

**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.)

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Prepared By: The Professional Staff of the Committee on Innovation, Industry, and Technology

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BILL: CS/CS/SB 1704

INTRODUCER: Innovation, Industry, and Technology Committee, Banking and Insurance Committee,  
and Senator Wright

SUBJECT: Department of Financial Services

DATE: April 10, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Billmeier</u>	<u>Knudson</u>	<u>BI</u>	<u>Fav/CS</u>
2.	<u>Wiehle</u>	<u>Imhof</u>	<u>IT</u>	<u>Fav/CS</u>
3.	_____	_____	<u>RC</u>	_____

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 1704 is the agency bill for the Department of Financial Services.

The bill allows the Division of Treasury to maintain warrants paid rather than turning them over to the Division of Auditing and Accounting and extending the retention period from 5 to 10 years.

The bill amends Florida Funeral, Cemetery, and Consumer Services Act to:

- Allow a funeral director in charge to supervise up to two facilities, provided they are within a specified distance from one another;
- Authorize out of state trust companies to service a funeral or cemetery's care and maintenance trust fund;
- Provide criteria for internship programs for a joint funeral director and embalmer license applicant; and
- Allow out of state trust companies to receive funds from a preneed contract without obtaining a preneed license.

The bill amends various licensing statutes administered by the Division of Agent and Agency Services. The bill:

- Allows applicants that have committed certain felonies to obtain a license on a probationary basis once the applicant has served at least half of the disqualifying period if the applicant has not committed any crimes during that time;
- Creates a temporary license for personal lines agents similar to the temporary license existing in other lines;
- Provides that licenses for industrial fire or burglary agents will no longer be issued but allows current license holders to maintain their licenses;
- Eliminates examination requirements for industrial fire insurance and burglary insurance agents as well as crop hail and multiple-peril crop insurance agents; and
- Provides the DFS the discretion to deny an application for an insurance agency license on the grounds that another jurisdiction has taken an adverse action against a professional license held by that person.

The bill provides for a uniform fire alarm permit for installing, replacing, or repairing a fire alarm system.

The bill amends the DFS property insurance mediation program to require the mediator to report a settlement through mediation to all parties within 10 days after the conclusion of the mediation. The report must include the settlement amount.

The bill amends statutes relating to the State Fire Marshal to provide that identification of state-owned and leased buildings will no longer be determined by the U.S. National Grid Coordinate System and to direct the Division of State Fire Marshal to develop employer best practices for firefighter cancer prevention. It also clarifies requirements for installation of fire extinguishers and preengineered systems.

The bill amends the Disposition of Unclaimed Property Act to allow the DFS to automatically disburse certain unclaimed property accounts to verified claimants.

## **II. Present Situation:**

The Department of Financial Services (DFS) is created by s. 20.121, F.S. The agency head for the DFS is the Chief Financial Officer (CFO).<sup>1</sup> The DFS has the following divisions and offices:

- Division of Accounting and Auditing;
- Division of Consumer Services;
- Division of Funeral, Cemetery, and Consumer Services;
- Division of Insurance Agent and Agency Services;
- Division of Investigative and Forensic Services;
- Division of Public Assistance Fraud;
- Division of Rehabilitation and Liquidation;
- Division of Risk Management;
- Division of State Fire Marshal;

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<sup>1</sup> Section 20.121(1), F.S.

- Division of Treasury;
- Division of Unclaimed Property;
- Division of Workers' Compensation;
- Division of Administration; and
- Office of Insurance Consumer Advocate.<sup>2</sup>

The bill deals with various divisions and programs within the DFS. The divisions and programs changed by the bill are briefly discussed as follows.

### **Division of the Treasury**

The CFO, or Treasurer, is the state treasurer.<sup>3</sup> The Division of the Treasury within the DFS has three bureaus:

- Bureau of Funds Management;
- Bureau of Collateral Management; and
- Bureau of Deferred Compensation.<sup>4</sup>

Section 17.56, F.S., requires the Division of Treasury to turn over to the Division of Accounting and Auditing all warrants drawn by the Chief Financial Officer or the Comptroller and paid by the Division of Treasury. The warrants shall be turned over as soon as the Division of Treasury shall have recorded such warrants and charged the same against the accounts upon which such warrants are drawn. The DFS reports that this requirement was created with the divisions were housed in separate agencies.<sup>5</sup>

### **Division of Funeral, Cemetery, and Consumer Services**

#### ***Regulation of Licensees***

The Board of Funeral, Cemetery, and Consumer Services, within the DFS, licenses and regulates cemeteries, funeral directors, embalmers, burial rights brokers, and others in the death care industry. The Board of Funeral, Cemetery, and Consumer Services licenses:

- Embalmer apprentices;
- Embalmer interns;
- Funeral director interns;
- Funeral directors;
- Funeral director and embalmers;
- Direct disposers;
- Monument establishment sales agents; and
- Preneed sales agents.

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<sup>2</sup> Section 20.121(2), F.S.

<sup>3</sup> Section 20.121(1), F.S.

<sup>4</sup> Department of Financial Services, Division of Treasury, *Annual Report 2018* (available at <https://www.myfloridacfo.com/Division/Treasury/Reports/AnnualReports/docs/2018TreasuryAnnualReport.pdf> (last visited Mar. 27, 2019)).

<sup>5</sup> See Department of Financial Services, *SB 1704 Legislative Bill Analysis* (Mar. 27, 2019) (on file with the Senate Committee on Innovation, Industry, and Technology).

Current law generally requires each establishment have a licensed funeral director, embalmer, or direct disposer in charge of that establishment. Section 497.380, F.S., provides that each licensed funeral establishment must have one full-time funeral director in charge. Since October 1, 2010, the full-time funeral director in charge must hold an active, valid embalmer license or combination license as a funeral director and an embalmer under most circumstances. Section 497.476, F.S., allows persons to be licensed as both a funeral director and an embalmer. Persons holding a combination license as a funeral director and an embalmer are subject to regulation both as a funeral director and an embalmer.

The full-time funeral director may not be the full-time funeral director in charge of any other funeral establishment or of any other direct disposal establishment. The funeral director in charge is responsible for ensuring that the facility, its operation, and all persons employed in the facility comply with all applicable federal and state laws and rules.<sup>6</sup> Each establishment must have a funeral director reasonably available to the public during normal business hours.<sup>7</sup>

Section 497.385, F.S., requires each licensed centralized embalming facility to have at least one full-time embalmer in charge. The full-time embalmer in charge may not be the full-time embalmer in charge, full-time funeral director in charge, or full-time direct disposer in charge of any other establishment licensed under ch. 497, F.S.

Section 497.606, F.S., requires each cinerator facility to have one full-time licensed direct disposer or licensed funeral director in charge for that facility. Such person may be in charge of only one facility. The licensed funeral director or licensed direct disposer is responsible for making sure the facility, its operations, and all persons employed in the facility comply with all applicable state and federal laws and rules.<sup>8</sup>

### ***Preneed Contracts***

A “preneed contract” is any arrangement or method, of which the provider of funeral merchandise or services has actual knowledge, whereby any person agrees to furnish funeral merchandise or service in the future.<sup>9</sup> Persons who sell preneed contracts are licensed by the Board of Funeral, Cemetery, and Consumer Services.<sup>10</sup> Section 497.458, F.S., requires any person who receives funds under a preneed contract for funeral services or merchandise or burial services or merchandise to deposit certain percentages of the amounts received with a trust company operating pursuant to ch. 660, F.S., with a national or state bank holding trust powers, or with a federal or state savings and loan association holding trust powers. Trust companies operating under ch. 660, F.S., are domiciled in Florida.

### ***Care and Maintenance Trust Funds***

A cemetery company has a duty to ensure that the grounds, structures, and other improvements of the cemetery are well cared for and maintained in a proper and dignified condition.<sup>11</sup> The

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<sup>6</sup> Section 497.380(7), F.S.

<sup>7</sup> *Id.*

<sup>8</sup> Section 497.606(8), F.S.

<sup>9</sup> Section 497.005(61), F.S.

<sup>10</sup> Section 497.453, F.S.

<sup>11</sup> Section 497.262, F.S.

cemetery company must establish a “care and maintenance” trust fund with a trust company operating under ch. 660, F.S.

### **Division of Agent and Agency Services**

The DFS licenses and regulates insurance agents, insurance agencies, and insurance adjusters. There are over 50 different types of licenses. Typically, obtaining a license involves completing education requirements, submitting to a criminal and professional background check, passing an examination, and paying a license fee. Some licensees must act as apprentices supervised by others when performing duties. This bill makes changes to various agent licensing provisions. Each change is discussed in Section III, Effect of Proposed Changes.

### **DFS Property Insurance Mediation Program**

Section 627.7015, F.S., creates a property insurance mediation program through the DFS. It is available for claims under personal lines and commercial residential policies before commencing the appraisal process, or before commencing litigation.<sup>12</sup> An insurer must notify the policyholder of the right to participate in mediation at the time of the claim.<sup>13</sup> Mediation is nonbinding. However, if a written settlement is reached, the policyholder has 3 business days within which the policyholder may rescind the settlement unless the policyholder has cashed or deposited any check or draft disbursed to the policyholder for the disputed matters as a result of the conference. If a settlement agreement is reached and is not rescinded, it is binding and acts as a release of all specific claims that were presented in that mediation conference.<sup>14</sup>

### **Division of State Fire Marshal**

The CFO serves as the State Fire Marshal.<sup>15</sup> The Division of State Fire Marshal:

- Conducts fire/life safety inspections and construction plans review on all state-owned buildings;
- Regulates the fireworks and the fire sprinkler industries, inspects and licenses boilers;
- Certifies fire suppression industry workers;
- Approves firefighter training curricula;
- Offers fire service training at the Florida State Fire College; and
- Certifies that fire service members meet industry-based standards.<sup>16</sup>

### **Division of Unclaimed Property**

The DFS administers the Florida Disposition of Unclaimed Property Act. Unclaimed property is any funds or other property, tangible or intangible, that has remained unclaimed by the owner for a certain number of years. Unclaimed property may include 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

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<sup>12</sup> Section 627.7015(1), F.S.

<sup>13</sup> Section 627.7015(2), F.S.

<sup>14</sup> Section 627.7015(6), F.S.

<sup>15</sup> Section 633.104, F.S.

<sup>16</sup> See <https://www.myfloridacfo.com/division/sfm/> (last visited Mar. 27, 2019).

deposit boxes.<sup>17</sup> The DFS Division of Unclaimed Property is responsible for receiving property, attempting to locate the rightful owners, and returning the property or proceeds to them. There is no statute of limitations and persons may claim their property at any time and at no cost.

### III. Effect of Proposed Changes:

#### Financial Records and Reporting of Audits

**Section 1** requires the Division of Treasury to maintain all warrants drawn by the CFO for a period of 10 years from the date the warrant was presented for payment. It removes the requirement that the Division of Treasury turn over the warrants to the Division of Accounting and Auditing.

#### Division of Funeral, Cemetery, and Consumer Services

##### *Regulation of Licensees*

**Sections 6, 7, 13, and 14** amend ss. 497.380, 497.385, 497.604, and 497.606, F.S., to allow a funeral director with appropriate licenses to serve as a funeral director in charge for a total of two funeral establishments, centralized embalming facilities, direct disposal establishments, or cinerator facilities as long as the two locations are not more than 75 miles apart measured in a straight line. The bill allows a funeral director to serve as a funeral director in charge if the establishment does not have an embalming room on site.

**Section 7** amends s. 497.385, F.S., to allow an embalmer in charge of a centralized embalming facility to also serve as a funeral director in charge or as a direct disposer in charge if the embalmer has appropriate licenses. The bill makes changes to the combination license for funeral directors and embalmers.

**Section 4** amends s. 497.376, F.S., to require an applicant for a combination license as a funeral director and an embalmer to hold the educational credentials required for licensure as a funeral director, which are:

- An associate in arts degree, associate in science degree, or an associate in applied science degree in mortuary science approved by the licensing authority; or
- An associate degree or higher from a college or university accredited by a regional accrediting agency recognized by the United States Department of Education and be a graduate of a course of study in mortuary science or funeral service arts approved by the licensing authority from a college or university accredited by the American Board of Funeral Service Education.

**Section 5** amends s. 497.377, F.S., relating to internship requirements for combined licensure as a funeral director and embalmer. The bill allows the internship requirement for licensure as funeral director and the internship requirement for licensure as an embalmer to be served concurrently. The bill provides that an applicant for combined licensure as a funeral director and embalmer who has not completed the educational credentials required for that license is eligible for licensure as a combination funeral director and embalmer intern if the applicant:

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<sup>17</sup> Sections 717.104-717.116, F.S.

- Is currently enrolled in and attending a college accredited by the American Board of Funeral Service Education in an accredited course of study in mortuary science;
- Has completed at least 75 percent of the course of study in mortuary science, as certified by the college in which the applicant is currently enrolled; and
- Has taken and received a passing grade in a college credit course in mortuary law or funeral service law and has taken and received a passing grade in a college credit course in ethics.

The bill requires an application for internship for a combination funeral director and embalmer license to include the name and address of the funeral director and the embalmer who will supervise the intern and the name of the licensed funeral establishment where the training will be conducted.

The bill provides that a combination funeral director and embalmer intern may perform only the tasks, functions, and duties relating to funeral directing and embalming which are performed under the direct supervision of a licensed funeral director or an embalmer. "Direct supervision" means supervision by a licensed:

- Funeral director who provides initial direction and periodic inspection of the arrangements and who is physically present or on the premises of the funeral establishment at all times when the tasks, functions, and duties relating to funeral directing are performed; or
- Embalmer who provides initial direction and instruction regarding the preservation of a dead human body in its entirety or in part and who is physically present or on the premises of the funeral establishment or embalming facility at all times when the tasks, functions, and duties relating to embalming are performed.<sup>18</sup>

The bill creates an exception to the direct supervision requirement upon the intern's graduation from an accredited college with an appropriate degree and the intern's passage of the laws and rules examination required by the Board of Funeral, Cemetery, and Consumer Services. If the intern meets those conditions and the funeral director in charge of the internship training agency certifies to the Board of Funeral, Cemetery, and Consumer Services that the intern is competent to complete the internship under general supervision, the intern may complete the internship under general supervision. "General supervision" means supervision by a licensed:

- Funeral director who is reasonably available and in a position to provide direction and guidance by being physically present, being on the premises of the funeral establishment, or being in proximity to the funeral establishment and available telephonically or by electronic communication at all times when the tasks, functions, and duties relating to funeral directing are performed; or
- Embalmer who is reasonably available and in a position to provide direction and guidance by being physically present, being on the premises of the funeral establishment or embalming facility, or being in proximity to the funeral establishment or embalming facility and available telephonically or by electronic communication at all times when the tasks, functions, and duties relating to embalming are performed.<sup>19</sup>

The bill provides that a combination funeral director and embalmer intern license expires one year after issuance. The bill allows the Board of Funeral, Cemetery, and Consumer Services to

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<sup>18</sup> Section 497.002(29), F.S.

<sup>19</sup> Section 497.002(39), F.S.

adopt rules that allow a combination funeral director and embalmer intern to renew her or his funeral director and embalmer intern license for an additional one-year period if the combination funeral director and embalmer intern demonstrates her or his failure to complete the internship before expiration of the license due to illness, personal injury, or other substantial hardship beyond her or his reasonable control or demonstrates that she or he has completed the requirements for licensure as a combination funeral director and embalmer but is awaiting the results of a licensure examination.

### *Preneed Contracts*

**Sections 2, 3, 8, 10, and 12** amend ss. 626.8732, 497.266, 497.452, 497.458, and 497.464, F.S., to eliminate the requirement that trust companies holding care and maintenance trust funds and preneed trust funds must be operating pursuant to ch. 660, F.S., thus allowing licensees to use national trust companies.

**Section 11** amends s. 497.459, F.S., to create a form notice of intent to perform on a preneed contract for funeral or burial merchandise or services. The notice must state that the preneed licensee intends to perform on the contract upon the occurrence of the earliest of any of the following events:

- Fifty years after the date of execution of the preneed contract by the purchaser;
- The beneficiary of the preneed contract attaining the age of 105 years of age or older; or
- The beneficiary's social security number being contained within the United States Social Security Administration Death Master File.

The licensee must mail the notice to the last known mailing address of the purchaser as provided to the preneed licensee. If the purchaser or the beneficiary's legally authorized person fails to respond to the notice within 120 days after delivery of the notice, the funds held in trust must be distributed in accordance with the terms of the preneed contract.

The notice provisions do not affect a purchaser's rights to cancel the preneed contract and receive a refund or a licensee's obligations to refund.

Section 497.453, F.S., requires preneed licensees to file an annual report on the activities of any trust established pursuant to the Florida Funeral, Cemetery, and Consumer Services Act.

**Section 9** amends that section to require preneed licensees which sold 15,000 or more preneed contracts in a year to file additional trust reports. The bill defines "Year 1" as a year in which a preneed licensee sells, or a group of preneed licensees under common control sells in aggregate, 15,000 or more preneed contracts in this state. The bill defines "Year 2" as the year immediately after Year 1. In Year 2, the bill requires the licensee or licensees to prepare a report of Florida preneed operations in Year 1 on a form prescribed by rule. The licensee must cause and pay for such report to be audited by an independent certified public accounting firm concerning the accuracy and fairness of the presentation of the data provided in the report. By December 31 of Year 2, the licensee must provide the report to the Division of Funeral, Cemetery, and Consumer Services along with a written and signed opinion of the certified public accounting firm concerning the accuracy and fairness of the presentation of the data reported in the report. The report must be prepared and submitted using forms and procedures specified by DFS rule. The



bill provides that the DFS may adopt rules specifying the format of the report and the information to be reported.

### **Division of Agent and Agency Services**

Section 626.175, F.S., allows the DFS to issue temporary licenses as certain types of insurance agents. For example, the DFS may issue a temporary license as a general lines agent so a person can wind up the business affairs of another agent.<sup>20</sup> Personal lines agents are limited to transacting business related to property and casualty insurance sold to individuals and families for noncommercial purposes.<sup>21</sup> There is no provision in s. 626.175, F.S., allowing temporary licenses as personal lines agents.

**Section 18** amends that section to allow the DFS to issue a temporary license as personal lines agent:

- To the executor or administrator of the estate of a deceased individual who was licensed and appointed as a personal lines agent at the time of his or her death;
- To a surviving next of kin of the deceased individual if no administrator or executor has been appointed and qualified; or
- To an individual otherwise qualified to be licensed as an agent, who has completed the educational or training requirements, and who is appointed to represent an insurer of the industrial<sup>22</sup> or ordinary-combination class<sup>23</sup> solely for the purpose of collecting premiums and servicing in-force policies.

The bill removes industrial fire and burglary agents from the temporary license statute because the license types are being eliminated by the bill. **Section 27** Amends that section to make a conforming change to s. 626.729, F.S.

The bill removes the requirement that a temporary life agent has sat for the life agent examination prior to the termination of the temporary appointment. The temporary life agent must be appointed to represent an insurer of the industrial or ordinary-combination class solely for the purpose of collecting premiums and servicing in-force policies.

**Section 19** allows an applicant who has been found guilty of or has pleaded guilty or nolo contendere to a felony not subject to a permanent bar and not subject to a fifteen-year disqualifying period to obtain a license on a probationary basis. The applicant must have served at least half of the disqualifying period and, during that time, the applicant cannot have been

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<sup>20</sup> See s. 626.175, F.S., and <https://www.myfloridacfo.com/Division/Agents/Licensure/General/docs/T02-20.htm> (last visited Mar. 19, 2019).

<sup>21</sup> See ss. 626.015(17), 626.311, F.S.

<sup>22</sup> Section 626.782, F.S., defines an “industrial class insurer” is an insurer writing industrial life insurance and as to such insurance operates under a system of collecting a debit by its agent. Section 627.502, F.S., defines “industrial life insurance” as that form of life insurance written under policies under which premiums are payable monthly or more often, bearing the words “industrial policy” or “weekly premium policy” or words of similar import imprinted upon the policies as part of the descriptive matter, and issued by an insurer which, as to such industrial life insurance, is operating under a system of collecting a debit by its agent.

<sup>23</sup> An “ordinary-combination class insurer” is an insurer writing both ordinary class insurance and industrial class insurance. See s. 626.783, F.S.

found guilty or not pleaded guilty or nolo contendere to a crime. If the DFS issues a probationary license, the probation period ends upon the end of the disqualifying period.

**Section 20** amends s. 626.221, F.S., to provide that an applicant for an all-lines adjuster license who has been licensed as an all-lines adjuster and appointed as an independent adjuster or company employee adjuster is exempt from the examination if an application for licensure is filed within 48 months following the date of cancellation or expiration of the prior appointment.

Section 626.2815, F.S., mandates continuing education for insurance agents and insurance adjusters. **Section 21** amends that section to remove continuing education requirement for license types that have been eliminated in recent years or are being eliminated by this bill.

**Section 22** amends s. 626.321, F.S., to provide that no new or additional licenses to transact industrial fire insurance or burglary insurance<sup>24</sup> will be issued after July 1, 2019. There are approximately 100 of those licenses still active.<sup>25</sup> Current licensees will be allowed to renew their licenses and appointments. The bill eliminates the examination requirement for crop, hail, and multiple peril crop insurance.

An appointment is the authority given by an insurer or employer to a licensee to transact insurance or adjust claims on behalf of an insurer or employer.<sup>26</sup> Section 626.471, F.S., provides that an appointing entity, such as an insurance company, may terminate an appointee's, such as an insurance agent, appointment at any time subject to any contract rights. The appointing entity must give the appointee 60 days' notice prior to termination and provide the notice by mail or by delivery in person. **Section 23** amends that section to allow the appointing entity to give notice via email.

**Section 24** repeals s. 626.521, F.S., which currently requires an appointing insurer to secure a full detailed credit and character report before appointing an agent, adjuster, service representative, customer representative, or managing general agent. The bill allows insurers to require credit or character reports as a condition of appointment but leaves the decision with the insurer. **Sections 16 and 17** amend ss. 626.022 and 626.025, F.S., to make conforming changes.

**Section 25** amends s. 626.536, F.S., to remove unnecessary language. An "insurance agency" is a licensee so referring to both is redundant.

Section 626.6215, F.S., currently authorizes the DFS to refuse to issue a license or suspend or revoke an insurance agency license under certain circumstances. **Section 26** amends that section to provide for discretionary refusal, suspension, or revocation when a licensee has had a denial,

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<sup>24</sup> Section 626.729, F.S., provides "industrial fire insurance" is insurance against loss by fire of either buildings and other structures or contents, which may include extended coverage; windstorm insurance; basic limits owners, landlords, or tenants liability insurance with single limits of \$25,000; comprehensive personal liability insurance with a single limit of \$25,000; or burglary insurance, under which the premiums are collected quarterly or more often and the face amount of the insurance provided by the policy on one risk is not more than \$50,000, including the contents of such buildings and other structures, and the insurer issuing such policy is operating under a system of collecting a debit by its agents.

<sup>25</sup> See Department of Financial Services, *SB 1704 Legislative Bill Analysis* (Mar. 15, 2019) (on file with the Senate Committee on Banking and Insurance).

<sup>26</sup> Section 626.015(4), F.S.

suspension, or revocation of, or any other adverse administrative action against, a license to practice or conduct any regulated profession, business, or vocation by this state, any other state, any nation, any possession or district of the United States, any court, or any lawful agency thereof. Similar language already exists in s. 626.621, F.S., for insurance agents.

**Section 28** repeals s. 626.7355, F.S., which currently creates temporary license as a customer representative. Customer representatives obtain licensure by meeting education and background check requirements so the temporary license is obsolete.

**Sections 29 and 30** make technical changes to ss. 626.8437 and 626.844, F.S.

Section 626.865, F.S., currently provides qualifications for licensure as a public adjuster. One of the qualifications is that the applicant has been licensed in this state as an all-lines adjuster, and has been appointed on a continual basis for the previous 6 months as a public adjuster apprentice, as an independent adjuster, or as a company employee adjuster.<sup>27</sup> Section 626.8732, F.S., has a similar requirement for nonresident adjusters except they must have been employed for a year. **Section 31** amends s. 626.8732, F.S., to provide the same 6 month employment requirement for nonresident adjusters as current law has for resident adjusters.

**Section 38** amends s. 648.49, F.S., to require a bail bond agent whose license or appointment has been suspended to file an application for reinstatement with the DFS before the license or appointment can be reinstated. This revision makes the bail bond statute consistent with other DFS licensing statutes.

### **DFS Property Insurance Mediation Program**

**Section 32** amends s. 627.7015, F.S., to require the mediator to provide a written report of the results of the mediation, including any settlement amount, to the insurer, the policyholder, and the policyholder's representative, if the policyholder is represented. This report must be provided at the conclusion of the mediation.

### **Division of State Fire Marshal**

#### *Fire Alarms*

**Section 15** creates s. 553.7921, F.S., to create a uniform fire alarm permit application that must be filed before installing or replacing a fire alarm, or repairing an existing alarm system if the local enforcement authority requires a plan review before conducting these activities. The bill establishes the form and the required information for completing the form. The uniform fire alarm permit application must be accompanied by specified supporting documentation, must be signed by a designated person, and may be filed electronically or by facsimile.

#### *Inspections*

Section 633.218, F.S., requires the State Fire Marshal to inspect, or have inspected, each state-owned building on a recurring basis. A state-owned building or state-leased building or space

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<sup>27</sup> Section 626.8732, F.S.

must be identified through use of the United States National Grid Coordinate System.<sup>28</sup>

**Section 34** amends that section to remove this requirement. The DFS reports that it will identify locations using the FL-SOLARIS<sup>29</sup> and information from the Department of Management Services. It will not use outside vendors.<sup>30</sup>

Currently, licensed fire protection system contractors are mandated to conduct inspections of fire protection systems pursuant to the Florida Fire Prevention Code. Section 633.312, F.S., mandates that the inspecting contractor provide the building owner and the local authority having jurisdiction a copy of the inspection report. There are no limitations on inspection report format or uniform submission requirements. Some local jurisdictions have contracted with third-party software vendors and require the submission of inspection reports to their jurisdiction to be done via these systems. **Section 36** amends s. 633.312, F.S., to require submission pursuant to a statewide uniform set of procedures of fire protection system inspection reports completed by fire protection system contractors. The procedures apply to a local authority having jurisdiction or a third-party vendor contracted for the collection of such reports. The bill requires the State Fire Marshal to adopt a rule requiring all third-party vendors or local authorities having jurisdiction to follow a standardized procedure, including:

- A uniform reporting format that must be used by all local authorities having jurisdiction and that is designed to reduce the amount of information a contractor must manually input into the system; and
- A set of uniform submission procedures to be used by local authorities having jurisdiction or by vendors.

The rule must allow a contractor to attach additional documents, including the contractor's detailed inspection report, to the submission. A contractor's inspection report is not required to follow a standardized format, and a vendor or local authority having jurisdiction may not require a contractor to enter the details of the inspection report or of the deficiency repair status into an electronic system.

**Section 33** makes a conforming change in s. 633.216, F.S.

### *Installation of Fire Extinguishers and Preengineered Systems*

Section 633.306, F.S., provides requirements for the installation of fire extinguishers and preengineered systems. A fire extinguisher is a cylinder that:

- Is portable and can be carried or is on wheels;
- Is manually operated;
- May use a variety of extinguishing agents that are expelled under pressure;
- Is rechargeable or nonrechargeable;
- Is installed, serviced, repaired, recharged, inspected, and hydrotested according to applicable procedures of the manufacturer, standards of the National Fire Protection Association, and the Code of Federal Regulations; and

<sup>28</sup> Section 633.218(1)(f), F.S. The National Grid may be found here:

<https://www.arcgis.com/home/item.html?id=dc352c5f18854d82b32bce92c0b6656b> (last visited Mar. 21, 2019).

<sup>29</sup> See <https://floridadep.gov/lands/fl-solaris> (last visited Mar. 26, 2019).

<sup>30</sup> Email from the Department of Financial Services staff to committee staff (on file with the Committee on Banking and Insurance).

- Is listed by a nationally recognized testing laboratory.<sup>31</sup>

A preengineered system is a fire suppression system which:

- Uses any of a variety of extinguishing agents;
- Is designed to protect specific hazards;
- Must be installed according to pretested limitations and configurations specified by the manufacturer and applicable National Fire Protection Association (NFPA) standards. Only those chapters within the National Fire Protection Association standards which pertain to servicing, recharging, repairing, installing, hydrotesting, or inspecting any type of preengineered fire extinguishing system may be used;
- Must be installed using components specified by the manufacturer or components that are listed as equal parts by a nationally recognized testing laboratory such as Underwriters Laboratories, Inc., or Factory Mutual Laboratories, Inc.; and
- Must be listed by a nationally recognized testing laboratory.<sup>32</sup>

Section 633.306, F.S., provides the following requirements for installation of fire extinguishers and preengineered systems:

- Fire equipment dealers must be licensed;
- Equipment supplied must be listed by a nationally recognized testing laboratory;
- Equipment must be installed in accordance with the applicable standards of the National Fire Protection Association and the manufacturer's drawings and specifications;
- Each piece of equipment supplied shall be guaranteed for a period of 1 year against defects in material or operation; and
- The fire equipment dealer must furnish the consumer with the manufacturer's descriptive literature, including the specifications and maintenance requirements as approved by the nationally recognized testing laboratory, the operating instructions for all equipment installed, the mechanical drawings and specifications for proper installation and use of equipment, and a diagram of the final installation.

**Section 35** amends s. 633.306, F.S., to require fire extinguisher and preengineered systems equipment to be installed using only components and parts specified by the manufacturer or listed as equal parts by a nationally recognized testing laboratory, such as Underwriters Laboratories, Inc., or Factory Mutual Laboratories, Inc. The use of similar language in s. 633.306, F.S., and 633.102(25), F.S., should clarify that the use of equal parts as designated by recognized testing laboratories is permitted in the installation of fire extinguishers<sup>33</sup> and preengineered systems.<sup>34</sup>

### ***Cancer Prevention Best Practices***

Section 633.520, F.S., requires every firefighter employer to furnish and use safety devices and safeguards, adopt and use methods and processes reasonably adequate to render such an employment and place of employment safe, and do every other thing reasonably necessary to

<sup>31</sup> Section 633.102(8), F.S.

<sup>32</sup> Section 633.102(25), F.S.

<sup>33</sup> Section 633.102(8), F.S., requires that fire extinguishers be installed pursuant to the Code of Federal Regulations. Fire extinguisher installers would be required to comply with requirements in both statutes.

<sup>34</sup> Email from DFS staff to committee staff dated March 26, 2019 (on file with the Committee on Banking and Insurance).

protect the lives, health, and safety of such firefighter employees. **Section 37** amends that section to require the Division of State Fire Marshal to adopt rules to establish employer cancer prevention best practices relating to personal protective equipment, decontamination, fire suppression, and fire stations.

### **Division of Unclaimed Property**

Current law in s. 717.124, F.S., allows an apparent owner to electronically submit a claim for unclaimed property to the DFS. If a claim is submitted electronically for \$1,000 or less, the DFS may use a method of identity verification other than a copy of a valid driver license, other government-issued photographic identification, or a sworn notarized statement.<sup>35</sup> **Section 39** amends that section to change the claim amount from \$1,000 to \$5,000.

The bill contains provisions allowing the DFS to be more active in attempting to return property to owners. The bill provides that the DFS may develop and implement an identification verification and disbursement process for accounts valued at less than \$2,000. After the DFS receives the property and adds the property to the database, the account may be disbursed to an apparent owner after the DFS has verified that the apparent owner is living and has verified the apparent owner's correct, current address. The DFS must include with the payment a notification and an explanation of the dollar amount, source, and property type of each account included in the disbursement. The bill also allows the DFS to develop and implement a verification and disbursement process for accounts which the apparent owner is a government entity. The bill provides rulemaking authority to administer this program.

The bill provides that the DFS may develop a process by which a registered claimant's representative may electronically submit to the DFS electronic images of completed claims and claim-related documents, including limited powers of attorney and purchase agreements that have been personally signed and dated by a claimant or by a seller after the original documents provided by the claimant or by the seller to the claimant's representative are physically received and in the claimant's representative's possession for any respective claim.

Each claim filed by a registered claimant's representative must include a statement by the claimant's representative or buyer accurately attesting that all documents are true copies of the original documents and that all original documents are physically in the possession of the claimant's representative or buyer. All original documents must be kept in original form, by claim number, under the secure control of the claimant's representative or buyer and must be made available for inspection by the DFS.

The bill provides rulemaking authority to administer these programs.

### **Effective Date**

**Section 40** provides an effective date of July 1, 2019.

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<sup>35</sup> Section 717.124(7), F.S.

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

## D. State Tax or Fee Increases:

None.

## E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

The establishment of employer cancer prevention best practices may result in increased costs of compliance for the governmental entities that employ firefighters. To the extent that such best practices are effective in reducing cancer, the best practices may reduce financial costs related to cancer treatment.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 17.56, 497.263, 497.266, 497.376, 497.377, 497.380, 497.385, 497.452, 497.453, 497.458, 497.459, 497.464, 497.604, 497.606, 626.022, 626.025, 626.175, 626.207, 626.221, 626.2815, 626.321, 626.471, 626.536, 626.6215, 626.729, 626.8437, 626.844, 626.8732, 627.7015, 633.216, 633.218, 633.306, 633.312, 633.520, 648.49, and 717.124.

This bill creates section 553.7921 of the Florida Statutes.

This bill repeals the following sections of the Florida Statutes: 626.521 and 626.7355.

**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 Innovation, Industry, and Technology on April 10, 2019:**

The CS:

- Creates a form notice of intent to perform on a preneed contract for funeral or burial merchandise or services; provides for use of the notice, including a list of events which allow it use, and provides that the notice provisions do not affect a purchaser's rights to cancel the preneed contract and receive a refund or a licensee's obligations to refund; and
- Creates a uniform fire alarm permit application, and provides conditions for its use.

**CS by Banking and Insurance on March 25, 2019:**

The CS:

- Allows a funeral director in charge to be in charge of two locations as long as those locations are not more than 75 miles apart;
- Allows a person who is disqualified from licensure due to a felony conviction that is not subject to permanent disqualification from licensure, to obtain a probationary license after serving half of the disqualification period;
- Revises the DFS Property Insurance Mediation Program to require the mediator to provide the policyholder with the results of the mediation at the conclusion of the mediation;
- Removes a provision allowing the DFS to keep \$30 million in the Unclaimed Property Trust Fund and maintains current law; and
- Requires fire extinguisher and preengineered systems equipment to be installed using only components and parts specified by the manufacturer or listed as equal parts by a nationally recognized testing laboratory, such as Underwriters Laboratories, Inc., or Factory Mutual Laboratories, Inc.

- B. **Amendments:**

None.



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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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