;
- Does not possess a valid driver license; or
- Does not possess proof of registration for the motor vehicle used to provide prearranged rides.

The bill provides that no more often than once every 2 years, the Department of Financial Services (DFS) shall direct a TNC to submit to the DFS an agreed-upon procedures report prepared by an independent certified public accountant for the sole purpose of verifying that the TNC is in compliance with the background check provisions of the bill. The report must be prepared in accordance with applicable attestation standards established by the American Institute of Certified Public Accountants. The TNC shall bear all costs associated with the preparation and submission of the report.

Upon receipt of the report, the DFS may impose a fine of up to \$250 for each violation of the background provisions of the bill and \$500 for each repeat violation. The DFS may direct a TNC to address any noncompliance with the background provisions of the bill identified in the report within a specified timeframe. The DFS may seek injunctive relief against a TNC that fails to comply with the DFS's direction and that poses an imminent threat to public safety as a result of

²⁴ The bill does not specify which misdemeanors would qualify as "violent offenses."

²⁵ There does not appear to be a misdemeanor for sexual battery in Florida law. Other states might have such a crime.

noncompliance. The bill does not extinguish any claim otherwise available under common law or any other statute.

Preemption

The bill provides that it is the intent of the Legislature to provide for uniformity of laws governing TNCs, TNC drivers, and TNC vehicles. It provides that TNCs, TNC drivers, and TNC vehicles are governed exclusively by state law, including jurisdictions that enacted a law or created rules governing TNCs, TNC drivers, or TNC vehicles before July 1, 2017.

The bill specifically provides that a county, municipality, special district, airport authority, port authority, or other local governmental entity or subdivision may not:

- Impose a tax on, or require a license for, a TNC, a TNC driver, or a TNC vehicle if such tax or license relates to providing prearranged rides or subject a TNC, a TNC driver, or a TNC vehicle to any rate, entry, operational, or other requirement; or
- Require a TNC or a TNC driver to obtain a business license or any other type of similar authorization to operate within the local governmental entity's jurisdiction.

The bill does not prohibit an airport from charging reasonable pickup fees consistent with any pickup fees charged to taxicab companies at that airport for their use of the airport's facilities or prohibit the airport from designating locations for staging, pickup, and other similar operations at the airport.

Other Provisions of the Bill

The bill provides that a TNC or TNC driver is not a common carrier, contract carrier, or motor carrier and does not provide taxicab or for-hire vehicle service. A TNC driver is not required to register the vehicle that the driver uses to provide prearranged rides as a commercial motor vehicle or a for-hire vehicle.

The bill requires a TNC to designate and maintain an agent for service of process.

The bill requires the TNC to disclose to the rider the fare or fare calculation method on its website or within the online-enabled technology application service before the beginning of the prearranged ride. If the fare is not disclosed to the rider before the beginning of the prearranged ride, the bill requires that the rider must have the option to receive an estimated fare before the beginning of the prearranged ride.

The bill requires that a TNC's digital network must display a photograph of the TNC driver and the license plate number of the TNC vehicle used for providing the prearranged ride before the rider enters the TNC driver's vehicle.

Within a reasonable period after the completion of a ride, the bill requires the TNC to transmit an electronic receipt to the rider on behalf of the TNC driver which lists:

- The origin and destination of the ride;
- The total time and distance of the ride; and
- The total fare paid.

The bill prohibits a TNC driver may not accept a ride for compensation other than a ride arranged through a digital network and may not solicit or accept street hails.

The bill requires a TNC to adopt a policy of nondiscrimination with respect to riders and potential riders and shall notify TNC drivers of such policy. The TNC driver must comply with all applicable laws against riders and potential riders and must comply with the TNC's nondiscrimination policy. The TNC driver must also comply with all applicable laws relating to accommodation of service animals.

The bill provides that a TNC may not impose additional charges for providing services to a person who has a physical disability because of the person's disability. A TNC that contracts with a governmental entity to provide paratransit services must comply with all applicable state and federal laws related to individuals with disabilities.

The bill requires a TNC reevaluate any decision to remove a TNC driver's authorization to access to its digital network due to a low quality rating by riders if the TNC driver alleges the low rating was because of a characteristic identified in the nondiscrimination policy and there is a plausible basis for the allegation.

The bill requires the TNC to maintain individual ride records for at least 1 year after the date on which each ride is provided; and individual records of TNC drivers for at least 1 year after the date on which the TNC driver's relationship with the TNC ends.

The bill takes effect July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill will create uniform statewide requirements for TNCs. TNCs might see reductions in costs incurred from complying with different ordinances in different jurisdictions.

C. Government Sector Impact:

The fiscal impact on the DFS is indeterminate. It is not known how many TNCs will be required to submit procedures reports and it is not known how many TNCs will be noncompliant such that court action will be required. Pursuant to Florida Rule of Civil Procedure 1.610(b), the DFS could be required to post a bond if it sought injunctive relief that could damage a TNC. Such a bond could be significant. If the DFS is not required to post a bond, it could be liable for damages to a TNC if courts ultimately determine the injunction should not have been issued.²⁶

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 316.68 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 March 14, 2017:

The CS:

- Authorizes seaports to collect pickup fees as long as they do not exceed what a seaport charges taxis;
- Requires TNCs to contract with an independent auditor to review their background check process. The DFS is established as the enforcement mechanism for compliance with the insurance and background screening requirements of the bill;
- Strikes retroactivity of the independent contractor language;
- Modifies the definition of prearranged ride in a way that will extend insurance coverage to any time that any rider is in the vehicle and not limited to the person who requested the ride;
- Requires uninsured or underinsured vehicle coverage as required by s. 627.727, F.S.;

²⁶ Department of Financial Services, *Analysis of CS/SB 340* (March 14, 2017).

- Provides coverage for other insureds and resident relatives under a TNC driver's personal auto policy are unaffected by exclusions for TNC use; and
- Provides that TNCs are not granted immunity from civil liability through compliance with background check requirements.

B. Amendments:

None.

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



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/14/2017	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 627.748, Florida Statutes, is created to
read:

627.748 Transportation network companies.-

(1) DEFINITIONS.-As used in this section, the term:

(a) "Digital network" means any online-enabled technology
application service, website, or system offered or used by a



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11 transportation network company which enables the prearrangement
12 of rides with transportation network company drivers.

13 (b) "Prearranged ride" means the provision of
14 transportation by a TNC driver to a rider, beginning when a TNC
15 driver accepts a ride requested by a rider through a digital
16 network controlled by a transportation network company,
17 continuing while the TNC driver transports the rider, and ending
18 when the last requesting rider departs from the TNC vehicle. The
19 term does not include a taxicab, for-hire vehicle, or street
20 hail service and does not include ridesharing as defined in s.
21 341.031, carpool as defined s. 450.28, or any other type of
22 service in which the driver receives a fee that does not exceed
23 the driver's cost to provide the ride.

24 (c) "Rider" means an individual who uses a digital network
25 to connect with a TNC driver in order to obtain a prearranged
26 ride in the TNC driver's TNC vehicle between points chosen by
27 the rider.

28 (d) "Street hail" means an immediate arrangement on a
29 street with a driver by a person using any method other than a
30 digital network to seek immediate transportation.

31 (e) "Transportation network company" or "TNC" means an
32 entity operating in this state pursuant to this section using a
33 digital network to connect a rider to a TNC driver, who provides
34 prearranged rides. A TNC is not deemed to own, control, operate,
35 direct, or manage the TNC vehicles or TNC drivers that connect
36 to its digital network, except where agreed to by written
37 contract, and is not a taxicab association or for-hire vehicle
38 owner.

39 (f) "Transportation network company driver" or "TNC driver"



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40 means an individual who:

41 1. Receives connections to potential riders and related
42 services from a transportation network company; and

43 2. In return for compensation, uses a TNC vehicle to offer
44 or provide a prearranged ride to a rider upon connection through
45 a digital network.

46 (g) "Transportation network company vehicle" or "TNC
47 vehicle" means a vehicle that is not a taxicab, jitney,
48 limousine, or for-hire vehicle as defined in s. 320.01(15) and
49 that is:

50 1. Used by a TNC driver to offer or provide a prearranged
51 ride; and

52 2. Owned, leased, or otherwise authorized to be used by the
53 TNC driver.

54
55 Notwithstanding any other provision of law, a vehicle that is
56 let or rented to another for consideration may be used as a TNC
57 vehicle.

58 (2) NOT OTHER CARRIERS.—A TNC or TNC driver is not a common
59 carrier, contract carrier, or motor carrier and does not provide
60 taxicab or for-hire vehicle service. In addition, a TNC driver
61 is not required to register the vehicle that the TNC driver uses
62 to provide prearranged rides as a commercial motor vehicle or a
63 for-hire vehicle.

64 (3) AGENT.—A TNC must designate and maintain an agent for
65 service of process in this state.

66 (4) FARE TRANSPARENCY.—If a fare is collected from a rider,
67 the TNC must disclose to the rider the fare or fare calculation
68 method on its website or within the online-enabled technology



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69 application service before the beginning of the prearranged
70 ride. If the fare is not disclosed to the rider before the
71 beginning of the prearranged ride, the rider must have the
72 option to receive an estimated fare before the beginning of the
73 prearranged ride.

74 (5) IDENTIFICATION OF TNC VEHICLES AND DRIVERS.—The TNC's
75 digital network must display a photograph of the TNC driver and
76 the license plate number of the TNC vehicle used for providing
77 the prearranged ride before the rider enters the TNC driver's
78 vehicle.

79 (6) ELECTRONIC RECEIPT.—Within a reasonable period after
80 the completion of a ride, a TNC shall transmit an electronic
81 receipt to the rider on behalf of the TNC driver which lists:

- 82 (a) The origin and destination of the ride;
83 (b) The total time and distance of the ride; and
84 (c) The total fare paid.

85 (7) TRANSPORTATION NETWORK COMPANY AND TNC DRIVER INSURANCE
86 REQUIREMENTS.—

87 (a) Beginning July 1, 2017, a TNC driver or a TNC on behalf
88 of the TNC driver shall maintain primary automobile insurance
89 that:

90 1. Recognizes that the TNC driver is a TNC driver or
91 otherwise uses a vehicle to transport riders for compensation;
92 and

93 2. Covers the TNC driver while the TNC driver is logged on
94 to the digital network of the TNC or while the TNC driver is
95 engaged in a prearranged ride.

96 (b) The following automobile insurance requirements apply
97 while a participating TNC driver is logged on to the digital



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98 network but is not engaged in a prearranged ride:

99 1. Automobile insurance that provides:

100 a. A primary automobile liability coverage of at least
101 \$50,000 for death and bodily injury per person, \$100,000 for
102 death and bodily injury per incident, and \$25,000 for property
103 damage;

104 b. Personal injury protection benefits that meet the
105 minimum coverage amounts required under ss. 627.730-627.7405;
106 and

107 c. Uninsured and underinsured vehicle coverage as required
108 by s. 627.727.

109 2. The coverage requirements of this paragraph may be
110 satisfied by any of the following:

111 a. Automobile insurance maintained by the TNC driver;

112 b. Automobile insurance maintained by the TNC; or

113 c. A combination of sub-subparagraphs a. and b.

114 (c) The following automobile insurance requirements apply
115 while a TNC driver is engaged in a prearranged ride:

116 1. Automobile insurance that provides:

117 a. A primary automobile liability coverage of at least \$1
118 million for death, bodily injury, and property damage;

119 b. Personal injury protection benefits that meet the
120 minimum coverage amounts required of a limousine under ss.
121 627.730-627.7405; and

122 c. Uninsured and underinsured vehicle coverage as required
123 by s. 627.727.

124 2. The coverage requirements of this paragraph may be
125 satisfied by any of the following:

126 a. Automobile insurance maintained by the TNC driver;



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127 b. Automobile insurance maintained by the TNC; or

128 c. A combination of sub-subparagraphs a. and b.

129 (d) If the TNC driver's insurance under paragraph (b) or
130 paragraph (c) has lapsed or does not provide the required
131 coverage, the insurance maintained by the TNC must provide the
132 coverage required under this subsection, beginning with the
133 first dollar of a claim, and have the duty to defend such claim.

134 (e) Coverage under an automobile insurance policy
135 maintained by the TNC must not be dependent on a personal
136 automobile insurer first denying a claim, and a personal
137 automobile insurance policy is not required to first deny a
138 claim.

139 (f) Insurance required under this subsection must be
140 provided by an insurer authorized to do business in this state
141 which is a member of the Florida Insurance Guaranty Association
142 or an eligible surplus lines insurer that has a superior,
143 excellent, exceptional, or equivalent financial strength rating
144 by a rating agency acceptable to the Office of Insurance
145 Regulation of the Financial Services Commission.

146 (g) Insurance satisfying the requirements under this
147 subsection is deemed to satisfy the financial responsibility
148 requirement for a motor vehicle under chapter 324 and the
149 security required under s. 627.733 for any period when the TNC
150 driver is logged onto the digital network or engaged in a
151 prearranged ride.

152 (h) A TNC driver shall carry proof of coverage satisfying
153 paragraphs (b) and (c) with him or her at all times during his
154 or her use of a TNC vehicle in connection with a digital
155 network. In the event of an accident, a TNC driver shall provide



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156 this insurance coverage information to any party directly
157 involved in the accident or the party's designated
158 representative, automobile insurers, and investigating police
159 officers. Proof of financial responsibility may be presented
160 through an electronic device, such as a digital phone
161 application, under s. 316.646. Upon request, a TNC driver shall
162 also disclose to any party directly involved in the accident or
163 the party's designated representative, automobile insurers, and
164 investigating police officers whether he or she was logged on to
165 a digital network or was engaged in a prearranged ride at the
166 time of the accident.

167 (i) If a TNC's insurer makes a payment for a claim covered
168 under comprehensive coverage or collision coverage, the TNC
169 shall cause its insurer to issue the payment directly to the
170 business repairing the vehicle or jointly to the owner of the
171 vehicle and the primary lienholder on the covered vehicle.

172 (8) TRANSPORTATION NETWORK COMPANY AND INSURER; DISCLOSURE;
173 EXCLUSIONS.-

174 (a) Before a TNC driver is allowed to accept a request for
175 a prearranged ride on the digital network, the TNC must disclose
176 in writing to the TNC driver:

177 1. The insurance coverage, including the types of coverage
178 and the limits for each coverage, which the TNC provides while
179 the TNC driver uses a TNC vehicle in connection with the TNC's
180 digital network.

181 2. That the TNC driver's own automobile insurance policy
182 might not provide any coverage while the TNC driver is logged on
183 to the digital network or is engaged in a prearranged ride,
184 depending on the terms of the TNC driver's own automobile



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185 insurance policy.

186 3. That the provision of rides for compensation which are
187 not prearranged rides subjects the driver to the coverage
188 requirements imposed under s. 324.032(1) and that failure to
189 meet such coverage requirements subjects the TNC driver to
190 penalties provided in s. 324.221, up to and including a
191 misdemeanor of the second degree.

192 (b)1. An insurer that provides an automobile liability
193 insurance policy under part XI of chapter 627 may exclude any
194 and all coverage afforded under the policy issued to an owner or
195 operator of a TNC vehicle for any loss or injury that occurs
196 while a TNC driver is logged on to a digital network or while a
197 TNC driver provides a prearranged ride. Exclusions imposed under
198 this subsection are limited to coverage while a TNC driver is
199 logged on to a digital network or while a TNC driver provides a
200 prearranged ride. This right to exclude all coverage may apply
201 to any coverage included in an automobile insurance policy,
202 including, but not limited to:

203 a. Liability coverage for bodily injury and property
204 damage;

205 b. Uninsured and underinsured motorist coverage;

206 c. Medical payments coverage;

207 d. Comprehensive physical damage coverage;

208 e. Collision physical damage coverage; and

209 f. Personal injury protection.

210 2. The exclusions described in subparagraph 1. apply
211 notwithstanding any requirement under chapter 324. These
212 exclusions do not affect or diminish coverage otherwise
213 available for permissive drivers or resident relatives under the



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214 personal automobile insurance policy of the TNC driver or owner
215 of the TNC vehicle who are not occupying the TNC vehicle at the
216 time of loss. This section does not require that a personal
217 automobile insurance policy provide coverage while the TNC
218 driver is logged on to a digital network, while the TNC driver
219 is engaged in a prearranged ride, or while the TNC driver
220 otherwise uses a vehicle to transport riders for compensation.

221 3. This section must not be construed to require an insurer
222 to use any particular policy language or reference to this
223 section in order to exclude any and all coverage for any loss or
224 injury that occurs while a TNC driver is logged on to a digital
225 network or while a TNC driver provides a prearranged ride.

226 4. This section does not preclude an insurer from providing
227 primary or excess coverage for the TNC driver's vehicle by
228 contract or endorsement.

229 (c)1. An automobile insurer that excludes the coverage
230 described in subparagraph (b)1. does not have a duty to defend
231 or indemnify any claim expressly excluded thereunder. This
232 section does not invalidate or limit an exclusion contained in a
233 policy, including a policy in use or approved for use in this
234 state before July 1, 2017, which excludes coverage for vehicles
235 used to carry persons or property for a charge or available for
236 hire by the public.

237 2. An automobile insurer that defends or indemnifies a
238 claim against a TNC driver which is excluded under the terms of
239 its policy has a right of contribution against other insurers
240 that provide automobile insurance to the same TNC driver in
241 satisfaction of the coverage requirements of subsection (7) at
242 the time of loss.



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243 (d) In a claims coverage investigation, a TNC shall
244 immediately provide, upon request by a directly involved party
245 or any insurer of the TNC driver, if applicable, the precise
246 times that the TNC driver logged on and off the digital network
247 in the 12-hour period immediately preceding and in the 12-hour
248 period immediately following the accident. An insurer providing
249 coverage under subsection (7) shall disclose, upon request by
250 any other insurer involved in the particular claim, the
251 applicable coverages, exclusions, and limits provided under any
252 automobile insurance maintained in order to satisfy the
253 requirements of subsection (7).

254 (9) LIMITATION ON TRANSPORTATION NETWORK COMPANIES.—A TNC
255 driver is an independent contractor and not an employee of the
256 TNC if all of the following conditions are met:

257 (a) The TNC does not unilaterally prescribe specific hours
258 during which the TNC driver must be logged on to the TNC's
259 digital network.

260 (b) The TNC does not prohibit the TNC driver from using
261 digital networks from other TNCs.

262 (c) The TNC does not restrict the TNC driver from engaging
263 in any other occupation or business.

264 (d) The TNC and TNC driver agree in writing that the TNC
265 driver is an independent contractor with respect to the TNC.

266 (10) ZERO TOLERANCE FOR DRUG OR ALCOHOL USE.—

267 (a) The TNC shall implement a zero-tolerance policy
268 regarding a TNC driver's activities while accessing the TNC's
269 digital network. The zero-tolerance policy must address the use
270 of drugs or alcohol while a TNC driver is providing a
271 prearranged ride or is logged on to the digital network.



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272 (b) The TNC shall provide notice of this policy on its
273 website, as well as procedures to report a complaint about a TNC
274 driver who a rider reasonably suspects was under the influence
275 of drugs or alcohol during the course of the ride.

276 (c) Upon receipt of a rider's complaint alleging a
277 violation of the zero-tolerance policy, the TNC shall suspend a
278 TNC driver's ability to accept any ride request through the
279 TNC's digital network as soon as possible and shall conduct an
280 investigation into the reported incident. The suspension must
281 last the duration of the investigation.

282 (11) TRANSPORTATION NETWORK COMPANY DRIVER REQUIREMENTS.-

283 (a) Before an individual is authorized to accept a ride
284 request through a digital network:

285 1. The individual must submit an application to the TNC
286 which includes information regarding his or her address, age,
287 driver license, motor vehicle registration, and other
288 information required by the TNC;

289 2. The TNC must conduct, or have a third party conduct, a
290 local and national criminal background check that includes:

291 a. A search of the Multi-State/Multi-Jurisdiction Criminal
292 Records Locator or other similar commercial nationwide database
293 with validation of any records through primary source search;
294 and

295 b. A search of the National Sex Offender Public Website
296 maintained by the United States Department of Justice; and

297 3. The TNC must obtain and review, or have a third party
298 obtain and review, a driving history research report for the
299 applicant.

300 (b) The TNC shall conduct the background check required



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301 under paragraph (a) for a TNC driver every 3 years.

302 (c) The TNC may not authorize an individual to act as a TNC
303 driver on its digital network if the driving history research
304 report conducted when the individual first seeks access to the
305 digital network reveals that the individual has had more than
306 three moving violations in the prior 3-year period.

307 (d) The TNC may not authorize an individual to act as a TNC
308 driver on its digital network if the background check conducted
309 when the individual first seeks access to the digital network or
310 any subsequent background check required under paragraph (b)
311 reveals that the individual:

312 1. Has been convicted, within the past 5 years, of:

313 a. A felony;

314 b. A misdemeanor for driving under the influence of drugs
315 or alcohol, for reckless driving, for hit and run, or for
316 fleeing or attempting to elude a law enforcement officer; or

317 c. A misdemeanor for a violent offense or sexual battery,
318 or a crime of lewdness or indecent exposure under chapter 800;

319 2. Has been convicted, within the past 3 years, of driving
320 with a suspended or revoked license;

321 3. Is a match in the National Sex Offender Public Website
322 maintained by the United States Department of Justice;

323 4. Does not possess a valid driver license; or

324 5. Does not possess proof of registration for the motor
325 vehicle used to provide prearranged rides.

326 (e) No more often than once every 2 years, the Department
327 of Financial Services shall direct a TNC to submit to the
328 department an agreed-upon procedures report prepared by an
329 independent certified public accountant for the sole purpose of



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330 verifying that the TNC is in compliance with this subsection.
331 The report must be prepared in accordance with applicable
332 attestation standards established by the American Institute of
333 Certified Public Accountants. The TNC shall bear all costs
334 associated with the preparation and submission of the report.
335 (f) Upon receipt of the report pursuant to paragraph (e),
336 the Department of Financial Services may impose a fine of up to
337 \$250 for each violation of this subsection identified in the
338 report and \$500 for each repeat violation. The department may
339 also direct a TNC to address any noncompliance with this
340 subsection identified in the report within a timeframe
341 prescribed by the department. The department may, pursuant to
342 the Florida Rules of Civil Procedure, seek injunctive relief
343 against a TNC that fails to comply with the department's
344 direction under this paragraph and that poses an imminent threat
345 to public safety as a result of such noncompliance. For purposes
346 of this subsection, a repeat violation occurs when two
347 consecutive reports prepared for a TNC reveal noncompliance with
348 the same requirement.
349 (g) Unless otherwise explicitly provided, this subsection
350 does not extinguish any claim otherwise available under common
351 law or any other statute.
352 (12) PROHIBITED CONDUCT.—
353 (a) A TNC driver may not accept a ride for compensation
354 other than by a rider arranged through a digital network.
355 (b) A TNC driver may not solicit or accept street hails.
356 (13) NONDISCRIMINATION; ACCESSIBILITY.—
357 (a) A TNC shall adopt a policy of nondiscrimination with
358 respect to riders and potential riders and shall notify TNC



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359 drivers of such policy.

360 (b) A TNC driver shall comply with the TNC's
361 nondiscrimination policy.

362 (c) A TNC driver shall comply with all applicable laws
363 regarding nondiscrimination against riders and potential riders.

364 (d) A TNC driver shall comply with all applicable laws
365 relating to accommodation of service animals.

366 (e) A TNC may not impose additional charges for providing
367 services to a person who has a physical disability because of
368 the person's disability.

369 (f) A TNC that contracts with a governmental entity to
370 provide paratransit services must comply with all applicable
371 state and federal laws related to individuals with disabilities.

372 (g) A TNC shall reevaluate any decision to remove a TNC
373 driver's authorization to access its digital network due to a
374 low quality rating by riders if the TNC driver alleges that the
375 low quality rating was because of a characteristic identified in
376 the company's nondiscrimination policy and there is a plausible
377 basis for such allegation.

378 (14) RECORDS.—A TNC shall maintain the following records:

379 (a) Individual ride records for at least 1 year after the
380 date on which each ride is provided; and

381 (b) Individual records of TNC drivers for at least 1 year
382 after the date on which the TNC driver's relationship with the
383 TNC ends.

384 (15) PREEMPTION.—

385 (a) It is the intent of the Legislature to provide for
386 uniformity of laws governing TNCs, TNC drivers, and TNC vehicles
387 throughout the state. TNCs, TNC drivers, and TNC vehicles are



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388 governed exclusively by state law, including in any locality or
389 other jurisdiction that enacted a law or created rules governing
390 TNCs, TNC drivers, or TNC vehicles before July 1, 2017. A
391 county, municipality, special district, airport authority, port
392 authority, or other local governmental entity or subdivision may
393 not:

394 1. Impose a tax on, or require a license for, a TNC, a TNC
395 driver, or a TNC vehicle if such tax or license relates to
396 providing prearranged rides;

397 2. Subject a TNC, a TNC driver, or a TNC vehicle to any
398 rate, entry, operation, or other requirement of the county,
399 municipality, special district, airport authority, port
400 authority, or other local governmental entity or subdivision; or

401 3. Require a TNC or a TNC driver to obtain a business
402 license or any other type of similar authorization to operate
403 within the local governmental entity's jurisdiction.

404 (b) This subsection does not prohibit an airport or seaport
405 from charging reasonable pickup fees consistent with any pickup
406 fees charged to taxicab companies at that airport or seaport for
407 their use of the airport's or seaport's facilities or prohibit
408 the airport or seaport from designating locations for staging,
409 pickup, and other similar operations at the airport or seaport.

410 Section 2. This act shall take effect July 1, 2017.

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

412 And the title is amended as follows:

413 Delete everything before the enacting clause
414 and insert:

415 A bill to be entitled

416 An act relating to transportation network companies;



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417 creating s. 627.748, F.S.; defining terms; providing
418 for construction; providing that a transportation
419 network company (TNC) driver is not required to
420 register certain vehicles as commercial motor vehicles
421 or for-hire vehicles; requiring a TNC to designate and
422 maintain an agent for service of process in this
423 state; providing fare requirements; providing
424 requirements for a TNC's digital network; providing
425 for an electronic receipt, subject to certain
426 requirements; providing automobile insurance
427 requirements for a TNC and a TNC driver; providing
428 requirements for specified proof of coverage for a TNC
429 driver under certain circumstances; providing certain
430 disclosure requirements for a TNC driver in the event
431 of an accident; requiring a TNC to cause its insurer
432 to issue certain payments directly to certain parties;
433 requiring a TNC to make specified disclosures in
434 writing to TNC drivers under certain circumstances;
435 authorizing specified insurers to exclude certain
436 coverage, subject to certain limitations; providing
437 that the right to exclude coverage applies to any
438 coverage included in an automobile insurance policy;
439 providing applicability; providing for construction;
440 providing that specified automobile insurers have a
441 right of contribution against other insurers that
442 provide automobile insurance to the same TNC drivers
443 in satisfaction of certain coverage requirements under
444 certain circumstances; requiring a TNC to provide
445 specified information upon request by certain parties



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446 during a claims coverage investigation; requiring
447 certain insurers to disclose specified information
448 upon request by any other insurer involved in the
449 particular claim; providing that TNC drivers are
450 independent contractors if specified conditions are
451 met; requiring a TNC to implement a zero-tolerance
452 policy for drug or alcohol use, subject to certain
453 requirements; providing TNC driver requirements;
454 requiring a TNC to conduct a certain background check
455 for a TNC driver after a specified period; requiring
456 the Department of Financial Services to direct a TNC
457 to submit to the department an agreed-upon procedures
458 report prepared by a certified public accountant,
459 subject to certain restrictions and requirements;
460 authorizing the department to impose specified fines
461 for violations and repeat violations identified in the
462 report; authorizing the department to direct a TNC to
463 address noncompliance identified in the report within
464 a timeframe prescribed by the department; authorizing
465 injunctive relief under certain circumstances;
466 specifying when a repeat violation occurs; providing
467 applicability; prohibiting a TNC driver from accepting
468 certain rides or soliciting or accepting street hails;
469 requiring a TNC to adopt a policy of nondiscrimination
470 with respect to riders and potential riders and to
471 notify TNC drivers of such policy; requiring TNC
472 drivers to comply with the nondiscrimination policy
473 and certain applicable laws regarding
474 nondiscrimination and accommodation of service



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475 animals; prohibiting a TNC from imposing additional
476 charges for providing services to persons who have
477 physical disabilities; requiring a TNC that contracts
478 with a governmental entity to provide paratransit
479 services to comply with certain state and federal
480 laws; requiring a TNC to reevaluate a decision to
481 remove a TNC driver's authorization to access its
482 digital network in certain instances; requiring a TNC
483 to maintain specified records; providing legislative
484 intent; specifying that TNCs, TNC drivers, and TNC
485 vehicles are governed exclusively by state law;
486 prohibiting local governmental entities and
487 subdivisions from taking specified actions; providing
488 applicability; providing an effective date.



102860

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/14/2017	.	
	.	
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	.	

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

Senate Amendment to Amendment (144456)

Delete lines 18 - 38
and insert:
when the last rider exits from and is no longer occupying the TNC vehicle. The term does not include a taxicab, for-hire vehicle, or street hail service and does not include ridesharing as defined in s. 341.031, carpool as defined s. 450.28, or any other type of service in which the driver receives a fee that does not exceed the driver's cost to provide the ride.



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11 (c) "Rider" means an individual who uses a digital network
12 to connect with a TNC driver in order to obtain a prearranged
13 ride in the TNC driver's TNC vehicle between points chosen by
14 the rider. A person may use a digital network to request a
15 prearranged ride on behalf of a rider.

16 (d) "Street hail" means an immediate arrangement on a
17 street with a driver by a person using any method other than a
18 digital network to seek immediate transportation.

19 (e) "Transportation network company" or "TNC" means an
20 entity operating in this state pursuant to this section using a
21 digital network to connect a rider to a TNC driver, who provides
22 prearranged rides. A TNC is not deemed to own, control, operate,
23 direct, or manage the TNC vehicles or TNC drivers that connect
24 to its digital network, except where agreed to by written
25 contract, and is not a taxicab association or for-hire vehicle
26 owner. An individual, corporation, partnership, sole
27 proprietorship, or other entity that arranges medical
28 transportation for individuals qualifying for Medicaid or
29 Medicare pursuant to a contract with the state or a managed care
30 organization is not a TNC. This section does not prohibit a TNC
31 from providing prearranged rides to individuals who qualify for
32 Medicaid or Medicare if it meets the requirements of this
33 section.



546676

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
03/14/2017	.	
	.	
	.	
	.	

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

1 **Senate Amendment to Amendment (144456) (with title**
2 **amendment)**
3
4 Delete line 384
5 and insert:
6 (15) TRANSPORTATION NETWORK COMPANY ASSESSMENT.-
7 (a) As used in this subsection, the term:
8 1. "Gross trip fare" means the sum of the base fare charge,
9 distance charge, and time charge for the complete trip that is



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10 charged to the rider.

11 2. "Local assessment fee" means one-half of 1 percent of
12 the gross trip fare.

13 (b) A TNC shall collect a local assessment fee on behalf of
14 a driver who accepts a request for transportation network
15 company service made through the company's digital network for
16 all transportation network company service that originates in
17 the state.

18 (c) Within 30 days after the end of a calendar quarter, a
19 TNC shall submit to the Department of Revenue:

20 1. The total local assessment fees collected by a TNC on
21 behalf of the drivers; and

22 2. A report listing the percentage of the gross trip fare
23 that originated in each county during the reporting period.

24 (d)1. The Department of Revenue shall retain an amount of
25 10 percent of the local assessment fee collected under
26 subparagraph (c)1. to cover the expenses incurred by the state
27 to collect, remit, and distribute local assessment fees pursuant
28 to this subsection.

29 2. The remaining portion of the total local assessment fees
30 collected under this subsection, minus the amount retained
31 pursuant to subparagraph 1., shall be distributed to counties as
32 provided in subparagraph 3. Any funds collected and distributed
33 to counties shall be used to address the needs and effective
34 transportation of those citizens who are disabled, including
35 providing wheelchair accessible vehicles.

36 3. Within 60 days after the end of a calendar quarter, the
37 Department of Revenue shall distribute the local assessment fees
38 collected under paragraph (c), minus the amount retained



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39 pursuant to subparagraph 1., to each county where a trip
40 originated during the reporting period. The distribution to each
41 county must be proportionate to the percentage of the gross trip
42 fare that originated in each county and must be allocated
43 consistent with subparagraph 2.

44 (e)1. To ensure that the TNC has remitted the correct local
45 assessment fee and has accurately reported the percentages
46 attributable to counties pursuant to paragraph (c), the
47 Department of Revenue may inspect the necessary records at a
48 TNC's place of business or a mutually agreed upon location. This
49 inspection may not be conducted more than once every 3 years.

50 2. In the event that a TNC submits a report to the
51 Department of Revenue which is subsequently determined to be
52 inaccurate, thereby leading to an underpayment or overpayment of
53 a county's local assessment fee, the Department of Revenue shall
54 correct the underpayment and overpayment by offsetting the
55 amount of the underpayment or overpayment in subsequent local
56 assessment fee distributions. In the event a TNC remits an
57 assessment fee to the Department of Revenue which is determined
58 to constitute an underpayment of the total assessment fee
59 required by this subsection, the TNC shall, within 30 days after
60 receiving notification of the determination, remit the balance
61 owed to the Department of Revenue.

62 (16) PREEMPTION.-

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

64 And the title is amended as follows:

65 Delete line 483

66 and insert:

67 to maintain specified records; defining terms;



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68 requiring a TNC to collect a local assessment fee
69 under certain circumstances; requiring the TNC to
70 submit to the Department of Revenue local assessment
71 fees and a certain report by a specified period;
72 requiring the state to retain a specified percent of
73 the local assessment fee for certain purposes;
74 requiring the remaining portion of such fee to be
75 distributed to counties for certain purposes;
76 requiring the department to distribute certain
77 portions of the fee to counties subject to certain
78 requirements; authorizing the department to inspect
79 certain records subject to certain restrictions;
80 directing the department to correct underpayments and
81 overpayments under certain circumstances, subject to
82 certain requirements; requiring the TNC to remit a
83 balance owed to the department within a specified
84 period under certain circumstances; providing
85 legislative

By Senator Brandes

24-00314C-17

2017340__

1 A bill to be entitled
 2 An act relating to transportation network companies;
 3 creating s. 316.68, F.S.; defining terms; providing
 4 for construction; providing that a transportation
 5 network company (TNC) driver is not required to
 6 register certain vehicles as commercial motor vehicles
 7 or for-hire vehicles; requiring a TNC to designate and
 8 maintain an agent for service of process in this
 9 state; providing fare requirements; providing
 10 requirements for a TNC's digital network; providing
 11 for an electronic receipt, subject to certain
 12 requirements; providing automobile insurance
 13 requirements for a TNC and a TNC driver; providing
 14 requirements for specified proof of coverage for a TNC
 15 driver under certain circumstances; providing certain
 16 disclosure requirements for a TNC driver in the event
 17 of an accident; requiring a TNC to cause its insurer
 18 to issue certain payments directly to certain parties;
 19 requiring a TNC to make specified disclosures in
 20 writing to TNC drivers under certain circumstances;
 21 authorizing specified insurers to exclude certain
 22 coverage; providing that the right to exclude coverage
 23 applies to any coverage included in an automobile
 24 insurance policy; providing applicability; providing
 25 for construction; providing that specified automobile
 26 insurers have a right of contribution against other
 27 insurers that provide automobile insurance to the same
 28 TNC drivers in satisfaction of certain coverage
 29 requirements under certain circumstances; requiring a
 30 TNC to provide specified information upon request by
 31 certain parties during a claims coverage
 32 investigation; requiring certain insurers to disclose

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33 specified information upon request by any other
 34 insurer involved in the particular claim; providing
 35 that TNC drivers are independent contractors if
 36 specified conditions are met; providing retroactive
 37 applicability; requiring a TNC to implement a zero-
 38 tolerance policy for drug or alcohol use; providing
 39 TNC driver requirements; requiring a TNC to conduct a
 40 certain background check for a TNC driver after a
 41 specified period; prohibiting a TNC driver from
 42 accepting certain rides or soliciting or accepting
 43 street hails; requiring a TNC to adopt a policy of
 44 nondiscrimination with respect to riders and potential
 45 riders and to notify TNC drivers of such policy;
 46 requiring TNC drivers to comply with the
 47 nondiscrimination policy and certain applicable laws
 48 regarding nondiscrimination and accommodation of
 49 service animals; prohibiting a TNC from imposing
 50 additional charges for providing services to persons
 51 who have physical disabilities; requiring a TNC to
 52 maintain specified records; providing legislative
 53 intent; specifying that TNCs, TNC drivers, and TNC
 54 vehicles are governed exclusively by state law;
 55 prohibiting local governmental entities and
 56 subdivisions from taking specified actions; providing
 57 construction; providing an effective date.

58
59 Be It Enacted by the Legislature of the State of Florida:60
61

Section 1. Section 316.68, Florida Statutes, is created to

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62 read:

63 316.68 Transportation network companies.-64 (1) DEFINITIONS.-As used in this section, the term:

65 (a) "Digital network" means any online-enabled technology
 66 application service, website, or system offered or used by a
 67 transportation network company which enables the prearrangement
 68 of rides with transportation network company drivers.

69 (b) "Prearranged ride" means the provision of
 70 transportation by a TNC driver to a rider, beginning when a TNC
 71 driver accepts a ride requested by a rider through a digital
 72 network controlled by a transportation network company,
 73 continuing while the TNC driver transports the requesting rider,
 74 and ending when the last requesting rider departs from the TNC
 75 vehicle. The term does not include a taxicab, for-hire vehicle,
 76 or street hail service and does not include ridesharing as
 77 defined in s. 341.031, carpool as defined s. 450.28, or any
 78 other type of service in which the driver receives a fee that
 79 does not exceed the driver's cost to provide the ride.

80 (c) "Rider" means an individual who uses a digital network
 81 to connect with a TNC driver in order to obtain a prearranged
 82 ride in the TNC driver's TNC vehicle between points chosen by
 83 the rider.

84 (d) "Street hail" means an immediate arrangement on a
 85 street with a driver by a person using any method other than a
 86 digital network to seek immediate transportation.

87 (e) "Transportation network company" or "TNC" means an
 88 entity operating in this state pursuant to this section using a
 89 digital network to connect a rider to a TNC driver, who provides
 90 prearranged rides. A TNC is not deemed to own, control, operate,

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91 direct, or manage the TNC vehicles or TNC drivers that connect
 92 to its digital network, except where agreed to by written
 93 contract, and is not a taxicab association or for-hire vehicle
 94 owner.

95 (f) "Transportation network company driver" or "TNC driver"
 96 means an individual who:

97 1. Receives connections to potential riders and related
 98 services from a transportation network company; and

99 2. In return for compensation, uses a TNC vehicle to offer
 100 or provide a prearranged ride to a rider upon connection through
 101 a digital network.

102 (g) "Transportation network company vehicle" or "TNC
 103 vehicle" means a vehicle that is not a taxicab, jitney,
 104 limousine, or for-hire vehicle as defined in s. 320.01(15) and
 105 that is:

106 1. Used by a TNC driver to offer or provide a prearranged
 107 ride; and

108 2. Owned, leased, or otherwise authorized to be used by the
 109 TNC driver.

110
 111 Notwithstanding any other provision of law, a vehicle that is
 112 let or rented to another for consideration may be used as a TNC
 113 vehicle.

114 (2) NOT OTHER CARRIERS.-A TNC or TNC driver is not a common
 115 carrier, contract carrier, or motor carrier and does not provide
 116 taxicab or for-hire vehicle service. In addition, a TNC driver
 117 is not required to register the vehicle that the TNC driver uses
 118 to provide prearranged rides as a commercial motor vehicle or a
 119 for-hire vehicle.

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- 120 (3) AGENT.—A TNC must designate and maintain an agent for
 121 service of process in this state.
- 122 (4) FARE TRANSPARENCY.—If a fare is collected from a rider,
 123 the TNC must disclose to the rider the fare or fare calculation
 124 method on its website or within the online-enabled technology
 125 application service before the beginning of the prearranged
 126 ride. If the fare is not disclosed to the rider before the
 127 beginning of the prearranged ride, the rider must have the
 128 option to receive an estimated fare before the beginning of the
 129 prearranged ride.
- 130 (5) IDENTIFICATION OF TNC VEHICLES AND DRIVERS.—The TNC’s
 131 digital network must display a photograph of the TNC driver and
 132 the license plate number of the TNC vehicle used for providing
 133 the prearranged ride before the rider enters the TNC driver’s
 134 vehicle.
- 135 (6) ELECTRONIC RECEIPT.—Within a reasonable period after
 136 the completion of a ride, the TNC shall transmit an electronic
 137 receipt to the rider on behalf of the TNC driver which lists:
- 138 (a) The origin and destination of the ride;
 139 (b) The total time and distance of the ride; and
 140 (c) The total fare paid.
- 141 (7) TRANSPORTATION NETWORK COMPANY AND TNC DRIVER INSURANCE
 142 REQUIREMENTS.—
- 143 (a) Beginning July 1, 2017, a TNC driver or a TNC on behalf
 144 of the TNC driver shall maintain primary automobile insurance
 145 that:
- 146 1. Recognizes that the TNC driver is a TNC driver or
 147 otherwise uses a vehicle to transport riders for compensation;
 148 and

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- 149 2. Covers the TNC driver while the TNC driver is logged on
 150 to the digital network of the TNC or while the TNC driver is
 151 engaged in a prearranged ride.
- 152 (b) The following automobile insurance requirements apply
 153 while a participating TNC driver is logged on to the digital
 154 network but is not engaged in a prearranged ride:
- 155 1. Automobile insurance that provides:
- 156 a. A primary automobile liability coverage of at least
 157 \$50,000 for death and bodily injury per person, \$100,000 for
 158 death and bodily injury per incident, and \$25,000 for property
 159 damage; and
- 160 b. Personal injury protection benefits that meet the
 161 minimum coverage amounts required under ss. 627.730-627.7405.
- 162 2. The coverage requirements of this paragraph may be
 163 satisfied by any of the following:
- 164 a. Automobile insurance maintained by the TNC driver;
 165 b. Automobile insurance maintained by the TNC; or
 166 c. A combination of sub-subparagraphs a. and b.
- 167 (c) The following automobile insurance requirements apply
 168 while a TNC driver is engaged in a prearranged ride:
- 169 1. Automobile insurance that provides:
- 170 a. A primary automobile liability coverage of at least \$1
 171 million for death, bodily injury, and property damage; and
 172 b. Personal injury protection benefits that meet the
 173 minimum coverage amounts required of a limousine under ss.
 174 627.730-627.7405.
- 175 2. The coverage requirements of this paragraph may be
 176 satisfied by any of the following:
- 177 a. Automobile insurance maintained by the TNC driver;

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178 b. Automobile insurance maintained by the TNC; or
 179 c. A combination of sub-subparagraphs a. and b.
 180 (d) If the TNC driver's insurance under paragraph (b) or
 181 paragraph (c) has lapsed or does not provide the required
 182 coverage, the insurance maintained by the TNC must provide the
 183 coverage required under this subsection, beginning with the
 184 first dollar of a claim, and have the duty to defend such claim.
 185 (e) Coverage under an automobile insurance policy
 186 maintained by the TNC must not be dependent on a personal
 187 automobile insurer first denying a claim, and a personal
 188 automobile insurance policy is not required to first deny a
 189 claim.
 190 (f) Insurance required under this subsection must be
 191 provided by an insurer authorized to do business in this state
 192 which is a member of the Florida Insurance Guaranty Association
 193 or an eligible surplus lines insurer that has a superior,
 194 excellent, exceptional, or equivalent financial strength rating
 195 by a rating agency acceptable to the Office of Insurance
 196 Regulation of the Financial Services Commission.
 197 (g) Insurance satisfying the requirements under this
 198 subsection is deemed to satisfy the financial responsibility
 199 requirement for a motor vehicle under chapter 324 and the
 200 security required under s. 627.733.
 201 (h) A TNC driver shall carry proof of coverage satisfying
 202 paragraphs (b) and (c) with him or her at all times during his
 203 or her use of a TNC vehicle in connection with a digital
 204 network. In the event of an accident, a TNC driver shall provide
 205 this insurance coverage information to directly interested
 206 parties, automobile insurers, and investigating police officers.

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207 Proof of financial responsibility may be presented through an
 208 electronic device, such as a digital phone application, under s.
 209 316.646. Upon request, a TNC driver shall also disclose to
 210 directly interested parties, automobile insurers, and
 211 investigating police officers whether he or she was logged on to
 212 a digital network or was engaged in a prearranged ride at the
 213 time of the accident.
 214 (i) If a TNC's insurer makes a payment for a claim covered
 215 under comprehensive coverage or collision coverage, the TNC
 216 shall cause its insurer to issue the payment directly to the
 217 business repairing the vehicle or jointly to the owner of the
 218 vehicle and the primary lienholder on the covered vehicle.
 219 (8) TRANSPORTATION NETWORK COMPANY AND INSURER; DISCLOSURE;
 220 EXCLUSIONS.—
 221 (a) Before a TNC driver is allowed to accept a request for
 222 a prearranged ride on the digital network, the TNC must disclose
 223 in writing to the TNC driver:
 224 1. The insurance coverage, including the types of coverage
 225 and the limits for each coverage, which the TNC provides while
 226 the TNC driver uses a TNC vehicle in connection with the TNC's
 227 digital network.
 228 2. That the TNC driver's own automobile insurance policy
 229 might not provide any coverage while the TNC driver is logged on
 230 to the digital network or is engaged in a prearranged ride,
 231 depending on the terms of the TNC driver's own automobile
 232 insurance policy.
 233 3. That the provision of rides for compensation which are
 234 not prearranged rides subjects the driver to the coverage
 235 requirements imposed under s. 324.032(1) and that failure to

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236 meet such coverage requirements subjects the TNC driver to
 237 penalties provided in s. 324.221, up to and including a
 238 misdemeanor of the second degree.

239 (b)1. An insurer that provides an automobile liability
 240 insurance policy under part XI of chapter 627 may exclude any
 241 and all coverage afforded under the policy issued to an owner or
 242 operator of a TNC vehicle for any loss or injury that occurs
 243 while a TNC driver is logged on to a digital network or while a
 244 TNC driver provides a prearranged ride. This right to exclude
 245 all coverage may apply to any coverage included in an automobile
 246 insurance policy, including, but not limited to:

- 247 a. Liability coverage for bodily injury and property
- 248 damage;
- 249 b. Uninsured and underinsured motorist coverage;
- 250 c. Medical payments coverage;
- 251 d. Comprehensive physical damage coverage;
- 252 e. Collision physical damage coverage; and
- 253 f. Personal injury protection.

254 2. The exclusions described in subparagraph 1. apply
 255 notwithstanding any requirement under chapter 324. This section
 256 does not require that a personal automobile insurance policy
 257 provide coverage while the TNC driver is logged on to a digital
 258 network, while the TNC driver is engaged in a prearranged ride,
 259 or while the TNC driver otherwise uses a vehicle to transport
 260 riders for compensation.

261 3. This section must not be construed to require an insurer
 262 to use any particular policy language or reference to this
 263 section in order to exclude any and all coverage for any loss or
 264 injury that occurs while a TNC driver is logged on to a digital

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265 network or while a TNC driver provides a prearranged ride.

266 4. This section does not preclude an insurer from providing
 267 primary or excess coverage for the TNC driver's vehicle by
 268 contract or endorsement.

269 (c)1. An automobile insurer that excludes the coverage
 270 described in subparagraph (b)1. does not have a duty to defend
 271 or indemnify any claim expressly excluded thereunder. This
 272 section does not invalidate or limit an exclusion contained in a
 273 policy, including a policy in use or approved for use in this
 274 state before July 1, 2017, which excludes coverage for vehicles
 275 used to carry persons or property for a charge or available for
 276 hire by the public.

277 2. An automobile insurer that defends or indemnifies a
 278 claim against a TNC driver which is excluded under the terms of
 279 its policy has a right of contribution against other insurers
 280 that provide automobile insurance to the same TNC driver in
 281 satisfaction of the coverage requirements of subsection (7) at
 282 the time of loss.

283 (d) In a claims coverage investigation, a TNC shall
 284 immediately provide, upon request by a directly involved party
 285 or any insurer of the TNC driver, if applicable, the precise
 286 times that the TNC driver logged on and off the digital network
 287 in the 12-hour period immediately preceding and in the 12-hour
 288 period immediately following the accident. An insurer providing
 289 coverage under subsection (7) shall disclose, upon request by
 290 any other insurer involved in the particular claim, the
 291 applicable coverages, exclusions, and limits provided under any
 292 automobile insurance maintained in order to satisfy the
 293 requirements of subsection (7).

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294 (9) LIMITATION ON TRANSPORTATION NETWORK COMPANIES.—A TNC
 295 driver is an independent contractor and not an employee of the
 296 TNC if all of the following conditions are met:

297 (a) The TNC does not unilaterally prescribe specific hours
 298 during which the TNC driver must be logged on to the TNC's
 299 digital network.

300 (b) The TNC does not prohibit the TNC driver from using
 301 digital networks from other TNCs.

302 (c) The TNC does not restrict the TNC driver from engaging
 303 in any other occupation or business.

304 (d) The TNC and TNC driver agree in writing that the TNC
 305 driver is an independent contractor with respect to the TNC.

306 This subsection applies retroactively to any TNC driver who has
 307 ever operated in this state.

309 (10) ZERO TOLERANCE FOR DRUG OR ALCOHOL USE.—

310 (a) The TNC shall implement a zero-tolerance policy
 311 regarding a TNC driver's activities while accessing the TNC's
 312 digital network. The zero-tolerance policy must address the use
 313 of drugs or alcohol while a TNC driver is providing a
 314 prearranged ride or is logged on to the digital network.

315 (b) The TNC shall provide notice of this policy on its
 316 website, as well as procedures to report a complaint about a TNC
 317 driver who a rider reasonably suspects was under the influence
 318 of drugs or alcohol during the course of the ride.

319 (c) Upon receipt of a rider's complaint alleging a
 320 violation of the zero-tolerance policy, the TNC shall suspend a
 321 TNC driver's ability to accept any ride request through the
 322 TNC's digital network as soon as possible and shall conduct an

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323 investigation into the reported incident. The suspension must
 324 last the duration of the investigation.

325 (11) TRANSPORTATION NETWORK COMPANY DRIVER REQUIREMENTS.—

326 (a) Before an individual is authorized to accept a ride
 327 request through a digital network:

328 1. The individual must submit an application to the TNC
 329 which includes information regarding his or her address, age,
 330 driver license, motor vehicle registration, and other
 331 information required by the TNC;

332 2. The TNC must conduct, or have a third party conduct, a
 333 local and national criminal background check that includes:

334 a. A search of the Multi-State/Multi-Jurisdiction Criminal
 335 Records Locator or other similar commercial nationwide database
 336 with validation of any records through primary source search;
 337 and

338 b. A search of the National Sex Offender Public Website
 339 maintained by the United States Department of Justice; and

340 3. The TNC must obtain and review, or have a third party
 341 obtain and review, a driving history research report for the
 342 applicant.

343 (b) The TNC shall conduct the background check required
 344 under paragraph (a) for a TNC driver every 3 years.

345 (c) The TNC may not authorize an individual to act as a TNC
 346 driver on its digital network if the driving history research
 347 report conducted when the individual first seeks access to the
 348 digital network reveals that the individual has had more than
 349 three moving violations in the prior 3-year period.

350 (d) The TNC may not authorize an individual to act as a TNC
 351 driver on its digital network if the background check conducted

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352 when the individual first seeks access to the digital network or
 353 any subsequent background check required under paragraph (b)
 354 reveals that the individual:

355 1. Has been convicted, within the past 5 years, of:

356 a. A felony;

357 b. A misdemeanor for driving under the influence of drugs
 358 or alcohol, for reckless driving, for hit and run, or for
 359 fleeing or attempting to elude a law enforcement officer; or

360 c. A misdemeanor for a violent offense or sexual battery,
 361 or a crime of lewdness or indecent exposure under chapter 800;

362 2. Has been convicted, within the past 3 years, of driving
 363 with a suspended or revoked license;

364 3. Is a match in the National Sex Offender Public Website
 365 maintained by the United States Department of Justice;

366 4. Does not possess a valid driver license; or

367 5. Does not possess proof of registration for the motor
 368 vehicle used to provide prearranged rides.

369 (12) PROHIBITED CONDUCT.—

370 (a) A TNC driver may not accept a ride for compensation
 371 other than a ride arranged through a digital network.

372 (b) A TNC driver may not solicit or accept street hails.

373 (13) NONDISCRIMINATION; ACCESSIBILITY.—

374 (a) A TNC shall adopt a policy of nondiscrimination with
 375 respect to riders and potential riders and shall notify TNC
 376 drivers of such policy.

377 (b) A TNC driver shall comply with the TNC's
 378 nondiscrimination policy.

379 (c) A TNC driver shall comply with all applicable laws
 380 regarding nondiscrimination against riders and potential riders.

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381 (d) A TNC driver shall comply with all applicable laws
 382 relating to accommodation of service animals.

383 (e) A TNC may not impose additional charges for providing
 384 services to a person who has a physical disability because of
 385 the person's disability.

386 (14) RECORDS.—A TNC shall maintain the following records:

387 (a) Individual ride records for at least 1 year after the
 388 date on which each ride is provided; and

389 (b) Individual records of TNC drivers for at least 1 year
 390 after the date on which the TNC driver's relationship with the
 391 TNC ends.

392 (15) PREEMPTION.—

393 (a) It is the intent of the Legislature to provide for
 394 uniformity of laws governing TNCs, TNC drivers, and TNC vehicles
 395 throughout the state. TNCs, TNC drivers, and TNC vehicles are
 396 governed exclusively by state law, including in any locality or
 397 other jurisdiction that enacted a law or created rules governing
 398 TNCs, TNC drivers, or TNC vehicles before July 1, 2017. A
 399 county, municipality, special district, airport authority, port
 400 authority, or other local governmental entity or subdivision may
 401 not:

402 1. Impose a tax on, or require a license for, a TNC, a TNC
 403 driver, or a TNC vehicle if such tax or license relates to
 404 providing prearranged rides or subject a TNC, a TNC driver, or a
 405 TNC vehicle to any rate, entry, operational, or other
 406 requirement of the county, municipality, special district,
 407 airport authority, port authority, or other local governmental
 408 entity or subdivision; or

409 2. Require a TNC or a TNC driver to obtain a business

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410 license or any other type of similar authorization to operate
411 within the local governmental entity's jurisdiction.

412 (b) This subsection does not prohibit an airport from
413 charging reasonable pickup fees consistent with any pickup fees
414 charged to taxicab companies at that airport for their use of
415 the airport's facilities or prohibit the airport from
416 designating locations for staging, pickup, and other similar
417 operations at the airport.

418 Section 2. This act shall take effect July 1, 2017.

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/14/2017

Meeting Date

340

Bill Number (if applicable)

144456

Amendment Barcode (if applicable)

Topic TNC Regulation

Name Dwight Mattingly

Job Title _____

Address 8907 SE Pine Cone Lane

Street

Phone 561-523-0525

Hobe Sound

City

FL

State

33455

Zip

Email atv1577@bellsouth.net

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.

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)

3/14/17

Meeting Date

340

Bill Number (if applicable)

S46476 AM

Amendment Barcode (if applicable)

Topic TNC

Name Mr. Mercellis

Job Title N/A

Address _____

Street

Tallahassee

State

FL

Zip

Phone _____

Email _____

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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APPEARANCE RECORD

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

3/14/17

Meeting Date

340

Bill Number (if applicable)

546676

Amendment Barcode (if applicable)

Topic Transportation Network Companies

Name Cesar Fernandez

Job Title Senior Public Policy Associate

Address 80 SW 8th ST

Street

Phone 786-262-6092

Miami

City

FL

State

33130

Zip

Email Fernandez@Uber.com

Speaking: For Against Information

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

Representing Uber

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)

SB 340

546676
Bill Number (if applicable)

Meeting Date

Topic RIDESHARING

Amendment Barcode (if applicable)

Name CHRISTOPHER EMMANUEL

Job Title POLICY DIRECTOR

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 FLORIDA CHAMBER OF COMMERCE

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)

3/14/17

Meeting Date

SB 340

Bill Number (if applicable)

Topic TNIC

Amendment Barcode (if applicable)

Name DAVIN VUCIC

Job Title Retired

Address 4256 Houston Ln

Phone 941-716-4658

North Port FL 34287

Email _____

City

State

Zip

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

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

3/14/17

Meeting Date

SB 340

Bill Number (if applicable)

Topic RIDESHARING LEGISLATION

Amendment Barcode (if applicable)

Name TIM HUBORG

Job Title PUBLIC POLICY MANAGER

Address ~~7100~~ 185 BERRY ST.

Phone

Street

SF CA 94107

Email

City

State

Zip

Speaking: For Against Information

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

Representing LEFT, INC

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)

3/19/17

Meeting Date

SB 340

Bill Number (if applicable)

Topic Transportation Network Companies

Amendment Barcode (if applicable)

Name BRAD NAIL

Job Title SR. MANAGER

Address 1717 Rhode Island Ave. NW
Street

Phone (417) 686-5071

Washington DC 20036
City State Zip

Email brad.nail@uber.com

Speaking: For Against Information

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

Representing Uber

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)

340
Bill Number (if applicable)

Amendment Barcode (if applicable)

Meeting Date _____
Topic Ride Sharing
Name Patrick Stevin

Job Title _____

Address _____
Street _____
City _____ State _____ Zip _____

Phone _____
Email _____

Speaking: For Against Information

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

Representing Florida State Hispanic Chamber of Commerce

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)

3/14/17

Meeting Date

340

Bill Number (if applicable)

Topic TRANSPORTATION Network Companies

Amendment Barcode (if applicable)

Name JAMES TAYLOR

Job Title Executive Director

Address 115 E. PARK AVE

Phone 850 803 8324

Street

TALLY FL 32317

City

State

Zip

Email _____

Speaking: For Against Information

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

Representing FLORIDA TECHNOLOGY COUNCIL

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)

3-14-17

Meeting Date

340

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Andrew Hosek

Job Title Policy Analyst

Address 200 W College Ave

Phone ☐

Street

Tallahassee

City

FL

State

Zip

Email ahosek@afhq.org

Speaking: For Against Information

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

Representing Americans for Prosperity

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)

3.14.17
Meeting Date

340
Bill Number (if applicable)

Topic Disables Transportation Wheel Chair

Amendment Barcode (if applicable)

Name Wendy Reynor

Job Title _____

Address 2470 Fernlyn Dr
Street

Phone 850 385 0811

Tallahassee Fla 32308
City State Zip

Email _____

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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THE FLORIDA SENATE
APPEARANCE RECORD

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

3-14-17

Meeting Date

SB 340

Bill Number (if applicable)

Topic TNC

Amendment Barcode (if applicable)

Name Jimmy Gustafson

Job Title

Address 1567 Cristobal Drive

Phone 850-251-4011

Tallahassee

FL

32303

Email jwg@searaylaw.com

Speaking: For Against Information

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

Representing Florida Justice Assn

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

340

~~340~~

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

3.14.17

Meeting Date

Bill Number (if applicable)

Topic TWPs

Amendment Barcode (if applicable)

Name Gina Evans

Job Title Director Government Relations

Address PO Box 20287

Phone 813 579 0995

Street

Tampa

FL

32622

City

State

Zip

Email

Speaking: For Against Information

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

Representing Tampa International Airport

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 _____

50340
Bill Number (if applicable)

Topic 50340

Amendment Barcode (if applicable)

Name Ryan Patimindra

Job Title VP OF ADVOCACY

Address 4300 W CYPRUS
Street

Phone _____

TAMPA FL 33611
City State Zip

Email _____

Speaking: For Against Information

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

Representing TAMPA BAY PARTNERSHIP

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 _____

340
Bill Number (if applicable)

Topic Ridesharing

Amendment Barcode (if applicable) _____

Name Christopher Emmanuel, Policy Director

Job Title Florida Chamber of Commerce

Address 136 S BROWDER ST
Street

Phone 933 1223

TLH FL 32301
City State Zip

Email cemmanuel@fchamber

Speaking: For Against Information

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

Representing Florida Chamber of Commerce

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)

3.14.17

Meeting Date

SB 340

Bill Number (if applicable)

Topic TRANSPORTATION NETWORK COMPANIES

Amendment Barcode (if applicable)

Name MEGHAN SIRJANE-SAMPLES

Job Title LEGISLATIVE ADVOCATE

Address P.O. Box 1757

Phone 850.701.3655

Street

TALLAHASSEE

FL

32302

Email MSIRJANESAMPLES@FLCITIES.COM

City

State

Zip

Speaking: For Against Information

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

Representing FLORIDA LEAGUE OF CITIES

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)

3/14/17

SB 340

Meeting Date

Bill Number (if applicable)

Topic Transportation Network Companies

Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior Vice President

Address 516 N. Adams St

Phone 224-7173

Street

Tallahassee

FL

32301

Email bbevis@aif.com

City

State

Zip

Speaking: For Against Information

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

Representing Associated Industries of Florida

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)

3/14/17

Meeting Date

340

Bill Number (if applicable)

Topic Transportation Network Companies

Amendment Barcode (if applicable)

Name Eric Prutsman

Job Title Florida Airports Council

Address P.O. Box 10448

Phone 850-210-2525

Street

Tallahassee

FL

32302

City

State

Zip

Email eric@prutsmanlaw.com

Speaking: For Against Information

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

Representing Florida Airports Council

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 _____

340
Bill Number (if applicable)

Topic TNC

Amendment Barcode (if applicable) _____

Name Katie Webb

Job Title _____

Address 215 S. Monroe
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 Property Casualty Insurance Assoc of America

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
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 794

INTRODUCER: Banking and Insurance Committee and Senator Brandes

SUBJECT: Motor Vehicle Service Agreement Companies

DATE: March 15, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Matiyow	Knudson	BI	Fav/CS
2.			CM	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

SB 794 allows a motor vehicle service agreement company to meet its reserving requirement by securing contractual liability insurance from an authorized risk retention group. Current law only allows the purchase of contractual liability insurance from an authorized insurer. The bill requires a surplus of at least \$15 million for insurers or risk retention groups that insure or cover 100 percent of a motor vehicle service agreement company's exposure. The bill removes the prohibition that a motor vehicle service agreement company cannot have an affiliation with an insurer issuing coverage on the company's exposure for motor vehicle protection expenses. Lastly, the bill allows a lender, finance company, or creditor to cancel a motor vehicle service agreement if authorized in the service agreement.

II. Present Situation:

Motor Vehicle Service Agreement Companies

Motor vehicle service agreement companies are one type of warranty association and are governed by the provisions in part I, ch. 634, F.S. Motor vehicle service agreements generally provide vehicle owners with protection when the manufacturer's warranty expires. While a warranty is not considered a traditional insurance product, it protects purchasers from future risks and associated costs. In Florida, warranty associations are regulated by the Office of Insurance Regulation (OIR). The OIR's regulatory authority concerning warranty associations includes

approval of forms, investigation of complaints, and monitoring of reserve requirements, among other duties. However, the OIR is not required to approve rates for warranties.

Motor vehicle service agreements indemnify the agreement holder against loss caused by failure of any mechanical or other component part, or any mechanical or other component part of the motor vehicle that does not function as it was originally intended. The term “motor vehicle service agreement” also includes any contract that provides: for coverage which is issued in conjunction with an additive product applied to the motor vehicle that is the subject of such agreement; for payment of vehicle protection expenses (such as meeting applicable deductibles and providing for temporary replacement vehicle rental expenses); and for the payment for paintless dent-removal services.¹

These companies are required to be licensed by the OIR prior to conducting business in Florida.² A company must meet the following conditions to qualify for licensure:³

- Be a solvent corporation;
- Prove to OIR that the management of the company is competent and trustworthy and can successfully and lawfully manage the company;
- Deposit \$200,000 with the Department of Financial Services (DFS);⁴
- Have and maintain minimum net assets of at least \$500,000, which must be kept in the United States;
- Keep and maintain an unearned premium reserve of at least 50 percent of the unearned gross written premium of each service agreement amortized pro rata over the life of the agreement, kept in a 10 to 1 ratio of gross written premium in force to net assets⁵ (15 percent of this reserve must be deposited with the DFS).
 - This reserve is not required if the service agreement company holds a contractual liability policy and meets the following criteria:
 - The policy covers 100 percent of the claim exposure and is with an admitted insurer;
 - If the service agreement company fails to meet its contractual obligations, the insurer is bound⁶ to cover all claims and refunds on agreements issued during the policy period, including those agreements that the company has yet to pay premium on;
 - If the service agreement is being fulfilled by the insurer and the company cancels the agreement, the insurer must issue the required pro rata refund (and representatives or agents must refund the commissions, pro rata);

¹ s. 634.011(8), F.S.

² s. 634.031, F.S. The unauthorized transaction of motor vehicle service agreements is a first degree misdemeanor punishable by up to one year in jail and a \$1,000 fine. s. 634.031(7), F.S.

³ s. 634.041, F.S.

⁴ s. 634.052, F.S. If the company maintains less than \$750,000 in unearned gross premium, the deposit may be lowered to \$100,000. Also, the deposit may be lowered to no less than \$100,000 after the first year of business upon application to the DFS for a release of a portion of the deposit. For good cause shown after notice and a hearing, the OIR may require the deposit to be increased to no more than \$500,000 to protect the company’s customers and creditors. The deposit must be in the form of the various securities specified in s. 625.52, F.S.

⁵ This ratio only applies to the direct written premiums covered by the reserve, i.e., that are retained and not covered by contractual liability insurance held by the service agreement company. s. 634.041(8)(a)2., F.S.

⁶ Contractual liability insurance is casualty insurance. s. 624.605(1)(b), F.S. Casualty insurers are required to initially have at least \$5,000,000 in surplus as to policyholders and subsequently must maintain \$4,000,000 in surplus as to policy holders. ss. 624.407 and 624.408, F.S.

- There is a 90 day cancellation, termination, or non-renewal notice to OIR by the insurer; and
- The company provides claim statistics to OIR.
- The service agreement company must be able to identify which allowed reserve requirement is being used to back each agreement. However, a company with at least \$10 million in assets and an audited actuarial statement on file with OIR is granted authority to manage blocks of new agreements under either of the two allowed forms of reserving, i.e., the 50 percent reserve or contractual liability insurance substitute,
- It must file, under oath of two executive officers, any information requested in writing by OIR regarding its transactions and affairs, and
- Limitations on reserve requirements apply to service agreement companies that provide vehicle protection expenses through their agreements, including a prohibition on purchasing insurance from an affiliated insurer.⁷

The OIR is prohibited from licensing a company if it has violated any requirement of part I of ch. 634, F.S., or any rules interpreting and implementing that part within the previous 3 years. There are 89 motor vehicle service agreement companies active in Florida.⁸

Risk Retention Groups

Risk retention groups are authorized under state and federal law.⁹ Except for requirements related to oversight of the formation and operations of the group; the regulation of these groups is preempted by federal law.¹⁰

A risk retention group is a corporation or limited liability association whose primary purpose is to share any or all of the liabilities of the members of the group. If they are organized under the law of any state or district of the United States, they may transact business in Florida.¹¹ They may not exclude businesses from membership solely for competitive advantage. The group must be solely owned by either:

- its members who receive insurance from the group; or
- by an organization whose members are the members of the group; however, the owning organization must be owned by those making up and receiving insurance from the group.

The group members must be engaged in business or activities that result in similar or related liabilities because of their similar, related or common business conditions.

⁷ The service agreement company can use an affiliated insurer, if the insurer had issued them a policy prior to January 1, 2002. s. 634.041(11)(a), F.S.

⁸Florida Office of Insurance Regulation Active Company Search, <http://www.floir.com/CompanySearch/>, Select “Motor Vehicle Service Agreement Company” under “Company Type” (last visited March 15, 2017).

⁹ 15 U.S.C. ss. 3901, et seq. (2016), and part XIX of ch. 627, F.S.

¹⁰ 15 U.S.C. s. 3902 (2016). Rule 69-O-200.006, F.A.C., requires insurers writing contractual liability insurance to obtain a certificate of authority from OIR prior to doing so. Since risk retention groups from outside of Florida are not issued certificates of authority, the OIR asserts that they cannot offer contractual liability insurance in the state. Florida Office of Insurance Regulation, Agency Analysis of 2017 Senate Bill 794, p. 5 (Feb. 17, 2017). This rule may conflict with federal preemption regarding risk retention groups and would be resolved by the bill.

¹¹ Certain risk retention groups organized in Bermuda or the Cayman Islands prior to January 1, 1985, may also transact business in Florida. s. 627.942(9)(c)2., F.S.

Risk retention groups can only insure certain risks. They are limited to liability insurance and reinsurance of other risk retention groups that share the same common interests required to form a group. The term “risk retention group” must be included in the group’s name. None of Florida’s insurance insolvency guaranty funds are available for risk retention group insolvencies. There are 108 risk retention groups active in Florida.¹²

By forming or joining a risk retention group, a prospective member, such as a motor vehicle service agreement company, can take advantage of economic opportunities consistent with self-insurance. They may be able to save money by controlling overhead costs and profits that cannot be avoided through the purchase of insurance. They maintain or participate in the control of assets and investments dedicated to the reserves that will fund claims exposure. The availability of participation in risk retention groups provide business with another option to compete in the market and take advantage of economic opportunities.

Cancellations

Motor vehicle service agreements are commonly purchased and financed at the same time as the vehicle that they cover. When the vehicle financing is satisfied, such as through sale, trade-in, or pay-off following an insured total loss, the service agreement should be cancelled to avoid unnecessary premiums and obtain a refund of the unearned portion of paid premium as provided by law.¹³ While s. 634.131, F.S. only references the action of the agreement holder regarding cancellations, the entity that financed the purchase of the vehicle and agreement may be the only one knowledgeable of the need to cancel the agreement in such circumstances. Acting on behalf of their customer, they request the cancellation.

Upon cancellation, the agreement holder is entitled to a refund of a portion of the premium paid.¹⁴ The calculation of the refund amount changes based on the date of the cancellation. If the agreement holder cancels the agreement within 60 days after purchase, they must receive 100 percent of the gross premium paid, after deducting any paid claims and an administrative fee. The administrative fee is limited to 5 percent of the gross premium paid. If the agreement holder cancels the agreement more than 60 days after purchase, 90 percent of the unearned premiums are refunded, after deduction of any claims paid.

III. Effect of Proposed Changes:

The bill revises how service warranty companies may meet their reserve requirement through the purchase of contractual liability insurance. It increases the minimum surplus to policyholders that is applicable to any insurer providing coverage for contractual liabilities of a motor vehicle service agreement company. The minimum surplus as to policyholders is increased from \$4 million to \$15 million.

¹²Florida Office of Insurance Regulation Active Company Search, <http://www.floir.com/CompanySearch/>, Select “Risk Retention Group” under “Company Type” (last visited March 15, 2017).

¹³ s. 634.121(3), F.S. This section also governs cancellations by the service agreement company and provides detailed requirements concerning justification and process.

¹⁴ “Unearned premium” means that portion of the gross written premium which has not been earned on a straight pro rata basis. s. 634.011(16), F.S. Premium is not earned until the policy period expires and are usually paid in advance. Unearned premium is that portion of a premium that the insurer has already received, but relates to future coverage during the policy period.

The bill allows service warranty companies to meet their reserving requirements by participating in a risk retention group, if the group covers 100 percent of the claims exposure of the company, and maintains a surplus to policyholders minimum of \$15 million.

Regarding service warranty companies that offer vehicle protection expenses in their agreements, the bill allows them to meet their reserve requirements related to contractual liability for vehicle protection expense claims through risk retention groups, rather than exclusively through the purchase of insurance. The bill also removes a prohibition on them utilizing an affiliated insurer to meet their reserve requirements.

Lastly, the bill authorizes a lender, finance company, or creditor to cancel a service agreement, if provided for in the agreement, after the agreement has been in place for more than 60 days.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Insurers and risk retention groups providing contractual liability coverage on motor vehicle service warranties will need to maintain a surplus of at least \$15 million dollars.

The bill may increase the amount of and options related to contractual liability coverage of motor vehicle service agreements.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 634.041 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 March 14, 2017:

- Makes technical and grammatical changes to the provision of the bill.
- Adds a new section to the bill, which allows a lender, finance company, or creditor to cancel service agreements, if provided for in the agreement.

- B. **Amendments:**

None.



472694

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/14/2017	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 21 - 78

and insert:

and maintain an unearned premium reserve if it secures ~~purchases~~ and maintains contractual liability insurance in accordance with the following:

1. Coverage of ~~The insurance covers~~ 100 percent of the ~~its~~ claim exposure ~~and~~ is obtained from an insurer that is approved by the office and that ~~which~~ holds a certificate of authority



472694

11 under s. 624.401 to do business within this state, or such
12 coverage is secured through a risk retention group that is
13 authorized to do business within this state under s. 627.943 or
14 s. 627.944. Such insurer or risk retention group shall maintain
15 a surplus as to policyholders of at least \$15 million.

16 2. If the service agreement company does not meet its
17 contractual obligations, the contractual liability insurance
18 policy binds its issuer to pay or cause to be paid to the
19 service agreement holder all legitimate claims and cancellation
20 refunds for all service agreements issued by the service
21 agreement company while the policy was in effect. This
22 requirement also applies to those service agreements for which
23 no premium has been remitted to the insurer.

24 3. If the issuer of the contractual liability policy is
25 fulfilling the service agreements covered by the contractual
26 liability policy and the service agreement holder cancels the
27 service agreement, the issuer must make a full refund of
28 unearned premium to the consumer, subject to the cancellation
29 fee provisions of s. 634.121(3). The sales representative and
30 agent must refund to the contractual liability policy issuer
31 their unearned pro rata commission.

32 4. The policy may not be canceled, terminated, or
33 nonrenewed by the insurer or the service agreement company
34 unless a 90-day written notice thereof has been given to the
35 office by the insurer before the date of the cancellation,
36 termination, or nonrenewal.

37 5. The service agreement company must provide the office
38 with the claims statistics.

39



472694

40 All funds or premiums remitted to an insurer by a motor vehicle
41 service agreement company under this part shall remain in the
42 care, custody, and control of the insurer and shall be counted
43 as an asset of the insurer; provided, however, this requirement
44 does not apply when the insurer and the motor vehicle service
45 agreement company are affiliated companies and members of an
46 insurance holding company system. If the motor vehicle service
47 agreement company chooses to comply with this paragraph but also
48 maintains a reserve to pay claims, such reserve shall only be
49 considered an asset of the covered motor vehicle service
50 agreement company and may not be simultaneously counted as an
51 asset of any other entity.

52 (11) (a) A service agreement company offering service
53 agreements providing vehicle protection expenses may meet the
54 requirements for this part only by maintaining contractual
55 liability insurance covering 100 percent of its vehicle
56 protection claim exposure in accordance with paragraph (8) (b) ~~7~~
57 ~~which insurance must be issued by an insurance company not~~
58 ~~affiliated with the service agreement company, unless the~~
59 ~~insurance company had issued a contractual liability insurance~~
60 ~~policy to a service agreement company on or before January 1,~~
61 ~~2002.~~ Service agreements providing vehicle protection expenses
62 may be sold only to a service agreement holder that has in-force
63 comprehensive motor vehicle insurance coverage for the vehicle
64 to be covered by the service agreement.

65 Section 2. Paragraph (b) of subsection (3) of section
66 634.121, Florida Statutes, is amended to read:

67 634.121 Forms, required procedures, provisions.-

68 (3)



472694

69 (b) After the service agreement has been in effect for 60
70 days, it may not be canceled by the insurer or service agreement
71 company unless:

72 1. There has been a material misrepresentation or fraud at
73 the time of sale of the service agreement;

74 2. The agreement holder has failed to maintain the motor
75 vehicle as prescribed by the manufacturer;

76 3. The odometer has been tampered with or disabled and the
77 agreement holder has failed to repair the odometer; or

78 4. For nonpayment of premium by the agreement holder, in
79 which case the service agreement company shall provide the
80 agreement holder notice of cancellation by certified mail.

81
82 If the service agreement is canceled by the insurer or service
83 agreement company, the return of premium must not be less than
84 100 percent of the paid unearned pro rata premium, less any
85 claims paid on the agreement. If, after 60 days, the service
86 agreement is canceled by the service agreement holder, lender,
87 finance company, or creditor, the insurer or service agreement
88 company shall return directly to the agreement holder not less
89 than 90 percent of the unearned pro rata premium, less any
90 claims paid on the agreement. Cancellations initiated by
91 lenders, creditors, or finance companies are valid only if
92 authorized by the terms of the service agreement. The service
93 agreement company remains responsible for full refunds to the
94 consumer on canceled service agreements. However, the
95 salesperson and agent are responsible for the refund of the
96 unearned pro rata commission. A service agreement company may
97 effectuate refunds through the issuing salesperson or agent in



472694

98 accordance with paragraphs (c) and (d).

99

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

101 And the title is amended as follows:

102 Delete line 5

103 and insert:

104 company to obtain and maintain a license; amending s.
105 634.121, F.S.; requiring specified refunds by insurers
106 or service agreement companies if service agreements
107 are canceled by lenders, finance companies, or
108 creditors after a specified timeframe; providing a
109 limitation on such cancellations; providing an

By Senator Brandes

24-00941-17

2017794__

1 A bill to be entitled
 2 An act relating to motor vehicle service agreement
 3 companies; amending s. 634.041, F.S.; revising
 4 qualifications for a motor vehicle service agreement
 5 company to obtain and maintain a license; providing an
 6 effective date.

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

10 Section 1. Paragraph (b) of subsection (8) and paragraph
 11 (a) of subsection (11) of section 634.041, Florida Statutes, are
 12 amended to read:

13 634.041 Qualifications for license.—To qualify for and hold
 14 a license to issue service agreements in this state, a service
 15 agreement company must be in compliance with this part, with
 16 applicable rules of the commission, with related sections of the
 17 Florida Insurance Code, and with its charter powers and must
 18 comply with the following:

19 (8)

20 (b) A service agreement company does not have to establish
 21 and maintain an unearned premium reserve if it purchases and
 22 maintains contractual liability insurance in accordance with the
 23 following:

24 1. The insurance covers 100 percent of its claim exposure
 25 and is obtained from an insurer approved by the office which
 26 holds a certificate of authority under s. 624.401 or a risk
 27 retention group that is authorized to do business within this
 28 state under s. 627.943 or s. 627.944 and maintains a surplus to
 29 policyholders of at least \$15 million.

30 2. If the service agreement company does not meet its
 31 contractual obligations, the contractual liability insurance
 32 policy binds its issuer to pay or cause to be paid to the

Page 1 of 3

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

24-00941-17

2017794__

33 service agreement holder all legitimate claims and cancellation
 34 refunds for all service agreements issued by the service
 35 agreement company while the policy was in effect. This
 36 requirement also applies to those service agreements for which
 37 no premium has been remitted to the insurer.

38 3. If the issuer of the contractual liability policy is
 39 fulfilling the service agreements covered by the contractual
 40 liability policy and the service agreement holder cancels the
 41 service agreement, the issuer must make a full refund of
 42 unearned premium to the consumer, subject to the cancellation
 43 fee provisions of s. 634.121(3). The sales representative and
 44 agent must refund to the contractual liability policy issuer
 45 their unearned pro rata commission.

46 4. The policy may not be canceled, terminated, or
 47 nonrenewed by the insurer or the service agreement company
 48 unless a 90-day written notice thereof has been given to the
 49 office by the insurer before the date of the cancellation,
 50 termination, or nonrenewal.

51 5. The service agreement company must provide the office
 52 with the claims statistics.

53
 54 All funds or premiums remitted to an insurer by a motor vehicle
 55 service agreement company under this part shall remain in the
 56 care, custody, and control of the insurer and shall be counted
 57 as an asset of the insurer; provided, however, this requirement
 58 does not apply when the insurer and the motor vehicle service
 59 agreement company are affiliated companies and members of an
 60 insurance holding company system. If the motor vehicle service
 61 agreement company chooses to comply with this paragraph but also

Page 2 of 3

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

24-00941-17

2017794

62 maintains a reserve to pay claims, such reserve shall only be
63 considered an asset of the covered motor vehicle service
64 agreement company and may not be simultaneously counted as an
65 asset of any other entity.

66 (11) (a) A service agreement company offering service
67 agreements providing vehicle protection expenses may meet the
68 requirements for this part only by maintaining contractual
69 liability insurance covering 100 percent of its vehicle
70 protection claim exposure in accordance with paragraph (8) (b) ~~7~~
71 ~~which insurance must be issued by an insurance company not~~
72 ~~affiliated with the service agreement company, unless the~~
73 ~~insurance company had issued a contractual liability insurance~~
74 ~~policy to a service agreement company on or before January 1,~~
75 ~~2002.~~ Service agreements providing vehicle protection expenses
76 may be sold only to a service agreement holder that has in-force
77 comprehensive motor vehicle insurance coverage for the vehicle
78 to be covered by the service agreement.

79 Section 2. This act shall take effect July 1, 2017.

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

794
Bill Number (if applicable)

Topic For Bill and For Amendment

Amendment Barcode (if applicable) _____

Name Tim Meenan

Job Title _____

Address 325 W. College Ave
Street

Phone 425-4000

Tallahassee FL 32312
City State Zip

Email _____

Speaking: For Against Information

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

Representing Ethics Group / Florida Service Agreement 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
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 812

INTRODUCER: Banking and Insurance Committee and Senator Perry

SUBJECT: Insurance Policy Transfers

DATE: March 15, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Billmeier	Knudson	BI	Fav/CS
2.			CM	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 812 alters the method by which personal lines residential and commercial residential insurance policies may be transferred from one insurance company to another company within the same insurance group. Insurance companies writing commercial lines insurance policies may transfer commercial policies to a different Florida licensed insurance company that is a member of the same insurance group or owned by the same holding company as the first insurer. A commercial policy that is transferred under current law is considered a renewal policy rather than a cancellation, nonrenewal, or termination. The insurer must provide notice of intent to transfer at least 45 days in advance along with the financial rating of the authorized insurer to which the policy is being transferred.

Insurance companies that write personal lines residential and commercial residential policies, except for certain farmowners policies, are not authorized to use this procedure. Instead, the insurer must first cancel, nonrenew, or terminate residential policies and meet current law applicable to cancellations, nonrenewal, or terminations, including a requirement to provide notice 120 days in advance of the action.

This bill provides that insurers providing personal lines residential or commercial residential property insurance coverage may transfer policies to another authorized insurer that is a member of the same group or owned by the same holding company if:

- The insured is transferred to an insurer that is admitted to do business in Florida, that is admitted and writing residential property insurance in other states, and that has been

determined by the Office of Insurance Regulation to have the same or better financial strength than the transferring insurer;

- The insured is not being transferred to a surplus lines policy;
- The transfer results in substantially similar coverage;
- The insurer to which the policy is being transferred provides a notice of change in policy terms. The notice must be provided with the notice of renewal premium and must be provided at least 60 days before the effective date of the transfer;
- The policyholder of the policy being transferred was selected on a nondiscriminatory basis; and
- The Office of Insurance Regulation has approved the transfer.

II. Present Situation:

A holding company is a company that holds a controlling share of stock in one or more other companies. Some Florida insurance companies are owned by holding companies and some holding companies own more than one insurance company.

Insurance companies writing commercial lines insurance policies may transfer commercial policies to a different Florida licensed insurance company that is a member of the same insurance group or owned by the same holding company as the transferring insurer.¹ A commercial policy that is transferred is considered a renewal policy, rather than a cancellation, nonrenewal, or termination.² In order to transfer policies to a different company, the insurer must provide notice of intent to transfer at least 45 days in advance along with the financial rating of the authorized insurer to which the policy is being transferred.³

Insurance companies that write personal lines residential and commercial residential policies, other than specified farmowners insurance policies, may not use this procedure to transfer policies within their holding company system.⁴ Instead, the insurer must first cancel, nonrenew, or terminate residential policies. Insurers writing personal lines residential or commercial lines residential property insurance must give policyholders a notice of cancellation, nonrenewal, or termination at least 120 days prior to the effective date of the cancellation, nonrenewal, or termination.⁵

III. Effect of Proposed Changes:

This bill provides that insurers providing personal lines residential or commercial residential property insurance coverage may transfer policies to another authorized insurer that is a member of the same group or owned by the same holding company if:

- The insured is transferred to an insurer that is admitted to do business in Florida, that is admitted and writing residential property insurance in other states, and that has been determined by the Office of Insurance Regulation to have the same or better financial strength than the transferring insurer;

¹ s. 627.4133(8), F.S.

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ s. 627.4133(2)(b), F.S.

- The policy is not being converted to a surplus lines policy;
- The transfer results in substantially similar coverage;
- The policyholder of the policy being transferred has been selected on a nondiscriminatory basis; and
- The Office of Insurance Regulation has approved the transfer.

The bill provides that the insurer to which the policy is being transferred must provide a notice of change in policy terms to the policyholder in compliance with s. 627.43141, F.S. The notice must also include notice of the policy transfer and the insurer's financial rating. The notice must be provided with the notice of renewal premium. The notice and information provided must be provided to the insured at least 60 days before the effective date of the transfer.

The bill takes effect July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Office of Insurance Regulation does not anticipate a fiscal impact.⁶

VI. Technical Deficiencies:

None.

⁶ Office of Insurance Regulation, *Analysis of SB 812* (March 6, 2017).

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 627.4133 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 March 14, 2017:

The CS provides that a transferred policy cannot be converted to a surplus lines policy and that the policyholder of a policy being transferred must be selected on a nondiscriminatory basis.

The CS provides that the insurer to which the policy is being transferred must provide a notice of change in policy terms to the policyholder in compliance with s. 627.43141, F.S.⁷ The notice must also include notice of the policy transfer and the insurer's financial rating. The notice must be provided with the notice of renewal premium. The notice and information provided must be provided to the insured at least 60 days before the effective date of the transfer.

- B. **Amendments:**

None.

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

⁷ Section 627.43141, F.S., requires insurers to provide notice of changes in policy terms. An insurer cannot include additional optional coverage that increases a premium unless the policyholder affirmatively approves the addition of the optional coverage.



385072

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/14/2017	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 27 - 42
and insert:
renewal premium. This subsection does not apply to a policy providing personal lines residential or commercial residential property insurance coverage, except for farmowners insurance, unless:

(a) The authorized insurer to which the policy is being transferred is admitted in other states and writing residential



385072

11 property insurance in those states, is not converting the policy
12 to a surplus lines policy, and has been determined by the office
13 to have the same or better financial strength than the
14 transferring insurer;

15 (b) The transfer results in substantially similar coverage;

16 (c) The authorized insurer to which the policy is being
17 transferred provides a notice of change in policy terms to the
18 policyholder in compliance with s. 627.43141, which must also
19 include notice of the policy transfer and the authorized
20 insurer's financial rating. Such notice must be provided with
21 the notice of renewal premium. The notice and information
22 provided under this paragraph must be provided to the insured at
23 least 45 days before the effective date of the transfer and may
24 replace any other notice required by this subsection;

25 (d) The policyholder of the policy being transferred has
26 been selected on a nondiscriminatory basis; and

27 (e) The office has approved the transfer and ~~commercial~~
28 general liability policies providing farm coverage or ~~commercial~~
29 property policies providing farm coverage.



810992

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/14/2017	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 27 - 42
and insert:
renewal premium. This subsection does not apply to a policy
providing personal lines residential or commercial residential
property insurance coverage, except for farmowners insurance,
unless:
(a) The authorized insurer to which the policy is being



810992

10 transferred is admitted in this state and other states and
11 writing residential property insurance in such states, is not
12 converting the policy to a surplus lines policy, and has been
13 determined by the office to have the same or better financial
14 strength than the transferring insurer;

15 (b) The transfer results in substantially similar coverage;

16 (c) The authorized insurer to which the policy is being
17 transferred provides a notice of change in policy terms to the
18 policyholder in compliance with s. 627.43141, which must also
19 include notice of the policy transfer and the authorized
20 insurer's financial rating. Such notice must be provided with
21 the notice of renewal premium. The notice and information
22 provided under this paragraph must be provided to the insured at
23 least 60 days before the effective date of the transfer and may
24 replace any other notice required by this subsection;

25 (d) The policyholder of the policy being transferred has
26 been selected on a nondiscriminatory basis; and

27 (e) The office has approved the transfer ~~and commercial~~
28 ~~general liability policies providing farm coverage or commercial~~
29 ~~property policies providing farm coverage.~~



924038

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/14/2017	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 27 - 42
and insert:
renewal premium. This subsection does not apply to a policy providing personal lines residential or commercial residential property insurance coverage, except for farmowners insurance, unless:

(a) The authorized insurer to which the policy is being transferred is admitted in this state and other states and



924038

11 writing residential property insurance in such states, is not
12 converting the policy to a surplus lines policy, and has been
13 determined by the office to have the same or better financial
14 strength than the transferring insurer;

15 (b) The transfer results in substantially similar coverage;

16 (c) The authorized insurer to which the policy is being
17 transferred provides a notice of change in policy terms to the
18 policyholder in compliance with s. 627.43141, which must also
19 include notice of the policy transfer and the authorized
20 insurer's financial rating. Such notice must be provided with
21 the notice of renewal premium. The notice and information
22 provided under this paragraph must be provided to the insured at
23 least 60 days before the effective date of the transfer and may
24 replace any other notice required by this subsection;

25 (d) The policyholder of the policy being transferred has
26 been selected on a nondiscriminatory basis; and

27 (e) The office has approved the transfer ~~and commercial~~
28 ~~general liability policies providing farm coverage or commercial~~
29 ~~property policies providing farm coverage.~~

By Senator Perry

8-00451-17

2017812__

1 A bill to be entitled
2 An act relating to insurance policy transfers;
3 amending s. 627.4133, F.S.; authorizing an insurer to
4 transfer a personal lines residential or commercial
5 residential property insurance policy to another
6 authorized insurer upon expiration of the policy term
7 if specified conditions are met; providing an
8 effective date.

9
10 Be It Enacted by the Legislature of the State of Florida:

11
12 Section 1. Subsection (8) of section 627.4133, Florida
13 Statutes, is amended to read:

14 627.4133 Notice of cancellation, nonrenewal, or renewal
15 premium.—

16 (8) Upon expiration of the policy term, an insurer may
17 transfer a personal lines residential, commercial residential,
18 or commercial lines policy to another authorized insurer that is
19 a member of the same group or owned by the same holding company
20 as the transferring insurer. The transfer constitutes a renewal
21 of the policy and may not be treated as a cancellation or a
22 nonrenewal of the policy. The insurer must provide notice of its
23 intent to transfer the policy at least 45 days before the
24 effective date of the transfer along with the financial rating
25 of the authorized insurer to which the policy is being
26 transferred. Such notice may be provided in the notice of
27 renewal premium. This subsection applies to ~~does not apply to a~~
28 ~~policy providing residential property insurance coverage, except~~
29 ~~for~~ farmowners insurance and commercial general liability
30 policies providing farm coverage or commercial property policies
31 providing farm coverage. This subsection does not apply to a
32 policy providing personal lines residential or commercial

Page 1 of 2

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

8-00451-17

2017812__

33 residential property insurance coverage unless:

34 (a) The insured is transferred to an affiliated insurer
35 that is admitted to do business in this state, that is admitted
36 and writing residential property insurance in other states, and
37 that has been determined by the office to have the same or
38 better financial strength than the transferring insurer;

39 (b) The transfer results in substantially similar coverage;

40 (c) Notice of the transfer is delivered to the insured or
41 his or her agent; and

42 (d) The office has approved the transfer.

43 Section 2. This act shall take effect July 1, 2017.

Page 2 of 2

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

THE FLORIDA SENATE
APPEARANCE RECORD

Sen. Parry's

3/14

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

SB 812

Meeting Date

Bill Number (if applicable)

Topic

Insurance Policy Transfers

Amendment Barcode (if applicable)

Name

Lee Jacobson

Job Title

—

Address

Street

675 Shadow Moss Circle

Phone

409-497-0771

City

ORLANDO, FLA.

State

Zip

32746

Email

Lee@HHSLegal.com

Speaking:

For

Against

Information

Waive Speaking:

In Support

Against

(The Chair will read this information into the record.)

Representing

Florida Justice 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)

Meeting Date _____

512
Bill Number (if applicable)

Topic For Bill / For Amendment

Amendment Barcode (if applicable) _____

Name Tim Meenan

Job Title _____

Address 325 W. College Ave

Phone 859 425-4000

Tallahassee FL 32307
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 Nationwide Insurance Co.

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 814

INTRODUCER: Senator Broxson

SUBJECT: Florida Life and Health Insurance Guaranty Association

DATE: March 13, 2017 REVISED: 03/14/2017

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Knudson	BI	Favorable
2.			AGG	
3.			AP	

I. Summary:

SB 814 revises coverage and assessment provisions relating to the Florida Life and Health Insurance Guaranty Association (association). In 1979, the Legislature created the association to protect policyholders against failure in the performance of contractual obligations under life and health insurance policies and annuity contracts due to the impairment or insolvency of the member insurer that issued the policies or contracts.

The bill increases the limit on coverage for specified health insurance policies from \$300,000 to \$500,000 for any one person. The bill expands the association’s scope of coverage to include annuities issued by an insurer pursuant to an individual retirement annuity and annuities issued by an insurer and held by a third party custodian or trustee pursuant to an individual retirement account. The bill also increases the cap on Class A assessments on member insurers from \$250 to \$500, which are used to fund administrative and general expenses

II. Present Situation:

Insurer Insolvency

States primarily regulate insurance companies, and the state of domicile serves as the primary regulator for insurers. Solvency regulations are designed to protect policyholders against the risk that insurers will not be able to meet their financial responsibilities. In Florida, the Office of Insurance Regulation (OIR) licenses and regulates the activities of insurers and other risk-bearing entities.¹ The OIR is primarily responsible for monitoring the solvency of regulated insurers and examining insurers to determine compliance with applicable laws, and taking administrative action, if necessary. The Division of Rehabilitation and Liquidation of the

¹ Section 20.121(3), F.S.

Department of Financial Services (DFS) is responsible for rehabilitating or liquidating insurance companies.²

Chapter 631, F.S., relating to insurer insolvency and guaranty payment, governs the receivership process for insurance companies in Florida.³ Federal law specifies that insurance companies cannot file for bankruptcy. Instead, they are either "rehabilitated" or "liquidated" by the state. Florida has five insurance guaranty funds that protect policyholders of liquidated insurers from financial losses and delays in claim payment and settlement, up to limits provided by law.⁴ A guaranty association generally is a not-for-profit corporation created by law directed to protect policyholders from financial losses and delays in claim payment and settlement due to the insolvency of an insurance company. A guaranty association accomplishes its mission by assuming responsibility for settling claims and refunding unearned premiums⁵ to policyholders. As a condition of transacting business in Florida, all insurers are required to participate in a guaranty association.

Florida Life and Health Insurance Guaranty Association

Part III of ch. 631, F.S., governs the powers and duties of the Florida Life and Health Insurance Guaranty Association (association).⁶ All insurers licensed to write life and health insurance policies or annuities (with exceptions) in Florida are required, as a condition of doing business in the state, to be members of the association.⁷ The board of directors is composed of nine member insurers.⁸

In the event a member insurer is found to be insolvent and is ordered to be liquidated by a court, a receiver takes over the insurer under court supervision and processes the assets and liabilities through liquidation. Upon liquidation, the association automatically becomes liable for the policy obligations that the liquidated insurer owed to its Florida policyholders.⁹ The association services the policies, collects premiums and pays valid claims under the policies. The rights of the

² Typically, insurers are placed into liquidation when the company is insolvent whereas insurers are put into rehabilitation for numerous reasons, one of which is an unsound financial condition. The goal of rehabilitation is to return the insurer to a sound financial condition. The goal of liquidation, however, is to dissolve the insurer. *See* s. 631.051, F.S., for the grounds for rehabilitation and s. 631.061, F.S., for the grounds for liquidation.

³ The Bankruptcy Code expressly provides that "a domestic insurance company" may not be the subject of a federal bankruptcy proceeding. 11 U.S.C. s. 109(b)(2). The exclusion of insurers from the federal bankruptcy court process is consistent with federal policy generally allowing states to regulate the business of insurance. *See* 15 U.S.C. ss. 1011- 1012.

⁴ The Florida Life and Health Insurance Guaranty Association generally is responsible for claims settlement and premium refunds for health and life insurers who are impaired or insolvent. The Florida Health Maintenance Organization Consumer Assistance Plan assists members of insolvent health maintenance organizations, and the Florida Workers' Compensation Insurance Guaranty Association protects policyholders of insolvent workers' compensation insurers. The Florida Self-Insurers Guaranty Association protects policyholders of insolvent individual self-insured employers for workers' compensation claims. The Florida Insurance Guaranty Association is responsible for paying claims for insolvent insurers for most remaining lines of insurance, including residential and commercial property insurance, automobile insurance, and liability insurance, among others.

⁵ The term "unearned premium" refers to that portion of a premium that is paid in advance, typically for 6 months or 1 year, and which is still owed on the unexpired portion of the policy.

⁶ *Florida Life and Health Insurance Guaranty Association Act*, s. 1, ch. 79-189, Laws of Fla.

⁷ Section 631.713(3), F.S.

⁸ Section 631.716(1), F.S.

⁹ Generally, FLAHIGA covers only policyholders and certificate holders who were Florida residents on the date that a member insurer is declared insolvent and liquidated with some exceptions. (s. 631.713(2), F.S.).

association under the policies are those that applied to the insurer prior to liquidation. The association may cancel the policy if the insurer could have done so, but generally, the association continues the policies until the association can transfer or substitute the policies to a new, stable insurer with approval of the OIR.¹⁰

The National Organization of Life and Health Insurance Guaranty Associations (NOLHGA) is a voluntary association comprised of the life and health insurance guaranty associations of all 50 states and the District of Columbia. The NOLHGA assembles a task force of guaranty association officials to address situations where insurers licensed in multiple states are facing insolvency or are declared insolvent. This task force analyzes the companies' policies, ensures that covered claims are paid, and arranges for the transfer of covered policies to another insurer (when possible). This allows the receiver and potential assuming carriers to deal with a single point of contact and contracting instead of having to engage in multiple discussions, negotiations, and contracts with a variety of different associations.¹¹ The NOLGHA allocates these expenses¹² to affected guaranty associations for payment.¹³

Covered Policies

Generally, direct life insurance policies, health insurance policies, individual and allocated¹⁴ annuity contracts, and supplemental contracts¹⁵ issued by member insurers are covered. A policy must meet coverage requirements, and association payments are limited for any one person as follows:

- Life Insurance Death Benefit: \$300,000 per insured life.
- Life Insurance Cash Surrender: \$100,000 per insured life.
- Health Insurance Claims: \$300,000 per insured life.
- Annuity Cash Surrender: \$250,000 for deferred annuity contracts per contract owner.
- Annuity in Benefit: \$300,000 per contract owner.¹⁶

In addition, s. 631.713(3), F.S., excludes all of the following from coverage by the association:

- any portion or part of a variable life insurance contract or a variable annuity contract that is not guaranteed by a licensed insurer;
- any portion or part of any policy or contract under which the risk is borne by the policyholder;
- any policy or contract or part thereof assumed by the failed insurer under a contract of reinsurance, unless assumption certificates were issued;
- fraternal benefit society products;
- health maintenance insurance;
- dental service plan insurance;

¹⁰ See <http://www.flahiga.org/aboutus.cfm> (last viewed Mar. 10, 2017)

¹¹ See <https://www.nolhga.com/resource/file/costs/Report16.pdf> (last viewed Mar. 12, 2017).

¹² <https://www.nolhga.com/aboutnolhga/main.cfm/location/whatisnolhga> (last viewed Mar. 12, 2017).

¹³ Section 631.721, F.S.

¹⁴ Allocated annuity contracts are directly issued to and owned by individuals or annuities that directly guarantee benefits to individuals by the insurer.

¹⁵ Section 631.713(1), F.S.

¹⁶ Section 631.717(9), F.S., and FLAHIGA, *Frequently Asked Questions*, available at <http://www.flahiga.org/faq.cfm> (last viewed Mar. 1, 2017).

- pharmaceutical service plan insurance;
- optometric service plan insurance;
- ambulance service association insurance;
- preneed funeral merchandise or service contract insurance;
- prepaid health clinic insurance;
- certain federal employees group policies;
- any annuity contract or group annuity contract that is not issued to and owned by an individual, except to the extent of any annuity benefits guaranteed directly and not through an intermediary to an individual by an insurer under such contract or certificate.¹⁷

Assessments

The association has three operating accounts: health insurance, life insurance, and annuity for purposes of administration and assessments. The association may impose two classes of assessments: Class A for administrative costs and general expenses and Class B to carry out the powers and duties of the association with regard to an impaired or insolvent domestic insurer.¹⁸ Class A assessments may not exceed \$250 per year per member insurer. Class B assessments are calculated based on the premiums collected by each assessed member insurer on policies or contracts covered for each account in proportion to premiums collected by all assessed member insurers for the 3 most recent years. Florida law limits assessments on a member insurer to a maximum of 1 percent of the insurer's premiums written in the state regarding business covered by the account received during the 3 calendar years preceding the year in which the assessment is made, divided by 3.¹⁹

The National Association of Insurance Commissioners

The National Association of Insurance Commissioners (NAIC) is an association of insurance regulators that coordinates regulation and examination of multistate insurers, provides a forum for addressing major insurance issues, and promotes uniform model laws among the states. In 2017, the NAIC released and updated the Life and Health Insurance Guaranty Association Act.²⁰ The model act is designed to protect policy owners, insureds, beneficiaries, annuitants, payees and assignees against losses (both in terms of payment of claims and continuation of coverage), which might otherwise occur due to an impairment or insolvency of an insurer. The limit on the Class A non-pro rata assessment is currently \$300. Further, the model provides a maximum liability of \$500,000 for basic hospital medical and surgical insurance or major medical insurance.

¹⁷ The association provides coverage for an annuity contract or certificate if the insurer issues an annuity to an individual and guarantees annuity benefits directly to the individual and does not guarantee through an intermediary. Under federal law, annuities of a custodial individual retirement account (IRA) are deemed owned by the individuals and are subject to control of the individuals. [26 United States Code ss. 408(a) and (b).] Currently, the association does not provide coverage of custodial IRA annuities because of the inclusion of “*guaranteed directly and not through an intermediary*” in the annuity coverage language provided in s. 631.713(3)(l), F.S. See DFS and association correspondence (on file with Banking and Insurance Committee).

¹⁸ Section 631.718(2), F.S.

¹⁹ Section 631.718(5)(a), F.S.

²⁰ NAIC, Life and Health Insurance Guaranty Association Model Act 520-1 (1st Quarter 2017) available at: <http://www.naic.org/store/free/MDL-520.pdf> (last viewed Feb. 9, 2017).

III. Effect of Proposed Changes:

Section 1 revises the types of policies covered by the association. The bill would increase coverage to include annuities issued by an insurer under 26 U.S.C. s. 408(b), relating to individual retirement annuities, and annuities issued by an insurer and held by a custodian or trustee in accordance with the requirements of 26 U.S.C. s. 408 (a), relating to individual retirement accounts.

Section 2 increases the association's liability for the contractual obligations of an insolvent insurer for basic hospital expense health insurance policies, basic medical-surgical health insurance policies, or major medical expense health insurance policies from \$300,000 to \$500,000 with respect to any one life.

Section 3 increases the Class A assessment cap from \$250 to \$500 per member insurer in any one calendar year.

Section 4 provides this act will take effect July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill increases the association's liability for health insurance benefits from \$300,000 to \$500,000, which will provide greater protections for insureds who exceed the current limit and who are covered by an insolvent insurer. Further, the added coverage of annuities under an individual retirement account (IRA) or individual retirement annuity may provide additional consumer protections to beneficiaries of such annuities in the event of an insolvency.

Member insurers could be subject to additional Class A assessments since the bill increases the limit on the Class A assessments from \$250 to \$500. Further, the increase in

the health insurance coverage limits from \$300,000 to \$500,000 and coverage of annuities under an IRA may lead to additional assessments on member insurers in the event of the insolvency of an insurer. The bill does not change the current 1 percent annual assessment cap.

C. **Government Sector Impact:**

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 631.713, 631.717, and 631.718.

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.

By Senator Broxson

1-00852-17

2017814__

A bill to be entitled

An act relating to the Florida Life and Health Insurance Guaranty Association; amending s. 631.713, F.S.; revising applicability of the Florida Life and Health Insurance Guaranty Association Act as to specified annuity contracts; amending s. 631.717, F.S.; revising the association's maximum aggregate liability for the contractual obligations of an insolvent insurer with respect to one life; specifying the association's maximum liability as to certain health insurance policies; amending s. 631.718, F.S.; revising the maximum limit of a certain annual assessment levied on member insurers by the association's board of directors; providing an effective date.

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

Section 1. Paragraph (1) of subsection (3) of section 631.713, Florida Statutes, is amended to read:

631.713 Application of part.—

(3) This part does not apply to:

(1) Any annuity contract or group annuity contract that is not issued to and owned by an individual, except to the extent of any annuity benefits:

1. Guaranteed directly and not through an intermediary to an individual by an insurer under such contract or certificate;

2. Under an annuity issued by an insurer under 26 U.S.C. s. 408(b); or

3. Under an annuity issued by an insurer and held by a custodian or trustee in accordance with 26 U.S.C. 408(a).

1-00852-17

2017814__

This paragraph applies to every insolvency regardless of its date of inception, and an assessment base may not include premiums for such excluded products.

Section 2. Subsection (9) of section 631.717, Florida Statutes, is amended to read:

631.717 Powers and duties of the association.—

(9) The association's liability for the contractual obligations of the insolvent insurer must ~~shall~~ be as great as, but no greater than, the contractual obligations of the insurer in the absence of such insolvency, unless such obligations are reduced as permitted by subsection (4), but the aggregate liability of the association with respect to one life may ~~shall~~ not exceed the following:

(a) For life insurance, \$100,000 in net cash surrender and net cash withdrawal values. ~~for life insurance,~~

(b) For deferred annuity contracts, \$250,000 in net cash surrender and net cash withdrawal values. ~~for deferred annuity contracts, or~~

(c) For all benefits, \$300,000, ~~for all benefits~~ including cash values, except as provided in paragraph (d) ~~with respect to any one life.~~

(d) For basic hospital expense health insurance policies, basic medical-surgical health insurance policies, or major medical expense health insurance policies, \$500,000.

In no event is ~~shall~~ the association ~~be~~ liable for any penalties or interest.

Section 3. Paragraph (a) of subsection (3) of section 631.718, Florida Statutes, is amended to read:

1-00852-17

2017814__

62 631.718 Assessments.-

63 (3) (a) The amount of any Class A assessment must ~~shall~~ be
64 determined by the board and may be made on a non-pro rata basis.
65 The assessment may not be credited against future insolvency
66 assessments and may not exceed \$500 ~~\$250~~ per member insurer in
67 any one calendar year.

68 Section 4. This act shall take effect July 1, 2017.

THE FLORIDA SENATE
APPEARANCE RECORD

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

March 14, 2017

Meeting Date

SB 814

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Paul P. Sanford

Job Title _____

Address 106 South Monroe Street

Street

Phone 850-222-7200

Tallahassee

FL

32301

Email paulsanf@aol.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida Insurance Council-Florida Life and Health 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.

S-001 (10/14/14)

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 986

INTRODUCER: Banking and Insurance Committee and Senator Stargel

SUBJECT: Department of Financial Services

DATE: March 15, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Billmeier	Knudson	BI	Fav/CS
2.			AGG	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 986 makes various changes to statutes relating to the Department of Financial Services (DFS). The bill addresses clean-up issues at the Department of Financial Services within the Divisions of Treasury, Accounting and Auditing, State Fire Marshal, Agent and Agency Services and Risk Management.

The bill:

- Replaces the Treasury Investment Committee with the Treasury Investment Council within the Division of Treasury and provides for the duties of the Council;
- Applies certain requirements relating to payments, warrants, and invoices to payments made in relation to certain agreements funded with federal or state assistance;
- Updates the 1991 Boiler Safety Act (Act) as to installation requirements, who can conduct inspections of boilers in public assembly locations, continuing education of inspectors, and changes criminal penalties to administrative fines for violations of the Act;
- Authorizes the Department the authority to use appropriated funds for the purpose of professional development and training courses;
- Allows licensed individuals who are active participants in insurance associations to annually earn continuing education credits;
- Provides that the Division of Agent and Agency Services may not issue a license until an applicant with a criminal history has paid all fines, restitution, and court costs;
- Removes the statute of limitations for actions relating to the Holocaust Victims Assistance Program;

- Allows for the use of firefighter’s confidential information for the purposes of certain studies;
- Removes a requirement for an individual to send a written notice of claim or serve a summons on the DFS for an action against a county.

II. Present Situation:

The Chief Financial Officer (CFO) is a member of the Cabinet and serves as the chief fiscal officer of the state. The CFO is agency head of the DFS. The DFS performs a wide variety of functions. For example, the DFS processes various state payments, warrants, and invoices. It administers the Boiler Safety Act.¹ The DFS regulates insurance agencies, agents, and insurance adjusters. The following sections summarize various issues addressed by SB 986.

Treasury Investment Committee

Section 17.575, F.S., creates the Treasury Investment Committee (TIC) within the DFS Division of Treasury. It consists of five members appointed by the CFO who possess special knowledge, experience, and familiarity in finance, investments, or accounting. The TIC administers the Treasury Investment Program consistent with policies approved by the CFO for deposits and investments of public funds. Section 1 of the bill changes this program.

Payment of Vendor Invoices by the State

Section 215.422, F.S., governs payments by state agencies or the judicial branch to vendors. An invoice submitted to a state agency or the judicial branch must be recorded in the financial systems of the state, approved for payment by the agency or the judicial branch, and filed with the Chief Financial Officer no later than 20 days after receipt of the invoice, unless there is a dispute or some other reason not to pay.² In most cases, the DFS must approve payment of an invoice no later than 10 days after the agency the approved invoice.

If a warrant in payment of an invoice is not issued within 40 days after receipt of the invoice and receipt, inspection, and approval of the goods and services, the agency or judicial branch must pay to the vendor interest at the statutory interest rate.

The interest requirements do not apply to payments for agreements funded with state or federal financial assistance pursuant to s. 215.971, F.S.

The Boiler Safety Act

A boiler is “a closed vessel in which water or other liquid is heated, steam or vapor is generated, steam is superheated, or any combination of these functions is accomplished, under pressure or vacuum, for use external to itself, by the direct application of energy from the combustion of fuels or from electricity or solar energy. The term “boiler” includes fired units for heating or vaporizing liquids other than water where these units are separate from processing systems and

¹ ss. 554.1011-554.115, F.S.

² s. 215.422(1), F.S.

are complete within themselves.”³ Florida’s Boiler Safety Act (Act) provides requirements for installation of boilers in public assembly locations, boiler code requirements, education requirements, and penalties for violations. The Act has remained essentially unchanged since 1991.

The DFS administers the Act. Sections 3-18 of this bill make changes to the Act.

Regulation of Insurance Agents and Adjusters

The DFS Division of Insurance Agents and Agency Services regulates insurance agents, agencies, and adjusters. The regulation includes licensing, disciplinary actions, and education. Sections 20-28 of the bill revise provisions relating to agent and adjuster regulation.

Notice of Actions against the State

Section 768.28, F.S., is the state’s waiver of sovereign immunity statute. The DFS Division of Risk Management is responsible for the management of claims reported by or against state agencies and universities for coverage under the self-insurance fund known as the "State Risk Management Trust Fund."⁴ Section 768.28, F.S., requires notice or service on DFS in certain situations. Section 31 of the bill amends those provisions.

III. Effect of Proposed Changes:

Treasury Investment Council

Section 1 changes the name of the Treasury Investment Committee to the Treasury Investment Council. It requires that three of the five council members be from the private sector. Current members serve at the pleasure of the CFO. The bill changes the term to 4 years from the date of appointment but retains the ability of the CFO to remove members. The bill requires the council to review the investments required by s. 17.57, F.S., and meet with staff of the Division of Treasury at least biannually. The council will provide recommendations to the Division of Treasury and the CFO regarding investment policy, strategy, and procedures. It provides that council members may receive per diem and travel expenses pursuant to s. 112.061, F.S.

Payment of Vendor Invoices by the State

Section 2 provides that the payment requirements of s. 215.422, F.S., including payment of interest for late payments, apply to agreements involving state or federal financial assistance in s. 215.971, F.S.

Boiler Safety Act

The bill amends and reorganizes the Boiler Safety Act.

³ s. 554.1021(1), F.S.

⁴ <http://www.myfloridacfo.com/Division/Risk/> (last accessed March 10, 2017).

Section 3 amends s. 554.1021, F.S., to define “authorized inspection agency” so that various entities are allowed to conduct boiler inspections if their boiler inspectors hold valid certificates of compliance.

Entities include local governments or governmental subdivisions that have adopted into law the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers⁵ and National Board Inspection Code for the construction, installation, inspection, maintenance, and repair of boilers to regulate boilers in public assembly locations.⁶ The bill includes insurers authorized to transact boiler and machinery insurance in Florida and inspecting agencies accredited in accordance with the National Board of Boiler and Pressure Vessel Inspector’s program entitled “Accreditation of Authorized Inspection Agencies (AIA) Performing Inservice or Repair/Alteration Inspection Activities,” document number NB-369, as authorized inspection agencies.⁷

Section 4 amends s. 554.103, F.S., to require the installer of any boiler place in use after January 1, 2018, to apply for a permit to install the boiler with the chief boiler inspector.⁸ The application must be on a form adopted by the DFS by rule. The application must include the ASME manufacturer’s data report and other information required by law before the boiler is placed in service.⁹

Section 5 amends s. 554.104, F.S. The bill amends the certification system for boiler inspectors. Most of the amended s. 554.104, F.S., is current law in ss. 554.112 and 554.113, F.S. **Section 14** repeals those sections. The bill provides that a person may not be, act as, or advertise or hold himself or herself out to be a boiler inspector unless he or she holds a certificate of competency issued by the DFS. A person seeking certification must apply to take the certification examination.¹⁰ A person may take the certification examination if:

- Has submitted the application for examination and the required fee;
- Is at least 18 years of age;
- Has completed the 2-hour training course; and
- Has at least 3 years of experience in the construction, installation, inspection, operation, maintenance, or repair of high pressure, high temperature water boilers; or
- Meets the requirements to qualify as a commissioned inspector by the National Board of Boiler and Pressure Vessel Inspectors as set forth in NB-263, RCI-1, Rules Commissioned Inspectors, as adopted by DFS rule.

The bill requires the DFS to adopt by rule a 2-hour training course on the requirements of the Boiler Safety Act and related rules. The course must be made available online and may be made available in a classroom. The bill allows a boiler insurance company to include the DFS course as part of its training of boiler inspector students.

⁵ https://www.asme.org/getmedia/1adfc3df-7dab-44bf-a078-8b1c7d60bf0d/ASME_BPVC_2013-Brochure.aspx (last accessed March 10, 2017).

⁶ <http://www.nationalboard.org/Index.aspx?pageID=4> (last accessed March 10, 2017).

⁷ <https://www.nationalboard.org/SiteDocuments/Commissioned%20Inspectors/NB-369.pdf> (last accessed March 10, 2017).

⁸ The chief boiler inspector is appointed by the CFO pursuant to s. 554.105, F.S.

⁹ Current law requires the information at least 90 days after the boiler is placed in service. s. 554.103(2), F.S.

¹⁰ The examination required by the bill is the examination administered by the National Board of Boiler and Pressure Vessel Inspectors.

The chief boiler inspection must issue a certificate of competency to an applicant who meets the qualifications, passes the required examination, and obtains a commission from the National Board of Boiler and Pressure Vessel Inspectors. The bill moves the current language of s. 554.104, F.S., relating to the approval of boilers of special design to s. 554.103, F.S. The bill creates the 2-hour training course requirement.

Section 6 amends s. 554.105, F.S., to change the title “chief inspector” to “chief boiler inspector” and makes technical changes. **Section 7** amends s. 554.106, F.S., to change the title “deputy inspector” to “deputy boiler inspector.” It provides that deputy boiler inspectors will conduct inspections of uninsured boilers and engage in public outreach and other duties as assigned by the chief boiler inspector. **Section 8** amends s. 554.107, F.S., to change the title of “special inspector” to “special boiler inspector” and makes conforming changes for consistency with other changes made by the bill.

Section 9 amends s. 554.108, F.S., requires inspections of boilers in public assembly locations within 30 days after the expiration of the boiler’s certificate of operation and provides reporting requirements. The bill provides for more frequent inspections if a boiler has had previous code violations.

Section 11 amends s. 554.109, F.S., to strike provisions relating to inspections by insurers or local governments because those provisions are in the new s. 554.1081, F.S. The bill also strikes unnecessary provisions related to water supply boilers and water heaters. **Section 10** creates s. 554.1081, F.S.

Section 12 amends s. 554.1101, F.S., to require boiler insurance companies to notify the chief boiler inspector within 30 days after the issuance of a new or renewal boiler and machinery insurance policy.

Section 13 amends s. 554.111, F.S., relating to fees paid to the DFS for certification inspections, applications, and examinations. The bill requires that an application for a boiler permit include the inspection fee. Currently, the fee is collected after the inspection. The bill does not raise any of the current fees.

Section 15 amends s. 554.114, F.S., to remove criminal penalties for violations of the Act. Current law provides that specified violations are a second-degree misdemeanor. This bill provides for administrative fines of \$10 per day for the first 10 days of noncompliance, \$50 per day for the next 20 days of noncompliance, and \$100 per day for subsequent days. Violations that can lead to financial penalties are operating a boiler without a valid certificate, using a certificate for any boiler other than the boiler for which it was intended, and inspecting a boiler without holding a valid certificate. The bill also provides penalties if boiler insurance companies or authorized inspection agencies fail to comply with inspection requirements. **Section 16** makes conforming changes to s. 554.115, F.S.

Section 17 creates s. 554.1151, F.S., to give the DFS discretion to impose fines in lieu of or in addition to revocation or suspension of certificates in s. 554.115, F.S. Fine amounts are up to \$500 for non-willful violations and up to \$3,500 for willful violations. It provides for suspension or revocation if the fines are not paid within 30 or 90 days.

Section 18 creates s. 554.116, F.S. It requires a boiler insurance company that insures any boiler in this state to file a report with the chief boiler inspector regarding claims paid by the insurer under policies insuring boilers in this state. The report must include the type of establishment in which the boiler was located, the location of the establishment, the amount of the loss, the apparent cause of the loss, and any other information that the DFS determines is not inconsistent with the intent of the safety objectives of the State Boiler Code. The bill requires the DFS to adopt a form by rule for submission of the report.

Regulation of Insurance Agents and Adjusters

Sections 20 and 23 amends ss. 626.015 and 626.2815, F.S., relating to continuing education requirements for licensees. The bill provides that “active participants” in “associations” may receive 2 hours of continuing education credit each calendar year. The bill defines active participant as a member who attends 4 or more hours of association activities each year. It defines association to include:

- Florida Association of Insurance Agents (FAIA);
- National Association of Insurance and Financial Advisors (NAIFA);
- Florida Association of Health Underwriters (FAHU);
- Latin American Association of Insurance Agencies (LAAIA);
- Florida Association of Public Insurance Adjusters (FAPIA);
- Florida Bail Agents Association (FBAA); or
- Professional Bail Agents of the United States (PBUS).

Section 21 amends s. 626.207, F.S. Current law provides that persons with certain criminal convictions¹¹ are barred from applying for licensure for licenses regulated under ch. 626, F.S., for specified periods of time.¹² The bill allows such persons to apply for licensure but provides that such persons are barred from licensure.

The time a person is barred from applying for licensure begins to run upon completion of the criminal sentence including the payment of all fines, restitution, and court costs.¹³ This provides that the time begins to run upon completion of an applicant’s criminal sentence (including the end of any period of probation or community control) and provides that a license cannot be issued until all fines, restitution, and court costs are paid. This will allow applicants who pay their restitution during, for example, a period of probation, to be licensed sooner.

In *Kauk v. Department of Financial Services*,¹⁴ the court considered whether the *per se* bar in s. 626.207, F.S., applied to someone who had had his civil rights restored through executive clemency. The court held that the DFS could not impose a bar against Kauk because Kauk had had his civil restored and a hearing officer had found Kauk to be a “citizen fully rehabilitated.”¹⁵ This bill codifies the result of *Kauk*. It provides that the time bars in s. 626.207, F.S., do not

¹¹ When “conviction” is used when discussing DFS agent and agency regulatory statutes in this bill analysis, it means a conviction or the entry of guilty or nolo contendere plea regardless of whether adjudication was withheld.

¹² Persons and entities licensed by the DFS include agents, agencies, adjusters, adjusting firms, customer representatives, or managing general agents.

¹³ s. 626.207(6), F.S.

¹⁴ 131 So.3d 805 (Fla. 1st DCA 2014).

¹⁵ 131 So.3d at 808.

apply to someone who has had his civil rights restored or has been issued a pardon. The bill does not require the DFS to issue a license if a person has been granted a pardon or had his or her civil rights restored. Rather, it provides the DFS cannot consider the finding of guilt or entry of the plea for which clemency was granted as grounds to deny the application. **Section 22** makes similar changes to the law relating to health insurance navigators in s. 626.9954, F.S., so that the same disqualifying periods and clemency rules will apply to insurance agents and to navigators.

Section 626.611, F.S., provides grounds for which the DFS must deny an application for licensure or appointment and grounds for which it must suspend or revoke an existing license or appointment. Section 626.621, F.S., provides grounds for which the DFS may refuse to issue a license or appointment, or may suspend or revoke an existing license or appointment. These sections apply to applicants for licensure or license renewal, agents, adjusters, customer representatives, service representatives, and managing general agents. Section 626.611, F.S., currently requires a suspension or revocation for convictions of felonies involving moral turpitude. **Section 24** amends s. 626.611, F.S., to require suspension or revocation for all felonies. **Section 25** currently makes revocation or suspension for felonies that do not involve moral turpitude discretionary with the DFS. This bill makes a revocation or suspension mandatory for all felonies.

Section 25 also amends s. 626.621, F.S., to provide that license denial, license revocation, or suspension is discretionary with the DFS if a state agency, court, other state, any nation, or possession or district of the United States takes regulatory action against a license to practice a regulated profession or business.

Sections 26 and 27 amend s. 626.7845, F.S., and s. 626.8305, F.S., to allow trustees to advise persons, settlors, or beneficiaries regarding their interests in a trust regarding life or health insurance plans.

Section 28 amends s. 626.861, F.S., to allow a regular employee of a property insurer handling claims to adjust claims with respect to residential property insurance when the sublimit coverage does not exceed \$500.

Holocaust Victims

Section 626.9543, F.S., provides that any insurer doing business in this state, in receipt of a claim from a Holocaust victim or from a beneficiary, descendant, or heir of a Holocaust victim, must:

- Diligently and expeditiously investigate all such claims;
- Allow such claimants to meet a reasonable, not unduly restrictive, standard of proof to substantiate a claim, pursuant to standards established by the DFS; and
- Permit claims irrespective of any statute of limitations or notice requirements imposed by any insurance policy issued, provided the claim is submitted on or before July 1, 2018.

Section 29 removes the July 1, 2018, claims deadline.

Current law provides that any action brought by Holocaust victims or by a beneficiary, heir, or a descendant of a Holocaust victim seeking proceeds of an insurance policy issued or in effect between 1920 and 1945, inclusive, may not be dismissed for failure to comply with the statute of

limitations if the action is commenced on or before July 1, 2018. This bill removes the July 1, 2018, deadline and would allow actions to be brought without any statute of limitations.

Notice of Actions against the State

Section 31 amends s. 768.28, F.S. Section 768.28, F.S., is the state's waiver of sovereign immunity. Under current law, s. 768.21(6)(a), F.S., provides that an action cannot be initiated against the state or one of its agencies or subdivisions unless a claimant presents the claim in writing to the appropriate agency and to the DFS. A claimant does not have to provide notice to the DFS if the claim is against a municipality or the Florida Space Authority. DFS reports that it receives many notices when claimants make claims against counties. The DFS Division of Risk Management is not involved in claims against counties so the DFS believes it is not necessary that DFS receive the notice. The bill provides that a claimant does not have to present notice to the DFS if the claim is against a county.

Similarly, s. 768.21(7), F.S., requires service of process on DFS unless the case is brought pursuant to s. 768.28, F.S., process must be served on the agency head and DFS except for municipalities or the Florida Space Authority. The bill provides that service is not required on a county.

Miscellaneous Provisions

The Office of Insurance Regulation may expend funds, subject to availability, for the professional development of its staff. Expenditures may include dues for professional organizations, fees for examinations leading to professional designations, and relevant training courses. **Section 19** of this bill amends s. 624.307, F.S., to give the DFS a similar ability to expend funds for professional development of staff. The bill does not provide an appropriation.

Section 30 amends s. 633.516, F.S., relating to studies of firefighter employee occupational diseases. The bill provides that DFS may contract for studies, subject to the availability of funds, of occupational diseases of firefighters. When such a study or another study that is wholly or partly funded under an agreement with the DFS tracks a disease of an individual firefighter or a person in another fire-related field, the DFS may, with associated security measures, release confidential information, including a social security number, of that individual to a party who has entered into an agreement

Section 32 amends s. 288.706, F.S., to change statutory citations to conform to changes made in section 2 of the bill.

Sections 33 and 34 amends ss. 626.7315 and 627.351, F.S., to change statutory citations to conform with the changes made in Section 20 of the bill.

Section 35 provides an effective date of July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The impact on the private sector from changes to the Boiler Safety Act is not known.

C. Government Sector Impact:

The changes to the Boiler Safety Act could have an indeterminate fiscal impact on the DFS.¹⁶

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 17.575, 215.422, 554.1021, 554.103, 554.104, 554.105, 554.106, 554.107, 554.108, 554.109, 554.1101, 554.111, 554.114, 554.115, 624.307, 626.015, 626.207, 626.9954, 626.2815, 626.611, 626.621, 626.7845, 626.8305, 626.861, 626.9543, 633.516, 768.28, 288.706, 626.7315, and 627.351.

This bill creates the following sections of the Florida Statutes: 554.1081, 554.1151, and 554.116.

This bill repeals the following sections of the Florida Statutes: 554.112 and 554.113.

¹⁶ Department of Financial Services, *Analysis of SB 986* (March 8, 2017).

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 March 14, 2017:

The CS provides that claimants instituting civil actions against counties do not have to give notice to or serve the DFS. It also provides that some of the boiler installation requirements created by the bill are not effective until January 1, 2018.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/14/2017	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 243 - 1246

and insert:

or

2. Locked out and tagged out in accordance with the Occupational Safety and Health Administration's standard relating to the control of hazardous energy and lockout or tagout in 29 C.F.R. s. 1910.147, as adopted by rule of the department.



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11 (9)~~(2)~~ "Public assembly locations" includes ~~include~~
12 schools, day care centers, community centers, churches,
13 theaters, hospitals, nursing and convalescent homes, stadiums,
14 amusement parks, and other locations open to the general public.

15 (5)~~(3)~~ "Certificate inspection" means an inspection whose
16 ~~the report of which~~ is used by the chief boiler inspector to
17 determine whether or not a certificate of operation may be
18 issued.

19 (7)~~(4)~~ "Certificate of operation ~~compliance~~" means a
20 document issued to the owner of a boiler which authorizes the
21 owner to operate the boiler, subject to any restrictions
22 endorsed thereon.

23 (6)~~(5)~~ "Certificate of competency" means a document issued
24 to a person who has satisfied the minimum competency
25 requirements for boiler inspectors under this chapter ~~ss.~~
26 ~~554.1011-554.115.~~

27 (8)~~(6)~~ "Department" means the Department of Financial
28 Services.

29 (1)~~(7)~~ "A.S.M.E." means the American Society of Mechanical
30 Engineers.

31 (2) "Authorized inspection agency" means:

32 (a) Any county, municipality, town, or other governmental
33 subdivision that has adopted into law the Boiler and Pressure
34 Vessel Code of the A.S.M.E. and the National Board Inspection
35 Code for the construction, installation, inspection,
36 maintenance, and repair of boilers to regulate boilers in public
37 assembly locations, and whose boiler inspectors hold valid
38 certificates of competency in accordance with s. 554.104;

39 (b) An insurer authorized by a subsisting certificate of



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40 authority, issued by the Office of Insurance Regulation, to
41 transact boiler and machinery insurance in this state, and whose
42 boiler inspectors hold valid certificates of competency in
43 accordance with s. 554.104; or

44 (c) An inspecting agency accredited in accordance with The
45 National Board of Boiler and Pressure Vessel Inspector's program
46 entitled "Accreditation of Authorized Inspection Agencies (AIA)
47 Performing Inservice or Repair/Alteration Inspection
48 Activities," document number NB-369, and whose boiler inspectors
49 hold valid certificates of competency in accordance with s.
50 554.104.

51 (4) "Boiler insurance company" means a company authorized
52 by a subsisting certificate of authority, issued by the Office
53 of Insurance Regulation, to transact boiler and machinery
54 insurance in this state.

55 Section 4. Section 554.103, Florida Statutes, is amended to
56 read:

57 554.103 Boiler code.—The department shall adopt by rule a
58 State Boiler Code for the safe construction, installation,
59 inspection, maintenance, and repair of boilers in this state.
60 The rules adopted shall be based upon and shall at all times
61 follow generally accepted nationwide engineering standards,
62 formulas, and practices pertaining to boiler construction and
63 safety.

64 (1) The department shall adopt an existing code for new
65 construction and installation known as the Boiler and Pressure
66 Vessel Code of the American Society of Mechanical Engineers,
67 including all amendments and interpretations ~~approved thereto by~~
68 ~~the Council on Codes and Standards of A.S.M.E.~~ The department



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69 ~~may adopt amendments and interpretations~~ to the A.S.M.E. Boiler
70 and Pressure Vessel Code approved by the A.S.M.E. Council on
71 Codes and Standards subsequent to the adoption of the State
72 Boiler Code, and when so adopted by the department, such
73 amendments and interpretations ~~shall~~ become a part of the State
74 Boiler Code.

75 (2) The installer owner of any boiler placed in use in this
76 state after January 1, 2018, must, before installing the boiler,
77 apply on a form adopted by rule of the department for a permit
78 to install the boiler from the chief boiler inspector. The
79 application must include the boiler's A.S.M.E. manufacturer's
80 data report and other documents required by the State Boiler
81 Code before the boiler is placed in service. The installer must
82 contact the chief boiler inspector to schedule an inspection for
83 each boiler no later than 7 days before the boiler is placed in
84 service after October 1, 1987, shall submit the A.S.M.E.
85 manufacturer's data report on such boiler to the chief inspector
86 not more than 90 days following the inservice date of the
87 boiler.

88 (3) The maximum allowable working pressure of a boiler
89 carrying the A.S.M.E. code symbol must ~~shall~~ be determined by
90 the applicable sections of the code under which it was
91 constructed and stamped. Subject to the concurrence of the chief
92 boiler inspector, such boiler may be rerated in accordance with
93 the standards of the State Boiler Code.

94 (4) The maximum allowable working pressure of a boiler that
95 ~~which~~ does not carry the A.S.M.E. code symbol must ~~shall~~ be
96 computed in accordance with the standards of the State Boiler
97 Code.



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98 (5) This chapter may not ~~Nothing in ss. 554.1011-554.115~~
99 ~~shall~~ be construed to in any way prevent the use, sale, or
100 reinstallation of a boiler if such boiler has been made to
101 conform to the applicable provisions of the State Boiler Code
102 governing existing installations and if, upon inspection, the
103 boiler has been found to be in a safe condition.

104 (6) The department, at its discretion, may authorize the
105 construction, installation, and operation of boilers of special
106 design or construction which do not meet the specific
107 requirements of the State Boiler Code, but which are consistent
108 with the intent of the safety objectives of the code.

109 (7) The department may adopt rules pursuant to ss.
110 120.536(1) and 120.54 to administer this chapter. Such rules may
111 include specifying the procedures and forms to be used to obtain
112 an installation permit, an initial certificate, or a renewal
113 certificate, and the submission of reports and notices required
114 under this chapter.

115 Section 5. Section 554.104, Florida Statutes, is amended to
116 read:

117 554.104 Certification of boiler inspectors required;
118 application; qualifications; renewal ~~Boilers of special design.-~~
119 ~~The department, at its discretion, may authorize the~~
120 ~~construction, installation, and operation of boilers of special~~
121 ~~design or construction that do not meet the specific~~
122 ~~requirements of the State Boiler Code but are not inconsistent~~
123 ~~with the intent of the safety objectives of such code.~~

124 (1) CERTIFICATE REQUIRED.-A person may not be, act as, or
125 advertise or hold himself or herself out to be an inspector of a
126 boiler that is subject to regulation by this chapter, unless he



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127 or she currently holds a certificate of competency issued by the
128 department.

129 (2) APPLICATION.—A person who desires to be certified to
130 inspect boilers that are subject to regulation by this chapter
131 must apply in writing to the department to take the
132 certification examination.

133 (3) QUALIFICATIONS.—A person is qualified to take the
134 certification examination if the person:

135 (a) Has submitted the application for examination together
136 with the fee required under s. 554.111(1) (a);

137 (b) Is at least 18 years of age;

138 (c) Has completed the 2-hour training course under
139 subsection (4) on the requirements of this chapter and any
140 related rules adopted by the department. The course must be
141 completed no later than 12 months before issuance of an initial
142 or renewal certificate; and

143 (d) Has:

144 1. At least 3 years of experience in the construction,
145 installation, inspection, operation, maintenance, or repair of
146 high pressure, high temperature water boilers; or

147 2. Met the requirements to qualify as a commissioned
148 inspector by the National Board of Boiler and Pressure Vessel
149 Inspectors as set forth in NB-263, RCI-1, Rules for Commissioned
150 Inspectors, as adopted by rule of the department.

151 (4) TRAINING COURSE.—The department shall adopt by rule a
152 2-hour training course on the requirements of this chapter and
153 any related rules adopted by the department. The department
154 shall make the training course available online and may make the
155 course available in a classroom setting. A boiler insurance



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156 company may include the department's course as part of its in-
157 house training of a boiler inspector student, in lieu of the
158 student taking the online training course. A boiler insurance
159 company that includes the department's course in its in-house
160 training of a boiler inspector student must indicate that the
161 student completed the training on an application filed with the
162 department for certification of competency.

163 (5) EXAMINATION.—A person applying for a certificate of
164 competency must have successfully passed the examination
165 administered by the National Board of Boiler and Pressure Vessel
166 Inspectors and be eligible to obtain a National Board
167 commission.

168 (6) ISSUANCE OF CERTIFICATE.—The chief boiler inspector
169 must issue a certificate of competency to each person who is
170 qualified under this section and who holds a commission from the
171 National Board of Boiler and Pressure Vessel Inspectors.

172 (7) RENEWAL OF CERTIFICATE.—A certificate of competency
173 expires on December 31 of each year and may be renewed upon the
174 filing of a renewal application with the department. A secured
175 electronic application must be used, if available on the
176 department's website.

177 (8) RULES.—The department may adopt rules necessary to
178 administer this section.

179 Section 6. Section 554.105, Florida Statutes, is amended to
180 read:

181 554.105 Chief boiler inspector.—

182 (1) The Chief Financial Officer shall appoint a chief
183 boiler inspector, who must have at least ~~shall have not less~~
184 ~~than~~ 5 years' experience in the construction, installation,



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185 inspection, operation, maintenance, or repair of high pressure,
186 high temperature water boilers and who must ~~shall~~ hold a
187 commission from the National Board of Boiler and Pressure Vessel
188 Inspectors or a certificate of competency from the department.

189 (2) The department, through the chief boiler inspector,
190 shall administer the state boiler inspection program, and shall:

191 (a) Take all action necessary to enforce the State Boiler
192 Code and the rules adopted pursuant to this chapter ~~ss.~~
193 ~~554.1011-554.115.~~

194 (b) Keep a complete record on all boilers at public
195 assembly locations. Such record must ~~shall~~ include the name of
196 each boiler owner or user and the location, type, ~~dimensions,~~
197 maximum allowable working pressure, age, ~~and~~ last recorded
198 inspection of each boiler, and any other information necessary
199 to expedite the certification process.

200 (c) ~~Publish and make available to anyone, upon request,~~
201 ~~copies of the rules adopted pursuant to ss. 554.1011-554.115.~~

202 ~~(d)~~ Expend funds necessary to meet the expenses authorized
203 by this chapter ~~ss. 554.1011-554.115~~, including the necessary
204 travel expenses of the chief boiler inspector and deputy boiler
205 inspectors, and the expenses incident to the maintenance of this
206 ~~his or her~~ office.

207 Section 7. Section 554.106, Florida Statutes, is amended to
208 read:

209 554.106 Deputy boiler inspectors.-

210 (1) The department shall employ deputy boiler inspectors
211 who shall be responsible to the chief boiler inspector ~~and who~~
212 ~~shall each hold a certificate of competency from the department.~~

213 (2) A deputy boiler inspector shall perform inspections of



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214 uninsured boilers that are subject to regulation under this
215 chapter, in accordance with the inspection frequency set forth
216 in s. 554.108. A deputy boiler inspector may also engage in
217 public outreach activities of the department and conduct other
218 duties as assigned by the chief boiler inspector.

219 Section 8. Section 554.107, Florida Statutes, is amended to
220 read:

221 554.107 Special boiler inspectors.—

222 (1) Upon application by any authorized inspection agency
223 ~~company licensed to insure boilers in this state~~, the chief
224 boiler inspector shall issue a certificate of competency as a
225 special boiler inspector to any inspector employed by the
226 authorized inspection agency company, ~~if provided that~~ such
227 boiler inspector satisfies the competency requirements for
228 inspectors as provided in s. 554.104 ~~s. 554.113~~. Special boiler
229 inspectors shall perform inspections of insured boilers in
230 accordance with the inspection frequency set forth in s.
231 554.108.

232 (2) The certificate of competency of a special boiler
233 inspector remains ~~shall remain~~ in effect only so long as the
234 special boiler inspector is employed by an authorized inspection
235 agency ~~a company licensed to insure boilers in this state~~. Upon
236 termination of employment with such company, such company a
237 ~~special inspector~~ shall, in writing, notify the chief boiler
238 inspector of such special boiler inspector's termination. Such
239 notice must ~~shall~~ be given within 15 days following the date of
240 termination.

241 Section 9. Subsections (1), (2), (4), and (5) of section
242 554.108, Florida Statutes, are amended, and subsection (6) is



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243 added to that section, to read:

244 554.108 Inspection.—

245 (1) The inspection requirements of this chapter apply only
246 to boilers located in public assembly locations. A potable hot
247 water supply boiler with a heat input of 200,000 British thermal
248 units (Btu) per hour and above, up to a heat input not exceeding
249 400,000 Btu per hour, is exempt from inspection, but must be
250 stamped with the A.S.M.E. code symbol "HLW" and the boiler's
251 A.S.M.E data report must be filed as required under s.

252 554.103(2) ~~The only boilers required to be inspected under the~~
253 ~~provisions of ss. 554.1011-554.115 are boilers located in public~~
254 ~~assembly locations.~~

255 (2) Each inspection of a boiler conducted pursuant to this
256 chapter must ~~ss. 554.1011-554.115 shall~~ be made by the chief
257 boiler inspector, a deputy boiler inspector, or a special boiler
258 inspector. An owner, or the owner's designee, shall perform all
259 operation, testing, manipulation of boiler controls and safety
260 devices, removal of lagging, and disassembly of boiler
261 components to allow the chief boiler inspector, deputy boiler
262 inspector, or special boiler inspector to conduct inspections as
263 required by this section.

264 (4) Each boiler subject to inspection must be inspected
265 within 30 days after expiration of the boiler's certificate of
266 operation. However, an inspection report must be received by the
267 chief boiler inspector no later than 30 days after the projected
268 expiration date of the certificate of operation. If, upon
269 inspection, the chief boiler inspector, deputy boiler inspector,
270 or special boiler inspector finds that a boiler is in violation
271 of any provision of the State Boiler Code, the inspector must



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272 promptly notify the owner or user and state what repairs or
273 other corrective measures are needed. Deputy boiler inspectors
274 and special boiler inspectors shall file a written report, on a
275 form adopted by rule of the department, on each certificate
276 inspection with the chief boiler inspector within 15 days after
277 the following such inspection. A certificate inspection report
278 must list all violations of the State Boiler Code and any
279 conditions that may adversely affect the operation of the
280 boiler. A certificate inspection report filed by a special
281 boiler inspector must include the fee for issuance of a
282 certificate of operation as provided in s. 554.111(1)(c). The
283 filing of reports of inspections, other than statutorily
284 required certificate inspections, is are not required unless
285 such inspections disclose that a boiler is in an unsafe
286 condition. However, an inspection report must be filed for any
287 inspection performed on a boiler with a previously identified
288 code violation. The report must indicate whether the violation
289 has been corrected. The agency responsible for conducting the
290 inspection must perform followup inspections, not more than
291 every 4 months, of a previously identified code violation until
292 it is corrected. Failure to conduct such followup inspections
293 subjects the insurance carrier to the penalties provided in s.
294 554.114(4).

295 (5) Upon a determination by the chief boiler inspector
296 determining that a boiler cannot be safely operated, is in an
297 unsafe condition and poses an imminent danger to the public
298 health, safety, and welfare, the chief inspector, a deputy
299 inspector, or a special inspector may immediately order the
300 boiler ~~must~~ immediately to be shut down. The chief boiler



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301 inspector or a deputy boiler inspector shall attach a tag to the
302 boiler indicating that the boiler has been shut down due to an
303 unsafe condition. The boiler must ~~shall~~ remain shut down until a
304 reinspection by the chief boiler inspector or a deputy boiler a
305 certified inspector determines that ~~all violations have been~~
306 ~~corrected, that~~ the boiler may be operated safely, ~~and that a~~
307 ~~certificate of compliance has been issued. A boiler that may not~~
308 be safely operated, as determined by the chief boiler inspector,
309 is deemed to constitute an imminent danger to the public health,
310 safety, and welfare.

311 (6) The department may adopt rules necessary to administer
312 this section.

313 Section 10. Section 554.1081, Florida Statutes, is created
314 to read:

315 554.1081 Boiler inspections by insurance companies and
316 local governmental agencies.-

317 (1) An insurance company insuring a boiler located in a
318 public assembly location in this state shall inspect, or shall
319 contract with an authorized inspection agency to inspect, the
320 insured boiler. A boiler insurance company shall annually report
321 to the department the name of any authorized inspection agency
322 performing any required boiler inspections on its behalf and
323 shall actively monitor insured boilers to ensure that
324 inspections are conducted as required by this chapter.

325 (2) A county, municipality, town, or other governmental
326 subdivision that has adopted into law the Boiler and Pressure
327 Vessel Code of the A.S.M.E. and the National Board Inspection
328 Code for the construction, installation, inspection,
329 maintenance, and repair of boilers to regulate boilers in public



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330 assembly locations may inspect such boilers. All boiler
331 inspections must be conducted by special boiler inspectors in
332 accordance with this chapter.

333 Section 11. Section 554.109, Florida Statutes, is amended
334 to read:

335 554.109 Exemptions.—

336 ~~(1) Any insurance company insuring a boiler located in a~~
337 ~~public assembly location in this state shall inspect such boiler~~
338 ~~so insured, and any county, city, town, or other governmental~~
339 ~~subdivision which has adopted into law the Boiler and Pressure~~
340 ~~Vessel Code of the American Society of Mechanical Engineers and~~
341 ~~the National Board Inspection Code for the construction,~~
342 ~~installation, inspection, maintenance, and repair of boilers,~~
343 ~~regulating such boilers in public assembly locations, shall~~
344 ~~inspect such boilers so regulated; provided that such inspection~~
345 ~~shall be conducted by a special inspector licensed pursuant to~~
346 ~~ss. 554.1011-554.115. Upon filing of a report of satisfactory~~
347 ~~inspection with the department, such boiler is exempt from~~
348 ~~inspection by the department.~~

349 ~~(2) The provisions of This chapter does shall not apply to~~
350 ~~potable hot water supply boilers or lined storage water heaters~~
351 ~~that which are directly fired with oil, gas, electricity, or~~
352 ~~solar energy, provided that none of the following limitations is~~
353 ~~are exceeded:~~

354 ~~(1) (a) Heat input of 400,000 Btu per hour.~~

355 ~~(2) (b) Water temperature of 210 degrees Fahrenheit.~~

356 ~~(3) (c) Nominal water-containing capacity of 120 gallons.~~

357
358 ~~These exempt hot water supply boilers and lined storage water~~



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359 ~~heaters shall be equipped with safety relief valves conforming~~
360 ~~to the requirements of the Boiler and Pressure Vessel Code of~~
361 ~~the American Society of Mechanical Engineers and of the National~~
362 ~~Board Inspection Code.~~

363 Section 12. Section 554.1101, Florida Statutes, is amended
364 to read:

365 554.1101 Certificate of operation compliance.—

366 (1) If an inspection report filed pursuant to s. 554.108
367 shows a boiler to be in compliance with all applicable
368 provisions of the State Boiler Code, the chief boiler inspector
369 must shall, upon receipt of the inspection fee, issue a
370 certificate of operation compliance to the owner. Such
371 certificate must shall bear the date of the inspection and
372 specify the maximum pressure at which the boiler may be
373 operated.

374 (2) The certificate for a power boiler or a high pressure,
375 high temperature water boiler is valid for a period of 12 months
376 from the date of the certificate inspection. The certificate for
377 a heating boiler or a hot water supply boiler is valid for a
378 period of 24 months from the date of the certificate inspection.
379 The certificate must shall be posted under glass, or be
380 similarly protected, in the room containing the boiler.

381 (3) A boiler insurance company shall notify the chief
382 boiler inspector within 30 days after the issuance of a new or
383 renewal boiler and machinery insurance policy, or the
384 cancellation or nonrenewal of a boiler and machinery insurance
385 policy, covering places of public assembly in this state.

386 (4) If the chief boiler inspector has knowledge that a
387 boiler regulated under this chapter was covered by a boiler and



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388 machinery insurance policy after its most recent certification
389 inspection, the certificateholder must, upon the request of the
390 chief boiler inspector, submit its certificate of boiler and
391 machinery insurance for the boiler if the department has not
392 received the special boiler inspector's annual inspection report
393 within 30 days after its due date.

394 Section 13. Section 554.111, Florida Statutes, is amended
395 to read:

396 554.111 Fees.—

397 (1) The department shall charge the following fees:

398 (a) For an applicant for a certificate of competency, the
399 initial application fee shall be \$50, and the annual renewal fee
400 shall be \$30. The fee for examination shall be \$50.

401 (b) For certificate inspections conducted by the
402 department:

403 1. For power boilers and high pressure, high temperature
404 water boilers of:

405 4,000 square feet or less heating surface.....\$60

406 More than 4,000 square feet heating surface and less than 10,000
407 square feet of heating surface.....\$70

408 10,000 square feet or more heating surface.....\$90

409 2. For heating boilers:

410 Without a manhole.....\$40

411 With a manhole.....\$70

412 3. For hot water supply boilers.....\$40

413 (c) For issuance of a ~~compliance~~ certificate of operation
414 without a department inspection.....\$30

415 (d) Duplicate certificates or address
416 changes.....\$5



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417 (e) An application for a boiler permit must include the
418 applicable certificate inspection fee provided in paragraph (b).

419 (2) Not more than an amount equal to one certificate
420 inspection fee may ~~shall~~ be charged or collected for any and all
421 boiler inspections in any inspection period, except as otherwise
422 provided in this chapter ~~ss. 554.1011-554.115~~.

423 (a) When it is necessary to make a special trip to observe
424 the application of a hydrostatic test, an additional fee equal
425 to the fee for a certificate inspection of the boiler must ~~shall~~
426 be charged.

427 (b) All other inspections, including shop inspections,
428 surveys, and inspections of secondhand boilers made by the chief
429 boiler inspector or a deputy boiler inspector, must ~~shall~~ be
430 charged at the rate of not less than \$270 for one-half day of 4
431 hours, and \$500 for 1 full day of 8 hours, plus travel, hotel,
432 and incidental expenses in accordance with chapter 112.

433 (3) The chief boiler inspector shall deposit all fees or
434 fines received pursuant to this chapter ~~ss. 554.1011-554.115~~
435 into the Insurance Regulatory Trust Fund.

436 Section 14. Sections 554.112 and 554.113, Florida Statutes,
437 are repealed.

438 Section 15. Section 554.114, Florida Statutes, is amended
439 to read:

440 554.114 Prohibitions; penalties.-

441 (1) A person may not:

442 (a) Operate a boiler at a public assembly location without
443 a valid certificate of operation ~~compliance~~ for that boiler;

444 (b) ~~Give false or forged information to the department or~~
445 ~~an inspector for the purpose of obtaining a certificate of~~



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446 ~~compliance;~~

447 ~~(e)~~ Use a certificate of operation ~~compliance~~ for any
448 boiler other than for the boiler for which it was issued;

449 ~~(c)(d)~~ Operate a boiler for which the certificate of
450 operation ~~compliance~~ has been suspended, revoked, or not
451 renewed;

452 ~~(e)~~ ~~Give false or forged information to the department for~~
453 ~~the purpose of obtaining a certificate of competence; or~~

454 ~~(d)(f)~~ Inspect any boiler regulated under this chapter ~~the~~
455 ~~provisions of ss. 554.1011-554.115~~ without having a valid
456 certificate of competency.

457 (2) A boiler insurance company that fails to inspect or to
458 have inspected, in accordance with this chapter, any boiler
459 insured by the company and regulated under this chapter is
460 subject to the penalties provided in subsection (4) ~~Any person~~
461 ~~who violates this section is guilty of a misdemeanor of the~~
462 ~~second degree, punishable by fine as provided in s. 775.083.~~

463 (3) An authorized inspection agency that is under contract
464 with a boiler insurance company and that fails to inspect, in
465 accordance with this chapter, any boiler insured by the company
466 and regulated under this chapter is subject to the penalties
467 provided in subsection (4).

468 (4) A boiler insurance company, authorized inspection
469 agency, or other person in violation of this section for more
470 than 30 days shall pay a fine of \$10 per day for the first 10
471 days of noncompliance, \$50 per day for the subsequent 20 days of
472 noncompliance, and \$100 per day for each subsequent day over 20
473 days of noncompliance.

474 Section 16. Section 554.115, Florida Statutes, is amended



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475 to read:

476 554.115 Disciplinary proceedings.—

477 (1) The department may deny, refuse to renew, suspend, or
478 revoke a certificate of operation ~~compliance~~ upon proof that:

479 (a) The certificate has been obtained by fraud or
480 misrepresentation;

481 (b) The boiler for which the certificate was issued cannot
482 be operated safely; ~~or~~

483 (c) The person who received the certificate willfully or
484 deliberately violated the State Boiler Code, this chapter, ~~or~~
485 ~~ss. 554.1011-554.115~~ or any other rule adopted pursuant to this
486 chapter; or ~~ss. 554.1011-554.115.~~

487 (d) The owner of a boiler:

488 1. Operated a boiler at a public assembly location without
489 a valid certificate of operation for that boiler;

490 2. Used a certificate of operation for a boiler other than
491 the boiler for which the certificate of operation was issued;

492 3. Gave false or forged information to the department, to
493 an authorized inspection agency, or to another boiler inspector
494 for the purpose of obtaining a certificate of operation;

495 4. Operated a boiler after the certificate of operation for
496 the boiler expired, was not renewed, or was suspended or
497 revoked;

498 5. Operated a boiler that is in an unsafe condition; or

499 6. Operated a boiler in a manner that is contrary to the
500 requirements of this chapter or any rule adopted under this
501 chapter.

502 (2) The department may deny, refuse to renew, suspend, or
503 revoke a certificate of competency upon proof that:



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504 (a) The certificate was obtained by fraud or
505 misrepresentation;

506 (b) The inspector to whom the certificate was issued is no
507 longer qualified under this chapter ~~ss. 554.1011-554.115~~ to
508 inspect boilers; or

509 (c) The boiler inspector:

510 1. ~~Operated a boiler at a public assembly location without~~
511 ~~a valid certificate of compliance for that boiler;~~

512 2. Gave false or forged information to the department, an
513 authorized inspection agency, or to another boiler inspector for
514 the purpose of obtaining a certificate of operation; or
515 ~~compliance;~~

516 3. ~~Used a certificate of compliance for any boiler other~~
517 ~~than the boiler for which it was issued;~~

518 4. ~~Operated a boiler for which the certificate of~~
519 ~~compliance has been suspended or revoked or has expired;~~

520 2.5. Inspected any boiler regulated under this chapter ~~ss.~~
521 ~~554.1011-554.115~~ without having obtained a valid certificate of
522 competency.†

523 6. ~~Operated a boiler that is in an unsafe condition; or~~

524 7. ~~Operated a boiler in a manner that is contrary to the~~
525 ~~requirements of this chapter or any rule adopted under this~~
526 ~~chapter.~~

527 (3) Each suspension of a certificate of operation
528 ~~compliance~~ or certificate of competency shall continue in effect
529 until all violations have been corrected and, for boiler safety
530 violations, until the boiler has been inspected by an authorized
531 inspector and shown to be in a safe working condition.

532 (4) ~~A person in violation of this section who does not have~~



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533 ~~a valid certificate of competency shall be reported by the chief~~
534 ~~inspector to the appropriate state attorney.~~

535 ~~(5) A person in violation of this section who has a valid~~
536 ~~certificate of competency is subject to administrative action by~~
537 ~~the chief inspector.~~

538 ~~(4)(6)~~ A revocation of a certificate of competency is
539 permanent, and a revoked certificate of competency may not be
540 reinstated or a new certificate of competency issued to the same
541 person. A suspension of a certificate of competency continues in
542 effect until all violations have been corrected. ~~A suspension of~~
543 ~~a certificate of compliance for any boiler safety violation~~
544 ~~continues in effect until the boiler has been inspected by an~~
545 ~~authorized inspector and shown to be in safe working condition.~~

546 Section 17. Section 554.1151, Florida Statutes, is created
547 to read:

548 554.1151 Administrative fine in lieu of or in addition to
549 suspension, revocation, or refusal to renew a certificate of
550 operation or competency.-

551 (1) If the department finds that one or more grounds exist
552 for the suspension, revocation, or refusal to renew any
553 certificate of operation or certificate of competency issued
554 under this chapter, the department may, in its discretion, in
555 lieu of or in addition to suspension or revocation or in lieu of
556 refusal to renew, impose upon the certificateholder an
557 administrative penalty in an amount up to \$500, or, if the
558 department has found willful misconduct or willful violation on
559 the part of the certificateholder, in an amount up to \$3,500.

560 (2) The department may allow the certificateholder a
561 reasonable period, no more than 30 days, within which to pay to



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562 the department the amount of the penalty so imposed. If the
563 certificateholder fails to pay the penalty in its entirety to
564 the department within the period so allowed, the certificate of
565 that person must be suspended until the penalty is paid. If the
566 certificateholder fails to pay the penalty in its entirety to
567 the department within 90 days after the period so allowed, the
568 certificate of that person must be revoked.

569 Section 18. Section 554.116, Florida Statutes, is created
570 to read:

571 554.116 Report on insured losses.—A boiler insurance
572 company that insures any boiler in this state must annually file
573 a report with the chief boiler inspector, within 30 days after
574 the end of the previous calendar year, regarding claims paid by
575 the insurer under policies insuring boilers in this state. The
576 report must include the type of establishment in which the
577 boiler was located, the location of the establishment, the
578 amount of the loss, the apparent cause of the loss, and any
579 other information that the department determines is not
580 inconsistent with the intent of the safety objectives of the
581 State Boiler Code. The department shall adopt a form by rule for
582 submission of the report.

583 Section 19. Subsection (7) of section 624.307, Florida
584 Statutes, is amended to read:

585 624.307 General powers; duties.—

586 (7) The department and office, within existing resources,
587 may expend funds for the professional development of its
588 employees, including, but not limited to, professional dues for
589 employees who are required to be members of professional
590 organizations; examinations leading to professional designations



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591 required for employment with the office; training courses and
592 examinations provided through, and to ensure compliance with,
593 the National Association of Insurance Commissioners; or other
594 training courses related to the regulation of insurance.

595 Section 20. Present subsections (1), (2), and (3) and (4)
596 through (19) of section 626.015, Florida Statutes, are
597 redesignated as subsections (2), (3), and (4) and (6) through
598 (21), respectively, present subsection (8) is amended, and new
599 subsections (1) and (5) are added to that section, to read:

600 626.015 Definitions.—As used in this part:

601 (1) "Active participant" means a member in good standing of
602 an association who attends 4 or more hours of association
603 meetings every year, not including any department-approved
604 continuing education course.

605 (5) "Association" includes the Florida Association of
606 Insurance Agents (FAIA), the National Association of Insurance
607 and Financial Advisors (NAIFA), the Florida Association of
608 Health Underwriters (FAHU), the Latin American Association of
609 Insurance Agencies (LAAIA), the Florida Association of Public
610 Insurance Adjusters (FAPIA), the Florida Bail Agents Association
611 (FBAA), or the Professional Bail Agents of the United States
612 (PBUS).

613 (10)-(8) "Insurance agency" means a business location at
614 which an individual, firm, partnership, corporation,
615 association, or other entity, other than an employee of the
616 individual, firm, partnership, corporation, association, or
617 other entity and other than an insurer as defined by s. 624.03
618 or an adjuster as defined by subsection (2) ~~(1)~~, engages in any
619 activity or employs individuals to engage in any activity which



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620 by law may be performed only by a licensed insurance agent.

621 Section 21. Section 626.207, Florida Statutes, is amended
622 to read:

623 626.207 Disqualification of applicants and licensees;
624 penalties against licensees; rulemaking authority.—

625 (1) For purposes of this section, the term or terms:

626 (a) "Applicant" means an individual applying for licensure
627 or relicensure under this chapter, and an officer, director,
628 majority owner, partner, manager, or other person who manages or
629 controls an entity applying for licensure or relicensure under
630 this chapter.

631 (c) "Financial services business" means any financial
632 activity regulated by the Department of Financial Services, the
633 Office of Insurance Regulation, or the Office of Financial
634 Regulation.

635 ~~(b)(2) For purposes of this section, the terms "Felony of~~
636 ~~the first degree" and "capital felony" include all felonies~~
637 ~~designated as such by the Florida Statutes, as well as any~~
638 ~~felony so designated in the jurisdiction in which the plea is~~
639 ~~entered or judgment is rendered.~~

640 ~~(2)(3) An applicant who has been found guilty of or has~~
641 ~~pleaded guilty or nolo contendere to any of the following~~
642 ~~crimes, regardless of adjudication, is permanently barred from~~
643 ~~licensure under this chapter: ~~commits~~~~

644 (a) A felony of the first degree;

645 (b) A capital felony;

646 (c) A felony involving money laundering; ~~fraud, or~~

647 (d) A felony embezzlement; or

648 (e) A felony directly related to the financial services



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649 ~~business is permanently barred from applying for a license under~~
650 ~~this part. This bar applies to convictions, guilty pleas, or~~
651 ~~nolo contendere pleas, regardless of adjudication, by any~~
652 ~~applicant, officer, director, majority owner, partner, manager,~~
653 ~~or other person who manages or controls any applicant.~~

654 (3)~~(4)~~ An applicant who has been found guilty of or has
655 pleaded guilty or nolo contendere to a crime ~~For all other~~
656 ~~crimes~~ not included in subsection (2), regardless of
657 adjudication, is subject to (3), ~~the department shall adopt~~
658 ~~rules establishing the process and application of disqualifying~~
659 ~~periods that include:~~

660 (a) A 15-year disqualifying period for all felonies
661 involving moral turpitude which ~~that~~ are not specifically
662 included in the permanent bar contained in subsection (2) ~~(3)~~.

663 (b) A 7-year disqualifying period for all felonies to which
664 neither the permanent bar in subsection (2) ~~(3)~~ nor the 15-year
665 disqualifying period in paragraph (a) applies.

666 (c) A 7-year disqualifying period for all misdemeanors
667 directly related to the financial services business.

668 (4)~~(5)~~ The department shall adopt rules to administer this
669 section. The rules must provide ~~providing~~ for additional
670 disqualifying periods due to the commitment of multiple crimes
671 and may include other factors reasonably related to the
672 applicant's criminal history. The rules shall provide for
673 mitigating and aggravating factors. However, mitigation may not
674 result in a period of disqualification of less than 7 years and
675 may not mitigate the disqualifying periods in paragraphs (3) (b)
676 and (c) ~~(4) (b) and (e)~~.

677 (5)~~(6)~~ For purposes of this section, the disqualifying



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678 periods begin upon the applicant's final release from
679 supervision or upon completion of the applicant's criminal
680 sentence, ~~including payment of fines, restitution, and court~~
681 ~~costs for the crime for which the disqualifying period applies.~~
682 The department may not issue a license to an applicant unless
683 all related fines, court costs and fees, and court-ordered
684 restitution have been paid.

685 (6) ~~(7)~~ After the disqualifying period has expired ~~been met~~,
686 the burden is on the applicant to demonstrate that the applicant
687 has been rehabilitated, does not pose a risk to the insurance-
688 buying public, is fit and trustworthy to engage in the business
689 of insurance pursuant to s. 626.611(1)(g), and is otherwise
690 qualified for licensure.

691 (7) Notwithstanding subsections (2) and (3), upon a grant
692 of a pardon or the restoration of civil rights pursuant to
693 chapter 940 and s. 8, Art. IV of the State Constitution with
694 respect to a finding of guilt or a plea under subsection (2) or
695 subsection (3), such finding or plea no longer bars or
696 disqualifies the applicant from licensure under this chapter
697 unless the clemency specifically excludes licensure in the
698 financial services business; however, a pardon or restoration of
699 civil rights does not require the department to award such
700 license.

701 (8) The department shall adopt rules establishing specific
702 penalties against licensees in accordance with ss. 626.641 and
703 626.651 for violations of s. 626.611, s. 626.621, s. 626.8437,
704 s. 626.844, s. 626.935, s. 634.181, s. 634.191, s. 634.320, s.
705 634.321, s. 634.422, s. 634.423, s. 642.041, or s. 642.043. The
706 purpose of the revocation or suspension is to provide a



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707 sufficient penalty to deter future violations of the Florida
708 Insurance Code. The imposition of a revocation or the length of
709 suspension shall be based on the type of conduct and the
710 probability that the propensity to commit further illegal
711 conduct has been overcome at the time of eligibility for
712 relicensure. The length of suspension may be adjusted based on
713 aggravating or mitigating factors, established by rule and
714 consistent with this purpose.

715 (9) Section 112.011 does not apply to any applicants for
716 licensure under the Florida Insurance Code, including, but not
717 limited to, agents, agencies, adjusters, adjusting firms,
718 customer representatives, or managing general agents.

719 Section 22. Section 626.9954, Florida Statutes, is amended
720 to read:

721 626.9954 Disqualification from registration.—

722 (1) As used in this section, the terms "felony of the first
723 degree" and "capital felony" include all felonies so designated
724 by the laws of this state, as well as any felony so designated
725 in the jurisdiction in which the plea is entered or judgment is
726 rendered.

727 (2) An applicant who has been found guilty of or has
728 pleaded guilty or nolo contendere to the following crimes,
729 regardless of adjudication, is permanently disqualified from
730 registration under this part: ~~commits~~

731 (a) A felony of the first degree;

732 (b) A capital felony;

733 (c) A felony involving money laundering; ~~fraud, or~~

734 (d) A felony embezzlement; or

735 (e) A felony directly related to the financial services



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736 ~~business is permanently barred from applying for registration~~
737 ~~under this part. This bar applies to convictions, guilty pleas,~~
738 ~~or nolo contendere pleas, regardless of adjudication, by an~~
739 ~~applicant.~~

740 (3) An applicant who has been found guilty of or has
741 pleaded guilty or nolo contendere to a crime ~~For all other~~
742 ~~crimes~~ not described in subsection (2), regardless of
743 adjudication, is subject to the department may adopt rules
744 ~~establishing the process and application of disqualifying~~
745 ~~periods including:~~

746 (a) A 15-year disqualifying period for all felonies
747 involving moral turpitude which are not specifically included in
748 subsection (2).

749 (b) A 7-year disqualifying period for all felonies not
750 specifically included in subsection (2) or paragraph (a).

751 (c) A 7-year disqualifying period for all misdemeanors
752 directly related to the financial services business.

753 (4) The department may adopt rules to administer this
754 section. The rules must provide for ~~providing~~ additional
755 disqualifying periods due to the commitment of multiple crimes
756 and may include other factors reasonably related to the
757 applicant's criminal history. The rules must provide for
758 mitigating and aggravating factors. However, mitigation may not
759 result in a disqualifying period of less than 7 years and may
760 not mitigate the disqualifying periods in paragraph (3) (b) or
761 paragraph (3) (c).

762 (5) For purposes of this section, the disqualifying periods
763 begin upon the applicant's final release from supervision or
764 upon completion of the applicant's criminal sentence, ~~including~~



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765 ~~the payment of fines, restitution, and court costs for the crime~~
766 ~~for which the disqualifying period applies. The department may~~
767 not issue a registration to an applicant unless all related
768 fines, court costs and fees, and court-ordered restitution have
769 been paid.

770 (6) After the disqualifying period has expired ~~been met~~,
771 the burden is on the applicant to demonstrate to the
772 satisfaction of the department that he or she has been
773 rehabilitated and does not pose a risk to the insurance-buying
774 public and is otherwise qualified for registration.

775 (7) Notwithstanding subsections (2) and (3), upon a grant
776 of a pardon or the restoration of civil rights pursuant to
777 chapter 940 and s. 8, Art. IV of the State Constitution with
778 respect to a finding of guilt or a plea under subsection (2) or
779 subsection (3), such finding or plea no longer bars or
780 disqualifies the applicant from applying for registration under
781 this part unless the clemency specifically excludes licensure or
782 specifically excludes registration in the financial services
783 business; however, a pardon or restoration of civil rights does
784 not require the department to award such registration.

785 (8)~~(7)~~ Section 112.011 does not apply to an applicant for
786 registration as a navigator.

787 Section 23. Paragraph (a) of subsection (3) of section
788 626.2815, Florida Statutes, is amended, and paragraph (j) is
789 added to that subsection, to read:

790 626.2815 Continuing education requirements.—

791 (3) Each licensee except a title insurance agent must
792 complete a 5-hour update course every 2 years which is specific
793 to the license held by the licensee. The course must be



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794 developed and offered by providers and approved by the
795 department. The content of the course must address all lines of
796 insurance for which examination and licensure are required and
797 include the following subject areas: insurance law updates,
798 ethics for insurance professionals, disciplinary trends and case
799 studies, industry trends, premium discounts, determining
800 suitability of products and services, and other similar
801 insurance-related topics the department determines are relevant
802 to legally and ethically carrying out the responsibilities of
803 the license granted. A licensee who holds multiple insurance
804 licenses must complete an update course that is specific to at
805 least one of the licenses held. Except as otherwise specified,
806 any remaining required hours of continuing education are
807 elective and may consist of any continuing education course
808 approved by the department under this section.

809 (a) Except as provided in paragraphs (b), (c), (d), (e),
810 ~~and~~ (i), and (j), each licensee must also complete 19 hours of
811 elective continuing education courses every 2 years.

812 (j) For a licensee who is an active participant in an
813 association, 2 hours of elective continuing education credit per
814 calendar year may be approved by the department, if properly
815 reported by the association.

816 Section 24. Paragraph (n) of subsection (1) and subsection
817 (2) of section 626.611, Florida Statutes, are amended to read:

818 626.611 Grounds for compulsory refusal, suspension, or
819 revocation of agent's, title agency's, adjuster's, customer
820 representative's, service representative's, or managing general
821 agent's license or appointment.—

822 (1) The department shall deny an application for, suspend,



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823 revoke, or refuse to renew or continue the license or
824 appointment of any applicant, agent, title agency, adjuster,
825 customer representative, service representative, or managing
826 general agent, and it shall suspend or revoke the eligibility to
827 hold a license or appointment of any such person, if it finds
828 that as to the applicant, licensee, or appointee any one or more
829 of the following applicable grounds exist:

830 (n) Having been found guilty of or having pleaded guilty or
831 nolo contendere to a felony or a crime punishable by
832 imprisonment of 1 year or more under the law of the United
833 States of America or of any state thereof or under the law of
834 any other country ~~which involves moral turpitude~~, without regard
835 to whether a judgment of conviction has been entered by the
836 court having jurisdiction of such cases.

837 (2) The department shall, upon receipt of information or an
838 indictment, immediately temporarily suspend a license or
839 appointment issued under this chapter when the licensee is
840 charged with a felony enumerated in s. 626.207(2) ~~s. 626.207(3)~~.
841 Such suspension shall continue if the licensee is found guilty
842 of, or pleads guilty or nolo contendere to, the crime,
843 regardless of whether a judgment or conviction is entered,
844 during a pending appeal. A person may not transact insurance
845 business after suspension of his or her license or appointment.

846 Section 25. Subsection (8) of section 626.621, Florida
847 Statutes, is amended, and a new subsection (15) is added to that
848 section, to read:

849 626.621 Grounds for discretionary refusal, suspension, or
850 revocation of agent's, adjuster's, customer representative's,
851 service representative's, or managing general agent's license or



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852 appointment.—The department may, in its discretion, deny an
853 application for, suspend, revoke, or refuse to renew or continue
854 the license or appointment of any applicant, agent, adjuster,
855 customer representative, service representative, or managing
856 general agent, and it may suspend or revoke the eligibility to
857 hold a license or appointment of any such person, if it finds
858 that as to the applicant, licensee, or appointee any one or more
859 of the following applicable grounds exist under circumstances
860 for which such denial, suspension, revocation, or refusal is not
861 mandatory under s. 626.611:

862 ~~(8) Having been found guilty of or having pleaded guilty or~~
863 ~~nolo contendere to a felony or a crime punishable by~~
864 ~~imprisonment of 1 year or more under the law of the United~~
865 ~~States of America or of any state thereof or under the law of~~
866 ~~any other country, without regard to whether a judgment of~~
867 ~~conviction has been entered by the court having jurisdiction of~~
868 ~~such cases.~~

869 (15) Denial, suspension, or revocation of, or any other
870 adverse administrative action against, a license to practice or
871 conduct any regulated profession, business, or vocation by this
872 state, any other state, any nation, any possession or district
873 of the United States, any court, or any lawful agency thereof.

874 Section 26. Subsection (2) of section 626.7845, Florida
875 Statutes, is amended to read:

876 626.7845 Prohibition against unlicensed transaction of life
877 insurance.—

878 (2) Except as provided in s. 626.112(6), with respect to
879 any line of authority specified in s. 626.015(12) ~~s.~~
880 ~~626.015(10)~~, an ~~no~~ individual may not ~~shall~~, unless licensed as



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881 a life agent:

882 (a) Solicit insurance or annuities or procure applications;

883 (b) In this state, engage or hold himself or herself out as
884 engaging in the business of analyzing or abstracting insurance
885 policies or of counseling or advising or giving opinions to
886 persons relative to insurance or insurance contracts, unless the
887 individual is other than:

888 1. ~~As~~ A consulting actuary advising insurers ~~an insurer~~; or

889 2. An employee ~~As to the counseling and advising of a labor~~
890 union, association, employer, or other business entity ~~labor~~
891 ~~unions, associations, trustees, employers, or other business~~
892 ~~entities, or~~ the subsidiaries and affiliates of each, who
893 counsels and advises such entity or entities relative to their
894 interests and those of their members or employees under
895 insurance benefit plans; or

896 3. A trustee advising a settlor, a beneficiary, or a person
897 regarding his or her interests in a trust, relative to insurance
898 benefit plans; or

899 (c) In this state, from this state, or with a resident of
900 this state, offer or attempt to negotiate on behalf of another
901 person a viatical settlement contract as defined in s. 626.9911.

902 Section 27. Section 626.8305, Florida Statutes, is amended
903 to read:

904 626.8305 Prohibition against the unlicensed transaction of
905 health insurance.—Except as provided in s. 626.112(6), with
906 respect to any line of authority specified in s. 626.015(8) ~~s.~~
907 ~~626.015(6)~~, an ~~no~~ individual may not ~~shall~~, unless licensed as a
908 health agent:

909 (1) Solicit insurance or procure applications; or



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910 (2) In this state, engage or hold himself or herself out as
911 engaging in the business of analyzing or abstracting insurance
912 policies or of counseling or advising or giving opinions to
913 persons relative to insurance contracts, unless the individual
914 is other than:

915 (a) ~~As~~ A consulting actuary advising insurers; ~~or~~

916 (b) An employee As to the counseling and advising of a
917 labor union, association, employer, or other business entity
918 ~~labor unions, associations, trustees, employers, or other~~
919 ~~business entities, or~~ the subsidiaries and affiliates of each,
920 who counsels and advises such entity or entities relative to
921 their interests and those of their members or employees under
922 insurance benefit plans; ~~or-~~

923 (c) A trustee advising a settlor, a beneficiary, or a
924 person regarding his or her interests in a trust, relative to
925 insurance benefit plans.

926 Section 28. Subsection (1) of section 626.861, Florida
927 Statutes, is amended to read:

928 626.861 Insurer's officers, insurer's employees, reciprocal
929 insurer's representatives; adjustments by.-

930 (1) This part may not ~~Nothing in this part shall~~ be
931 construed to prevent an executive officer of any insurer, ~~or~~ a
932 regularly salaried employee of an insurer handling claims with
933 respect to health insurance, a regular employee of an insurer
934 handling claims with respect to residential property when the
935 sublimit coverage does not exceed \$500, or the duly designated
936 attorney or agent authorized and acting for subscribers to
937 reciprocal insurers, from adjusting any claim loss or damage
938 under any insurance contract of such insurer.



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939 Section 29. Paragraph (c) of subsection (5) and subsection
940 (6) of section 626.9543, Florida Statutes, are amended to read:
941 626.9543 Holocaust victims.—

942 (5) PROOF OF A CLAIM.—Any insurer doing business in this
943 state, in receipt of a claim from a Holocaust victim or from a
944 beneficiary, descendant, or heir of a Holocaust victim, shall:

945 (c) Permit claims irrespective of any statute of
946 limitations or notice requirements imposed by any insurance
947 policy issued, ~~provided the claim is submitted on or before July~~
948 ~~1, 2018.~~

949 (6) STATUTE OF LIMITATIONS.—Notwithstanding any law or
950 agreement among the parties to an insurance policy to the
951 contrary, any action brought by Holocaust victims or by a
952 beneficiary, heir, or a descendant of a Holocaust victim seeking
953 proceeds of an insurance policy issued or in effect between 1920
954 and 1945, inclusive, may ~~shall~~ not be dismissed for failure to
955 comply with the applicable statute of limitations or laches
956 ~~provided the action is commenced on or before July 1, 2018.~~

957 Section 30. Section 633.516, Florida Statutes, is amended
958 to read:

959 633.516 Studies of Division to make study of firefighter
960 employee occupational diseases of firefighters or persons in
961 other fire-related fields.—The division may contract for
962 studies, subject to the availability of funding, of ~~shall make a~~
963 ~~continuous study of firefighter employee occupational diseases~~
964 of firefighters or persons in other fire-related fields and the
965 ways and means for the ~~their~~ control and prevention of such
966 occupational diseases. When such a study or another study that
967 is wholly or partly funded under an agreement, including a



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968 contract or grant, with the department tracks a disease of an
969 individual firefighter or a person in another fire-related
970 field, the division may, with associated security measures,
971 release the confidential information, including a social
972 security number, of that individual to a party who has entered
973 into an agreement with the department and shall adopt rules
974 necessary for such control and prevention. For this purpose, the
975 division is authorized to cooperate with firefighter employers,
976 firefighter employees, and insurers and with the Department of
977 Health.

978 Section 31. Paragraph (a) of subsection (6) and subsection
979 (7) of section 768.28, Florida Statutes, are amended to read:

980 768.28 Waiver of sovereign immunity in tort actions;
981 recovery limits; limitation on attorney fees; statute of
982 limitations; exclusions; indemnification; risk management
983 programs.—

984 (6) (a) An action may not be instituted on a claim against
985 the state or one of its agencies or subdivisions unless the
986 claimant presents the claim in writing to the appropriate
987 agency, and also, except as to any claim against a municipality,
988 county, or the Florida Space Authority, presents such claim in
989 writing to the Department of Financial Services, within 3 years
990 after such claim accrues and the Department of Financial
991 Services or the appropriate agency denies the claim in writing;
992 except that, if:

993 1. Such claim is for contribution pursuant to s. 768.31, it
994 must be so presented within 6 months after the judgment against
995 the tortfeasor seeking contribution has become final by lapse of
996 time for appeal or after appellate review or, if there is no



997 such judgment, within 6 months after the tortfeasor seeking
998 contribution has either discharged the common liability by
999 payment or agreed, while the action is pending against her or
1000 him, to discharge the common liability; or

1001 2. Such action is for wrongful death, the claimant must
1002 present the claim in writing to the Department of Financial
1003 Services within 2 years after the claim accrues.

1004 (7) In actions brought pursuant to this section, process
1005 shall be served upon the head of the agency concerned and also,
1006 except as to a defendant municipality, county, or the Florida
1007 Space Authority, upon the Department of

1008
1009 ===== T I T L E A M E N D M E N T =====

1010 And the title is amended as follows:

1011 Delete lines 21 - 156

1012 and insert:

1013 a boiler that is placed in use after a specified date;
1014 authorizing the department to adopt rules; conforming
1015 provisions to changes made by the act; amending s.
1016 554.104, F.S.; deleting a provision relating to
1017 boilers of special design which is recreated in s.
1018 554.103, F.S.; requiring certification of boiler
1019 inspectors; requiring an application for a
1020 certification examination; specifying qualifications
1021 and requirements for the certification examination;
1022 requiring the department to adopt a specified training
1023 course; providing authorized methods and requirements
1024 for the training course; requiring the chief boiler
1025 inspector to issue a certificate of competency to a



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1026 person meeting certain requirements; providing
1027 procedures for renewing a certificate; authorizing the
1028 department to adopt rules; amending s. 554.105, F.S.;
1029 renaming the chief inspector as the chief boiler
1030 inspector; revising requirements for the department
1031 through the state boiler inspection program; amending
1032 s. 554.106, F.S.; renaming deputy inspectors as deputy
1033 boiler inspectors; specifying required and authorized
1034 duties of deputy boiler inspectors; amending s.
1035 554.107, F.S.; renaming special inspectors as special
1036 boiler inspectors; revising entities that may employ
1037 special boiler inspectors; specifying required
1038 inspection intervals for special boiler inspectors;
1039 amending s. 554.108, F.S.; providing an exemption,
1040 under certain conditions, from inspection
1041 requirements; specifying duties of an owner or an
1042 owner's designee to allow an inspector to conduct
1043 inspections; specifying requirements for boiler
1044 inspections and inspection reports; providing a
1045 penalty against an insurance carrier if certain
1046 followup inspections are not conducted; revising
1047 conditions that require a boiler to be shut down;
1048 revising requirements and procedures for a boiler that
1049 must be shut down; providing construction; authorizing
1050 the department to adopt rules; creating s. 554.1081,
1051 F.S.; revising requirements for boiler inspections by
1052 insurance companies and local governmental agencies;
1053 amending s. 554.109, F.S.; conforming provisions to
1054 changes made by the act; revising boilers that are



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1055 exempt from regulation under the chapter; revising
1056 requirements for certain exempt boilers and water
1057 heaters; amending s. 554.1101, F.S.; conforming
1058 provisions to changes made by the act; requiring a
1059 boiler insurance company to notify, within a specified
1060 timeframe, the chief boiler inspector under certain
1061 circumstances; requiring a certificateholder to submit
1062 a certain certificate of insurance to the chief boiler
1063 inspector under certain circumstances; amending s.
1064 554.111, F.S.; requiring an application for a boiler
1065 permit to include a specified fee; requiring the chief
1066 boiler inspector to deposit fines into a specified
1067 trust fund; conforming provisions to changes made by
1068 the act; repealing ss. 554.112 and 554.113, F.S.,
1069 relating to examinations, and certification of
1070 inspectors and renewals, respectively; amending s.
1071 554.114, F.S.; revising prohibited acts; providing
1072 penalties for a boiler insurance company or authorized
1073 inspection agency that fails to conduct certain
1074 inspections; conforming provisions to changes made by
1075 the act; amending s. 554.115, F.S.; adding authorized
1076 disciplinary actions for the department; adding
1077 specified grounds for disciplinary action against an
1078 owner of a boiler; revising grounds for disciplinary
1079 action against a boiler inspector; deleting a
1080 provision requiring a chief inspector to report
1081 certain persons to the state attorney; deleting a
1082 provision authorizing certain administrative action by
1083 the chief inspector; deleting a provision relating to



1084 the duration of a suspended certificate of compliance;
1085 creating s. 554.1151, F.S.; authorizing the department
1086 to impose specified administrative fines in lieu of or
1087 in addition to certain disciplinary actions;
1088 authorizing procedures for payment of fines by a
1089 certificateholder; requiring a certificate to be
1090 revoked under certain circumstances; creating s.
1091 554.116, F.S.; requiring a boiler insurance company to
1092 annually file a specified report with the chief boiler
1093 inspector; requiring the department to adopt a form by
1094 rule; amending s. 624.307, F.S.; authorizing the
1095 department to expend funds for professional
1096 development of its employees; amending s. 626.015,
1097 F.S.; defining terms; conforming a cross-reference;
1098 amending s. 626.207, F.S.; defining the term
1099 "applicant"; revising a list of felonies subject to a
1100 permanent bar from licensure; revising a condition for
1101 when certain disqualifying periods begin; conforming
1102 cross-references; providing an exception from a
1103 permanent bar on or disqualifying periods for cases of
1104 executive clemency; providing construction; amending
1105 s. 626.9954, F.S.; revising a list of felonies subject
1106 to a permanent bar from licensure; revising conditions
1107 for when certain disqualifying periods begin;
1108 conforming cross-references; providing an exception
1109 from a permanent bar on or disqualifying periods for
1110 cases of executive clemency; providing construction;
1111 amending s. 626.2815, F.S.; authorizing the department
1112 to approve a certain number of elective continuing



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1113 education credits for certain insurance licensees;
1114 providing an exception from a certain continuing
1115 education requirement for such licensees; amending s.
1116 626.611, F.S.; deleting a condition for the
1117 involvement of moral turpitude in felonies or certain
1118 crimes in relation to compulsory disciplinary actions
1119 by the department against certain entities' licenses
1120 or appointments; conforming a cross-reference;
1121 amending s. 626.621, F.S.; revising grounds for the
1122 department's discretionary refusal, suspension, or
1123 revocation of the license or appointment of certain
1124 persons; amending s. 626.7845, F.S.; revising an
1125 exception to the prohibition against the unlicensed
1126 transaction of life insurance; conforming a cross-
1127 reference; amending s. 626.8305, F.S.; revising an
1128 exception to the prohibition against the unlicensed
1129 transaction of health insurance; conforming a cross-
1130 reference; amending s. 626.861, F.S.; authorizing
1131 certain insurer employees to adjust specified claim
1132 losses or damage; amending s. 626.9543, F.S.; removing
1133 the scheduled expiration of a requirement for insurers
1134 to permit claims from a Holocaust victim or certain
1135 related persons irrespective of certain conditions;
1136 removing the scheduled expiration of an exception from
1137 statutes of limitations or laches for certain actions
1138 brought by Holocaust victims or certain related
1139 persons; amending s. 633.516, F.S.; authorizing the
1140 Division of State Fire Marshal within the division to
1141 contract for studies of, rather than to make a



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1142 continuous study of, occupational diseases of
1143 firefighters; adding persons in other fire-related
1144 fields to such studies; authorizing the division to
1145 release confidential information of an individual
1146 firefighter or a person in another fire-related field
1147 to certain parties under certain circumstances;
1148 amending s. 768.28, F.S.; providing exceptions in tort
1149 claims against a county from

By Senator Stargel

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1 A bill to be entitled
 2 An act relating to the Department of Financial
 3 Services; amending s. 17.575, F.S.; replacing, within
 4 the Division of Treasury, the Treasury Investment
 5 Committee with the Treasury Investment Council;
 6 specifying the composition and term length of members;
 7 specifying duties of the council; providing that
 8 members shall serve without additional compensation or
 9 honorarium but may receive per diem and travel expense
 10 reimbursement; amending s. 215.422, F.S.; providing
 11 applicability of certain requirements relating to
 12 payments, warrants, and invoices to payments made in
 13 relation to certain agreements funded with federal or
 14 state assistance; reordering and amending s. 554.1021,
 15 F.S.; defining and redefining terms; amending s.
 16 554.103, F.S.; requiring, rather than authorizing, the
 17 Department of Financial Services to adopt amendments
 18 and interpretations of a specified code into the State
 19 Boiler Code; revising requirements that installers,
 20 rather than owners, must comply with before installing
 21 a boiler; authorizing the department to adopt rules;
 22 conforming provisions to changes made by the act;
 23 amending s. 554.104, F.S.; deleting a provision
 24 relating to boilers of special design which is
 25 recreated in s. 554.103, F.S.; requiring certification
 26 of boiler inspectors; requiring an application for a
 27 certification examination; specifying qualifications
 28 and requirements for the certification examination;
 29 requiring the department to adopt a specified training

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30 course; providing authorized methods and requirements
 31 for the training course; requiring the chief boiler
 32 inspector to issue a certificate of competency to a
 33 person meeting certain requirements; providing
 34 procedures for renewing a certificate; authorizing the
 35 department to adopt rules; amending s. 554.105, F.S.;
 36 renaming the chief inspector as the chief boiler
 37 inspector; revising requirements for the department
 38 through the state boiler inspection program; amending
 39 s. 554.106, F.S.; renaming deputy inspectors as deputy
 40 boiler inspectors; specifying required and authorized
 41 duties of deputy boiler inspectors; amending s.
 42 554.107, F.S.; renaming special inspectors as special
 43 boiler inspectors; revising entities that may employ
 44 special boiler inspectors; specifying required
 45 inspection intervals for special boiler inspectors;
 46 amending s. 554.108, F.S.; providing an exemption,
 47 under certain conditions, from inspection
 48 requirements; specifying duties of an owner or an
 49 owner's designee to allow an inspector to conduct
 50 inspections; specifying requirements for boiler
 51 inspections and inspection reports; providing a
 52 penalty against an insurance carrier if certain
 53 followup inspections are not conducted; revising
 54 conditions that require a boiler to be shut down;
 55 revising requirements and procedures for a boiler that
 56 must be shut down; providing construction; authorizing
 57 the department to adopt rules; creating s. 554.1081,
 58 F.S.; revising requirements for boiler inspections by

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59 insurance companies and local governmental agencies;
 60 amending s. 554.109, F.S.; conforming provisions to
 61 changes made by the act; revising boilers that are
 62 exempt from regulation under the chapter; revising
 63 requirements for certain exempt boilers and water
 64 heaters; amending s. 554.1101, F.S.; conforming
 65 provisions to changes made by the act; requiring a
 66 boiler insurance company to notify, within a specified
 67 timeframe, the chief boiler inspector under certain
 68 circumstances; requiring a certificateholder to submit
 69 a certain certificate of insurance to the chief boiler
 70 inspector under certain circumstances; amending s.
 71 554.111, F.S.; requiring an application for a boiler
 72 permit to include a specified fee; requiring the chief
 73 boiler inspector to deposit fines into a specified
 74 trust fund; conforming provisions to changes made by
 75 the act; repealing ss. 554.112 and 554.113, F.S.,
 76 relating to examinations, and certification of
 77 inspectors and renewals, respectively; amending s.
 78 554.114, F.S.; revising prohibited acts; providing
 79 penalties for a boiler insurance company or authorized
 80 inspection agency that fails to conduct certain
 81 inspections; conforming provisions to changes made by
 82 the act; amending s. 554.115, F.S.; adding authorized
 83 disciplinary actions for the department; adding
 84 specified grounds for disciplinary action against an
 85 owner of a boiler; revising grounds for disciplinary
 86 action against a boiler inspector; deleting a
 87 provision requiring a chief inspector to report

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88 certain persons to the state attorney; deleting a
 89 provision authorizing certain administrative action by
 90 the chief inspector; deleting a provision relating to
 91 the duration of a suspended certificate of compliance;
 92 creating s. 554.1151, F.S.; authorizing the department
 93 to impose specified administrative fines in lieu of or
 94 in addition to certain disciplinary actions;
 95 authorizing procedures for payment of fines by a
 96 certificateholder; requiring a certificate to be
 97 revoked under certain circumstances; creating s.
 98 554.116, F.S.; requiring a boiler insurance company to
 99 annually file a specified report with the chief boiler
 100 inspector; requiring the department to adopt a form by
 101 rule; amending s. 624.307, F.S.; authorizing the
 102 department to expend funds for professional
 103 development of its employees; amending s. 626.015,
 104 F.S.; defining terms; conforming a cross-reference;
 105 amending s. 626.207, F.S.; defining the term
 106 "applicant"; revising a list of felonies subject to a
 107 permanent bar from licensure; revising a condition for
 108 when certain disqualifying periods begin; conforming
 109 cross-references; providing an exception from a
 110 permanent bar on or disqualifying periods for cases of
 111 executive clemency; providing construction; amending
 112 s. 626.9954, F.S.; revising a list of felonies subject
 113 to a permanent bar from licensure; revising conditions
 114 for when certain disqualifying periods begin;
 115 conforming cross-references; providing an exception
 116 from a permanent bar on or disqualifying periods for

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117 cases of executive clemency; providing construction;
 118 amending s. 626.2815, F.S.; authorizing the department
 119 to approve a certain number of elective continuing
 120 education credits for certain insurance licensees;
 121 providing an exception from a certain continuing
 122 education requirement for such licensees; amending s.
 123 626.611, F.S.; deleting a condition for the
 124 involvement of moral turpitude in felonies or certain
 125 crimes in relation to compulsory disciplinary actions
 126 by the department against certain entities' licenses
 127 or appointments; conforming a cross-reference;
 128 amending s. 626.621, F.S.; revising grounds for the
 129 department's discretionary refusal, suspension, or
 130 revocation of the license or appointment of certain
 131 persons; amending s. 626.7845, F.S.; revising an
 132 exception to the prohibition against the unlicensed
 133 transaction of life insurance; conforming a cross-
 134 reference; amending s. 626.8305, F.S.; revising an
 135 exception to the prohibition against the unlicensed
 136 transaction of health insurance; conforming a cross-
 137 reference; amending s. 626.861, F.S.; authorizing
 138 certain insurer employees to adjust specified claim
 139 losses or damage; amending s. 626.9543, F.S.; removing
 140 the scheduled expiration of a requirement for insurers
 141 to permit claims from a Holocaust victim or certain
 142 related persons irrespective of certain conditions;
 143 removing the scheduled expiration of an exception from
 144 statutes of limitations or laches for certain actions
 145 brought by Holocaust victims or certain related

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146 persons; amending s. 633.516, F.S.; authorizing the
 147 Division of State Fire Marshal within the division to
 148 contract for studies of, rather than to make a
 149 continuous study of, occupational diseases of
 150 firefighters; adding persons in other fire-related
 151 fields to such studies; authorizing the division to
 152 release confidential information of an individual
 153 firefighter or a person in another fire-related field
 154 to certain parties under certain circumstances;
 155 amending s. 768.28, F.S.; providing exceptions in tort
 156 claims against a subdivision of the state from
 157 requirements that a claimant present the written claim
 158 to the department within a specified timeframe and
 159 serve process upon the department; amending ss.
 160 288.706, 626.7315, and 627.351, F.S.; conforming
 161 cross-references; providing an effective date.
 162

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

164
 165 Section 1. Section 17.575, Florida Statutes, is amended to
 166 read:

167 17.575 Administration of funds; Treasury Investment Council
 168 ~~Committee~~.-

169 (1) There is created a Treasury Investment Council
 170 ~~Committee~~ within the Division of Treasury consisting of at least
 171 five members, at least three of whom are professionals from the
 172 private sector, who must possess special knowledge, experience,
 173 and familiarity in finance, investments, or accounting. The
 174 members of the council must ~~committee shall~~ be appointed by and

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175 serve at the pleasure of the Chief Financial Officer. Each
 176 member shall serve a term of 4 years from the date of
 177 appointment. The council committee shall annually elect a chair
 178 and vice chair from among its members membership.

179 (2) The council shall review the investments required by s.
 180 17.57; meet with staff of the Division of Treasury at least
 181 biannually; and provide recommendations to the Division of
 182 Treasury and the Chief Financial Officer regarding investment
 183 policy, strategy, and procedures ~~The committee shall administer~~
 184 ~~the Treasury Investment Program consistent with policies~~
 185 ~~approved by the Chief Financial Officer for deposits and~~
 186 ~~investments of public funds. The committee shall also make~~
 187 ~~recommendations regarding investment policy to the Chief~~
 188 ~~Financial Officer.~~

189 (3) Members of the council shall serve without additional
 190 compensation or honorarium, but may receive per diem and
 191 reimbursement for travel expenses as provided in s. 112.061 ~~The~~
 192 ~~committee shall submit an annual report outlining its activities~~
 193 ~~and recommendations to the Chief Financial Officer and the Joint~~
 194 ~~Legislative Auditing Committee. The report shall be submitted on~~
 195 ~~August 15, 2009, and annually thereafter.~~

196 Section 2. Present subsections (14) through (16) of section
 197 215.422, Florida Statutes, are redesignated as subsections (15)
 198 through (17), respectively, and a new subsection (14) is added
 199 to that section, to read:

200 215.422 Payments, warrants, and invoices; processing time
 201 limits; dispute resolution; agency or judicial branch
 202 compliance.—

203 (14) All requirements set forth in this section apply to

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204 payments made in accordance with s. 215.971.

205 Section 3. Section 554.1021, Florida Statutes, is reordered
 206 and amended to read:

207 554.1021 Definitions.—As used in this chapter, the term ~~ss.~~
 208 ~~554.1011 554.115:~~

209 (3)(1) "Boiler" means a closed vessel in which water or
 210 other liquid is heated, steam or vapor is generated, steam is
 211 superheated, or any combination of these functions is
 212 accomplished, under pressure or vacuum, for use external to
 213 itself, by the direct application of energy from the combustion
 214 of fuels or from electricity or solar energy. The term "boiler"
 215 includes fired units for heating or vaporizing liquids other
 216 than water where these units are separate from processing
 217 systems and are complete within themselves. The varieties of
 218 boilers are as follows:

219 (f)(a) "Power boiler" means a boiler in which steam or
 220 other vapor is generated at a pressure of more than 15 psig.

221 (b) "High pressure, high temperature water boiler" means a
 222 water boiler operating at pressures exceeding 160 psig or
 223 temperatures exceeding 250 °F.

224 (a)(e) "Heating boiler" means a steam or vapor boiler
 225 operating at pressures not exceeding 15 psig, or a hot water
 226 boiler operating at pressures not exceeding 160 psig or
 227 temperatures not exceeding 250 °F.

228 (c)(d) "Hot water supply boiler" means a boiler or a lined
 229 storage water heater supplying heated water for use external to
 230 itself operating at a pressure not exceeding 160 psig or
 231 temperature not exceeding 250 °F.

232 (g)(e) "Secondhand boiler" means a boiler that has changed

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233 ownership and location subsequent to its original installation
234 and use.

235 (d) "Inservice boiler" means a boiler placed in use after
236 test firing and required inspections have been satisfactorily
237 completed.

238 (e) "Operating boiler" means a boiler connected and ready
239 for use.

240 (h) "Secured boiler" means a boiler that has been:
241 1. Physically disconnected from the system, including
242 disconnection from fuel, water, steam, electricity, and stack;
243 and

244 2. Locked out and tagged out in accordance with the
245 Occupational Safety and Health Administration's standard
246 relating to the control of hazardous energy and lockout or
247 tagout in 29 C.F.R. s. 1910.147, as adopted by rule of the
248 department.

249 (9)(2) "Public assembly locations" includes include
250 schools, day care centers, community centers, churches,
251 theaters, hospitals, nursing and convalescent homes, stadiums,
252 amusement parks, and other locations open to the general public.

253 (5)(3) "Certificate inspection" means an inspection whose
254 the report of which is used by the chief boiler inspector to
255 determine whether or not a certificate of operation may be
256 issued.

257 (7)(4) "Certificate of operation compliance" means a
258 document issued to the owner of a boiler which authorizes the
259 owner to operate the boiler, subject to any restrictions
260 endorsed thereon.

261 (6)(5) "Certificate of competency" means a document issued

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262 to a person who has satisfied the minimum competency
263 requirements for boiler inspectors under this chapter ~~ss.~~
264 ~~554.1011-554.115.~~

265 (8)(6) "Department" means the Department of Financial
266 Services.

267 (1)(7) "A.S.M.E." means the American Society of Mechanical
268 Engineers.

269 (2) "Authorized inspection agency" means:

270 (a) Any county, municipality, town, or other governmental
271 subdivision that has adopted into law the Boiler and Pressure
272 Vessel Code of the A.S.M.E. and the National Board Inspection
273 Code for the construction, installation, inspection,
274 maintenance, and repair of boilers to regulate boilers in public
275 assembly locations, and whose boiler inspectors hold valid
276 certificates of competency in accordance with s. 554.104;

277 (b) An insurer authorized by a subsisting certificate of
278 authority, issued by the Office of Insurance Regulation, to
279 transact boiler and machinery insurance in this state, and whose
280 boiler inspectors hold valid certificates of competency in
281 accordance with s. 554.104; or

282 (c) An inspecting agency accredited in accordance with The
283 National Board of Boiler and Pressure Vessel Inspector's program
284 entitled "Accreditation of Authorized Inspection Agencies (AIA)
285 Performing Inservice or Repair/Alteration Inspection
286 Activities," document number NB-369, and whose boiler inspectors
287 hold valid certificates of competency in accordance with s.
288 554.104.

289 (4) "Boiler insurance company" means a company authorized
290 by a subsisting certificate of authority, issued by the Office

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291 of Insurance Regulation, to transact boiler and machinery
 292 insurance in this state.

293 Section 4. Section 554.103, Florida Statutes, is amended to
 294 read:

295 554.103 Boiler code.—The department shall adopt by rule a
 296 State Boiler Code for the safe construction, installation,
 297 inspection, maintenance, and repair of boilers in this state.
 298 The rules adopted shall be based upon and shall at all times
 299 follow generally accepted nationwide engineering standards,
 300 formulas, and practices pertaining to boiler construction and
 301 safety.

302 (1) The department shall adopt an existing code for new
 303 construction and installation known as the Boiler and Pressure
 304 Vessel Code of the American Society of Mechanical Engineers,
 305 including all amendments and interpretations ~~approved thereto by~~
 306 ~~the Council on Codes and Standards of A.S.M.E.~~ The department
 307 ~~may adopt amendments and interpretations~~ to the A.S.M.E. Boiler
 308 and Pressure Vessel Code approved by the A.S.M.E. Council on
 309 Codes and Standards subsequent to the adoption of the State
 310 Boiler Code, and when so adopted by the department, such
 311 amendments and interpretations ~~shall~~ become a part of the State
 312 Boiler Code.

313 (2) The installer ~~owner~~ of any boiler placed in use in this
 314 state after July 1, 2017, must, before installing the boiler,
 315 apply on a form adopted by rule of the department for a permit
 316 to install the boiler from the chief boiler inspector. The
 317 application must include the boiler's A.S.M.E. manufacturer's
 318 data report and other documents required by the State Boiler
 319 Code before the boiler is placed in service. The installer must

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320 contact the chief boiler inspector to schedule an inspection for
 321 each boiler no later than 7 days before the boiler is placed in
 322 service after October 1, 1987, shall submit the A.S.M.E.
 323 manufacturer's data report on such boiler to the chief inspector
 324 ~~not more than 90 days following the inservice date of the~~
 325 ~~boiler.~~

326 (3) The maximum allowable working pressure of a boiler
 327 carrying the A.S.M.E. code symbol must ~~shall~~ be determined by
 328 the applicable sections of the code under which it was
 329 constructed and stamped. Subject to the concurrence of the chief
 330 boiler inspector, such boiler may be rerated in accordance with
 331 the standards of the State Boiler Code.

332 (4) The maximum allowable working pressure of a boiler that
 333 which does not carry the A.S.M.E. code symbol must ~~shall~~ be
 334 computed in accordance with the standards of the State Boiler
 335 Code.

336 (5) This chapter may not ~~Nothing in ss. 554.1011-554.115~~
 337 ~~shall~~ be construed to in any way prevent the use, sale, or
 338 reinstallation of a boiler if such boiler has been made to
 339 conform to the applicable provisions of the State Boiler Code
 340 governing existing installations and if, upon inspection, the
 341 boiler has been found to be in a safe condition.

342 (6) The department, at its discretion, may authorize the
 343 construction, installation, and operation of boilers of special
 344 design or construction which do not meet the specific
 345 requirements of the State Boiler Code, but which are consistent
 346 with the intent of the safety objectives of the code.

347 (7) The department may adopt rules pursuant to ss.
 348 120.536(1) and 120.54 to administer this chapter. Such rules may

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349 include specifying the procedures and forms to be used to obtain
 350 an installation permit, an initial certificate, or a renewal
 351 certificate, and the submission of reports and notices required
 352 under this chapter.

353 Section 5. Section 554.104, Florida Statutes, is amended to
 354 read:

355 554.104 Certification of boiler inspectors required;
 356 application; qualifications; renewal Boilers of special design.-
 357 The department, at its discretion, may authorize the
 358 construction, installation, and operation of boilers of special
 359 design or construction that do not meet the specific
 360 requirements of the State Boiler Code but are not inconsistent
 361 with the intent of the safety objectives of such code.

362 (1) CERTIFICATE REQUIRED.-A person may not be, act as, or
 363 advertise or hold himself or herself out to be an inspector of a
 364 boiler that is subject to regulation by this chapter, unless he
 365 or she currently holds a certificate of competency issued by the
 366 department.

367 (2) APPLICATION.-A person who desires to be certified to
 368 inspect boilers that are subject to regulation by this chapter
 369 must apply in writing to the department to take the
 370 certification examination.

371 (3) QUALIFICATIONS.-A person is qualified to take the
 372 certification examination if the person:

373 (a) Has submitted the application for examination together
 374 with the fee required under s. 554.111(1) (a);

375 (b) Is at least 18 years of age;

376 (c) Has completed the 2-hour training course under
 377 subsection (4) on the requirements of this chapter and any

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378 related rules adopted by the department. The course must be
 379 completed no later than 12 months before issuance of an initial
 380 or renewal certificate; and

381 (d) Has:

382 1. At least 3 years of experience in the construction,
 383 installation, inspection, operation, maintenance, or repair of
 384 high pressure, high temperature water boilers; or

385 2. Met the requirements to qualify as a commissioned
 386 inspector by the National Board of Boiler and Pressure Vessel
 387 Inspectors as set forth in NB-263, Rules for National Board
 388 Inservice and New Construction Commissioned Inspectors, as
 389 adopted by rule of the department.

390 (4) TRAINING COURSE.-The department shall adopt by rule a
 391 2-hour training course on the requirements of this chapter and
 392 any related rules adopted by the department. The department
 393 shall make the training course available online and may make the
 394 course available in a classroom setting. A boiler insurance
 395 company may include the department's course as part of its in-
 396 house training of a boiler inspector student, in lieu of the
 397 student taking the online training course. A boiler insurance
 398 company that includes the department's course in its in-house
 399 training of a boiler inspector student must indicate that the
 400 student completed the training on an application filed with the
 401 department for certification of competency.

402 (5) EXAMINATION.-A person applying for a certificate of
 403 competency must have successfully passed the examination
 404 administered by the National Board of Boiler and Pressure Vessel
 405 Inspectors and be eligible to obtain a National Board
 406 commission.

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407 (6) ISSUANCE OF CERTIFICATE.—The chief boiler inspector
 408 must issue a certificate of competency to each person who is
 409 qualified under this section and who holds a commission from the
 410 National Board of Boiler and Pressure Vessel Inspectors.

411 (7) RENEWAL OF CERTIFICATE.—A certificate of competency
 412 expires on December 31 of each year and may be renewed upon the
 413 filing of a renewal application with the department. A secured
 414 electronic application must be used, if available on the
 415 department's website.

416 (8) RULES.—The department may adopt rules necessary to
 417 administer this section.

418 Section 6. Section 554.105, Florida Statutes, is amended to
 419 read:

420 554.105 Chief boiler inspector.—

421 (1) The Chief Financial Officer shall appoint a chief
 422 boiler inspector, who must have at least ~~shall have not less~~
 423 ~~than~~ 5 years' experience in the construction, installation,
 424 inspection, operation, maintenance, or repair of high pressure,
 425 high temperature water boilers and who must ~~shall~~ hold a
 426 commission from the National Board of Boiler and Pressure Vessel
 427 Inspectors or a certificate of competency from the department.

428 (2) The department, through the chief boiler inspector,
 429 shall administer the state boiler inspection program, and shall:

430 (a) Take all action necessary to enforce the State Boiler
 431 Code and the rules adopted pursuant to this chapter ~~ss.~~
 432 ~~554.1011-554.115.~~

433 (b) Keep a complete record on all boilers at public
 434 assembly locations. Such record must ~~shall~~ include the name of
 435 each boiler owner or user and the location, type, ~~dimensions,~~

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436 maximum allowable working pressure, age, ~~and~~ last recorded
 437 inspection of each boiler, and any other information necessary
 438 to expedite the certification process.

439 ~~(c) Publish and make available to anyone, upon request,~~
 440 ~~copies of the rules adopted pursuant to ss. 554.1011-554.115.~~

441 ~~(d)~~ Expend funds necessary to meet the expenses authorized
 442 by this chapter ~~ss. 554.1011-554.115~~, including the necessary
 443 travel expenses of the chief boiler inspector and deputy boiler
 444 inspectors, and the expenses incident to the maintenance of this
 445 ~~his or her~~ office.

446 Section 7. Section 554.106, Florida Statutes, is amended to
 447 read:

448 554.106 Deputy boiler inspectors.—

449 (1) The department shall employ deputy boiler inspectors
 450 who shall be responsible to the chief boiler inspector ~~and who~~
 451 ~~shall each hold a certificate of competency from the department.~~

452 (2) A deputy boiler inspector shall perform inspections of
 453 uninsured boilers that are subject to regulation under this
 454 chapter, in accordance with the inspection frequency set forth
 455 in s. 554.108. A deputy boiler inspector may also engage in
 456 public outreach activities of the department and conduct other
 457 duties as assigned by the chief boiler inspector.

458 Section 8. Section 554.107, Florida Statutes, is amended to
 459 read:

460 554.107 Special boiler inspectors.—

461 (1) Upon application by any authorized inspection agency
 462 ~~company licensed to insure boilers in this state~~, the chief
 463 boiler inspector shall issue a certificate of competency as a
 464 special boiler inspector to any inspector employed by the

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465 authorized inspection agency company, if provided that such
 466 boiler inspector satisfies the competency requirements for
 467 inspectors as provided in s. 554.104 s. 554.113. Special boiler
 468 inspectors shall perform inspections of insured boilers in
 469 accordance with the inspection frequency set forth in s.
 470 554.108.

471 (2) The certificate of competency of a special boiler
 472 inspector remains shall remain in effect only so long as the
 473 special boiler inspector is employed by an authorized inspection
 474 agency a company licensed to insure boilers in this state. Upon
 475 termination of employment with such company, such company a
 476 special inspector shall, in writing, notify the chief boiler
 477 inspector of such special boiler inspector's termination. Such
 478 notice must shall be given within 15 days following the date of
 479 termination.

480 Section 9. Subsections (1), (2), (4), and (5) of section
 481 554.108, Florida Statutes, are amended, and subsection (6) is
 482 added to that section, to read:

483 554.108 Inspection.—

484 (1) The inspection requirements of this chapter apply only
 485 to boilers located in public assembly locations. A potable hot
 486 water supply boiler with a heat input of 200,000 British thermal
 487 units (Btu) per hour and above, up to a heat input not exceeding
 488 400,000 Btu per hour, is exempt from inspection, but must be
 489 stamped with the A.S.M.E. code symbol "HLW" and the boiler's
 490 A.S.M.E data report must be filed as required under s.
 491 554.103(2) The only boilers required to be inspected under the
 492 provisions of ss. 554.1011 554.115 are boilers located in public
 493 assembly locations.

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494 (2) Each inspection of a boiler conducted pursuant to this
 495 chapter must ss. 554.1011-554.115 shall be made by the chief
 496 boiler inspector, a deputy boiler inspector, or a special boiler
 497 inspector. An owner, or the owner's designee, shall perform all
 498 operation, testing, manipulation of boiler controls and safety
 499 devices, removal of lagging, and disassembly of boiler
 500 components to allow the chief boiler inspector, deputy boiler
 501 inspector, or special boiler inspector to conduct inspections as
 502 required by this section.

503 (4) Each boiler subject to inspection must be inspected
 504 within 30 days after expiration of the boiler's certificate of
 505 operation. However, an inspection report must be received by the
 506 chief boiler inspector no later than 30 days after the projected
 507 expiration date of the certificate of operation. If, upon
 508 inspection, the chief boiler inspector, deputy boiler inspector,
 509 or special boiler inspector finds that a boiler is in violation
 510 of any provision of the State Boiler Code, the inspector must
 511 promptly notify the owner or user and state what repairs or
 512 other corrective measures are needed. Deputy boiler inspectors
 513 and special boiler inspectors shall file a written report, on a
 514 form adopted by rule of the department, on each certificate
 515 inspection with the chief boiler inspector within 15 days after
 516 the following such inspection. A certificate inspection report
 517 must list all violations of the State Boiler Code and any
 518 conditions that may adversely affect the operation of the
 519 boiler. A certificate inspection report filed by a special
 520 boiler inspector must include the fee for issuance of a
 521 certificate of operation as provided in s. 554.111(1)(c). The
 522 filing of reports of inspections, other than statutorily

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523 ~~required certificate~~ inspections, ~~is are~~ not required unless
 524 such inspections disclose that a boiler is in an unsafe
 525 condition. However, an inspection report must be filed for any
 526 inspection performed on a boiler with a previously identified
 527 code violation. The report must indicate whether the violation
 528 has been corrected. The agency responsible for conducting the
 529 inspection must perform followup inspections, not more often
 530 than every 4 months, of a previously identified code violation
 531 until it is corrected. Failure to conduct such followup
 532 inspections subjects the insurance carrier to the penalties
 533 provided in s. 554.114(4).

534 (5) Upon a determination by the chief boiler inspector
 535 determining that a boiler cannot be safely operated, is in an
 536 unsafe condition and poses an imminent danger to the public
 537 health, safety, and welfare, the chief inspector, a deputy
 538 inspector, or a special inspector may immediately order the
 539 boiler must immediately to be shut down. The chief boiler
 540 inspector or a deputy boiler inspector shall attach a tag to the
 541 boiler indicating that the boiler has been shut down due to an
 542 unsafe condition. The boiler must shall remain shut down until a
 543 reinspection by the chief boiler inspector or a deputy boiler a
 544 certified inspector determines that all violations have been
 545 corrected, that the boiler may be operated safely, and that a
 546 certificate of compliance has been issued. A boiler that may not
 547 be safely operated, as determined by the chief boiler inspector,
 548 is deemed to constitute an imminent danger to the public health,
 549 safety, and welfare.

550 (6) The department may adopt rules necessary to administer
 551 this section.

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552 Section 10. Section 554.1081, Florida Statutes, is created
 553 to read:

554 554.1081 Boiler inspections by insurance companies and
 555 local governmental agencies.—

556 (1) An insurance company insuring a boiler located in a
 557 public assembly location in this state shall inspect, or shall
 558 contract with an authorized inspection agency to inspect, the
 559 insured boiler. A boiler insurance company shall annually report
 560 to the department the name of any authorized inspection agency
 561 performing any required boiler inspections on its behalf and
 562 shall actively monitor insured boilers to ensure that
 563 inspections are conducted as required by this chapter.

564 (2) A county, municipality, town, or other governmental
 565 subdivision that has adopted into law the Boiler and Pressure
 566 Vessel Code of the A.S.M.E. and the National Board Inspection
 567 Code for the construction, installation, inspection,
 568 maintenance, and repair of boilers to regulate boilers in public
 569 assembly locations may inspect such boilers. All boiler
 570 inspections must be conducted by special boiler inspectors in
 571 accordance with this chapter.

572 Section 11. Section 554.109, Florida Statutes, is amended
 573 to read:

574 554.109 Exemptions.—

575 ~~(1) Any insurance company insuring a boiler located in a~~
 576 ~~public assembly location in this state shall inspect such boiler~~
 577 ~~so insured, and any county, city, town, or other governmental~~
 578 ~~subdivision which has adopted into law the Boiler and Pressure~~
 579 ~~Vessel Code of the American Society of Mechanical Engineers and~~
 580 ~~the National Board Inspection Code for the construction,~~

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581 ~~installation, inspection, maintenance, and repair of boilers,~~
 582 ~~regulating such boilers in public assembly locations, shall~~
 583 ~~inspect such boilers so regulated; provided that such inspection~~
 584 ~~shall be conducted by a special inspector licensed pursuant to~~
 585 ~~ss. 554.1011-554.115. Upon filing of a report of satisfactory~~
 586 ~~inspection with the department, such boiler is exempt from~~
 587 ~~inspection by the department.~~

588 ~~(2) The provisions of This chapter does shall not apply to~~
 589 ~~potable hot water supply boilers or lined storage water heaters~~
 590 ~~that which are directly fired with oil, gas, electricity, or~~
 591 ~~solar energy, provided that none of the following limitations is~~
 592 ~~are exceeded:~~

593 ~~(1)(a)~~ Heat input of 400,000 Btu per hour.

594 ~~(2)(b)~~ Water temperature of 210 degrees Fahrenheit.

595 ~~(3)(c)~~ Nominal water-containing capacity of 120 gallons.

596 ~~These exempt hot water supply boilers and lined storage water~~
 597 ~~heaters shall be equipped with safety relief valves conforming~~
 598 ~~to the requirements of the Boiler and Pressure Vessel Code of~~
 599 ~~the American Society of Mechanical Engineers and of the National~~
 600 ~~Board Inspection Code.~~

602 Section 12. Section 554.1101, Florida Statutes, is amended
 603 to read:

604 554.1101 Certificate of operation ~~compliance~~.-

605 (1) If an inspection report filed pursuant to s. 554.108
 606 shows a boiler to be in compliance with all applicable
 607 provisions of the State Boiler Code, the chief boiler inspector
 608 ~~must shall~~, upon receipt of the inspection fee, issue a
 609 certificate of operation ~~compliance~~ to the owner. Such

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610 certificate must shall bear the date of the inspection and
 611 specify the maximum pressure at which the boiler may be
 612 operated.

613 (2) The certificate for a power boiler or a high pressure,
 614 high temperature water boiler is valid for a period of 12 months
 615 from the date of the certificate inspection. The certificate for
 616 a heating boiler or a hot water supply boiler is valid for a
 617 period of 24 months from the date of the certificate inspection.
 618 The certificate must shall be posted under glass, or be
 619 similarly protected, in the room containing the boiler.

620 (3) A boiler insurance company shall notify the chief
 621 boiler inspector within 30 days after the issuance of a new or
 622 renewal boiler and machinery insurance policy, or the
 623 cancellation or nonrenewal of a boiler and machinery insurance
 624 policy, covering places of public assembly in this state.

625 (4) If the chief boiler inspector has knowledge that a
 626 boiler regulated under this chapter was covered by a boiler and
 627 machinery insurance policy after its most recent certification
 628 inspection, the certificateholder must, upon the request of the
 629 chief boiler inspector, submit its certificate of boiler and
 630 machinery insurance for the boiler if the department has not
 631 received the special boiler inspector's annual inspection report
 632 within 30 days after its due date.

633 Section 13. Section 554.111, Florida Statutes, is amended
 634 to read:

635 554.111 Fees.-

636 (1) The department shall charge the following fees:

637 (a) For an applicant for a certificate of competency, the
 638 initial application fee shall be \$50, and the annual renewal fee

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639 shall be \$30. The fee for examination shall be \$50.

640 (b) For certificate inspections conducted by the

641 department:

642 1. For power boilers and high pressure, high temperature

643 water boilers of:

644 4,000 square feet or less heating surface.....\$60

645 More than 4,000 square feet heating surface and less than 10,000

646 square feet of heating surface.....\$70

647 10,000 square feet or more heating surface.....\$90

648 2. For heating boilers:

649 Without a manhole.....\$40

650 With a manhole.....\$70

651 3. For hot water supply boilers.....\$40

652 (c) For issuance of a compliance certificate of operation

653 without a department inspection.....\$30

654 (d) Duplicate certificates or address

655 changes.....\$5

656 (e) An application for a boiler permit must include the

657 applicable certificate inspection fee provided in paragraph (b).

658 (2) Not more than an amount equal to one certificate

659 inspection fee may shall be charged or collected for any and all

660 boiler inspections in any inspection period, except as otherwise

661 provided in this chapter ss. 554.1011-554.115.

662 (a) When it is necessary to make a special trip to observe

663 the application of a hydrostatic test, an additional fee equal

664 to the fee for a certificate inspection of the boiler must shall

665 be charged.

666 (b) All other inspections, including shop inspections,

667 surveys, and inspections of secondhand boilers made by the chief

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668 boiler inspector or a deputy boiler inspector, must shall be

669 charged at the rate of not less than \$270 for one-half day of 4

670 hours, and \$500 for 1 full day of 8 hours, plus travel, hotel,

671 and incidental expenses in accordance with chapter 112.

672 (3) The chief boiler inspector shall deposit all fees or

673 finer received pursuant to this chapter ss. 554.1011-554.115

674 into the Insurance Regulatory Trust Fund.

675 Section 14. Sections 554.112 and 554.113, Florida Statutes,

676 are repealed.

677 Section 15. Section 554.114, Florida Statutes, is amended

678 to read:

679 554.114 Prohibitions; penalties.-

680 (1) A person may not:

681 (a) Operate a boiler at a public assembly location without

682 a valid certificate of operation compliance for that boiler;

683 (b) ~~Give false or forged information to the department or~~

684 ~~an inspector for the purpose of obtaining a certificate of~~

685 ~~compliance;~~

686 ~~(c) Use a certificate of operation compliance for any~~

687 ~~boiler other than for the boiler for which it was issued;~~

688 ~~(c)(d) Operate a boiler for which the certificate of~~

689 ~~operation compliance has been suspended, revoked, or not~~

690 ~~renewed;~~

691 ~~(e) Give false or forged information to the department for~~

692 ~~the purpose of obtaining a certificate of competence; or~~

693 ~~(d)(f) Inspect any boiler regulated under this chapter the~~

694 ~~provisions of ss. 554.1011-554.115 without having a valid~~

695 ~~certificate of competency.~~

696 (2) A boiler insurance company that fails to inspect or to

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697 have inspected, in accordance with this chapter, any boiler
 698 insured by the company and regulated under this chapter is
 699 subject to the penalties provided in subsection (4) Any person
 700 who violates this section is guilty of a misdemeanor of the
 701 second degree, punishable by fine as provided in s. 775.083.

702 (3) An authorized inspection agency that is under contract
 703 with a boiler insurance company and that fails to inspect, in
 704 accordance with this chapter, any boiler insured by the company
 705 and regulated under this chapter is subject to the penalties
 706 provided in subsection (4).

707 (4) A boiler insurance company, authorized inspection
 708 agency, or other person in violation of this section for more
 709 than 30 days shall pay a fine of \$10 per day for the first 10
 710 days of noncompliance, \$50 per day for the subsequent 20 days of
 711 noncompliance, and \$100 per day for each subsequent day over 20
 712 days of noncompliance.

713 Section 16. Section 554.115, Florida Statutes, is amended
 714 to read:

715 554.115 Disciplinary proceedings.—

716 (1) The department may deny, refuse to renew, suspend, or
 717 revoke a certificate of operation compliance upon proof that:

718 (a) The certificate has been obtained by fraud or
 719 misrepresentation;

720 (b) The boiler for which the certificate was issued cannot
 721 be operated safely; ~~or~~

722 (c) The person who received the certificate willfully or
 723 deliberately violated the State Boiler Code, this chapter, ~~or~~
 724 ~~ss. 554.1011-554.115~~ or any other rule adopted pursuant to this
 725 chapter; or ~~ss. 554.1011-554.115.~~

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726 (d) The owner of a boiler:

727 1. Operated a boiler at a public assembly location without
 728 a valid certificate of operation for that boiler;

729 2. Used a certificate of operation for a boiler other than
 730 the boiler for which the certificate of operation was issued;

731 3. Gave false or forged information to the department, to
 732 an authorized inspection agency, or to another boiler inspector
 733 for the purpose of obtaining a certificate of operation;

734 4. Operated a boiler after the certificate of operation for
 735 the boiler expired, was not renewed, or was suspended or
 736 revoked;

737 5. Operated a boiler that is in an unsafe condition; or

738 6. Operated a boiler in a manner that is contrary to the
 739 requirements of this chapter or any rule adopted under this
 740 chapter.

741 (2) The department may deny, refuse to renew, suspend, or
 742 revoke a certificate of competency upon proof that:

743 (a) The certificate was obtained by fraud or
 744 misrepresentation;

745 (b) The inspector to whom the certificate was issued is no
 746 longer qualified under this chapter ~~ss. 554.1011-554.115~~ to
 747 inspect boilers; or

748 (c) The boiler inspector:

749 1. ~~Operated a boiler at a public assembly location without~~
 750 ~~a valid certificate of compliance for that boiler;~~

751 2. ~~Gave false or forged information to the department, an~~
 752 ~~authorized inspection agency, or to another boiler inspector for~~
 753 ~~the purpose of obtaining a certificate of operation; or~~

754 ~~compliance;~~

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755 ~~3. Used a certificate of compliance for any boiler other~~
 756 ~~than the boiler for which it was issued.~~
 757 ~~4. Operated a boiler for which the certificate of~~
 758 ~~compliance has been suspended or revoked or has expired.~~
 759 ~~2.5. Inspected any boiler regulated under this chapter or~~
 760 ~~554.1011-554.115 without having obtained a valid certificate of~~
 761 ~~competency.~~
 762 ~~6. Operated a boiler that is in an unsafe condition, or~~
 763 ~~7. Operated a boiler in a manner that is contrary to the~~
 764 ~~requirements of this chapter or any rule adopted under this~~
 765 ~~chapter.~~
 766 (3) Each suspension of a certificate of operation
 767 compliance or certificate of competency shall continue in effect
 768 until all violations have been corrected and, for boiler safety
 769 violations, until the boiler has been inspected by an authorized
 770 inspector and shown to be in a safe working condition.
 771 ~~(4) A person in violation of this section who does not have~~
 772 ~~a valid certificate of competency shall be reported by the chief~~
 773 ~~inspector to the appropriate state attorney.~~
 774 ~~(5) A person in violation of this section who has a valid~~
 775 ~~certificate of competency is subject to administrative action by~~
 776 ~~the chief inspector.~~
 777 ~~(4)(6)~~ A revocation of a certificate of competency is
 778 permanent, and a revoked certificate of competency may not be
 779 reinstated or a new certificate of competency issued to the same
 780 person. A suspension of a certificate of competency continues in
 781 effect until all violations have been corrected. ~~A suspension of~~
 782 ~~a certificate of compliance for any boiler safety violation~~
 783 ~~continues in effect until the boiler has been inspected by an~~

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784 ~~authorized inspector and shown to be in safe working condition.~~
 785 Section 17. Section 554.1151, Florida Statutes, is created
 786 to read:
 787 554.1151 Administrative fine in lieu of or in addition to
 788 suspension, revocation, or refusal to renew a certificate of
 789 operation or competency.
 790 (1) If the department finds that one or more grounds exist
 791 for the suspension, revocation, or refusal to renew any
 792 certificate of operation or certificate of competency issued
 793 under this chapter, the department may, in its discretion, in
 794 lieu of or in addition to suspension or revocation or in lieu of
 795 refusal to renew, impose upon the certificateholder an
 796 administrative penalty in an amount up to \$500, or, if the
 797 department has found willful misconduct or willful violation on
 798 the part of the certificateholder, in an amount up to \$3,500.
 799 (2) The department may allow the certificateholder a
 800 reasonable period, no more than 30 days, within which to pay to
 801 the department the amount of the penalty so imposed. If the
 802 certificateholder fails to pay the penalty in its entirety to
 803 the department within the period so allowed, the certificate of
 804 that person must be suspended until the penalty is paid. If the
 805 certificateholder fails to pay the penalty in its entirety to
 806 the department within 90 days after the period so allowed, the
 807 certificate of that person must be revoked.
 808 Section 18. Section 554.116, Florida Statutes, is created
 809 to read:
 810 554.116 Report on insured losses.—A boiler insurance
 811 company that insures any boiler in this state must annually file
 812 a report with the chief boiler inspector, within 30 days after

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 813 the end of the previous calendar year, regarding claims paid by
 814 the insurer under policies insuring boilers in this state. The
 815 report must include the type of establishment in which the
 816 boiler was located, the location of the establishment, the
 817 amount of the loss, the apparent cause of the loss, and any
 818 other information that the department determines is not
 819 inconsistent with the intent of the safety objectives of the
 820 State Boiler Code. The department shall adopt a form by rule for
 821 submission of the report.

822 Section 19. Subsection (7) of section 624.307, Florida
 823 Statutes, is amended to read:

824 624.307 General powers; duties.—

825 (7) The department and office, within existing resources,
 826 may expend funds for the professional development of its
 827 employees, including, but not limited to, professional dues for
 828 employees who are required to be members of professional
 829 organizations; examinations leading to professional designations
 830 required for employment with the office; training courses and
 831 examinations provided through, and to ensure compliance with,
 832 the National Association of Insurance Commissioners; or other
 833 training courses related to the regulation of insurance.

834 Section 20. Present subsections (1), (2), and (3) and (4)
 835 through (19) of section 626.015, Florida Statutes, are
 836 redesignated as subsections (2), (3), and (4) and (6) through
 837 (21), respectively, present subsection (8) is amended, and new
 838 subsections (1) and (5) are added to that section, to read:

839 626.015 Definitions.—As used in this part:

840 (1) “Active participant” means a member in good standing of
 841 an association who attends 4 or more hours of association

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 842 meetings every year, not including any department-approved
 843 continuing education course.

844 (5) “Association” includes the Florida Association of
 845 Insurance Agents (FAIA), the National Association of Insurance
 846 and Financial Advisors (NAIFA), the Florida Association of
 847 Health Underwriters (FAHU), the Latin American Association of
 848 Insurance Agencies (LAAIA), the Florida Association of Public
 849 Insurance Adjusters (FAPIA), the Florida Bail Agents Association
 850 (FBAA), or the Professional Bail Agents of the United States
 851 (PBUS).

852 (10)~~(8)~~ “Insurance agency” means a business location at
 853 which an individual, firm, partnership, corporation,
 854 association, or other entity, other than an employee of the
 855 individual, firm, partnership, corporation, association, or
 856 other entity and other than an insurer as defined by s. 624.03
 857 or an adjuster as defined by subsection (2) ~~(1)~~, engages in any
 858 activity or employs individuals to engage in any activity which
 859 by law may be performed only by a licensed insurance agent.

860 Section 21. Section 626.207, Florida Statutes, is amended
 861 to read:

862 626.207 Disqualification of applicants and licensees;
 863 penalties against licensees; rulemaking authority.—

864 (1) For purposes of this section, the term or terms:

865 (a) “Applicant” means an individual applying for licensure
 866 or relicensure under this chapter, and an officer, director,
 867 majority owner, partner, manager, or other person who manages or
 868 controls an entity applying for licensure or relicensure under
 869 this chapter.

870 (c) “Financial services business” means any financial

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871 activity regulated by the Department of Financial Services, the
872 Office of Insurance Regulation, or the Office of Financial
873 Regulation.

874 ~~(b)(2) For purposes of this section, the terms~~ "Felony of
875 the first degree" and "capital felony" include all felonies
876 designated as such by the Florida Statutes, as well as any
877 felony so designated in the jurisdiction in which the plea is
878 entered or judgment is rendered.

879 (2)(3) An applicant who has been found guilty of or has
880 pleaded guilty or nolo contendere to any of the following
881 crimes, regardless of adjudication, is permanently barred from
882 licensure under this chapter: ~~commits~~

883 (a) A felony of the first degree;

884 (b) A capital felony;

885 (c) A felony involving money laundering, ~~fraud, or~~

886 (d) A felony embezzlement; or

887 (e) A felony directly related to the financial services
888 business ~~is permanently barred from applying for a license under~~
889 this part. This bar applies to convictions, guilty pleas, or
890 nolo contendere pleas, regardless of adjudication, by any
891 applicant, officer, director, majority owner, partner, manager,
892 or other person who manages or controls any applicant.

893 (3)(4) An applicant who has been found guilty of or has
894 pleaded guilty or nolo contendere to a crime ~~For all other~~
895 crimes not included in subsection (2), regardless of
896 adjudication, is subject to (3), the department shall adopt
897 rules establishing the process and application of disqualifying
898 periods that include:

899 (a) A 15-year disqualifying period for all felonies

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900 involving moral turpitude which ~~that~~ are not specifically
901 included in the permanent bar contained in subsection (2) ~~(3)~~.

902 (b) A 7-year disqualifying period for all felonies to which
903 neither the permanent bar in subsection (2) ~~(3)~~ nor the 15-year
904 disqualifying period in paragraph (a) applies.

905 (c) A 7-year disqualifying period for all misdemeanors
906 directly related to the financial services business.

907 (4)(5) The department shall adopt rules to administer this
908 section. The rules must provide ~~providing~~ for additional
909 disqualifying periods due to the commitment of multiple crimes
910 and may include other factors reasonably related to the
911 applicant's criminal history. The rules shall provide for
912 mitigating and aggravating factors. However, mitigation may not
913 result in a period of disqualification of less than 7 years and
914 may not mitigate the disqualifying periods in paragraphs (3) (b)
915 and (c) ~~(4)(b) and (e)~~.

916 (5)(6) For purposes of this section, the disqualifying
917 periods begin upon the applicant's final release from
918 supervision or upon completion of the applicant's criminal
919 sentence, including payment of fines, restitution, and court
920 costs for the crime for which the disqualifying period applies.
921 The department may not issue a license to an applicant unless
922 all related fines, court costs and fees, and court-ordered
923 restitution have been paid.

924 (6)(7) After the disqualifying period has ~~expired been met,~~
925 the burden is on the applicant to demonstrate that the applicant
926 has been rehabilitated, does not pose a risk to the insurance-
927 buying public, is fit and trustworthy to engage in the business
928 of insurance pursuant to s. 626.611(1)(g), and is otherwise

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929 qualified for licensure.

930 (7) Notwithstanding subsections (2) and (3), upon a grant
 931 of a pardon or the restoration of civil rights pursuant to
 932 chapter 940 and s. 8, Art. IV of the State Constitution with
 933 respect to a finding of guilt or a plea under subsection (2) or
 934 subsection (3), such finding or plea no longer bars or
 935 disqualifies the applicant from licensure under this chapter
 936 unless the clemency specifically excludes licensure in the
 937 financial services business; however, a pardon or restoration of
 938 civil rights does not require the department to award such
 939 license.

940 (8) The department shall adopt rules establishing specific
 941 penalties against licensees in accordance with ss. 626.641 and
 942 626.651 for violations of s. 626.611, s. 626.621, s. 626.8437,
 943 s. 626.844, s. 626.935, s. 634.181, s. 634.191, s. 634.320, s.
 944 634.321, s. 634.422, s. 634.423, s. 642.041, or s. 642.043. The
 945 purpose of the revocation or suspension is to provide a
 946 sufficient penalty to deter future violations of the Florida
 947 Insurance Code. The imposition of a revocation or the length of
 948 suspension shall be based on the type of conduct and the
 949 probability that the propensity to commit further illegal
 950 conduct has been overcome at the time of eligibility for
 951 relicensure. The length of suspension may be adjusted based on
 952 aggravating or mitigating factors, established by rule and
 953 consistent with this purpose.

954 (9) Section 112.011 does not apply to any applicants for
 955 licensure under the Florida Insurance Code, including, but not
 956 limited to, agents, agencies, adjusters, adjusting firms,
 957 customer representatives, or managing general agents.

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958 Section 22. Section 626.9954, Florida Statutes, is amended
 959 to read:

960 626.9954 Disqualification from registration.—

961 (1) As used in this section, the terms “felony of the first
 962 degree” and “capital felony” include all felonies so designated
 963 by the laws of this state, as well as any felony so designated
 964 in the jurisdiction in which the plea is entered or judgment is
 965 rendered.

966 (2) An applicant who has been found guilty of or has
 967 pleaded guilty or nolo contendere to the following crimes,
 968 regardless of adjudication, is permanently disqualified from
 969 registration under this part: ~~commits~~

970 (a) A felony of the first degree;

971 (b) A capital felony;

972 (c) A felony involving money laundering; ~~fraud, or~~

973 (d) A felony embezzlement; or

974 (e) A felony directly related to the financial services
 975 business ~~is permanently barred from applying for registration~~
 976 ~~under this part. This bar applies to convictions, guilty pleas,~~
 977 ~~or nolo contendere pleas, regardless of adjudication, by an~~
 978 ~~applicant.~~

979 (3) An applicant who has been found guilty of or has
 980 pleaded guilty or nolo contendere to a crime ~~For all other~~
 981 ~~crimes~~ not described in subsection (2), regardless of
 982 ~~adjudication, is subject to the department may adopt rules~~
 983 ~~establishing the process and application of disqualifying~~
 984 ~~periods including:~~

985 (a) A 15-year disqualifying period for all felonies
 986 involving moral turpitude which are not specifically included in

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987 subsection (2).

988 (b) A 7-year disqualifying period for all felonies not
989 specifically included in subsection (2) or paragraph (a).

990 (c) A 7-year disqualifying period for all misdemeanors
991 directly related to the financial services business.

992 (4) The department may adopt rules to administer this
993 section. The rules must provide for ~~providing~~ additional
994 disqualifying periods due to the commitment of multiple crimes
995 and may include other factors reasonably related to the
996 applicant's criminal history. The rules must provide for
997 mitigating and aggravating factors. However, mitigation may not
998 result in a disqualifying period of less than 7 years and may
999 not mitigate the disqualifying periods in paragraph (3) (b) or
1000 paragraph (3) (c).

1001 (5) For purposes of this section, the disqualifying periods
1002 begin upon the applicant's final release from supervision or
1003 upon completion of the applicant's criminal sentence, ~~including~~
1004 ~~the payment of fines, restitution, and court costs for the crime~~
1005 ~~for which the disqualifying period applies.~~ The department may
1006 not issue a registration to an applicant unless all related
1007 fines, court costs and fees, and court-ordered restitution have
1008 been paid.

1009 (6) After the disqualifying period has ~~expired been met,~~
1010 the burden is on the applicant to demonstrate to the
1011 satisfaction of the department that he or she has been
1012 rehabilitated and does not pose a risk to the insurance-buying
1013 public and is otherwise qualified for registration.

1014 (7) Notwithstanding subsections (2) and (3), upon a grant
1015 of a pardon or the restoration of civil rights pursuant to

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1016 chapter 940 and s. 8, Art. IV of the State Constitution with
1017 respect to a finding of guilt or a plea under subsection (2) or
1018 subsection (3), such finding or plea no longer bars or
1019 disqualifies the applicant from applying for registration under
1020 this part unless the clemency specifically excludes licensure or
1021 specifically excludes registration in the financial services
1022 business; however, a pardon or restoration of civil rights does
1023 not require the department to award such registration.

1024 ~~(8)(7)~~ Section 112.011 does not apply to an applicant for
1025 registration as a navigator.

1026 Section 23. Paragraph (a) of subsection (3) of section
1027 626.2815, Florida Statutes, is amended, and paragraph (j) is
1028 added to that subsection, to read:

1029 626.2815 Continuing education requirements.-

1030 (3) Each licensee except a title insurance agent must
1031 complete a 5-hour update course every 2 years which is specific
1032 to the license held by the licensee. The course must be
1033 developed and offered by providers and approved by the
1034 department. The content of the course must address all lines of
1035 insurance for which examination and licensure are required and
1036 include the following subject areas: insurance law updates,
1037 ethics for insurance professionals, disciplinary trends and case
1038 studies, industry trends, premium discounts, determining
1039 suitability of products and services, and other similar
1040 insurance-related topics the department determines are relevant
1041 to legally and ethically carrying out the responsibilities of
1042 the license granted. A licensee who holds multiple insurance
1043 licenses must complete an update course that is specific to at
1044 least one of the licenses held. Except as otherwise specified,

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1045 any remaining required hours of continuing education are
 1046 elective and may consist of any continuing education course
 1047 approved by the department under this section.

1048 (a) Except as provided in paragraphs (b), (c), (d), (e),
 1049 ~~and (i), and (j)~~, each licensee must also complete 19 hours of
 1050 elective continuing education courses every 2 years.

1051 (j) For a licensee who is an active participant in an
 1052 association, 2 hours of elective continuing education credit per
 1053 calendar year may be approved by the department, if properly
 1054 reported by the association.

1055 Section 24. Paragraph (n) of subsection (1) and subsection
 1056 (2) of section 626.611, Florida Statutes, are amended to read:

1057 626.611 Grounds for compulsory refusal, suspension, or
 1058 revocation of agent's, title agency's, adjuster's, customer
 1059 representative's, service representative's, or managing general
 1060 agent's license or appointment.—

1061 (1) The department shall deny an application for, suspend,
 1062 revoke, or refuse to renew or continue the license or
 1063 appointment of any applicant, agent, title agency, adjuster,
 1064 customer representative, service representative, or managing
 1065 general agent, and it shall suspend or revoke the eligibility to
 1066 hold a license or appointment of any such person, if it finds
 1067 that as to the applicant, licensee, or appointee any one or more
 1068 of the following applicable grounds exist:

1069 (n) Having been found guilty of or having pleaded guilty or
 1070 nolo contendere to a felony or a crime punishable by
 1071 imprisonment of 1 year or more under the law of the United
 1072 States of America or of any state thereof or under the law of
 1073 any other country ~~which involves moral turpitude~~, without regard

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1074 to whether a judgment of conviction has been entered by the
 1075 court having jurisdiction of such cases.

1076 (2) The department shall, upon receipt of information or an
 1077 indictment, immediately temporarily suspend a license or
 1078 appointment issued under this chapter when the licensee is
 1079 charged with a felony enumerated in s. 626.207(2) ~~s. 626.207(3)~~.
 1080 Such suspension shall continue if the licensee is found guilty
 1081 of, or pleads guilty or nolo contendere to, the crime,
 1082 regardless of whether a judgment or conviction is entered,
 1083 during a pending appeal. A person may not transact insurance
 1084 business after suspension of his or her license or appointment.

1085 Section 25. Subsection (8) of section 626.621, Florida
 1086 Statutes, is amended, and a new subsection (15) is added to that
 1087 section, to read:

1088 626.621 Grounds for discretionary refusal, suspension, or
 1089 revocation of agent's, adjuster's, customer representative's,
 1090 service representative's, or managing general agent's license or
 1091 appointment.—The department may, in its discretion, deny an
 1092 application for, suspend, revoke, or refuse to renew or continue
 1093 the license or appointment of any applicant, agent, adjuster,
 1094 customer representative, service representative, or managing
 1095 general agent, and it may suspend or revoke the eligibility to
 1096 hold a license or appointment of any such person, if it finds
 1097 that as to the applicant, licensee, or appointee any one or more
 1098 of the following applicable grounds exist under circumstances
 1099 for which such denial, suspension, revocation, or refusal is not
 1100 mandatory under s. 626.611:

1101 ~~(8) Having been found guilty of or having pleaded guilty or~~
 1102 ~~nolo contendere to a felony or a crime punishable by~~

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1103 ~~imprisonment of 1 year or more under the law of the United~~
 1104 ~~States of America or of any state thereof or under the law of~~
 1105 ~~any other country, without regard to whether a judgment of~~
 1106 ~~conviction has been entered by the court having jurisdiction of~~
 1107 ~~such cases.~~

1108 (15) Denial, suspension, or revocation of, or any other
 1109 adverse administrative action against, a license to practice or
 1110 conduct any regulated profession, business, or vocation by this
 1111 state, any other state, any nation, any possession or district
 1112 of the United States, any court, or any lawful agency thereof.

1113 Section 26. Subsection (2) of section 626.7845, Florida
 1114 Statutes, is amended to read:
 1115 626.7845 Prohibition against unlicensed transaction of life
 1116 insurance.-

1117 (2) Except as provided in s. 626.112(6), with respect to
 1118 any line of authority specified in s. 626.015(12) ~~or~~
 1119 ~~626.015(10)~~, an ~~no~~ individual may not shall, unless licensed as
 1120 a life agent:

1121 (a) Solicit insurance or annuities or procure applications;

1122 (b) In this state, engage or hold himself or herself out as
 1123 engaging in the business of analyzing or abstracting insurance
 1124 policies or of counseling or advising or giving opinions to
 1125 persons relative to insurance or insurance contracts, unless the
 1126 individual is other than:

1127 1. ~~As~~ A consulting actuary advising insurers ~~an insurer~~; or

1128 2. An employee ~~As to the counseling and advising of a labor~~
 1129 union, association, employer, or other business entity ~~labor~~
 1130 ~~unions, associations, trustees, employers, or other business~~
 1131 ~~entities, or~~ the subsidiaries and affiliates of each, who

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1132 counsels and advises such entity or entities relative to their
 1133 interests and those of their members or employees under
 1134 insurance benefit plans; or

1135 3. A trustee advising a settlor, a beneficiary, or a person
 1136 regarding his or her interests in a trust, relative to insurance
 1137 benefit plans; or

1138 (c) In this state, from this state, or with a resident of
 1139 this state, offer or attempt to negotiate on behalf of another
 1140 person a viatical settlement contract as defined in s. 626.9911.

1141 Section 27. Section 626.8305, Florida Statutes, is amended
 1142 to read:

1143 626.8305 Prohibition against the unlicensed transaction of
 1144 health insurance.-Except as provided in s. 626.112(6), with
 1145 respect to any line of authority specified in s. 626.015(8) ~~or~~
 1146 ~~626.015(6)~~, an ~~no~~ individual may not shall, unless licensed as a
 1147 health agent:

1148 (1) Solicit insurance or procure applications; or

1149 (2) In this state, engage or hold himself or herself out as
 1150 engaging in the business of analyzing or abstracting insurance
 1151 policies or of counseling or advising or giving opinions to
 1152 persons relative to insurance contracts, unless the individual
 1153 is other than:

1154 (a) ~~As~~ A consulting actuary advising insurers; ~~or~~

1155 (b) An employee ~~As to the counseling and advising of a~~
 1156 labor union, association, employer, or other business entity
 1157 ~~labor unions, associations, trustees, employers, or other~~
 1158 ~~business entities, or~~ the subsidiaries and affiliates of each,
 1159 who counsels and advises such entity or entities relative to
 1160 their interests and those of their members or employees under

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1161 insurance benefit plans; ~~or-~~

1162 (c) A trustee advising a settlor, a beneficiary, or a
 1163 person regarding his or her interests in a trust, relative to
 1164 insurance benefit plans.

1165 Section 28. Subsection (1) of section 626.861, Florida
 1166 Statutes, is amended to read:

1167 626.861 Insurer's officers, insurer's employees, reciprocal
 1168 insurer's representatives; adjustments by.-

1169 (1) ~~This part may not~~ ~~Nothing in this part shall~~ be
 1170 construed to prevent an executive officer of any insurer, ~~or~~ a
 1171 regularly salaried employee of an insurer handling claims with
 1172 respect to health insurance, a regular employee of an insurer
 1173 handling claims with respect to residential property when the
 1174 sublimit coverage does not exceed \$500, or the duly designated
 1175 attorney or agent authorized and acting for subscribers to
 1176 reciprocal insurers, from adjusting any claim loss or damage
 1177 under any insurance contract of such insurer.

1178 Section 29. Paragraph (c) of subsection (5) and subsection
 1179 (6) of section 626.9543, Florida Statutes, are amended to read:

1180 626.9543 Holocaust victims.-

1181 (5) PROOF OF A CLAIM.-Any insurer doing business in this
 1182 state, in receipt of a claim from a Holocaust victim or from a
 1183 beneficiary, descendant, or heir of a Holocaust victim, shall:

1184 (c) Permit claims irrespective of any statute of
 1185 limitations or notice requirements imposed by any insurance
 1186 policy issued, ~~provided the claim is submitted on or before July~~
 1187 ~~1, 2018.~~

1188 (6) STATUTE OF LIMITATIONS.-Notwithstanding any law or
 1189 agreement among the parties to an insurance policy to the

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1190 contrary, any action brought by Holocaust victims or by a
 1191 beneficiary, heir, or a descendant of a Holocaust victim seeking
 1192 proceeds of an insurance policy issued or in effect between 1920
 1193 and 1945, inclusive, ~~may shall~~ not be dismissed for failure to
 1194 comply with the applicable statute of limitations or laches
 1195 ~~provided the action is commenced on or before July 1, 2018.~~

1196 Section 30. Section 633.516, Florida Statutes, is amended
 1197 to read:

1198 633.516 Studies of Division to make study of firefighter
 1199 employee occupational diseases of firefighters or persons in
 1200 other fire-related fields.-The division may contract for
 1201 studies, subject to the availability of funding, of shall make a
 1202 continuous study of firefighter employee occupational diseases
 1203 of firefighters or persons in other fire-related fields and the
 1204 ways and means for the their control and prevention of such
 1205 occupational diseases. When such a study or another study that
 1206 is wholly or partly funded under an agreement, including a
 1207 contract or grant, with the department tracks a disease of an
 1208 individual firefighter or a person in another fire-related
 1209 field, the division may, with associated security measures,
 1210 release the confidential information, including a social
 1211 security number, of that individual to a party who has entered
 1212 into an agreement with the department and shall adopt rules
 1213 necessary for such control and prevention. For this purpose, the
 1214 division is authorized to cooperate with firefighter employers,
 1215 firefighter employees, and insurers and with the Department of
 1216 Health.

1217 Section 31. Paragraph (a) of subsection (6) and subsection
 1218 (7) of section 768.28, Florida Statutes, are amended to read:

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1219 768.28 Waiver of sovereign immunity in tort actions;
 1220 recovery limits; limitation on attorney fees; statute of
 1221 limitations; exclusions; indemnification; risk management
 1222 programs.—

1223 (6) (a) An action may not be instituted on a claim against
 1224 the state or one of its agencies or subdivisions unless the
 1225 claimant presents the claim in writing to the appropriate
 1226 agency, and also, except as to any claim against a municipality,
 1227 ~~or~~ the Florida Space Authority, or a subdivision of the state,
 1228 presents such claim in writing to the Department of Financial
 1229 Services, within 3 years after such claim accrues and the
 1230 Department of Financial Services or the appropriate agency
 1231 denies the claim in writing; except that, if:

1232 1. Such claim is for contribution pursuant to s. 768.31, it
 1233 must be so presented within 6 months after the judgment against
 1234 the tortfeasor seeking contribution has become final by lapse of
 1235 time for appeal or after appellate review or, if there is no
 1236 such judgment, within 6 months after the tortfeasor seeking
 1237 contribution has either discharged the common liability by
 1238 payment or agreed, while the action is pending against her or
 1239 him, to discharge the common liability; or

1240 2. Such action is for wrongful death, the claimant must
 1241 present the claim in writing to the Department of Financial
 1242 Services within 2 years after the claim accrues.

1243 (7) In actions brought pursuant to this section, process
 1244 shall be served upon the head of the agency concerned and also,
 1245 except as to a defendant municipality, ~~or~~ the Florida Space
 1246 Authority, or subdivision of the state, upon the Department of
 1247 Financial Services; and the department or the agency concerned

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1248 shall have 30 days within which to plead thereto.

1249 Section 32. Subsections (3) and (4) and paragraph (e) of
 1250 subsection (5) of section 288.706, Florida Statutes, are amended
 1251 to read:

1252 288.706 Florida Minority Business Loan Mobilization
 1253 Program.—

1254 (3) Notwithstanding ss. 215.422(15) and 216.181(16) ~~ss-~~
 1255 ~~215.422(14) and 216.181(16)~~, and pursuant to s. 216.351, under
 1256 the Florida Minority Business Loan Mobilization Program, a state
 1257 agency may disburse up to 10 percent of the base contract award
 1258 amount to assist a minority business enterprise vendor that is
 1259 awarded a state agency contract for goods or services in
 1260 obtaining working capital financing as provided in subsection
 1261 (5).

1262 (4) Notwithstanding ss. 215.422(15) and 216.181(16) ~~ss-~~
 1263 ~~215.422(14) and 216.181(16)~~, and pursuant to s. 216.351, in lieu
 1264 of applying for participation in the Florida Minority Business
 1265 Loan Mobilization Program, a minority business enterprise vendor
 1266 awarded a state agency contract for the performance of
 1267 professional services may apply with that contracting state
 1268 agency for up to 5 percent of the base contract award amount.
 1269 The contracting state agency may award such advance in order to
 1270 facilitate the performance of that contract.

1271 (5) The following Florida Minority Business Loan
 1272 Mobilization Program procedures apply to minority business
 1273 enterprise vendors for contracts awarded by a state agency for
 1274 construction or professional services or for the provision of
 1275 goods or services:

1276 (e) The following procedures shall apply when the minority

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1277 business enterprise is the prime contract vendor to the
1278 contracting state agency:

1279 1. Pursuant to s. 216.351, ss. 215.422(15) and 216.181(16)
1280 ~~the provisions of ss. 215.422(14) and 216.181(16)~~ do not apply
1281 to this paragraph.

1282 2. For construction contracts, the designated loan
1283 mobilization payment shall be disbursed when:

1284 a. The minority business enterprise prime contract vendor
1285 requests disbursement in the first application for payment.

1286 b. The contracting state agency has issued a notice to
1287 proceed and has approved the first application for payment.

1288 3. For contracts other than construction contracts, the
1289 designated loan mobilization payment shall be disbursed when:

1290 a. The minority business enterprise prime contract vendor
1291 requests disbursement by letter delivered to the contracting
1292 state agency after the execution of the contract but prior to
1293 the commencement of work.

1294 b. The contracting state agency has approved the minority
1295 business enterprise prime contract vendor's letter of request.

1296 4. The designated loan mobilization payment may be paid by
1297 the contracting state agency prior to the commencement of work.
1298 In order to ensure that the contract time provisions do not
1299 commence until the minority business enterprise prime contract
1300 vendor has adequate working capital, the contract documents may
1301 provide that the contract shall commence at such time as the
1302 contracting state agency releases the designated loan
1303 mobilization payment to the minority business enterprise prime
1304 contract vendor and participating financial institution pursuant
1305 to the working capital agreement.

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1306 Section 33. Section 626.7315, Florida Statutes, is amended
1307 to read:

1308 626.7315 Prohibition against the unlicensed transaction of
1309 general lines insurance.—With respect to any line of authority
1310 as defined in s. 626.015(7) ~~s. 626.015(5)~~, no individual shall,
1311 unless licensed as a general lines agent:

1312 (1) Solicit insurance or procure applications therefor;

1313 (2) In this state, receive or issue a receipt for any money
1314 on account of or for any insurer, or receive or issue a receipt
1315 for money from other persons to be transmitted to any insurer
1316 for a policy, contract, or certificate of insurance or any
1317 renewal thereof, even though the policy, certificate, or
1318 contract is not signed by him or her as agent or representative
1319 of the insurer, except as provided in s. 626.0428(1);

1320 (3) Directly or indirectly represent himself or herself to
1321 be an agent of any insurer or as an agent, to collect or forward
1322 any insurance premium, or to solicit, negotiate, effect,
1323 procure, receive, deliver, or forward, directly or indirectly,
1324 any insurance contract or renewal thereof or any endorsement
1325 relating to an insurance contract, or attempt to effect the
1326 same, of property or insurable business activities or interests,
1327 located in this state;

1328 (4) In this state, engage or hold himself or herself out as
1329 engaging in the business of analyzing or abstracting insurance
1330 policies or of counseling or advising or giving opinions, other
1331 than as a licensed attorney at law, relative to insurance or
1332 insurance contracts, for fee, commission, or other compensation,
1333 other than as a salaried bona fide full-time employee so
1334 counseling and advising his or her employer relative to the

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1335 insurance interests of the employer and of the subsidiaries or
1336 business affiliates of the employer;

1337 (5) In any way, directly or indirectly, make or cause to be
1338 made, or attempt to make or cause to be made, any contract of
1339 insurance for or on account of any insurer;

1340 (6) Solicit, negotiate, or in any way, directly or
1341 indirectly, effect insurance contracts, if a member of a
1342 partnership or association, or a stockholder, officer, or agent
1343 of a corporation which holds an agency appointment from any
1344 insurer; or

1345 (7) Receive or transmit applications for suretyship, or
1346 receive for delivery bonds founded on applications forwarded
1347 from this state, or otherwise procure suretyship to be effected
1348 by a surety insurer upon the bonds of persons in this state or
1349 upon bonds given to persons in this state.

1350 Section 34. Paragraph (c) of subsection (6) of section
1351 627.351, Florida Statutes, is amended to read:

1352 627.351 Insurance risk apportionment plans.—

1353 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

1354 (c) The corporation's plan of operation:

1355 1. Must provide for adoption of residential property and
1356 casualty insurance policy forms and commercial residential and
1357 nonresidential property insurance forms, which must be approved
1358 by the office before use. The corporation shall adopt the
1359 following policy forms:

1360 a. Standard personal lines policy forms that are
1361 comprehensive multiperil policies providing full coverage of a
1362 residential property equivalent to the coverage provided in the
1363 private insurance market under an HO-3, HO-4, or HO-6 policy.

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1364 b. Basic personal lines policy forms that are policies
1365 similar to an HO-8 policy or a dwelling fire policy that provide
1366 coverage meeting the requirements of the secondary mortgage
1367 market, but which is more limited than the coverage under a
1368 standard policy.

1369 c. Commercial lines residential and nonresidential policy
1370 forms that are generally similar to the basic perils of full
1371 coverage obtainable for commercial residential structures and
1372 commercial nonresidential structures in the admitted voluntary
1373 market.

1374 d. Personal lines and commercial lines residential property
1375 insurance forms that cover the peril of wind only. The forms are
1376 applicable only to residential properties located in areas
1377 eligible for coverage under the coastal account referred to in
1378 sub-subparagraph (b)2.a.

1379 e. Commercial lines nonresidential property insurance forms
1380 that cover the peril of wind only. The forms are applicable only
1381 to nonresidential properties located in areas eligible for
1382 coverage under the coastal account referred to in sub-
1383 subparagraph (b)2.a.

1384 f. The corporation may adopt variations of the policy forms
1385 listed in sub-subparagraphs a.-e. which contain more restrictive
1386 coverage.

1387 g. Effective January 1, 2013, the corporation shall offer a
1388 basic personal lines policy similar to an HO-8 policy with
1389 dwelling repair based on common construction materials and
1390 methods.

1391 2. Must provide that the corporation adopt a program in
1392 which the corporation and authorized insurers enter into quota

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1393 share primary insurance agreements for hurricane coverage, as
 1394 defined in s. 627.4025(2)(a), for eligible risks, and adopt
 1395 property insurance forms for eligible risks which cover the
 1396 peril of wind only.

1397 a. As used in this subsection, the term:

1398 (I) "Quota share primary insurance" means an arrangement in
 1399 which the primary hurricane coverage of an eligible risk is
 1400 provided in specified percentages by the corporation and an
 1401 authorized insurer. The corporation and authorized insurer are
 1402 each solely responsible for a specified percentage of hurricane
 1403 coverage of an eligible risk as set forth in a quota share
 1404 primary insurance agreement between the corporation and an
 1405 authorized insurer and the insurance contract. The
 1406 responsibility of the corporation or authorized insurer to pay
 1407 its specified percentage of hurricane losses of an eligible
 1408 risk, as set forth in the agreement, may not be altered by the
 1409 inability of the other party to pay its specified percentage of
 1410 losses. Eligible risks that are provided hurricane coverage
 1411 through a quota share primary insurance arrangement must be
 1412 provided policy forms that set forth the obligations of the
 1413 corporation and authorized insurer under the arrangement,
 1414 clearly specify the percentages of quota share primary insurance
 1415 provided by the corporation and authorized insurer, and
 1416 conspicuously and clearly state that the authorized insurer and
 1417 the corporation may not be held responsible beyond their
 1418 specified percentage of coverage of hurricane losses.

1419 (II) "Eligible risks" means personal lines residential and
 1420 commercial lines residential risks that meet the underwriting
 1421 criteria of the corporation and are located in areas that were

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1422 eligible for coverage by the Florida Windstorm Underwriting
 1423 Association on January 1, 2002.

1424 b. The corporation may enter into quota share primary
 1425 insurance agreements with authorized insurers at corporation
 1426 coverage levels of 90 percent and 50 percent.

1427 c. If the corporation determines that additional coverage
 1428 levels are necessary to maximize participation in quota share
 1429 primary insurance agreements by authorized insurers, the
 1430 corporation may establish additional coverage levels. However,
 1431 the corporation's quota share primary insurance coverage level
 1432 may not exceed 90 percent.

1433 d. Any quota share primary insurance agreement entered into
 1434 between an authorized insurer and the corporation must provide
 1435 for a uniform specified percentage of coverage of hurricane
 1436 losses, by county or territory as set forth by the corporation
 1437 board, for all eligible risks of the authorized insurer covered
 1438 under the agreement.

1439 e. Any quota share primary insurance agreement entered into
 1440 between an authorized insurer and the corporation is subject to
 1441 review and approval by the office. However, such agreement shall
 1442 be authorized only as to insurance contracts entered into
 1443 between an authorized insurer and an insured who is already
 1444 insured by the corporation for wind coverage.

1445 f. For all eligible risks covered under quota share primary
 1446 insurance agreements, the exposure and coverage levels for both
 1447 the corporation and authorized insurers shall be reported by the
 1448 corporation to the Florida Hurricane Catastrophe Fund. For all
 1449 policies of eligible risks covered under such agreements, the
 1450 corporation and the authorized insurer must maintain complete

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1451 and accurate records for the purpose of exposure and loss
 1452 reimbursement audits as required by fund rules. The corporation
 1453 and the authorized insurer shall each maintain duplicate copies
 1454 of policy declaration pages and supporting claims documents.

1455 g. The corporation board shall establish in its plan of
 1456 operation standards for quota share agreements which ensure that
 1457 there is no discriminatory application among insurers as to the
 1458 terms of the agreements, pricing of the agreements, incentive
 1459 provisions if any, and consideration paid for servicing policies
 1460 or adjusting claims.

1461 h. The quota share primary insurance agreement between the
 1462 corporation and an authorized insurer must set forth the
 1463 specific terms under which coverage is provided, including, but
 1464 not limited to, the sale and servicing of policies issued under
 1465 the agreement by the insurance agent of the authorized insurer
 1466 producing the business, the reporting of information concerning
 1467 eligible risks, the payment of premium to the corporation, and
 1468 arrangements for the adjustment and payment of hurricane claims
 1469 incurred on eligible risks by the claims adjuster and personnel
 1470 of the authorized insurer. Entering into a quota sharing
 1471 insurance agreement between the corporation and an authorized
 1472 insurer is voluntary and at the discretion of the authorized
 1473 insurer.

1474 3. May provide that the corporation may employ or otherwise
 1475 contract with individuals or other entities to provide
 1476 administrative or professional services that may be appropriate
 1477 to effectuate the plan. The corporation may borrow funds by
 1478 issuing bonds or by incurring other indebtedness, and shall have
 1479 other powers reasonably necessary to effectuate the requirements

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1480 of this subsection, including, without limitation, the power to
 1481 issue bonds and incur other indebtedness in order to refinance
 1482 outstanding bonds or other indebtedness. The corporation may
 1483 seek judicial validation of its bonds or other indebtedness
 1484 under chapter 75. The corporation may issue bonds or incur other
 1485 indebtedness, or have bonds issued on its behalf by a unit of
 1486 local government pursuant to subparagraph (q)2. in the absence
 1487 of a hurricane or other weather-related event, upon a
 1488 determination by the corporation, subject to approval by the
 1489 office, that such action would enable it to efficiently meet the
 1490 financial obligations of the corporation and that such
 1491 financings are reasonably necessary to effectuate the
 1492 requirements of this subsection. The corporation may take all
 1493 actions needed to facilitate tax-free status for such bonds or
 1494 indebtedness, including formation of trusts or other affiliated
 1495 entities. The corporation may pledge assessments, projected
 1496 recoveries from the Florida Hurricane Catastrophe Fund, other
 1497 reinsurance recoverables, policyholder surcharges and other
 1498 surcharges, and other funds available to the corporation as
 1499 security for bonds or other indebtedness. In recognition of s.
 1500 10, Art. I of the State Constitution, prohibiting the impairment
 1501 of obligations of contracts, it is the intent of the Legislature
 1502 that no action be taken whose purpose is to impair any bond
 1503 indenture or financing agreement or any revenue source committed
 1504 by contract to such bond or other indebtedness.

1505 4. Must require that the corporation operate subject to the
 1506 supervision and approval of a board of governors consisting of
 1507 nine individuals who are residents of this state and who are
 1508 from different geographical areas of the state, one of whom is

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1509 appointed by the Governor and serves solely to advocate on
 1510 behalf of the consumer. The appointment of a consumer
 1511 representative by the Governor is deemed to be within the scope
 1512 of the exemption provided in s. 112.313(7) (b) and is in addition
 1513 to the appointments authorized under sub-subparagraph a.

1514 a. The Governor, the Chief Financial Officer, the President
 1515 of the Senate, and the Speaker of the House of Representatives
 1516 shall each appoint two members of the board. At least one of the
 1517 two members appointed by each appointing officer must have
 1518 demonstrated expertise in insurance and be deemed to be within
 1519 the scope of the exemption provided in s. 112.313(7) (b). The
 1520 Chief Financial Officer shall designate one of the appointees as
 1521 chair. All board members serve at the pleasure of the appointing
 1522 officer. All members of the board are subject to removal at will
 1523 by the officers who appointed them. All board members, including
 1524 the chair, must be appointed to serve for 3-year terms beginning
 1525 annually on a date designated by the plan. However, for the
 1526 first term beginning on or after July 1, 2009, each appointing
 1527 officer shall appoint one member of the board for a 2-year term
 1528 and one member for a 3-year term. A board vacancy shall be
 1529 filled for the unexpired term by the appointing officer. The
 1530 Chief Financial Officer shall appoint a technical advisory group
 1531 to provide information and advice to the board in connection
 1532 with the board's duties under this subsection. The executive
 1533 director and senior managers of the corporation shall be engaged
 1534 by the board and serve at the pleasure of the board. Any
 1535 executive director appointed on or after July 1, 2006, is
 1536 subject to confirmation by the Senate. The executive director is
 1537 responsible for employing other staff as the corporation may

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1538 require, subject to review and concurrence by the board.

1539 b. The board shall create a Market Accountability Advisory
 1540 Committee to assist the corporation in developing awareness of
 1541 its rates and its customer and agent service levels in
 1542 relationship to the voluntary market insurers writing similar
 1543 coverage.

1544 (I) The members of the advisory committee consist of the
 1545 following 11 persons, one of whom must be elected chair by the
 1546 members of the committee: four representatives, one appointed by
 1547 the Florida Association of Insurance Agents, one by the Florida
 1548 Association of Insurance and Financial Advisors, one by the
 1549 Professional Insurance Agents of Florida, and one by the Latin
 1550 American Association of Insurance Agencies; three
 1551 representatives appointed by the insurers with the three highest
 1552 voluntary market share of residential property insurance
 1553 business in the state; one representative from the Office of
 1554 Insurance Regulation; one consumer appointed by the board who is
 1555 insured by the corporation at the time of appointment to the
 1556 committee; one representative appointed by the Florida
 1557 Association of Realtors; and one representative appointed by the
 1558 Florida Bankers Association. All members shall be appointed to
 1559 3-year terms and may serve for consecutive terms.

1560 (II) The committee shall report to the corporation at each
 1561 board meeting on insurance market issues which may include rates
 1562 and rate competition with the voluntary market; service,
 1563 including policy issuance, claims processing, and general
 1564 responsiveness to policyholders, applicants, and agents; and
 1565 matters relating to depopulation.

1566 5. Must provide a procedure for determining the eligibility

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1567 of a risk for coverage, as follows:

1568 a. Subject to s. 627.3517, with respect to personal lines
 1569 residential risks, if the risk is offered coverage from an
 1570 authorized insurer at the insurer's approved rate under a
 1571 standard policy including wind coverage or, if consistent with
 1572 the insurer's underwriting rules as filed with the office, a
 1573 basic policy including wind coverage, for a new application to
 1574 the corporation for coverage, the risk is not eligible for any
 1575 policy issued by the corporation unless the premium for coverage
 1576 from the authorized insurer is more than 15 percent greater than
 1577 the premium for comparable coverage from the corporation.
 1578 Whenever an offer of coverage for a personal lines residential
 1579 risk is received for a policyholder of the corporation at
 1580 renewal from an authorized insurer, if the offer is equal to or
 1581 less than the corporation's renewal premium for comparable
 1582 coverage, the risk is not eligible for coverage with the
 1583 corporation. If the risk is not able to obtain such offer, the
 1584 risk is eligible for a standard policy including wind coverage
 1585 or a basic policy including wind coverage issued by the
 1586 corporation; however, if the risk could not be insured under a
 1587 standard policy including wind coverage regardless of market
 1588 conditions, the risk is eligible for a basic policy including
 1589 wind coverage unless rejected under subparagraph 8. However, a
 1590 policyholder removed from the corporation through an assumption
 1591 agreement remains eligible for coverage from the corporation
 1592 until the end of the assumption period. The corporation shall
 1593 determine the type of policy to be provided on the basis of
 1594 objective standards specified in the underwriting manual and
 1595 based on generally accepted underwriting practices.

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1596 (I) If the risk accepts an offer of coverage through the
 1597 market assistance plan or through a mechanism established by the
 1598 corporation other than a plan established by s. 627.3518, before
 1599 a policy is issued to the risk by the corporation or during the
 1600 first 30 days of coverage by the corporation, and the producing
 1601 agent who submitted the application to the plan or to the
 1602 corporation is not currently appointed by the insurer, the
 1603 insurer shall:

1604 (A) Pay to the producing agent of record of the policy for
 1605 the first year, an amount that is the greater of the insurer's
 1606 usual and customary commission for the type of policy written or
 1607 a fee equal to the usual and customary commission of the
 1608 corporation; or

1609 (B) Offer to allow the producing agent of record of the
 1610 policy to continue servicing the policy for at least 1 year and
 1611 offer to pay the agent the greater of the insurer's or the
 1612 corporation's usual and customary commission for the type of
 1613 policy written.

1614 If the producing agent is unwilling or unable to accept
 1615 appointment, the new insurer shall pay the agent in accordance
 1616 with sub-sub-sub-subparagraph (A).

1618 (II) If the corporation enters into a contractual agreement
 1619 for a take-out plan, the producing agent of record of the
 1620 corporation policy is entitled to retain any unearned commission
 1621 on the policy, and the insurer shall:

1622 (A) Pay to the producing agent of record, for the first
 1623 year, an amount that is the greater of the insurer's usual and
 1624 customary commission for the type of policy written or a fee

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1625 equal to the usual and customary commission of the corporation;
1626 or

1627 (B) Offer to allow the producing agent of record to
1628 continue servicing the policy for at least 1 year and offer to
1629 pay the agent the greater of the insurer's or the corporation's
1630 usual and customary commission for the type of policy written.
1631

1632 If the producing agent is unwilling or unable to accept
1633 appointment, the new insurer shall pay the agent in accordance
1634 with sub-sub-sub-subparagraph (A).

1635 b. With respect to commercial lines residential risks, for
1636 a new application to the corporation for coverage, if the risk
1637 is offered coverage under a policy including wind coverage from
1638 an authorized insurer at its approved rate, the risk is not
1639 eligible for a policy issued by the corporation unless the
1640 premium for coverage from the authorized insurer is more than 15
1641 percent greater than the premium for comparable coverage from
1642 the corporation. Whenever an offer of coverage for a commercial
1643 lines residential risk is received for a policyholder of the
1644 corporation at renewal from an authorized insurer, if the offer
1645 is equal to or less than the corporation's renewal premium for
1646 comparable coverage, the risk is not eligible for coverage with
1647 the corporation. If the risk is not able to obtain any such
1648 offer, the risk is eligible for a policy including wind coverage
1649 issued by the corporation. However, a policyholder removed from
1650 the corporation through an assumption agreement remains eligible
1651 for coverage from the corporation until the end of the
1652 assumption period.

1653 (I) If the risk accepts an offer of coverage through the

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1654 market assistance plan or through a mechanism established by the
1655 corporation other than a plan established by s. 627.3518, before
1656 a policy is issued to the risk by the corporation or during the
1657 first 30 days of coverage by the corporation, and the producing
1658 agent who submitted the application to the plan or the
1659 corporation is not currently appointed by the insurer, the
1660 insurer shall:

1661 (A) Pay to the producing agent of record of the policy, for
1662 the first year, an amount that is the greater of the insurer's
1663 usual and customary commission for the type of policy written or
1664 a fee equal to the usual and customary commission of the
1665 corporation; or

1666 (B) Offer to allow the producing agent of record of the
1667 policy to continue servicing the policy for at least 1 year and
1668 offer to pay the agent the greater of the insurer's or the
1669 corporation's usual and customary commission for the type of
1670 policy written.

1671 If the producing agent is unwilling or unable to accept
1672 appointment, the new insurer shall pay the agent in accordance
1673 with sub-sub-sub-subparagraph (A).

1674 (II) If the corporation enters into a contractual agreement
1675 for a take-out plan, the producing agent of record of the
1676 corporation policy is entitled to retain any unearned commission
1677 on the policy, and the insurer shall:

1678 (A) Pay to the producing agent of record, for the first
1679 year, an amount that is the greater of the insurer's usual and
1680 customary commission for the type of policy written or a fee
1681 equal to the usual and customary commission of the corporation;
1682

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1683 or

1684 (B) Offer to allow the producing agent of record to
 1685 continue servicing the policy for at least 1 year and offer to
 1686 pay the agent the greater of the insurer's or the corporation's
 1687 usual and customary commission for the type of policy written.
 1688

1689 If the producing agent is unwilling or unable to accept
 1690 appointment, the new insurer shall pay the agent in accordance
 1691 with sub-sub-sub-subparagraph (A).

1692 c. For purposes of determining comparable coverage under
 1693 sub-subparagraphs a. and b., the comparison must be based on
 1694 those forms and coverages that are reasonably comparable. The
 1695 corporation may rely on a determination of comparable coverage
 1696 and premium made by the producing agent who submits the
 1697 application to the corporation, made in the agent's capacity as
 1698 the corporation's agent. A comparison may be made solely of the
 1699 premium with respect to the main building or structure only on
 1700 the following basis: the same coverage A or other building
 1701 limits; the same percentage hurricane deductible that applies on
 1702 an annual basis or that applies to each hurricane for commercial
 1703 residential property; the same percentage of ordinance and law
 1704 coverage, if the same limit is offered by both the corporation
 1705 and the authorized insurer; the same mitigation credits, to the
 1706 extent the same types of credits are offered both by the
 1707 corporation and the authorized insurer; the same method for loss
 1708 payment, such as replacement cost or actual cash value, if the
 1709 same method is offered both by the corporation and the
 1710 authorized insurer in accordance with underwriting rules; and
 1711 any other form or coverage that is reasonably comparable as

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1712 determined by the board. If an application is submitted to the
 1713 corporation for wind-only coverage in the coastal account, the
 1714 premium for the corporation's wind-only policy plus the premium
 1715 for the ex-wind policy that is offered by an authorized insurer
 1716 to the applicant must be compared to the premium for multiperil
 1717 coverage offered by an authorized insurer, subject to the
 1718 standards for comparison specified in this subparagraph. If the
 1719 corporation or the applicant requests from the authorized
 1720 insurer a breakdown of the premium of the offer by types of
 1721 coverage so that a comparison may be made by the corporation or
 1722 its agent and the authorized insurer refuses or is unable to
 1723 provide such information, the corporation may treat the offer as
 1724 not being an offer of coverage from an authorized insurer at the
 1725 insurer's approved rate.

1726 6. Must include rules for classifications of risks and
 1727 rates.

1728 7. Must provide that if premium and investment income for
 1729 an account attributable to a particular calendar year are in
 1730 excess of projected losses and expenses for the account
 1731 attributable to that year, such excess shall be held in surplus
 1732 in the account. Such surplus must be available to defray
 1733 deficits in that account as to future years and used for that
 1734 purpose before assessing assessable insurers and assessable
 1735 insureds as to any calendar year.

1736 8. Must provide objective criteria and procedures to be
 1737 uniformly applied to all applicants in determining whether an
 1738 individual risk is so hazardous as to be uninsurable. In making
 1739 this determination and in establishing the criteria and
 1740 procedures, the following must be considered:

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1741 a. Whether the likelihood of a loss for the individual risk
1742 is substantially higher than for other risks of the same class;
1743 and

1744 b. Whether the uncertainty associated with the individual
1745 risk is such that an appropriate premium cannot be determined.
1746

1747 The acceptance or rejection of a risk by the corporation shall
1748 be construed as the private placement of insurance, and the
1749 provisions of chapter 120 do not apply.

1750 9. Must provide that the corporation make its best efforts
1751 to procure catastrophe reinsurance at reasonable rates, to cover
1752 its projected 100-year probable maximum loss as determined by
1753 the board of governors.

1754 10. The policies issued by the corporation must provide
1755 that if the corporation or the market assistance plan obtains an
1756 offer from an authorized insurer to cover the risk at its
1757 approved rates, the risk is no longer eligible for renewal
1758 through the corporation, except as otherwise provided in this
1759 subsection.

1760 11. Corporation policies and applications must include a
1761 notice that the corporation policy could, under this section, be
1762 replaced with a policy issued by an authorized insurer which
1763 does not provide coverage identical to the coverage provided by
1764 the corporation. The notice must also specify that acceptance of
1765 corporation coverage creates a conclusive presumption that the
1766 applicant or policyholder is aware of this potential.

1767 12. May establish, subject to approval by the office,
1768 different eligibility requirements and operational procedures
1769 for any line or type of coverage for any specified county or

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1770 area if the board determines that such changes are justified due
1771 to the voluntary market being sufficiently stable and
1772 competitive in such area or for such line or type of coverage
1773 and that consumers who, in good faith, are unable to obtain
1774 insurance through the voluntary market through ordinary methods
1775 continue to have access to coverage from the corporation. If
1776 coverage is sought in connection with a real property transfer,
1777 the requirements and procedures may not provide an effective
1778 date of coverage later than the date of the closing of the
1779 transfer as established by the transferor, the transferee, and,
1780 if applicable, the lender.

1781 13. Must provide that, with respect to the coastal account,
1782 any assessable insurer with a surplus as to policyholders of \$25
1783 million or less writing 25 percent or more of its total
1784 countrywide property insurance premiums in this state may
1785 petition the office, within the first 90 days of each calendar
1786 year, to qualify as a limited apportionment company. A regular
1787 assessment levied by the corporation on a limited apportionment
1788 company for a deficit incurred by the corporation for the
1789 coastal account may be paid to the corporation on a monthly
1790 basis as the assessments are collected by the limited
1791 apportionment company from its insureds, but a limited
1792 apportionment company must begin collecting the regular
1793 assessments not later than 90 days after the regular assessments
1794 are levied by the corporation, and the regular assessments must
1795 be paid in full within 15 months after being levied by the
1796 corporation. A limited apportionment company shall collect from
1797 its policyholders any emergency assessment imposed under sub-
1798 subparagraph (b)3.d. The plan must provide that, if the office

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1799 determines that any regular assessment will result in an
 1800 impairment of the surplus of a limited apportionment company,
 1801 the office may direct that all or part of such assessment be
 1802 deferred as provided in subparagraph (q)4. However, an emergency
 1803 assessment to be collected from policyholders under sub-
 1804 subparagraph (b)3.d. may not be limited or deferred.

1805 14. Must provide that the corporation appoint as its
 1806 licensed agents only those agents who throughout such
 1807 appointments also hold an appointment as defined in s. 626.015
 1808 ~~s. 626.015(3)~~ by an insurer who is authorized to write and is
 1809 actually writing or renewing personal lines residential property
 1810 coverage, commercial residential property coverage, or
 1811 commercial nonresidential property coverage within the state.

1812 15. Must provide a premium payment plan option to its
 1813 policyholders which, at a minimum, allows for quarterly and
 1814 semiannual payment of premiums. A monthly payment plan may, but
 1815 is not required to, be offered.

1816 16. Must limit coverage on mobile homes or manufactured
 1817 homes built before 1994 to actual cash value of the dwelling
 1818 rather than replacement costs of the dwelling.

1819 17. Must provide coverage for manufactured or mobile home
 1820 dwellings. Such coverage must also include the following
 1821 attached structures:

1822 a. Screened enclosures that are aluminum framed or screened
 1823 enclosures that are not covered by the same or substantially the
 1824 same materials as those of the primary dwelling;

1825 b. Carports that are aluminum or carports that are not
 1826 covered by the same or substantially the same materials as those
 1827 of the primary dwelling; and

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1828 c. Patios that have a roof covering that is constructed of
 1829 materials that are not the same or substantially the same
 1830 materials as those of the primary dwelling.
 1831

1832 The corporation shall make available a policy for mobile homes
 1833 or manufactured homes for a minimum insured value of at least
 1834 \$3,000.

1835 18. May provide such limits of coverage as the board
 1836 determines, consistent with the requirements of this subsection.

1837 19. May require commercial property to meet specified
 1838 hurricane mitigation construction features as a condition of
 1839 eligibility for coverage.

1840 20. Must provide that new or renewal policies issued by the
 1841 corporation on or after January 1, 2012, which cover sinkhole
 1842 loss do not include coverage for any loss to appurtenant
 1843 structures, driveways, sidewalks, decks, or patios that are
 1844 directly or indirectly caused by sinkhole activity. The
 1845 corporation shall exclude such coverage using a notice of
 1846 coverage change, which may be included with the policy renewal,
 1847 and not by issuance of a notice of nonrenewal of the excluded
 1848 coverage upon renewal of the current policy.

1849 21. As of January 1, 2012, must require that the agent
 1850 obtain from an applicant for coverage from the corporation an
 1851 acknowledgment signed by the applicant, which includes, at a
 1852 minimum, the following statement:

1853
 1854 ACKNOWLEDGMENT OF POTENTIAL SURCHARGE
 1855 AND ASSESSMENT LIABILITY:
 1856

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1857 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE
 1858 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A
 1859 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,
 1860 MY POLICY COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND
 1861 PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE
 1862 POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH AS 45 PERCENT
 1863 OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA
 1864 LEGISLATURE.

1865 2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS POLICYHOLDER
 1866 SURCHARGE, WHICH COULD BE AS HIGH AS 45 PERCENT OF MY PREMIUM,
 1867 BY OBTAINING COVERAGE FROM A PRIVATE MARKET INSURER AND THAT TO
 1868 BE ELIGIBLE FOR COVERAGE BY CITIZENS, I MUST FIRST TRY TO OBTAIN
 1869 PRIVATE MARKET COVERAGE BEFORE APPLYING FOR OR RENEWING COVERAGE
 1870 WITH CITIZENS. I UNDERSTAND THAT PRIVATE MARKET INSURANCE RATES
 1871 ARE REGULATED AND APPROVED BY THE STATE.

1872 3. I UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY
 1873 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER
 1874 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE
 1875 FLORIDA LEGISLATURE.

1876 4. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE
 1877 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE
 1878 STATE OF FLORIDA.

1879
 1880 a. The corporation shall maintain, in electronic format or
 1881 otherwise, a copy of the applicant's signed acknowledgment and
 1882 provide a copy of the statement to the policyholder as part of
 1883 the first renewal after the effective date of this subparagraph.

1884 b. The signed acknowledgment form creates a conclusive
 1885 presumption that the policyholder understood and accepted his or

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1886 her potential surcharge and assessment liability as a
 1887 policyholder of the corporation.

1888 Section 35. This act shall take effect July 1, 2017.

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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)

3-14-17

Meeting Date

SB 906

Bill Number (if applicable)

Topic Dept. Financial Services

Amendment Barcode (if applicable)

Name Elizabeth Boyd

Job Title Legislative Affairs Director

Address 400 N. Monroe St
Street

Phone 850-413-2863

Tallahassee FL 32399
City State Zip

Email elizabeth.boyde@myfloridagov.com

Speaking: For Against Information

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

Representing CFO Atwater

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)

3/14/17

Meeting Date

986

Bill Number (if applicable)

Topic Department of Financial Services

Amendment Barcode (if applicable)

Name Eric Prutsman

Job Title Florida Fire Chiefs Association

Address P. O. Box 10448

Phone 850-210-2525

Street

Tallahassee FL 32302

City

State

Zip

Email eric@prutsmanlw.com

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.

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

S-001 (10/14/14)

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 1108

INTRODUCER: Senator Artiles

SUBJECT: Public Records/Firefighters and their Spouses and Children

DATE: March 13, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Knudson	Knudson	BI	Favorable
2.			GO	
3.			RC	

I. Summary:

SB 1108 expands to former firefighters the existing public records exemption in s. 119.071(4)(d)2.b., F.S., for personal identifying information of firefighters, their spouses, and children. The records exempted are their home addresses, telephone numbers, dates of birth, photographs, places of employment, and the names and locations of schools and day care facilities attended by the children of firefighters.

The public records exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.15, F.S. The exemption will stand repealed on October 2, 2022, unless the Legislature reviews the exemption and saves it from repeal through reenactment.

II. Present Situation:

Public Records Law

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 This 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

¹ FLA. CONST., art. I, s. 24(a).

² FLA. CONST., art. I, s. 24(a).

In addition to the Florida Constitution, the Florida Statutes provides that the public may access legislative and executive branch records.³ Chapter 119, F.S., constitutes the main body of public records laws, and is known as the Public Records Act.⁴ The Public Records Act states that:

it is the policy of this state that all state, county and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁵

According to the Public Records Act, 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 public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate or formalize knowledge of some type.”⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

The Legislature may create an exemption to public records requirements.⁹ An exemption must pass by a two-thirds vote of the House and the Senate.¹⁰ In addition, an exemption must explicitly lay out the public necessity justifying the exemption, and the exemption must be no broader than necessary to accomplish the stated purpose of the exemption.¹¹ A statutory exemption which does not meet these criteria may be unconstitutional and may not be judicially saved.¹²

When creating a public records exemption, the Legislature may provide that a record is ‘confidential and exempt’ or ‘exempt.’¹³ Records designated as ‘confidential and exempt’ may

³ The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So.2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So.2d 255 (Fla. 1995). The Legislature’s records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislatures are primarily located in s. 11.0431(2)-(3), F.S.

⁴ Public records laws are found throughout the Florida Statutes.

⁵ Section 119.01(1), F.S.

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.” Section 119.011(2), F.S., defines “agency” to mean 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.”

⁷ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So.2d 633, 640 (Fla. 1980).

⁸ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

⁹ FLA. CONST., art. I, s. 24(c).

¹⁰ FLA. CONST., art. I, s. 24(c).

¹¹ FLA. CONST., art. I, s. 24(c).

¹² *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So.2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found 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. *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption in order to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So.2d 189 (Fla. 1st DCA 2004), the court found that the intent of a statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

¹³ If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48 (Fla. 5th DCA 2004).

be released by the records custodian only under the circumstances defined by the Legislature. Records designated as ‘exempt’ may be released at the discretion of the records custodian.¹⁴

Open Government Sunset Review Act

In addition to the constitutional requirements relating to the enactment of a public records exemption, the Legislature may subject the new or broadened exemption to the Open Government Sunset Review Act (OGSR).

The OGSR prescribes a legislative review process for newly created or substantially amended public records.¹⁵ The OGSR provides that an exemption automatically repeals on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption.¹⁶ In practice, many exemptions are continued by repealing the sunset date rather than reenacting the exemption.

Public Records Exemption for Agency Personnel Information

Section 119.071, F.S., exempts, or holds confidential and exempt, specified records held by various state entities from the disclosure requirements of s. 119.07(1), F.S., and s. 24(a), Art. I of the Florida Constitution. One category of record that is exempt, or confidential and exempt, from public disclosure is specific governmental agency personnel information. The public records exemptions include:¹⁷

- Social security numbers of all current and former agency employees held by the employing agency is confidential and exempt.
- Medical information pertaining to a prospective, current, or former officer or employee of an agency that would identify that person is exempt.
- Personal identifying information of a dependent child of a current or former officer or employee, if the child is insured by an agency group insurance plan, is exempt.
- Information revealing undercover personnel of any criminal justice agency is exempt.
- The personal identifying information of:¹⁸
 - Active or former specified law enforcement personnel.
 - Firefighters.
 - Current or former justices of the Florida Supreme Court, district court of appeal judges, circuit court judges, and county court judges.
 - Current or former state attorneys, assistant state attorneys, statewide prosecutors, and assistant statewide prosecutors.
 - General magistrates, special magistrates, judges of compensation claims, administrative law judges, and child support enforcement hearing officers.

¹⁴ A record classified as exempt from public disclosure may be disclosed under certain circumstances. *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991).

¹⁵ Section 119.15, F.S. According to s. 119.15(4)(b), F.S., a substantially amended exemption is one that is expanded to include more information or to include meetings. The OGSR does not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System pursuant to s. 119.15(2), F.S. The OGSR process is currently being followed, however, the Legislature is not required to continue to do so. The Florida Supreme Court has found that one Legislature cannot bind a future Legislature. *Scott v. Williams*, 107 So.3d 379 (Fla. 2013).

¹⁶ Section 119.15(3), F.S.

¹⁷ Section 119.171(4), F.S.

¹⁸ These exemption often include personal identifying information of spouses and children.

- Current or former human resource, labor relations, or employee relations directors, assistant directors, managers, or assistant managers of any local government agency or water management district who have specified duties.
- Current or former code enforcement officers.
- Current or former guardians ad litem.
- Current or former juvenile probation officers, juvenile probation supervisors, detention superintendents, assistant detention superintendents, and other specified, related persons.
- Current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel.
- Current or former investigators or inspectors of the Department of Business and Professional Regulation.
- County tax collectors.
- Current or former specified personnel of the Department of Health.
- Current or former impaired practitioner consultants and their employees retained by an agency to determine a person's skill and safety to practice a profession.
- Current or former emergency medical technicians or certified paramedics.
- Current or former employees of an agency's office of inspector general or internal audit department.

III. Effect of Proposed Changes:

Section 1 expands to former firefighters the existing public records exemption in s. 119.071(4)(d)2.b., F.S., for personal identifying information of firefighters, their spouses, and children. The records exempted are their home addresses, telephone numbers, dates of birth, photographs, places of employment, and the names and locations of schools and day care facilities attended by the children of firefighters.

The public records exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.15, F.S. The exemption will stand repealed on October 2, 2022, unless the Legislature reviews and saves it from repeal through reenactment.

Section 2 contains legislative findings that the expansion of the public records exemption is a public necessity. The findings note that personal identifying information of other types of former first responders, such as law enforcement, are currently exempt from public disclosure. The bill also states firefighters often respond to emergency situations such as domestic violence and homicide, and the release of their personal identifying and location information may place former firefighters and their families in danger of physical or emotional harm by hostile individuals.

Section 3 provides the bill is effective upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Article I, s. 24(c), of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public records exemption.

C. Trust Funds Restrictions:

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 119.071 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.

By Senator Artiles

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1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 119.071, F.S.; expanding an exemption from public
 4 records requirements for the personal identifying and
 5 location information of certain firefighters and their
 6 spouses and children to include the personal
 7 identifying and location information of former
 8 firefighters and their spouses and children; providing
 9 for future legislative review and repeal of the
 10 exemption; providing a statement of public necessity;
 11 providing an effective date.
 12
 13 Be It Enacted by the Legislature of the State of Florida:
 14
 15 Section 1. Paragraph (d) of subsection (4) of section
 16 119.071, Florida Statutes, is amended to read:
 17 119.071 General exemptions from inspection or copying of
 18 public records.—
 19 (4) AGENCY PERSONNEL INFORMATION.—
 20 (d)1. For purposes of this paragraph, the term “telephone
 21 numbers” includes home telephone numbers, personal cellular
 22 telephone numbers, personal pager telephone numbers, and
 23 telephone numbers associated with personal communications
 24 devices.
 25 2.a.(I) The home addresses, telephone numbers, social
 26 security numbers, dates of birth, and photographs of active or
 27 former sworn or civilian law enforcement personnel, including
 28 correctional and correctional probation officers, personnel of
 29 the Department of Children and Families whose duties include the

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30 investigation of abuse, neglect, exploitation, fraud, theft, or
 31 other criminal activities, personnel of the Department of Health
 32 whose duties are to support the investigation of child abuse or
 33 neglect, and personnel of the Department of Revenue or local
 34 governments whose responsibilities include revenue collection
 35 and enforcement or child support enforcement; the home
 36 addresses, telephone numbers, social security numbers,
 37 photographs, dates of birth, and places of employment of the
 38 spouses and children of such personnel; and the names and
 39 locations of schools and day care facilities attended by the
 40 children of such personnel are exempt from s. 119.07(1).
 41 (II) The names of the spouses and children of active or
 42 former sworn or civilian law enforcement personnel and the other
 43 specified agency personnel identified in sub-sub-subparagraph
 44 (I) are exempt from s. 119.07(1) and s. 24(a), Art. I of the
 45 State Constitution.
 46 (III) Sub-sub-subparagraph (II) is subject to the Open
 47 Government Sunset Review Act in accordance with s. 119.15, and
 48 shall stand repealed on October 2, 2018, unless reviewed and
 49 saved from repeal through reenactment by the Legislature.
 50 (IV) The home addresses, telephone numbers, dates of birth,
 51 and photographs of current or former nonsworn investigative
 52 personnel of the Department of Financial Services whose duties
 53 include the investigation of fraud, theft, workers' compensation
 54 coverage requirements and compliance, other related criminal
 55 activities, or state regulatory requirement violations; the
 56 names, home addresses, telephone numbers, dates of birth, and
 57 places of employment of the spouses and children of such
 58 personnel; and the names and locations of schools and day care

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 59 facilities attended by the children of such personnel are exempt
 60 from s. 119.07(1) and s. 24(a), Art. I of the State
 61 Constitution. This sub-sub-subparagraph is subject to the Open
 62 Government Sunset Review Act in accordance with s. 119.15 and
 63 shall stand repealed on October 2, 2021, unless reviewed and
 64 saved from repeal through reenactment by the Legislature.

b. The home addresses, telephone numbers, dates of birth,
 66 and photographs of current or former firefighters certified in
 67 compliance with s. 633.408; the home addresses, telephone
 68 numbers, photographs, dates of birth, and places of employment
 69 of the spouses and children of such firefighters; and the names
 70 and locations of schools and day care facilities attended by the
 71 children of such firefighters are exempt from s. 119.07(1) and
 72 s. 24(a), Art. I of the State Constitution. This sub-
 73 subparagraph is subject to the Open Government Sunset Review Act
 74 in accordance with s. 119.15, and shall stand repealed on
 75 October 2, 2022, unless reviewed and saved from repeal through
 76 reenactment by the Legislature.

c. The home addresses, dates of birth, and telephone
 78 numbers of current or former justices of the Supreme Court,
 79 district court of appeal judges, circuit court judges, and
 80 county court judges; the home addresses, telephone numbers,
 81 dates of birth, and places of employment of the spouses and
 82 children of current or former justices and judges; and the names
 83 and locations of schools and day care facilities attended by the
 84 children of current or former justices and judges are exempt
 85 from s. 119.07(1).

d. (I) The home addresses, telephone numbers, social
 87 security numbers, dates of birth, and photographs of current or

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 88 former state attorneys, assistant state attorneys, statewide
 89 prosecutors, or assistant statewide prosecutors; the home
 90 addresses, telephone numbers, social security numbers,
 91 photographs, dates of birth, and places of employment of the
 92 spouses and children of current or former state attorneys,
 93 assistant state attorneys, statewide prosecutors, or assistant
 94 statewide prosecutors; and the names and locations of schools
 95 and day care facilities attended by the children of current or
 96 former state attorneys, assistant state attorneys, statewide
 97 prosecutors, or assistant statewide prosecutors are exempt from
 98 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(II) The names of the spouses and children of current or
 100 former state attorneys, assistant state attorneys, statewide
 101 prosecutors, or assistant statewide prosecutors are exempt from
 102 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(III) Sub-sub-subparagraph (II) is subject to the Open
 104 Government Sunset Review Act in accordance with s. 119.15, and
 105 shall stand repealed on October 2, 2018, unless reviewed and
 106 saved from repeal through reenactment by the Legislature.

e. The home addresses, dates of birth, and telephone
 108 numbers of general magistrates, special magistrates, judges of
 109 compensation claims, administrative law judges of the Division
 110 of Administrative Hearings, and child support enforcement
 111 hearing officers; the home addresses, telephone numbers, dates
 112 of birth, and places of employment of the spouses and children
 113 of general magistrates, special magistrates, judges of
 114 compensation claims, administrative law judges of the Division
 115 of Administrative Hearings, and child support enforcement
 116 hearing officers; and the names and locations of schools and day

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117 care facilities attended by the children of general magistrates,
 118 special magistrates, judges of compensation claims,
 119 administrative law judges of the Division of Administrative
 120 Hearings, and child support enforcement hearing officers are
 121 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 122 Constitution if the general magistrate, special magistrate,
 123 judge of compensation claims, administrative law judge of the
 124 Division of Administrative Hearings, or child support hearing
 125 officer provides a written statement that the general
 126 magistrate, special magistrate, judge of compensation claims,
 127 administrative law judge of the Division of Administrative
 128 Hearings, or child support hearing officer has made reasonable
 129 efforts to protect such information from being accessible
 130 through other means available to the public.

131 f. The home addresses, telephone numbers, dates of birth,
 132 and photographs of current or former human resource, labor
 133 relations, or employee relations directors, assistant directors,
 134 managers, or assistant managers of any local government agency
 135 or water management district whose duties include hiring and
 136 firing employees, labor contract negotiation, administration, or
 137 other personnel-related duties; the names, home addresses,
 138 telephone numbers, dates of birth, and places of employment of
 139 the spouses and children of such personnel; and the names and
 140 locations of schools and day care facilities attended by the
 141 children of such personnel are exempt from s. 119.07(1) and s.
 142 24(a), Art. I of the State Constitution.

143 g. The home addresses, telephone numbers, dates of birth,
 144 and photographs of current or former code enforcement officers;
 145 the names, home addresses, telephone numbers, dates of birth,

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146 and places of employment of the spouses and children of such
 147 personnel; and the names and locations of schools and day care
 148 facilities attended by the children of such personnel are exempt
 149 from s. 119.07(1) and s. 24(a), Art. I of the State
 150 Constitution.

151 h. The home addresses, telephone numbers, places of
 152 employment, dates of birth, and photographs of current or former
 153 guardians ad litem, as defined in s. 39.820; the names, home
 154 addresses, telephone numbers, dates of birth, and places of
 155 employment of the spouses and children of such persons; and the
 156 names and locations of schools and day care facilities attended
 157 by the children of such persons are exempt from s. 119.07(1) and
 158 s. 24(a), Art. I of the State Constitution, if the guardian ad
 159 litem provides a written statement that the guardian ad litem
 160 has made reasonable efforts to protect such information from
 161 being accessible through other means available to the public.

162 i. The home addresses, telephone numbers, dates of birth,
 163 and photographs of current or former juvenile probation
 164 officers, juvenile probation supervisors, detention
 165 superintendents, assistant detention superintendents, juvenile
 166 justice detention officers I and II, juvenile justice detention
 167 officer supervisors, juvenile justice residential officers,
 168 juvenile justice residential officer supervisors I and II,
 169 juvenile justice counselors, juvenile justice counselor
 170 supervisors, human services counselor administrators, senior
 171 human services counselor administrators, rehabilitation
 172 therapists, and social services counselors of the Department of
 173 Juvenile Justice; the names, home addresses, telephone numbers,
 174 dates of birth, and places of employment of spouses and children

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175 of such personnel; and the names and locations of schools and
 176 day care facilities attended by the children of such personnel
 177 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 178 Constitution.

179 j. (I) The home addresses, telephone numbers, dates of
 180 birth, and photographs of current or former public defenders,
 181 assistant public defenders, criminal conflict and civil regional
 182 counsel, and assistant criminal conflict and civil regional
 183 counsel; the home addresses, telephone numbers, dates of birth,
 184 and places of employment of the spouses and children of such
 185 defenders or counsel; and the names and locations of schools and
 186 day care facilities attended by the children of such defenders
 187 or counsel are exempt from s. 119.07(1) and s. 24(a), Art. I of
 188 the State Constitution.

189 (II) The names of the spouses and children of the specified
 190 agency personnel identified in sub-sub-subparagraph (I) are
 191 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 192 Constitution. This sub-sub-subparagraph is subject to the Open
 193 Government Sunset Review Act in accordance with s. 119.15 and
 194 shall stand repealed on October 2, 2019, unless reviewed and
 195 saved from repeal through reenactment by the Legislature.

196 k. The home addresses, telephone numbers, and photographs
 197 of current or former investigators or inspectors of the
 198 Department of Business and Professional Regulation; the names,
 199 home addresses, telephone numbers, and places of employment of
 200 the spouses and children of such current or former investigators
 201 and inspectors; and the names and locations of schools and day
 202 care facilities attended by the children of such current or
 203 former investigators and inspectors are exempt from s. 119.07(1)

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204 and s. 24(a), Art. I of the State Constitution if the
 205 investigator or inspector has made reasonable efforts to protect
 206 such information from being accessible through other means
 207 available to the public. This sub-subparagraph is subject to the
 208 Open Government Sunset Review Act in accordance with s. 119.15
 209 and shall stand repealed on October 2, 2017, unless reviewed and
 210 saved from repeal through reenactment by the Legislature.

211 l. The home addresses and telephone numbers of county tax
 212 collectors; the names, home addresses, telephone numbers, and
 213 places of employment of the spouses and children of such tax
 214 collectors; and the names and locations of schools and day care
 215 facilities attended by the children of such tax collectors are
 216 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 217 Constitution if the county tax collector has made reasonable
 218 efforts to protect such information from being accessible
 219 through other means available to the public. This sub-
 220 subparagraph is subject to the Open Government Sunset Review Act
 221 in accordance with s. 119.15 and shall stand repealed on October
 222 2, 2017, unless reviewed and saved from repeal through
 223 reenactment by the Legislature.

224 m. The home addresses, telephone numbers, dates of birth,
 225 and photographs of current or former personnel of the Department
 226 of Health whose duties include, or result in, the determination
 227 or adjudication of eligibility for social security disability
 228 benefits, the investigation or prosecution of complaints filed
 229 against health care practitioners, or the inspection of health
 230 care practitioners or health care facilities licensed by the
 231 Department of Health; the names, home addresses, telephone
 232 numbers, dates of birth, and places of employment of the spouses

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233 and children of such personnel; and the names and locations of
 234 schools and day care facilities attended by the children of such
 235 personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of
 236 the State Constitution if the personnel have made reasonable
 237 efforts to protect such information from being accessible
 238 through other means available to the public. This sub-
 239 subparagraph is subject to the Open Government Sunset Review Act
 240 in accordance with s. 119.15 and shall stand repealed on October
 241 2, 2019, unless reviewed and saved from repeal through
 242 reenactment by the Legislature.

243 n. The home addresses, telephone numbers, dates of birth,
 244 and photographs of current or former impaired practitioner
 245 consultants who are retained by an agency or current or former
 246 employees of an impaired practitioner consultant whose duties
 247 result in a determination of a person's skill and safety to
 248 practice a licensed profession; the names, home addresses,
 249 telephone numbers, dates of birth, and places of employment of
 250 the spouses and children of such consultants or their employees;
 251 and the names and locations of schools and day care facilities
 252 attended by the children of such consultants or employees are
 253 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 254 Constitution if a consultant or employee has made reasonable
 255 efforts to protect such information from being accessible
 256 through other means available to the public. This sub-
 257 subparagraph is subject to the Open Government Sunset Review Act
 258 in accordance with s. 119.15 and shall stand repealed on October
 259 2, 2020, unless reviewed and saved from repeal through
 260 reenactment by the Legislature.

261 o. The home addresses, telephone numbers, dates of birth,

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262 and photographs of current or former emergency medical
 263 technicians or paramedics certified under chapter 401; the
 264 names, home addresses, telephone numbers, dates of birth, and
 265 places of employment of the spouses and children of such
 266 emergency medical technicians or paramedics; and the names and
 267 locations of schools and day care facilities attended by the
 268 children of such emergency medical technicians or paramedics are
 269 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 270 Constitution if the emergency medical technicians or paramedics
 271 have made reasonable efforts to protect such information from
 272 being accessible through other means available to the public.
 273 This sub-subparagraph is subject to the Open Government Sunset
 274 Review Act in accordance with s. 119.15 and shall stand repealed
 275 on October 2, 2021, unless reviewed and saved from repeal
 276 through reenactment by the Legislature.

277 p. The home addresses, telephone numbers, dates of birth,
 278 and photographs of current or former personnel employed in an
 279 agency's office of inspector general or internal audit
 280 department whose duties include auditing or investigating waste,
 281 fraud, abuse, theft, exploitation, or other activities that
 282 could lead to criminal prosecution or administrative discipline;
 283 the names, home addresses, telephone numbers, dates of birth,
 284 and places of employment of spouses and children of such
 285 personnel; and the names and locations of schools and day care
 286 facilities attended by the children of such personnel are exempt
 287 from s. 119.07(1) and s. 24(a), Art. I of the State Constitution
 288 if the personnel have made reasonable efforts to protect such
 289 information from being accessible through other means available
 290 to the public. This sub-subparagraph is subject to the Open

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291 Government Sunset Review Act in accordance with s. 119.15 and
 292 shall stand repealed on October 2, 2021, unless reviewed and
 293 saved from repeal through reenactment by the Legislature.

294 3. An agency that is the custodian of the information
 295 specified in subparagraph 2. and that is not the employer of the
 296 officer, employee, justice, judge, or other person specified in
 297 subparagraph 2. shall maintain the exempt status of that
 298 information only if the officer, employee, justice, judge, other
 299 person, or employing agency of the designated employee submits a
 300 written request for maintenance of the exemption to the
 301 custodial agency.

302 4. The exemptions in this paragraph apply to information
 303 held by an agency before, on, or after the effective date of the
 304 exemption.

305 5. Except as otherwise expressly provided in this
 306 paragraph, this paragraph is subject to the Open Government
 307 Sunset Review Act in accordance with s. 119.15, and shall stand
 308 repealed on October 2, 2017, unless reviewed and saved from
 309 repeal through reenactment by the Legislature.

310 Section 2. The Legislature finds that it is a public
 311 necessity to expand the exemption from public records
 312 requirements which applies to the home addresses, telephone
 313 numbers, dates of birth, and photographs of firefighters
 314 certified under s. 633.408; the home addresses, telephone
 315 numbers, photographs, dates of birth, and places of employment
 316 of the spouses and children of such firefighters; and the names
 317 and locations of schools and day care facilities attended by the
 318 children of such firefighters to include former firefighters and
 319 their spouses and children. The personal identifying and

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320 location information of other former first responders, such as
 321 former law enforcement officers, and their family members is
 322 currently exempt from public records requirements. Firefighters
 323 often respond to serious emergency situations, ranging from
 324 domestic violence to homicide, and the release of personal
 325 identifying and location information may place former
 326 firefighters and their family members in danger of serious
 327 physical or emotional harm by hostile individuals. The
 328 Legislature further finds that the harm that may result from the
 329 release of such identifying and location information outweighs
 330 any public benefit that may be derived from the disclosure of
 331 such information.

332 Section 3. This act shall take effect upon becoming a law.

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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)

3-14-17

Meeting Date

1108

Bill Number (if applicable)

Topic PUBLIC RECORDS

Amendment Barcode (if applicable)

Name Gilbert MARSH

Job Title SECTREAS

Address 343 MADISON ST.

Street

Phone 850-224-7333

TALLAHASSEE

FL

32301

City

State

Zip

Email gmarsh2944@

att.net

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.

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/14/17

Meeting Date

1108

Bill Number (if applicable)

Topic Public Records / Fire Fighters

Amendment Barcode (if applicable)

Name Eric Prutsman

Job Title Florida Fire Chiefs Association

Address P.O. Box 10448

Phone 888-210-2525

Street

Tallahassee

FL

State

32302

Zip

Email eric@prutsmanlaw.com

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.

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)

1108

Meeting Date _____

Bill Number (if applicable) _____

Topic SB 1108

Amendment Barcode (if applicable) _____

Name SEBASTIAN ALEXSANDER

Job Title LOBBYIST

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 PALM BEACH FIRE FIGHTERS

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 1170

INTRODUCER: Banking and Insurance Committee and Senator Hutson

SUBJECT: Florida Security for Public Deposits Act

DATE: March 15, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Knudson	BI	Fav/CS
2.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1170 revises provisions relating to the Florida Security for Public Deposits Act (act). The bill would expand the definition of “qualified public depository,” (or QPD) to allow credit unions to become eligible for the designation as a QPD by the Chief Financial Officer (CFO),¹ contingent upon meeting all of the requirements under the act. Pursuant to the act, state and local governments may deposit public funds in excess of those required to meet disbursement needs or expenses in a qualified public depository.

The bill provides criteria for the CFO to designate a credit union as a QPD. A credit union is required to submit its agreement of contingent liability and its collateral agreement to the CFO and meet the following requirements:

- The credit union must submit a signed statement from a public official of a state or local government indicating that, if the credit union is designated as QPD, the public official intends to deposit more than \$250,000 of public funds with the credit union.
- At least four other credit unions must have each submitted an agreement of contingent liability, a collateral agreement, and a signed statement from a public official of his or her intent to deposit more than \$250,000 of public funds with the credit union.

The bill requires the CFO to withdraw from a collateral agreement previously entered into with a credit union if fewer than five credit unions are designated as QPDs during any period of 90

¹ The CFO is the head of the Department of Financial Services pursuant to s. 20.121(1), F.S. The Division of Treasury of the department is responsible for administering the Florida Security for Public Deposits Act.

calendar days or longer. Within 10 days after the CFO's notification of such withdrawal, the QPD must return all public deposits that the credit union holds to the public official who deposited the funds. The CFO is authorized to limit the amount of public deposits any one credit union may hold in order to ensure that no single credit union holds an amount of public deposits, which may adversely affect the integrity of the program.

The bill requires credit unions to have a separate contingent liability from banks, savings banks and savings associations. Any credit union that is designated as a QPD and that is not insolvent would be required to guarantee public depositors against loss caused by the default or insolvency of other credit union QPDs. The bill requires the CFO to segregate and separately account for money in the Public Deposit Trust Fund (e.g., collateral proceeds, assessments, or administrative penalties) attributable to any bank, savings bank, or savings association from money attributable to credit unions.

Under current law, a QPD means a bank, savings bank, or savings association that meets specific criteria; therefore, credit unions are prohibited from becoming QPDs. According to advocates of the bill, 25 states have enacted laws that expressly allow credit unions to accept public deposits and allow public entities to deposit funds in credit unions.²

II. Present Situation:

State and local governments may deposit public funds in excess of those required to meet disbursement needs or expenses in a qualified public depository³ pursuant to the Florida Security for Public Deposits Act (act).⁴ For purposes of the act, the term, qualified public depository, means any bank, savings bank, or savings association that has deposit insurance pursuant to the Federal Deposit Insurance Act⁵ and meets other requirements.⁶ The act delineates the powers and duties of the CFO, and the requirements for qualified public depositories (QPDs) and public depositors to participate in the public deposits program.⁷ Under current law, the statutory definition of a QPD excludes a credit union; therefore, credit unions are not eligible to serve as a QPD in Florida.

The law provides that public deposits be made in a QPD unless exempted by law.⁸ Each QPD is required to pledge collateral⁹ at a level commensurate with the amount of public deposits¹⁰ held

² Credit Union National Association, *Public Deposits State Issues Brief* (Mar. 2016) (on file with Senate Committee on Banking and Insurance.)

³ Section 280.02(26). A list of active QPDs is available at

<http://www.myfloridacfo.com/division/treasury/collateralmanagement/documents/ListofActiveQPDs.pdf> (last viewed Mar. 12, 2017).

⁴ Chapter 280, F.S.

⁵ 12 U.S.C. ss. 1181 et. seq.

⁶ Rule 69C-2.005, F.A.C.

⁷ A public depositor, as defined in s. 280.02(24), F.S., is the official custodian of funds for a governmental unit who is responsible for handling public deposits. See s. 280.17, F.S. for the requirements of public depositors.

⁸ Section 280.03(1)(b), F.S.

⁹ Section 280.13, F.S. See also Rule 69C-2.007, F.A.C.

¹⁰ Section 280.02(23), F.S., defines the term, "public deposit," as the moneys of the state or of any state university, county, school district, community college, special district, metropolitan governments, or municipality, including agencies, boards, bureaus, commissions, and institutions of any of the foregoing, or of any court, and includes the moneys of all county

and a measure of its financial stability, as determined by the CFO.¹¹ Florida's QPD program has four standard collateral pledging levels of 25, 50, 110, and 150 percent. The determination of a QPD's collateral pledge level involves consideration of a QPD's average financial condition ranking from two nationally recognized financial rating services as well as consideration of financial ratios, trends, and other pertinent information.¹² The QPDs with higher rankings and stronger financial condition will be eligible for the 50 and 25 percent collateral pledge levels, which is an advantage that helps in the areas of liquidity and asset management. A QPD may use cash, U.S. Treasury securities, U.S. agency securities, investment grade municipal and corporate bonds, as well as Federal Home Loan Bank letters of credit as collateral in Florida's public deposits program.¹³

The act contains numerous provisions to protect public depositors from losses caused by the default or insolvency of a qualified public depository.¹⁴ For example, each financial institution that is designated as a QPD, and that is not insolvent, is required to guarantee public depositors against loss caused by the default or insolvency of other qualified public depositories. Each QPD is required to execute a form prescribed by the CFO for such guarantee.¹⁵ The board of directors must approve the guarantee and the guarantee become an official record of the institution.

The CFO may demand payment under a letter of credit or direct a custodian to deposit or transfer collateral and proceeds of securities not previously credited upon the occurrence of one or more triggering events.¹⁶ The CFO may suspend or disqualify a QPD. When the CFO determines that a default or insolvency of a QPD has occurred, the CFO must first satisfy losses to the public depositors through any applicable deposit insurance, and then through demanding payment under letters of credit or the sale of collateral pledged or deposited by the defaulting depository. If that is insufficient, the CFO provides coverage by imposing assessments against the other qualified public depositories.¹⁷

Regulation of Credit Unions

Chapter 657, F.S., is the Florida Credit Union Act (act), which authorizes the Office of Financial Regulation to regulate state-chartered credit unions. Chapter 657, F.S., provides that the purpose of a credit union¹⁸ is to encourage thrift among its members, create sources of credit at fair and reasonable rates of interest, and provide an opportunity for its members to use and control their resources on a democratic basis in order to improve their economic and social condition.

officers, including constitutional officers, which are placed on deposit in a bank, savings bank, or saving association and for which the bank, savings bank, or savings association.

¹¹ Section 280.04, F.S. See also Rule 69C-2.024, F.A.C.

¹² The average financial condition ranking is based on a scale of 0-100. See Rule 69C-2.024, F.A.C. If a QPD has an average financial condition ranking of 20 or more, it is eligible to join the program. If the score is 0-15, the QPD must withdraw or meet specified corrective actions.

¹³ Section 280.13, F.S.

¹⁴ Section 280.05, F.S.

¹⁵ Section 280.07, F.S.

¹⁶ Section 280.041(6), F.S. Examples of triggering events include those instances in which the CFO determines that an immediate danger to the public health, safety, or welfare exists; the QPD defaults or becomes insolvent; the QPD fails to pay an administrative penalty; the QPD fails to meet financial condition standards; and the QPD pledges, deposits, or has issued insufficient or unacceptable collateral to meet required collateral within the required time. [Section 280.041(6), F.S.]

¹⁷ Section 280.08, F.S.

¹⁸ Section 657.003, F.S.

The NCUA regulates, charters, and insures the nation's federal credit unions. In addition, NCUA insures state-chartered credit unions that desire and qualify for federal insurance. The National Credit Union Share Insurance Fund (NCUSIF) insures deposits in a credit union. Established by Congress in 1970 to insure member share accounts at federally insured credit unions, the NCUSIF is managed by the National Credit Union Administration (NCUA). The standard maximum share insurance amount is also \$250,000.¹⁹

Credit unions are not-for-profit organizations that exist to serve their members.²⁰ As part of the findings of the Credit Union Membership Act, Congress found that "credit unions, unlike many other participants in the financial services market, are exempt from Federal and most State taxes because they are member-owned, democratically operated, not-for-profit organizations generally managed by volunteer boards of directors and because they have the specified mission of meeting the credit and savings needs of consumers, especially persons of modest means."²¹

III. Effect of Proposed Changes:

Section 1 revises definitions. The definition of the term, "qualified public depository," is expanded to include credit unions. This change would allow credit unions to become QPDs and hold deposits of state and local governmental units. The section also provides technical, conforming changes. Currently, banks, savings banks, and savings associations are eligible to be designated as QPDs if certain conditions are met.

Section 2 provides criteria for the CFO to designate a credit union as a QPD. These provisions are designed to protect public deposits. The credit union is required to submit its agreement of contingent liability and its collateral agreement to the CFO and meet the following requirements:

- The credit union must submit a signed statement from a public official of a state or local government indicating that, if the credit union is designated as QPD, the public official intends to deposit more than \$250,000 of public funds with the credit union.
- At least four other credit unions must have each submitted an agreement of contingent liability, a collateral agreement, and a signed statement from a public official of his or her intent to deposit more than \$250,000 of public funds with the credit union.

The section also requires the CFO to withdraw from a collateral agreement previously entered into with a credit union if fewer than five credit unions are designated as QPDs during any period of 90 calendar days or longer. As a result, such a credit union loses its designation as a QPD, and must within 10 days after the CFO's notification of such withdrawal, return all public deposits that the credit union holds to the public official who deposited the funds.

Lastly, the section authorizes the CFO to limit the amount of public deposits any one credit union may hold in order to ensure that no single credit union holds an amount of public deposits, which may adversely affect the integrity of the program.

¹⁹ For Information about Share Insurance Fund, see <https://www.ncua.gov/services/Pages/share-insurance.aspx> (last viewed Mar. 12, 2017).

²⁰ See <https://www.mycreditunion.gov/about-credit-unions/Pages/How-is-a-Credit-Union-Different-than-a-Bank.aspx> (last viewed Mar. 14, 2017).

²¹ Pub. L. No. 105-219.

Sections 3 and 4 require any credit union that is designated as a QPD and that is not insolvent to guarantee public depositors against loss caused by the default or insolvency of other credit unions designated as QPDs. This provision creates separate mutual responsibility and contingent liability provisions for credit unions. Banks, savings banks, and savings associations are subject to a separate mutual responsibility and contingent liability provision.

In the event of a default or insolvency of a credit union QPD, any loss to public depositors would be satisfied through any applicable share insurance and then through demanding payment under letters of credit or the sale of collateral pledged or deposited by the defaulting depository. The CFO may assess QPDs subject to the segregation of contingent liability provided in s. 280.07, F.S., for the total loss if the demand for payment or sale of collateral cannot be accomplished within 7 business days.

Section 5, relating to the Public Deposits Trust Fund (fund), requires the CFO to segregate and separately account for any collateral proceeds, assessments, or administrative penalties attributable to a credit union from any collateral proceeds, assessments, or administrative penalties attributable to any bank, savings bank, or savings association. The CFO is authorized to pay any losses to public depositors from the fund subject to these limitations.

Sections 6-14 provide technical conforming changes to allow credit unions to participate as QPDs and subject to oversight by the public deposit program under the CFO.

Sections 15-32 reenacts various sections of statutes to incorporate amendments to ch. 280, F.S.

Section 33 provides this act takes effective July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

A credit union that becomes a qualified public depository and accepts public deposits, may generate additional income associated with the public deposits program. The expansion of eligible QPDs may provide additional options for state and local governments. It is unclear what the impact of the bill will be on the existing QPDs (banks, savings banks, or savings associations).

C. Government Sector Impact:

The DFS provided the following analysis²² regarding the fiscal impact of the bill, which would be effective July 1, 2018:

	FY 2017-18	FY 2018-19	FY 2019-20
Recurring Expenditures			
Financial ranking services to determine financial condition of credit unions.	\$5,728	\$5,728	\$5,728
Financial Examiner/Analyst II and annual expenses	\$62,388 \$10,583	\$62,388 \$6,317	\$62,388 \$6,317
Total Recurring Expenditures	\$78,699	\$74,433	\$74,433
Non-Recurring Expenditures	\$188,650	0	0
Modifications to the Collateral Administration program, the system used for account management, financial analysis, and collateral administration, to accommodate the addition of credit unions.			

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 280.02, 280.07, 280.03, 280.05, 280.052, 280.053, 280.055, 280.08, 280.085, 280.09, 280.10, 280.13, 280.17, 17.57, 24.114, 125.901, 136.01, 159.608, 175.301, 175.401, 185.30, 185.50, 190.007, 191.006, 215.34, 218.415, 255.502, 331.309, 373.553, 631.221, and 723.06115.

The bill creates section 280.042 of the Florida Statutes.

²² Department of Financial Services, *Analysis of SB 1170 (Mar. 9, 2017) (on file with Senate Committee on Banking and Insurance)*.

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 March 14, 2017:

The CS establishes minimum requirements for credit unions to be designated as QPDs by the CFO and to maintain their designation. The bill provides the CFO with additional authority designed to protect public deposits held by credit union QPDs. The CFO is required to withdraw a previous collateral agreement previously entered into with a credit union if fewer than five credit unions are designated as QPDs during any period of 90 calendar days or longer. The CFO is authorized to limit the amount of public deposits of any one credit union may hold in order to ensure that no single credit union holds an amount of public deposits, which may adversely affect the integrity of the program.

The bill requires the CFO to segregate and separately account for any money of the Public Deposit Trust Fund attributable to a credit union from any money attributable to any bank, savings bank, or savings association.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/14/2017	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 99 - 213

and insert:

Section 2. Section 280.042, Florida Statutes, is created to read:

280.042 Conditions for designating credit unions as qualified public depositories; withdrawal by the Chief Financial Officer from a collateral agreement and return of deposits; limit on public deposits.-



11 (1) The Chief Financial Officer may not designate a credit
12 union as a qualified public depository as defined under s.
13 280.02, unless, at the time the credit union submits its
14 agreement of contingent liability and its collateral agreement:

15 (a) The credit union submits a signed statement from a
16 public official indicating that if the credit union is
17 designated as a qualified public depository, the public official
18 intends to deposit more than \$250,000 of public funds with the
19 credit union; and

20 (b) At least four other credit unions have each submitted
21 an agreement of contingent liability, a collateral agreement,
22 and a signed statement from a public official indicating that if
23 the credit union is designated as a qualified public depository,
24 the public official intends to deposit more than \$250,000 of
25 public funds with the credit union.

26 (2) The Chief Financial Officer must withdraw from a
27 collateral agreement previously entered into with a credit union
28 if fewer than five credit unions are designated as qualified
29 public depositories during any period of 90 calendar days or
30 longer.

31 (3) A credit union that is a party to a collateral
32 agreement from which the Chief Financial Officer withdraws in
33 accordance with subsection (2) may no longer be designated as a
34 qualified public depository. Within 10 business days after the
35 Chief Financial Officer notifies the credit union that the Chief
36 Financial Officer has withdrawn from the collateral agreement,
37 the credit union must return all public deposits that the credit
38 union holds to the public official who deposited the funds. The
39 notice provided for in this subsection may be sent to a credit



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40 union by regular mail or by e-mail.

41 (4) The Chief Financial Officer may limit the amount of
42 public deposits which any credit union may hold in order to
43 ensure that no single credit union holds an amount of public
44 deposits which might adversely affect the integrity of the
45 public deposits program.

46 Section 3. Section 280.07, Florida Statutes, is amended to
47 read:

48 280.07 Mutual responsibility and contingent liability.—

49 (1) Any bank, savings bank, or savings association that is
50 designated as a qualified public depository and that is not
51 insolvent shall guarantee public depositors against loss caused
52 by the default or insolvency of other banks, savings banks, or
53 savings associations designated as qualified public
54 depositories.

55 (2) Any credit union that is designated as a qualified
56 public depository and that is not insolvent shall guarantee
57 public depositors against loss caused by the default or
58 insolvency of other credit unions designated as qualified public
59 depositories.

60
61 Each qualified public depository shall execute a form prescribed
62 by the Chief Financial Officer for such guarantee which must
63 ~~shall~~ be approved by the board of directors and ~~shall~~ become an
64 official record of the institution.

65 Section 4. Subsections (1) and (3) of section 280.08,
66 Florida Statutes, are amended to read:

67 280.08 Procedure for payment of losses.—When the Chief
68 Financial Officer determines that a default or insolvency has



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69 occurred, he or she shall provide notice as required in s.
70 280.085 and implement the following procedures:

71 (1) The Division of Treasury, in cooperation with the
72 Office of Financial Regulation of the Financial Services
73 Commission or the receiver of the qualified public depository in
74 default, shall ascertain the amount of funds of each public
75 depositor on deposit at such depository and the amount of
76 deposit or share insurance applicable to such deposits.

77 (3) (a) The loss to public depositors shall be satisfied,
78 insofar as possible, first through any applicable deposit or
79 share insurance and then through demanding payment under letters
80 of credit or the sale of collateral pledged or deposited by the
81 defaulting depository. The Chief Financial Officer may assess
82 qualified public depositories as provided in paragraph (b),
83 subject to the segregation of contingent liability in s. 280.07,
84 for the total loss if the demand for payment or sale of
85 collateral cannot be accomplished within 7 business days.

86 (b) The Chief Financial Officer shall provide coverage of
87 any remaining loss by assessment against the other qualified
88 public depositories. The Chief Financial Officer shall determine
89 such assessment for each qualified public depository by
90 multiplying the total amount of any remaining loss to all public
91 depositors by a percentage which represents the average monthly
92 balance of public deposits held by each qualified public
93 depository during the previous 12 months divided by the total
94 average monthly balances of public deposits held by all
95 qualified public depositories, excluding the defaulting
96 depository, during the same period. The assessment calculation
97 must ~~shall~~ be computed to six decimal places.



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98 Section 5. Section 280.09, Florida Statutes, is amended to
99 read:

100 280.09 Public Deposits Trust Fund.—

101 (1) In order to facilitate the administration of this
102 chapter, there is created the Public Deposits Trust Fund,
103 hereafter in this section designated as "the fund." The proceeds
104 from the sale of securities or draw on letters of credit held as
105 collateral or from any assessment pursuant to s. 280.08 must
106 ~~shall~~ be deposited into the fund. The Chief Financial Officer
107 must segregate and separately account for any collateral
108 proceeds, assessments, or administrative penalties attributable
109 to a credit union from any collateral proceeds, assessments, or
110 administrative penalties attributable to any bank, savings bank,
111 or savings association. Any administrative penalty collected
112 pursuant to this chapter shall be deposited into the Treasury
113 Administrative and Investment Trust Fund.

114 (2) The Chief Financial Officer is authorized to pay any
115 losses to public depositors from the fund, subject to the
116 limitations provided in subsection (1), and there are hereby
117 appropriated from the fund such sums as may be necessary from
118 time to time to pay the losses. The term "losses," for purposes
119 of this chapter, shall also include losses of interest or other
120 accumulations to the public depositor as a result of penalties
121 for early withdrawal required by Depository Institution
122 Deregulatory Commission Regulations or applicable successor
123 federal laws or regulations because of suspension or
124 disqualification of a qualified public depository by the Chief
125 Financial Officer pursuant to s. 280.05 or because of withdrawal
126 from the public deposits program pursuant to s. 280.11. In that



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127 event, the Chief Financial Officer is authorized to assess
128 against the suspended, disqualified, or withdrawing public
129 depository, in addition to any amount authorized by any other
130 provision of this chapter, an administrative penalty equal to
131 the amount of the early withdrawal penalty and to pay that
132 amount over to the public depositor as reimbursement for such
133 loss. Any money in the fund estimated not to be needed for
134 immediate cash requirements shall be invested pursuant to s.
135 17.61.

136 Section 6. Paragraph (a) of subsection (3) of section
137 280.03, Florida Statutes, is amended to read:

138 280.03 Public deposits to be secured; prohibitions;
139 exemptions.-

140 (3) The following are exempt from the requirements of, and
141 protection under, this chapter:

142 (a) Public deposits deposited in a bank, credit union, or
143 savings association by a trust department or trust company which
144 are fully secured under trust business laws.

145 Section 7. Subsection (11) of section 280.05, Florida
146 Statutes, is amended to read:

147 280.05 Powers and duties of the Chief Financial Officer.-In
148 fulfilling the requirements of this act, the Chief Financial
149 Officer has the power to take the following actions he or she
150 deems necessary to protect the integrity of the public deposits
151 program:

152 (11) Sell securities for the purpose of paying losses to
153 public depositors not covered by deposit or share insurance.

154 Section 8. Subsection (1) of section 280.052, Florida
155 Statutes, is amended to read:



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156 280.052 Order of suspension or disqualification;
157 procedure.-

158 (1) The suspension or disqualification of a bank, credit
159 union, or savings association as a qualified public depository
160 must be by order of the Chief Financial Officer and must be
161 mailed to the qualified public depository by registered or
162 certified mail.

163 Section 9. Paragraph (c) of subsection (1) and paragraph
164 (c) of subsection (2) of section 280.053, Florida Statutes, are
165 amended to read:

166 280.053 Period of suspension or disqualification;
167 obligations during period; reinstatement.-

168 (1)

169 (c) Upon expiration of the suspension period, the bank,
170 credit union, or savings association may, by order of the Chief
171 Financial Officer, be reinstated as a qualified public
172 depository, unless the cause of the suspension has not been
173 corrected or the bank, credit union, or savings association is
174 otherwise not in compliance with this chapter or any rule
175 adopted pursuant to this chapter.

176 (2)

177 (c) Upon expiration of the disqualification period, the
178 bank, credit union, or savings association may reapply for
179 qualification as a qualified public depository. If a
180 disqualified bank, credit union, or savings association is
181 purchased or otherwise acquired by new owners, it may reapply to
182 the Chief Financial Officer to be a qualified public depository
183 prior to the expiration date of the disqualification period.
184 Redesignation as a qualified public depository may occur only



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185 after the Chief Financial Officer has determined that all
186 requirements for holding public deposits under the law have been
187 met.

188 Section 10. Section 280.055, Florida Statutes, is amended
189 to read:

190 280.055 Cease and desist order; corrective order;
191 administrative penalty.—

192 (1) The Chief Financial Officer may issue a cease and
193 desist order and a corrective order upon determining that:

194 (a) A qualified public depository has requested and
195 obtained a release of pledged collateral without approval of the
196 Chief Financial Officer;

197 (b) A bank, credit union, savings association, or other
198 financial institution is holding public deposits without a
199 certificate of qualification issued by the Chief Financial
200 Officer;

201 (c) A qualified public depository pledges, deposits, or
202 arranges for the issuance of unacceptable collateral;

203 (d) A custodian has released pledged collateral without
204 approval of the Chief Financial Officer;

205 (e) A qualified public depository or a custodian has not
206 furnished to the Chief Financial Officer, when the Chief
207 Financial Officer requested, a power of attorney or bond power
208 or bond assignment form required by the bond agent or bond
209 trustee for each issue of registered certificated securities
210 pledged and registered in the name, or nominee name, of the
211 qualified public depository or custodian; or

212 (f) A qualified public depository; a bank, credit union,
213 savings association, or other financial institution; or a



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214 | custodian has committed any other violation of this chapter or
215 | any rule adopted pursuant to this chapter that the Chief
216 | Financial Officer determines may be remedied by a cease and
217 | desist order or corrective order.

218 | (2) Any qualified public depository or other bank, credit
219 | union, savings association, or financial institution or
220 | custodian that violates a cease and desist order or corrective
221 | order of the Chief Financial Officer is subject to an
222 | administrative penalty not exceeding \$1,000 for each violation
223 | of the order. Each day the violation of the order continues
224 | constitutes a separate violation.

225 |

226 | ===== T I T L E A M E N D M E N T =====

227 | And the title is amended as follows:

228 | Delete lines 6 - 12

229 | and insert:

230 | Security for Public Deposits Act; creating s. 280.042,
231 | F.S.; specifying conditions that must be met before
232 | the Chief Financial Officer may designate a credit
233 | union as a qualified public depository; requiring the
234 | Chief Financial Officer to withdraw from a collateral
235 | agreement with a credit union under certain
236 | circumstances; providing construction and notice and
237 | public deposit return requirements after such
238 | withdrawal; authorizing the Chief Financial Officer to
239 | limit, for a certain purpose, the amount of public
240 | deposits a credit union may hold; amending s. 280.07,
241 | F.S.; specifying the mutual responsibility and
242 | contingent liability of certain credit unions



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243 designated as qualified public depositories;
244 conforming a provision to changes made by the act;
245 amending s. 280.08, F.S.; conforming provisions to
246 changes made by the act; providing that certain
247 assessments by the Chief Financial Officer upon
248 qualified public depositories are subject to certain
249 segregation of contingent liability provisions;
250 amending s. 280.09, F.S.; requiring the Chief
251 Financial Officer, in administering the Public
252 Deposits Trust Fund, to segregate and separately
253 account for certain proceeds, assessments, or
254 penalties attributable to a credit union from those
255 attributable to a bank, savings bank, or savings
256 association; providing that payment of losses is
257 subject to such limitations; amending ss. 280.03,
258 280.05, 280.052, 280.053, 280.055, 280.085, 280.10,
259 280.13, and 280.17,

By Senator Hutson

7-00524-17

20171170__

1 A bill to be entitled
 2 An act relating to the Florida Security for Public
 3 Deposits Act; amending s. 280.02, F.S.; redefining
 4 terms, which includes the addition of credit unions as
 5 qualified public depositories under the Florida
 6 Security for Public Deposits Act; amending s. 280.07,
 7 F.S.; specifying the mutual responsibility and
 8 contingent liability of certain credit unions
 9 designated as qualified public depositories;
 10 conforming a provision to changes made by the act;
 11 amending ss. 280.03, 280.05, 280.052, 280.053,
 12 280.055, 280.08, 280.085, 280.10, 280.13, and 280.17,
 13 F.S.; conforming provisions to changes made by the
 14 act; reenacting ss. 17.57(7)(a); 24.114(1);
 15 125.901(3)(e); 136.01; 159.608(11); 175.301;
 16 175.401(8); 185.30; 185.50(8); 190.007(3);
 17 191.006(16); 215.34(2); 218.415(16)(c), (17), and
 18 (23)(a); 255.502(4)(h); 331.309(1) and (2);
 19 373.553(2); 631.221; and 723.06115(3)(c), F.S.,
 20 relating to deposits and investments of state money;
 21 bank deposits and control of lottery transactions;
 22 children's services and independent special districts;
 23 county depositories; powers of housing finance
 24 authorities; depositories for pension funds; retiree
 25 health insurance subsidies; depositories for
 26 retirement funds; retiree health insurance subsidies;
 27 board of supervisors; general powers; state funds and
 28 noncollectible items; local government investment
 29 policies; definitions; treasurers, depositories, and a

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30 fiscal agent; a treasurer of the board, payment of
 31 funds, and depositories; deposit of moneys collected;
 32 and the Florida Mobile Home Relocation Trust Fund,
 33 respectively, to incorporate the amendments made to s.
 34 280.02, F.S., in references thereto; providing an
 35 effective date.
 36

37 Be It Enacted by the Legislature of the State of Florida:
 38

39 Section 1. Subsections (6), (10), (21), (23), and (26) of
 40 section 280.02, Florida Statutes, are amended to read:

41 280.02 Definitions.—As used in this chapter, the term:

42 (6) "Capital account" or "tangible equity capital" means
 43 total equity capital, as defined on the balance-sheet portion of
 44 the Consolidated Reports of Condition and Income (call report);
 45 or net worth, as defined in the National Credit Union
 46 Administration 5300 Call Report; ~~less intangible assets, as~~
 47 submitted to the regulatory financial banking authority.

48 (10) "Custodian" means the Chief Financial Officer or a
 49 bank, credit union, savings association, or trust company that:

50 (a) Is organized and existing under the laws of this state,
 51 any other state, or the United States;

52 (b) Has executed all forms required under this chapter or
 53 any rule adopted hereunder;

54 (c) Agrees to be subject to the jurisdiction of the courts
 55 of this state, or of the courts of the United States which are
 56 located within this state, for the purpose of any litigation
 57 arising out of this chapter; and

58 (d) Has been approved by the Chief Financial Officer to act

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59 as a custodian.

60 (21) "Pool figure" means the total average monthly balances
61 of public deposits held by all banks, savings banks, or savings
62 associations, or held separately for all credit unions,
63 ~~qualified public depositories~~ during the immediately preceding
64 12-month period.

65 (23) "Public deposit" means the moneys of the state or of
66 any state university, county, school district, community college
67 district, special district, metropolitan government, or
68 municipality, including agencies, boards, bureaus, commissions,
69 and institutions of any of the foregoing, or of any court, and
70 includes the moneys of all county officers, including
71 constitutional officers, which are placed on deposit in a bank,
72 credit union, savings bank, or savings association. This
73 includes, but is not limited to, time deposit accounts, demand
74 deposit accounts, and nonnegotiable certificates of deposit.
75 Moneys in deposit notes and in other nondeposit accounts such as
76 repurchase or reverse repurchase operations are not public
77 deposits. Securities, mutual funds, and similar types of
78 investments are not public deposits and are not subject to this
79 chapter.

80 (26) "Qualified public depository" means a bank, credit
81 union, savings bank, or savings association that:

82 (a) Is organized and exists under the laws of the United
83 States or the laws of this state or any other state or territory
84 of the United States.

85 (b) Has its principal place of business in this state or
86 has a branch office in this state which is authorized under the
87 laws of this state or of the United States to receive deposits

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88 in this state.

89 (c) Is insured by the Federal Deposit Insurance Corporation
90 or the National Credit Union Share Insurance Fund ~~Has deposit~~
91 ~~insurance pursuant to the Federal Deposit Insurance Act, as~~
92 ~~amended, 12 U.S.C. ss. 1811 et seq.~~

93 (d) Has procedures and practices for accurate
94 identification, classification, reporting, and collateralization
95 of public deposits.

96 (e) Meets all the requirements of this chapter.

97 (f) Has been designated by the Chief Financial Officer as a
98 qualified public depository.

99 Section 2. Section 280.07, Florida Statutes, is amended to
100 read:

101 280.07 Mutual responsibility and contingent liability.—

102 (1) Any bank, savings bank, or savings association that is
103 designated as a qualified public depository and that is not
104 insolvent shall guarantee public depositors against loss caused
105 by the default or insolvency of other banks, savings banks, or
106 savings associations designated as qualified public depositories
107 ~~qualified public depositories.~~

108 (2) Any credit union that is designated as a qualified
109 public depository and that is not insolvent shall guarantee
110 public depositors against loss caused by the default or
111 insolvency of other credit unions designated as qualified public
112 depositories.

113
114 Each qualified public depository shall execute a form prescribed
115 by the Chief Financial Officer for such guarantee which must
116 ~~shall~~ be approved by the board of directors and ~~shall~~ become an

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117 official record of the institution.

118 Section 3. Paragraph (a) of subsection (3) of section
119 280.03, Florida Statutes, is amended to read:

120 280.03 Public deposits to be secured; prohibitions;
121 exemptions.-

122 (3) The following are exempt from the requirements of, and
123 protection under, this chapter:

124 (a) Public deposits deposited in a bank, credit union, or
125 savings association by a trust department or trust company which
126 are fully secured under trust business laws.

127 Section 4. Subsection (1) of section 280.05, Florida
128 Statutes, is amended to read:

129 280.05 Powers and duties of the Chief Financial Officer.-In
130 fulfilling the requirements of this act, the Chief Financial
131 Officer has the power to take the following actions he or she
132 deems necessary to protect the integrity of the public deposits
133 program:

134 (1) Sell securities for the purpose of paying losses to
135 public depositors not covered by deposit or share insurance.

136 Section 5. Subsection (1) of section 280.052, Florida
137 Statutes, is amended to read:

138 280.052 Order of suspension or disqualification;
139 procedure.-

140 (1) The suspension or disqualification of a bank, credit
141 union, or savings association as a qualified public depository
142 must be by order of the Chief Financial Officer and must be
143 mailed to the qualified public depository by registered or
144 certified mail.

145 Section 6. Paragraph (c) of subsection (1) and paragraph

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146 (c) of subsection (2) of section 280.053, Florida Statutes, are
147 amended to read:

148 280.053 Period of suspension or disqualification;
149 obligations during period; reinstatement.-

150 (1)

151 (c) Upon expiration of the suspension period, the bank, credit union, or savings association may, by order of the Chief
152 Financial Officer, be reinstated as a qualified public
153 depository, unless the cause of the suspension has not been
154 corrected or the bank, credit union, or savings association is
155 otherwise not in compliance with this chapter or any rule
156 adopted pursuant to this chapter.

158 (2)

159 (c) Upon expiration of the disqualification period, the
160 bank, credit union, or savings association may reapply for
161 qualification as a qualified public depository. If a
162 disqualified bank, credit union, or savings association is
163 purchased or otherwise acquired by new owners, it may reapply to
164 the Chief Financial Officer to be a qualified public depository
165 prior to the expiration date of the disqualification period.
166 Redesignation as a qualified public depository may occur only
167 after the Chief Financial Officer has determined that all
168 requirements for holding public deposits under the law have been
169 met.

170 Section 7. Paragraphs (b) and (f) of subsection (1) and
171 subsection (2) of section 280.055, Florida Statutes, are amended
172 to read:

173 280.055 Cease and desist order; corrective order;
174 administrative penalty.-

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175 (1) The Chief Financial Officer may issue a cease and
 176 desist order and a corrective order upon determining that:

177 (b) A bank, credit union, savings association, or other
 178 financial institution is holding public deposits without a
 179 certificate of qualification issued by the Chief Financial
 180 Officer;

181 (f) A qualified public depository; a bank, credit union,
 182 savings association, or other financial institution; or a
 183 custodian has committed any other violation of this chapter or
 184 any rule adopted pursuant to this chapter that the Chief
 185 Financial Officer determines may be remedied by a cease and
 186 desist order or corrective order.

187 (2) Any qualified public depository or other bank, credit
 188 union, savings association, or financial institution or
 189 custodian that violates a cease and desist order or corrective
 190 order of the Chief Financial Officer is subject to an
 191 administrative penalty not exceeding \$1,000 for each violation
 192 of the order. Each day the violation of the order continues
 193 constitutes a separate violation.

194 Section 8. Subsection (1) and paragraph (a) of subsection
 195 (3) of section 280.08, Florida Statutes, are amended to read:

196 280.08 Procedure for payment of losses.—When the Chief
 197 Financial Officer determines that a default or insolvency has
 198 occurred, he or she shall provide notice as required in s.
 199 280.085 and implement the following procedures:

200 (1) The Division of Treasury, in cooperation with the
 201 Office of Financial Regulation of the Financial Services
 202 Commission or the receiver of the qualified public depository in
 203 default, shall ascertain the amount of funds of each public

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204 depositor on deposit at such depository and the amount of
 205 deposit or share insurance applicable to such deposits.

206 (3) (a) The loss to public depositors shall be satisfied,
 207 insofar as possible, first through any applicable deposit or
 208 share insurance and then through demanding payment under letters
 209 of credit or the sale of collateral pledged or deposited by the
 210 defaulting depository. The Chief Financial Officer may assess
 211 qualified public depositories as provided in paragraph (b) for
 212 the total loss if the demand for payment or sale of collateral
 213 cannot be accomplished within 7 business days.

214 Section 9. Subsection (4) of section 280.085, Florida
 215 Statutes, is amended to read:

216 280.085 Notice to claimants.—

217 (4) The notice required in subsection (1) is not required
 218 if the default or insolvency of a qualified public depository is
 219 resolved in a manner in which all Florida public deposits are
 220 acquired by another insured bank, credit union, savings bank, or
 221 savings association.

222 Section 10. Subsections (1) and (3) of section 280.10,
 223 Florida Statutes, are amended to read:

224 280.10 Effect of merger, acquisition, or consolidation;
 225 change of name or address.—

226 (1) When a qualified public depository is merged into,
 227 acquired by, or consolidated with a bank, credit union, savings
 228 bank, or savings association that is not a qualified public
 229 depository:

230 (a) The resulting institution shall automatically become a
 231 qualified public depository subject to the requirements of the
 232 public deposits program.

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233 (b) The contingent liability of the former institution
 234 shall be a liability of the resulting institution.

235 (c) The public deposits and associated collateral of the
 236 former institution shall be public deposits and collateral of
 237 the resulting institution.

238 (d) The resulting institution shall, within 90 calendar
 239 days after the effective date of the merger, acquisition, or
 240 consolidation, deliver to the Chief Financial Officer:

241 1. Documentation in its name as required for participation
 242 in the public deposits program; or

243 2. Written notice of intent to withdraw from the program as
 244 provided in s. 280.11 and a proposed effective date of
 245 withdrawal which shall be within 180 days after the effective
 246 date of the acquisition, merger, or consolidation of the former
 247 institution.

248 (e) If the resulting institution does not meet
 249 qualifications to become a qualified public depository or does
 250 not submit required documentation within 90 calendar days after
 251 the effective date of the merger, acquisition, or consolidation,
 252 the Chief Financial Officer shall initiate mandatory withdrawal
 253 actions as provided in s. 280.11 and shall set an effective date
 254 of withdrawal that is within 180 days after the effective date
 255 of the acquisition, merger, or consolidation of the former
 256 institution.

257 (3) If the default or insolvency of a qualified public
 258 depository results in acquisition of all or part of its Florida
 259 public deposits by a bank, credit union, savings bank, or
 260 savings association that is not a qualified public depository,
 261 the bank, credit union, savings bank, or savings association

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262 acquiring the Florida public deposits is subject to subsection
 263 (1).

264 Section 11. Subsection (1) of section 280.13, Florida
 265 Statutes, is amended to read:

266 280.13 Eligible collateral.—

267 (1) Securities eligible to be pledged as collateral by
 268 qualified public depositories are ~~banks and savings associations~~
 269 ~~shall be~~ limited to:

270 (a) Direct obligations of the United States Government.

271 (b) Obligations of any federal agency that are fully
 272 guaranteed as to payment of principal and interest by the United
 273 States Government.

274 (c) Obligations of the following federal agencies:

275 1. Farm credit banks.

276 2. Federal land banks.

277 3. The Federal Home Loan Bank and its district banks.

278 4. Federal intermediate credit banks.

279 5. The Federal Home Loan Mortgage Corporation.

280 6. The Federal National Mortgage Association.

281 7. Obligations guaranteed by the Government National
 282 Mortgage Association.

283 (d) General obligations of a state of the United States, or
 284 of Puerto Rico, or of a political subdivision or municipality
 285 thereof.

286 (e) Obligations issued by the Florida State Board of
 287 Education under authority of the State Constitution or
 288 applicable statutes.

289 (f) Tax anticipation certificates or warrants of counties
 290 or municipalities having maturities not exceeding 1 year.

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291 (g) Public housing authority obligations.

292 (h) Revenue bonds or certificates of a state of the United

293 States or of a political subdivision or municipality thereof.

294 (i) Corporate bonds of any corporation that is not an

295 affiliate or subsidiary of the qualified public depository.

296 Section 12. Paragraph (b) of subsection (4) of section

297 280.17, Florida Statutes, is amended to read:

298 280.17 Requirements for public depositors; notice to public

299 depositors and governmental units; loss of protection.—In

300 addition to any other requirement specified in this chapter,

301 public depositors shall comply with the following:

302 (4) If public deposits are in a qualified public depository

303 that has been declared to be in default or insolvent, each

304 public depositor shall:

305 (b) Submit to the Chief Financial Officer for each public

306 deposit, within 30 days after the date of official notification

307 from the Chief Financial Officer, the following:

308 1. A claim form and agreement, as prescribed by the Chief

309 Financial Officer, executed under oath, accompanied by proof of

310 authority to execute the form on behalf of the public depositor.

311 2. A completed public deposit identification and

312 acknowledgment form, as described in subsection (2).

313 3. Evidence of the insurance afforded the deposit pursuant

314 to the Federal Deposit Insurance Act or the Federal Credit Union

315 Act, as appropriate.

316 Section 13. For the purpose of incorporating the amendment

317 made by this act to section 280.02, Florida Statutes, in a

318 reference thereto, paragraph (a) of subsection (7) of section

319 17.57, Florida Statutes, is reenacted to read:

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320 17.57 Deposits and investments of state money.—

321 (7) In addition to the deposits authorized under this

322 section and notwithstanding any other provisions of law, funds

323 that are not needed to meet the disbursement needs of the state

324 may be deposited by the Chief Financial Officer in accordance

325 with the following conditions:

326 (a) The funds are initially deposited in a qualified public

327 depository, as defined in s. 280.02, selected by the Chief

328 Financial Officer.

329 Section 14. For the purpose of incorporating the amendment

330 made by this act to section 280.02, Florida Statutes, in a

331 reference thereto, subsection (1) of section 24.114, Florida

332 Statutes, is reenacted to read:

333 24.114 Bank deposits and control of lottery transactions.—

334 (1) All moneys received by each retailer from the operation

335 of the state lottery, including, but not limited to, all ticket

336 sales, interest, gifts, and donations, less the amount retained

337 as compensation for the sale of the tickets and the amount paid

338 out as prizes, shall be remitted to the department or deposited

339 in a qualified public depository, as defined in s. 280.02, as

340 directed by the department. The department shall have the

341 responsibility for all administrative functions related to the

342 receipt of funds. The department may also require each retailer

343 to file with the department reports of the retailer's receipts

344 and transactions in the sale of lottery tickets in such form and

345 containing such information as the department may require. The

346 department may require any person, including a qualified public

347 depository, to perform any function, activity, or service in

348 connection with the operation of the lottery as it may deem

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349 advisable pursuant to this act and rules of the department, and
 350 such functions, activities, or services shall constitute lawful
 351 functions, activities, and services of such person.

352 Section 15. For the purpose of incorporating the amendment
 353 made by this act to section 280.02, Florida Statutes, in a
 354 reference thereto, paragraph (e) of subsection (3) of section
 355 125.901, Florida Statutes, is reenacted to read:

356 125.901 Children's services; independent special district;
 357 council; powers, duties, and functions; public records
 358 exemption.—

359 (3)

360 (e)1. All moneys received by the council on children's
 361 services shall be deposited in qualified public depositories, as
 362 defined in s. 280.02, with separate and distinguishable accounts
 363 established specifically for the council and shall be withdrawn
 364 only by checks signed by the chair of the council and
 365 countersigned by either one other member of the council on
 366 children's services or by a chief executive officer who shall be
 367 so authorized by the council.

368 2. Upon entering the duties of office, the chair and the
 369 other member of the council or chief executive officer who signs
 370 its checks shall each give a surety bond in the sum of at least
 371 \$1,000 for each \$1 million or portion thereof of the council's
 372 annual budget, which bond shall be conditioned that each shall
 373 faithfully discharge the duties of his or her office. The
 374 premium on such bond may be paid by the district as part of the
 375 expense of the council. No other member of the council shall be
 376 required to give bond or other security.

377 3. No funds of the district shall be expended except by

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378 check as aforesaid, except expenditures from a petty cash
 379 account which shall not at any time exceed \$100. All
 380 expenditures from petty cash shall be recorded on the books and
 381 records of the council on children's services. No funds of the
 382 council on children's services, excepting expenditures from
 383 petty cash, shall be expended without prior approval of the
 384 council, in addition to the budgeting thereof.

385 Section 16. For the purpose of incorporating the amendment
 386 made by this act to section 280.02, Florida Statutes, in a
 387 reference thereto, section 136.01, Florida Statutes, is
 388 reenacted to read:

389 136.01 County depositories.—Each county depository shall be
 390 a qualified public depository as defined in s. 280.02 for the
 391 following funds: county funds; funds of all county officers,
 392 including constitutional officers; funds of the school board;
 393 and funds of the community college district board of trustees.
 394 This enumeration of funds is made not by way of limitation, but
 395 of illustration; and it is the intent hereof that all funds of
 396 the county, the board of county commissioners or the several
 397 county officers, the school board, or the community college
 398 district board of trustees be included.

399 Section 17. For the purpose of incorporating the amendment
 400 made by this act to section 280.02, Florida Statutes, in a
 401 reference thereto, subsection (11) of section 159.608, Florida
 402 Statutes, is reenacted to read:

403 159.608 Powers of housing finance authorities.—A housing
 404 finance authority shall constitute a public body corporate and
 405 politic, exercising the public and essential governmental
 406 functions set forth in this act, and shall exercise its power to

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407 borrow only for the purpose as provided herein:

408 (11) To invest and reinvest surplus funds of the housing
 409 finance authority in accordance with s. 218.415. However, in
 410 addition to the investments expressly authorized in s.
 411 218.415(16) (a)-(g) and (17) (a)-(d), a housing finance authority
 412 may invest surplus funds in interest-bearing time deposits or
 413 savings accounts that are fully insured by the Federal Deposit
 414 Insurance Corporation regardless of whether the bank or
 415 financial institution in which the deposit or investment is made
 416 is a qualified public depository as defined in s. 280.02. This
 417 subsection is supplementary to and may not be construed as
 418 limiting any powers of a housing finance authority or providing
 419 or implying a limiting construction of any other statutory
 420 provision.

421 Section 18. For the purpose of incorporating the amendment
 422 made by this act to section 280.02, Florida Statutes, in a
 423 reference thereto, section 175.301, Florida Statutes, is
 424 reenacted to read:

425 175.301 Depository for pension funds.—For any municipality,
 426 special fire control district, chapter plan, local law
 427 municipality, local law special fire control district, or local
 428 law plan under this chapter, all funds of the firefighters'
 429 pension trust fund of any chapter plan or local law plan under
 430 this chapter may be deposited by the board of trustees with the
 431 treasurer of the municipality or special fire control district,
 432 acting in a ministerial capacity only, who shall be liable in
 433 the same manner and to the same extent as he or she is liable
 434 for the safekeeping of funds for the municipality or special
 435 fire control district. However, any funds so deposited with the

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436 treasurer of the municipality or special fire control district
 437 shall be kept in a separate fund by the treasurer or clearly
 438 identified as such funds of the firefighters' pension trust
 439 fund. In lieu thereof, the board of trustees shall deposit the
 440 funds of the firefighters' pension trust fund in a qualified
 441 public depository as defined in s. 280.02, which depository with
 442 regard to such funds shall conform to and be bound by all of the
 443 provisions of chapter 280.

444 Section 19. For the purpose of incorporating the amendment
 445 made by this act to section 280.02, Florida Statutes, in
 446 references thereto, subsection (8) of section 175.401, Florida
 447 Statutes, is reenacted to read:

448 175.401 Retiree health insurance subsidy.—For any
 449 municipality, special fire control district, chapter plan, local
 450 law municipality, local law special fire control district, or
 451 local law plan under this chapter, under the broad grant of home
 452 rule powers under the Florida Constitution and chapter 166,
 453 municipalities have the authority to establish and administer
 454 locally funded health insurance subsidy programs. In addition,
 455 special fire control districts may, by resolution, establish and
 456 administer locally funded health insurance subsidy programs.
 457 Pursuant thereto:

458 (8) DEPOSIT OF HEALTH INSURANCE SUBSIDY FUNDS.—All funds of
 459 the health insurance subsidy fund may be deposited by the board
 460 of trustees with the treasurer of the municipality or special
 461 fire control district, acting in a ministerial capacity only,
 462 who shall be liable in the same manner and to the same extent as
 463 he or she is liable for the safekeeping of funds for the
 464 municipality or special fire control district. Any funds so

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465 deposited shall be segregated by the treasurer in a separate
 466 fund, clearly identified as funds of the health insurance
 467 subsidy fund. In lieu thereof, the board of trustees shall
 468 deposit the funds of the health insurance subsidy fund in a
 469 qualified public depository as defined in s. 280.02, which shall
 470 conform to and be bound by the provisions of chapter 280 with
 471 regard to such funds. In no case shall the funds of the health
 472 insurance subsidy fund be deposited in any financial
 473 institution, brokerage house trust company, or other entity that
 474 is not a public depository as provided by s. 280.02.

475 Section 20. For the purpose of incorporating the amendment
 476 made by this act to section 280.02, Florida Statutes, in a
 477 reference thereto, section 185.30, Florida Statutes, is
 478 reenacted to read:

479 185.30 Depository for retirement fund.—For any
 480 municipality, chapter plan, local law municipality, or local law
 481 plan under this chapter, all funds of the municipal police
 482 officers' retirement trust fund of any municipality, chapter
 483 plan, local law municipality, or local law plan under this
 484 chapter may be deposited by the board of trustees with the
 485 treasurer of the municipality acting in a ministerial capacity
 486 only, who shall be liable in the same manner and to the same
 487 extent as he or she is liable for the safekeeping of funds for
 488 the municipality. However, any funds so deposited with the
 489 treasurer of the municipality shall be kept in a separate fund
 490 by the municipal treasurer or clearly identified as such funds
 491 of the municipal police officers' retirement trust fund. In lieu
 492 thereof, the board of trustees shall deposit the funds of the
 493 municipal police officers' retirement trust fund in a qualified

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494 public depository as defined in s. 280.02, which depository with
 495 regard to such funds shall conform to and be bound by all of the
 496 provisions of chapter 280.

497 Section 21. For the purpose of incorporating the amendment
 498 made by this act to section 280.02, Florida Statutes, in
 499 references thereto, subsection (8) of section 185.50, Florida
 500 Statutes, is reenacted to read:

501 185.50 Retiree health insurance subsidy.—For any
 502 municipality, chapter plan, local law municipality, or local law
 503 plan under this chapter, under the broad grant of home rule
 504 powers under the Florida Constitution and chapter 166,
 505 municipalities have the authority to establish and administer
 506 locally funded health insurance subsidy programs. Pursuant
 507 thereto:

508 (8) DEPOSIT OF PENSION FUNDS.—All funds of the health
 509 insurance subsidy fund may be deposited by the board of trustees
 510 with the treasurer of the municipality, acting in a ministerial
 511 capacity only, who shall be liable in the same manner and to the
 512 same extent as he or she is liable for the safekeeping of funds
 513 for the municipality. Any funds so deposited shall be segregated
 514 by said treasurer in a separate fund, clearly identified as
 515 funds of the health insurance subsidy fund. In lieu thereof, the
 516 board of trustees shall deposit the funds of the health
 517 insurance subsidy fund in a qualified public depository as
 518 defined in s. 280.02, which shall conform to and be bound by the
 519 provisions of chapter 280 with regard to such funds. In no case
 520 shall the funds of the health insurance subsidy fund be
 521 deposited in any financial institution, brokerage house trust
 522 company, or other entity that is not a public depository as

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523 provided by s. 280.02.

524 Section 22. For the purpose of incorporating the amendment
525 made by this act to section 280.02, Florida Statutes, in a
526 reference thereto, subsection (3) of section 190.007, Florida
527 Statutes, is reenacted to read:

528 190.007 Board of supervisors; general duties.—

529 (3) The board is authorized to select as a depository for
530 its funds any qualified public depository as defined in s.
531 280.02 which meets all the requirements of chapter 280 and has
532 been designated by the Chief Financial Officer as a qualified
533 public depository, upon such terms and conditions as to the
534 payment of interest by such depository upon the funds so
535 deposited as the board may deem just and reasonable.

536 Section 23. For the purpose of incorporating the amendment
537 made by this act to section 280.02, Florida Statutes, in a
538 reference thereto, subsection (16) of section 191.006, Florida
539 Statutes, is reenacted to read:

540 191.006 General powers.—The district shall have, and the
541 board may exercise by majority vote, the following powers:

542 (16) To select as a depository for its funds any qualified
543 public depository as defined in s. 280.02 which meets all the
544 requirements of chapter 280 and has been designated by the Chief
545 Financial Officer as a qualified public depository, upon such
546 terms and conditions as to the payment of interest upon the
547 funds deposited as the board deems just and reasonable.

548 Section 24. For the purpose of incorporating the amendment
549 made by this act to section 280.02, Florida Statutes, in a
550 reference thereto, subsection (2) of section 215.34, Florida
551 Statutes, is reenacted to read:

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552 215.34 State funds; noncollectible items; procedure.—

553 (2) Whenever a check, draft, or other order for the payment
554 of money is returned by the Chief Financial Officer, or by a
555 qualified public depository as defined in s. 280.02, to a state
556 officer, a state agency, or the judicial branch for collection,
557 the officer, agency, or judicial branch shall add to the amount
558 due a service fee of \$15 or 5 percent of the face amount of the
559 check, draft, or order, whichever is greater. An agency or the
560 judicial branch may adopt a rule which prescribes a lesser
561 maximum service fee, which shall be added to the amount due for
562 the dishonored check, draft, or other order tendered for a
563 particular service, license, tax, fee, or other charge, but in
564 no event shall the fee be less than \$15. The service fee shall
565 be in addition to all other penalties imposed by law, except
566 that when other charges or penalties are imposed by an agency
567 related to a noncollectible item, the amount of the service fee
568 shall not exceed \$150. Proceeds from this fee shall be deposited
569 in the same fund as the collected item. Nothing in this section
570 shall be construed as authorization to deposit moneys outside
571 the State Treasury unless specifically authorized by law.

572 Section 25. For the purpose of incorporating the amendment
573 made by this act to section 280.02, Florida Statutes, in
574 references thereto, paragraph (c) of subsection (16), subsection
575 (17), and paragraph (a) of subsection (23) of section 218.415,
576 Florida Statutes, are reenacted to read:

577 218.415 Local government investment policies.—Investment
578 activity by a unit of local government must be consistent with a
579 written investment plan adopted by the governing body, or in the
580 absence of the existence of a governing body, the respective

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581 principal officer of the unit of local government and maintained
 582 by the unit of local government or, in the alternative, such
 583 activity must be conducted in accordance with subsection (17).
 584 Any such unit of local government shall have an investment
 585 policy for any public funds in excess of the amounts needed to
 586 meet current expenses as provided in subsections (1)-(16), or
 587 shall meet the alternative investment guidelines contained in
 588 subsection (17). Such policies shall be structured to place the
 589 highest priority on the safety of principal and liquidity of
 590 funds. The optimization of investment returns shall be secondary
 591 to the requirements for safety and liquidity. Each unit of local
 592 government shall adopt policies that are commensurate with the
 593 nature and size of the public funds within its custody.

594 (16) AUTHORIZED INVESTMENTS; WRITTEN INVESTMENT POLICIES.-
 595 Those units of local government electing to adopt a written
 596 investment policy as provided in subsections (1)-(15) may by
 597 resolution invest and reinvest any surplus public funds in their
 598 control or possession in:

599 (c) Interest-bearing time deposits or savings accounts in
 600 qualified public depositories as defined in s. 280.02.

601 (17) AUTHORIZED INVESTMENTS; NO WRITTEN INVESTMENT POLICY.-
 602 Those units of local government electing not to adopt a written
 603 investment policy in accordance with investment policies
 604 developed as provided in subsections (1)-(15) may invest or
 605 reinvest any surplus public funds in their control or possession
 606 in:

607 (a) The Local Government Surplus Funds Trust Fund, or any
 608 intergovernmental investment pool authorized pursuant to the
 609 Florida Interlocal Cooperation Act of 1969, as provided in s.

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610 163.01.

611 (b) Securities and Exchange Commission registered money
 612 market funds with the highest credit quality rating from a
 613 nationally recognized rating agency.

614 (c) Interest-bearing time deposits or savings accounts in
 615 qualified public depositories, as defined in s. 280.02.

616 (d) Direct obligations of the U.S. Treasury.

617

618 The securities listed in paragraphs (c) and (d) shall be
 619 invested to provide sufficient liquidity to pay obligations as
 620 they come due.

621 (23) AUTHORIZED DEPOSITS.-In addition to the investments
 622 authorized for local governments in subsections (16) and (17)
 623 and notwithstanding any other provisions of law, a unit of local
 624 government may deposit any portion of surplus public funds in
 625 its control or possession in accordance with the following
 626 conditions:

627 (a) The funds are initially deposited in a qualified public
 628 depository, as defined in s. 280.02, selected by the unit of
 629 local government.

630 Section 26. For the purpose of incorporating the amendment
 631 made by this act to section 280.02, Florida Statutes, in a
 632 reference thereto, paragraph (h) of subsection (4) of section
 633 255.502, Florida Statutes, is reenacted to read:

634 255.502 Definitions; ss. 255.501-255.525.-As used in this
 635 act, the following words and terms shall have the following
 636 meanings unless the context otherwise requires:

637 (4) "Authorized investments" means and includes without
 638 limitation any investment in:

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639 (h) Savings accounts in, or certificates of deposit of,
 640 qualified public depositories as defined in s. 280.02, in an
 641 amount that does not exceed 15 percent of the net worth of the
 642 institution, or a lesser amount as determined by rule by the
 643 State Board of Administration, provided such savings accounts
 644 and certificates of deposit are secured in the manner prescribed
 645 in chapter 280.

646

647 Investments in any security authorized in this subsection may be
 648 under repurchase agreements or reverse repurchase agreements.

649 Section 27. For the purpose of incorporating the amendment
 650 made by this act to section 280.02, Florida Statutes, in a
 651 reference thereto, subsections (1) and (2) of section 331.309,
 652 Florida Statutes, are reenacted to read:

653 331.309 Treasurer; depositories; fiscal agent.—

654 (1) The board shall designate an individual who is a
 655 resident of the state, or a qualified public depository as
 656 defined in s. 280.02, as treasurer of Space Florida, who shall
 657 have charge of the funds of Space Florida. Such funds shall be
 658 disbursed only upon the order of or pursuant to the resolution
 659 of the board by warrant, check, authorization, or direct deposit
 660 pursuant to s. 215.85, signed or authorized by the treasurer or
 661 his or her representative or by such other persons as may be
 662 authorized by the board. The board may give the treasurer such
 663 other or additional powers and duties as the board may deem
 664 appropriate and shall establish the treasurer's compensation.
 665 The board may require the treasurer to give a bond in such
 666 amount, on such terms, and with such sureties as may be deemed
 667 satisfactory to the board to secure the performance by the

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668 treasurer of his or her powers and duties. The board shall audit
 669 or have audited the books of the treasurer at least once a year.

670 (2) The board is authorized to select as depositories in
 671 which the funds of the board and of Space Florida shall be
 672 deposited any qualified public depository as defined in s.
 673 280.02, upon such terms and conditions as to the payment of
 674 interest by such depository upon the funds so deposited as the
 675 board may deem just and reasonable. The funds of Space Florida
 676 may be kept in or removed from the State Treasury upon written
 677 notification from the chair of the board to the Chief Financial
 678 Officer.

679 Section 28. For the purpose of incorporating the amendment
 680 made by this act to section 280.02, Florida Statutes, in a
 681 reference thereto, subsection (2) of section 373.553, Florida
 682 Statutes, is reenacted to read:

683 373.553 Treasurer of the board; payment of funds;
 684 depositories.—

685 (2) The board is authorized to select as depositories in
 686 which the funds of the board and of the district shall be
 687 deposited in any qualified public depository as defined in s.
 688 280.02, and such deposits shall be secured in the manner
 689 provided in chapter 280.

690 Section 29. For the purpose of incorporating the amendment
 691 made by this act to section 280.02, Florida Statutes, in a
 692 reference thereto, section 631.221, Florida Statutes, is
 693 reenacted to read:

694 631.221 Deposit of moneys collected.—The moneys collected
 695 by the department in a proceeding under this chapter shall be
 696 deposited in a qualified public depository as defined in s.

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697 280.02, which depository with regards to such funds shall
698 conform to and be bound by all the provisions of chapter 280, or
699 invested with the Chief Financial Officer pursuant to chapter
700 18. For the purpose of accounting for the assets and
701 transactions of the estate, the receiver shall use such
702 accounting books, records, and systems as the court directs
703 after it hears and considers the recommendations of the
704 receiver.

705 Section 30. For the purpose of incorporating the amendment
706 made by this act to section 280.02, Florida Statutes, in a
707 reference thereto, paragraph (c) of subsection (3) of section
708 723.06115, Florida Statutes, is reenacted to read:

709 723.06115 Florida Mobile Home Relocation Trust Fund.—

710 (3) The department shall distribute moneys in the Florida
711 Mobile Home Relocation Trust Fund to the Florida Mobile Home
712 Relocation Corporation in accordance with the following:

713 (c) Funds transferred from the trust fund to the
714 corporation shall be transferred electronically and shall be
715 transferred to and maintained in a qualified public depository
716 as defined in s. 280.02 which is specified by the corporation.

717 Section 31. This act shall take effect July 1, 2018.

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/14/17

Meeting Date

1170
Bill Number (if applicable)

Topic Qualified Public Depositories

Name Cecilia Homison

Amendment Barcode (if applicable)

Job Title CEO

Address PO Box 6416
Street

Phone 850 410 3552

Tallahassee FL 32312
City State Zip

Email chomison@firstcommerce.org

Speaking: For Against Information

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

Representing First Commerce Credit Union

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)

3-14-17

Meeting Date

1170

Bill Number (if applicable)

Topic Credit Unions Public Deposits

Amendment Barcode (if applicable)

Name NAT Toulon

Job Title Former Chief Bureau of Collateral Mgmt

Address 1324 Peacefield Pl

Phone 850 385 9703

Street

Tallahassee

FL

32308

City

State

Zip

Email toulon@ccuincfl.net

Speaking: For Against Information

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

Representing ~~Capital City Consultants~~ FL Credit Union 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

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3/14/17

Meeting Date

1170

Bill Number (if applicable)

Topic Qualified Public Depositories

Amendment Barcode (if applicable)

Name JARED ROSS

Job Title SVP, Governmental Affairs

Address 3692 Coolidge Ct

Phone (850) 322-6956

Street

Tallahassee FL 32311

City

State

Zip

Email jared.ross@lscu.coop

Speaking: For Against Information

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

Representing Florida Credit Union 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)

3/14/17

Meeting Date

1170

Bill Number (if applicable)

Topic Public Deposits

Amendment Barcode (if applicable)

Name Kim Davis

Job Title EVP/CFO

Address 217 N. Monroe Street

Phone 402-850-5782

Jacksonville, FL 32301

Email jkd@ccbq.com

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

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

Representing Capital City Bank

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

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

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)

3/14/17

Meeting Date

~~02270~~ 1170
Bill Number (if applicable)

Topic Public Deposits

Amendment Barcode (if applicable)

Name Anthony DiMareo

Job Title EVA of Govt Affairs

Address 1001 Thomasville Rd

Phone 228-2245

Street

City

State

Zip

Kellahome FL 3253

Email admareo@floridabank.com

Speaking: For Against Information

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

Representing Florida Bankers Assoc.

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: SPB 7024

INTRODUCER: Banking and Insurance Committee

SUBJECT: OGSR/Title Insurance Agencies or Insurers/Office of Insurance Regulation

DATE: March 15, 2017

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Billmeier	Knudson		BI Submitted as Comm. Bill/Fav

I. Summary:

SPB 7024 requires the Legislature to review each public record and each public meeting exemption 5 years after enactment. If the Legislature does not reenact the exemption, it automatically repeals on October 2nd of the fifth year after enactment.

Title insurers and title insurance agencies are required to submit to the Office of Insurance Regulation (OIR), by May 31 of each year, data that have been identified as necessary to assist in the analysis of premium rates, title search costs, and the condition of Florida's title insurance industry. Current law provides that proprietary business information provided to OIR by a title insurance agency or insurer is confidential and exempt from public record requirements until such information is otherwise publicly available or is no longer treated by the title insurance agency or insurer as proprietary business information. However, information provided by multiple title insurance agencies and insurers may be aggregated on an industry-wide basis and disclosed to the public as long as the specific identities of the agencies or insurers are not revealed.

The bill reenacts the public record exemption, which will repeal on October 2, 2017, if this bill does not become law.

II. Present Situation:

Public Records Law

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 This 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

¹ FLA. CONST., art. I, s. 24(a).

² FLA. CONST., art. I, s. 24(a).

In addition to the Florida Constitution, the Florida Statutes provides that the public may access legislative and executive branch records.³ Chapter 119, F.S., constitutes the main body of public records laws, and is known as the Public Records Act.⁴ The Public Records Act states that

it is the policy of this state that all state, county and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁵

According to the Public Records Act, 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 public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate or formalize knowledge of some type.”⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

The Legislature may create an exemption to public records requirements.⁹ An exemption must pass by a two-thirds vote of the House and the Senate.¹⁰ In addition, an exemption must explicitly lay out the public necessity justifying the exemption, and the exemption must be no broader than necessary to accomplish the stated purpose of the exemption.¹¹ A statutory exemption which does not meet these criteria may be unconstitutional and may not be judicially saved.¹²

When creating a public records exemption, the Legislature may provide that a record is ‘confidential and exempt’ or ‘exempt.’¹³ Records designated as ‘confidential and exempt’ may

³ The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So.2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So.2d 255 (Fla. 1995). The Legislature’s records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislatures are primarily located in s. 11.0431(2)-(3), F.S.

⁴ Public records laws are found throughout the Florida Statutes.

⁵ Section 119.01(1), F.S.

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.” Section 119.011(2), F.S., defines “agency” to mean 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.”

⁷ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So.2d 633, 640 (Fla. 1980).

⁸ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

⁹ FLA. CONST., art. I, s. 24(c).

¹⁰ FLA. CONST., art. I, s. 24(c).

¹¹ FLA. CONST., art. I, s. 24(c).

¹² *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So.2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found 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. *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption in order to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So.2d 189 (Fla. 1st DCA 2004), the court found that the intent of a statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

¹³ If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48 (Fla. 5th DCA 2004).

be released by the records custodian only under the circumstances defined by the Legislature. Records designated as ‘exempt’ may be released at the discretion of the records custodian.¹⁴

Open Government Sunset Review Act

In addition to the constitutional requirements relating to the enactment of a public records exemption, the Legislature may subject the new or broadened exemption to the Open Government Sunset Review Act (OGSR).

The OGSR prescribes a legislative review process for newly created or substantially amended public records.¹⁵ The OGSR provides that an exemption automatically repeals on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption.¹⁶ In practice, many exemptions are continued by repealing the sunset date rather than reenacting the exemption.

Under the OGSR the purpose and necessity of reenacting the exemption are reviewed. The Legislature must consider the following questions during its review of an exemption:¹⁷

- 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?

If the Legislature expands an exemption, then a public necessity statement and a two-thirds vote for passage are required.¹⁸ If the exemption is reenacted without substantive changes or if the exemption is 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 otherwise provided for by law.¹⁹

Title Insurance Regulation

Under current law, two entities provide regulatory oversight of the title insurance industry: the Department of Financial Services (DFS), which regulates title agents, and the OIR, which regulates title insurers, including licensing and promulgation of rates. Rates and premiums

¹⁴ A record classified as exempt from public disclosure may be disclosed under certain circumstances. *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991).

¹⁵ Section 119.15, F.S. According to s. 119.15(4)(b), F.S., a substantially amended exemption is one that is expanded to include more information or to include meetings. The OGSR does not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System pursuant to s. 119.15(2), F.S. The OGSR process is currently being followed, however, the Legislature is not required to continue to do so. The Florida Supreme Court has found that one legislature cannot bind a future legislature. *Scott v. Williams*, 107 So.3d 379 (Fla. 2013).

¹⁶ Section 119.15(3), F.S.

¹⁷ Section 119.15(6)(a), F.S.

¹⁸ FLA. CONST., art. I, s. 24(c).

¹⁹ Section 119.15(7), F.S.

charged by title insurers are specified by rule by the Financial Services Commission.²⁰ Title insurers may deviate from the proscribed rates by petitioning OIR for an order authorizing a specific deviation from the adopted premium.²¹

Title Insurers and Title Agencies Data Submission

Section 627.782(8), F.S., requires title insurers and title agencies to submit to OIR, on or before May 31 of each year, revenue, loss, and expense data for the most recently concluded year that are determined necessary to assist in the analysis of premium rates, title search costs, and the condition of the Florida title insurance industry.

Public Record Exemption under Review

In 2012, the Legislature created a public record exemption for proprietary business information provided to OIR by a title insurance agency or insurer. The information is confidential and exempt from public record requirements until such information is otherwise publicly available or is no longer treated by the title insurance agency or insurer as proprietary business information. However, information provided by multiple title insurance agencies and insurers may be aggregated on an industry-wide basis and disclosed to the public as long as the specific identities of the agencies or insurers are not revealed. The exemption defines “proprietary business information” as information that:

- Is owned or controlled by a title insurance agency or insurer requesting confidentiality;
- Is intended to be and is treated by the title insurance agency or insurer as private in that the disclosure of the information would cause harm to the business operations of the title insurance agency or insurer;
- Has not been publicly disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or a private agreement, providing that the information may be released to the public; and
- Concerns business plans, internal auditing controls and reports of internal auditors, reports of external auditors for privately held companies, trade secrets as defined in s. 688.002, F.S., or financial information, including, but not limited to, revenue data, loss expense data, gross receipts, taxes paid, capital investment, customer identification, and employee wages.²²

The 2012 public necessity statement for the exemption provides that:

The disclosure of information, such as revenue data, loss expense data, gross receipts, the amount of taxes paid, the amount of capital investment, customer identification, and the amount of employee wages paid, could injure a business in the marketplace by providing its competitors with detailed insights into the financial status and the strategic plans of the business, thereby diminishing the advantage that the business maintains over competitors that do not possess such information. Without this exemption, title insurance agencies and title insurers, whose records are generally not required to be open to the public, might refrain

²⁰ s. 627.782, F.S.

²¹ s. 627.783, F.S.

²² s. 626.84195, F.S.

from providing accurate and unbiased data, thus impairing the Office of Insurance Regulation's ability to set fair and adequate title insurance rates. Proprietary business information derives actual or potential independent economic value from not being generally known to, and not being readily ascertainable by proper means by, other persons who can derive economic value from its disclosure or use. The Office of Insurance Regulation, in performing its lawful duties and responsibilities, may need to obtain information from the proprietary business information. Without an exemption from public records requirements for proprietary business information provided to the Office of Insurance Regulation, such information becomes a public record when received and must be divulged upon request. Divulgence of any proprietary business information under the public records law would destroy the value of that property to the proprietor, causing a financial loss not only to the proprietor but also to the residents of this state due to the loss of reliable financial data necessary for fair and adequate rate regulation. Release of proprietary business information would give business competitors an unfair advantage and weaken the position in the marketplace of the proprietor that owns or controls the proprietary business information. The harm to businesses in the marketplace and to the effective administration of the ratemaking function caused by the public disclosure of such information far outweighs the public benefits derived from its release. In addition, the confidentiality provided by this act does not preclude the reporting of statistics in the aggregate concerning the collection of data, as well as the names of the title insurance agencies and title insurers participating in the data collection. Such aggregate reported data is available to the public and is important to an assessment of the setting of title insurance premiums.²³

The exemption will repeal on October 2, 2017, unless reviewed and saved from repeal by the Legislature.

During the 2016 interim, committee staff consulted with OIR staff as part of the Open Government Sunset Review process. OIR staff indicated that the exemption was necessary to encourage candid participation in OIR data collection efforts and recommended reenactment of the exemption. If the exemption were to lapse, OIR staff believes that title insurers and title agencies would be hesitant to submit information to OIR for fear that their competitors would gain access to sensitive business information. OIR staff indicated that it does not collect "customer identification" and therefore would not object to that term being removed as an example of "financial information" within the exemption.

III. Effect of Proposed Changes:

The bill reenacts the public record exemption for "proprietary business information" provided to the OIR by title insurance agency or insurer.

The bill takes effect October 1, 2017.

²³ Ch. 2012-207, L.O.F.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

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 626.84195 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.

FOR CONSIDERATION By the Committee on Banking and Insurance

597-02023-17

20177024pb

1 A bill to be entitled
 2 An act relating to a review under the Open Government
 3 Sunset Review Act; amending s. 626.84195, F.S.,
 4 relating to an exemption from public records
 5 requirements for proprietary business information
 6 provided to the Office of Insurance Regulation by
 7 title insurance agencies or insurers; redefining the
 8 term "proprietary business information"; removing the
 9 scheduled repeal of the exemption; providing an
 10 effective date.
 11
 12 Be It Enacted by the Legislature of the State of Florida:
 13
 14 Section 1. Section 626.84195, Florida Statutes, is amended
 15 to read:
 16 626.84195 Confidentiality of information supplied by title
 17 insurance agencies and insurers.—
 18 (1) As used in this section, the term "proprietary business
 19 information" means information that:
 20 (a) Is owned or controlled by a title insurance agency or
 21 insurer requesting confidentiality under this section;
 22 (b) Is intended to be and is treated by the title insurance
 23 agency or insurer as private in that the disclosure of the
 24 information would cause harm to the business operations of the
 25 title insurance agency or insurer;
 26 (c) Has not been ~~publicly~~ disclosed unless disclosed
 27 pursuant to a statutory provision, an order of a court or
 28 administrative body, or a private agreement, providing that the
 29 information may not be released to the public; and

Page 1 of 2

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597-02023-17

20177024pb

30 (d) Concerns:
 31 1. Business plans;
 32 2. Internal auditing controls and reports of internal
 33 auditors;
 34 3. Reports of external auditors for privately held
 35 companies;
 36 4. Trade secrets, as defined in s. 688.002; or
 37 5. Financial information, including, but not limited to,
 38 revenue data, loss expense data, gross receipts, taxes paid,
 39 capital investment, customer identification, and employee wages.
 40 (2) Proprietary business information provided to the office
 41 by a title insurance agency or insurer is confidential and
 42 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 43 Constitution until such information is otherwise publicly
 44 available or is no longer treated by the title insurance agency
 45 or insurer as proprietary business information. However,
 46 information provided by multiple title insurance agencies and
 47 insurers may be aggregated on an industrywide basis and
 48 disclosed to the public as long as the specific identities of
 49 the agencies or insurers are not revealed.
 50 ~~(3) This section is subject to the Open Government Sunset~~
 51 ~~Review Act in accordance with s. 119.15 and shall stand repealed~~
 52 ~~on October 2, 2017, unless reviewed and saved from repeal~~
 53 ~~through reenactment by the Legislature.~~
 54 Section 2. This act shall take effect October 1, 2017.

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

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: SPB 7026

INTRODUCER: Banking and Insurance Committee

SUBJECT: OGSR/Reports of Unclaimed Property/Department of Financial Services

DATE: March 15, 2017

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Matiyow</u>	<u>Knudson</u>	_____	BI Submitted as Comm. Bill/Fav

I. Summary:

SPB 7026 continues the existing public records exemption for social security numbers held by the Division of Unclaimed Property at the Department of Financial Services by removing the October 2, 2017, repeal date.

The bill provides an effective date of October 1, 2017.

II. Present Situation:

Public Records Law

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 This 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

In addition to the Florida Constitution, the Florida Statutes provides that the public may access legislative and executive branch records.³ Chapter 119, F.S., constitutes the main body of public records laws, and is known as the Public Records Act.⁴ The Public Records Act states that

it is the policy of this state that all state, county and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁵

¹ FLA. CONST., art. I, s. 24(a).

² FLA. CONST., art. I, s. 24(a).

³ The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So.2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So.2d 255 (Fla. 1995). The Legislature's records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislatures are primarily located in s. 11.0431(2)-(3), F.S.

⁴ Public records laws are found throughout the Florida Statutes.

⁵ Section 119.01(1), F.S.

According to the Public Records Act, 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 public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate or formalize knowledge of some type.”⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

The Legislature may create an exemption to public records requirements.⁹ An exemption must pass by a two-thirds vote of the House and the Senate.¹⁰ In addition, an exemption must explicitly lay out the public necessity justifying the exemption, and the exemption must be no broader than necessary to accomplish the stated purpose of the exemption.¹¹ A statutory exemption which does not meet these criteria may be unconstitutional and may not be judicially saved.¹²

When creating a public records exemption, the Legislature may provide that a record is ‘confidential and exempt’ or ‘exempt.’¹³ Records designated as ‘confidential and exempt’ may be released by the records custodian only under the circumstances defined by the Legislature. Records designated as ‘exempt’ may be released at the discretion of the records custodian.¹⁴

Open Government Sunset Review Act

In addition to the constitutional requirements relating to the enactment of a public records exemption, the Legislature may subject the new or broadened exemption to the Open Government Sunset Review Act (OGSR).

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.” Section 119.011(2), F.S., defines “agency” to mean 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.”

⁷ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So.2d 633, 640 (Fla. 1980).

⁸ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

⁹ FLA. CONST., art. I, s. 24(c).

¹⁰ FLA. CONST., art. I, s. 24(c).

¹¹ FLA. CONST., art. I, s. 24(c).

¹² *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So.2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found 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. *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption in order to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So.2d 189 (Fla. 1st DCA 2004), the court found that the intent of a statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

¹³ If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48 (Fla. 5th DCA 2004).

¹⁴ A record classified as exempt from public disclosure may be disclosed under certain circumstances. *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991).

The OGSR prescribes a legislative review process for newly created or substantially amended public records.¹⁵ The OGSR provides that an exemption automatically repeals on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption.¹⁶ In practice, many exemptions are continued by repealing the sunset date rather than reenacting the exemption.

Under the OGSR the purpose and necessity of reenacting the exemption are reviewed. The Legislature must consider the following questions during its review of an exemption:¹⁷

- 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?

If the Legislature expands an exemption, then a public necessity statement and a two-thirds vote for passage are required.¹⁸ If the exemption is reenacted without substantive changes or if the exemption is 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 otherwise provided for by law.¹⁹

Unclaimed Property

Unclaimed property consists of any funds or other property, tangible or intangible, which has remained unclaimed by the owner for more than 5 years after the property becomes payable or distributable.²⁰ Savings and checking accounts, money orders, travelers' checks, uncashed payroll or cashiers' checks, stocks, bonds, other securities, insurance policy payments, refunds, security and utility deposits, and contents of safe deposit boxes are potentially unclaimed property.²¹ Holders of unclaimed property, which typically include banks and insurance companies, are required to report unclaimed property to the Department of Financial Services (DFS).²² If the property remains unclaimed, all proceeds from abandoned property are deposited by DFS into the Department of Education School Trust Fund (State School Fund), except for a

¹⁵ Section 119.15, F.S. According to s. 119.15(4)(b), F.S., a substantially amended exemption is one that is expanded to include more information or to include meetings. The OGSR does not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System pursuant to s. 119.15(2), F.S. The OGSR process is currently being followed, however, the Legislature is not required to continue to do so. The Florida Supreme Court has found that one Legislature cannot bind a future Legislature. *Scott v. Williams*, 107 So.3d 379 (Fla. 2013).

¹⁶ Section 119.15(3), F.S.

¹⁷ Section 119.15(6)(a), F.S.

¹⁸ FLA. CONST., art. I, s. 24(c).

¹⁹ Section 119.15(7), F.S.

²⁰ Section 717.102(1), F.S.

²¹ Sections 717.104 – 717.116, F.S.

²² Section 717.117(1), F.S.

\$15 million balance that is retained in a separate account (the Unclaimed Property Trust Fund) for the prompt payment of verified claims.²³

Florida Disposition of Unclaimed Property Act

The Florida Disposition of Unclaimed Property Act²⁴ serves to protect the interest of missing owners of property while the people of the state derive a benefit from the unclaimed and abandoned property until the property is claimed, if ever. Department of Financial Services (DFS) administers the Act through its Division of Unclaimed Property (division).²⁵

Holders of inactive accounts (presumed unclaimed property) are required to use due diligence to locate apparent owners.²⁶ Once the allowable time period for holding unclaimed property has expired, a holder is required to file a report with DFS by May 1 for all property valued at \$50 or more and presumed unclaimed for the preceding calendar year.²⁷ The report generally must contain the name and social security number or federal employer identification number, if known, and the last known address of the apparent owner.²⁸

Current law places an obligation on the state to notify owners of unclaimed property accounts valued at over \$250, in a cost-effective manner, including through attempts to directly contact the owner.²⁹ DFS indicates that the means used to find lost property owners include social security numbers, direct mailing, motor vehicle records, state payroll records, newspaper advertisements, and a state website³⁰ where unclaimed property can be found.³¹

Attorneys, Florida-certified public accountants, Florida-licensed private investigators, and Florida-licensed private investigative agencies must first register with DFS in order to act as a claimant's representative, acquire ownership or entitlement to unclaimed property, and receive a distribution of fees and costs from DFS.³² Claimants' representatives access information from the division's website or the division itself.

Public Record Exemption under Review

Current law provides a public record exemption for social security numbers and property identifiers contained in reports of unclaimed property held by DFS.³³ Prior to 2012, the exemption provided an exception which allowed social security numbers to be released to certain persons registered with DFS to act as claimants' representatives. In 2012, the Legislature repealed the exception to the public record exemption and reenacted the exemption, requiring all

²³ Section 717.123, F.S.

²⁴ Section 717.001, F.S. Chapter 717, F.S., may be cited as the "Florida Disposition of Unclaimed Property Act."

²⁵ Section 20.121(2)(k), F.S.

²⁶ Section 717.117(4), F.S.

²⁷ Section 717.117(3), F.S.

²⁸ Section 717.117(1), F.S.

²⁹ Section 717.118(1), F.S.

³⁰ www.fltreasurehunt.org (last visited March 11, 2017).

³¹ Section 717.118(1), F.S.

³² Section 717.1400, F.S.

³³ Section 717.117(8), F.S.

social security numbers and property identifiers to be kept confidential and exempt from public record requirements.³⁴

The 2012 public necessity statement provides that:

Social security numbers, which are used by a holder of unclaimed property to identify such property, could be used to fraudulently obtain unclaimed property. The release of social security numbers could also place owners of unclaimed property at risk of identity theft. Therefore, the protection of social security numbers is a public necessity in order to prevent the fraudulent use of such information by creating falsified or forged documents that appear to demonstrate entitlement to unclaimed property and to prevent opportunities for identity theft.³⁵

Pursuant to the Open Government Sunset Review Act, the exemption will repeal on October 2, 2017, unless reenacted by the Legislature.³⁶

During the 2016 interim, committee staff consulted with staff from DFS as part of the Open Government Sunset Review process. DFS staff recommended reenactment of the exemption without changes and indicated that protecting social security numbers and property identifiers is critical to preventing fraud and identity theft related to unclaimed property claims. According to the department, protecting the social security number and property identifiers has not impaired property locators' ability to locate the property owners. The DFS provided the following information regarding the activity of registered claimant's representatives during the past 10 years.

Fiscal Year	Number of Paid Claims Filed by Registrants	Amounts Paid to Registrants (Fees and Purchase Proceeds)
2007-08	61,823	\$4,411,999
2008-09	68,204	\$4,954,184
2009-10	81,980	\$6,511,745
2010-11	71,744	\$7,288,154
2011-12 (Law Change)	75,149	\$8,190,483
2012-13	70,492	\$7,729,066
2013-14	95,796	\$10,141,842
2014-15	97,742	\$11,676,028
2015-16	94,128	\$9,252,767
2016-17 (7.5 months)	71,519	\$7,321,928

³⁴ Chapter 2012-227, L.O.F., and s. 717.117(8)(b), F.S.

³⁵ *Id.*

³⁶ Section 717.117(8)(c), F.S.

III. Effect of Proposed Changes:

Removes the October 2, 2017, repeal date of the existing public records exemption for social security numbers held by the Division of Unclaimed Property at the Department of Financial Services.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

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 717.117 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.

FOR CONSIDERATION By the Committee on Banking and Insurance

597-00420-17

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A bill to be entitled

An act relating to a review under the Open Government Sunset Review Act; amending s. 717.117, F.S., relating to an exemption from public records requirements for social security numbers and property identifiers, contained in certain reports of unclaimed property, which are held by the Department of Financial Services; removing the scheduled repeal of the exemption; providing an effective date.

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

Section 1. Subsection (8) of section 717.117, Florida Statutes, is amended to read:

717.117 Report of unclaimed property.—

(8) (a) As used in this subsection, the term "property identifier" means the descriptor used by the holder to identify the unclaimed property.

(b) Social security numbers and property identifiers contained in reports required under this section, held by the department, are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(c) This exemption applies to social security numbers and property identifiers held by the department before, on, or after the effective date of this exemption.

~~(d) This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15, and shall stand repealed October 2, 2017, unless reviewed and saved from repeal through reenactment by the Legislature.~~

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

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Section 2. This act shall take effect October 1, 2017.

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

CourtSmart Tag Report

Room: EL 110

Case No.:

Type:

Caption: Senate Committee on Banking and Insurance

Judge:

Started: 3/14/2017 10:05:09 AM

Ends: 3/14/2017 11:39:01 AM

Length: 01:33:53

10:05:14 AM Meeting called to order by Chair
10:05:30 AM Roll Call - Quorum present
10:05:57 AM TAB 1 - SB 340 by Brandes and others - Transportation Network Companies
10:06:42 AM Senator Brandes recognized to present bill
10:07:18 AM Amd. 14456 - explanation of amendment by Sen. Brandes
10:09:22 AM Amd to Amd. 102860 - explanation of amd. by Sen. Brandes - fwo - adopted
10:14:08 AM Amd. to Amd. 546676 by Sen. Farmer - explanation of Amd. by Sen. Farmer
10:15:47 AM Mr. Mercellis Durham representing self
10:18:41 AM Voice vote on Amd. 546676 - Fails
10:19:48 AM Amd. 144456 - delete all amendment
10:20:51 AM Dwight Mattingly, Hobe Sound, FL representing self
10:23:52 AM Amd. 144456 - fwo - adopted
10:25:07 AM David Vucii - North Port, FL representing self
10:30:54 AM Wendy Raynor speaking against bill
10:33:01 AM Megan Sirjane - Samples, FL League of Cities
10:45:20 AM Roll call vote on CS/SB 340 - passed
10:45:57 AM TAB 2 - SB 794 by Sen. Brandes - MV Service Agreement Companies
10:46:27 AM TAB 2 - SB 794 by Sen. Brandes - MV Service Agreement Companies
10:46:28 AM Senator Brandes recognized to explain the bill
10:46:55 AM Amd. 472694 - Explanation of Amd. by Sen. Brandes - fwo - adopted
10:48:12 AM Roll call vote on CS/SB 794 - Favorable
10:49:00 AM TAB 4 - SB 814 - Sen. Broxson
10:50:00 AM Sen. Broxson recognized to explain the bill
10:52:11 AM Roll call vote on SB 814 - Favorable
10:53:12 AM TAB 5 - SB 986 by Stargel - Dept. of Financial Services
10:53:37 AM Sen. Stargel recognized to explain the bill
10:54:09 AM Amd. 722534 (Stargel) - Sen. Stargel recognized to explain the amendment
10:55:15 AM Amd. 722534 - fwo - adopted
10:56:32 AM Roll call on CS/SB 986 - Favorable
10:57:08 AM TAB 6 - SB 1108 - Artiles, Public Records/Firefighters
10:57:39 AM Senator Artiles recognized to present the bill
10:58:39 AM Roll call on SB 1108 - Fav.
10:59:34 AM TAB 8 - SPB by BI - OGSR/Title Insurance
11:00:33 AM Roll call vote on SPB 7024 - Favorable
11:01:44 AM TAB 9 SPB 7026 by BI - OGSR/Unclaimed Property
11:02:23 AM Sen. Mayfield as Chair recognized Sen. Flores to explain the SPB
11:03:05 AM Roll call vote on SPB 7026 - Fav.
11:03:46 AM TAB 3 SB 812 by Sen. Perry - Insurance Policy Transfers
11:04:09 AM Sen. Perry recognized to present bill
11:04:18 AM Amd. 924038 (late filed) - wo - introduced
11:04:51 AM Amd. adopted without objection
11:05:19 AM Lee Jacobson, Florida Justice Association
11:12:56 AM Roll call vote on CS/SB 812 - Fav.
11:13:16 AM TAB 7 - SB 1170 by Sen. Hutson, FL Security for Public Deposits Act
11:13:54 AM Amd. 379464 - explanation of Amd. by Sen. Hutson - fwo - adopted
11:19:49 AM Kim Davis, Capital City Bank
11:20:49 AM Anthony DiMarco, FI Bankers Assoc.
11:24:44 AM Cecilia Homison, First Commerce Credit Union
11:29:45 AM Nat Toulon, FL Credit Union Association
11:37:49 AM Vote on CS/SB 1170 - Fav.
11:38:49 AM Meeting adjourned.