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LEGISLATIVE ACTION

Senate	.	House
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05/06/2011 05:39 PM	.	
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The Conference Committee on SB 2132 recommended the following:

1 **Senate Conference Committee Amendment (with title**
2 **amendment)**

3
4 Delete everything after the enacting clause
5 and insert:

6 Section 1. Section 17.53, Florida Statutes, is repealed.

7 Section 2. Section 17.556, Florida Statutes, is repealed.

8 Section 3. Paragraph (h) of subsection (2) of section
9 20.121, Florida Statutes, is amended to read:

10 20.121 Department of Financial Services.—There is created a
11 Department of Financial Services.

12 (2) DIVISIONS.—The Department of Financial Services shall
13 consist of the following divisions:



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14 (h) The Division of Consumer Services.

15 1. The Division of Consumer Services shall perform the
16 following functions concerning products or services regulated by
17 the department ~~of Financial Services~~ or by ~~either office of the~~
18 Office of Insurance Regulation ~~Financial Services Commission~~:

19 a. Receive inquiries and complaints from consumers.

20 b. Prepare and disseminate such information as the
21 department deems appropriate to inform or assist consumers.

22 c. Provide direct assistance and advocacy for consumers who
23 request such assistance or advocacy.

24 d. With respect to apparent or potential violations of law
25 or applicable rules by a person or entity licensed by the
26 department or ~~by either office of the commission~~, report such
27 apparent or potential violations ~~violation~~ to the office or the
28 appropriate division of the department ~~or office of the~~
29 ~~commission~~, which may take such further action as it deems
30 appropriate.

31 e. Designate an employee of the division as primary contact
32 for consumers on issues relating to sinkholes.

33 2. Any person licensed or issued a certificate of authority
34 by the department or by the Office of Insurance Regulation shall
35 respond, in writing, to the Division of Consumer Services within
36 20 days after receipt of a written request for information from
37 the division concerning a consumer complaint. The response must
38 address the issues and allegations raised in the ~~this~~ complaint.
39 The division may, ~~in its discretion~~, impose an administrative
40 penalty for failure to comply with this subparagraph of ~~in an~~
41 ~~amount~~ up to \$2,500 per violation upon any entity licensed by
42 the department or the office ~~of Insurance Regulation~~ and \$250



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43 for the first violation, \$500 for the second violation, and up
44 to \$1,000 per violation thereafter upon any individual licensed
45 by the department or the office ~~of Insurance Regulation~~.

46 3. The department may adopt rules to administer ~~implement~~
47 ~~the provisions of~~ this paragraph.

48 4. The powers, duties, and responsibilities expressed or
49 granted in this paragraph do shall not limit the powers, duties,
50 and responsibilities of the Department of Financial Services,
51 the Financial Services Commission, the Office of Insurance
52 Regulation, or the Office of Financial Regulation set forth
53 elsewhere in the Florida Statutes.

54 Section 4. Subsection (5) of section 284.01, Florida
55 Statutes, is amended to read:

56 284.01 State Risk Management Trust Fund; coverages to be
57 provided.—

58 (5) Premiums charged to agencies for coverage shall be
59 adopted ~~promulgated~~ on a retrospective rating arrangement based
60 upon actual losses accruing to the fund and loss prevention
61 results, taking into account reasonable expectations,
62 maintenance, and stability of the fund and cost of reinsurance.

63 Section 5. Section 284.36, Florida Statutes, is amended to
64 read:

65 284.36 Appropriation deposits; premium payment.—Premiums
66 for coverage by the State Risk Management Trust Fund as
67 calculated on all coverages shall be billed and charged to each
68 state agency according to coverages obtained by the fund for
69 their benefit, and such obligations shall be paid promptly by
70 each agency from its operating budget upon presentation of a
71 bill therefor. After the first year of operation, premiums to be



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72 charged to all departments of the state are to be computed on a
73 retrospective rating arrangement based upon actual losses
74 accruing to the fund and loss prevention results, taking into
75 account reasonable expectations, the maintenance and stability
76 of the fund, and the cost of insurance.

77 Section 6. Subsection (1) of section 284.42, Florida
78 Statutes, is amended to read:

79 284.42 Reports on state insurance program.—

80 (1) (a) The Department of Financial Services, with the
81 Department of Management Services, shall conduct ~~make~~ an
82 analysis of the state insurance program each year and submit the
83 results on or before January 1 in a report to the Governor, the
84 President of the Senate, and the Speaker of the House of
85 Representatives annually, which shall include:

86 1. (a) Complete underwriting information as to the nature of
87 the risks accepted for self-insurance and those risks that are
88 transferred to the insurance market.

89 2. (b) The funds allocated to the Florida Casualty Risk
90 Management Trust Fund and premiums paid for insurance through
91 the market.

92 3. (c) The method of handling legal matters and the cost
93 allocated.

94 4. (d) The method and cost of handling inspection and
95 engineering of risks.

96 5. (e) The cost of risk management service purchased.

97 6. (f) The cost of managing the State Insurance Program by
98 the Department of Financial Services and the Department of
99 Management Services.

100 (b) Beginning January 1, 2013, the Division of Risk



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101 Management shall include in its annual report an analysis of
102 agency return-to-work efforts, including, but not limited to,
103 agency return-to-work program performance metrics and a status
104 report on participating return-to-work programs. The report
105 shall specify benchmarks, including, but not limited to, the
106 average lost-time claims per year, per agency; the total number
107 of lost claims; and specific agency measurable outcomes
108 indicating the change in performance from year to year.

109 Section 7. Subsections (3) and (4) are added to section
110 284.50, Florida Statutes, to read:

111 284.50 Loss prevention program; safety coordinators;
112 Interagency Advisory Council on Loss Prevention; employee
113 recognition program.-

114 (3) The Department of Financial Services and all agencies
115 that are provided workers' compensation insurance coverage by
116 the State Risk Management Trust Fund and employ more than 3,000
117 full-time employees shall establish and maintain return-to-work
118 programs for employees who are receiving workers' compensation
119 benefits. The programs shall have the primary goal of enabling
120 injured workers to remain at work or return to work to perform
121 job duties within the physical or mental functional limitations
122 and restrictions established by the workers' treating
123 physicians. If no limitation or restriction is established in
124 writing by a worker's treating physician, the worker shall be
125 deemed to be able to fully perform the same work duties he or
126 she performed before the injury.

127 (4) The Division of Risk Management shall evaluate each
128 agency's risk management programs, including, but not limited
129 to, return-to-work, safety, and loss prevention programs, at



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130 least once every 5 years. Reports, including, but not limited
131 to, any recommended corrective action, resulting from such
132 evaluations shall be provided to the head of the agency being
133 evaluated, the Chief Financial Officer, and the director of the
134 Division of Risk Management. The agency head must provide to the
135 Division of Risk Management a response to all report
136 recommendations within 45 days and a plan to implement any
137 corrective action to be taken as part of the response. If the
138 agency disagrees with any final report recommendations,
139 including, but not limited to, any recommended corrective
140 action, or if the agency fails to implement any recommended
141 corrective action within a reasonable time, the division shall
142 submit the evaluation report to the legislative appropriations
143 committees.

144 Section 8. Subsection (5) is added to section 440.50,
145 Florida Statutes, to read:

146 440.50 Workers' Compensation Administration Trust Fund.—

147 (5) Funds appropriated by an operating appropriation or a
148 nonoperating transfer from the Workers' Compensation
149 Administration Trust Fund to the Department of Education, the
150 Agency for Health Care Administration, the Department of
151 Business and Professional Regulation, the Department of
152 Management Services, the First District Court of Appeal, and the
153 Justice Administrative Commission remaining unencumbered as of
154 June 30 or undisbursed as of September 30 each year shall revert
155 to the Workers' Compensation Administration Trust Fund.

156 Section 9. Section 626.9894, Florida Statutes, is created
157 to read:

158 626.9894 Gifts and grants.—



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159 (1) The department may accept, for purposes of anti-fraud
160 efforts, any donation or grant of property or moneys from any
161 governmental unit, public agency, institution, person, firm, or
162 corporation.

163 (2) All rights to, interest in, and title to such donated
164 or granted property shall immediately vest in the Division of
165 Insurance Fraud upon donation. The division may hold such
166 property in coownership, sell its interest in the property,
167 liquidate its interest in the property, or dispose of its
168 interest in the property in any other reasonable manner.

169 (3) All donations or grants of moneys to the division shall
170 be deposited into the Insurance Regulatory Trust Fund and shall
171 be separately accounted for and may be used by the division to
172 carry out its duties and responsibilities, or for the
173 subgranting of such funds to state attorneys for the purpose of
174 funding or defraying the costs of dedicated fraud prosecutors.

175 (4) Moneys deposited into the Insurance Regulatory Trust
176 Fund pursuant to this section may be appropriated by the
177 Legislature, pursuant to the provisions of chapter 216, for the
178 purpose of enabling the division to carry out its duties and
179 responsibilities, or for the purpose of funding or defraying the
180 costs of dedicated fraud prosecutors.

181 (5) Notwithstanding the provisions of s. 216.301 and
182 pursuant to s. 216.351, any balance of moneys deposited into the
183 Insurance Regulatory Trust Fund pursuant to this section
184 remaining at the end of any fiscal year shall be available for
185 carrying out the duties and responsibilities of the division.
186 The department may request annual appropriations from the grants
187 and donations received pursuant to this section and cash



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188 balances in the Insurance Regulatory Trust Fund for the purpose
189 of carrying out its duties and responsibilities related to the
190 division's anti-fraud efforts, including the funding of
191 dedicated prosecutors and related personnel.

192 Section 10. This act shall take effect July 1, 2011.

193

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

195 And the title is amended as follows:

196 Delete everything before the enacting clause
197 and insert:

198 A bill to be entitled
199 An act relating to the Department of Financial
200 Services; repealing ss. 17.53 and 17.556, F.S.,
201 relating to the Chief Financial Officer's
202 authorization to operate a personal check-cashing
203 service or a remote financial service unit at the
204 capitol and to employ additional persons to assist in
205 performing such services; abolishing appropriations
206 from the General Revenue Fund to pay the salaries of
207 the additional employees; amending s. 20.121, F.S.;
208 revising the duties of the Division of Consumer
209 Services; amending ss. 284.01 and 284.36, F.S.;
210 revising the criteria for premiums charged to agencies
211 and departments for purposes of the State Risk
212 Management Trust Fund; amending s. 284.42, F.S.;
213 revising requirements for reports concerning the state
214 insurance program; requiring the Division of Risk
215 Management to analyze and report on certain agency
216 return-to-work programs and activities; amending s.



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217 284.50, F.S.; requiring certain agencies to establish
218 and maintain return-to-work programs for certain
219 employees; providing program goals; requiring the
220 Division of Risk Management to evaluate agency risk
221 management programs; requiring reports; requiring
222 agencies to respond to the division's evaluation and
223 recommendations; requiring the division to submit
224 certain evaluation reports to the legislative
225 appropriations committees; amending s. 440.50, F.S.;
226 providing for reversion of certain unencumbered and
227 undisbursed funds to the Workers' Compensation
228 Administration Trust Fund; creating s. 626.9894, F.S.;
229 authorizing the department to accept any donation or
230 grant of property or moneys from certain entities for
231 purposes of anti-fraud efforts; providing for the
232 vesting of certain rights in the Division of Insurance
233 Fraud upon donation; providing for deposit of
234 donations and grants to the division into the
235 Insurance Regulatory Trust Fund; authorizing the
236 department to request annual appropriations from such
237 donations and grants; providing an effective date.