

SB 404 by **Simpson**; (Similar to H 0973) Improvements to Real Property Damaged by Sinkhole Activity

SB 630 by **Joyner**; (Similar to H 0283) Transfers to Minors

653912 A S RCS BI, Hukill Delete L.77: 03/17 11:09 AM

SB 1134 by **Hays**; (Similar to H 0893) Blanket Health Insurance

220148 A S L RCS BI, Hukill Delete L.100 - 104. 03/17 11:09 AM

SB 1148 by **Stargel**; (Similar to H 1025) Firesafety

SB 7026 by **GO**; State Group Insurance Program

SB 1136 by **Hukill**; (Similar to CS/H 0927) Title Insurance

959446 A S RCS BI, Hukill Delete L.69 - 92: 03/17 11:09 AM

SB 830 by **Simmons**; (Similar to H 0405) Regulation of Corporation Not for Profit Self-insurance Funds

SB 806 by **Richter**; (Similar to CS/H 0703) Regulation of Financial Institutions

808814 A S RCS BI, Richter Delete L.117 - 126. 03/17 11:09 AM

SB 1222 by **Richter**; (Similar to H 1133) Division of Insurance Agent and Agency Services

361716 A S RCS BI, Richter Delete L.139 - 169: 03/17 11:09 AM
829050 A S RCS BI, Richter Delete L.433 - 520: 03/17 11:09 AM
719306 A S RCS BI, Richter Delete L.525 - 554. 03/17 11:09 AM
853126 A S RCS BI, Richter Delete L.725 - 755. 03/17 11:09 AM

SB 1190 by **Lee**; (Identical to H 1085) Insurer Solvency

388574 A S RCS BI, Lee Delete L.139 - 150: 03/17 11:09 AM
637990 A S RCS BI, Lee Delete L.523 - 527: 03/17 11:09 AM

SB 1402 by **Lee**; (Identical to H 0987) Organization of the Department of Financial Services

367638 A S RCS BI, Lee btw L.424 - 425: 03/17 11:09 AM

SB 856 by **Latvala**; (Identical to H 0769) Vision Insurance

298990 D S RCS BI, Montford Delete everything after 03/17 11:09 AM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

BANKING AND INSURANCE
Senator Benacquisto, Chair
Senator Richter, Vice Chair

MEETING DATE: Tuesday, March 17, 2015
TIME: 9:00 —10:30 a.m.
PLACE: *Toni Jennings Committee Room*, 110 Senate Office Building

MEMBERS: Senator Benacquisto, Chair; Senator Richter, Vice Chair; Senators Clemens, Detert, Hukill, Lee, Margolis, Montford, Negron, Simmons, and Smith

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 404 Simpson (Similar H 973)	Improvements to Real Property Damaged by Sinkhole Activity; Declaring that there is a compelling state interest in enabling property owners to voluntarily finance certain improvements to property damaged by sinkhole activity with local government assistance; expanding the definition of the term "qualifying improvement" to include stabilization or other repairs to property damaged by sinkhole activity; expanding the definition of "blighted area" to include a substantial number or percentage of properties damaged by sinkhole activity which are not adequately repaired or stabilized, etc. CA 02/17/2015 Favorable BI 03/10/2015 Temporarily Postponed BI 03/17/2015 Favorable FT RC	Favorable Yeas 10 Nays 0
2	SB 630 Joyner (Similar H 283)	Transfers to Minors; Specifying that certain transfers from a trust are considered as having been made directly by the grantor of the trust; authorizing custodianships established by irrevocable gift and by irrevocable exercise of power of appointment to terminate when a minor attains the age of 25, subject to the minor's right in such custodianships to compel distribution of the property upon attaining the age of 21, etc. JU 03/03/2015 Favorable BI 03/17/2015 Fav/CS RC	Fav/CS Yeas 10 Nays 0
3	SB 1134 Hays (Similar H 893)	Blanket Health Insurance; Expanding the types of individuals and entities which are eligible for blanket health insurance coverage; authorizing the Commissioner of the Office of Insurance Regulation to designate other risks or classes of risk which are eligible for blanket health insurance, etc. BI 03/17/2015 Fav/CS AGG FP	Fav/CS Yeas 10 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Banking and Insurance

Tuesday, March 17, 2015, 9:00 —10:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 1148 Stargel (Similar H 1025)	Firesafety; Exempting nonresidential farm buildings, rather than specified structures located on agricultural property, from the Florida Fire Prevention Code under specified circumstances; requiring the State Fire Marshal to conduct a study addressing certain secondary uses of nonresidential farm buildings; authorizing a local fire official to consider a specified publication when identifying an alternative to a firesafety code, etc. BI 03/17/2015 Favorable AGG AP	Favorable Yeas 8 Nays 2
5	SB 7026 Governmental Oversight and Accountability	State Group Insurance Program; Requiring the Department of Management Services to ensure that a health maintenance organization under contract with the department provides reasonable access to certain services to persons younger than 21 years of age; specifying provisions that must be included in a contract between the department and a health maintenance organization, etc. BI 03/17/2015 Favorable AP	Favorable Yeas 10 Nays 0
6	SB 1136 Hukill (Similar CS/H 927)	Title Insurance; Revising procedures and requirements relating to the recovery of assessments from title insurers through surcharges assessed on policies; revising provisions relating to surcharges collected in excess of the assessments paid by title insurers; revising requirements for the payment of excess surcharges to the Insurance Regulatory Trust Fund; authorizing the Office of Insurance Regulation to adopt rules for certain purposes, etc. BI 03/17/2015 Fav/CS AGG AP	Fav/CS Yeas 10 Nays 0
7	SB 830 Simmons (Similar H 405)	Regulation of Corporation Not for Profit Self-insurance Funds; Revising the requirements for a participating member of a corporation not for profit self-insurance fund, etc. BI 03/04/2015 Temporarily Postponed BI 03/10/2015 Temporarily Postponed BI 03/17/2015 Temporarily Postponed CM FP	Temporarily Postponed

COMMITTEE MEETING EXPANDED AGENDA

Banking and Insurance

Tuesday, March 17, 2015, 9:00 —10:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	SB 806 Richter (Similar CS/H 703)	Regulation of Financial Institutions; Requiring mailed semiannual assessments to be received by the Office of Financial Regulation by a specified date; deleting the requirement that the office select a licensed or certified appraiser to conduct certain appraisals; requiring a credit union to notify the office of the name and residential address of an individual who is elected or appointed to certain positions within a specified time, etc. BI 03/17/2015 Fav/CS CM RC	Fav/CS Yeas 10 Nays 0
9	SB 1222 Richter (Similar H 1133)	Division of Insurance Agent and Agency Services; Revising examination requirements for applicants for a license as a general lines agent, personal lines agent, or all-lines adjuster; requiring an insurance agent to provide and retain certain information upon surrender of an annuity or life insurance policy under certain circumstances; authorizing certain notices of insolvency to be delivered to policyholders by certain methods, etc. BI 03/17/2015 Fav/CS AGG FP	Fav/CS Yeas 9 Nays 0
10	SB 1190 Lee (Identical H 1085, Compare H 635)	Insurer Solvency; Revising the amount of surplus which must be possessed by insurers applying for an original certificate of authority and to retain a certificate of authority; providing that a health maintenance organization is considered an insurer for purposes of specified provisions of law relating to insolvent insurers, requirements for the directors of domestic insurers, the payment of dividends and distributions of other property by domestic stock insurers, penalties for domestic and mutual stock insurers that illegally pay dividends, and certain restrictions on premiums written, etc. BI 03/17/2015 Fav/CS AGG FP	Fav/CS Yeas 10 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Banking and Insurance

Tuesday, March 17, 2015, 9:00 —10:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
11	SB 1402 Lee (Identical H 987)	Organization of the Department of Financial Services; Revising the divisions and functions of the department; authorizing the Chief Financial Officer to establish divisions, bureaus, or offices of the department; providing powers and duties of the department's Division of Consumer Services; requiring that certain service of process fees be deposited into the Administrative Trust Fund, etc. BI 03/17/2015 Fav/CS AGG AP	Fav/CS Yeas 10 Nays 0
12	SB 856 Latvala (Identical H 769)	Vision Insurance; Prohibiting specified insurers, prepaid limited health service organizations, and health maintenance organizations and third-party administrators thereof from requiring a licensed ophthalmologist or optometrist to provide vision care services under specified circumstances or to purchase certain materials or services; specifying that a violation of the section constitutes an unfair or deceptive act or practice subject to specified civil and administrative action, etc. BI 03/17/2015 Fav/CS JU RC	Fav/CS Yeas 10 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: SB 404

INTRODUCER: Senator Simpson

SUBJECT: Improvements to Real Property Damaged by Sinkhole Activity

DATE: March 9, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>White</u>	<u>Yeatman</u>	<u>CA</u>	Favorable
2.	<u>Billmeier</u>	<u>Knudson</u>	<u>BI</u>	Favorable
3.	_____	_____	<u>FT</u>	_____
4.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 404 authorizes local governments to enter into financing agreements with property owners to finance qualified improvements to property damaged by sinkhole activity. Additionally, the bill expands the definition of “blighted area,” enabling community redevelopment areas to enter into voluntary contracts to redevelop properties damaged by sinkhole activity.

II. Present Situation:

The Property Assessed Clean Energy Model

The Property Assessed Clean Energy (PACE) Program enables local governments to encourage property owners to reduce energy consumption and increase energy efficiency. The PACE model allows individual residential, commercial, or industrial property owners to contract directly with qualified contractors for energy efficiency and renewable energy projects. The local government provides the upfront funding for the project through proceeds of a revenue bond issuance, which is repaid through an assessment on participating property owners’ tax bills.¹

Voluntary Energy and Wind Resistant Real Property Improvements

The 2010 Legislature passed an expanded form of the PACE model.² Section 163.08, F.S., provides supplemental authority to local governments regarding qualified improvements to real property. The law provides that if a local government passes an ordinance or adopts a resolution to create a program to provide up-front financing for energy conservation and efficiency, renewable energy, or wind resistance improvements, a property owner within the jurisdiction of that local government may apply to the local government for funding to finance a qualifying

¹ For more information, see <http://www.pacenow.org>, and <http://floridapace.gov/> (last visited Feb. 10, 2015).

² CS/HB 7179, chapter 2010-139, L.O.F.

improvement and voluntarily enter into a financing agreement with the local government. “Qualifying improvements” include energy conservation and efficiency improvements; renewable energy improvements; and wind resistance improvements.

At least 30 days before entering into the financing agreement, the property owner must provide notice to the mortgage holder or loan servicer of the intent to enter into the agreement, the maximum amount to be financed, and the maximum annual assessment that will be required to repay the amount.³ The law provides that an acceleration clause for “payment of the mortgage, note, or lien or other unilateral modification solely as a result of entering into a financing agreement as provided for in this section is not enforceable.”⁴ However, the mortgage holder or loan servicer may increase the required monthly escrow by an amount necessary to annually pay the qualifying improvement assessment.

The law authorizes a local government to: partner with one or more local governments for the purpose of providing and financing qualifying improvements; levy a non-ad valorem assessment to fund a qualifying improvement; incur debt to provide financing for qualifying improvements; and collect costs incurred from financing qualifying improvements through a non-ad valorem assessment. These non-ad valorem assessments would be senior to existing mortgage debt, so if the homeowner defaults or goes into foreclosure, the delinquent payments would be recovered before the mortgage. In 2012, the Legislature clarified that a partnership of local governments may enter into a financing agreement and that the separate legal entity may impose the voluntary special assessments for purposes of the program.⁵

Specific qualifying improvements are locally determined in the twelve Florida counties where programs exist.⁶ To participate in a program, property owners must have paid property taxes and not been delinquent for the previous 3 years.⁷ The total assessment cannot be for an amount greater than 20 percent of the just value of the property as determined by the county property appraiser, unless consent is obtained from the mortgage holders.⁸ In 2010, the Federal Housing Finance Agency (FHFA), directed mortgage underwriters Fannie Mae and Freddie Mac against purchasing mortgages of homes with a PACE lien due to its senior status above a mortgage.⁹ Although residential PACE activity subsided following this directive, some residential PACE

³ Section 163.08(13), F.S.

⁴ *Id.*, Section 163.08(15), F.S.

⁵ Chapter 2012-117, L.O.F.

⁶ Database of State Incentives for Renewables & Efficiency, *Florida PACE Financing*, available at http://dsireusa.org/incentives/incentive.cfm?Incentive_Code=FL93F&re=1&ee=1 (last visited Feb. 10, 2015).

⁷ Section 163.08(9), F.S.

⁸ Section 163.08(12)(a), F.S.

⁹ Federal Housing Finance Agency, *FHFA Statement on Certain Energy Retrofit Loan Programs* (July, 6, 2010), available at <http://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Statement-on-Certain-Energy-Retrofit-Loan-Programs.aspx> (last visited Feb. 10, 2015). See also Federal Housing Financial Agency, *Statement of the Federal Housing Finance Agency on Certain Super Priority Liens* (December 22, 2014)(“FHFA wants to make clear to homeowners, lenders, other financial institutions, state officials, and the public that Fannie Mae and Freddie Mac’s policies prohibit the purchase of a mortgage where the property has a first-lien PACE loan attached to it”) available at <http://www.fhfa.gov/Media/PublicAffairs/Pages/Statement-of-the-Federal-Housing-Finance-Agency-on-Certain-Super-Priority-Liens.aspx> (last visited March 6, 2015).

programs are now operating with loan loss reserve funds, appropriate disclosures, or other protections meant to address FHFA's concerns.¹⁰

Community Redevelopment Act

The Community Redevelopment Act of 1969,¹¹ authorizes a county or municipality to create community redevelopment areas (CRAs) as a means of redeveloping slums and blighted areas. In accordance with a community redevelopment plan,¹² CRAs can:

- enter into contracts,
- disseminate information,
- acquire property within a slum or blighted area by voluntary methods,
- demolish and remove buildings and improvements,
- construct improvements, and
- dispose of property at fair value.¹³

CRAs are not permitted to levy or collect taxes; however, the local governing body is permitted to establish a community redevelopment trust fund that is funded through tax increment financing (TIF).¹⁴ Taxing authorities must annually appropriate an amount representing the calculated increment revenue to the redevelopment trust fund. This revenue is used to back bonds issued to finance redevelopment projects. School district revenues are not subject to the tax increment mechanism.

Counties and municipalities are prohibited from exercising the community redevelopment authority provided by the Community Redevelopment Act until they adopt an ordinance that declares an area to be a slum or a blighted area.¹⁵

Section 163.340(8), F.S., defines “blighted area” as follows:

An area in which there are a substantial number of deteriorated, or deteriorating structures, in which conditions, as indicated by government-maintained statistics or other studies, are leading to economic distress or endanger life or property, and in which two or more of the following factors are present:

- (a) Predominance of defective or inadequate street layout, parking facilities, roadways, bridges, or public transportation facilities;
- (b) Aggregate assessed values of real property in the area for ad valorem tax purposes have failed to show any appreciable increase over the 5 years prior to the finding of such conditions;
- (c) Faulty lot layout in relation to size, adequacy, accessibility, or usefulness;
- (d) Unsanitary or unsafe conditions;
- (e) Deterioration of site or other improvements;

¹⁰ Commercial PACE programs were not directly affected by FHFA’s actions. Database of State Incentives for Renewables & Efficiency, *supra* note 6.

¹¹ Chapter 163, F.S., part III.

¹² Section 163.360, F.S.

¹³ Section 163.370, F.S.

¹⁴ Through tax increment financing, a baseline tax amount is chosen, and then in future years, any taxes generated above that baseline amount are transferred into the trust fund. Section 163.387, F.S.

¹⁵ Sections 163.355(1) and 163.360(1), F.S.

- (f) Inadequate and outdated building density patterns;
- (g) Falling lease rates per square foot of office, commercial, or industrial space compared to the remainder of the county or municipality;
- (h) Tax or special assessment delinquency exceeding the fair value of the land;
- (i) Residential and commercial vacancy rates higher in the area than in the remainder of the county or municipality;
- (j) Incidence of crime in the area higher than in the remainder of the county or municipality;
- (k) Fire and emergency medical service calls to the area proportionately higher than in the remainder of the county or municipality;
- (l) A greater number of violations of the Florida Building Code in the area than the number of violations recorded in the remainder of the county or municipality;
- (m) Diversity of ownership or defective or unusual conditions of title which prevent the free alienability of land within the deteriorated or hazardous area; or
- (n) Governmentally owned property with adverse environmental conditions caused by a public or private entity.

However, the term “blighted area” also means any area in which at least one of the factors identified in paragraphs (a) through (n) are present and all taxing authorities subject to s. 163.387(2)(a), F.S., agree, either by inter-local agreement or agreements with the agency or by resolution, that the area is blighted.

Subsidence and Sinkholes

Ground subsidence refers to a downward motion in the surface of the Earth, and may be caused by the dissolution of carbonate rocks, mining, earthquakes, extraction of natural gas, and changes to groundwater levels. A sinkhole has been defined as a “a landform created by subsidence of soil, sediment, or rock as underlying strata are dissolved by groundwater. A sinkhole forms by collapse into subterranean voids created by dissolution of limestone or dolostone or by subsidence as these strata are dissolved.”¹⁶ Sinkholes are a common feature in Florida’s landscape, due to erosional processes associated with the chemical weathering and dissolution of carbonate rocks.¹⁷ Over geologic periods of time, persistent erosion created extensive underground voids and drainage systems throughout Florida.¹⁸ A sinkhole forms when sediments overlying such a void collapse. Because “groundwater that feeds springs is recharged ... through direct conduits such as sinkholes,” the Florida Legislature has expressed a desire to promote good stewardship, effective planning strategies, and best management practices with respect to sinkholes and the springs they recharge, which may be “threatened by actual and potential flow reductions and declining water quality.”¹⁹

¹⁶ Section 627.706(2)(h), F.S.

¹⁷ Such as limestone and dolomite. See, Florida Dep’t of Environmental Protection, *Sinkholes*, available at <http://www.dep.state.fl.us/geology/geologictopics/sinkhole.htm> (last visited Feb. 6, 2015).

¹⁸ *Id.*

¹⁹ Section 369.315, F.S.

The two most commonly recommended stabilization techniques for sinkholes are grouting and underpinning.²⁰ Under the grouting procedure, a grout mixture (either cement-based or a chemical resin that expands into foam) is injected into the ground to stabilize the subsurface soils to minimize further subsidence damage by increasing the density of the soils beneath the building as well as sealing the top of the limestone surface to minimize future raveling.²¹ Underpinning consists of steel piers drilled or pushed into the ground to stabilize the building's foundation.²² One end of the steel pipe connects to the foundation of the structure with the other end resting on solid limestone. Underpinning repairs, when performed, are usually combined with grouting.

III. Effect of Proposed Changes:

Section 1 amends s. 163.08, F.S., to allow supplemental authority for financing sinkhole-related improvements to real property. The bill establishes a finding of a compelling state interest in providing local government assistance that enables property owners to finance qualified improvements to property damaged by sinkhole activity. The bill expands the definition of "qualifying improvement" to include stabilization or other repairs to property damaged by sinkhole activity. The bill provides that a sinkhole-related qualifying improvement is deemed affixed to a building or facility; and provides that a disclosure statement to that effect be given to a prospective purchaser of the property.

Section 2 amends s 163.340, F.S., to add certain sinkhole activity to the list of factors that define a "blighted area." Specifically, the definition is expanded to account for land that has a "substantial number or percentage of properties" that have been damaged by sinkhole activity and have not been adequately repaired or stabilized. Thus, the bill would enable a CRA focused on redeveloping land with properties damaged by sinkholes to establish a community redevelopment trust fund that is funded through tax increment financing.

Section 3 amends s. 163.524, F.S., to conform a cross-reference.

Section 4 provides an effective date of July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

²⁰ Citizens Property Insurance Corporation, Sinkhole Repairs: Underpinning and Grouting, (Oct. 30, 2012), <https://www.citizensfla.com/shared/sinkhole/documents/GroutVersusUnderpinning.pdf> (Last visited on March 7, 2015).

²¹ See *id.*

²² See *id.*

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Section 163.08, F.S., amended by section 1 of this bill, is the subject of litigation in the Florida Supreme Court. In *Florida Bankers Association v. State*, Case No. SC14-1603, the Court is considering whether the statute impairs contractual obligations in violation of art. 1, s. 10, Fla. Const. In *Reynolds v. State*, Case No. SC14-1618, the Court is considering whether a financing agreement created pursuant to s. 163.08, F.S., impairs contractual obligations. The Court has scheduled oral argument in both cases for May 7, 2015.

Section 163.08(8), F.S., provides that an assessment levied to fund a qualifying improvement is senior to existing mortgage debt, so if the homeowner defaults or goes into foreclosure, the delinquent payments would be recovered before the mortgage. An issue in the pending court cases is whether the provision making the assessment senior to existing mortgages impairs the mortgage contracts in violation of art. 1, s. 10, Fla. Const.

Section 1 of this bill contains a finding of a compelling government interest in providing local government assistance to enable property owners to effect improvements on property damaged by sinkhole activity. In *Pomponio v. Claridge of Pompano Condo. Inc.*, 378 So.2d 774, 780 (Fla. 1979), the court explained that whether a statute impermissibly impairs contractual obligations is a “balancing process to determine whether the nature and extent of the impairment is constitutionally tolerable in light of the importance of the state’s objective, or whether it unreasonably intrudes into the parties’ bargain to a degree greater than is necessary to achieve that objective.”

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Owners of property damaged by sinkhole activity will be able to enter into financing agreements with a local government that passes an ordinance or adopts a resolution to participate in the program established in s. 163.08, F.S.

Community redevelopment agencies will be able to develop a community redevelopment plan utilizing the expanded definition of “blighted area” to include land that has been “damaged by sinkhole activity which have not been adequately repaired or stabilized.”

As a result, these areas may receive TIF revenues under the Community Redevelopment Act, and property values in the area may increase as a result of any improvements using TIF. Redevelopment of these areas can contribute to increased economic interest in a region and an overall improved economic condition.

Counties and municipalities are required by s. 163.345, F.S., to prioritize private enterprise in the rehabilitation and redevelopment of blighted areas. The increase in ad valorem taxation could be used to finance private development projects within this new category of “blighted area.” Overall property values in the surrounding area may also increase as a result, affecting current homeowners’ resale values and ad valorem taxation.

C. Government Sector Impact:

Local governments will be authorized to establish a PACE program that finances qualifying improvements for property damaged by sinkhole activity. A local government that creates such a program will be able to provide upfront funding for stabilization or other repairs to property damaged by sinkhole activity through proceeds of a revenue bond issuance, which is repaid through an assessment on participating property owners’ tax bills.

A municipality or county would be able to develop a community redevelopment plan utilizing the expanded definition of “blighted area” to include land that has a “substantial number or percentage of properties damaged by sinkhole activity which have not been adequately repaired or stabilized.” This could result in a portion of the ad valorem taxes from those lands being used for TIF. County and municipal governments would then receive the benefit of the ad valorem tax revenue on the increase in property value within the CRA, but could see an increase in other aspects of the local economy.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 163.08, 163.340, and 163.524.

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 Simpson

18-00303-15

2015404__

1 A bill to be entitled
 2 An act relating to improvements to real property
 3 damaged by sinkhole activity; amending s. 163.08,
 4 F.S.; declaring that there is a compelling state
 5 interest in enabling property owners to voluntarily
 6 finance certain improvements to property damaged by
 7 sinkhole activity with local government assistance;
 8 expanding the definition of the term "qualifying
 9 improvement" to include stabilization or other repairs
 10 to property damaged by sinkhole activity; providing
 11 that stabilization or other repairs to property
 12 damaged by sinkhole activity are qualifying
 13 improvements considered affixed to a building or
 14 facility; revising the form of a specified written
 15 disclosure statement to include an assessment for a
 16 qualifying improvement relating to stabilization or
 17 repair of property damaged by sinkhole activity;
 18 amending s. 163.340, F.S.; expanding the definition of
 19 "blighted area" to include a substantial number or
 20 percentage of properties damaged by sinkhole activity
 21 which are not adequately repaired or stabilized;
 22 conforming a cross-reference; amending s. 163.524,
 23 F.S.; conforming a cross-reference; providing an
 24 effective date.

25
 26 Be It Enacted by the Legislature of the State of Florida:

27
 28 Section 1. Present paragraph (c) of subsection (1) of
 29 section 163.08, Florida Statutes, is redesignated as paragraph

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30 (d), a new paragraph (c) is added to that subsection, and
 31 paragraph (b) of subsection (2) and subsections (10) and (14) of
 32 that section are amended, to read:

33 163.08 Supplemental authority for improvements to real
 34 property.—

35 (1)

36 (c) The Legislature finds that properties damaged by
 37 sinkhole activity which are not adequately repaired may
 38 negatively affect the market valuation of surrounding
 39 properties, resulting in the loss of property tax revenues to
 40 local communities. The Legislature finds that there is a
 41 compelling state interest in providing local government
 42 assistance to enable property owners to voluntarily finance
 43 qualified improvements to property damaged by sinkhole activity.

44 (2) As used in this section, the term:

45 (b) "Qualifying improvement" includes any:

46 1. Energy conservation and efficiency improvement, which is
 47 a measure to reduce consumption through conservation or a more
 48 efficient use of electricity, natural gas, propane, or other
 49 forms of energy on the property, including, but not limited to,
 50 air sealing; installation of insulation; installation of energy-
 51 efficient heating, cooling, or ventilation systems; building
 52 modifications to increase the use of daylight; replacement of
 53 windows; installation of energy controls or energy recovery
 54 systems; installation of electric vehicle charging equipment;
 55 and installation of efficient lighting equipment.

56 2. Renewable energy improvement, which is the installation
 57 of any system in which the electrical, mechanical, or thermal
 58 energy is produced from a method that uses one or more of the

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59 following fuels or energy sources: hydrogen, solar energy,
 60 geothermal energy, bioenergy, and wind energy.

61 3. Wind resistance improvement, which includes, but is not
 62 limited to:

63 a. Improving the strength of the roof deck attachment;
 64 b. Creating a secondary water barrier to prevent water
 65 intrusion;

66 c. Installing wind-resistant shingles;
 67 d. Installing gable-end bracing;
 68 e. Reinforcing roof-to-wall connections;
 69 f. Installing storm shutters; or
 70 g. Installing opening protections.

71 4. Stabilization or other repairs to property damaged by
 72 sinkhole activity.

73 (10) A qualifying improvement shall be affixed to a
 74 building or facility that is part of the property and shall
 75 constitute an improvement to the building or facility or a
 76 fixture attached to the building or facility. For the purposes
 77 of stabilization or other repairs to property damaged by
 78 sinkhole activity, a qualifying improvement is deemed affixed to
 79 a building or facility. An agreement between a local government
 80 and a qualifying property owner may not cover wind-resistance
 81 improvements in buildings or facilities under new construction
 82 or construction for which a certificate of occupancy or similar
 83 evidence of substantial completion of new construction or
 84 improvement has not been issued.

85 (14) At or before the time a purchaser executes a contract
 86 for the sale and purchase of any property for which a non-ad
 87 valorem assessment has been levied under this section and has an

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88 unpaid balance due, the seller shall give the prospective
 89 purchaser a written disclosure statement in the following form,
 90 which shall be set forth in the contract or in a separate
 91 writing:

92

93 QUALIFYING IMPROVEMENTS FOR ENERGY EFFICIENCY,
 94 RENEWABLE ENERGY, ~~OR~~ WIND RESISTANCE, OR SINKHOLE
 95 STABILIZATION OR REPAIR.—The property being purchased
 96 is located within the jurisdiction of a local
 97 government that has placed an assessment on the
 98 property pursuant to s. 163.08, Florida Statutes. The
 99 assessment is for a qualifying improvement to the
 100 property relating to energy efficiency, renewable
 101 energy, ~~or~~ wind resistance, or stabilization or repair
 102 of property damaged by sinkhole activity, and is not
 103 based on the value of property. You are encouraged to
 104 contact the county property appraiser's office to
 105 learn more about this and other assessments that may
 106 be provided by law.

107 Section 2. Subsection (8) of section 163.340, Florida
 108 Statutes, is amended to read:

109 163.340 Definitions.—The following terms, wherever used or
 110 referred to in this part, have the following meanings:

111 (8) "Blighted area" means an area in which there are a
 112 substantial number of deteriorated, or deteriorating
 113 structures;~~7~~ in which conditions, as indicated by government-
 114 maintained statistics or other studies, endanger life or
 115 property or are leading to economic distress; ~~or endanger life~~
 116 ~~or property,~~ and in which two or more of the following factors

18-00303-15 2015404__

117 are present:

118 (a) Predominance of defective or inadequate street layout,
119 parking facilities, roadways, bridges, or public transportation
120 facilities.~~+~~

121 (b) Aggregate assessed values of real property in the area
122 for ad valorem tax purposes have failed to show any appreciable
123 increase over the 5 years prior to the finding of such
124 conditions.~~+~~

125 (c) Faulty lot layout in relation to size, adequacy,
126 accessibility, or usefulness.~~+~~

127 (d) Unsanitary or unsafe conditions.~~+~~

128 (e) Deterioration of site or other improvements.~~+~~

129 (f) Inadequate and outdated building density patterns.~~+~~

130 (g) Falling lease rates per square foot of office,
131 commercial, or industrial space compared to the remainder of the
132 county or municipality.~~+~~

133 (h) Tax or special assessment delinquency exceeding the
134 fair value of the land.~~+~~

135 (i) Residential and commercial vacancy rates higher in the
136 area than in the remainder of the county or municipality.~~+~~

137 (j) Incidence of crime in the area higher than in the
138 remainder of the county or municipality.~~+~~

139 (k) Fire and emergency medical service calls to the area
140 proportionately higher than in the remainder of the county or
141 municipality.~~+~~

142 (l) A greater number of violations of the Florida Building
143 Code in the area than the number of violations recorded in the
144 remainder of the county or municipality.~~+~~

145 (m) Diversity of ownership or defective or unusual

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146 conditions of title which prevent the free alienability of land
147 within the deteriorated or hazardous area.~~+~~~~or~~

148 (n) Governmentally owned property with adverse
149 environmental conditions caused by a public or private entity.

150 (o) A substantial number or percentage of properties
151 damaged by sinkhole activity which have not been adequately
152 repaired or stabilized.

153

154 However, the term "blighted area" also means any area in which
155 at least one of the factors identified in paragraphs (a) through
156 (o) is ~~(n)~~ are present and all taxing authorities subject to s.
157 163.387(2)(a) agree, either by interlocal agreement ~~or~~
158 ~~agreements~~ with the agency or by resolution, that the area is
159 blighted. Such agreement or resolution must be limited to a
160 determination shall only determine that the area is blighted.
161 For purposes of qualifying for the tax credits authorized in
162 chapter 220, "blighted area" means an area as defined in this
163 subsection.

164 Section 3. Subsection (3) of section 163.524, Florida
165 Statutes, is amended to read:

166 163.524 Neighborhood Preservation and Enhancement Program;
167 participation; creation of Neighborhood Preservation and
168 Enhancement Districts; creation of Neighborhood Councils and
169 Neighborhood Enhancement Plans.—

170 (3) After the boundaries and size of the Neighborhood
171 Preservation and Enhancement District have been defined, the
172 local government shall pass an ordinance authorizing the
173 creation of the Neighborhood Preservation and Enhancement
174 District. The ordinance shall contain a finding that the

18-00303-15

2015404__

175 boundaries of the Neighborhood Preservation and Enhancement
176 District comply with ~~meet the provisions of~~ s. 163.340(7) or s.
177 ~~(8)(a)-(o)~~ ~~(8)(a)-(n)~~ or do not contain properties that are
178 protected by deed restrictions. Such ordinance may be amended or
179 repealed in the same manner as other local ordinances.

180 Section 4. This act shall take effect July 1, 2015.

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/17

Meeting Date

404

Bill Number (if applicable)

Topic SB 404

Amendment Barcode (if applicable)

Name PAUL HANDEYHAN

Job Title Consultant Ramba Consulting

Address 120 S Monroe Street Tallahassee FL 32301

Phone 561 704 0428

Email PAUL@RAMBA CONSULTING.COM

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

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

Representing Florida Association For Insurance Reform

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

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

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/17/15
Meeting Date

SB 404
Bill Number (if applicable)

Topic Bill

Amendment Barcode (if applicable)

Name Anthony DiMarco

Job Title EVP of Govt. Affairs

Address 1000 Tomsonville Rd

Phone 204 224-2245

Kellahannee FL 32802
City State Zip

Email admarco@floridabankers.com

Speaking: For Against Information

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

Representing Florida Bankers 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

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3/17/15
Meeting Date

404/SIMPSON
Bill Number (if applicable)

Topic SB404 By Simpson

Amendment Barcode (if applicable)

Name JERRY PAUL

Job Title Attorney for Engineers, Contractors, Geologists

Address Street

Phone UF FAS

City

State

Zip

Email 850-386-5265

Speaking: For Against Information

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

Representing FL. ASSOC. OF STABILIZATION SPECIALISTS

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)

404
Bill Number (if applicable)

Meeting Date _____
Topic PACE / CRA

Amendment Barcode (if applicable)

Name Lisa Miller

Job Title CEO, Lisa Miller & Associates

Address 331 N Monroe Street

Phone 850 528 9229

Street
Tallahassee FL 32301
City State Zip

Email _____

Speaking: For Against Information

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

Representing PACE programs in 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.

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Community Affairs, *Chair*
Environmental Preservation and Conservation,
Vice Chair
Appropriations Subcommittee on General Government
Finance and Tax
Judiciary
Transportation

JOINT COMMITTEE:
Joint Legislative Auditing Committee

SENATOR WILTON SIMPSON
18th District

March 16, 2015

Senator Lizbeth Benacquisto, Chair
Committee on Banking and Insurance
320 Knott Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairwoman Benacquisto,

I appreciate you including my legislation, SB 404, relating to sinkholes, on the March 17th Committee on Banking and Insurance agenda. As you are aware, I will be chairing the Committee on Community Affairs at that time. I respectfully request that you allow my Legislative Assistant, Mary Kassabaum to present the bill on my behalf if necessary.

Please do not hesitate to contact me if you or your staff have any questions.

Regards,

A handwritten signature in black ink, appearing to read "Wilton Simpson".

Wilton Simpson
State Senator, 18th District

cc: James Knudson, Staff Director
Sheri Green, Committee Administrative Assistant

REPLY TO:

- 322 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5018
- Post Office Box 938, Brooksville, Florida 34605
- Post Office Box 787, New Port Richey, Florida 34656-0787 (727) 816-1120 FAX: (888) 263-4821

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore



653912

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/17/2015	.	
	.	
	.	
	.	

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

Senate Amendment

Delete line 77

and insert:

(4) Notwithstanding the definition of the term "minor" in s. 710.102, if the transferor

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 630

INTRODUCER: Banking and Insurance Committee and Senator Joyner

SUBJECT: Transfers to Minors

DATE: March 17, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Davis</u>	<u>Cibula</u>	<u>JU</u>	Favorable
2.	<u>Billmeier</u>	<u>Knudson</u>	<u>BI</u>	Fav/CS
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 630 amends the Uniform Transfers to Minors Act to enable a person to make a gift to a minor which may be held by a custodian until the minor reaches the age of 25, and not 21, as provided under current law. However, the bill requires that the minor have at least 30 days to compel the distribution of the custodial property on or about the minor's 21st birthday. The extended time periods apply to gifts or property held by a custodian which were directly transferred or given to the custodian by the donor, a holder of a power of appointment,¹ or a personal representative or trustee pursuant to the terms of a trust or will. This bill does not apply to custodianships funded by fiduciaries or obligors which must be distributed to a minor at the age of 18.

II. Present Situation:

The Florida Uniform Transfers to Minors Act was enacted in 1985. It is a state adaptation of the Uniform Transfers to Minors Act developed by the Uniform Law Commission in 1983.²

¹ "A power of appointment is the legal authority to make another person the outright owner of the property left by a decedent. A donor gives the power to a donee so that person may choose the beneficiaries of his trust or will." Legal Information Institute, Cornell Law School (last visited February 25, 2015) https://www.law.cornell.edu/wex/power_of_appointment.

² The National Conference of Commissioners on Uniform State Laws, *Transfers to Minors Act Summary*, <http://uniformlaws.org/ActSummary.aspx?title=Transfers%20to%20Minors%20Act> (last visited February 20, 2015). According to the National Conference's website, the uniform act has been enacted in 48 states, the District of Columbia, the U.S. Virgin Islands, and is currently pending before one other state legislature. The National Conference of Commissioners

The Florida Uniform Transfers to Minors Act provides a simple, inexpensive mechanism for an adult to give gifts to a minor without the minor assuming control of the gifts until he or she reaches majority. The act provides for a custodianship in which an adult maintains control of property irrevocably granted which will eventually transfer directly to the minor. The custodian holds record title to the asset for the benefit of the minor.

A custodianship is less expensive to operate than a trust because it does not create significant administrative fees and costs that diminish the value of the gift. Additionally, a custodianship is beneficial because the property is retained by a more mature and competent individual as opposed to an inexperienced minor. Any type of property, whether it is real or personal, tangible or intangible, may be transferred to a custodian for the minor's benefit. The act covers outright gifts and other transfers, including the payment of debts owed to a minor, and transfers of property from estates or trusts.³

Under current law, the duration of a custodianship is based upon who made the gift or the express directions of the donor. The duration of a custodianship extends until the minor reaches age 21 if a gift or transfer was given to a custodian directly by the donor, a person authorized by a will to give gifts to third persons, or a personal representative or trustee acting in accordance with the terms of a trust providing for the custodianship.⁴ The duration of a custodianship extends until a minor reaches 18 years of age if the custodianship property is from a will or trust that does not expressly provide for a custodianship or the custodianship holds property from a debt owed to the minor or a benefit plan.⁵

III. Effect of Proposed Changes:

Under Florida's Uniform Transfers to Minors Act (UTMA), all gifts to minors must be fully distributed to the minor when he or she reaches 18 or 21 years of age. This bill allows certain custodianships to extend to the minor's 25th birthday if the minor has at least 30 days when he or she turns 21 years of age to claim all of the assets in the custodianship. This extension applies to a custodianship created by donor, a holder of a power of appointment, or a fiduciary acting pursuant to an authorization in a will or a trust.⁶ This bill does not apply to custodianships funded by fiduciaries or obligors which must be distributed to a minor at the age of 18.⁷

The bill amends s. 710.123, F.S., to establish provisions under which a custodianship may be extended to the age of 25. The document creating the custodianship must specify in its terms that it is creating a custodianship that terminates when the minor reaches the age of 25. If the transferor creates the custodianship to terminate when the minor reaches the age of 25, the minor

on Uniform State Laws, *Legislative Fact Sheet – Transfers to Minors Act*,

<http://uniformlaws.org/LegislativeFactSheet.aspx?title=Transfers%20to%20Minors%20Act> (last visited February 20, 2015).

³ The National Conference of Commissioners on Uniform State Laws, *Why States Should Adopt UTMA*

<http://www.uniformlaws.org/Narrative.aspx?title=Why%20States%20Should%20Adopt%20UTMA> (last visited February 20, 2015).

⁴ Sections 710.105 and 710.106, F.S.

⁵ Sections 710.107 and 710.108, F.S.

⁶ See section 1 of the bill and existing ss. 710.105 and 710.106, F.S.

⁷ See section 1 of the bill and existing ss. 710.107 and 710.108, F.S. Under existing s. 710.107, F.S., a custodianship terminates when the minor reaches 18 years of age if it is funded from a will or trust that does not expressly provide for the creation of a custodianship.

has an absolute right to compel an immediate distribution of the property upon reaching the age of 21. The transferor, however, may limit the minor's withdrawal rights to a designated time period after the minor reaches 21 years of age. To effectively make this limitation, the custodian must provide the minor with written notice of his or her withdrawal rights. The written notice must be delivered at least 30 days before, and no later than 30 days after, the minor's 21st birthday. The termination rights may not expire before the later of 30 days after the 21st birthday or 30 days after the custodian delivers the notice.

The bill amends s. 710.105, F.S., to provide that a transfer by irrevocable gift from a revocable trust is treated, for all purposes, as a transfer made directly by the grantor of the trust. The purpose of this change is to provide that a revocable trust will be permitted to make a gift to a minor that can be placed in a custodianship until the minor is 25 years old under s. 710.123(1), F.S. A plausible argument can be made that, if the revocable trust documents are silent about the intent to create a custodianship, then the gift would need to be distributed to the minor on his or her 18th birthday. The bill, by treating the gift as if it were directly from the grantor, ensures that such gifts can be held by a custodian until the minor's 25th birthday.

Gifts to create UTMA accounts are treated by the IRS as gifts to trusts. Gifts to trusts do not normally qualify for the gift tax annual exclusion, which is currently \$14,000 per donee, per year.⁸ However, the IRS allows gifts to an UTMA account that terminates at 21 to qualify for the gift tax annual exclusion, but will not allow a gift to an UTMA account that terminates at age 25 to qualify.⁹ Therefore, to conform with other IRS requirements that allow gifts to trusts to qualify for the annual exclusion if the trust beneficiary has a right, for a limited time, to withdraw the gift made to the trust, the minor must also have a right for a limited time to withdraw a contribution to an age of 25.¹⁰

Because financial institutions might not be aware that a custodianship does not terminate until a minor reaches the age of 25, they are shielded from liability under the provisions of this bill, if funds are distributed when the minor reaches the age of 21.¹¹

The extension proposed by this bill does not authorize the extension of a custodianship for someone who has already reached the age of 21 years at the time for creation of the custodianship.

According to the Real Property, Probate and Trust Law Section of The Florida Bar, seven other states have amended their state version of the Uniform Transfer to Minors Act to allow a custodian, under certain circumstances, to hold assets for a minor until he or she reaches the age of 25.¹²

⁸ Department of the Treasury, Internal Revenue Service, *IRS Publication 559: Survivors, Executors, and Administrators*, 25 (January 31, 2014).

⁹ 26 U.S.C. s. 2503(c)(1) and (2).

¹⁰ To qualify for the gift tax exclusion, the gift must be of a present interest. Treas. Reg. s. 25.2503-4(b)(2) stands for the proposition that the gift will be of a present interest if the minor has the right to extend the trust. IRS Revenue Ruling 74-43 states that if the minor has a limited period within which to compel distribution, the gift will be a present interest. *See also* 26 U.S.C. s. 2503(c).

¹¹ The Real Property, Probate, & Trust Law Section of The Florida Bar, *White Paper: Proposed Amendments to Florida Uniform Transfers to Minors Act, Ch. 710, Florida Statutes* (2015) (on file with the Senate committee on Judiciary).

¹² *Id.* Those states are Alaska, California, Nevada, Oregon, Pennsylvania, Tennessee, and Washington.

The bill takes effect July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill does not appear to affect the spending, revenues, or tax authority of cities or counties. As such, the bill does not appear to be a mandate.

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:

This bill might have a positive, yet indeterminate, fiscal impact in the private sector by allowing people who establish custodianships to legally reduce or avoid some federal taxes.

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: 710.102, 710.105, and 710.123.

This bill reenacts the following sections of the Florida Statutes: 710.117 and 710.121.

IX. Additional Information:

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

CS by Banking and Insurance on March 17, 2015:

The committee adopted a technical amendment to correct a cross-reference.

- B. **Amendments:**

None.

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

By Senator Joyner

19-00594-15

2015630__

1 A bill to be entitled
 2 An act relating to transfers to minors; amending s.
 3 710.102, F.S; defining the term "general power of
 4 appointment"; amending s. 710.105, F.S.; specifying
 5 that certain transfers from a trust are considered as
 6 having been made directly by the grantor of the trust;
 7 amending s. 710.123, F.S.; authorizing custodianships
 8 established by irrevocable gift and by irrevocable
 9 exercise of power of appointment to terminate when a
 10 minor attains the age of 25, subject to the minor's
 11 right in such custodianships to compel distribution of
 12 the property upon attaining the age of 21; limiting
 13 liability of financial institutions for certain
 14 distributions of custodial property; reenacting ss.
 15 710.117(2) and 710.121(2) and (6), F.S., to
 16 incorporate the amendment made to s. 710.105, F.S., in
 17 references thereto; providing an effective date.
 18
 19 Be It Enacted by the Legislature of the State of Florida:
 20
 21 Section 1. Subsections (9) through (18) of section 710.102,
 22 Florida Statutes, are renumbered as subsections (10) through
 23 (19), respectively, and a new subsection (9) is added to that
 24 section, to read:
 25 710.102 Definitions.—As used in this act, the term:
 26 (9) "General power of appointment" means a power of
 27 appointment as defined in s. 732.2025(3).
 28 Section 2. Section 710.105, Florida Statutes, is amended to
 29 read:

Page 1 of 4

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

19-00594-15

2015630__

30 710.105 Transfer by gift or exercise of power of
 31 appointment.—A person may make a transfer by irrevocable gift
 32 to, or the irrevocable exercise of a power of appointment in
 33 favor of, a custodian for the benefit of a minor pursuant to s.
 34 710.111. Notwithstanding s. 710.106, a transfer by irrevocable
 35 gift from a trust over which the grantor has at the time of
 36 transfer a right of revocation, as defined in s. 733.707(3)(e),
 37 shall be treated for all purposes under this act as a transfer
 38 made directly by the grantor of the trust.
 39 Section 3. Section 710.123, Florida Statutes, is amended to
 40 read:
 41 710.123 Termination of custodianship.—
 42 (1) The custodian shall transfer in an appropriate manner
 43 the custodial property to the minor or to the minor's estate
 44 upon the earlier of:
 45 (a) ~~(1)~~ The minor's attainment of 21 years of age with
 46 respect to custodial property transferred under s. 710.105 or s.
 47 710.106. However, a transferor may, with respect to such
 48 custodial property, create the custodianship so that it
 49 terminates when the minor attains 25 years of age;
 50 (b) ~~(2)~~ The minor's attainment of age 18 years of age with
 51 respect to custodial property transferred under s. 710.107 or s.
 52 710.108; or
 53 (c) ~~(3)~~ The minor's death.
 54 (2) If the transferor of a custodianship under paragraph
 55 (1)(a) creates the custodianship to terminate when the minor
 56 attains 25 years of age, in the case of a custodianship created
 57 by irrevocable gift or by irrevocable inter vivos exercise of a
 58 general power of appointment, the minor nevertheless has the

Page 2 of 4

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

19-00594-15 2015630__

59 absolute right to compel immediate distribution of the entire
60 custodial property when the minor attains 21 years of age.

61 (3) As to a custodianship described in subsection (2), a
62 transferor may provide, by delivery of a written instrument to
63 the custodian upon the creation of such custodianship, that the
64 minor's right to compel immediate distribution of the entire
65 custodial property will terminate upon the expiration of a fixed
66 period that begins with the custodian's delivery of a written
67 notice to the minor of the existence of such right. To be
68 effective to terminate the minor's right to compel an immediate
69 distribution of the entire custodial property when the minor
70 attains 21 years of age, the custodian's written notice must be
71 delivered at least 30 days before, and not later than 30 days
72 after, the date upon which the minor attains 21 years of age,
73 and the fixed period specified in the notice for the termination
74 of such right may not expire before the later of 30 days after
75 the minor attains 21 years of age or 30 days after the custodian
76 delivers such notice.

77 (4) Notwithstanding s. 710.102(12), if the transferor
78 creates the custodianship to terminate when the minor attains 25
79 years of age, solely for purposes of the application of the
80 termination provisions of this section, the term "minor" means
81 an individual who has not attained 25 years of age.

82 (5) A financial institution has no liability to a custodian
83 or minor for distribution of custodial property to, or for the
84 benefit of, the minor in a custodianship created by irrevocable
85 gift or by irrevocable exercise of a general power of
86 appointment when the minor attains 21 years of age.

87 Section 4. Subsection (2) of s. 710.117 and subsections (2)

19-00594-15 2015630__

88 and (6) of s. 710.121, Florida Statutes, are reenacted for the
89 purpose of incorporating the amendments made by this act to s.
90 710.105, Florida Statutes, in references thereto.

91 Section 5. This act shall take effect July 1, 2015.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

✓
COMMITTEES:
Appropriations Subcommittee on Criminal and
Civil Justice, *Vice Chair*
Appropriations
Health Policy
Higher Education
Judiciary
Rules

JOINT COMMITTEE:
Joint Legislative Budget Commission

SENATOR ARTHENIA L. JOYNER
Democratic Leader
19th District

March 3, 2015

Senator Lizbeth Benaquisto, Chair
Senate Committee on Banking and Insurance
320 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Benaquisto:

This is to request that Senate Bill 630, Transfers to Minors, be placed on the agenda for the Committee on Banking and Insurance. Your consideration of this request is greatly appreciated.

Sincerely,

A handwritten signature in cursive script, appearing to read "Arthenia L. Joyner".

Arthenia L. Joyner
State Senator, District 19

REPLY TO:

508 W. Dr. Martin Luther King, Jr. Blvd., Suite C, Tampa, Florida 33603-3415 (813) 233-4277
 200 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5019 FAX: (813) 233-4280

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

Waive

3/17/15
Meeting Date

630
Bill Number (if applicable)

Topic Transfers to Minors

Amendment Barcode (if applicable)

Name Brittany Finkbeiner

Job Title _____

Address _____
Street

Phone (850) 999-4100

City _____ State _____ Zip _____

Email bfinkbeiner@deanmcd.com

Speaking: For Against Information

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

Representing Real Property, Probate, and Trust Law Section of the Bar

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

Waive

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

3/17/15
Meeting Date

SB 630
Bill Number (if applicable)

Topic Bill

Amendment Barcode (if applicable)

Name Anthony DiMarco

Job Title ESP

Address 1001 Pompanoville Rd

Phone 224-2265

Tallahassee FL 32303
City State Zip

Email adimarco@floridabankers.com

Speaking: For Against Information

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

Representing Florida Bankers 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

Tallahassee, Florida 32399-1100

Request For Aide to
Present bill

SENATOR ARTHENIA L. JOYNER

Democratic Leader
19th District

COMMITTEES:

Appropriations Subcommittee on Criminal and
Civil Justice, *Vice Chair*
Appropriations
Health Policy
Higher Education
Judiciary
Rules

JOINT COMMITTEE:

Joint Legislative Budget Commission

March 17, 2015

Senator Lizbeth Benaquisto, Chair
Senate Committee on Banking & Insurance
320 Knott Building
Tallahassee, FL 32399

Dear Madame Chair:

This is to request that my Legislative Assistant, Randi Rosete, be permitted to present Senate Bill 630, Transfers to Minors. Allowing my assistant to present this bill will be greatly appreciated since I will be in another committee at that time and be unable to personally present it.

Your consideration of this request is greatly appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Arthenia L. Joyner".

Arthenia L. Joyner
Senator, District 19

REPLY TO:

- 508 W. Dr. Martin Luther King, Jr. Blvd., Suite C, Tampa, Florida 33603-3415 (813) 233-4277
- 200 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5019 FAX: (813) 233-4280

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore



220148

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/17/2015	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 100 - 104.

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

And the title is amended as follows:

Delete lines 5 - 8

and insert:

insurance coverage; providing an effective date.

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 1134

INTRODUCER: Banking and Insurance Committee and Senator Hays

SUBJECT: Blanket Health Insurance

DATE: March 17, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Knudson	BI	Fav/CS
2.			AGG	
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1134 expands and clarifies the types of special groups of individuals that may be covered by a blanket health insurance policy or contract. Blanket health insurance covers special groups of individuals under a master policy or contract, as delineated in s. 627.659, F.S., generally while they are engaging in specified activities or operations.

II. Present Situation:

The Office of Insurance Regulation (OIR) licenses and regulates the activities of insurers, health maintenance organizations, and other risk-bearing entities.¹ Blanket health insurance covers special groups of individuals under a policy or contract issued to the following groups:²

- A common carrier;
- An employer;
- A volunteer fire department;
- A school, school district, college, university, or other institution of learning;
- An organization or branch of the Boys Scouts of America, Future Farmers of America, religious or educational organizations, or similar organizations;
- An individual, firm, or corporation holding or operating summer camps or other meetings;
- A newspaper;

¹ Section 20.121(3)(a)1., F.S.

² Section 627.659, F.S.

- A health care provider;
- An HMO; and
- Other specified entities.

Blanket policies and contracts are issued to a policyholder, such as a school, business, or an organization, and provide coverage to a group of individuals or participants who share a common activity or operation of the policyholder. An individual application is not required from an individual covered under a blanket health insurance policy or contract. Generally, the insurer is not required to provide a written certificate of the insurance coverage to each insured person.³ The certificate is subject to filing and approval with the OIR pursuant to ss. 627.410 and 627.640, F.S.

III. Effect of Proposed Changes:

The bill substantially revises and expands the special groups of individuals that are eligible under a blanket health insurance policy or contract. The bill would expand the special groups to include policies or contracts issued to:

- An operator, an owner, or a lessee of a means of transportation. Currently, a common carrier is eligible.
- An employer covering insured employees' dependents or guests, who are defined by reference to an activity or operation of the policyholder.
- An emergency management group.
- An organization or branch of an instructional, charitable, recreational, or civic body.
- An individual, firm, or corporation holding or operating meetings, such as meetings for educational, charitable, or civic purposes.
- Other publishers besides newspapers.
- A Coordinator of health services.
- A sports team or camp, or a sponsor thereof.
- A travel agency or other organization that provides travel-related services.
- An association having at least 25 individuals that has been organized and maintained for one year for purposes other than that of obtaining insurance coverage.
- A bank or other financial institution, a vendor of the institution, or a parent holding company of the institution.
- A trustee or agent of a financial institution, vendor, or company.

The bill takes effect July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

³ An insurer is required to furnish a written certificate disclosing the essential features of the coverage to each person covered under a policy issued pursuant to s. 627.659(3), F.S., relating to policies issued to a school, district school system, college, university, or other institution of learning. Section 627.660(6), F.S.

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 would allow additional groups to obtain blanket health insurance coverage. According to advocates of the bill, although this coverage is not a substitute for liability insurance, such blanket policies may assist in reducing liability claims and offer reimbursement to participants for medical and other accidental injury-related expenses.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

In several sections of the bill, additional groups and covered persons are not clearly defined or not defined, thus creating ambiguity as to whether a group or person is eligible. For example, s. 627.659(4), F.S., is amended to include “emergency management groups,” which is a term not defined. Section 627.659(7), F.S., is amended to expand eligibility for blanket health to a “coordinator of health services” with no definition of the term. Section 627.659(12), F.S., is amended to expand eligibility for blanket health to a bank or other financial institution, a vendor, or a parent holding company, with no limitation on what constitutes an eligible “other financial institution,” vendor, or parent holding company.

Section 627.659(11), F.S., is created to provide blanket coverage for associations. Currently, ss. 627.6515 and 627.654, F.S., authorizes the issuance of health policies to associations.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 627.659 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 17, 2015:

The CS eliminates the discretionary authority of the OIR to determine additional risks or classes of risks not specified in statute that would be eligible for blanket health insurance coverage.

- B. **Amendments:**

None.

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

By Senator Hays

11-00873C-15

20151134__

A bill to be entitled

An act relating to blanket health insurance; amending s. 627.659, F.S.; expanding the types of individuals and entities which are eligible for blanket health insurance coverage; authorizing the Commissioner of the Office of Insurance Regulation to designate other risks or classes of risk which are eligible for blanket health insurance; providing an effective date.

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

Section 1. Section 627.659, Florida Statutes, is amended to read:

627.659 Blanket health insurance; eligible groups.—Blanket health insurance is ~~that form of~~ health insurance that which covers special groups of individuals under a policy or contract issued as enumerated in one of the following subsections:

(1) ~~Under a policy or contract issued~~ To a any common carrier, or to an operator, an owner, or a lessee of a means of transportation, which is shall be deemed to be the policyholder, covering a group that is defined as all persons who may become passengers on such common carrier or means of transportation.

(2) ~~Under a policy or contract issued~~ To an employer, who is shall be deemed to be the policyholder, covering all or any grouping group of employees or insured employees' dependents or guests, who are defined by reference to an activity or operation of the policyholder exceptional hazards incident to such employment, or under a policy or contract issued to an employer if when all of its employees are covered under the any such

Page 1 of 4

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

11-00873C-15

20151134__

policy or contract.

(3) ~~Under a policy issued~~ To a school, district school system, college, university, or other institution of learning, or to an the official ~~or officials~~ of the such institution, insuring all or any grouping of the institution's students, ~~and~~ teachers, and employees. ~~The any such policy issued~~ may insure the spouse or dependent children of the insured student, teacher, or employee.

(4) ~~Under a policy or contract issued~~ In the name of a any volunteer fire department, ~~or~~ first aid group, emergency management group, or other first responder such volunteer group, which is shall be deemed to be the policyholder, covering all or any grouping of the members or employees of the policyholder or covering all or any grouping of participants which is defined by reference to an activity or operation sponsored or supervised by the policyholder such department or group.

(5) ~~Under a policy or contract issued~~ To an organization, or branch thereof, such as the Boy Scouts of America, the Future Farmers of America, a religious, instructional, or educational, charitable, recreational, or civic body bodies, or similar organization organizations, or to an individual, firm, or corporation, holding or operating meetings, such as summer camps or other meetings for religious, instructive, educational, charitable, or recreational, or civic purposes, which organization, branch, or body is deemed to be the policyholder, covering all or any grouping of participants which is defined by reference to an activity or operation of the policyholder, including those who attend the attending such camps or meetings, such as including counselors, instructors, and persons in other

Page 2 of 4

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

11-00873C-15

20151134__

59 administrative positions.

60 (6) ~~Under a policy or contract issued~~ In the name of a
61 newspaper or other publisher, which is ~~shall be~~ deemed to be the
62 policyholder, covering independent contractor newspaper or
63 publication delivery persons.

64 (7) ~~Under a policy or contract issued~~ In the name of a
65 health care provider or coordinator of health services, which is
66 ~~shall be~~ deemed to be the policyholder, covering patients,
67 donors, or surrogates. This coverage may be offered to patients,
68 donors, or surrogates of the policyholder, a health care
69 provider but may not be required as made a condition of
70 receiving care. The benefits provided under the ~~such~~ policy or
71 contract are ~~shall not be~~ assignable to any health care
72 provider.

73 (8) ~~Under a policy or contract issued~~ To a any health
74 maintenance organization licensed pursuant to the provisions of
75 part I of chapter 641, which is ~~shall be~~ deemed to be the
76 policyholder, covering the subscribers of the health maintenance
77 organization. Payment may be made directly to the health
78 maintenance organization by the blanket health insurer for
79 health care services rendered by providers pursuant to the
80 health care delivery plan.

81 (9) To a sports team or camp, or a sponsor thereof, which
82 is deemed to be the policyholder, covering all or any grouping
83 of members, campers, participants, employees, officials, or
84 supervisors.

85 (10) To a travel agency or other organization that provides
86 travel-related services, which is deemed to be the policyholder,
87 covering all or any grouping of persons to whom the policyholder

11-00873C-15

20151134__

88 provides travel or travel-related services.

89 (11) To an association having a constitution and bylaws,
90 having at least 25 individual members, and having been organized
91 and maintained in good faith for a period of 1 year for purposes
92 other than that of obtaining insurance, which association is
93 deemed to be the policyholder, covering all or any grouping of
94 the members of the association.

95 (12) To a bank or other financial institution, a vendor of
96 the institution, or a parent holding company of the institution,
97 or to a trustee or agent of such institution, vendor, or
98 company, which is deemed to be the policyholder, covering
99 accountholders, cardholders, debtors, guarantors, or purchasers.

100 (13) To any other risk or class of risks which, in the
101 discretion of the Commissioner of the Office of Insurance
102 Regulation, may be properly eligible for blanket health
103 insurance. The discretion of the commissioner may be exercised
104 on an individual-risk basis, a class of risks, or both.

105 Section 2. This act shall take effect July 1, 2015.

106



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Subcommittee on General Government, *Chair*
Governmental Oversight and Accountability, *Vice Chair*
Appropriations
Environmental Preservation and Conservation
Ethics and Elections
Fiscal Policy

JOINT COMMITTEE:

Joint Select Committee on Collective Bargaining, *Alternating Chair*

SENATOR ALAN HAYS
11th District

MEMORANDUM

To: Senator Lizbeth Benacquisto, Chair
Banking and Insurance Committee
CC: James Knudson, Staff Director
Sheri Green, Committee Administrative Assistant

From: Senator D. Alan Hays

Subject: Request to agenda SB 1134 – Blanket Health Insurance

Date: March 2, 2015

I respectfully request that you agenda the above referenced bill at your earliest convenience. If you have any questions regarding this legislation, I welcome the opportunity to meet with you one-on-one to discuss it in further detail. Thank you so much for your consideration of this request.

Sincerely,

A handwritten signature in black ink that reads "D. Alan Hays, DMD".

D. Alan Hays, DMD
State Senator, District 11

REPLY TO:

- 871 South Central Avenue, Umatilla, Florida 32784-9290 (352) 742-6441
- 320 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5011
- 1104 Main Street, The Villages, Florida 32159 (352) 360-6739 FAX: (352) 360-6748
- 685 West Montrose Street, Suite 210, Clermont, Florida 34711 (352) 241-9344 FAX: (888) 263-3677

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

Wave

APPEARANCE RECORD

3-17-15

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

1134

Meeting Date

Bill Number (if applicable)

Topic Blanket Health Ins

Amendment Barcode (if applicable)

Name Gary Guzzo

Job Title Lobbyist

Address 108 S. Main Street

Phone 681-0024

Tallahassee Fla 32301

Email

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

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

Representing FIG

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

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

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 1148

INTRODUCER: Senator Stargel

SUBJECT: Firesafety

DATE: March 16, 2015

REVISED: _____

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

I. Summary:

SB 1148 makes the following changes with regards to the regulation of the Fire Prevention Code on agriculture property.

- Defines “Agricultural pole barn” and exempts such barns from the Florida Fire Prevention Code, National Codes and the Life Safety Code.
- Defines a “nonresidential farm building” and specifies certain uses allowing such buildings to be exempt for the Florida Fire Prevention Code, National Codes and the Life Safety Code.
- Requires the State Fire Marshal to conduct a study on the use of nonresidential farm buildings for certain assemblies as defined in the fire code.
- Requires the State Fire Marshal to convene a working group of various stakeholders to assist with the study.
- Authorizes a local fire official to consider the Fire Safety Evaluation System found in NFPA 101A when identifying alternatives to a firesafety code with regards to existing buildings.

II. Present Situation:

Division of the State Fire Marshal (State Fire Marshal)

State law on fire prevention and control is provided in Chapter 633, F.S. Section 633.104, F.S., designates the Chief Financial Officer (CFO) as the State Fire Marshal, operating through the Division of the State Fire Marshal.¹ Pursuant to this authority, the State Fire Marshal regulates, trains, and certifies fire service personnel; investigates the causes of fires; enforces arson laws; regulates the installation of fire equipment; conducts firesafety inspections of state property; develops firesafety standards; provides facilities for the analysis of fire debris; and operates the Florida State Fire College. Additionally, the State Fire Marshal adopts by rule the Florida Fire

¹ The head of the Department of Financial Services (DFS) is the Chief Financial Officer. The Division of State Fire Marshal is located within the DFS.

Prevention Code, which contains or references all firesafety laws and rules regarding public and private buildings.²

The Division of the State Fire Marshal (Division) consists of the following four bureaus: the Bureau of Fire and Arson Investigations, the Bureau of Fire Standards and Training, the Bureau of Forensic Fire and Explosive Analysis, and Bureau of Fire Prevention. The Florida State Fire College, part of the Bureau of Fire Standards and Training, trains over 6,000 students per year. The Inspections Section, under the Bureau of Fire Prevention, annually inspects more than 14,000 state-owned buildings and facilities. Over 1.8 million fire and emergency reports are collected every year. These reports are entered into a database to form the basis for the State Fire Marshal's annual report.³

National Fire Protection Association (NFPA) 101 Life Safety Code

The National Fire Protection Association publishes the NFPA 101 Life Safety Code. The Life Safety Code is used to protect the public by developing standards on building construction, protection, and occupancy features that minimize the effects of fire and related hazards. The Life Safety Code covers life safety in both new and existing structures.⁴ Under current law the State Fire Marshal must adopt the Life Safety Code.⁵ The current Florida Fire Prevention Code and the Life Safety Code incorporates the NFPA 101 Life Safety Code as adopted by the State Fire Marshal.⁶

NFPA Occupancy Definitions⁷

- “Assembly Occupancy” is defined by the NFPA as an occupancy used for a gathering of 50 or more persons for deliberation, worship, entertainment, eating, drinking, amusement, awaiting transportation, or similar uses; or used as a special amusement building, regardless of occupant load.
- “Mercantile Occupancy” is defined by the NFPA as an occupancy used for the display and sale of merchandise.
- “Business Occupancy” is defined by the NFPA as an occupancy used for the transaction of business other than mercantile.

Nonresidential Farm Buildings

Section 604.50, F.S., defines a nonresidential farm building as any temporary or permanent building or support structure located on a farm or that is used primarily for agricultural purposes, is located on land that is an integral part of a farm operation, and is not intended to be used as a residential dwelling. The term may include, but is not limited to, a barn, greenhouse, shade house, farm office, storage building, or poultry house. This definition, while adequate in its description, does not allow such building any exemptions from the Florida Fire Prevention Code.

² s. 633.202(1), F.S.

³ State Fire Marshal website: <http://www.myfloridacfo.com/sfm/> (Last visited March 14, 2015).

⁴ <http://www.nfpa.org/aboutthecodes> (Last visited March 14, 2015).

⁵ s. 633.202(2), F.S.

⁶ s. 633.104(1), F.S.

⁷ <http://codesonline.nfpa.org/a/c.ref/ID020101110939/chapter> (Last visited March 14, 2015).

III. Effect of Proposed Changes:

The bill defines an “Agricultural pole barn” as a nonresidential farm building in which 90 percent or more of the perimeter walls are permanently open and allow free ingress and egress. Furthermore, the section states such pole barns are exempt for the Florida Fire Prevention Code, National Codes and the Life Safety Code.

The bill defines a nonresidential farm building for purposes of the Florida Fire Prevention Code as having the same meaning as provided in in s. 604.50, F.S. The bill allows two scenarios for when such buildings can be exempt from the Florida Fire Prevention Code, National Codes and the Life Safety Code:

1. If occupancy is limited by the property owner to no more than 35 persons and the building is not used by the public for direct sales or as an educational outreach facility, or
2. The building is used by the owner for assembly, business, or mercantile occupancies, as defined in the Florida Fire Prevention Code, no more than a total of 20 times per year and each occupancy lasts no longer than 72 hours and has no more than 150 individuals in attendance.

By exempting a nonresidential farm building from the Florida Fire Prevention Code, National Codes and the Life Safety Code, the formula used for determining safe occupancy size of a building will not apply. The bill does not contain minimum square footage requirements for a nonresidential farm building that specify when up to 150 individuals may safely occupy the building at one time.

The bill requires the State Fire Marshal to conduct a study on the secondary use of nonresidential farm buildings as assembly occupancies that occur more than 20 times per year and as assembly occupancies with more than 150 individuals in attendance.

Additionally, the State Fire Marshal is to convene a workgroup on or before September 1, 2015, to assist with the study. The workgroup must include a representative of the Florida Agritourism Association, the Florida Farm Bureau, the Department of Agriculture and Consumer Services, the Florida Fire Chiefs Association, the Florida Professional Firefighters Association, the Florida Fire Marshals and Inspectors Association, and the Florida Volunteer Firefighters Association. The workgroup may include other interested parties.

If the study determines that an assembly occupancy as studies requires life safety or fire prevention standards different from those currently specified in the Florida Fire Prevention Code, the State Fire Marshal must adopt alternative standards by rule and such rulemaking must begin on or before December 1, 2015.

The bill makes a technical change with regards to a configuration of a tent. No longer must a tent be up to 30 feet by 30 feet but rather the change in the bill limits tents to no more than a total of 900 square feet to be exempt from the Florida Fire Prevention Code and National Codes.

Lastly, when establishing minimum firesafety standards for existing buildings, the bill allows a local fire official to consider the Fire Safety Evaluation System found in NFPA 101A, Guide on

Alternative Solutions to Life Safety, that has been adopted by the State Fire Marshal, as an acceptable source for the identification of low-cost, reasonable alternatives.

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:

According to the DFS, the bill may reduce the number and amount of permit review fees imposed by local governments, which currently have the authority to inspect and review structures used for the types of events for which this bill provides an exemption from the Florida Fire Prevention Code.

B. Private Sector Impact:

Pole barns and nonresidential farm buildings used in certain ways will be exempt from the Florida Fire Prevention Code, National Codes and the Life Safety Code. Exemptions from such codes could be a cost savings to such owners.

C. Government Sector Impact:

The State Fire Marshal is to conduct a study and convene a workgroup to look at exemptions for nonresidential farm buildings when used for certain assembly occupancies.

VI. Technical Deficiencies:

Line 36 limits “persons” whereas line 52 limits “individuals.”

Line 52 is unclear if the limitation per event is limited to 72 consecutive hours.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 633.202, and 633.208.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

By Senator Stargel

15-00960A-15

20151148__

1 A bill to be entitled
 2 An act relating to firesafety; amending s. 633.202,
 3 F.S.; defining terms; exempting nonresidential farm
 4 buildings, rather than specified structures located on
 5 agricultural property, from the Florida Fire
 6 Prevention Code under specified circumstances;
 7 requiring the State Fire Marshal to conduct a study
 8 addressing certain secondary uses of nonresidential
 9 farm buildings; requiring the State Fire Marshal to
 10 convene a workgroup by a specified date to assist with
 11 the study; requiring the State Fire Marshal to
 12 initiate rulemaking by a specified date if the study
 13 determines that certain life safety or fire prevention
 14 standards are required; revising the maximum
 15 measurements of a tent that is exempt from the Florida
 16 Fire Prevention Code; amending s. 633.208, F.S.;

17 authorizing a local fire official to consider a
 18 specified publication when identifying an alternative
 19 to a firesafety code; providing an effective date.

20

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

22

23 Section 1. Subsection (16) of section 633.202, Florida
 24 Statutes, is amended to read:

25 633.202 Florida Fire Prevention Code.—

26 (16) (a) As used in this subsection, the term:

27 1. "Agricultural pole barn" means a nonresidential farm
 28 building in which 90 percent or more of the perimeter walls are
 29 permanently open and allow free ingress and egress.

Page 1 of 4

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

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20151148__

30 2. "Nonresidential farm building" has the same meaning
 31 provided in s. 604.50.

32 ~~(b) A nonresidential farm building structure, located on~~
 33 ~~property that is classified for ad valorem purposes as~~
 34 ~~agricultural, which is part of a farming or ranching operation,~~
 35 in which the occupancy is limited by the property owner to no
 36 more than 35 persons, and which is not used by the public for
 37 direct sales or as an educational outreach facility, is exempt
 38 from the Florida Fire Prevention Code, including the national
 39 codes and Life Safety Code incorporated by reference. ~~This~~
 40 ~~paragraph does not include structures used for residential or~~
 41 ~~assembly occupancies, as defined in the Florida Fire Prevention~~
 42 ~~Code.~~

43 (c) Notwithstanding any other provision of law, a
 44 nonresidential farm building is exempt from the Florida Fire
 45 Prevention Code, including the national codes and the Life
 46 Safety Code incorporated by reference, if:

47 1. The nonresidential farm building is used by the owner
 48 for assembly, business, or mercantile occupancies, as defined in
 49 the Florida Fire Prevention Code, no more than a total of 20
 50 times per year; and

51 2. Each occupancy under subparagraph 1. lasts no longer
 52 than 72 hours and has no more than 150 individuals in
 53 attendance.

54 (d) Notwithstanding any other provision of law, an
 55 agricultural pole barn is exempt from the Florida Fire
 56 Prevention Code, including the national codes and the Life
 57 Safety Code incorporated by reference.

58 (e) The State Fire Marshal shall conduct a study on the

Page 2 of 4

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

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59 secondary use of nonresidential farm buildings as assembly
 60 occupancies that occur more than 20 times per year and as
 61 assembly occupancies with more than 150 individuals in
 62 attendance.

63 1. The State Fire Marshal shall convene a workgroup on or
 64 before September 1, 2015, to assist with the study. The
 65 workgroup must include a representative of the Florida
 66 Agritourism Association, the Florida Farm Bureau, the Department
 67 of Agriculture and Consumer Services, the Florida Fire Chiefs
 68 Association, the Florida Professional Firefighters Association,
 69 the Florida Fire Marshals and Inspectors Association, and the
 70 Florida Volunteer Firefighters Association. The workgroup may
 71 include other interested parties.

72 2. If the study determines that an assembly occupancy
 73 described under this paragraph requires life safety or fire
 74 prevention standards different from those currently specified in
 75 the Florida Fire Prevention Code, the State Fire Marshal shall
 76 adopt the alternative standards by rule. Such rulemaking must be
 77 initiated on or before December 1, 2015.

78 (17)(b) A tent up to 900 square 30 feet by 30 feet is
 79 exempt from the Florida Fire Prevention Code, including the
 80 national codes incorporated by reference.

81 Section 2. Subsection (5) of section 633.208, Florida
 82 Statutes, is amended to read:

83 633.208 Minimum firesafety standards.—

84 (5) With regard to existing buildings, the Legislature
 85 recognizes that it is not always practical to apply any or all
 86 of the provisions of the Florida Fire Prevention Code and that
 87 physical limitations may require disproportionate effort or

15-00960A-15

20151148__

88 expense with little increase in fire or life safety. Before
 89 ~~Prior to~~ applying the minimum firesafety code to an existing
 90 building, the local fire official shall determine that a threat
 91 to lifesafety or property exists. If a threat to lifesafety or
 92 property exists, the fire official shall apply the applicable
 93 firesafety code for existing buildings to the extent practical
 94 to assure a reasonable degree of lifesafety and safety of
 95 property or the fire official shall fashion a reasonable
 96 alternative that which affords an equivalent degree of
 97 lifesafety and safety of property. The local fire official may
 98 consider the Fire Safety Evaluation System found in NFPA 101A,
 99 Guide on Alternative Solutions to Life Safety, adopted by the
 100 State Fire Marshal, as an acceptable source for the
 101 identification of low-cost, reasonable alternatives. The
 102 decision of the local fire official may be appealed to the local
 103 administrative board described in s. 553.73.

104 Section 3. This act shall take effect July 1, 2015.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Higher Education, *Chair*
Appropriations Subcommittee on Education
Fiscal Policy
Judiciary
Military and Veterans Affairs, Space, and Domestic
Security
Regulated Industries

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR KELLI STARGEL

15th District

February 27, 2015

The Honorable Lizbeth Benacquisto
Senate Banking and Insurance Committee, Chair
326 Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399

Dear Chair Benacquisto:

I am respectfully requesting that SB 1148, related to *Firesafety*, be placed on the next committee agenda.

Thank you for your consideration and please do not hesitate to contact me should you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Kelli Stargel".

Kelli Stargel
State Senator, District 15

Cc: James Knudson/ Staff Director
Sheri Green/ AA

REPLY TO:

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ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/17/15

Meeting Date

1148

Bill Number (if applicable)

Topic Fire Safety of Agriculture Bldgs

Amendment Barcode (if applicable)

Name Adam Basford

Job Title Dir Leg. Affairs

Address 315 S Calhoun #850

Phone 222 2557

Street

Tallahassee FL 32301

City

State

Zip

Email adam.basford@fla.org

Speaking: For Against Information

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

Representing FL Farm Bureau

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

Speak

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

3/17/15

Meeting Date

SB 1148

Bill Number (if applicable)

Topic Fire Safety

Amendment Barcode (if applicable)

Name Buddy Dewar

Job Title Vice President

Address 200 W. College Ave

Phone 850-566-8733

Tallahassee
City

FL
State

32301
Zip

Email Dewar@NFSA.org

Speaking: For Against Information

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

Representing NFSA

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

Speak

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

3/17/15

Meeting Date

1148

Bill Number (if applicable)

Topic FIRE SAFETY

Amendment Barcode (if applicable)

Name JON PASQUALONE

Job Title EXECUTIVE DIRECTOR

Address PO BOX 325
Street

Phone 772-992-1555

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City State Zip

Email jon.pasqualone@FFMIA.ORG

Speaking: For Against Information

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

Representing FLORIDA FIRE MARSHALS & INSPECTORS 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)

3/17/15
Meeting Date

Waive

SB 1148
Bill Number (if applicable)

Topic Fire Safety

Amendment Barcode (if applicable)

Name Jonathan Rees

Job Title Deputy Director, Legislative Affairs

Address 400 S. Monroe St.

Phone (850) 617-7700

Tallahassee FL 32303
City State Zip

Email Jonathan.Rees@freshfromflorida.com

Speaking: For Against Information

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

Representing Florida Department of Agriculture and Consumer Services

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 7026

INTRODUCER: Governmental Oversight and Accountability Committee

SUBJECT: State Group Insurance Program

DATE: March 16, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	McVaney	McVaney		GO SPB 7026 as introduced
1.	Johnson	Knudson	BI	Favorable
2.			AP	

I. Summary:

SB 7026 requires the Department of Management Services (DMS) to ensure that each contracted health maintenance organization (HMO) within the state group insurance program provides to covered members under the age of 21 reasonable access to covered medical services within 3 months of the request for early and periodic screening, diagnostic, and treatment requirements.

The bill sets forth contractual requirements between the DMS and HMOs and specifies grievance or complaint procedures. Each HMO is required to submit quarterly reporting to the DMS regarding grievances or complaints. The DMS is required to establish financial consequences and fines if the network adequacy, timely referral and the reasonable access provisions of this bill are not met.

This bill may have a negative indeterminate fiscal impact to the State Employees' Health Insurance Trust Fund.

This bill provides an effective date of July 1, 2015.

II. Present Situation:

Regulation of Health Maintenance Organizations

The Office of Insurance Regulation (OIR) licenses and regulates the activities of insurers, health maintenance organizations, and other risk-bearing entities.¹ The Agency for Health Care Administration (agency) regulates the quality of care provided by HMOs under part III of ch. 641, F.S. Before receiving a certificate of authority from the OIR, an HMO must receive a Health Care Provider Certificate from the agency pursuant to part III of ch. 641, F.S.²

¹ Section 20.121(3)(a)1., F.S.

² Section 641.21(1), F.S.

Under part III of ch. 641, F.S., HMOs are subject to accreditation requirements. Section 641.495(4), F.S., requires an HMO to ensure that the health care services it provides to subscribers, including physician services as required by s. 641.19(12)(d) and (e), F.S., are accessible to the subscribers, with reasonable promptness, with respect to geographic location, hours of operation, provision of after-hours service, and staffing patterns within generally accepted industry norms for meeting the projected subscriber needs.

In addition, HMOs are subject to Rule 59A-12.006, F.A.C, regarding the quality of care provided. Specifically, paragraph (3) states in part:

[The HMO shall] [e]nsure that the health care services it provides or arranges for are accessible to the subscriber with reasonable promptness. Such services shall include, at a minimum:

- (a) Establishment of an appointment system;
- (b) A method to distinguish among emergency, urgent, and routine cases.
 - 1. Emergencies will be seen immediately;
 - 2. Urgent cases will be seen within 24 hours;
 - 3. Routine symptomatic cases will be seen within two weeks; and
 - 4. Routine non-symptomatic cases will be seen as soon as possible.

Further, the rule requires HMOs to comply with the following requirements:

- (f) Maintenance of staffing patterns within generally accepted HMO industry norms for meeting projected subscriber needs and for expeditiously satisfying the requirements of the benefit package as offered by the HMO; and
- (g) Maintenance of a professional staff or arrangements with providers, duly licensed as required to practice in Florida.

The federal Patient Protection and Affordable Care Act (PPACA)³ requires health insurers, including HMOs, to allow subscribers to request an external review, including an expedited external review, when the HMO has denied a patient's request for payment of a claim under certain circumstances.⁴ The external review process is limited to the denial of a patient's request for payment of a claim when the denial involves a medical judgment. The term "medical judgment" includes, but is not limited to, a decision based on medical necessity, appropriateness, health care setting, level of care or effectiveness of the health care service or treatment requested, or a determination that the treatment is experimental or investigational. The expedited external review process under PPACA is limited to patients with life threatening conditions that would seriously jeopardize the patient's life or health or ability to regain maximum function or in the opinion of the physician would subject the patient to severe pain that could not be managed with the care or treatment subject to the urgent appeal.

³ Section 1001 of Pub. L. No. 111-148.

⁴ 45 CF 147.

State Group Insurance Program

Under the authority of s. 110.123, F.S., the Department of Management Services (DMS), through the Division of State Group Insurance, administers the state group insurance program by providing employee benefits such as health, life, dental, and vision insurance products under a cafeteria plan consistent with section 125, Internal Revenue Code. To administer the state group health insurance program, DMS contracts with third party administrators, health maintenance organizations (HMO), and a pharmacy benefits manager for the State Employees' Prescription Drug Plan pursuant to s. 110.12315, F.S.

Regulations relating to scheduling appointments and adequacy of access of plans are specified in Rule 59A-12.006, F.A.C, as discussed earlier. According to DMS, in rare instances and based on the realities of a clinical practice, it may take more time than specified in the timeframes above for a subscriber or member to receive a service.⁵ Some examples of when the time may extend beyond the prescribed timeframes include when:

- Requested care is for a rare subspecialty;
- The physician needs more time to review medical records or order special testing before scheduling an appointment;
- The physician has an extended wait time for routine care; or
- In some areas, demand is high and there is a shortage of health care providers.

All HMOs provide a customer service line to assist subscribers with finding access to care in a reasonable amount of time for circumstances such as these. To ensure patients can be seen as quickly as possible, subscribers may be given the option to choose a different health care provider than their preferred choice.⁶

Current contracts of DMS require access standards to health care providers, and performance guarantees are in place for these access standards with financial consequences for failure to comply. However, DMS is not a party to the private business contracts between the HMOs and their network providers.

Complaint and grievance procedures are established pursuant to state laws⁷ applicable to HMOs. Chapter 120, F.S., and Chapter 60P, F.A.C., govern the appeal process for self-insured HMOs. The DMS's current contracts require HMOs to maintain a record of all grievances or appeals, as applicable, and provide a summary to DMS quarterly or more frequently, if requested. The report provides a narrative summary of the reasons for the grievance, disposition, and corrective actions because of the grievance.

Early and Periodic Screening, Diagnostic and Treatment Benefits

In the Medicaid program, Florida is required to provide comprehensive services and furnish covered services that are appropriate, medically necessary and needed to correct and ameliorate health conditions, based on certain federal guidelines. The Early and Periodic Screening,

⁵ Department of Management Services, SB 7026 Analysis, February 12, 2015 (on file with Banking and Insurance Committee).

⁶ *Id.*

⁷ See s. 641.511, F.S.

Diagnostic and Treatment (EPSDT) benefits⁸ include the following screening, diagnostic, and treatment services:

1. Screening Services
 - Comprehensive health and developmental history
 - Comprehensive unclothed physical exam
 - Appropriate immunizations (according to the Advisory Committee on Immunization Practices)
 - Laboratory tests (including lead toxicity screening)
 - Health Education (anticipatory guidance including child development, healthy lifestyles, and accident and disease prevention)
2. Vision Services
 - At a minimum, diagnosis and treatment for defects in vision, including eyeglasses. Vision services must be provided according to a distinct periodicity schedule developed by the state and at other intervals as medically necessary.
3. Dental Services
 - At a minimum, dental services include relief of pain and infections, restoration of teeth, and maintenance of dental health. Dental services may not be limited to emergency services. Each state is required to develop a dental periodicity schedule in consultation with recognized dental organizations involved in child health.
4. Hearing Services
 - At a minimum, hearing services include diagnosis and treatment for defects in hearing, including hearing aids.
5. Other Necessary Health Care Services
 - States are required to provide any additional health care services that are coverable under the Federal Medicaid program and found to be medically necessary to treat, correct or reduce illnesses and conditions discovered regardless of whether the service is covered in a state's Medicaid plan. It is the responsibility of states to determine medical necessity on a case-by-case basis.
6. Diagnostic Services
 - If a screening examination indicates the need for further evaluation of an individual's health, diagnostic services must be provided. Necessary referrals should be made without delay and there should be follow-up to ensure the enrollee receives a complete diagnostic evaluation. States should develop quality assurance procedures to assure that comprehensive care is provided.
7. Treatment
 - Necessary health care services must be made available for treatment of all physical and mental illnesses or conditions discovered by any screening and diagnostic procedures.

These benefits are not necessarily covered services under the State Group Insurance Program administered by DMS. For example, the vision (eyeglasses) and dental treatments are not typically covered services under the State Group Insurance Program.

⁸See <http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Benefits/Early-and-Periodic-Screening-Diagnostic-and-Treatment.html> (last viewed on February 15, 2015).

III. Effect of Proposed Changes:

SB 7026 creates s. 110.12303, F.S., to ensure “reasonable access” to “health services” for persons under age 21 covered by HMOs under the state group insurance program.

“Health services” include those services that are both Early and Periodic Screening, Diagnostic and Treatment benefits in the Medicaid program and covered services under the state group insurance program.

“Reasonable access” means that health services are initiated within the guidelines for national standards for medical services or no later than 3 months of the initial request for the particular health service.

DMS is required to include in its contracts with HMOs standards for network adequacy, timely referral, and reasonable access to health services. The contracts must also specify the financial consequences that apply when the HMO fails to meet those particular standards. According to DMS, existing state law and national standards relating to access for certain health services require such services to be provided more quickly than under this bill.⁹

The HMO contract must contain specific provisions granting members of the State Group Insurance Program the right to submit a complaint or grievance and to request an external review, including an expedited review, if an HMO denies reasonable access. The bill appears to require DMS to guarantee a right to members of the program to submit complaints relating to reasonable access to health services and request for external reviews of such denials of reasonable access.

In terms of these complaints, the contract must require the HMOs to report to DMS at least quarterly the number of filed complaints, the types of health services at issue, and the resolution of those complaints. The contract must also specify a fine to be assessed against the HMO in each instance the HMO has failed to provide reasonable access to health services under this bill.

The bill takes effect July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

⁹ 2015 Legislative Bill Analysis for SPB 7026 by the Department of Management Services, dated February 12, 2015, and on file with the Committee on Governmental Oversight and Accountability.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may provide HMO subscribers under the State Group Insurance Program with timelier access to medical services. An HMO that fails to meet standards for network adequacy, timely referrals, and reasonable access would be subject to financial risks and additional administrative burdens.

C. Government Sector Impact:

According to the DMS, this bill could have a negative indeterminate fiscal impact to the State Employees' Health Insurance Trust Fund. HMOs may seek to negotiate higher administrative fees or premiums, as applicable, at renewal or as part of a competitive procurement to account for financial risk and administration associated with the provisions of this bill.

VI. Technical Deficiencies:

The DMS suggests that the bill should provide the DMS with rulemaking authority to set and enforce fines and suggests the bill should establish parameters for the fines.¹⁰

The DMS also suggests that the bill should state whether the administrative penalties would apply to current HMO contracts or contracts with an effective date of January 1, 2016. The bill provides a July 1, 2015, effective date.

VII. Related Issues:

According to the DMS, network adequacy, timely referral, and reasonable access would not qualify for an external review.¹¹ The external review process is limited to a denial of a patient's request for payment of a claim and the denial involves a medical judgment including, but not limited to, a decision based on medical necessity, appropriateness, health care setting, level of care or effectiveness of the health care service or treatment requested, or a determination that the treatment is experimental or investigational.

The expedited external review process under federal law is limited to patients with life threatening conditions that would seriously jeopardize the patient's life or health or ability to

¹⁰ Department of Management Services, SB 7026 Analysis, February 12, 2015 (on file with Senate Banking and Insurance Committee).

¹¹ *Id.*

regain maximum function or in the opinion of the physician would subject the patient to severe pain that could not managed with the care or treatment subject to the urgent appeal. Periodic screenings would not meet the criteria for an expedited external review, nor would a delay in receiving health services, as defined in this bill, qualify for an expedited external review. It is unclear whether the right to an external review, as provided in this bill, is limited by the federal law or is more expansive based on the terms of the contract.

VIII. Statutes Affected:

This bill creates section 110.12303 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 the Committee on Governmental Oversight and Accountability

585-01659-15

20157026__

A bill to be entitled

An act relating to the state group insurance program; creating s. 110.12303, F.S.; defining terms; requiring the Department of Management Services to ensure that a health maintenance organization under contract with the department provides reasonable access to certain services to persons younger than 21 years of age; specifying provisions that must be included in a contract between the department and a health maintenance organization; providing an effective date.

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

Section 1. Section 110.12303, Florida Statutes, is created to read:

110.12303 Reasonable access to health services for persons under age 21.—

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

(a) "Health maintenance organization" or "HMO" means an entity certified under part I of chapter 641 which is under contract with the department to participate in the state group insurance program or an entity which is under contract with the department to participate in the state group insurance program to administer health services offered in a geographic region of the state.

(b) "Health services" means medical services provided to a member which meet early and periodic screening, diagnostic, and treatment requirements under the state Medicaid Plan and are covered under the state group insurance program.

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

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(c) "Member" means a health plan member, as defined in s. 110.123, who is younger than 21 years of age.

(d) "Reasonable access" means health services are initiated within timeframes established as guidelines for national standards of medical care but no later than 3 months after the initial date of the request for health services.

(e) "State group insurance program" has the same meaning as provided in s. 110.123.

(f) "Subscriber" means the enrollee, as defined in s. 110.123, under which a member is eligible to participate in the state group insurance program.

(2) In addition to the requirements in s. 110.123, the department must ensure that a health maintenance organization provides a member with reasonable access to health services.

(3) A contract between the department and an HMO must:

(a) Include standards, relating to health services, for network adequacy, timely referral, and reasonable access.

(b) Specify the financial consequences that the department must apply if the HMO fails to meet the standards established for network adequacy, timely referral, and reasonable access.

(c) Require the HMO to allow, if reasonable access is denied, a member or subscriber to:

1. Submit a complaint or grievance pursuant to the procedures established in s. 641.511; and

2. Request an external review, including an expedited external review, pursuant to the procedure provided in s. 1001 of the federal Patient Protection and Affordable Care Act, Pub. L. No. 111-148.

(d) Require the HMO to report to the department at least

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59 quarterly. The report must include the following:

60 1. The number of complaints or grievances initiated in the
61 past quarter regarding reasonable access to health services.

62 2. The types of health services that were the subjects of
63 the complaints and grievances.

64 3. The resolution of such complaints and grievances.

65 (e) Specify a fine to be assessed against an HMO, in
66 addition to any fine imposed under paragraph (b), in each
67 instance that the HMO has failed to provide reasonable access to
68 health services.

69 Section 2. This act shall take effect July 1, 2015.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/17/2015	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 69 - 92
and insert:
assessments have been recovered by the title insurers that wrote policies in the state during the previous calendar year. Any surcharges collected by a title insurer in excess of the total amount it was assessed for aggregate assessments shall be paid quarterly to the receiver to be maintained in the excess surcharge account by the receiver. Excess surcharges may be used



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11 by the receiver for the following purposes only:

12 (a) To reduce or eliminate the amount of a future
13 assessment for a title insurer that is in receivership at the
14 time of the assessment or that later enters receivership; or

15 (b) To reduce the amount of time that consumers in the
16 state are subject to surcharges by transferring excess
17 surcharges to title insurers that have not fully collected
18 surcharges equal to the amount of the aggregate assessments paid
19 by title insurers pursuant to s. 631.400.

20 (7) In conjunction with the filing of each quarterly
21 financial statement, each title insurer shall provide the office
22 with an accounting of assessments paid and surcharges collected
23 during the period.

24 (8) If the receiver has no active title insurer
25 receiverships for 12 consecutive months or if there have been no
26 payable claims against any title insurer receivership for 60
27 consecutive months, all excess surcharges held by the receiver
28 under this section ~~Any surcharges collected in excess of the~~
29 ~~amount assessed~~ shall be paid into ~~to~~ the Insurance Regulatory
30 Trust Fund.

31 (9) The Financial Services Commission may adopt rules
32 specifying procedures for the collection, use, and transfer of
33 surcharges, including excess surcharges.

34 (10) The department may adopt rules specifying procedures
35 for claiming, distributing, and using excess surcharge account
36 funds held by the receiver under this section and for the
37 purposes specified in subsection (6).

38
39 ===== T I T L E A M E N D M E N T =====



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40 And the title is amended as follows:
41 Delete lines 10 - 11
42 and insert:
43 authorizing the Financial Services Commission and the
44 Department of Financial Services to adopt rules for
45 certain purposes; providing an

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 1136

INTRODUCER: Banking and Insurance Committee and Senator Hukill

SUBJECT: Title Insurance

DATE: March 17, 2015

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 1136 revises procedures for dealing with insolvent title insurers. There is no guaranty fund for title insurers in Florida. If funds are necessary to pay the claims of title insurers in rehabilitation, all title insurers doing business in Florida are liable for an assessment to pay those claims. The Department of Financial Services (“DFS” or “receiver”) and Office of Insurance Regulation (“OIR”) determine the amount of money necessary and order an assessment. The title insurers recover the assessment by collecting a surcharge on each title policy issued in Florida. To prevent an insurer from gaining a competitive advantage, each title insurer is required to continue to collect the surcharge until all title insurers have recovered their assessments. Current law provides that surcharges collected in excess of the assessment amount are paid to the state.

This bill creates a mechanism for using excess surcharges to reduce the time that surcharges are collected. It provides that when a company has collected surcharges in excess of the amount it was assessed, the company shall pay the excess to the receiver. The receiver must maintain the money in an excess surcharge account and may use the excess surcharges only:

- To reduce or eliminate the amount of a future assessment for a title insurer currently in receivership or that later enters receivership; or
- To reduce the amount of time that consumers in the state are subject to surcharges by transferring excess surcharges to title insurers that have not fully collected surcharges equal to the amount of the aggregate assessments they paid pursuant to s. 631.400 F.S.

If the receiver has no active title insurer receiverships for 12 consecutive months or there have been no payable claims against any title insurer receivership for 60 consecutive months, all excess surcharges held by the receiver must be paid to the Insurance Regulatory Trust Fund.

The bill also allows the OIR to order an additional surcharge in situations where a surcharge is being collected.

II. Present Situation:

Title insurance is (1) insurance of owners of real property or others having an interest in real property or contractual interest derived therefrom, or liens or encumbrances on real property, against loss by encumbrance, or defective titles, or invalidity, or adverse claim to title; or (2) insurance of owners and secured parties of the existence, attachment, perfection, and priority of security interests in personal property under the Uniform Commercial Code.¹ Title insurance serves to indemnify the insured against financial loss caused by defects in title arising out of events that occurred before the date of the policy.² Title insurance agents and agencies are licensed and regulated by the DFS while title insurance companies are licensed and regulated by the OIR.

Rehabilitation of a Title Insurer

Chapter 631, F.S., relates to insurer insolvency. Sections 631.400 and 631.401, F.S., specifically govern title insurer insolvency. If the OIR believes an insurer is impaired or insolvent, it notifies the DFS and provides supporting information.³ The DFS through its Division of Rehabilitation and Liquidation (“receiver”) may commence a proceeding in circuit court for an order directing that it liquidate or rehabilitate the insurer.⁴ Once the court enters an order directing the receiver to rehabilitate a title insurer, the receiver reviews the condition of the insurer and files a plan of rehabilitation with the court for approval.⁵ The rehabilitation plan provides that policies on properties located in Florida will remain in force subject the ability to assess other title insurers⁶ and provides a mechanism for canceling policies on out of state properties.⁷

Assessments

There is no guaranty fund for title insurers in Florida. All title insurers doing business in Florida are liable for an assessment to pay unpaid title insurance claims and expenses for any title insurer ordered into rehabilitation.⁸ Before an assessment is ordered, the receiver reviews the condition of the insurer to determine the amount necessary for the payment of known claims, loss adjustment expenses, and the cost of the administration of the rehabilitation expenses.⁹ If insurer funds are not sufficient to cover the necessary amount, the receiver requests that the OIR order

¹ Section 624.608, F.S.

² See *Lawyers Title Insurance Co. Inc., v. Novastar Mortgage, Inc.*, 862 So. 2d 793, 797 (Fla. 4th DCA 2003).

³ See s. 631.031, F.S.

⁴ See generally ss. 631.031-631.152, F.S.

⁵ See s. 631.400(1), F.S.

⁶ See s. 631.400(1)(a), F.S.

⁷ See s. 631.400(1)(b)-(f), F.S.

⁸ See s. 631.400(2), F.S.

⁹ See s. 631.400(3), F.S.

an assessment.¹⁰ The OIR orders other title insurers¹¹ to pay assessments based on a pro rata share of the total direct written premium in Florida.¹² The assessment must be paid to the receiver within 90 days.¹³

Recovery of the Assessments

Section 631.401, F.S., provides a mechanism for title insurers to recoup the assessments. When the OIR orders an assessment, it also orders a surcharge on each title policy issued thereafter.¹⁴ The surcharge amount is estimated to allow insurers to recover the assessment amount in not more than 7 years.¹⁵ A title insurer cannot retain more in surcharges for an assessment than the amount paid.¹⁶ Section 631.401(1), F.S., allows the OIR to increase the surcharge if additional insurers become impaired but does not allow the OIR to increase the surcharge if additional assessments are needed for one insurer. The OIR reports that the inability to increase the surcharge can result in accounting difficulties for the OIR and the insurers.¹⁷

Each title insurer is required to continue to collect the surcharge until all title insurers have recovered their assessments.¹⁸ This prevents a title insurer from gaining a competitive advantage by selling policies without a surcharge while other title insurance continue to collect a surcharge.¹⁹ Each title insurer is required to notify the OIR when it has recovered its assessed amount and the OIR notifies all companies to cease collecting surcharges once each company has recovered its assessed amount.²⁰

Any surcharges collected in excess of the amount assessed are paid to the Insurance Regulatory Trust Fund.²¹

Experience with Title Insurers in Receivership

Sections 631.400 and 631.401, F.S., were enacted in 2011.²² Since the enactment of the statutes, assessments and surcharges have been ordered for two title insurer receiverships.²³ There is currently a \$3.28 surcharge on title insurance policies that has been in effect since September,

¹⁰ *Id.*

¹¹ According to information provided by the DFS, there are 18 title insurers authorized to do business in Florida.

¹² *See* s. 631.400(4), F.S.

¹³ *See* s. 631.400(5), F.S. The statute also allows companies to pay the receiver through an installment plan.

¹⁴ *See* s. 631.401(1), F.S.

¹⁵ *Id.*

¹⁶ *See* s. 631.401(5), F.S.

¹⁷ *See* Office of Insurance Regulation, *HB 927/SB 1136 Agency Bill Analysis* (February 25, 2015)(on file with the Committee on Banking and Insurance).

¹⁸ *See* s. 631.401(6), F.S.

¹⁹ *See* Office of Insurance Regulation, *HB 927/SB 1136 Agency Bill Analysis* (February 25, 2015)(on file with the Committee on Banking and Insurance).

²⁰ *See* s. 631.401(6), F.S.

²¹ *See* s. 631.401(7), F.S.

²² *See* ch. 2011-226, L.O.F.

²³ *See In re: 2012 Title Insurance Assessment for the Rehabilitation of National Title Insurance Company*, OIR Case No. 127302-12 (September 4, 2012) and *In re: 2014 Title Insurance Assessment for the Rehabilitation of K.E.L. Title Insurance Company*, OIR Case No. 150289-14 (June 5, 2014).

2014.²⁴ Excess surcharges have not been collected thus far but it is anticipated that excess surcharges will be collected in the future.

III. Effect of Proposed Changes:

This bill amends s. 631.401(1), F.S., to allow the OIR to order an additional surcharge in situations where a surcharge is currently in effect but the OIR determines that an additional surcharge is necessary. According to the OIR, this will reduce accounting problems that could arise in situations where multiple surcharges are imposed.²⁵

This bill provides a mechanism in s. 631.401(6), F.S., for dealing with the collection of excess surcharges. It provides that when a company has collected surcharges in excess of the amount it was assessed, the company shall pay the excess to the receiver. The receiver must maintain the money in an excess surcharge account and may use the excess surcharges only:

- To reduce or eliminate the amount of a future assessment for a title insurer currently in receivership or that later enters receivership;; or
- To reduce the amount of time that consumers in the state are subject to surcharges by transferring excess surcharges to title insurers that have not fully collected surcharges equal to the amount of the aggregate assessments they paid pursuant to s. 631.400; F.S.

If the receiver has no active title insurer receiverships for 12 consecutive months or if there have been no payable claims against any title insurer receivership for 60 consecutive months, all excess surcharges held by the receiver shall be paid to the Insurance Regulatory Trust Fund.

The bill also amends the following subsections of s. 631.401, F.S., to revise and clarify the title insurance assessment process:

- Section 631.401(5), F.S., to provide that a title insurer may not retain more in surcharges than the amount of aggregate assessments paid by that insurer. Any surcharges collected in excess of the amount of the aggregate assessments paid by a title insurer shall be paid to the receiver.
- Section 631.401(2), F.S., to provide that the surcharge will be listed on the settlement statement as a “surcharge” and clarify that the surcharge is not premium and is not subject to premium tax.
- Section 631.401(3), F.S., to provide that title insurers not subject to a particular assessment must still collect the surcharge and remit the surcharge to the receiver.
- Section 631.401(4), F.S., to provide that surcharges do not need to be remitted by agents to insurers with the premium. This is to avoid co-mingling of premium and surcharge funds.
- Section 631.401(9), F.S., to provide that the Financial Services Commission may adopt rules specifying procedures for the collection, use, and transfer of surcharges, including excess surcharges and the DFS may adopt rules for claiming, distributing, and using excess surcharge funds held by the receiver.

This bill takes effect on July 1, 2015.

²⁴ Interview with the staff of the DFS and the OIR.

²⁵ See Office of Insurance Regulation, *HB 927/SB 1136 Agency Bill Analysis* (February 25, 2015)(on file with the Committee on Banking and Insurance).

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:

This bill could have the effect of reducing the time that surcharges are collected. This would reduce the amount paid by purchasers of title insurance.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 631.401 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 17, 2015:

The committee adopted an amendment that:

- Revised current law to allow the OIR to end the collection of assessment recovery surcharges once all active title insurers have recovered their assessment payment,

rather than continuing the surcharges until all title insurers that paid the assessment have recovered their payment.

- Clarified a provision to provide that excess surcharges can only be used to fund the claims and expenses of insolvent title insurers or to fund the unpaid assessment recovery balance of title insurers that are slow to recover their assessment payments.
- Corrected the entity receiving rulemaking authority under the bill to reflect the Financial Services Commission as the agency head of the OIR and added rulemaking authority for the DFS to allow it to create a process to claim against and distribute funds from the excess surcharge account created by the bill.
- Revised the condition precedent to paying the excess surcharges held by the receiver into the Insurance Regulatory Trust Fund.

B. Amendments:

None.

By Senator Hukill

8-01041B-15

20151136__

1 A bill to be entitled
 2 An act relating to title insurance; amending s.
 3 631.401, F.S.; revising procedures and requirements
 4 relating to the recovery of assessments from title
 5 insurers through surcharges assessed on policies;
 6 revising provisions relating to surcharges collected
 7 in excess of the assessments paid by title insurers;
 8 revising requirements for the payment of excess
 9 surcharges to the Insurance Regulatory Trust Fund;
 10 authorizing the Office of Insurance Regulation to
 11 adopt rules for certain purposes; providing an
 12 effective date.

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

15
 16 Section 1. Section 631.401, Florida Statutes, is amended to
 17 read:

18 631.401 Recovery of assessments and assumed policy
 19 obligations.—

20 (1) Upon the making of any assessment allowed by s.
 21 631.400, the office shall order a surcharge or, if a surcharge
 22 is currently in effect, an additional surcharge amount on each
 23 title insurance policy thereafter issued insuring an interest in
 24 real property in this state. The office shall set the per
 25 transaction surcharge at an amount estimated to generate
 26 sufficient funds to recover the amount assessed over a period of
 27 not more than 7 years. The amount of the surcharge ordered under
 28 this section may not exceed \$25 per transaction for each
 29 impaired title insurer. ~~If additional surcharges are occasioned~~

Page 1 of 4

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

8-01041B-15

20151136__

30 ~~by additional title insurers becoming impaired, the office shall~~
 31 ~~order an increase in the amount of the surcharge to reflect the~~
 32 ~~aggregate surcharge.~~

33 (2) The party responsible for the payment of title
 34 insurance premium, unless otherwise agreed between the parties,
 35 shall be responsible for the payment of the surcharge. No
 36 surcharge will be due or owing as to any policy of title
 37 insurance subject to issued at the simultaneous issue premium
 38 ~~rate. For all other purposes,~~ The surcharge will be considered a
 39 governmental assessment to be separately stated on any
 40 settlement statement as a surcharge. The surcharge is not
 41 premium and is not subject to premium tax or reserve
 42 requirements under chapter 625.

43 (3) Title insurers doing business in this state which are
 44 not subject to a given assessment writing no premiums in the
 45 prior calendar year shall collect the same per transaction
 46 surcharge as provided by this section. Such surcharge collected
 47 shall be paid to the receiver within 60 days after receipt to be
 48 maintained in an excess surcharge account and used only as
 49 provided in subsection (6) from the title agent or agency.

50 (4) Each title insurance agent, agency, or direct title
 51 operation shall collect the surcharge as to each title insurance
 52 policy written and remit those surcharges ~~along with the~~
 53 ~~policies and premiums~~ within 60 days to the title insurer on
 54 which whom the policy was written.

55 (5) A title insurer may not retain more in surcharges ~~for~~
 56 ~~an ordered assessment~~ than the amount of aggregate assessments
 57 paid by the assessment that title insurer paid. Any surcharges
 58 collected in excess of the amount of the aggregate assessments

Page 2 of 4

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

8-01041B-15 20151136__
 59 paid by a title insurer shall be paid as provided in subsection
 60 (6). As used in this section, the term "aggregate assessments"
 61 means the total amount of assessments ordered by the office
 62 under s. 631.400.

63 (6) Each title insurer collecting surcharges shall promptly
 64 notify the office when it has collected surcharges equal to the
 65 amount of the aggregate assessments ~~assessment~~ paid pursuant to
 66 s. 631.400. The office shall notify all companies, including
 67 those collecting surcharges as required by subsection (3), to
 68 cease collecting surcharges when notified that all aggregate
 69 assessments have been recovered. Any surcharges collected by a
 70 title insurer in excess of the total amount it was assessed for
 71 aggregate assessments shall be paid quarterly to the receiver to
 72 be maintained in the excess surcharge account by the receiver.
 73 Excess surcharges may be used by the receiver for the following
 74 purposes only:

75 (a) To reduce or eliminate the amount of a future
 76 assessment for a title insurer in receivership;

77 (b) To reduce the amount of time that consumers in the
 78 state are subject to surcharges by transferring excess
 79 surcharges to title insurers that have not fully collected
 80 surcharges equal to the amount of the aggregate assessments they
 81 paid pursuant to s. 631.400; or

82 (c) To reduce or eliminate the need for future assessments
 83 for title insurers not yet in receivership.

84 (7) In conjunction with the filing of each quarterly
 85 financial statement, each title insurer shall provide the office
 86 with an accounting of assessments paid and surcharges collected
 87 during the period. Any surcharges collected in excess of the

8-01041B-15 20151136__
 88 amount assessed which are not used under subsection (6) within 1
 89 year after the termination of all title insurer receiverships
 90 shall be paid to the Insurance Regulatory Trust Fund. The office
 91 may adopt rules specifying procedures for the collection, use,
 92 and transfer of surcharges, including excess surcharges.

93 Section 2. This act shall take effect July 1, 2015.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Finance and Tax, *Chair*
Communications, Energy, and Public Utilities,
Vice Chair
Appropriations
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Banking and Insurance
Fiscal Policy

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR DOROTHY L. HUKILL
8th District

March 2, 2015

The Honorable Lizbeth Benacquisto
320 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399

Re: Senate Bill 1136 – Title Insurance

Dear Chairwoman Benacquisto:

Senate Bill 1136, relating Title Insurance has been referred to the Banking and Insurance Committee. I am requesting your consideration on placing SB 1136 on your next agenda. Should you need any additional information please do not hesitate to contact my office.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Dorothy L. Hukill".

Dorothy L. Hukill, District 8

cc: James Knudson, Staff Director of the Banking and Insurance Committee
Sheri Green, Administrative Assistant of the Banking and Insurance Committee

REPLY TO:

- 209 Dunlawton Avenue, Unit 17, Port Orange, Florida 32127 (386) 304-7630 FAX: (888) 263-3818
- Ocala City Hall, 110 SE Watula Avenue, 3rd Floor, Ocala, Florida 34471 (352) 694-0160

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/17/15

Meeting Date

SB 1136

Bill Number (if applicable)

Topic Excess Surcharges

Amendment Barcode (if applicable)

Name ALEXANDRA OVERHOFF

Job Title EXEC DIR

Address

Phone

Street

City

State

Zip

Email alex@flta.org

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

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

Representing FLORIDA LAND TITLE ASSOCIATION

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

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

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

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

wave

APPEARANCE RECORD

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

3.17.15

1136

Meeting Date

Bill Number (if applicable)

Topic the us

Amendment Barcode (if applicable)

Name Ashley Mayer

Job Title lobbyist

Address 101 E. Gallye Ave

Phone 222.9075

Street

TLH

FL

City

State

Zip

Email

Speaking: For Against Information

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

Representing Old Republic Title 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

APPEARANCE RECORD

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

Waive

3/ Meeting Date

SB1136 Bill Number (if applicable)

Topic TITLE INS

Amendment Barcode (if applicable)

Name DOUGLAS MANG

Job Title

Address 1424 PIEDMONT DR.

Phone

Street

City FAWY State FL Zip 32308

Email DMANG@MANORCARE.COM

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

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

Representing FIRST AMERICAN TITLE

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

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

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 830

INTRODUCER: Senator Simmons

SUBJECT: Regulation of Corporation Not for Profit Self-insurance Funds

DATE: March 3, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Knudson	BI	Pre-meeting
2.			CM	
3.			FP	

I. Summary:

SB 830 expands the types of entities that are eligible to be members of a corporation not for profit self-insurance fund authorized under s. 624.4625, F.S. In 2007, the Legislature authorized two or more not-for-profit corporations to create a self-insurance fund for purposes of pooling property or casualty insurance, if each member of the fund receives at least 75 percent of its revenue from governmental sources, and other conditions are met.¹ SB 830 maintains this requirement but also allows publicly supported organizations under section 501(c)(3) of the Internal Revenue Code receiving at least 75 percent of its support from a governmental unit or the public, to be a member of the fund. The eligibility of such an entity would be supported on the most recent Internal Revenue Service Form 990 or Form 990EZ and Schedule A.

II. Present Situation:

Regulation of Self-Insurance Funds

The Office of Insurance Regulation (OIR) regulates the activities of insurers and other risk-bearing entities.² As an alternative to obtaining insurance from a licensed insurance company, the current law allows certain persons to form and obtain insurance coverage from a self-insurance fund. Generally, the members of a self-insurance fund assume the risk of loss among themselves, rather than transferring the risk to an insurance company.³

¹ Section 14, chapter 2007-1, Laws of Florida.

² Section 20.121(3)(a)1., F.S.

³ The Commercial Self-Insurance Fund Act (ss. 624.460-624.488, F.S.), authorizes certain groups and associations to form a commercial self-insurance fund, subject to the approval of OIR. Under s. 624.4621, F.S., two or more employers may pool their workers' compensation liabilities and form a self-insurance fund for workers' compensation purposes, referred to as a group self-insurance fund. Such funds must comply with administrative rules adopted by the Financial Services Commission. Pursuant to s. 624.4622, F.S., any two local governments may enter into interlocal agreements to create a self-insurance fund for securing the payment of benefits under the workers' compensation law. Under s. 624.4623, F.S., any two or more independent non-profit colleges or universities may form a self-insurance fund for the purpose of pooling and spreading

Section 624.4625, F.S., provides that two or more not-for-profit corporations⁴ located and organized under Florida law may form a self-insurance fund. The purpose of the self-insurance fund must be to pool and spread the property and casualty liabilities of group members. The fund must meet a number of requirements including that it:

- Has annual normal premiums in excess of \$5 million;
- Has only members who receive at least 75 percent of its revenues from local, state, or federal governmental sources;
- Uses a qualified actuary to determine actuarially sound rates and adequate reserves and submits annual certifications to the OIR;
- Maintains excess insurance coverage; and
- Submits an annual audited financial report to the OIR.

A corporation not for profit self-insurance fund that meets the requirements of this section is not an insurer for purposes of participation in or coverage by any guaranty association established under ch. 631, F.S. Further, such a self-insurance fund is not subject to s. 624.4621, F.S., and is not required to file any report with the Department of Financial Services under s. 440.38(2)(b), F.S., that is uniquely required of group self-insurer funds qualified under s. 624.4621, F.S.

Florida Insurance Trust

The Florida Insurance Trust (FIT) is a corporation not for profit self-insurance fund created in 2007. Currently, FIT has approximately 175 participating non-profit social service entities.⁵ According to representatives of FIT, the existing statutes provide for a potential field of membership of 9,000, of which only 175 are currently members. FIT provides property, general liability, professional liability, employment practice liability, workers compensation, health insurance, and commercial automobile coverage to its members.

FIT is required to ensure that all members are eligible pursuant to s. 624.4625, F.S. Any potential member is required to submit a notarized certification, signed by an officer of the member, that at least 75 percent of funding comes from governmental sources as required under s. 624.4625, F.S. Each member must submit Form 990 for review and, if necessary, audited financial statements to confirm compliance with eligibility requirements.⁶ Recently, during an OIR inquiry into FIT's process for determining eligibility of members, FIT noted that four entities did not meet statutory eligibility requirements.⁷ According to the OIR, FIT represented that these accounts have been nonrenewed. Based on the results of its inquiry, the OIR does not have any objections to the manner in which FIT reviews eligibility. The OIR determined that none of the entities brought to its attention, except for the four entities referenced above, were ineligible for membership.

liabilities of its group members in any property or casualty risk or surety insurance or securing the payment of benefits under the workers' compensation law.

⁴ Section 617.1803, F.S., defines the term, "corporation not for profit" to mean a corporation no part of the income or profit of which is distributable to its members, directors, or officers, except as otherwise provided under this chapter.

⁵ Florida Insurance Trust, *Florida Insurance Trust Current Membership Overview* (February 27, 2015) (on file with the Senate Committee on Banking and Insurance).

⁶ Office of Insurance Regulation letter to the Florida Insurance Trust (July 25, 2014) (on file with the Senate Banking and Insurance Committee).

⁷ *Id.*

In the event premiums are inadequate, the trustees of FIT, or an agency or court of competent jurisdiction may assess members of FIT for payment of the obligations of FIT as necessary based proportionately on premiums earned from each member. If one or more members fail to pay the assessment, the other members are liable on a proportionate basis for an additional assessment.

Section 501(c)(3) Tax Exempt Organizations

Organizations described in section 501(c)(3) of the Internal Revenue Code are commonly referred to as *charitable organizations*. To qualify as exempt from federal income tax, an organization must meet requirements set forth in the Internal Revenue Code and apply for recognition of an exemption. For section 501(c)(3) organizations, the law provides only limited exceptions to this requirement. Applying for recognition of an exemption results in formal IRS recognition of an organization's status, and may be preferable for that reason. To be tax-exempt under section 501(c)(3) of the Internal Revenue Code, an organization must be organized and operated exclusively for exempt purposes⁸ set forth in section 501(c)(3) of the Internal Revenue Code, and none of its earnings may inure to any private shareholder or individual.⁹

Generally, exempt organizations, other than private foundations, that are described in section 501(c)(3) must file their annual information returns on Form 990 or 990-EZ, unless excepted from filing and must also complete Schedule A. Schedule A is used to report and substantiate information about an organization's public charity status and public support.

III. Effect of Proposed Changes:

SB 830 expands the types of entities that are eligible to be members of a corporation not for profit self-insurance fund authorized under s. 624.4625, F.S. Currently, two or more not-for-profit corporations may create a self-insurance fund for purposes of pooling property or casualty insurance, if each member of the fund receives at least 75 percent of its revenue from governmental sources, and other conditions are met.¹⁰ SB 830 maintains this requirement and allows publicly supported organizations under section 501(c)(3) receiving at least 75 percent of its support from a governmental unit or the public, to be a member of the fund. The eligibility of such an entity would be evidenced on the most recent Internal Revenue Service Form 990 or Form 990EZ and Schedule A.

The bill would take effect July 1, 2015.

⁸ The exempt purposes set forth in section 501(c)(3) are charitable, religious, educational, scientific, literary, testing for public safety, fostering national or international amateur sports competition, and preventing cruelty to children or animals. The term *charitable* is used in its generally accepted legal sense and includes relief of the poor, the distressed, or the underprivileged; advancement of religion; advancement of education or science; erecting or maintaining public buildings, monuments, or works; lessening the burdens of government; lessening neighborhood tensions; eliminating prejudice and discrimination; defending human and civil rights secured by law; and combating community deterioration and juvenile delinquency. See [http://www.irs.gov/Charities-&-Non-Profits/Charitable-Organizations/Exempt-Purposes-Internal-Revenue-Code-Section-501\(c\)\(3\)](http://www.irs.gov/Charities-&-Non-Profits/Charitable-Organizations/Exempt-Purposes-Internal-Revenue-Code-Section-501(c)(3)) (last visited February 28, 2015).

⁹ See Internal Revenue Service, *Frequently Asked Questions about Applying for Tax Exemption* accessible at: <http://www.irs.gov/Charities-&-Non-Profits/Frequently-Asked-Questions-About-Applying-for-Tax-Exemption> (last visited February 28, 2015).

¹⁰ Section 14, chapter 2007-1, Laws of Florida.

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:**

Indeterminate. Premiums, contributions, and assessments received by a corporation not for profit self-insurance fund are subject to the premium tax, like insurers, except that the tax rate is 1.6 percent (instead of 1.75 percent) of the gross amount of such premiums, contribution, and assessments.

B. Private Sector Impact:

The bill would allow public support organizations that are 501(c)(3) entities and receive 75 percent of their support from public or governmental sources to become members of a corporation not for profit self-insurance fund organized under s. 624.4625, F.S. By allowing such entities to self-insure as a group, in lieu of obtaining insurance from the private market, such corporations may realize a savings on insurance premiums, assuming the fund has lower expenses than private insurers or more favorable loss experience than insured plans.

According to representatives of the Florida Insurance Trust, SB 830 would allow additional classes of business including Goodwill Industries, Boys & Girls Clubs, food banks, rescue missions (homeless shelters), Salvation Army, Big Brothers Big Sisters, and YMCAs to become members. FIT estimates that the bill would increase the number of additional eligible entities by 125 to 150 entities. FIT asserts that there are a finite number of entities for each of these classes in Florida (9 Goodwill Industries, 41 Boys & Girls Clubs, and 24 YMCAs) that would become members.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 624.4625 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

By Senator Simmons

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A bill to be entitled

An act relating to the regulation of corporation not for profit self-insurance funds; amending s. 624.4625, F.S.; revising the requirements for a participating member of a corporation not for profit self-insurance fund; providing an effective date.

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

Section 1. Paragraph (b) of subsection (1) of section 624.4625, Florida Statutes, is amended to read:

624.4625 Corporation not for profit self-insurance funds.—

(1) Notwithstanding any other provision of law, any two or more corporations not for profit located in and organized under the laws of this state may form a self-insurance fund for the purpose of pooling and spreading liabilities of its group members in any one or combination of property or casualty risk, provided the corporation not for profit self-insurance fund that is created:

(b) Requires for qualification that each participating member receive at least 75 percent of its revenues from local, state, or federal governmental sources or a combination of such sources or be a publicly supported organization under s. 501(c) (3), which receives at least 75 percent of its support from a governmental unit or the public as evidenced on the organization's most recent Internal Revenue Service Form 990 or Form 990-EZ and Schedule A.

Section 2. This act shall take effect July 1, 2015.



808814

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/17/2015	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 117 - 126.

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

And the title is amended as follows:

Delete lines 16 - 21

and insert:

corporation; amending s. 658.19,

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 806

INTRODUCER: Banking and Insurance Committee and Senator Richter

SUBJECT: Regulation of Financial Institutions

DATE: March 17, 2015

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:

CS/SB 806 makes the following changes with regards to the regulation of financial institutions and the Office of Financial Regulation (OFR):

- Simplifies the process by which a financial institution can notify the OFR when re-designating its main or principal office.
- Specifies the ways semiannual assessments can be transmitted electronically and further specifies the dates by which assessments must be received by the OFR.
- Deletes the requirement that the OFR may select an appraiser to conduct certain real-estate appraisals.
- Specifies the date by which an international banking corporation must provide its annual certification of capital accounts to the OFR.

II. Present Situation:

Main or Principal Office

Paragraph 655.005(1)(q), F.S., provides the definition for “main office” or “principal office” of a financial institution as the main business office designated in its articles of incorporation or bylaws. The identified location is approved by the OFR in the case of a state financial institution, or by the appropriate federal regulatory agency in the case of a federal financial institution. When an institution desires to redesignate the location of its main office, it must file an

amendment to its articles of incorporation or bylaws and provide the changes to the OFR for review and approval.

Assessments Language

Section 655.047, F.S., requires each state financial institution to pay the OFR a semiannual assessment based on the total assets as shown on the statement of condition for each financial institution. The mailing of such assessments must be postmarked on or before January 31 and July 31 of each year. The current statute does not recognize the acceptance of semiannual assessment payments made to the OFR electronically; however, the OFR states in its agency analysis¹ that electronic payment of assessments are currently accepted and most financial institutions have chosen to send payments electronically rather than U.S. standard mail.

Appraisals

Section 655.60, F.S., authorizes the OFR to request appraisals of real estate or other property held by any state financial institution when the OFR believes a state financial institution's own appraisals or evaluations of its ability to make payments may be excessive. The statute provides that an appraisal must be made by a licensed or certified appraiser or an appraiser that is selected by the OFR. The cost of the appraisal must be paid by the state financial institution directly to the appraiser upon the institution's receipt of a statement of appraisal cost. Following the completion of the appraisal, a copy of the appraisal report made by the OFR pursuant to this section is then furnished to the financial institution within a reasonable time, not exceeding 60 days.

Banks and Trust Companies

Section 655.005, F.S., provides that "executive officer" means an individual, whether or not the individual has an official title or receives a salary or other compensation, who participates or has authority to participate, other than in the capacity of a director, in the major policymaking functions of a financial institution. The term does not include an individual who may have an official title and may exercise discretion in the performance of duties and functions, including discretion in the making of loans, but who does not participate in the determination of major policies of the financial institution and whose decisions are limited by policy standards established by other officers, whether or not the policy standards have been adopted by the board of directors. The chair of the board of directors, the president, the chief executive officer, the chief financial officer, the senior loan officer, and every executive vice president of a financial institution, and the senior trust officer of a trust company, are presumed to be executive officers unless such officer is excluded, by resolution of the board of directors or by the bylaws of the financial institution, from participating, other than in the capacity of a director, in major policymaking functions of the financial institution and the individual holding such office so excluded does not actually participate therein. Section 658.19, F.S., which relates to application for authority to organize a bank or trust company, references "president," "chief executive officer" (if other than the president), such terms appear duplicative given the definition of "executive officer" provided in s. 655.005, F.S.

¹ 2015 Office of Financial Regulation Bill Analysis SB 806. (On file with the Senate Banking and Insurance Committee.)

International Banking

Section 663.08, F.S., provides for the certification of capital accounts for international banking corporations having offices in Florida both prior to opening an office in this state and annually thereafter. The statute does not provide a specific due date for the statutorily-required annual certification of capital accounts. This has resulted in the OFR receiving the annual certifications at various times throughout the year and has caused confusion for these institutions regarding the date for submission.

III. Effect of Proposed Changes:

Section 1 allows financial institution the ability to submit to the OFR an application for a re-designation of its main or principal office. This application is intended to streamline such changes by removing the current process that requires institutions to amend their articles of incorporation or bylaws in order to make such re-designations with the OFR.

Section 2 Authorizes a financial institution to make an electronic payment of semiannual assessments by a wire transfer, automated clearinghouse or other electronic means. Furthermore, the section specifies such electronic payments must be transmitted to the OFR on or before January 31 and July 31 of each year. For payments sent by U.S. standard mail the section requires them to be received by the OFR on or before January 31 and July 31 of each year. The “received by” requirement is a change from current law which allows such standard mail payments to be “postmarked” by such dates.

Section 3 removes the authority for the OFR to select an appraiser to perform the appraisal of real estate or other property held by a state financial institution. The section also no longer requires the cost of each appraisal to be approved in writing by the OFR. The changes in this section do not affect the requirement that institutions must still hire a licensed appraiser at the OFR request.

Section 4 removes a duplicative reference within the application for authority to organize a bank or trust company. Currently “president” and “chief executive officer” are included under the defined term of “executive officer.” The application for authority to organize a bank or trust company references both titles, therefore this section strikes “president” and “chief executive officer” from the application and just requires “executive officer” be listed.

Section 5 corrects a cross reference. Subsection 660.33(1), F.S., includes an obsolete cross-reference to section 660.32, F.S., which has been repealed. This section updates the cross-reference to reference s. 658.26, F.S., which is currently applicable.

Section 6 establishes on or before June 30th as the due date for all international banking corporations to submit their required certification of capital accounts. This due date should provide clarity to the industry and allow the OFR to better manage and review such certifications.

Section 7 reenacts subsection 655.960(8), F.S.

Section 8 reenacts paragraph 663.302(1)(a), F.S.

Section 9 reenacts subsection 658.165(1), F.S.

Section 10 reenacts subsection 665.013(3), F.S.

Section 11 reenacts subsection 667.003(3), F.S.

Section 12 reenacts subsection 658.12(4), F.S.

Section 13 provides that the effective date of the bill is October 1, 2015.

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 changes in Section 1 will allow a financial institution to notify the office of a re-designation of its main or principal office without having to amend its articles of incorporation or bylaws. This could provide a small saving to an institution when making such a change.

The changes in Section 2 that allow for the electronic payment of semiannual assessments may provide savings on postage costs to state financial institutions.

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: 655.005, 655.047, 655.60, 658.19, 660.33, and 663.08.

This bill reenacts the following sections of the Florida Statutes: 655.960, 663.302, 658.165, 665.013, 667.003, and 658.12.

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 17, 2015:

Removed section 4 of the bill dealing with the reporting of elected or appointed officers of a Credit Unions.

- B. **Amendments:**

None.

By Senator Richter

23-00499B-15

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1 A bill to be entitled
 2 An act relating to the regulation of financial
 3 institutions; amending s. 655.005, F.S.; redefining
 4 the terms "main office" and "principal office";
 5 amending s. 655.047, F.S.; requiring mailed semiannual
 6 assessments to be received by the Office of Financial
 7 Regulation by a specified date; requiring
 8 electronically transmitted semiannual assessments to
 9 be transmitted to the office by specified dates;
 10 amending s. 655.60, F.S.; deleting the requirement
 11 that the office select a licensed or certified
 12 appraiser to conduct certain appraisals; deleting the
 13 requirement that the office approve the cost of
 14 certain appraisals before payment of that cost by a
 15 state financial institution, subsidiary, or service
 16 corporation; creating s. 657.0275, F.S.; requiring a
 17 credit union to notify the office of the name and
 18 residential address of an individual who is elected or
 19 appointed to certain positions within a specified
 20 time; authorizing the Financial Services Commission to
 21 adopt a notification form by rule; amending s. 658.19,
 22 F.S.; revising the individuals for whom certain
 23 information must be provided to the office on an
 24 application for authority to organize a banking
 25 corporation or trust company; amending s. 660.33,
 26 F.S.; conforming a cross-reference; amending s.
 27 663.08, F.S.; requiring an international banking
 28 corporation to provide its annual certification of
 29 capital accounts to the office by a specified date;

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30 reenacting ss. 655.960(8) and 663.302(1)(a), F.S., to
 31 incorporate the amendment made to s. 655.005, F.S., in
 32 references thereto; reenacting ss. 658.165(1),
 33 665.013(3), and 667.003(3), F.S., to incorporate the
 34 amendment made to s. 658.19, F.S., in references
 35 thereto; reenacting s. 658.12(4), F.S., to incorporate
 36 the amendment made to s. 660.33, F.S., in references
 37 thereto; providing an effective date.

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

40 Section 1. Paragraph (q) of subsection (1) of section
 42 655.005, Florida Statutes, is amended to read:

43 655.005 Definitions.—

44 (1) As used in the financial institutions codes, unless the
 45 context otherwise requires, the term:

46 (q) "Main office" or "principal office" of a financial
 47 institution means the main business office designated in its
 48 articles of incorporation or bylaws, or redesignated in a
 49 relocation application filed with the office, at an identified
 50 location approved by the office in the case of a state financial
 51 institution, or by the appropriate federal regulatory agency in
 52 the case of a federal financial institution. With respect to the
 53 trust department of a bank or association that has trust powers,
 54 the terms mean the office or place of business of the trust
 55 department at an identified location, which need not be the same
 56 location as the main office of the bank or association, approved
 57 by the office in the case of a state bank or association, or by
 58 the appropriate federal regulatory agency in the case of a

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59 national bank or federal association. The "main office" or
60 "principal office" of a trust company means the office
61 designated or provided for in its articles of incorporation, at
62 an identified location as approved by the relevant chartering
63 authority.

64 Section 2. Subsection (2) of section 655.047, Florida
65 Statutes, is amended to read:

66 655.047 Assessments; financial institutions.—

67 (2) If mailed, the mailing of a semiannual assessment must
68 be received by the office postmarked on or before January 31 and
69 July 31 of each year. If transmitted through a wire transfer, an
70 automated clearinghouse, or other electronic means approved by
71 the office, the semiannual assessment must be transmitted to the
72 office on or before January 31 and July 31 of each year. The
73 office may levy a late payment penalty of up to \$100 per day or
74 part thereof that a semiannual assessment payment is overdue,
75 unless it is excused for good cause. However, for intentional
76 late payment of a semiannual assessment, the office shall levy
77 an administrative fine of up to \$1,000 a day for each day the
78 semiannual assessment is overdue.

79 Section 3. Subsection (1) of section 655.60, Florida
80 Statutes, is amended to read:

81 655.60 Appraisals.—

82 (1) The office is authorized to cause appraisals to be made
83 ~~appraisals~~ of real estate or other property held by a any state
84 financial institution, subsidiary, or service corporation or
85 securing the assets of the state financial institution,
86 subsidiary, or service corporation if when specific facts or
87 information with respect to real estate or other property held,

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88 secured loans, or lending, or when in its opinion the state
89 financial institution's policies, practices, operating results,
90 and trends give evidence that the state financial institution's
91 appraisals or evaluations of ability to make payments may be
92 excessive, that lending or investment may be of a marginal
93 nature, that appraisal policies and loan practices may not
94 conform with generally accepted and established professional
95 standards, or that real estate or other property held by the
96 state financial institution, subsidiary, or service corporation
97 or assets secured by real estate or other property are
98 overvalued. In lieu of causing such appraisals to be made, the
99 office may accept any appraisal caused to be made by an
100 appropriate state or federal regulatory agency or other insuring
101 agency or corporation of a state financial institution. Unless
102 otherwise ordered by the office, an appraisal of real estate or
103 other property pursuant to this section must be made by a
104 licensed or certified appraiser ~~or appraisers selected by the~~
105 ~~office, and the cost of such appraisal shall be paid promptly by~~
106 ~~such state financial institution, subsidiary, or service~~
107 ~~corporation directly to such appraiser or appraisers upon~~
108 ~~receipt by the state financial institution of a statement of~~
109 ~~such cost bearing the written approval of the office.~~ A copy of
110 the report of each appraisal caused to be made by the office
111 pursuant to this section shall be furnished to the state
112 financial institution, subsidiary, or service corporation within
113 a reasonable time, not exceeding 60 days, following the
114 completion of the such appraisal and may be furnished to the
115 insuring agency or corporation or federal or state regulatory
116 agency.

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117 Section 4. Section 657.0275, Florida Statutes, is created
118 to read:

119 657.0275 Notification of an election or an appointment.—
120 Within 30 days after the election or appointment of a director,
121 an executive officer, a member of the supervisory or audit
122 committee, a member of the credit committee, or a credit
123 manager, the credit union must submit to the office the name and
124 residential address of the individual elected or appointed. The
125 commission may adopt a rule to establish a form for the
126 notification.

127 Section 5. Paragraph (f) of subsection (1) of section
128 658.19, Florida Statutes, is amended to read:

129 658.19 Application for authority to organize a bank or
130 trust company.—

131 (1) A written application for authority to organize a
132 banking corporation or a trust company shall be filed with the
133 office by the proposed directors and shall include:

134 (f) Such detailed financial, business, and biographical
135 information as the commission or office may reasonably require
136 for each proposed director, ~~president, chief~~ executive officer
137 ~~(if other than the president), and, if applicable, trust officer~~
138 ~~(if applicable).~~

139 Section 6. Subsection (1) of section 660.33, Florida
140 Statutes, is amended to read:

141 660.33 Trust service offices.—

142 (1) In addition to its principal office and any branch
143 trust company authorized under s. 658.26 ~~s. 660.32~~, a trust
144 company or a trust department with its principal place of doing
145 business in this state may maintain one or more trust service

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146 offices at the location of any bank, association, or credit
147 union ~~that which~~ is organized under the laws of this state or
148 under the laws of the United States with its principal place of
149 doing business in this state. However, a trust service office
150 may be established only after the trust company or ~~the~~ trust
151 department has secured the consent of a majority of the
152 stockholders or members entitled to vote on such proposal at a
153 meeting of stockholders or members, and of a majority of the
154 board of directors, of the bank, association, or credit union at
155 which a trust service office is proposed to be maintained, and
156 after a certificate of authorization has been issued to the
157 trust company or ~~the~~ trust department by the office.

158 Section 7. Section 663.08, Florida Statutes, is amended to
159 read:

160 663.08 Certification of capital accounts.—Before opening an
161 office in this state, and annually thereafter so long as a bank
162 office is maintained in this state, an international banking
163 corporation licensed pursuant to ss. 663.01-663.14 shall certify
164 to the office the amount of its capital accounts, expressed in
165 the currency of the jurisdiction of its incorporation. The
166 dollar equivalent of these amounts, as determined by the office,
167 shall be deemed to be the amount of its capital accounts. The
168 annual certification of capital accounts must be received by the
169 office on or before June 30 of each year.

170 Section 8. For the purpose of incorporating the amendment
171 made by this act to section 655.005, Florida Statutes, in a
172 reference thereto, subsection (8) of section 655.960, Florida
173 Statutes, is reenacted to read:

174 655.960 Definitions; ss. 655.960-655.965.—As used in this

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175 section and ss. 655.961-655.965, unless the context otherwise
 176 requires:

177 (8) "Financial institution office" means a main office or
 178 principal office, as defined in s. 655.005, and a branch or
 179 branch office as defined in s. 658.12(4).

180 Section 9. For the purpose of incorporating the amendment
 181 made by this act to section 655.005, Florida Statutes, in a
 182 reference thereto, paragraph (a) of subsection (1) of section
 183 663.302, Florida Statutes, is reenacted to read:

184 663.302 Applicability of state banking laws.—

185 (1) (a) International development banks shall be subject to
 186 the following provisions of chapter 655 as though such
 187 international development banks were state banks:

188 1. Section 655.005, relating to definitions.

189 2. Section 655.012, relating to general supervisory powers
 190 of the office.

191 3. Section 655.016, relating to liability.

192 4. Section 655.031, relating to administrative enforcement
 193 guidelines.

194 5. Section 655.032, relating to investigations; etc.

195 6. Section 655.0321, relating to hearings and proceedings.

196 7. Section 655.033, relating to cease and desist orders.

197 8. Section 655.034, relating to injunctions.

198 9. Section 655.037, relating to removal of financial
 199 institution-affiliated party.

200 10. Section 655.041, relating to administrative fines.

201 11. Section 655.043, relating to articles of incorporation.

202 12. Section 655.044, relating to accounting practices.

203 13. Section 655.045, relating to examinations, reports, and

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204 internal audits.

205 14. Section 655.049, relating to deposit of fees and
 206 assessments.

207 15. Section 655.057, relating to records.

208 16. Section 655.071, relating to international banking
 209 facilities.

210 17. Section 655.50, relating to reports of transactions
 211 involving currency.

212 Section 10. For the purpose of incorporating the amendment
 213 made by this act to section 658.19, Florida Statutes, in a
 214 reference thereto, subsection (1) of section 658.165, Florida
 215 Statutes, is reenacted to read:

216 658.165 Banker's banks; formation; applicability of
 217 financial institutions codes; exceptions.—

218 (1) If authorized by the office, a corporation may be
 219 formed under the laws of this state for the purpose of becoming
 220 a banker's bank. An application for authority to organize a
 221 banker's bank is subject to ss. 658.19, 658.20, and 658.21,
 222 except that s. 658.20(1)(b) and (c) and the minimum stock
 223 ownership requirements for the organizing directors provided in
 224 s. 658.21(2) do not apply.

225 Section 11. For the purpose of incorporating the amendment
 226 made by this act to section 658.19, Florida Statutes, in a
 227 reference thereto, subsection (3) of section 665.013, Florida
 228 Statutes, is reenacted to read:

229 665.013 Applicability of chapter 658.—The following
 230 sections of chapter 658, relating to banks and trust companies,
 231 are applicable to an association to the same extent as if the
 232 association were a "bank" operating thereunder:

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233 (3) Section 658.19, relating to application for authority
234 to organize a bank or trust company.

235 Section 12. For the purpose of incorporating the amendment
236 made by this act to section 658.19, Florida Statutes, in a
237 reference thereto, subsection (3) of section 667.003, Florida
238 Statutes, is reenacted to read:

239 667.003 Applicability of chapter 658.—Any state savings
240 bank is subject to all the provisions, and entitled to all the
241 privileges, of the financial institutions codes except where it
242 appears, from the context or otherwise, that such provisions
243 clearly apply only to banks or trust companies organized under
244 the laws of this state or the United States. Without limiting
245 the foregoing general provisions, it is the intent of the
246 Legislature that the following provisions apply to a savings
247 bank to the same extent as if the savings bank were a "bank"
248 operating under such provisions:

249 (3) Section 658.19, relating to application for authority
250 to organize a bank or trust company.

251 Section 13. For the purpose of incorporating the amendment
252 made by this act to section 660.33, Florida Statutes, in a
253 reference thereto, subsection (4) of section 658.12, Florida
254 Statutes, is reenacted to read:

255 658.12 Definitions.—Subject to other definitions contained
256 in the financial institutions codes and unless the context
257 otherwise requires:

258 (4) "Branch" or "branch office" of a bank means any office
259 or place of business of a bank, other than its main office and
260 the facilities and operations authorized by ss. 658.26(4) and
261 660.33, at which deposits are received, checks are paid, or

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262 money is lent. With respect to a bank that has a trust
263 department, the terms have the meanings herein ascribed to a
264 branch or a branch office of a trust company and mean any office
265 or place of business of a trust company, other than its main
266 office and its trust service offices established pursuant to s.
267 660.33, where trust business is transacted with its customers.

268 Section 14. This act shall take effect October 1, 2015.

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THE FLORIDA SENATE
APPEARANCE RECORD

Waive

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

3/17/2015, 9:00 am 110 SOB

SB0806

Meeting Date

Bill Number (if applicable)

Topic Senate Banking & Insurance Committee - Regulation of Financial Institutions

Amendment Barcode (if applicable)

Name J. Ross Nobles

Job Title Chief Financial Officer

Address 200 East Gaines Street, Fletcher Building

Phone 850-910-9601

Street

Tallahassee, FL 32399

Email ross.nobles@flofr.com

City

State

Zip

Speaking: For Against Information

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

Representing State of Florida Office of Financial Regulation

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)



361716

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/17/2015	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 139 - 169

and insert:

property, casualty, and inland marine insurance. ~~resident or~~

(k) An applicant for license as an nonresident all-lines adjuster who has the designation of Accredited Claims Adjuster (ACA) from a regionally accredited postsecondary institution in this state, Associate in Claims (AIC) from the Insurance Institute of America, Professional Claims Adjuster (PCA) from



361716

11 the Professional Career Institute, Professional Property
12 Insurance Adjuster (PPIA) from the HurriClaim Training Academy,
13 Certified Adjuster (CA) from ALL LINES Training, or Certified
14 Claims Adjuster (CCA) from AE21 Incorporated ~~the Association of~~
15 ~~Property and Casualty Claims Professionals~~ whose curriculum has
16 been approved by the department and which includes comprehensive
17 analysis of basic property and casualty lines of insurance and
18 testing at least equal to that of standard department testing
19 for the all-lines adjuster license. The department shall adopt
20 rules establishing standards for the approval of curriculum.

21 (l) An applicant for license as a life agent who has
22 received a degree from an accredited institution of higher
23 learning approved by the department, except that the applicant
24 may be examined on pertinent provisions of this code. Qualifying
25 degrees must indicate a minimum of 9 credit hours of insurance
26 instruction, including specific instruction in the areas of life
27 insurance, annuities, and variable insurance products.

28 (m) An applicant for license as a health agent who has
29 received a degree from an accredited institution of higher
30 learning approved by the department, except that the applicant
31 may be examined on pertinent provisions of this code. Qualifying
32 degrees must indicate a minimum of 9 credit hours of insurance
33 instruction, including specific instruction in the area of
34 health insurance products.

35 (n) ~~(k)~~ An applicant qualifying for a license transfer under
36 s. 626.292 ~~if the applicant:~~

37 1. ~~Has successfully completed the prelicensing examination~~
38 ~~requirements in the applicant's previous home state which are~~
39 ~~substantially equivalent to the examination requirements in this~~



361716

40 ~~state, as determined by the department;~~

41 ~~2. Has received the designation of chartered property and~~
42 ~~casualty underwriter (CPCU) from the American Institute for~~
43 ~~Property and Liability Underwriters and been engaged in the~~
44 ~~insurance business within the past 4 years if applying to~~
45 ~~transfer a general lines agent license; or~~

46 ~~3. Has received the designation of chartered life~~
47 ~~underwriter (CLU) from the American College of Life Underwriters~~
48 ~~and been engaged in the insurance business within the past 4~~
49 ~~years if applying to transfer a life or health agent license.~~

50 ~~(o)(1)~~ An applicant for a license as a nonresident agent if

51

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

53 And the title is amended as follows:

54 Delete lines 10 - 12

55 and insert:

56 revising examination requirements and exemptions for
57 applicants for certain agent and adjuster licenses;
58 amending s. 626.241,



829050

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/17/2015	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 433 - 520
and insert:
except for a chartered life underwriter (CLU), may not ~~shall~~ be
qualified or licensed unless, within the 4 years immediately
preceding the date the application for a license is filed with
the department, the applicant ~~he or she~~ has:

- (1) Successfully completed 40 hours of coursework approved
by the department ~~classroom courses~~ in life insurance,



829050

11 ~~annuities, and variable contracts. Such coursework, 3 hours of~~
12 ~~which shall be on the subject matter of ethics, satisfactory to~~
13 ~~the department at a school or college, or extension division~~
14 ~~thereof, or other authorized course of study, approved by the~~
15 ~~department. Courses must have included include instruction on~~
16 ~~the subject matter of unauthorized entities engaging in the~~
17 ~~business of insurance and 3 hours on the subject matter of~~
18 ~~ethics, to include the Florida Nonprofit Multiple-Employer~~
19 ~~Welfare Arrangement Act and the Employee Retirement Income~~
20 ~~Security Act, 29 U.S.C. ss. 1001 et seq., as it relates to the~~
21 ~~provision of life insurance by employers to their employees and~~
22 ~~the regulation thereof;~~

23 (2) Successfully completed at least 60 hours of coursework
24 approved by the department in multiple areas of insurance,
25 including life insurance, annuities, and variable contracts.
26 Such coursework must have included instruction on the subject
27 matter of unauthorized entities engaging in the business of
28 insurance and 3 hours on the subject matter of ethics;

29 (3) Earned or maintained an active designation as a
30 Chartered Financial Consultant (ChFC) from the American College
31 of Financial Services or a Fellow, Life Management Institute
32 (FLMI) from the Life Management Institute a correspondence
33 ~~course in insurance, 3 hours of which shall be on the subject~~
34 ~~matter of ethics, satisfactory to the department and regularly~~
35 ~~offered by accredited institutions of higher learning in this~~
36 ~~state or by independent programs of study, approved by the~~
37 ~~department. Courses must include instruction on the subject~~
38 ~~matter of unauthorized entities engaging in the business of~~
39 ~~insurance, to include the Florida Nonprofit Multiple-Employer~~



829050

40 ~~Welfare Arrangement Act and the Employee Retirement Income~~
41 ~~Security Act, 29 U.S.C. ss. 1001 et seq., as it relates to the~~
42 ~~provision of life insurance by employers to their employees and~~
43 ~~the regulation thereof;~~

44 ~~(4)(3)~~ Held an active license in life, ~~or life and health,~~
45 insurance in another state. This provision may not be used
46 ~~utilized~~ unless the other state grants reciprocal treatment to
47 licensees formerly licensed in Florida; or

48 ~~(5)(4)~~ Been employed by the department or office for at
49 least 1 year, full time in life ~~or life and health~~ insurance
50 regulatory matters and who was not terminated for cause, and
51 application for examination is made within 4 years ~~90 days~~ after
52 the date of termination of his or her employment with the
53 department or office.

54 Section 11. Section 626.8311, Florida Statutes, is amended
55 to read:

56 626.8311 Requirement as to knowledge, experience, or
57 instruction. ~~An~~ ~~No~~ applicant for a license as a health agent,
58 except for a chartered life underwriter (CLU), may not ~~shall~~ be
59 qualified or licensed unless, within the 4 years immediately
60 preceding the date the application for license is filed with the
61 department, the applicant ~~he or she~~ has:

62 (1) Successfully completed 40 hours of coursework approved
63 by the department ~~classroom courses~~ in health insurance, 3 hours
64 of which must have been ~~shall be~~ on the subject matter of
65 ethics, ~~satisfactory to the department at a school or college,~~
66 ~~or extension division thereof, or other authorized course of~~
67 ~~study, approved by the department.~~ Such coursework ~~Courses~~ must
68 have included ~~include~~ instruction on the subject matter of



829050

69 unauthorized entities engaging in the business of insurance, to
70 include the Florida Nonprofit Multiple-Employer Welfare
71 Arrangement Act and the Employee Retirement Income Security Act,
72 29 U.S.C. ss. 1001 et seq., as it relates to the provision of
73 health insurance by employers to their employees and the
74 regulation thereof;

75 (2) Successfully completed at least 60 hours of coursework
76 approved by the department in multiple areas of insurance,
77 including health insurance. Such coursework must have included
78 instruction on the subject matter of unauthorized entities
79 engaging in the business of insurance and 3 hours on the subject
80 matter of ethics;

81 (3) Earned or maintained an active designation as a
82 Registered Health Underwriter (RHU), Chartered Healthcare
83 Consultant (ChHC), or Registered Employee Benefits Consultant
84 (REBC) from the American College of Financial Services; a
85 Certified Employee Benefit Specialist (CEBS) from the Wharton
86 School of the University of Pennsylvania; or a Health Insurance
87 Associate (HIA) from America's Health Insurance Plans; a
88 ~~correspondence course in insurance, 3 hours of which shall be on~~
89 ~~the subject matter of ethics, satisfactory to the department and~~
90 ~~regularly offered by accredited institutions of higher learning~~
91 ~~in this state or by independent programs of study, approved by~~
92 ~~the department. Courses must include instruction on the subject~~
93 ~~matter of unauthorized entities engaging in the business of~~
94 ~~insurance, to include the Florida Nonprofit Multiple-Employer~~
95 ~~Welfare Arrangement Act and the Employee Retirement Income~~
96 ~~Security Act, 29 U.S.C. ss. 1001 et seq., as it relates to the~~
97 ~~provision of health insurance by employers to their employees~~



829050

98 ~~and the regulation thereof;~~

99 (4) ~~(3)~~ Held an active license in health, ~~or life and~~
100 health, insurance in another state. This provision may not be
101 utilized unless the other state grants reciprocal treatment to
102 licensees formerly licensed in Florida; or

103 (5) ~~(4)~~ Been employed by the department or office for at
104 least



719306

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/17/2015	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 525 - 554.

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

And the title is amended as follows:

Delete lines 29 - 31

and insert:

agents and health agents, respectively;



853126

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/17/2015	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 725 - 755.

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

And the title is amended as follows:

Delete lines 41 - 47

and insert:

methods; providing an effective date.

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 1222

INTRODUCER: Banking and Insurance Committee and Senator Richter

SUBJECT: Division of Insurance Agent and Agency Services

DATE: March 17, 2015

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1222 revises requirements relating to various insurance agent licensing examinations and various insurance agent education requirements. The bill:

- Provides that licensed agents can charge and collect the “exact amount of any discount or other such fee charged by a credit card facility in connection with the use of a credit card” in addition to the premium charged by insurers.
- Requires an agent that recommends the surrender of a life insurance policy or annuity to provide written information relating to the possibility of tax consequences instead of providing the amount of tax consequences resulting from the transaction and requires the agent to maintain a copy of the written information provided and the date the information was provided to the owner.
- Removes a restriction that limits general lines agents to selling health insurance only for companies which also sell property, casualty, or surety insurance.
- Provides that the agent-in-charge of an insurance agency must be licensed to transact at least two of the lines of insurance being handled at an agency location instead of being licensed to handle all lines of insurance.
- Removes the requirement that persons seeking licensure as a customer representative pass a written examination.
- Changes the education requirements for persons seeking licensure as a customer representative to reflect new designations or name changes by educational institutions.

- Exempts applicants for licensure as general lines agents or all-lines adjusters from certain examination requirements if they have a degree in insurance or designations from various insurance industry organizations.
- Requires agents to maintain certain policy records for five years after policy expiration.
- Allows agents to deliver notices of insolvency by electronic mail with delivery receipt required.
- Revises the requirements for prelicensure education courses for life insurance agents, health insurance agents, and other licensees by specifying hours of coursework required or designations accepted in lieu of coursework.
-

II. Present Situation:

In general, insurance agents transact insurance on behalf of an insurer or insurers. Insurance agents must be licensed by the Department of Financial Services (DFS or department) to act as an agent for an insurer, and be appointed (i.e., given the authority by an insurance company to transact business on its behalf) by at least one insurer to act as the agent for that particular appointing insurer or insurers.

General Lines Agents and Health Insurance Agents

A general lines agent is authorized to transact, for commercial or noncommercial purposes, one or more of the following kinds of insurance: property insurance, casualty insurance, surety insurance, health insurance, or marine insurance.¹ In order to be licensed as a general lines agent, one must complete certain prerequisites, pass an examination, submit fingerprints for a background check, and complete an application. Prerequisites include completion of a classroom course on insurance,² completion of at least 1 year in responsible insurance duties as a substantially full-time bona fide employee in all lines of property and casualty insurance, completion of at least 1 year of responsible insurance duties as a customer representative, limited customer representative, or service representative and completion of classroom courses approved by the DFS, or completion 15 semester hours of college credit in property and casualty insurance.³

A general lines agent can only transact health insurance for an insurer if the agent also represents that insurer for property or casualty or surety insurance.⁴ A health agent is authorized to transact health insurance.⁵ In order to receive either license, applicants must complete required training and pass a state examination. A general lines agent may complete a 200 hour course which includes training on health insurance while a health agent may complete a 40 hour course on health insurance.⁶ According to the DFS, persons preparing to take the examination for licensure

¹ See s. 626.015(5), F.S.

² The course is a 200 hour course. See http://www.myfloridacfo.com/division/agents/Licensure/General/docs/2-20.htm#_VPx0TfnF8eF (last accessed on March 8, 2015).

³ See s. 626.732, F.S.

⁴ See s. 626.015(5)(d), F.S.

⁵ See s. 626.015(6), F.S.

⁶ http://www.myfloridacfo.com/division/agents/Licensure/General/docs/2-20.htm#_VPxtovnf8eE (explaining the training and examination requirements for a general lines agent)(last accessed March 8, 2015);

as a general lines agent or as a health agent study health insurance as part of their required training and the same examination questions on health insurance are used in each examination.⁷ Section 626.8311, F.S., provides education and experience requirements for obtaining a health insurance license. Requirements include:

- Successful completion of 40 hours of classroom courses in insurance, 3 hours of which shall be on the subject matter of ethics, satisfactory to the DFS. Courses must include instruction on the subject matter of unauthorized entities engaging in the business of insurance, to include the Florida Nonprofit Multiple-Employer Welfare Arrangement Act and the Employee Retirement Income Security Act as it relates to the provision of health insurance by employers to their employees; or
- Successful completion of a correspondence course in insurance, 3 hours of which shall be on the subject matter of ethics, satisfactory to the DFS. Courses must include instruction on the subject matter of unauthorized entities engaging in the business of insurance, to include the Florida Nonprofit Multiple-Employer Welfare Arrangement Act and the Employee Retirement Income Security Act as it relates to the provision of health insurance by employers to their employees.

Employment by the DFS or OIR in health regulatory matters can count as required experience if the application for the examination is made within 90 days after leaving employment and if the employee was not terminated for cause. Licensure in another state may also fulfil experience requirements.

Agents in Charge of an Insurance Agency

Section 626.0428, F.S., requires that an agent who can transact all lines of insurance transacted at an insurance agency be in charge of an insurance agency. The DFS suggests that it is not necessary for the agent-in-charge to be licensed to sell all types of insurance that might be transacted at a particular agency.⁸

Customer Representatives

A “customer representative” means an individual appointed by a general lines agent or agency to assist that agent or agency in transacting the business of insurance from the office of that agent or agency.⁹ A customer representative license is more limited than a general lines agent license. For example, a customer representative is a salaried employee of an agent or agency and cannot earn commissions. The customer representative license does not cover life insurance.¹⁰

To obtain a license as a customer representative, an applicant must, within the 2 years next preceding the date the application for license was filed, complete a course in insurance, 3 hours of which shall be on the subject matter of ethics or has had at least 6 months’ experience in

<http://www.myfloridacfo.com/division/agents/Licensure/General/docs/2-40.htm#.VPxt7PnF8eE> (explaining the training and examination requirements for a health agent)(last accessed March 8, 2015).

⁷ Department of Financial Services, HB 1133 Bill Analysis (March 6, 2015)(on file with the Senate Committee on Banking and Insurance).

⁸ *Id.*

⁹ *See* s. 626.015(4), F.S.

¹⁰ *See* s. 626.7354, F.S.

responsible insurance duties as a substantially full-time employee.¹¹ The insurance course must include instruction on the subject of unauthorized entities engaging in the business of insurance.¹² An applicant can also obtain a customer representative license by passing a licensure examination but the DFS reports that very few applicants obtain a license via examination.¹³

Licensure Examinations

Section 626.221(2), F.S., provides exemptions from licensure examination requirements for some applicants for various insurance licenses. Section 626.221(2)(g), F.S., exempts an applicant from the examination requirement for a life or health agent if the applicant has received the designation “chartered life underwriter” from the American College of Life Underwriters and has been engaged in the insurance business within the past 4 years, except that the applicant may be examined on pertinent provisions of the Florida Insurance Code.

Applicants for general lines agent licenses, all-lines adjuster licenses, and personal lines agent licenses must pass a state examination even if they have a college degree in insurance. The DFS reports that while other states grant licenses to applicants with college degrees in insurance or significant college coursework in insurance, Florida does not do so.¹⁴

Record Retention

Section 626.748, F.S., requires an agent to maintain records of policies transacted by him or her so that the policyholders or the DFS can obtain all necessary information. The current law does not provide for the destruction of records.

Life Insurance Agents

Section 626.7851, F.S., sets forth education or experience requirements for becoming a life insurance agent. Requirements include:

- Successful completion of 40 hours of classroom courses in insurance, 3 hours of which shall be on the subject matter of ethics or other authorized course of study approved by the DFS. Courses must include instruction on the subject matter of unauthorized entities engaging in the business of insurance, to include the Florida Nonprofit Multiple-Employer Welfare Arrangement Act and the Employee Retirement Income Security Act as it relates to the provision of life insurance by employers to their employees;
- Successful completion of a correspondence course in insurance, 3 hours of which shall be on the subject matter of ethics, satisfactory to the DFS. Courses must include instruction on the subject matter of unauthorized entities engaging in the business of insurance, to include the Florida Nonprofit Multiple-Employer Welfare Arrangement Act and the Employee Retirement Income Security Act as it relates to the provision of life insurance by employers to their employees.

¹¹ See s. 626.7351, F.S.

¹² *Id.*

¹³ See Department of Financial Services, HB 1133 Bill Analysis (March 6, 2015)(on file with the Senate Committee on Banking and Insurance).

¹⁴ See Department of Financial Services, HB 1133 Bill Analysis (March 6, 2015)(on file with the Senate Committee on Banking and Insurance).

Employment by the DFS or OIR in life and health regulatory matters can count as required experience if the application for the examination is made within 90 days after leaving employment and if the employee was not terminated for cause. Licensure in another state may also fulfil experience requirements.

Credit Card Transactions

Section 501.0117, F.S., prohibits a seller from imposing a surcharge on the buyer for electing to use a credit card in lieu of payment by cash or check. Violation of s. 501.0117, F.S., is a second degree misdemeanor.

Section 626.9541(1)(o)2., F.S., provides, in part:

This provision shall not be deemed to prohibit... the charging and collection, by licensed agents, of the exact amount of any discount or other such fee charged by a credit card facility in connection with the use of a credit card, as authorized by subparagraph (q)3., in addition to the premium required by the insurer.

According to the DFS, there is a conflict between the two statutes. Section 626.9541(1)(o)2., F.S., allows an insurer that accepts payment by credit card to charge customers the exact amount of a fee charged by a credit card facility in connection with the use of the card while s. 501.0117, F.S., prohibits such charges.¹⁵

Surrender of an Annuity or Life Insurance Policy

Section 627.4553, F.S., requires insurance agents, insurers, or persons performing insurance agent activities under an exemption from licensure, who recommend that a consumer surrender an annuity or life insurance policy with a cash value, but who do not recommend that another such policy be purchased with the proceeds from the surrender, to provide the consumer with information relating to the product to be surrendered before execution of the surrender. The information must include that the amount of any surrender charge, tax consequences resulting from the transaction, and forfeited death benefit. The consumer must also be informed about the loss of any minimum interest rate guarantees and the value of any other investment performance guarantees that will be forfeited as a result of the transaction.

III. Effect of Proposed Changes:

General Lines Agents – s. 626.015, F.S., and s. 626.311, F.S.

Sections 1 and 6 allow a general lines agent to transact health insurance. The bill removes the restriction that limits a general lines agent to selling health insurance only for companies which also sell property, casualty, or surety insurance. According to the DFS, this change will reduce

¹⁵ See Department of Financial Services, HB 1133 Bill Analysis (March 6, 2015)(on file with the Senate Committee on Banking and Insurance).

redundant training because general lines agents and health agents receive the same training and testing on health insurance.¹⁶

Section 7 amends s. 626.732, F.S., relating to the prerequisites to obtaining a general lines agent license. The bill places the 200 hour course requirement in statute and removes obsolete references to correspondence courses. It makes technical changes to clarify the method that customer representatives, services representatives, and personal lines agents may upgrade their licenses to a general lines agent license.

Agents in Charge of an Insurance Agency – s. 626.0428, F.S.

Section 2 provides that the agent-in-charge of an insurance agency must be licensed to transact at least two of the lines of insurance being handled at an agency location instead of being licensed to handle all lines of insurance. If only one line of insurance is sold at an agency, the agent-in-charge must be licensed for that line of insurance.

Customer Representatives – s. 626.221, F.S., and s. 626.7351, F.S.

Section 3 removes the requirement that persons seeking licensure as a customer representative pass a written examination. According to the DFS, customer representatives are unique to Florida and most applicants for the license obtain it by completing education requirements and exempting from the examination.¹⁷

Section 8 changes the education requirements for customer representatives. Instead of completing courses approved by the DFS, the applicant can obtain the license by earning specific designations or completing college coursework. The time frame within which the applicant must achieve the designation or complete college coursework is increased from 2 years to 4 years after the application is submitted to the DFS. Designations include:

- Accredited Advisor in Insurance, Associate in General Insurance, or Accredited Customer Service Representative from the Insurance Institute of America;
- Certified Insurance Counselor from the Society of Certified Insurance Service Counselors;
- Certified Professional Service Representative from the National Foundation for CPSRs;
- Certified Insurance Service Representative from the Society of Certified Insurance Service Representatives;
- Certified Insurance Representative from All-Lines Training;
- Professional Customer Service Representative from the Professional Career Institute;
- Registered Customer Service Representative from a regionally accredited postsecondary institution in the state whose curriculum is approved by the DFS and includes comprehensive analysis of basic property and casualty lines of insurance and testing which demonstrates mastery of the subject; or
- A degree from an accredited institution of higher learning approved by the DFS when the degree includes a minimum of 9 credit hours of insurance instruction, including specific instruction in the areas of property, casualty, and inland marine insurance.

¹⁶ Department of Financial Services, HB 1133 Bill Analysis (March 6, 2015)(on file with the Senate Committee on Banking and Insurance).

¹⁷ *Id.*

The bill requires the DFS to adopt rules establishing standards for the approval of curriculum.

Licensure Examinations – s. 626.221, F.S., and s. 626.241, F.S.

Section 3 revises certain exemptions from the licensure examination. The bill:

- Revises the existing exemption from examination for a life or health agent. The applicant no longer would be required to have been engaged in the insurance business within the past 4 years. Current law is clarified by specifying that the exemption is available if the applicant has received the designation “chartered life underwriter” from the American College of Financial Services.
- Applies to an applicant for a personal lines agent license or all-lines agent license, the existing exemption from licensure examination for an applicant for a general lines agent who has received the designation “chartered property and casualty underwriter from the American Institute for Chartered Property Casualty Underwriters. The exemption no longer requires the applicant to have been engaged in the insurance business within the past 4 years.
- Exempts an applicant from the examination requirement as general lines agent or an all-lines adjuster if the applicant has a received a degree in insurance¹⁸ from an accredited institution of higher learning approved by the DFS, except that the applicant may be examined on pertinent provisions of the Florida Insurance Code;
- Exempts an applicant from the examination requirement as personal lines agent if the applicant has a received a degree from an accredited institution of higher learning approved by the DFS and has a minimum of 9 credit hours of instruction in insurance, except that the applicant may be examined on pertinent provisions of the Florida Insurance Code;
- Exempts an applicant from the examination requirement as all-lines adjuster if the applicant has a designation of Associate in Claims from the Insurance Institute of America or a Certified Claims Adjuster from AE21 Incorporated;
- Exempts an applicant from the examination requirement as a life agent or as a health agent if the applicant has received a degree of higher learning approved by the DFS and has a minimum of 9 credit hours of instruction in life or health insurance products; and
- Exempts an applicant from the examination requirement if the applicant qualifies for a license transfer from another state.

The section also makes conforming changes to reflect that applicants for licensure as a customer representative will no longer be required to take a licensure examination;

Section 4 provides that the life insurance examination covers annuities and variable contracts. The examination covers the subject but the statute does not reflect current practice.

Life Insurance Agents – s. 626.7851, F.S.

Section 10 revises the requirement placed on life agent applicants, other than chartered life underwriters, to demonstrate sufficient knowledge, experience, or education to obtain a license. The bill revises the existing ways to satisfy this requirement and adds a fifth option.

¹⁸ The bill requires that the degree indicate a minimum of 18 credit hours of instruction in insurance including specific instruction in property, casualty, health, and commercial insurance.

Under current law, 40 hours of coursework in insurance is one option. The bill specifies that the 40 hours must consist of instruction in life insurance, annuities, and variable contracts, including 3 hours on ethics. Current law requiring instruction on unauthorized entities engaging in the business of insurance is maintained. Currently, the instruction only is required in statute to cover insurance generally, though the DFS has authority to determine the types of coursework that satisfy the requirement. The coursework must be approved by the DFS. The bill removes references to correspondence courses.

Alternatively, the bill provides that an applicant can complete at least 60 hours of coursework approved by the DFS in multiple areas of insurance, including life insurance, annuities, and variable contracts. The coursework must include at least 3 hours instruction in ethics and instruction on the subject of unauthorized entities engaging in the practice of insurance. The bill provides that a person who has earned or maintained an active designation as a Chartered Financial Consultant from the American College of Financial Services or a Fellow, Life Management Institute from the Life Management Institute has the experience requirements to become a life insurance agent.

An applicant that held an active license in life insurance may continue to meet this requirement, as under current law. However, under the bill, having held a license in life and health from another state does not qualify.

The bill revises the fifth option by stating that an employee of the DFS or the OIR in life insurance matters who applies for the examination within 4 years, instead of 90 days, satisfies the education/experience requirement to take the examination.

Health Insurance Agents – s. 626.8311, F.S.

Section 11 revises the requirement placed on health agent applicants, other than chartered life underwriters, to demonstrate sufficient knowledge, experience, or education to obtain a license. The bill revises the existing ways to satisfy this requirement and adds a fifth option.

Under current law, 40 hours of coursework in insurance is one option. The bill specifies that the 40 hours of pre-licensure education for a health agent license applicant must consist of instruction in health insurance approved by the DFS. The bill removes references to correspondence courses. Currently, the instruction only is required in statute to cover insurance generally, though the DFS has authority to determine the types of coursework that satisfy the requirement.

The bill provides that an applicant can complete at least 60 hours of coursework approved by the DFS in multiple areas of insurance, including health insurance. The coursework must include at least 3 hours instruction in ethics and instruction on the subject of unauthorized entities engaging in the practice of insurance.

The bill provides that a person who has earned or maintained an active designation as a Registered Health Underwriter, Chartered Healthcare Consultant, or a Registered Employee Benefits Consultant from the American College of Financial Services, a Certified Employee Benefit Specialist from the Wharton School of the University of Pennsylvania, or a Health

Insurance Associate from America's Health Insurance Plans has the experience requirements to become a life insurance agent.

An applicant that held an active license in health insurance may continue to meet this requirement, as under current law. However, under the bill, having held a license in life and health from another state does not qualify.

The bill provides that an employee of the DFS or the OIR in health insurance matters who applies for the examination within 4 years, instead of 90 days, satisfies the education/experience requirement to take the examination.

Credit Card Transactions – s. 626.9541(1)(o)2., F.S.

Section 12 provides that notwithstanding any other provision of law, licensed agents can charge and collect the “exact amount of any discount or other such fee charged by a credit card facility in connection with the use of a credit card” in addition to the premium charged by insurers.

Surrender of an Annuity or Life Insurance Policy – s. 627.4553, F.S.

Section 13 amends s. 627.4553, F.S., relating to the surrender of an annuity or life insurance policy. The bill requires an agent to provide written information relating to the possibility of tax consequences instead of providing the amount of tax consequences resulting from the transaction. The bill requires the agent to maintain a copy of the written information provided and the date the information was provided to the owner.

Other Provisions of the Bill

Section 5 amends s. 626.2817, F.S., to provide provide that prelicensure course providers may not grant credit to students unless the student attends at least 75 percent of the required course hours. Currently, there is no standard in law for course attendance. The section also removes references to “monitor groups” because they have not been in existence for some time. The groups acted as monitors when the licensure examinations were on paper but no longer exist now that the DFS administers examinations by computer.

Section 9 amends s. 626.748, F.S., to require an agent to maintain records of insurance transactions for at least five years after the policy expires. Such records include daily reports, applications, change endorsements, and documents signed or initialed by the insured.

Section 14 amends s. 631.341, F.S., to provide that agents may give notices of insolvency to insureds by electronic mail with delivery receipt required. Current law allows notice by registered or certified mail.

Section 15 of this bill provides an effective date of July 1, 2015.

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 the following sections of the Florida Statutes: 626.015, 626.0428, 626.221, 626.241, 626.2817, 626.311, 626.732, 626.7351, 626.748, 626.7851, 626.8311, 626.9541, 627.4553, 631.341, and 648.355.

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 17, 2015:

- Removes provisions from the bill relating to regulation of instruction schools for bail bond agents.
- Removes provisions from the bill relating to prelicensure requirements for all-lines adjusters.
- Exempts an applicant from the examination requirement as a life agent or as a health agent is the applicant has received a degree of higher learning approved by the DFS and has a minimum of 9 credit hours of instruction in life or health insurance products.
- Adds experience requirements to allow applicants to qualify to take the examination as a life and health agent.

- B. **Amendments:**

None.

By Senator Richter

23-00916A-15

20151222__

1 A bill to be entitled
 2 An act relating to the Division of Insurance Agent and
 3 Agency Services; amending s. 626.015, F.S.; revising
 4 the definition of "general lines agent," to remove a
 5 restriction with respect to agents transacting health
 6 insurance; limiting the types of health insurance
 7 agents; amending s. 626.0428, F.S.; revising licensure
 8 requirements of certain agents in charge of an
 9 agency's place of business; amending s. 626.221, F.S.;
 10 revising examination requirements for applicants for a
 11 license as a general lines agent, personal lines
 12 agent, or all-lines adjuster; amending s. 626.241,
 13 F.S.; revising the scope of license examinations for
 14 agents and adjusters; amending s. 626.2817, F.S.;
 15 revising requirements of certain prelicensure
 16 education courses for insurance agents and other
 17 licensees; amending s. 626.311, F.S.; conforming
 18 provisions to changes made by the act; amending s.
 19 626.732, F.S.; revising requirements relating to
 20 knowledge, experience, and instruction for applicants
 21 for a license as a general lines or personal lines
 22 agent; amending s. 626.7351, F.S.; revising
 23 qualifications for a customer representative's
 24 license; amending s. 626.748, F.S.; requiring agents
 25 to maintain certain records for a specified time
 26 period after policy expiration; amending ss. 626.7851
 27 and 626.8311, F.S.; revising requirements relating to
 28 the knowledge, experience, or instruction for life
 29 agents and health agents, respectively; creating s.

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

23-00916A-15

20151222__

30 626.8661, F.S.; providing knowledge, experience, and
 31 instruction requirements for an all-lines adjuster;
 32 amending s. 626.9541, F.S.; providing that certain
 33 provisions relating to illegal dealings in premiums
 34 are applicable notwithstanding any other provision of
 35 law; amending s. 627.4553, F.S.; requiring an
 36 insurance agent to provide and retain certain
 37 information upon surrender of an annuity or life
 38 insurance policy under certain circumstances; amending
 39 s. 631.341, F.S.; authorizing certain notices of
 40 insolvency to be delivered to policyholders by certain
 41 methods; amending s. 648.355, F.S.; revising
 42 instructional requirements relating to the issuance of
 43 a temporary limited license as a limited surety agent;
 44 amending s. 648.386, F.S.; revising curricula
 45 requirements for approval and certification as a
 46 limited surety agent and professional bail bond agent
 47 prelicensing school; providing an effective date.
 48

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

50
 51 Section 1. Paragraph (d) of subsection (5) of section
 52 626.015, Florida Statutes, is amended to read:
 53 626.015 Definitions.—As used in this part:
 54 (5) "General lines agent" means an agent transacting any
 55 one or more of the following kinds of insurance:
 56 (d) Health insurance, ~~when transacted by an insurer also~~
 57 ~~represented by the same agent as to property or casualty or~~
 58 ~~surety insurance.~~

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

23-00916A-15

20151222__

59 Section 2. Paragraph (a) of subsection (4) of section
60 626.0428, Florida Statutes, is amended to read:

61 626.0428 Agency personnel powers, duties, and limitations.—

62 (4) (a) Each place of business established by an agent or
63 agency, firm, corporation, or association must be in the active
64 full-time charge of a licensed and appointed agent holding the
65 required agent licenses to transact at least two of the lines of
66 insurance being handled at the location. If only one line of
67 insurance is handled at the location, the agent in charge must
68 hold the required agent license to transact that line of
69 insurance.

70 Section 3. Subsection (1) and paragraphs (g) through (l) of
71 subsection (2) of section 626.221, Florida Statutes, are amended
72 to read:

73 626.221 Examination requirement; exemptions.—

74 (1) The department shall not issue any license as agent,
75 ~~customer representative~~, or adjuster to any individual who has
76 not qualified for, taken, and passed to the satisfaction of the
77 department a written examination of the scope prescribed in s.
78 626.241.

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

81 (g) An applicant for a license as a life or health agent
82 who has received the designation of chartered life underwriter
83 (CLU) from the American College of Financial Services Life
84 ~~Underwriters and has been engaged in the insurance business~~
85 ~~within the past 4 years~~, except that the applicant may be
86 examined on pertinent provisions of this code.

87 (h) An applicant for license as a general lines agent,

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88 ~~personal lines agent, or all-lines customer representative, or~~
89 ~~adjuster who has received the designation of chartered property~~
90 ~~and casualty underwriter (CPCU) from the American Institute for~~
91 ~~Chartered Property Casualty and Liability Underwriters and has~~
92 ~~been engaged in the insurance business within the past 4 years,~~
93 except that the applicant may be examined on pertinent
94 provisions of this code.

95 (i) An applicant for license as a general lines agent or an
96 all-lines adjuster who has received a degree in insurance from
97 an accredited institution of higher learning approved by the
98 department, except that the applicant may be examined on
99 pertinent provisions of this code. Qualifying degrees must
100 indicate a minimum of 18 credit hours of insurance instruction,
101 including specific instruction in the areas of property,
102 casualty, health, and commercial insurance customer
103 ~~representative who has earned the designation of Accredited~~
104 ~~Advisor in Insurance (AAI) from the Insurance Institute of~~
105 ~~America, the designation of Certified Insurance Counselor (CIC)~~
106 ~~from the Society of Certified Insurance Service Counselors, the~~
107 ~~designation of Accredited Customer Service Representative (ACSR)~~
108 ~~from the Independent Insurance Agents of America, the~~
109 ~~designation of Certified Professional Service Representative~~
110 ~~(CPSR) from the National Foundation for Certified Professional~~
111 ~~Service Representatives, the designation of Certified Insurance~~
112 ~~Service Representative (CISR) from the Society of Certified~~
113 ~~Insurance Service Representatives, or the designation of~~
114 ~~Certified Insurance Representative (CIR) from the National~~
115 ~~Association of Christian Catastrophe Insurance Adjusters. Also,~~
116 ~~an applicant for license as a customer representative who has~~

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117 earned an associate degree or bachelor's degree from an
 118 accredited college or university and has completed at least 9
 119 academic hours of property and casualty insurance curriculum, or
 120 the equivalent, or has earned the designation of Certified
 121 Customer Service Representative (CCSR) from the Florida
 122 Association of Insurance Agents, or the designation of
 123 Registered Customer Service Representative (RCSR) from a
 124 regionally accredited postsecondary institution in this state,
 125 or the designation of Professional Customer Service
 126 Representative (PCSR) from the Professional Career Institute,
 127 whose curriculum has been approved by the department and which
 128 includes comprehensive analysis of basic property and casualty
 129 lines of insurance and testing at least equal to that of
 130 standard department testing for the customer representative
 131 license. The department shall adopt rules establishing standards
 132 for the approval of curriculum.

133 (j) An applicant for license as a personal lines agent who
 134 has received a degree from an accredited institution of higher
 135 learning approved by the department, except that the applicant
 136 may be examined on pertinent provisions of this code. Qualifying
 137 degrees must indicate a minimum of 9 credit hours of insurance
 138 instruction, including specific instruction in the areas of
 139 property, casualty, and inland marine insurance resident or
 140 nonresident all-lines adjuster who has the designation of
 141 Accredited Claims Adjuster (ACA) from a regionally accredited
 142 postsecondary institution in this state, Professional Claims
 143 Adjuster (PCA) from the Professional Career Institute,
 144 Professional Property Insurance Adjuster (PPIA) from the
 145 HurriClaim Training Academy, Certified Adjuster (CA) from ALL

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146 ~~LINES Training, or Certified Claims Adjuster (CCA) from the~~
 147 ~~Association of Property and Casualty Claims Professionals whose~~
 148 ~~curriculum has been approved by the department and which~~
 149 ~~includes comprehensive analysis of basic property and casualty~~
 150 ~~lines of insurance and testing at least equal to that of~~
 151 ~~standard department testing for the all-lines adjuster license.~~
 152 ~~The department shall adopt rules establishing standards for the~~
 153 ~~approval of curriculum.~~

154 (k) An applicant qualifying for a license transfer under s.
 155 626.292 if the applicant:

156 1. ~~Has successfully completed the prelicensing examination~~
 157 ~~requirements in the applicant's previous home state which are~~
 158 ~~substantially equivalent to the examination requirements in this~~
 159 ~~state, as determined by the department;~~

160 2. ~~Has received the designation of chartered property and~~
 161 ~~casualty underwriter (CPCU) from the American Institute for~~
 162 ~~Property and Liability Underwriters and been engaged in the~~
 163 ~~insurance business within the past 4 years if applying to~~
 164 ~~transfer a general lines agent license; or~~

165 3. ~~Has received the designation of chartered life~~
 166 ~~underwriter (CLU) from the American College of Life Underwriters~~
 167 ~~and been engaged in the insurance business within the past 4~~
 168 ~~years if applying to transfer a life or health agent license.~~

169 (l) An applicant for a license as a nonresident agent if
 170 the applicant holds a comparable license in another state with
 171 similar examination requirements as this state;

172 1. ~~Has successfully completed prelicensing examination~~
 173 ~~requirements in the applicant's home state which are~~
 174 ~~substantially equivalent to the examination requirements in this~~

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175 state, as determined by the department, as a requirement for
 176 obtaining a resident license in his or her home state;

177 2. ~~Held a general lines agent license, life agent license,~~
 178 ~~or health agent license before a written examination was~~
 179 ~~required;~~

180 3. ~~Has received the designation of chartered property and~~
 181 ~~casualty underwriter (CPCU) from the American Institute for~~
 182 ~~Property and Liability Underwriters and has been engaged in the~~
 183 ~~insurance business within the past 4 years, if an applicant for~~
 184 ~~a nonresident license as a general lines agent; or~~

185 4. ~~Has received the designation of chartered life~~
 186 ~~underwriter (CLU) from the American College of Life Underwriters~~
 187 ~~and been in the insurance business within the past 4 years, if~~
 188 ~~an applicant for a nonresident license as a life agent or health~~
 189 ~~agent.~~

190 Section 4. Subsections (1), (2), (3), and (8) of section
 191 626.241, Florida Statutes, are amended to read:

192 626.241 Scope of examination.—

193 (1) Each examination for a license as an agent,~~customer~~
 194 ~~representative,~~ or adjuster shall be of such scope as is deemed
 195 by the department to be reasonably necessary to test the
 196 applicant's ability and competence and knowledge of the kinds of
 197 insurance and transactions to be handled under the license
 198 applied for, of the duties and responsibilities of such a
 199 licensee, and of the pertinent provisions of the laws of this
 200 state.

201 (2) Examinations given applicants for license as a general
 202 lines agent ~~or customer representative~~ shall cover all property,
 203 casualty, and surety insurances, except as provided in

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204 subsection (5) relative to limited licenses.

205 (3) Examinations given applicants for a life agent's
 206 license shall cover life insurance, annuities, and variable
 207 contracts annuities.

208 (8) An examination for licensure as a personal lines agent
 209 ~~shall consist of 100 questions~~ and shall be limited in scope to
 210 the kinds of business transacted under such license.

211 Section 5. Section 626.2817, Florida Statutes, is amended
 212 to read:

213 626.2817 Regulation of course providers, instructors, and
 214 ~~school officials, and monitor groups~~ involved in prelicensure
 215 education for insurance agents and other licensees.—

216 (1) Any course provider, instructor, or school official, ~~or~~
 217 ~~monitor group~~ must be approved by and registered with the
 218 department before offering prelicensure education courses for
 219 insurance agents and other licensees.

220 (2) The department shall adopt rules establishing standards
 221 for the approval, registration, discipline, or removal from
 222 registration of course providers, instructors, and school
 223 ~~officials, and monitor groups.~~ The standards must be designed to
 224 ensure that such persons have the knowledge, competence, and
 225 integrity to fulfill the educational objectives of the
 226 prelicensure requirements of this chapter and chapter 648 and to
 227 assure that insurance agents and licensees are competent to
 228 engage in the activities authorized under the license.

229 (3) A course provider shall not grant completion credit to
 230 any student who has not completed at least 75 percent of the
 231 required course hours of a department approved prelicensure
 232 course.

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233 (4) The department shall adopt rules to establish a process
 234 for determining compliance with the prelicensure requirements of
 235 this chapter and chapter 648. The department shall adopt rules
 236 prescribing the forms necessary to administer the prelicensure
 237 requirements.

238 Section 6. Subsection (1) of section 626.311, Florida
 239 Statutes, is amended to read:

240 626.311 Scope of license.—

241 (1) Except as to personal lines agents and limited
 242 licenses, a general lines agent or customer representative shall
 243 qualify for all property, marine, casualty, and surety lines
 244 except bail bonds which require a separate license under chapter
 245 648. The license of a general lines agent may also covers cover
 246 health insurance ~~if health insurance is included in the agent's~~
 247 ~~appointment by an insurer as to which the licensee is also~~
 248 ~~appointed as agent for property or casualty or surety insurance.~~
 249 The license of a customer representative shall provide, in
 250 substance, that it covers all of such classes of insurance that
 251 his or her appointing general lines agent or agency is currently
 252 so authorized to transact under the general lines agent's
 253 license and appointments. No such license shall be issued
 254 limited to particular classes of insurance except for bail bonds
 255 which require a separate license under chapter 648 or for
 256 personal lines agents. Personal lines agents are limited to
 257 transacting business related to property and casualty insurance
 258 sold to individuals and families for noncommercial purposes.

259 Section 7. Subsections (1) through (5) of section 626.732,
 260 Florida Statutes, are amended to read:

261 626.732 Requirement as to knowledge, experience, or

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262 instruction.—

263 (1) Except as provided in subsection (4), an applicant for
 264 a license as a general lines agent, except for a chartered
 265 property and casualty underwriter (CPCU), may not be qualified
 266 or licensed unless, within the 4 years immediately preceding the
 267 date the application for license is filed with the department,
 268 the applicant has:

269 (a) Taught or successfully completed 200 hours of
 270 coursework in property, casualty, surety, health, and marine
 271 insurance approved by the department ~~classroom courses in~~
 272 ~~insurance, 3 hours of which must be on the subject matter of~~
 273 ~~ethics, at a school, college, or extension division thereof,~~
 274 ~~approved by the department;~~

275 ~~(b) Completed a correspondence course in insurance, 3 hours~~
 276 ~~of which must be on the subject matter of ethics, which is~~
 277 ~~regularly offered by accredited institutions of higher learning~~
 278 ~~in this state or extensions thereof and approved by the~~
 279 ~~department, and have at least 6 months of responsible insurance~~
 280 ~~duties as a substantially full-time bona fide employee in all~~
 281 ~~lines of property and casualty insurance set forth in the~~
 282 ~~definition of general lines agent under s. 626.015;~~

283 (b)-(e) Completed at least 1 year in responsible insurance
 284 duties as a substantially full-time bona fide employee in all
 285 lines of property and casualty insurance as set forth in the
 286 definition of a general lines agent under s. 626.015, but
 287 without the education requirement described in paragraph (a) ~~or~~
 288 ~~paragraph (b); or~~

289 (c)-(d) Completed at least 1 year of responsible insurance
 290 duties as a licensed and appointed customer representative,

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291 ~~service representative, or personal lines agent or limited~~
 292 ~~customer representative in commercial or personal lines of~~
 293 ~~property and casualty insurance and 40 hours of coursework~~
 294 ~~classroom courses approved by the department covering the areas~~
 295 ~~of property, casualty, surety, health, and marine insurance, or~~

296 ~~(e) Completed at least 1 year of responsible insurance~~
 297 ~~duties as a licensed and appointed service representative in~~
 298 ~~commercial or personal lines of property and casualty insurance~~
 299 ~~and 80 hours of classroom courses approved by the department~~
 300 ~~covering the areas of property, casualty, surety, health, and~~
 301 ~~marine insurance.~~

302 (2) Except as provided under subsection (4), an applicant
 303 for a license as a personal lines agent, except for a chartered
 304 property and casualty underwriter (CPCU), may not be qualified
 305 or licensed unless, within the 4 years immediately preceding the
 306 date the application for license is filed with the department,
 307 the applicant has:

308 (a) Taught or successfully completed 60 hours of coursework
 309 in property, casualty, and inland marine insurance approved by
 310 the department ~~classroom courses in insurance~~, 3 hours of which
 311 must be on the subject matter of ethics, ~~at a school, college,~~
 312 ~~or extension division thereof, approved by the department. To~~
 313 ~~qualify for licensure, the applicant must complete a total of 52~~
 314 ~~hours of classroom courses in insurance;~~

315 ~~(b) Completed a correspondence course in insurance, 3 hours~~
 316 ~~of which must be on the subject matter of ethics, which is~~
 317 ~~regularly offered by accredited institutions of higher learning~~
 318 ~~in this state or extensions thereof and approved by the~~
 319 ~~department, and completed at least 3 months of responsible~~

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320 ~~insurance duties as a substantially full-time employee in the~~
 321 ~~area of property and casualty insurance sold to individuals and~~
 322 ~~families for noncommercial purposes;~~

323 ~~(b)(e)~~ Completed at least 6 months of responsible insurance
 324 duties as a substantially full-time employee in the area of
 325 property and casualty insurance sold to individuals and families
 326 for noncommercial purposes, but without the education
 327 requirement described in paragraph (a) ~~or paragraph (b); or~~

328 ~~(c)(d)~~ Completed at least 6 months of responsible insurance
 329 duties as a licensed and appointed customer representative, ~~or~~
 330 limited customer representative, or service representative in
 331 property and casualty insurance ~~sold to individuals and families~~
 332 ~~for noncommercial purposes and 20 hours of classroom courses~~
 333 ~~approved by the department which are related to property and~~
 334 ~~casualty insurance sold to individuals and families for~~
 335 ~~noncommercial purposes;~~

336 ~~(e)~~ Completed at least 6 months of responsible insurance
 337 duties as a licensed and appointed service representative in
 338 property and casualty insurance sold to individuals and families
 339 for noncommercial purposes and 40 hours of classroom courses
 340 approved by the department related to property and casualty
 341 insurance sold to individuals and families for noncommercial
 342 purposes; ~~or~~

343 ~~(f)~~ Completed at least 3 years of responsible duties as a
 344 licensed and appointed customer representative in property and
 345 casualty insurance sold to individuals and families for
 346 noncommercial purposes.

347 (3) If an applicant's qualifications as required under
 348 subsection (1) or subsection (2) are based in part upon periods

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349 of employment in responsible insurance duties, the applicant
 350 shall submit with the license application, ~~on a form prescribed~~
 351 ~~by the department,~~ an attestation affidavit of his or her
 352 employment employer setting forth the period of such employment,
 353 ~~that the employment was substantially full time,~~ and giving a
 354 brief abstract of the nature of the duties performed ~~by the~~
 355 applicant.

356 (4) An individual who was or became qualified to sit for an
 357 agent's, ~~customer representative's,~~ or adjuster's examination at
 358 or during the time he or she was employed by the department or
 359 office and who, while so employed, was employed in responsible
 360 insurance duties as a full-time bona fide employee may take an
 361 examination if application for such examination is made within 4
 362 years ~~90 days~~ after the date of termination of employment with
 363 the department or office.

364 (5) ~~Classroom and correspondence~~ Courses under subsections
 365 (1) and (2) must include instruction on the subject matter of
 366 unauthorized entities engaging in the business of insurance. ~~The~~
 367 ~~scope of the topic of unauthorized entities must include the~~
 368 ~~Florida Nonprofit Multiple-Employer Welfare Arrangement Act and~~
 369 ~~the Employee Retirement Income Security Act, 29 U.S.C. ss. 1001~~
 370 ~~et seq., as it relates to the provision of health insurance by~~
 371 ~~employers and the regulation thereof.~~

372 Section 8. Subsections (3) and (7) of section 626.7351,
 373 Florida Statutes, are amended to read:

374 626.7351 Qualifications for customer representative's
 375 license.—The department shall not grant or issue a license as
 376 customer representative to any individual found by it to be
 377 untrustworthy or incompetent, or who does not meet each of the

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378 following qualifications:

379 (3) Within 4 ~~the 2 years next~~ preceding the date that the
 380 application for license was filed with the department, the
 381 applicant has earned the designation of Accredited Advisor in
 382 Insurance (AAI), Associate in General Insurance (AINS), or
 383 Accredited Customer Service Representative (ACSR) from the
 384 Insurance Institute of America; the designation of Certified
 385 Insurance Counselor (CIC) from the Society of Certified
 386 Insurance Service Counselors; the designation of Certified
 387 Professional Service Representative (CPSR) from the National
 388 Foundation for CPSRs; the designation of Certified Insurance
 389 Service Representative (CISR) from the Society of Certified
 390 Insurance Service Representatives; the designation of Certified
 391 Insurance Representative (CIR) from All-Lines Training; the
 392 designation of Professional Customer Service Representative
 393 (PCSR) from the Professional Career Institute; the designation
 394 of Registered Customer Service Representative (RCSR) from a
 395 regionally accredited postsecondary institution in the state
 396 whose curriculum is approved by the department and includes
 397 comprehensive analysis of basic property and casualty lines of
 398 insurance and testing which demonstrates mastery of the subject;
 399 or a degree from an accredited institution of higher learning
 400 approved by the department when the degree includes a minimum of
 401 9 credit hours of insurance instruction, including specific
 402 instruction in the areas of property, casualty, and inland
 403 marine insurance. The department shall adopt rules establishing
 404 standards for the approval of curriculum ~~completed a course in~~
 405 ~~insurance, 3 hours of which shall be on the subject matter of~~
 406 ~~ethics, approved by the department or has had at least 6 months'~~

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407 ~~experience in responsible insurance duties as a substantially~~
 408 ~~full-time employee. Courses must include instruction on the~~
 409 ~~subject matter of unauthorized entities engaging in the business~~
 410 ~~of insurance. The scope of the topic of unauthorized entities~~
 411 ~~shall include the Florida Nonprofit Multiple Employer Welfare~~
 412 ~~Arrangement Act and the Employee Retirement Income Security Act,~~
 413 ~~29 U.S.C. ss. 1001 et seq., as such acts relate to the provision~~
 414 ~~of health insurance by employers and the regulation of such~~
 415 ~~insurance.~~

416 ~~(7) The applicant has passed any required examination for~~
 417 ~~license required under s. 626.221.~~

418 Section 9. Section 626.748, Florida Statutes, is amended to
 419 read:

420 626.748 Agent's records.—Every agent transacting any
 421 insurance policy must maintain in his or her office, or have
 422 readily accessible by electronic or photographic means, for a
 423 period of at least 5 years after policy expiration, such records
 424 of policies transacted by him or her as to enable the
 425 policyholders and department to obtain all necessary
 426 information, including daily reports, applications, change
 427 endorsements, or documents signed or initialed by the insured
 428 concerning such policies.

429 Section 10. Section 626.7851, Florida Statutes, is amended
 430 to read:

431 626.7851 Requirement as to knowledge, experience, or
 432 instruction.—~~An~~ Ne applicant for a license as a life agent,
 433 except for a chartered life underwriter (CLU), shall not be
 434 qualified or licensed unless within the 4 years immediately
 435 preceding the date the application for a license is filed with

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436 the department he or she has:

437 (1) Successfully completed 40 hours of coursework ~~classroom~~
 438 courses in life insurance, annuities, and variable contracts
 439 approved by the department, 3 hours of which shall be on the
 440 subject matter of ethics, ~~satisfactory to the department at a~~
 441 ~~school or college, or extension division thereof, or other~~
 442 ~~authorized course of study, approved by the department.~~ Courses
 443 must include instruction on the subject matter of unauthorized
 444 entities engaging in the business of insurance, ~~to include the~~
 445 ~~Florida Nonprofit Multiple Employer Welfare Arrangement Act and~~
 446 ~~the Employee Retirement Income Security Act, 29 U.S.C. ss. 1001~~
 447 ~~et seq., as it relates to the provision of life insurance by~~
 448 ~~employers to their employees and the regulation thereof;~~

449 (2) Earned or maintained an active designation as a
 450 Chartered Financial Consultant (ChFC) from the American College
 451 of Financial Services; Fellow, Life Management Institute (FLMI)
 452 from the Life Management Institute; or Certified Financial
 453 Planner (CFP) from the Certified Financial Planner Board of
 454 Standards ~~Successfully completed a correspondence course in~~
 455 ~~insurance, 3 hours of which shall be on the subject matter of~~
 456 ~~ethics, satisfactory to the department and regularly offered by~~
 457 ~~accredited institutions of higher learning in this state or by~~
 458 ~~independent programs of study, approved by the department.~~
 459 ~~Courses must include instruction on the subject matter of~~
 460 ~~unauthorized entities engaging in the business of insurance, to~~
 461 ~~include the Florida Nonprofit Multiple Employer Welfare~~
 462 ~~Arrangement Act and the Employee Retirement Income Security Act,~~
 463 ~~29 U.S.C. ss. 1001 et seq., as it relates to the provision of~~
 464 ~~life insurance by employers to their employees and the~~

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465 ~~regulation thereof;~~

466 (3) Held an active license in life, ~~or life and health,~~
 467 insurance in another state. This provision may not be used
 468 ~~utilized~~ unless the other state grants reciprocal treatment to
 469 licensees formerly licensed in this state Florida; or

470 (4) Been employed by the department or office for at least
 471 1 year, full time in life ~~or life and health~~ insurance
 472 regulatory matters and who was not terminated for cause, and
 473 application for examination is made within 4 years ~~90 days~~ after
 474 the date of termination of his or her employment with the
 475 department or office.

476 Section 11. Section 626.8311, Florida Statutes, is amended
 477 to read:

478 626.8311 Requirement as to knowledge, experience, or
 479 instruction.—~~An~~ No applicant for a license as a health agent,
 480 except for a chartered life underwriter (CLU), shall not be
 481 qualified or licensed unless within the 4 years immediately
 482 preceding the date the application for license is filed with the
 483 department he or she has:

484 (1) Successfully completed 40 hours of coursework ~~classroom~~
 485 ~~courses in health~~ insurance, approved by the department, 3 hours
 486 of which shall be on the subject matter of ethics, ~~satisfactory~~
 487 ~~to the department at a school or college, or extension division~~
 488 ~~thereof, or other authorized course of study, approved by the~~
 489 ~~department~~. Courses must include instruction on the subject
 490 matter of unauthorized entities engaging in the business of
 491 insurance, to include the Florida Nonprofit Multiple-Employer
 492 Welfare Arrangement Act and the Employee Retirement Income
 493 Security Act, 29 U.S.C. ss. 1001 et seq., as it relates to the

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494 provision of health insurance by employers to their employees
 495 and the regulation thereof;

496 (2) Earned or maintained an active designation as a
 497 Registered Health Underwriter (RHU), Chartered Healthcare
 498 Consultant (ChHC), or Registered Employee Benefits Consultant
 499 (REBC) from the American College of Financial Services;
 500 Certified Employee Benefit Specialist (CEBS) from the Wharton
 501 School of the University of Pennsylvania; Health Insurance
 502 Associate (HIA) from America's Health Insurance Plans; or
 503 Certified Financial Planner (CFP) from the Certified Financial
 504 Planner Board of Standards ~~Successfully completed a~~
 505 ~~correspondence course in insurance, 3 hours of which shall be on~~
 506 ~~the subject matter of ethics, satisfactory to the department and~~
 507 ~~regularly offered by accredited institutions of higher learning~~
 508 ~~in this state or by independent programs of study, approved by~~
 509 ~~the department. Courses must include instruction on the subject~~
 510 ~~matter of unauthorized entities engaging in the business of~~
 511 ~~insurance, to include the Florida Nonprofit Multiple-Employer~~
 512 ~~Welfare Arrangement Act and the Employee Retirement Income~~
 513 ~~Security Act, 29 U.S.C. ss. 1001 et seq., as it relates to the~~
 514 ~~provision of health insurance by employers to their employees~~
 515 ~~and the regulation thereof;~~

516 (3) Held an active license in health, ~~or life and health,~~
 517 insurance in another state. This provision may not be utilized
 518 unless the other state grants reciprocal treatment to licensees
 519 formerly licensed in Florida; or

520 (4) Been employed by the department or office for at least
 521 1 year, full time in health insurance regulatory matters and who
 522 was not terminated for cause, and application for examination is

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 523 made within 4 years ~~90 days~~ after the date of termination of his
 524 or her employment with the department or office.

525 Section 12. Section 626.8661, Florida Statutes, is created
 526 to read:

527 626.8661 Requirement as to knowledge, experience, or
 528 instruction.—An applicant for a license as an all-lines
 529 adjuster, except for a chartered property and casualty
 530 underwriter (CPCU), shall not be qualified or licensed unless
 531 within the 4 years immediately preceding the date that the
 532 application for license is filed with the department he or she
 533 has:

534 (1) Successfully completed 40 hours of coursework in
 535 adjusting all lines of insurance, except life, approved by the
 536 department;

537 (2) Earned or maintained an active designation as an
 538 Accredited Claims Adjuster (ACA) from a regionally accredited
 539 postsecondary institution in the state, Associate in Claims
 540 (AIC) from the Insurance Institute of America, Professional
 541 Claims Adjuster (PCA) from the Professional Career Institute,
 542 Professional Property Insurance Adjuster (PPIA) from the
 543 HurriClaim Training Academy, Certified Adjuster (CA) from All-
 544 Lines Training, or Certified Claims Adjuster (CCA) from AE21
 545 Incorporated;

546 (3) Completed at least 1 year in responsible insurance
 547 duties as a substantially full-time insurance adjuster with
 548 experience in determining the amount of a claim, loss, or damage
 549 payable under an insurance contract and has effected settlement
 550 of such claim, loss, or damage, but has not met the education
 551 requirement described in subsection (1) or subsection (2); or

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 552 (4) Been employed full time by the department or office for
 553 at least 1 year, with experience in insurance claim regulatory
 554 matters, and was not terminated for cause.

555 Section 13. Paragraph (o) of subsection (1) of section
 556 626.9541, Florida Statutes, is amended to read:

557 626.9541 Unfair methods of competition and unfair or
 558 deceptive acts or practices defined.—

559 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE
 560 ACTS.—The following are defined as unfair methods of competition
 561 and unfair or deceptive acts or practices:

562 (o) *Illegal dealings in premiums; excess or reduced charges*
 563 *for insurance.—*

564 1. Knowingly collecting any sum as a premium or charge for
 565 insurance, which is not then provided, or is not in due course
 566 to be provided, subject to acceptance of the risk by the
 567 insurer, by an insurance policy issued by an insurer as
 568 permitted by this code.

569 2. Knowingly collecting as a premium or charge for
 570 insurance any sum in excess of or less than the premium or
 571 charge applicable to such insurance, in accordance with the
 572 applicable classifications and rates as filed with and approved
 573 by the office, and as specified in the policy; or, in cases when
 574 classifications, premiums, or rates are not required by this
 575 code to be so filed and approved, premiums and charges collected
 576 from a Florida resident in excess of or less than those
 577 specified in the policy and as fixed by the insurer.

578 Notwithstanding any other provision of law, this provision shall
 579 not be deemed to prohibit the charging and collection, by
 580 surplus lines agents licensed under part VIII of this chapter,

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 581 of the amount of applicable state and federal taxes, or fees as
 582 authorized by s. 626.916(4), in addition to the premium required
 583 by the insurer or the charging and collection, by licensed
 584 agents, of the exact amount of any discount or other such fee
 585 charged by a credit card facility in connection with the use of
 586 a credit card, as authorized by subparagraph (q)3., in addition
 587 to the premium required by the insurer. This subparagraph shall
 588 not be construed to prohibit collection of a premium for a
 589 universal life or a variable or indeterminate value insurance
 590 policy made in accordance with the terms of the contract.

591 3.a. Imposing or requesting an additional premium for a
 592 policy of motor vehicle liability, personal injury protection,
 593 medical payment, or collision insurance or any combination
 594 thereof or refusing to renew the policy solely because the
 595 insured was involved in a motor vehicle accident unless the
 596 insurer's file contains information from which the insurer in
 597 good faith determines that the insured was substantially at
 598 fault in the accident.

599 b. An insurer which imposes and collects such a surcharge
 600 or which refuses to renew such policy shall, in conjunction with
 601 the notice of premium due or notice of nonrenewal, notify the
 602 named insured that he or she is entitled to reimbursement of
 603 such amount or renewal of the policy under the conditions listed
 604 below and will subsequently reimburse him or her or renew the
 605 policy, if the named insured demonstrates that the operator
 606 involved in the accident was:

- 607 (I) Lawfully parked;
 608 (II) Reimbursed by, or on behalf of, a person responsible
 609 for the accident or has a judgment against such person;

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 610 (III) Struck in the rear by another vehicle headed in the
 611 same direction and was not convicted of a moving traffic
 612 violation in connection with the accident;
 613 (IV) Hit by a "hit-and-run" driver, if the accident was
 614 reported to the proper authorities within 24 hours after
 615 discovering the accident;
 616 (V) Not convicted of a moving traffic violation in
 617 connection with the accident, but the operator of the other
 618 automobile involved in such accident was convicted of a moving
 619 traffic violation;
 620 (VI) Finally adjudicated not to be liable by a court of
 621 competent jurisdiction;
 622 (VII) In receipt of a traffic citation which was dismissed
 623 or nolle prossed; or
 624 (VIII) Not at fault as evidenced by a written statement
 625 from the insured establishing facts demonstrating lack of fault
 626 which are not rebutted by information in the insurer's file from
 627 which the insurer in good faith determines that the insured was
 628 substantially at fault.
 629 c. In addition to the other provisions of this
 630 subparagraph, an insurer may not fail to renew a policy if the
 631 insured has had only one accident in which he or she was at
 632 fault within the current 3-year period. However, an insurer may
 633 nonrenew a policy for reasons other than accidents in accordance
 634 with s. 627.728. This subparagraph does not prohibit nonrenewal
 635 of a policy under which the insured has had three or more
 636 accidents, regardless of fault, during the most recent 3-year
 637 period.
 638 4. Imposing or requesting an additional premium for, or

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639 refusing to renew, a policy for motor vehicle insurance solely
 640 because the insured committed a noncriminal traffic infraction
 641 as described in s. 318.14 unless the infraction is:

642 a. A second infraction committed within an 18-month period,
 643 or a third or subsequent infraction committed within a 36-month
 644 period.

645 b. A violation of s. 316.183, when such violation is a
 646 result of exceeding the lawful speed limit by more than 15 miles
 647 per hour.

648 5. Upon the request of the insured, the insurer and
 649 licensed agent shall supply to the insured the complete proof of
 650 fault or other criteria which justifies the additional charge or
 651 cancellation.

652 6. No insurer shall impose or request an additional premium
 653 for motor vehicle insurance, cancel or refuse to issue a policy,
 654 or refuse to renew a policy because the insured or the applicant
 655 is a handicapped or physically disabled person, so long as such
 656 handicap or physical disability does not substantially impair
 657 such person's mechanically assisted driving ability.

658 7. No insurer may cancel or otherwise terminate any
 659 insurance contract or coverage, or require execution of a
 660 consent to rate endorsement, during the stated policy term for
 661 the purpose of offering to issue, or issuing, a similar or
 662 identical contract or coverage to the same insured with the same
 663 exposure at a higher premium rate or continuing an existing
 664 contract or coverage with the same exposure at an increased
 665 premium.

666 8. No insurer may issue a nonrenewal notice on any
 667 insurance contract or coverage, or require execution of a

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668 consent to rate endorsement, for the purpose of offering to
 669 issue, or issuing, a similar or identical contract or coverage
 670 to the same insured at a higher premium rate or continuing an
 671 existing contract or coverage at an increased premium without
 672 meeting any applicable notice requirements.

673 9. No insurer shall, with respect to premiums charged for
 674 motor vehicle insurance, unfairly discriminate solely on the
 675 basis of age, sex, marital status, or scholastic achievement.

676 10. Imposing or requesting an additional premium for motor
 677 vehicle comprehensive or uninsured motorist coverage solely
 678 because the insured was involved in a motor vehicle accident or
 679 was convicted of a moving traffic violation.

680 11. No insurer shall cancel or issue a nonrenewal notice on
 681 any insurance policy or contract without complying with any
 682 applicable cancellation or nonrenewal provision required under
 683 the Florida Insurance Code.

684 12. No insurer shall impose or request an additional
 685 premium, cancel a policy, or issue a nonrenewal notice on any
 686 insurance policy or contract because of any traffic infraction
 687 when adjudication has been withheld and no points have been
 688 assessed pursuant to s. 318.14(9) and (10). However, this
 689 subparagraph does not apply to traffic infractions involving
 690 accidents in which the insurer has incurred a loss due to the
 691 fault of the insured.

692 Section 14. Section 627.4553, Florida Statutes, is amended
 693 to read:

694 627.4553 Recommendations to surrender.—If an insurance
 695 agent recommends the surrender of an annuity or life insurance
 696 policy containing a cash value and does not recommend that the

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697 proceeds from the surrender be used to fund or purchase another
 698 annuity or life insurance policy, before execution of the
 699 surrender, the insurance agent, ~~or insurance company if no agent~~
 700 ~~is involved~~, shall provide written, ~~on a form that satisfies~~
 701 ~~the requirements of the rule adopted by the department,~~
 702 information relating to the annuity or policy to be surrendered.
 703 Such information shall include, but is not limited to, the
 704 amount of any surrender charge, the loss of any minimum interest
 705 rate guarantees, the possibility ~~amount~~ of ~~any~~ tax consequences
 706 ~~resulting from the transaction~~, the amount of any forfeited
 707 death benefit, and the value of any other investment performance
 708 guarantees being forfeited as a result of the transaction. The
 709 agent shall maintain a copy of the information and the date that
 710 the information was provided to the owner. This section also
 711 applies to a person performing insurance agent activities
 712 pursuant to an exemption from licensure under this part.

713 Section 15. Subsection (2) of section 631.341, Florida
 714 Statutes, is amended to read:

715 631.341 Notice of insolvency to policyholders by insurer,
 716 general agent, or agent.—

717 (2) Unless, within 15 days subsequent to the date of such
 718 notice, all agents referred to in subsection (1) have either
 719 replaced or reinsured in a solvent authorized insurer the
 720 insurance coverages placed by or through such agent in the
 721 delinquent insurer, such agents shall then, by registered or
 722 certified mail, or by e-mail with delivery receipt required,
 723 send to the last known address of any policyholder a written
 724 notice of the insolvency of the delinquent insurer.

725 Section 16. Paragraph (d) of subsection (1) of section

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726 648.355, Florida Statutes, is amended to read:

727 648.355 Temporary limited license as limited surety agent
 728 or professional bail bond agent; pending examination.—

729 (1) The department may, in its discretion, issue a
 730 temporary license as a limited surety agent or professional bail
 731 bond agent, subject to the following conditions:

732 (d) Within 4 years prior to the date of application for a
 733 temporary license, the applicant has successfully completed a
 734 basic certification course in the criminal justice system,
 735 consisting of at least ~~not less than~~ 120 hours of ~~classroom~~
 736 instruction with a passing grade of 80 percent or higher and has
 737 successfully completed a 20 hour ~~correspondence~~ course for bail
 738 bond agents approved by the department.

739 Section 17. Paragraph (a) of subsection (1) of section
 740 648.386, Florida Statutes, is amended to read:

741 648.386 Qualifications for prelicensing and continuing
 742 education schools and instructors.—

743 (1) SCHOOLS AND CURRICULUM FOR PRELICENSING SCHOOLS.—In
 744 order to be considered for approval and certification as an
 745 approved limited surety agent and professional bail bond agent
 746 prelicensing school, such entity must:

747 (a)1. Offer a ~~minimum of two~~ 120-hour ~~classroom instruction~~
 748 basic certification course ~~courses~~ in the criminal justice
 749 system approved by the department ~~per calendar year unless a~~
 750 ~~reduced number of course offerings per calendar year is~~
 751 ~~warranted in accordance with rules promulgated by the~~
 752 ~~department;~~ or

753 2. Offer a bail bond agents ~~department approved~~
 754 ~~correspondence~~ course approved by the ~~pursuant to~~ department

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20151222__

755 ~~rules.~~

756 Section 18. This act shall take effect July 1, 2015.



The Florida Senate

Committee Agenda Request

To: Senator Lizbeth Benacquisto, Chair
Committee on Banking and Insurance

James Knudson, Staff Director
Sheri Green, Committee Administrative Assistant

Subject: Committee Agenda Request

Date: March 2, 2015

I respectfully request that **Senate Bill #1222**, relating to Division of Insurance Agent and Agency Services, be placed on the:

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

A handwritten signature in cursive script, appearing to read "Garrett Richter", written over a horizontal line.

Senator Garrett Richter
Florida Senate, District 23

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/17/15

Meeting Date

SB1222

Bill Number (if applicable)

Topic SB 1222

Amendment Barcode (if applicable)

Name Elizabeth Boyd

Job Title Legislative Director

Address 400 N. Monroe St
Street

Phone 850-413-6328

Tallahassee FL 32399
City State Zip

Email elizabeth.boyd@myfloridactf.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)

Waive

1222
Bill Number (if applicable)

3/17/15
Meeting Date

Topic INSURANCE AGENTS

Amendment Barcode (if applicable)

Name KYLE ULRICH

Job Title SVP

Address 3159 SHAMROCK SOUTH

Phone 850-566-4204

TALLAHASSEE FL 32309
City State Zip

Email KULRICH@FAIA.COM

Speaking: For Against Information

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

Representing FL. ASSOC. OF INSURANCE AGENTS

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)

March 17

Meeting Date

1222

Bill Number (if applicable)

Topic Amnt. 361716 Amnt. 829050

Amendment Barcode (if applicable)

Name Tim Meenan

Job Title _____

Address 325 W. College Ave.
Street
Tallahassee FL 32301
City State Zip

Phone (850) 425-4000

Email Tim@meenanlawfirm.com

Speaking: For Against Information

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

Representing National Association of Insurance & Financial Advisors

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.



388574

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/17/2015	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 139 - 150

and insert:

issue a health benefit plan or long-term care insurance policy,
the greater of:

1. Four percent of the insurer's total liabilities, plus 6
percent of the insurer's liabilities relative to health
insurance;

2. Two percent of the insurer's total annualized premium



388574

11 relative to health insurance; or
12 3. If the insurer:
13 a. Does not hold a certificate of authority before the
14 effective date of this act, \$10 million; or
15 b. Holds a certificate of authority before the effective
16 date of this act, \$1.5 million until June 30, 2017; \$3 million
17 on or after July 1, 2017, and until June 30, 2021; \$6 million on
18 or after July 1, 2021, and until June 30, 2025; and \$10 million
19 on or after July 1, 2025.
20
21 The office may reduce the surplus requirement imposed under sub-
22 paragraph 3.a. or sub-paragraph 3.b. if the office finds
23 the reduction to be in the public



637990

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/17/2015	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 523 - 527
and insert:
organization by the office shall be subject to the same terms
and conditions as apply to insurers under chapter 624. In no
event shall expenses of all examinations exceed a maximum of
\$100,000 ~~\$50,000~~ for any 1-year period. Any rehabilitation,
liquidation, conservation, or



637990

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

12 And the title is amended as follows:

13 Delete lines 40 - 41

14 and insert:

15 amending s. 641.27, F.S.; revising the annual limit

16 applicable to health maintenance

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 1190

INTRODUCER: Banking and Insurance Committee and Senator Lee

SUBJECT: Insurer Solvency

DATE: March 18, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Knudson	BI	Fav/CS
2.			AGG	
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1190 substantially revises the solvency requirements for health maintenance organizations (HMOs) in the areas of minimum surplus, premium-to-surplus writing ratios, risk-based capital, financial reporting, financial management, and governance. These changes will require HMOs to meet the same regulatory requirements as insurers in these areas, thereby increasing consumer protections against insolvencies. The bill also increases the cap on HMO financial examination costs for examinations conducted by the Office of Insurance Regulation (OIR).

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. Solvency regulation includes the requirements for starting and operating an insurance company or HMO, monitoring the financial condition through examinations and audits, and procedures for the administrative supervision, rehabilitation, or liquidation of a company if it is in unsound financial condition or insolvent.

II. Present Situation:

The Office of Insurance Regulation (OIR) licenses and regulates the activities of insurers, health maintenance organizations, and other risk-bearing entities.¹ The Florida Insurance Code contains

¹ Section 20.121(3)(a), F.S.

many provisions designed to prevent insurers from becoming insolvent and to protect and provide recovery for policyholders in the event of insolvency. Section 624.401, F.S., generally requires insurers and other risk-bearing entities to obtain a certificate of authority prior to engaging in insurance transactions and meet certain initial and ongoing solvency requirements, such as minimum capital and surplus requirements, writing ratios, and financial reporting requirements.

Minimum Surplus Requirements Initial Licensure

For purposes of obtaining a certificate of authority, s. 624.408, F.S., requires an insurer writing health benefit plans² or long-term plans to maintain a minimum surplus as to policyholders of not less than the greater of \$2.5 million or 4 percent of the insurer's total liabilities plus 6 percent of the insurer's liabilities relative to health insurance.³ An HMO is required to have a minimum surplus of not less than the greater of \$1.5 million, 10 percent of total liabilities, or 2 percent of total, annualized premiums. The current minimum surplus dollar thresholds for licensure have not changed for life and health insurers since 1989 and, for HMOs, since 1988.⁴

Requirements after Licensure

To maintain a certificate of authority to transact insurance, life and health insurers are required to maintain a minimum surplus as to policyholders not less than the greater of \$1.5 million or 4 percent of the insurer's total liabilities plus 6 percent of the insurer's liabilities relative to health insurance.⁵ The HMOs are required to meet the same requirements provided for initial licensure. The current minimum surplus dollar thresholds applicable to life and health insurers and HMOs beyond licensure have not changed since 1989 for life and health insurers,⁶ and since 1998 for HMOs.⁷

Risk-Based Capital

Risk-based capital (RBC) is a capital adequacy standard that represents the amount of required capital that an insurer must maintain, based on the inherent risks in the insurer's operations. The RBC standard provides a safety net for insurers and provides state insurance regulators with authority for timely corrective action. On or before March 1 of each year, insurers and multi-state HMOs and prepaid limited health services organizations (PLHSOs)⁸ must file risk-based capital reports and plans with the National Association of Insurance Commissioners (NAIC), while all domestic insurers must also file a copy with the OIR, in accordance with statutory RBC requirements.⁹ As of September 30, 2014, there was one multi-state HMO and four multi-state

² Section 627.6699, F.S., defines the term, "health benefit plan," to mean any hospital or medical policy or certificate, hospital or medical service plan contract, or health maintenance organization subscriber contract.

³ Section 624.407, F.S.

⁴ Sections 25 and 26, ch. 89-360, Laws of Florida (insurers); s. 5, ch. 88-388, Laws of Florida (HMOs).

⁵ Section 624.407, F.S.

⁶ Section 26, ch. 89-360, Laws of Florida.

⁷ Section 20, ch. 98-159, Laws of Florida. The change to \$1.5 million enacted in 1998 was phased in over three years.

⁸ A PLHSO provides limited health services to enrollees through an exclusive panel of providers in exchange for a prepayment that is authorized under chapter 636, F.S.

⁹ Section 624.4085, F.S.

PLHSOs in Florida.¹⁰

Premium-to-Surplus Writing Ratios

Insurers are subject to premium-to-surplus ratios that determine the amount of premium they can write based on the amount of surplus they have. Section 624.4095, F.S., sets maximum ratios of premiums written to surplus as to policyholders. The basic ratio is 10 to 1 for gross written premiums and 4 to 10 for net written premiums.¹¹ The HMOs are not subject to such a requirement.

Management Services Organizations

Pursuant to s. 641.35, F.S., for the purpose of determining the financial condition or solvency of an HMO, the OIR provides that specified assets can be included as admitted assets and other assets are excluded as non-admitted assets pursuant to statutory accounting principles. Statutory accounting principles are characterized as a conservative approach since it evaluates the HMO's liquidity and the ability to pay claims in the future.

Certain entities, such as "management services organizations" (MSOs) provide services for HMOs. A MSO may provide management and administrative services to a practice, or it may acquire a practice's assets (thereby providing capital to the practice) and subsequently enter into agreements to provide the practice with space, equipment, or both.¹² Non-healthcare provider investors, a hospital, a group of physicians, a joint venture between a hospital and physicians, or a health plan may own a MSO.¹³ A MSO is not regulated by the OIR; therefore, the OIR is unaware of its financial condition. If an HMO records a MSO transaction as a receivable or asset on its financial statements, the OIR is unable to determine if these transactions and amounts are accurate and that sufficient assets are available to pay losses and claims. Therefore, if a MSO receivable is recorded as an admitted asset, it could misrepresent the financial condition or solvency of an HMO. According to the OIR, very few HMOs currently book MSO receivables as admitted assets.

Financial Reporting

Section 624.424, F.S., requires insurers to submit annual and quarterly financial statements and an annual audited financial report. Insurers must file annual financial reports with the OIR on or before March 1. The HMOs and PLHSOs must file "within 3 months after the end of its fiscal year." Unlike insurers and HMOs, PLHSOs must also file a 4th quarter financial report, in addition to the three other quarterly reports. For PLHSOs, the audited financial statements are submitted as part of the annual report.

¹⁰ Office of Insurance Regulation, Senate Bill 1190 Analysis (March 5, 2015) (on file with Banking and Insurance Committee).

¹¹ This ratio is modified by a factor of 0.8 for health insurance. This means that premiums may not be more than 3.2 times surplus. However, this provision does not apply to life and health insurers which have a surplus as to policyholders greater than \$40 million and which have written health insurance during each of the immediately preceding five calendar years.

¹² Gregory D. Anderson and Emily B. Grey, *The MSO'S Prognosis after the ACA: A Viable Integration Tool?* Physicians and Physician Organizations Law Institute, February 11 and 12, 2013, Phoenix, Arizona.

¹³ *Id.*

Governance and Financial Management

Board of Directors

Florida law requires domestic insurers to be managed by a board of at least five directors.¹⁴ A majority of the directors must be U.S. citizens. Current law does not impose similar requirements upon HMOs. Florida law also prescribes standards for insurer directors in discharging their duties, including among others, consideration of the benefits to the insurer by remaining independent. Former officers and directors of insolvent insurers serving within 2 years of the insolvency may not serve in that capacity for another insurer without demonstrating that his or her actions or omissions were not a significant contributing cause of the insolvency.

Dividends

Stock insurers and HMOs may only pay dividends¹⁵ out of available and accumulated surplus funds derived from realized net operating profits on their business and net realized capital gains. The HMOs must receive approval from the OIR to pay dividends or distribute cash if, immediately before or after such distribution, their available and accumulated surplus funds are or would be less than zero. The OIR approval is not required if the HMO would have at least 115 percent of required statutory surplus after payment of the dividend (i.e., ordinary dividends). Under current law, an HMO with negative retained earnings may still pay a dividend without OIR approval.

Stock insurer dividend payments or distributions to stockholders made without the prior written approval of the OIR must not exceed the larger of:

- (a) The lesser of 10 percent of surplus or net gain from operations (life and health companies) or net income (property and casualty companies), not including realized capital gains, plus a 2-year carry forward for property and casualty companies;
- (b) 10 percent of surplus, with dividends payable constrained to unassigned funds minus 25 percent of unrealized capital gains;
- (c) The lesser of 10 percent of surplus or net investment income (net gain before capital gains for life and health companies) plus a 3-year carry forward (2-year carry forward for life and health companies) with dividends payable constrained to unassigned funds minus 25 percent of unrealized capital gains.

The OIR may approve a stock insurer dividend or distribution in excess of the maximum amount if it determines that the distribution or dividend does not jeopardize the financial condition of the insurer.

Any director of an HMO or domestic stock or mutual insurer who knowingly votes for or concurs in declaration or payment of a dividend to stockholders or members in violation of these provisions is guilty of a misdemeanor of the second degree, and shall be jointly and severally liable for any loss sustained by creditors of the insurer. Any stockholder receiving such an illegal

¹⁴ Section 628.231, F.S.

¹⁵ Sections 628.371 and 641.365, F.S.

dividend shall be liable in the amount thereof to the insurer. The OIR may revoke or suspend the COA of an insurer, which has declared or paid such an illegal dividend.¹⁶

OIR Examination Costs

The OIR is required to examine the “affairs, transactions, accounts, business records and assets” of each authorized HMO as often as it deems expedient for the protection of the public, but no less frequently than once every 5 years.¹⁷ Insurers subject to financial examination must reimburse the OIR for 100 percent of the examination costs incurred by the OIR. These funds are deposited into the Insurance Regulatory Trust Fund (Trust Fund).¹⁸ In contrast, an HMO examination cost reimbursement is capped at \$50,000, with any excess amounts paid out of the Trust Fund. Generally, this results in a subsidy of HMO examination costs exceeding \$50,000.

III. Effect of Proposed Changes:

Minimum Surplus Requirements

Sections 1, 2, 6, and 7. These sections provide the identical minimum surplus requirements for initial licensure and the maintenance of a license for an HMO or a life and health insurer writing health benefit plans or long-term care plans (ss. 624.407 and 624.408, F.S.). The bill increases the minimum dollar threshold for a certificate of authority to \$10 million, up from the current \$1.5 million required of HMOs and the \$2.5 million required of life and health insurers.¹⁹ It also extends the 2 percent of total annualized premium surplus threshold currently applied to HMOs to life and health insurers issuing health benefit plans. Current law requires life and health insurers and HMOs applying for an original certificate of authority to have minimum surplus in an amount that is the greater of a set dollar amount, or percentage of total liabilities or, in the case of HMOs, a percentage of total annualized premium.

The bill makes the minimum surplus required to be maintained by an HMO and a life and health insurer writing health benefit plans or long-term care plans after licensure, identical. The minimum surplus dollar thresholds required to be maintained after licensure is increased to \$10 million, from the current \$1.5 million for both HMOs and life and health insurers.

For newly licensed companies, the increased minimum surplus required to be maintained takes effect upon the bill becoming a law. For currently licensed companies (i.e., those holding a COA before the effective date of the act), the change in the minimum surplus dollar threshold required to be maintained is phased in over 10 years, as follows:

- As of July 1, 2017: \$3 million
- As of July 1, 2021: \$6 million
- As of July 1, 2025: \$10 million

As of the end of the 3rd quarter 2014, Florida had 33 active HMOs and 454 active life and health insurers. Based on a preliminary analysis, the OIR found that 11 of these 487 existing companies

¹⁶Section 628.391, F.S.

¹⁷ Section 641.27, F.S.

¹⁸ Section 624.320, F.S.

¹⁹ Section 624.407, F.S.

could be impacted by the proposed revisions to surplus maintenance requirements—this includes six domestic HMOs, three domestic insurers and two foreign insurers. However, the bill authorizes the OIR to reduce the required level of surplus for health insurers and HMOs on a case-by-case basis if it finds it to be “in the public interest.” In making this determination, the OIR may consider factors including, a company having fewer than 6,000 policies in force, less than \$1 million in premium, or a limited geographic service area. This provision is similar to existing statutory authority provided to the OIR when similar surplus changes affecting residential property insurers were enacted in 2011. Although the OIR determination is discretionary and not tied to any one factor, all 11 companies appear to meet at least one of these criteria.

Risk-Based Capital Requirements

Section 3. The risk-based capital requirements for insurers are applied to newly licensed single-state HMOs and PLHSOs (i.e., those initially authorized on or after July 1, 2015). As of September 30, 2014, there were 32 single-state HMO’s and 18 single-state PLHSOs. Single-state HMOs and PLHSOs in existence prior to July 1, 2015, will be grandfathered in under the bill and not subject to these new risk-based capital requirements.

Premium-to-Surplus Writing Ratios

Section 6. This section subjects HMOs to the same (gross) premium-to-surplus writing ratio applicable to life and health insurers, which is a writing ratio of 10-to-1 on a gross premium basis (s. 624.4095, F.S.). Premium-to-surplus ratios on a net premium basis are not relevant to HMOs. In calculating the ratios for HMOs, the bill requires that risk revenue be included in addition to premium. For new HMOs (i.e., those not holding a certificate of authority before the effective date of the act), the 10-to-1 premium to surplus writing ratio is imposed effective upon the act becoming a law; for existing HMOs (i.e., those licensed before the effective date of the act), the change is phased in over 10 years, as follows:

- As of July 1, 2017: 30-to-1
- As of July 1, 2021: 20-to-1
- As of July 1, 2025: 10-to-1

Management Services Organizations

Sections 5 and 10. The sections defines “receivables from a management services organization” (MSO) under contract with health maintenance organizations and requires such receivables to be classified as non-admitted assets. “Management services organization” is defined in the bill as “an entity providing one or more medical practice management services to health care providers, including, but not limited to, administrative, financial, operational, personnel, records management, educational, compliance, and managed care services.”

Financial Reporting

Sections 4 and 8. The bill aligns PLHSO and HMO annual and quarterly reporting requirements with that of life and health insurers. For example, the bill changes the due date for submitting the annual financial report from “within 3 months after the end of its fiscal year” (i.e., April 1) to

March 1. The section also eliminates the PLHSO 4th quarter report—a report insurers and HMOs are not currently required to file. The financial information in the 4th quarter report is reviewed in the context of the annual report. The bill also provides that the PLHSO and HMO annual audited financial statements are standalone filings due June 1, instead of “3 months after the end of its fiscal year.”

The bill also requires PLHSOs and HMOs to adhere to insurer audit rules adopted by the Financial Services Commission (e.g., Rule 69O-137.002, F.A.C.), beginning with financial statements filed for calendar year 2015.

Governance and Financial Management

Section 6. This section applies stock insurer board of director provisions (s. 628.231, F.S.) to HMOs. It also extends current restrictions applicable to former officers and directors of insolvent insurers to former officers and directors of HMOs. (s. 624.4073, F.S.)

Sections 6 and 11. The bill extends the provisions (ss. 628.371 and 628.391, F.S.) applicable to insurers for the payment of dividends to HMOs. While the standards applicable to HMOs for paying dividends will change, sanctions for payment of illegal dividends remains the same since they are treated the same for both insurers and HMOs under current law. Dividends paid when unassigned surplus is negative will require approval. Section 641.365, F.S., relating to the payment of dividends by an HMO, is repealed.

OIR Examination Costs

Section 9. The section increases the OIR financial examination cost cap from \$50,000 to \$100,000 for an HMO.

Miscellaneous

Sections 12 and 13. These sections provide a technical, conforming cross reference.

Section 14. The Division of Law Revision and Information is directed to replace the phrase “the effective date of this act” where it occurs in this act with the date the act becomes law.

Section 15. Except as otherwise provided, the bill takes effect upon becoming a law.

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:

Indeterminate. According to HMO representatives, sometimes the HMOs are asked by the OIR to waive the current fee cap and pay the additional costs. The increase in the cap for examination costs will increase examination costs for HMOs.

C. Government Sector Impact:

Indeterminate.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 624.407, 624.408, 624.4085, 636.043, 641.19, 641.201, 641.225, 641.26, 641.27, and 641.35.

This bill creates the following sections of the Florida Statutes: 817.234 and 817.50.

This bill repeals section 641.365 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 17, 2015:

The bill increases the cap on the costs of an OIR financial examination an HMO must incur from \$50,000 to \$100,000, rather than requiring the HMO to reimburse the actual costs.

The bill clarifies the formula for calculating the minimum surplus requirements applicable for insurers and HMOs.

B. Amendments:

None.

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

By Senator Lee

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1 A bill to be entitled
 2 An act relating to insurer solvency; amending s.
 3 624.407, F.S.; revising the amount of surplus which
 4 must be possessed by insurers applying for an original
 5 certificate of authority; defining the term "health
 6 benefit plan"; amending s. 624.408, F.S.; revising the
 7 amount of surplus which must be possessed by insurers
 8 in order to retain a certificate of authority;
 9 authorizing the Office of Insurance Regulation to
 10 reduce certain surplus requirements under specified
 11 circumstances; defining the term "health benefit
 12 plan"; amending s. 624.4085, F.S.; revising the term
 13 "life and health insurer" to include specified health
 14 maintenance and prepaid limited health service
 15 organizations; amending s. 636.043, F.S.; revising the
 16 due date and required content for the mandatory annual
 17 report of a prepaid limited health service
 18 organization to the office; revising the time periods
 19 to be covered by such organization's required
 20 quarterly reports to the office; amending s. 641.19,
 21 F.S.; defining the term "management services
 22 organization"; amending s. 641.201, F.S.; providing
 23 that a health maintenance organization is considered
 24 an insurer for purposes of specified provisions of law
 25 relating to insolvent insurers, requirements for the
 26 directors of domestic insurers, the payment of
 27 dividends and distributions of other property by
 28 domestic stock insurers, penalties for domestic and
 29 mutual stock insurers that illegally pay dividends,

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30 and certain restrictions on premiums written;
 31 providing that health maintenance organizations are
 32 considered life and health insurers for purposes of
 33 specified provisions of law relating to insurer
 34 surplus requirements; amending s. 641.225, F.S.;
 35 conforming provisions to changes made by the act;
 36 amending s. 641.26, F.S.; revising the due date and
 37 required content for the mandatory annual report and
 38 audited financial statement of a health maintenance
 39 organization which must be submitted to the office;
 40 amending s. 641.27, F.S.; revising the payment
 41 requirements applicable to health maintenance
 42 organizations for the examination expenses incurred by
 43 the office; amending s. 641.35, F.S.; excluding
 44 receivables from a management services organization
 45 from being included in the assets of a health
 46 maintenance organization for purposes of determining
 47 the organization's financial condition; repealing s.
 48 641.365, F.S., relating to the payment of dividends
 49 and distributions of other property by health
 50 maintenance organizations; amending ss. 817.234 and
 51 817.50, F.S.; conforming cross-references; providing a
 52 directive to the Division of Law Revision and
 53 Information; providing effective dates.

54
 55 Be It Enacted by the Legislature of the State of Florida:

56

57 Section 1. Section 624.407, Florida Statutes, is amended to
 58 read:

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59 624.407 Surplus required ~~of, new~~ insurers applying for an
60 original certificate of authority.-

61 (1) To receive authority to transact any one kind or
62 combinations of kinds of insurance, as defined in part V of this
63 chapter, an insurer applying for its original certificate of
64 authority in this state must ~~shall~~ possess surplus as to
65 policyholders in at least the following amount greater of:

66 (a) For a property and casualty insurer, \$5 million or 10
67 percent of the insurer's total liabilities, whichever is
68 greater, except for a domestic insurer that transacts
69 residential property insurance and is:

70 1. Not a wholly owned subsidiary of an insurer domiciled in
71 any other state, which must have a surplus of \$15 million.

72 2. A wholly owned subsidiary of an insurer domiciled in any
73 other state, which must have a surplus of \$50 million. ~~or \$2.5~~
74 ~~million for any other insurer;~~

75 (b) For a life insurer insurers, \$2.5 million or 4 percent
76 of the insurer's total liabilities, whichever is greater.

77 (c) For a life and health insurer that will issue a health
78 benefit plan or a long-term care insurance policy on or after
79 the effective date of this act, the greater of:

80 1. The sum of \$10 million plus the amount of startup
81 losses, excluding profits, projected to be incurred on the
82 insurer's startup projection until the projection reflects
83 statutory net profits for 12 consecutive months; insurers,

84 2. Four 4 percent of the insurer's total liabilities, plus
85 6 percent of the insurer's liabilities relative to health
86 insurance, based on the insurer's startup projection; or

87 3. Two percent of the insurer's total projected premiums

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88 relative to health insurance, based on the insurer's startup
89 projection.

90 (d) For a life and health insurer that is not subject to
91 paragraph (c), the greater of:

92 1. The sum of \$2.5 million; or

93 2. Four percent of the insurer's total liabilities, plus 6
94 percent of the insurer's liabilities relative to health
95 insurance.

96 (e) For all other insurers, the greater of \$2.5 million or
97 other than life insurers and life and health insurers, 10
98 percent of the insurer's total liabilities. ~~or~~

99 ~~(e) Notwithstanding paragraph (a) or paragraph (d), for a~~
100 ~~domestic insurer that transacts residential property insurance~~
101 ~~and is:~~

102 1. Not a wholly owned subsidiary of an insurer domiciled in
103 any other state, \$15 million.

104 2. A wholly owned subsidiary of an insurer domiciled in any
105 other state, \$50 million.

106 (2) Notwithstanding subsection (1), a new insurer may not
107 be required to have surplus as to policyholders greater than
108 \$100 million.

109 (3) The requirements of this section shall be based upon
110 all the kinds of insurance actually transacted or to be
111 transacted by the insurer in any and all areas in which it
112 operates, regardless of whether ~~or not~~ only a portion of such
113 kinds of insurance are transacted in this state.

114 (4) As to surplus as to policyholders required for
115 qualification to transact one or more kinds of insurance,
116 domestic mutual insurers are governed by chapter 628, and

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117 domestic reciprocal insurers are governed by chapter 629.
 118 (5) For the purposes of this section, liabilities do not
 119 include liabilities required under s. 625.041(5). For purposes
 120 of computing minimum surplus as to policyholders pursuant to s.
 121 625.305(1), liabilities include liabilities required under s.
 122 625.041(5).
 123 (6) As used in this section, the term "health benefit plan"
 124 has the same meaning as in s. 627.6699.
 125 Section 2. Section 624.408, Florida Statutes, is amended to
 126 read:
 127 624.408 Surplus required ~~for~~ current insurers to maintain
 128 a certificate of authority.-
 129 (1) To maintain a certificate of authority to transact any
 130 one kind or combinations of kinds of insurance, as defined in
 131 part V of this chapter, an insurer in this state must at all
 132 times maintain surplus as to policyholders in at least the
 133 following amount greater of:
 134 (a) ~~Except as provided in paragraphs (c), (f), and (g),~~
 135 ~~\$1.5 million-~~
 136 ~~(b) For a life insurer insurers, \$1.5 million or 4 percent~~
 137 ~~of the insurer's total liabilities, whichever is greater.~~
 138 (b) For a life and health insurer that is authorized to
 139 issue a health benefit plan or long-term care insurance policy
 140 and that:
 141 1. Did not hold a certificate of authority before the
 142 effective date of this act, \$10 million.
 143 2. Held a certificate of authority before the effective
 144 date of this act, \$1.5 million until June 30, 2017; \$3 million
 145 on or after July 1, 2017, and until June 30, 2021; \$6 million on

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146 or after July 1, 2021, and until June 30, 2025; and \$10 million
 147 on or after July 1, 2025.
 148
 149 The office may reduce the surplus requirement imposed under this
 150 paragraph if the office finds the reduction to be in the public
 151 interest because the insurer is not writing new business in this
 152 state, the insurer is writing business only within a limited
 153 geographic service area, the insurer has premiums in force of
 154 less than \$1 million annually, or the insurer has a policy count
 155 of fewer than 6,000, or because of any other factor relevant to
 156 making such a finding.
 157 (c) For a life and health insurer that is not subject to
 158 paragraph (b) insurers, the greater of:
 159 1. The sum of \$1.5 million; or
 160 2. Four 4 percent of the insurer's total liabilities, plus
 161 6 percent of the insurer's liabilities relative to health
 162 insurance.
 163 (d) ~~For all insurers other than mortgage guaranty insurers,~~
 164 ~~life insurers, and life and health insurers, 10 percent of the~~
 165 ~~insurer's total liabilities-~~
 166 ~~(e) For a property and casualty insurer insurers, \$4~~
 167 ~~million, except for a property and casualty insurer insurers~~
 168 ~~authorized to underwrite any line of residential property~~
 169 ~~insurance.~~
 170 ~~(e)-(f) For a residential property insurer:~~
 171 1. ~~insurers~~ Not holding a certificate of authority before
 172 July 1, 2011, \$15 million.
 173 2. ~~(g) For residential property insurers~~ Holding a
 174 certificate of authority before July 1, 2011, \$5 million and

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 175 until June 30, 2016, ~~\$5 million~~; \$10 million on or after July 1,
 176 2016, and until June 30, 2021, ~~\$10 million~~; and \$15 million on
 177 or after July 1, 2021, ~~\$15 million~~.

178
 179 The office may reduce the surplus requirement under this
 180 paragraph in paragraphs (f) and (g) if the insurer is not
 181 writing new business, has premiums in force of less than \$1
 182 million per year in residential property insurance, or is a
 183 mutual insurance company.

184 (f) For all other insurers, the greater of \$1.5 million or
 185 10 percent of the insurer's total liabilities.

186 (2) For purposes of this section, liabilities do not
 187 include liabilities required under s. 625.041(5). For purposes
 188 of computing minimum surplus as to policyholders pursuant to s.
 189 625.305(1), liabilities include liabilities required under s.
 190 625.041(5).

191 (3) This section does not require an insurer to have
 192 surplus as to policyholders greater than \$100 million.

193 (4) A mortgage guaranty insurer shall maintain a minimum
 194 surplus as required by s. 635.042.

195 (5) As used in this section, the term "health benefit plan"
 196 has the same meaning as in s. 627.6699.

197 Section 3. Effective July 1, 2015, paragraph (g) of
 198 subsection (1) of section 624.4085, Florida Statutes, is amended
 199 to read:

200 624.4085 Risk-based capital requirements for insurers.—

201 (1) As used in this section, the term:

202 (g) "Life and health insurer" means an insurer authorized
 203 or eligible under the Florida Insurance Code to underwrite life

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 204 or health insurance. The term also includes:
 205 1. A property and casualty insurer that writes accident and
 206 health insurance only.

207 2. Effective January 1, 2015, ~~the term also includes~~ a
 208 health maintenance organization that is authorized in this state
 209 and one or more other states, jurisdictions, or countries and a
 210 prepaid limited health service organization that is authorized
 211 in this state and one or more other states, jurisdictions, or
 212 countries.

213 3. A health maintenance organization and a prepaid limited
 214 health service organization initially authorized in this state
 215 on or after July 1, 2015, and not authorized in any other state,
 216 jurisdiction, or country.

217
 218 As used in this paragraph, the term "health maintenance
 219 organization" has the same meaning as in s. 641.19 and the term
 220 "prepaid limited health service organization" has the same
 221 meaning as in s. 636.003.

222 Section 4. Effective July 1, 2015, subsection (1),
 223 paragraph (a) of subsection (2), and subsections (4) and (6) of
 224 section 636.043, Florida Statutes, are amended to read:

225 636.043 Annual, quarterly, and miscellaneous reports.—

226 (1) Each prepaid limited health service organization must
 227 file an annual report with the office on or before March 1 of
 228 each year showing its condition on the last day of the
 229 immediately preceding calendar year. ~~The annually, within 3~~
 230 months after the end of its fiscal year, a report must be
 231 verified by the notarized oath of at least two officers covering
 232 the preceding calendar year. ~~Any organization licensed prior to~~

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233 ~~October 1, 1993, shall not be required to file a financial~~
 234 ~~statement, as required by paragraph (2) (a), based on statutory~~
 235 ~~accounting principles until the first annual report for fiscal~~
 236 ~~years ending after December 31, 1994.~~

237 (2) ~~The~~ Such report must be on forms prescribed by the
 238 commission and must include:

239 (a)1. A ~~statutory~~ financial statement of the organization
 240 prepared in accordance with statutory accounting principles and
 241 filed by electronic means in a computer-readable format
 242 acceptable to the office, including its balance sheet, income
 243 statement, and statement of changes in cash flow for the
 244 preceding year, certified by an independent certified public
 245 accountant, or a consolidated audited financial statement of its
 246 parent company prepared on the basis of statutory accounting
 247 principles, certified by an independent certified public
 248 accountant, attached to which must be consolidating financial
 249 statements of the parent company, including the prepaid limited
 250 health service organization.

251 2. Any entity subject to this chapter may make written
 252 application to the office for approval to file audited financial
 253 statements prepared in accordance with generally accepted
 254 accounting principles in lieu of statutory financial statements.
 255 The office shall approve the application if it finds it to be in
 256 the best interest of the subscribers. An application for
 257 exemption is required each year and must be filed with the
 258 office at least 2 months prior to the end of the fiscal year for
 259 which the exemption is being requested.

260 (4) (a) Each authorized prepaid limited health service
 261 organization must file a quarterly report for each calendar

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262 quarter. The report for the quarter ending March 31 shall be
 263 filed with the office on or before May 15, the report for the
 264 quarter ending June 30 shall be filed on or before August 15,
 265 and the report for the quarter ending September 30 shall be
 266 filed on or before November 15. The quarterly report must be
 267 verified by the notarized oath of two officers of the
 268 organization within 45 days after the end of the quarter. The
 269 report must shall contain:

270 1.~~(a)~~ A financial statement prepared in accordance with
 271 statutory accounting principles. Any entity licensed before
 272 October 1, 1993, is shall not be required to file a financial
 273 statement based on statutory accounting principles until the
 274 first quarterly filing after the entity files its annual
 275 financial statement based on statutory accounting principles as
 276 required by subsection (1).

277 2.~~(b)~~ A listing of providers.

278 3.~~(c)~~ Such other information relating to the performance of
 279 the prepaid limited health service organization as is reasonably
 280 required by the commission or office.

281 (b) On or before June 1, each authorized prepaid limited
 282 health service organization shall annually file with the office
 283 an audited financial statement of the organization for the
 284 preceding year ending December 31. The office may require the
 285 organization to file an audited financial report earlier than
 286 June 1 upon notifying the organization at least 90 days in
 287 advance. The audited financial statement must include:

288 1. A balance sheet, income statement, and statement of
 289 changes in cash flow for the preceding year, all of which must
 290 be certified by an independent certified public accountant; or

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291 2. A consolidated audited financial statement of the
 292 organization's parent company, prepared on the basis of
 293 statutory accounting principles, which must be certified by an
 294 independent certified public accountant and to which are
 295 attached the consolidated financial statements of the parent
 296 company, including those of the prepaid limited health service
 297 organization.

298
 299 Beginning with the financial statement filed for the year ending
 300 December 31, 2015, the audited financial statement or
 301 consolidated audited financial statement required by this
 302 paragraph is subject to commission rules applicable to insurer
 303 audits.

304 (6) Each authorized prepaid limited health service
 305 organization shall retain an independent certified public
 306 accountant, ~~hereinafter referred to as "CPA,"~~ who agrees by
 307 written contract with the prepaid limited health service
 308 organization to comply with ~~the provisions of~~ this act. The
 309 contract must state that:

310 (a) The independent certified public accountant must CPA
 311 ~~will~~ provide to the prepaid limited health service organization
 312 audited statutory financial statements consistent with this act.

313 (b) Any determination by the independent certified public
 314 accountant CPA that the prepaid limited health service
 315 organization does not meet minimum surplus requirements as set
 316 forth in this act ~~must will~~ be stated by the independent
 317 certified public accountant CPA, in writing, in the audited
 318 financial statement.

319 (c) The completed workpapers and any written communications

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320 between the independent certified public accountant CPA and the
 321 prepaid limited health service organization relating to the
 322 audit of the prepaid limited health service organization ~~must~~
 323 ~~will~~ be made available for review on a visual-inspection-only
 324 basis by the office at the offices of the prepaid limited health
 325 service organization, at the office, or at any other reasonable
 326 place as mutually agreed between the office and the prepaid
 327 limited health service organization. The independent certified
 328 public accountant CPA must retain for review the workpapers and
 329 written communications for a period of not less than 6 years.

330 Section 5. Present subsections (14) through (22) of section
 331 641.19, Florida Statutes, are redesignated as subsections (15)
 332 through (23), respectively, and a new subsection (14) is added
 333 to that section, to read:

334 641.19 Definitions.—As used in this part, the term:

335 (14) "Management services organization" means an entity
 336 that provides one or more medical practice management services
 337 to health care providers, including, but not limited to,
 338 administrative, financial, operational, personnel, records
 339 management, educational, compliance, and managed care services.

340 Section 6. Section 641.201, Florida Statutes, is amended to
 341 read:

342 641.201 Applicability of other laws.—

343 (1) Except as provided in this part, health maintenance
 344 organizations ~~are shall be~~ governed by ~~the provisions of~~ this
 345 part and part III of this chapter and ~~are shall be~~ exempt from
 346 all other provisions of the Florida Insurance Code except those
 347 ~~provisions of the Florida Insurance Code~~ that are explicitly
 348 made applicable to health maintenance organizations.

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349 (2) Health maintenance organizations are considered
 350 insurers for purposes of:
 351 (a) Sections 624.4073, 628.231, 628.371, and 628.391.
 352 (b) Section 624.4095, except that:
 353 1. The ratio of actual or projected annual gross written
 354 premiums to current or projected surplus as to policyholders for
 355 a health maintenance organization holding a certificate of
 356 authority before the effective date of this act, may not exceed
 357 30 to 1 on or after July 1, 2017, until June 30, 2021; 20 to 1
 358 on or after July 1, 2021, until June 30, 2025; and 10 to 1 on or
 359 after July 1, 2025.
 360 2. In calculating the premium-to-surplus ratio of a health
 361 maintenance organization pursuant to s. 624.4095(1), actual or
 362 projected risk revenue must be added to actual or projected
 363 written premiums.
 364 (3) Health maintenance organizations are considered life
 365 and health insurers for purposes of ss. 624.407 and 624.408.
 366 Section 7. Subsections (1) and (2) of section 641.225,
 367 Florida Statutes, are amended to read:
 368 641.225 Surplus requirements.—
 369 (1) Each health maintenance organization shall at all times
 370 maintain a minimum surplus as provided in s. 624.408 in an
 371 amount that is the greater of \$1,500,000, or 10 percent of total
 372 liabilities, or 2 percent of total annualized premium.
 373 (2) The office may shall not issue a certificate of
 374 authority, except as provided in subsection (3), unless the
 375 health maintenance organization has at least the a minimum
 376 surplus required in s. 624.407 in an amount which is the greater
 377 of:

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378 ~~(a) Ten percent of their total liabilities based on their~~
 379 ~~startup projection as set forth in this part;~~
 380 ~~(b) Two percent of their total projected premiums based on~~
 381 ~~their startup projection as set forth in this part; or~~
 382 ~~(c) \$1,500,000, plus all startup losses, excluding profits,~~
 383 ~~projected to be incurred on their startup projection until the~~
 384 ~~projection reflects statutory net profits for 12 consecutive~~
 385 ~~months.~~
 386 Section 8. Effective July 1, 2015, subsections (1), (3),
 387 and (5) of section 641.26, Florida Statutes, are amended to
 388 read:
 389 641.26 Annual and quarterly reports.—
 390 (1) Each Every health maintenance organization must file an
 391 annual report with the office on or before March 1 of each year
 392 showing its condition on the last day of the immediately
 393 preceding calendar year. The report must be shall, annually
 394 within 3 months after the end of its fiscal year, or within an
 395 extension of time therefor as the office, for good cause, may
 396 grant, in a form prescribed by the commission, file a report
 397 with the office, verified by the notarized oath of two officers
 398 of the organization or, if not a corporation, of two persons who
 399 are principal managing directors of the affairs of the
 400 organization, on a form prescribed by the commission. For good
 401 cause, the office may grant the organization an extension of
 402 time to file the report. The report must properly notarized,
 403 showing its condition on the last day of the immediately
 404 preceding reporting period. Such report shall include:
 405 (a) A financial statement of the health maintenance
 406 organization filed by electronic means in a computer-readable

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407 form using a format acceptable to the office.

408 (b) A financial statement of the health maintenance
409 organization filed on forms acceptable to the office.

410 ~~(e) An audited financial statement of the health
411 maintenance organization, including its balance sheet and a
412 statement of operations for the preceding year certified by an
413 independent certified public accountant, prepared in accordance
414 with statutory accounting principles.~~

415 ~~(c)(d)~~ The number of health maintenance contracts issued
416 and outstanding and the number of health maintenance contracts
417 terminated.

418 ~~(d)(e)~~ The number and amount of damage claims for medical
419 injury initiated against the health maintenance organization and
420 any of the providers engaged by it during the reporting year,
421 broken down into claims with and without formal legal process,
422 and the disposition, if any, of each such claim.

423 ~~(e)(f)~~ An actuarial certification that:

424 1. The health maintenance organization is actuarially
425 sound, which certification must ~~shall~~ consider the rates,
426 benefits, and expenses of, and any other funds available for the
427 payment of obligations of, the organization.

428 2. The rates being charged or to be charged are actuarially
429 adequate to the end of the period for which rates have been
430 guaranteed.

431 3. Incurred but not reported claims and claims reported but
432 not fully paid have been adequately provided for.

433 4. The health maintenance organization has adequately
434 provided for all obligations required by s. 641.35(3)(a).

435 ~~(g) A report prepared by the certified public accountant~~

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436 and filed with the office describing material weaknesses in the
437 health maintenance organization's internal control structure as
438 noted by the certified public accountant during the audit. The
439 report must be filed with the annual audited financial report as
440 required in paragraph (c). The health maintenance organization
441 shall provide a description of remedial actions taken or
442 proposed to correct material weaknesses, if the actions are not
443 described in the independent certified public accountant's
444 report.

445 ~~(f)(h)~~ Such other information relating to the performance
446 of health maintenance organizations as is required by the
447 commission or office.

448 (3) (a) Each ~~Every~~ health maintenance organization shall
449 file quarterly, for the first three calendar quarters of each
450 year, an unaudited financial statement of the organization as
451 described in paragraphs (1)(a) and (b). The statement for the
452 quarter ending March 31 shall be filed with the office on or
453 before May 15, the statement for the quarter ending June 30
454 shall be filed on or before August 15, and the statement for the
455 quarter ending September 30 shall be filed on or before November
456 15. The quarterly report must ~~shall~~ be verified by the notarized
457 oath of two officers of the organization, ~~properly notarized~~.

458 (b) Each health maintenance organization shall file
459 annually, for the preceding year ending December 31, an audited
460 financial statement of the organization. The statement for the
461 year ending December 31 must be filed with the office on or
462 before the following June 1. The office may require a health
463 maintenance organization to file an audited financial report
464 earlier than June 1 upon notifying the organization at least 90

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465 days in advance. The audited financial statement must include a
 466 balance sheet and statement of operations for the preceding year
 467 certified by an independent certified public accountant and must
 468 be prepared in accordance with statutory accounting principles.
 469 The audited financial statement filed for the year ending
 470 December 31, 2015, is subject to commission rules applicable to
 471 insurer audits.

472 (5) Each authorized health maintenance organization shall
 473 retain an independent certified public accountant, ~~referred to~~
 474 ~~in this section as "CPA,"~~ who agrees by written contract with
 475 the health maintenance organization to comply with ~~the~~
 476 ~~provisions of this part.~~

477 (a) The independent certified public accountant CPA shall
 478 provide to the health maintenance organization HMO audited
 479 financial statements consistent with this part.

480 (b) Any determination by the independent certified public
 481 accountant CPA that the health maintenance organization does not
 482 meet minimum surplus requirements as set forth in this part must
 483 ~~shall~~ be stated by the independent certified public accountant
 484 CPA, in writing, in the audited financial statement.

485 (c) The completed work papers and any written
 486 communications between the independent certified public
 487 accountant CPA firm and the health maintenance organization
 488 relating to the audit of the health maintenance organization
 489 shall be made available for review on a visual-inspection-only
 490 basis by the office at the offices of the health maintenance
 491 organization, at the office, or at any other reasonable place as
 492 mutually agreed between the office and the health maintenance
 493 organization. The independent certified public accountant CPA

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494 must retain for review the work papers and written
 495 communications for a period of not less than 6 years.

496 (d) The independent certified public accountant CPA shall
 497 provide to the office a written report describing material
 498 weaknesses in the health maintenance organization's internal
 499 control structure as noted during the audit. The report must be
 500 filed with the annual audited financial statement required under
 501 paragraph (3) (b). The health maintenance organization must
 502 provide a description of remedial actions taken or proposed to
 503 be taken to correct material weaknesses, if the actions are not
 504 described in the written report provided to the office by the
 505 independent certified public accountant.

506 Section 9. Effective July 1, 2015, section 641.27, Florida
 507 Statutes, is amended to read:

508 641.27 Examination by the office department.-

509 (1) The office shall examine the affairs, transactions,
 510 accounts, business records, and assets of any health maintenance
 511 organization as often as it deems it expedient for the
 512 protection of the people of this state, but not less frequently
 513 than once every 5 years. However, except when the medical
 514 records are requested and copies furnished pursuant to s.
 515 456.057, medical records of individuals and records of
 516 physicians providing service under contract to the health
 517 maintenance organization ~~are shall~~ not be subject to audit,
 518 although they may be subject to subpoena by court order upon a
 519 showing of good cause. For the purpose of examinations, the
 520 office may administer oaths to and examine the officers and
 521 agents of a health maintenance organization concerning its
 522 business and affairs. The examination of each health maintenance

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

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523 organization by the office, including payment of examination
 524 expenses, is ~~shall be~~ subject to the same terms and conditions
 525 as apply to insurers under chapter 624. ~~In no event shall~~
 526 ~~expenses of all examinations exceed a maximum of \$50,000 for any~~
 527 ~~1-year period.~~ Any rehabilitation, liquidation, conservation, or
 528 dissolution of a health maintenance organization shall be
 529 conducted under the supervision of the department, which shall
 530 have all power with respect thereto granted to it under the laws
 531 governing the rehabilitation, liquidation, reorganization,
 532 conservation, or dissolution of life insurance companies.

533 (2) The office may contract, at reasonable fees for work
 534 performed, with qualified, impartial outside sources to perform
 535 audits or examinations or portions thereof pertaining to the
 536 qualification of an entity for issuance of a certificate of
 537 authority or to determine continued compliance with the
 538 requirements of this part, in which case the payment must be
 539 made directly to the contracted examiner by the health
 540 maintenance organization examined, in accordance with the rates
 541 and terms agreed to by the office and the examiner. Any
 542 contracted assistance shall be under the direct supervision of
 543 the office. The results of any contracted assistance are ~~shall~~
 544 ~~be~~ subject to the review of, and approval, disapproval, or
 545 modification by, the office.

546 Section 10. Paragraph (j) is added to subsection (2) of
 547 section 641.35, Florida Statutes, to read:

548 641.35 Assets, liabilities, and investments.—

549 (2) ASSETS NOT ALLOWED.—In addition to assets impliedly
 550 excluded by the provisions of subsection (1), the following
 551 assets are ~~expressly shall not be~~ allowed as assets in any

24-00614C-15 20151190__

552 determination of the financial condition of a health maintenance
 553 organization:

554 (j) Beginning on or after January 1, 2016, any receivables
 555 from a management services organization pursuant to contract
 556 with the health maintenance organization.

557 Section 11. Section 641.365, Florida Statutes, is repealed.

558 Section 12. Paragraph (b) of subsection (2) of section
 559 817.234, Florida Statutes, is amended to read:

560 817.234 False and fraudulent insurance claims.—

561 (2)

562 (b) In addition to any other provision of law, systematic
 563 upcoding by a provider, as defined in s. 641.19(14), with the
 564 intent to obtain reimbursement otherwise not due from an insurer
 565 is punishable as provided in s. 641.52(5).

566 Section 13. Subsection (1) of section 817.50, Florida
 567 Statutes, is amended to read:

568 817.50 Fraudulently obtaining goods, services, etc., from a
 569 health care provider.—

570 (1) Whoever shall, willfully and with intent to defraud,
 571 obtain or attempt to obtain goods, products, merchandise, or
 572 services from any health care provider in this state, as defined
 573 in s. 641.19(14), commits a misdemeanor of the second degree,
 574 punishable as provided in s. 775.082 or s. 775.083.

575 Section 14. The Division of Law Revision and Information is
 576 directed to replace the phrase "the effective date of this act"
 577 where it occurs in this act with the date the act becomes a law.

578 Section 15. Except as otherwise provided, this act shall
 579 take effect upon becoming a law.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations, *Chair*
Appropriations Subcommittee on General
Government
Banking and Insurance
Rules

JOINT COMMITTEE:
Joint Legislative Budget Commission,
Alternating Chair

SENATOR TOM LEE
24th District

March 3, 2015

The Honorable Lizbeth Benacquisto
Senate Committee on Banking and Insurance, Chair
326 Senate Office Building
404 South Monroe St.
Tallahassee, FL 32399

Dear Chair Benacquisto,

I respectfully request that SB 1190 related to *Insurer Solvency*, be placed on the Senate Committee on Banking and Insurance agenda at your earliest convenience.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Tom Lee".

Tom Lee
Senator, District 24

Cc: James Knudson, Staff Director

REPLY TO:

- 915 Oakfield Drive, Suite D, Brandon, Florida 33511 (813) 653-7061
- 418 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5024

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

W

3/17/2015
Meeting Date

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

1190
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name STEVE BURGESS

Job Title INSURANCE CONSUMER ADVOCATE

Address 101 W MADISON ST.

Phone 413-5923

TAM FL
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.

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

THE FLORIDA SENATE

APPEARANCE RECORD

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Waive

3/17/2015
Meeting Date

SB1190
Bill Number (if applicable)

Topic HMO Solvency

Amendment Barcode (if applicable)

Name Mark Delegal

Job Title General Counsel

Address 315 S. Calhoun #600

Phone 850-224-7000

Street

Tallahassee

City

FL

State

32301

Zip

Email _____

Speaking: For Against Information

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

Representing Safety Net Hospital Alliance

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

Waive

3/17/15

Meeting Date

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SB 1190

Bill Number (if applicable)

Topic Insurer Solvency

Amendment Barcode (if applicable)

Name Holly Miller

Job Title Gov Affairs Counsel

Address 1430 Piedmont Dr E

Phone 850 567 0018

Street

City

Tallahassee FL

State

32308

Zip

Email hmillar@flinsur.com

Speaking: For Against Information

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

Representing FMA

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

last
speaker
1190

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3-17

Meeting Date

Bill Number (if applicable)

Topic HMO SOLVENCY

Amendment Barcode (if applicable)

Name MONTY STEVENS

Job Title DEPUTY CHIEF OF STAFF

Address 200 E. GAMES ST.
Street

Phone 413-5005

TALLAHASSEE
City State Zip

Email Monty.Stevens@Fla.senate.gov

Speaking: For Against Information

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

Representing OIR

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.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/17/2015	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Between lines 424 and 425

insert:

Section 1. Section 16.59, Florida Statutes, is amended to read:

16.59 Medicaid fraud control.—The Medicaid Fraud Control Unit is created in the Department of Legal Affairs to investigate all violations of s. 409.920 and any criminal violations discovered during the course of those investigations.



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11 The Medicaid Fraud Control Unit may refer any criminal violation
12 so uncovered to the appropriate prosecuting authority. The
13 offices of the Medicaid Fraud Control Unit, the Agency for
14 Health Care Administration Medicaid program integrity program,
15 and the Divisions of Criminal Investigations ~~Insurance Fraud~~ and
16 Public Assistance Fraud within the Department of Financial
17 Services shall, to the extent possible, be collocated; however,
18 positions dedicated to Medicaid managed care fraud within the
19 Medicaid Fraud Control Unit shall be collocated with the
20 Division of Criminal Investigations ~~Insurance Fraud~~. The Agency
21 for Health Care Administration, the Department of Legal Affairs,
22 and the Divisions of Criminal Investigations ~~Insurance Fraud~~ and
23 Public Assistance Fraud within the Department of Financial
24 Services shall conduct joint training and other joint activities
25 designed to increase communication and coordination in
26 recovering overpayments.

27 Section 2. Subsection (9) of section 400.9935, Florida
28 Statutes, is amended to read:

29 400.9935 Clinic responsibilities.—

30 (9) In addition to the requirements of part II of chapter
31 408, the clinic shall display a sign in a conspicuous location
32 within the clinic readily visible to all patients indicating
33 that, pursuant to s. 626.9892, the Department of Financial
34 Services may pay rewards of up to \$25,000 to persons providing
35 information leading to the arrest and conviction of persons
36 committing crimes investigated by the Division of Criminal
37 Investigations ~~Insurance Fraud~~ arising from violations of s.
38 440.105, s. 624.15, s. 626.9541, s. 626.989, or s. 817.234. An
39 authorized employee of the Division of Criminal Investigations



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40 ~~Insurance Fraud~~ may make unannounced inspections of a clinic
41 licensed under this part as necessary to determine whether the
42 clinic is in compliance with this subsection. A licensed clinic
43 shall allow full and complete access to the premises to such
44 authorized employee of the division who makes an inspection to
45 determine compliance with this subsection.

46 Section 3. Subsection (6) of section 409.91212, Florida
47 Statutes, is amended to read:

48 409.91212 Medicaid managed care fraud.—

49 (6) Each managed care plan shall report all suspected or
50 confirmed instances of provider or recipient fraud or abuse
51 within 15 calendar days after detection to the Office of
52 Medicaid Program Integrity within the agency. At a minimum the
53 report must contain the name of the provider or recipient, the
54 Medicaid billing number or tax identification number, and a
55 description of the fraudulent or abusive act. The Office of
56 Medicaid Program Integrity in the agency shall forward the
57 report of suspected overpayment, abuse, or fraud to the
58 appropriate investigative unit, including, but not limited to,
59 the Bureau of Medicaid program integrity, the Medicaid fraud
60 control unit, the Division of Public Assistance Fraud, the
61 Division of Criminal Investigations ~~Insurance Fraud~~, or the
62 Department of Law Enforcement.

63 (a) Failure to timely report shall result in an
64 administrative fine of \$1,000 per calendar day after the 15th
65 day of detection.

66 (b) Failure to timely report may result in additional
67 administrative, civil, or criminal penalties.

68 Section 4. Paragraph (a) of subsection (1) of section



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69 440.105, Florida Statutes, is amended to read:

70 440.105 Prohibited activities; reports; penalties;
71 limitations.—

72 (1)(a) Any insurance carrier, any individual self-insured,
73 any commercial or group self-insurance fund, any professional
74 practitioner licensed or regulated by the Department of Health,
75 except as otherwise provided by law, any medical review
76 committee as defined in s. 766.101, any private medical review
77 committee, and any insurer, agent, or other person licensed
78 under the insurance code, or any employee thereof, having
79 knowledge or who believes that a fraudulent act or any other act
80 or practice which, upon conviction, constitutes a felony or
81 misdemeanor under this chapter is being or has been committed
82 shall send to the Division of Criminal Investigations Insurance
83 ~~Fraud~~, Bureau of Workers' Compensation Fraud, a report or
84 information pertinent to such knowledge or belief and such
85 additional information relative thereto as the bureau may
86 require. The bureau shall review such information or reports and
87 select such information or reports as, in its judgment, may
88 require further investigation. It shall then cause an
89 independent examination of the facts surrounding such
90 information or report to be made to determine the extent, if
91 any, to which a fraudulent act or any other act or practice
92 which, upon conviction, constitutes a felony or a misdemeanor
93 under this chapter is being committed. The bureau shall report
94 any alleged violations of law which its investigations disclose
95 to the appropriate licensing agency and state attorney or other
96 prosecuting agency having jurisdiction with respect to any such
97 violations of this chapter. If prosecution by the state attorney



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98 or other prosecuting agency having jurisdiction with respect to
99 such violation is not begun within 60 days of the bureau's
100 report, the state attorney or other prosecuting agency having
101 jurisdiction with respect to such violation shall inform the
102 bureau of the reasons for the lack of prosecution.

103 Section 5. Subsections (1) and (2) of section 440.1051,
104 Florida Statutes, are amended to read

105 440.1051 Fraud reports; civil immunity; criminal
106 penalties.—

107 (1) The Bureau of Workers' Compensation Insurance Fraud of
108 the Division of Criminal Investigations ~~Insurance Fraud~~ of the
109 department shall establish a toll-free telephone number to
110 receive reports of workers' compensation fraud committed by an
111 employee, employer, insurance provider, physician, attorney, or
112 other person.

113 (2) Any person who reports workers' compensation fraud to
114 the Division of Criminal Investigations ~~Insurance Fraud~~ under
115 subsection (1) is immune from civil liability for doing so, and
116 the person or entity alleged to have committed the fraud may not
117 retaliate against him or her for providing such report, unless
118 the person making the report knows it to be false.

119 Section 6. Paragraph (c) of subsection (1) of section
120 440.12, Florida Statutes, is amended to read:

121 440.12 Time for commencement and limits on weekly rate of
122 compensation.—

123 (1) Compensation is not allowed for the first 7 days of
124 the disability, except for benefits provided under s. 440.13.
125 However, if the injury results in more than 21 days of
126 disability, compensation is allowed from the commencement of the



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127 disability.

128 (c) Each carrier shall keep a record of all payments made
129 under this subsection, including the time and manner of such
130 payments, and shall furnish these records or a report based on
131 these records to the Division of Criminal Investigations
132 ~~Insurance Fraud~~ and the Division of Workers' Compensation, upon
133 request.

134 Section 7. Subsection (1) of section 624.521, Florida
135 Statutes, is amended to read:

136 624.521 Deposit of certain tax receipts; refund of improper
137 payments.—

138 (1) The department ~~of Financial Services~~ shall promptly
139 deposit in the State Treasury to the credit of the Insurance
140 Regulatory Trust Fund all "state tax" portions of agents'
141 licenses collected under s. 624.501 necessary to fund the
142 Division of Criminal Investigations ~~Insurance Fraud~~. The balance
143 of the tax shall be credited to the General Fund. All moneys
144 received by the department ~~of Financial Services~~ or the office
145 not in accordance with the provisions of this code or not in the
146 exact amount as specified by the applicable provisions of this
147 code shall be returned to the remitter. The records of the
148 department or office shall show the date and reason for such
149 return.

150 Section 8. Subsection (4) of section 626.016, Florida
151 Statutes, is amended to read:

152 626.016 Powers and duties of department, commission, and
153 office.—

154 (4) Nothing in this section is intended to limit the
155 authority of the department and the Division of Criminal



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156 Investigations Insurance Fraud, as specified in s. 626.989.

157 Section 9. Subsections (2) and (6) of section 626.989,
158 Florida Statutes, are amended to read:

159 626.989 Investigation by department or Division of Criminal
160 Investigations Insurance Fraud; compliance; immunity;
161 confidential information; reports to division; division
162 investigator's power of arrest.-

163 (2) If, by its own inquiries or as a result of complaints,
164 the department or its Division of Criminal Investigations
165 Insurance Fraud has reason to believe that a person has engaged
166 in, or is engaging in, a fraudulent insurance act, an act or
167 practice that violates s. 626.9541 or s. 817.234, or an act or
168 practice punishable under s. 624.15, it may administer oaths and
169 affirmations, request the attendance of witnesses or proffering
170 of matter, and collect evidence. The department shall not compel
171 the attendance of any person or matter in any such investigation
172 except pursuant to subsection (4).

173 (6) Any person, other than an insurer, agent, or other
174 person licensed under the code, or an employee thereof, having
175 knowledge or who believes that a fraudulent insurance act or any
176 other act or practice which, upon conviction, constitutes a
177 felony or a misdemeanor under the code, or under s. 817.234, is
178 being or has been committed may send to the Division of Criminal
179 Investigations Insurance Fraud a report or information pertinent
180 to such knowledge or belief and such additional information
181 relative thereto as the department may request. Any professional
182 practitioner licensed or regulated by the Department of Business
183 and Professional Regulation, except as otherwise provided by
184 law, any medical review committee as defined in s. 766.101, any



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185 private medical review committee, and any insurer, agent, or
186 other person licensed under the code, or an employee thereof,
187 having knowledge or who believes that a fraudulent insurance act
188 or any other act or practice which, upon conviction, constitutes
189 a felony or a misdemeanor under the code, or under s. 817.234,
190 is being or has been committed shall send to the Division of
191 Criminal Investigations ~~Insurance Fraud~~ a report or information
192 pertinent to such knowledge or belief and such additional
193 information relative thereto as the department may require. The
194 Division of Criminal Investigations ~~Insurance Fraud~~ shall review
195 such information or reports and select such information or
196 reports as, in its judgment, may require further investigation.
197 It shall then cause an independent examination of the facts
198 surrounding such information or report to be made to determine
199 the extent, if any, to which a fraudulent insurance act or any
200 other act or practice which, upon conviction, constitutes a
201 felony or a misdemeanor under the code, or under s. 817.234, is
202 being committed. The Division of Criminal Investigations
203 ~~Insurance Fraud~~ shall report any alleged violations of law which
204 its investigations disclose to the appropriate licensing agency
205 and state attorney or other prosecuting agency having
206 jurisdiction with respect to any such violation, as provided in
207 s. 624.310. If prosecution by the state attorney or other
208 prosecuting agency having jurisdiction with respect to such
209 violation is not begun within 60 days of the division's report,
210 the state attorney or other prosecuting agency having
211 jurisdiction with respect to such violation shall inform the
212 division of the reasons for the lack of prosecution.

213 Section 10. Subsections (1), (2), and (3) of section



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214 626.9891, Florida Statutes, are amended to read:

215 626.9891 Insurer anti-fraud investigative units; reporting
216 requirements; penalties for noncompliance.—

217 (1) Each ~~Every~~ insurer admitted to do business in this
218 state who in the previous calendar year, at any time during that
219 year, had \$10 million or more in direct premiums written shall:

220 (a) Establish and maintain a unit or division within the
221 company to investigate possible fraudulent claims by insureds or
222 by persons making claims for services or repairs against
223 policies held by insureds; or

224 (b) Contract with others to investigate possible fraudulent
225 claims for services or repairs against policies held by
226 insureds.

227
228 An insurer subject to this subsection shall file with the
229 Division of Criminal Investigations ~~Insurance Fraud~~ of the
230 department on or before July 1, 1996, a detailed description of
231 the unit or division established pursuant to paragraph (a) or a
232 copy of the contract and related documents required by paragraph
233 (b).

234 (2) Every insurer admitted to do business in this state,
235 which in the previous calendar year had less than \$10 million in
236 direct premiums written, must adopt an anti-fraud plan and file
237 it with the Division of Criminal Investigations ~~Insurance Fraud~~
238 of the department on or before July 1, 1996. An insurer may, in
239 lieu of adopting and filing an anti-fraud plan, comply with ~~the~~
240 ~~provisions of~~ subsection (1).

241 (3) Each insurer's ~~insurers~~ anti-fraud plan must ~~plans~~
242 ~~shall~~ include all of the following:



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243 (a) A description of the insurer's procedures for detecting
244 and investigating possible fraudulent insurance acts.~~†~~

245 (b) A description of the insurer's procedures for the
246 mandatory reporting of possible fraudulent insurance acts to the
247 Division of Criminal Investigations ~~Insurance Fraud~~ of the
248 department.~~†~~

249 (c) A description of the insurer's plan for anti-fraud
250 education and training of its claims adjusters or other
251 personnel.~~†; and~~

252 (d) A written description or chart outlining the
253 organizational arrangement of the insurer's anti-fraud personnel
254 who are responsible for the investigation and reporting of
255 possible fraudulent insurance acts.

256 Section 11. Subsection (2) of section 626.9892, Florida
257 Statutes, is amended to read:

258 626.9892 Anti-Fraud Reward Program; reporting of insurance
259 fraud.—

260 (2) The department may pay rewards of up to \$25,000 to
261 persons providing information leading to the arrest and
262 conviction of persons committing crimes investigated by the
263 Division of Criminal Investigations ~~Insurance Fraud~~ arising from
264 violations of s. 440.105, s. 624.15, s. 626.9541, s. 626.989, or
265 s. 817.234.

266 Section 12. Subsection (1) of section 626.9893, Florida
267 Statutes, is amended to read:

268 626.9893 Disposition of revenues; criminal or forfeiture
269 proceedings.—

270 (1) The Division of Criminal Investigations ~~Insurance Fraud~~
271 of the Department of Financial Services may deposit revenues



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272 received as a result of criminal proceedings or forfeiture
273 proceedings, other than revenues deposited into the Department
274 of Financial Services' Federal Law Enforcement Trust Fund under
275 s. 17.43, into the Insurance Regulatory Trust Fund. Moneys
276 deposited pursuant to this section shall be separately accounted
277 for and shall be used solely for the division to carry out its
278 duties and responsibilities.

279 Section 13. Subsection (2) of section 626.9894, Florida
280 Statutes, is amended to read:

281 626.9894 Gifts and grants.—

282 (2) All rights to, interest in, and title to such donated
283 or granted property shall immediately vest in the Division of
284 Criminal Investigations ~~Insurance Fraud~~ upon donation. The
285 division may hold such property in coownership, sell its
286 interest in the property, liquidate its interest in the
287 property, or dispose of its interest in the property in any
288 other reasonable manner.

289 Section 14. Paragraph (a) of subsection (1) of section
290 626.9895, Florida Statutes, is amended to read:

291 626.9895 Motor vehicle insurance fraud direct-support
292 organization.—

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

294 (a) "Division" means the Division of Criminal
295 Investigations ~~Insurance Fraud~~ of the Department of Financial
296 Services.

297 Section 15. Section 626.99278, Florida Statutes, is amended
298 to read:

299 626.99278 Viatical provider anti-fraud plan.—Every licensed
300 viatical settlement provider and registered life expectancy



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301 provider must adopt an anti-fraud plan and file it with the
302 Division of Criminal Investigations ~~Insurance Fraud~~ of the
303 department. Each anti-fraud plan shall include:

304 (1) A description of the procedures for detecting and
305 investigating possible fraudulent acts and procedures for
306 resolving material inconsistencies between medical records and
307 insurance applications.

308 (2) A description of the procedures for the mandatory
309 reporting of possible fraudulent insurance acts and prohibited
310 practices set forth in s. 626.99275 to the Division of Criminal
311 Investigations ~~Insurance Fraud~~ of the department.

312 (3) A description of the plan for anti-fraud education and
313 training of its underwriters or other personnel.

314 (4) A written description or chart outlining the
315 organizational arrangement of the anti-fraud personnel who are
316 responsible for the investigation and reporting of possible
317 fraudulent insurance acts and for the investigation of
318 unresolved material inconsistencies between medical records and
319 insurance applications.

320 (5) For viatical settlement providers, a description of the
321 procedures used to perform initial and continuing review of the
322 accuracy of life expectancies used in connection with a viatical
323 settlement contract or viatical settlement investment.

324 Section 16. Paragraph (k) of subsection (6) of section
325 627.351, Florida Statutes, is amended to read:

326 627.351 Insurance risk apportionment plans.—

327 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

328 (k)1. The corporation shall establish and maintain a unit
329 or division to investigate possible fraudulent claims by



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330 insureds or by persons making claims for services or repairs
331 against policies held by insureds; or it may contract with
332 others to investigate possible fraudulent claims for services or
333 repairs against policies held by the corporation pursuant to s.
334 626.9891. The corporation must comply with reporting
335 requirements of s. 626.9891. An employee of the corporation
336 shall notify the corporation's Office of the Inspector General
337 and the Division of Criminal Investigations ~~Insurance Fraud~~
338 within 48 hours after having information that would lead a
339 reasonable person to suspect that fraud may have been committed
340 by any employee of the corporation.

341 2. The corporation shall establish a unit or division
342 responsible for receiving and responding to consumer complaints,
343 which unit or division is the sole responsibility of a senior
344 manager of the corporation.

345 Section 17. Subsections (4) and (7) of section 627.711,
346 Florida Statutes, are amended to read:

347 627.711 Notice of premium discounts for hurricane loss
348 mitigation; uniform mitigation verification inspection form.—

349 (4) An authorized mitigation inspector that signs a uniform
350 mitigation form, and a direct employee authorized to conduct
351 mitigation verification inspections under subsection ~~paragraph~~
352 (3), may not commit misconduct in performing hurricane
353 mitigation inspections or in completing a uniform mitigation
354 form that causes financial harm to a customer or their insurer;
355 or that jeopardizes a customer's health and safety. Misconduct
356 occurs when an authorized mitigation inspector signs a uniform
357 mitigation verification form that:

358 (a) Falsely indicates that he or she personally inspected



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359 the structures referenced by the form;

360 (b) Falsely indicates the existence of a feature which
361 entitles an insured to a mitigation discount which the inspector
362 knows does not exist or did not personally inspect;

363 (c) Contains erroneous information due to the gross
364 negligence of the inspector; or

365 (d) Contains a pattern of demonstrably false information
366 regarding the existence of mitigation features that could give
367 an insured a false evaluation of the ability of the structure to
368 withstand major damage from a hurricane endangering the safety
369 of the insured's life and property.

370 (7) An insurer, person, or other entity that obtains
371 evidence of fraud or evidence that an authorized mitigation
372 inspector or an employee authorized to conduct mitigation
373 verification inspections under subsection ~~paragraph~~ (3) has made
374 false statements in the completion of a mitigation inspection
375 form shall file a report with the Division of Criminal
376 Investigations Insurance-Fraud, along with all of the evidence
377 in its possession that supports the allegation of fraud or
378 falsity. An insurer, person, or other entity making the report
379 shall be immune from liability, in accordance with s.
380 626.989(4), for any statements made in the report, during the
381 investigation, or in connection with the report. The Division of
382 Criminal Investigations Insurance-Fraud shall issue an
383 investigative report if it finds that probable cause exists to
384 believe that the authorized mitigation inspector, or an employee
385 authorized to conduct mitigation verification inspections under
386 subsection ~~paragraph~~ (3), made intentionally false or fraudulent
387 statements in the inspection form. Upon conclusion of the



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388 investigation and a finding of probable cause that a violation
389 has occurred, the Division of Criminal Investigations Insurance
390 ~~Fraud~~ shall send a copy of the investigative report to the
391 office and a copy to the agency responsible for the professional
392 licensure of the authorized mitigation inspector, whether or not
393 a prosecutor takes action based upon the report.

394 Section 18. Paragraph (i) of subsection (4) and subsection
395 (14) of section 627.736, Florida Statutes, are amended to read:

396 627.736 Required personal injury protection benefits;
397 exclusions; priority; claims.—

398 (4) PAYMENT OF BENEFITS.—Benefits due from an insurer under
399 ss. 627.730-627.7405 are primary, except that benefits received
400 under any workers' compensation law must be credited against the
401 benefits provided by subsection (1) and are due and payable as
402 loss accrues upon receipt of reasonable proof of such loss and
403 the amount of expenses and loss incurred which are covered by
404 the policy issued under ss. 627.730-627.7405. If the Agency for
405 Health Care Administration provides, pays, or becomes liable for
406 medical assistance under the Medicaid program related to injury,
407 sickness, disease, or death arising out of the ownership,
408 maintenance, or use of a motor vehicle, the benefits under ss.
409 627.730-627.7405 are subject to the Medicaid program. However,
410 within 30 days after receiving notice that the Medicaid program
411 paid such benefits, the insurer shall repay the full amount of
412 the benefits to the Medicaid program.

413 (i) If an insurer has a reasonable belief that a fraudulent
414 insurance act, for the purposes of s. 626.989 or s. 817.234, has
415 been committed, the insurer shall notify the claimant, in
416 writing, within 30 days after submission of the claim that the



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417 claim is being investigated for suspected fraud. Beginning at
418 the end of the initial 30-day period, the insurer has an
419 additional 60 days to conduct its fraud investigation.
420 Notwithstanding subsection (10), no later than 90 days after the
421 submission of the claim, the insurer must deny the claim or pay
422 the claim with simple interest as provided in paragraph (d).
423 Interest shall be assessed from the day the claim was submitted
424 until the day the claim is paid. All claims denied for suspected
425 fraudulent insurance acts shall be reported to the Division of
426 Criminal Investigations ~~Insurance Fraud~~.

427 (14) FRAUD ADVISORY NOTICE.—Upon receiving notice of a
428 claim under this section, an insurer shall provide a notice to
429 the insured or to a person for whom a claim for reimbursement
430 for diagnosis or treatment of injuries has been filed, advising
431 that:

432 (a) Pursuant to s. 626.9892, the Department of Financial
433 Services may pay rewards of up to \$25,000 to persons providing
434 information leading to the arrest and conviction of persons
435 committing crimes investigated by the Division of Criminal
436 Investigations ~~Insurance Fraud~~ arising from violations of s.
437 440.105, s. 624.15, s. 626.9541, s. 626.989, or s. 817.234.

438 (b) Solicitation of a person injured in a motor vehicle
439 crash for purposes of filing personal injury protection or tort
440 claims could be a violation of s. 817.234, s. 817.505, or the
441 rules regulating The Florida Bar and should be immediately
442 reported to the Division of Criminal Investigations ~~Insurance~~
443 ~~Fraud~~ if such conduct has taken place.

444 Section 19. Paragraphs (b) and (c) of subsection (1) of
445 section 627.7401, Florida Statutes, are amended to read:



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446 627.7401 Notification of insured's rights.-

447 (1) The commission, by rule, shall adopt a form for the
448 notification of insureds of their right to receive personal
449 injury protection benefits under the Florida Motor Vehicle No-
450 Fault Law. Such notice shall include:

451 (b) An advisory informing insureds that:

452 1. Pursuant to s. 626.9892, the Department of Financial
453 Services may pay rewards of up to \$25,000 to persons providing
454 information leading to the arrest and conviction of persons
455 committing crimes investigated by the Division of Criminal
456 Investigations Insurance Fraud arising from violations of s.
457 440.105, s. 624.15, s. 626.9541, s. 626.989, or s. 817.234.

458 2. Pursuant to s. 627.736(5)(e)1., if the insured notifies
459 the insurer of a billing error, the insured may be entitled to a
460 certain percentage of a reduction in the amount paid by the
461 insured's motor vehicle insurer.

462 (c) A notice that solicitation of a person injured in a
463 motor vehicle crash for purposes of filing personal injury
464 protection or tort claims could be a violation of s. 817.234, s.
465 817.505, or the rules regulating The Florida Bar and should be
466 immediately reported to the Division of Criminal Investigations
467 Insurance Fraud if such conduct has taken place.

468 Section 20. Subsection (2) of section 631.156, Florida
469 Statutes, is amended to read:

470 631.156 Investigation by the department; scope of
471 authority; sharing of materials.-

472 (2) The department may provide documents, books, and
473 records; other investigative products, work product, and
474 analysis; and copies of any or all of such materials to the



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475 Division of Criminal Investigations ~~Insurance Fraud~~ or any other
476 appropriate government agency. The sharing of these materials
477 shall not waive any work product or other privilege otherwise
478 applicable under law.

479 Section 21. Subsection (4) of section 641.30, Florida
480 Statutes, is amended to read:

481 641.30 Construction and relationship to other laws.—

482 (4) The Division of Criminal Investigations ~~Insurance Fraud~~
483 of the department is vested with all powers granted to it under
484 the Florida Insurance Code with respect to the investigation of
485 any violation of this part.

486 Section 22. Paragraph (1) of subsection (6) of section
487 932.7055, Florida Statutes, is amended to read:

488 932.7055 Disposition of liens and forfeited property.—

489 (6) If the seizing agency is a state agency, all remaining
490 proceeds shall be deposited into the General Revenue Fund.
491 However, if the seizing agency is:

492 (1) The Division of Criminal Investigations ~~Insurance Fraud~~
493 of the Department of Financial Services, the proceeds accrued
494 pursuant to the provisions of the Florida Contraband Forfeiture
495 Act shall be deposited into the Insurance Regulatory Trust Fund
496 as provided in s. 626.9893 or into the Department of Financial
497 Services' Federal Law Enforcement Trust Fund as provided in s.
498 17.43, as applicable.

499
500 ===== T I T L E A M E N D M E N T =====

501 And the title is amended as follows:

502 Delete line 28

503 and insert:



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504 the Administrative Trust Fund; amending ss. 16.59, 400.9935,
505 409.91212, 440.105, 440.1051, 440.12, 624.521, 626.016, 626.989,
506 626.9891, 626.9892, 626.9893, 626.9894, 626.9895, 626.99278,
507 627.351, 627.711, 627.736, 627.7401, 631.156, 641.30, and
508 932.7055, F.S.; conforming provisions to changes made by act;
509 making technical changes; providing an effective

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 1402

INTRODUCER: Banking and Insurance Committee and Senator Lee

SUBJECT: Organization of the Department of Financial Services

DATE: March 17, 2015

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 - Technical Changes

I. Summary:

CS/SB 1402 changes the organization of the Department of Financial Services (“DFS”). The bill gives the Chief Financial Officer (“CFO”) the authority to establish any division, bureau, or office of the department as the CFO deems necessary to promote the effective and efficient operation of the DFS. The bill does not change the review and approval process of the Department of Management Services and the Executive Office of the Governor.

The bill repeals the statutory requirement to establish the following divisions, offices, and bureaus:

- The Division of Administration;
- The Division of Legal Services;
- The Division of Information Systems;
- The Bureau of Unclaimed Property;
- The Office of Fiscal Integrity.

The DFS will continue to perform the functions but the CFO will have the authority to determine the organizational placement of those functions within the DFS.

The Division of Insurance Fraud is renamed the Division of Criminal Investigations. The Strategic Markets Research and Assessment Unit, which is currently not active nor funded, is repealed.

The bill provides that all auditing and accounting positions in the DFS are exempt from the career services provisions of law.

The \$15 service of process fee paid to the DFS will be deposited in the Administrative Trust Fund rather than the Insurance Regulatory Trust Fund.

The bill removes the requirement that the Florida Clerks of Court Operations Corporation (“FCCOC”) contract with the DFS to audit the court-related expenditures of individual clerks. The requirement that \$1 from various circuit court filing fees be deposited in the Administrative Trust Fund is eliminated. The bill directs that fifty cents from a \$4 service charge imposed in certain probate cases will fund education provided to the clerks of court by the FCCOC.

II. Present Situation:

The CFO is a member of the Cabinet¹ and serves as the chief fiscal officer of the state. The CFO is agency head of the DFS.² The DFS is organized in fourteen divisions and some specialized offices. The divisions are:

- The Division of Accounting and Auditing, which includes the Bureau of Unclaimed Property and the Office of Fiscal Integrity.
- The Division of State Fire Marshal.
- The Division of Risk Management.
- The Division of Treasury.
- The Division of Insurance Fraud.
- The Division of Rehabilitation and Liquidation.
- The Division of Insurance Agent and Agency Services.
- The Division of Consumer Services.
- The Division of Workers’ Compensation.
- The Division of Administration.
- The Division of Legal Services.
- The Division of Information Systems.
- The Division of Funeral, Cemetery, and Consumer Services.
- The Division of Public Assistance Fraud.³

Section 20.04, F.S., provides for the establishment of divisions, bureaus, sections, or subsections within a state department. A department head may recommend the establishment of additional divisions, bureaus, sections, and subsections to promote efficient and effective operation of the department.⁴ The Department of Management Services and the Executive Office of the Governor review and approve reorganization requests.⁵

¹ See Art. IV, s. 4, Fla. Const.

² See s. 20.121(1), F.S.

³ See s. 20.121(2), F.S.

⁴ See s. 20.04(7)(b), F.S.

⁵ See s. 20.04(7)(c), F.S.

Bureau of Unclaimed Property

Chapter 717, Florida Statutes, governs the disposition of unclaimed property and requires the DFS to administer the statute. Currently, the DFS holds unclaimed property accounts valued at more than \$1 billion from dormant accounts in financial institutions, insurance and utility companies, securities, trust holdings, and unclaimed safe deposit boxes. The Bureau of Unclaimed Property within the DFS is the division responsible for administering ch. 717, F.S.⁶

The Office of Fiscal Integrity

The Office of Fiscal Integrity is a criminal justice agency within the DFS whose mission is to detect and investigate the misappropriation or misuse of state assets. The office performs functions related to the duty of the CFO to examine, audit, adjust, and settle the accounts of all state officers and any other person who has received state funds or moneys.⁷ The Office of Fiscal Integrity has sworn law enforcement officers on staff to conduct investigations or provide investigative assistance to other law enforcement agencies.⁸

Division of Insurance Fraud

The Division of Insurance Fraud investigates various types of insurance fraud including PIP fraud, workers' compensation fraud, vehicle fraud, application fraud, licensee fraud, homeowner's fraud, and healthcare fraud.⁹ The Division is directed by statute to investigate fraudulent insurance acts, violations of the Unfair Insurance Trade Practices Act,¹⁰ false and fraudulent insurance claims,¹¹ and willful violations of the Florida Insurance Code and rules adopted pursuant to the code.¹² The Division employs sworn law enforcement officers to investigate insurance fraud. In fiscal year 2012/2013, the division received over 15,440 referrals.

Division of Consumer Services

The Division of Consumer Services within DFS is created by s. 20.121, F.S., and deals with consumer issues and complaints related to the jurisdiction of the DFS and the Office of Insurance Regulation ("OIR"). The Division:

- Receives inquiries and complaints from consumers;
- Prepares and disseminates information as the DFS deems appropriate to inform or assist consumers;
- Provides direct assistance and advocacy for consumers; and
- Reports potential violations of law or applicable rules by a person or entity licensed by the DFS or the OIR to appropriate division within DFS or the OIR, as appropriate.¹³

⁶ See <https://www.ftreasurehunt.org/> (discussing the Bureau of Unclaimed Property)(last accessed March 11, 2015).

⁷ Section 17.04, F.S.

⁸ See <http://www.myfloridacfo.com/Division/AA/StateAgencies/OfficeofFiscalIntegrity.htm#.VQCOFPnF8eE> (last accessed March 11, 2015).

⁹ See <http://www.myfloridacfo.com/Division/Fraud/#.VQDPuPnF8eF> (last accessed March 11, 2015).

¹⁰ Section 626.9541, F.S.

¹¹ Section 817.234, F.S.

¹² Section 624.15, F.S.

¹³ See s. 20.121(2)(h), F.S.

Strategic Markets Research and Assistance Unit

Section 20.121, F.S., creates the Strategic Markets Research and Assessment Unit within the DFS. It requires the CFO or his or her designee to report quarterly to the Cabinet, the President of the Senate, and the Speaker of the House of Representatives on the status of the state's financial services markets. The CFO must also provide findings and recommendations regarding regulatory and policy changes to the Cabinet, the President of the Senate, and the Speaker of the House of Representatives. According to the DFS, the unit has not functioned since before 2010 and funding was discontinued in 2009.¹⁴

Florida Clerks of Court Operations Corporation

The Florida Clerks of Court Operations Corporation ("FCCOC"), created by s. 28.35, F.S., performs various functions related to the operations of the clerks of the court. It reviews and verifies that court clerk budgets are limited to court-related functions.¹⁵ It recommends to the Legislature changes in the amounts of the various court-related fines, fees, service charges, and costs to ensure reasonable and adequate funding of the clerks of the court in the performance of their court-related functions. The FCCOC develops and certifies a uniform system of workload measures and applicable workload standards for court-related functions.¹⁶ The FCCOC develops and conducts clerk education programs.¹⁷ Section 28.35(4), F.S., provides that the FCCOC is funded through a contract with the DFS. That contract is funded by directing \$4 from various court filing fees be used to fund the contract.¹⁸

Section 28.35(2)(e), F.S., requires the FCCOC to enter into a contract with the DFS to audit court-related expenditures of individual clerks. The audits are funded by directing \$1 of the court filing fee in various circuit court proceedings to the Administrative Trust Fund.¹⁹ The DFS reports that it has conducted such audits for 10 years and the audit findings were insignificant.²⁰ Section 28.2401, F.S., imposes a \$4 service charge on certain probate matters.²¹ It provides that the fifty cents from the service charge is deposited in the Administrative Trust Fund to fund clerk education.²²

Audit and Accounting Positions in the Department of Financial Services

Article III, s. 14, Fla. Const., requires the Legislature to create a civil service system for state employees, except for those employees specifically exempted. Employees in the civil service system are "career service" employees²³ while employees exempted from the career service

¹⁴ See Department of Financial Services, *SB 1402 Analysis* (March 11, 2015)(on file with the Senate Committee on Banking and Insurance).

¹⁵ See s. 28.36(3), F.S.

¹⁶ See s. 28.35(2), F.S.

¹⁷ *Id.*

¹⁸ See s. 28.241, F.S.

¹⁹ See s. 28.241, F.S.

²⁰ See Department of Financial Services, *SB 1402 Analysis* (March 11, 2015).

²¹ The \$4 charge is imposed on petitions seeking summary administration, formal administration, guardianship, curatorship, and conservatorship. See s. 28.2401, F.S.

²² See s. 28.2401, F.S.

²³ See s. 110.205, F.S.

system are called “select exempt”²⁴ or “senior management.”²⁵ In general, career service employees are subject to dismissal for cause while senior management and select exempt employees serve at the pleasure of the agency head.²⁶ The various classes also have different pay scales, different leave rules, and different levels of insurance subsidies. Section 110.205, F.S., provides a number of classes of employees that are exempt from the career service and serve in the senior management or select exempt classifications.

According to the DFS, in 2008, the Department of Management Services authorized that DFS “investigators and auditors” could remain in the select exempt class but suggested that the DFS should seek a legislative change to make the authorization permanent. Positions reverted to career service as they became vacant. There are currently 45 accounting and auditing positions which the DFS seeks to change from career service to select exempt.²⁷

Service of Process

Section 624.502, F.S., requires that in all instances as provided in any section of the insurance code and s. 48.151(3), F.S.,²⁸ in which service of process is authorized to be made upon the CFO or the director of the OIR, the plaintiff shall pay \$15 to the DFS or the OIR for service of process. The fee is deposited into the Insurance Regulatory Trust Fund. Chapter 2014-53, Laws of Florida, directed those funds to the Administrative Trust Fund for the 2014-15 fiscal year.

III. Effect of Proposed Changes:

Organization of the DFS

Section 1 makes various changes to the organization of the DFS. The bill gives the CFO the authority to establish any division, bureau, or office of the department as the CFO deems necessary to promote the effective and efficient operation of the DFS pursuant to s. 20.04, F.S. The bill does not change the review and approval process of s. 20.04, F.S.

The bill repeals the statutory requirement to establish the following divisions, offices, and bureaus:

- The Division of Administration;
- The Division of Legal Services;
- The Division of Information Systems;
- The Bureau of Unclaimed Property;
- The Office of Fiscal Integrity.

²⁴ See Part V, ch. 110, F.S.

²⁵ See Part III, ch. 110, F.S.

²⁶ See ss. 110.227, 110.402, and 110.604, F.S.

²⁷ See Department of Financial Services, *SB 1402 Analysis* (March 11, 2015).

²⁸ Section 48.151(3), provides that the CFO or his or her designee is the agent for service of process on all insurers applying for authority to transact insurance, all licensed nonresident insurance agents, all nonresident disability insurance agents, certain surplus lines, domestic reciprocal insurers, fraternal benefit societies, warranty associations, and prepaid limited health service organizations.

The DFS will continue to perform the functions but the CFO will have the authority to determine the organizational placement of those functions within the DFS. The Division of Insurance Fraud is renamed the Division of Criminal Investigations. The division will retain the same powers and duties as the Division of Insurance Fraud. **Sections 9-30** of the bill amend various statutory provisions to reflect the Division's name change.

The Strategic Markets Research and Assessment Unit, which is currently not active nor funded, is repealed.

Relocation of the Division of Consumer Services Statute

Sections 1, 6, and 7 relocate statutory references to the duties of the Division of Consumer Services from s. 20.121, F.S., to the Insurance Code at s. 624.307, F.S., and provide conforming changes.

Florida Clerks of Court Operations Corporation

Section 4 amends s. 28.35, F.S., to remove the requirement that the FCCOC contract with the DFS to audit the court-related expenditures of individual clerks. The DFS is requesting that the requirement be deleted on the basis that it has conducted such audits for 10 years and the audit findings have been insignificant.²⁹ The bill does not change the CFO's auditing power pursuant to s. 17.03, F.S.

Section 2 amends s. 28.2401, F.S., to specify that the fifty cents from the \$4 service charge imposed in certain probate cases that is deposited in the Administrative Trust Fund to fund clerk education will fund education provided by the FCCOC.

Section 3 amends s. 28.241, F.S., to remove the requirement that \$1 from various circuit court filing fees be deposited in the Administrative Trust Fund to fund audits. The bill will not increase court filing fees.

According to the DFS, there are six positions related to the auditing of court clerks that could be eliminated if the bill passes. The positions are currently vacant. If the DFS audits clerks of court in the future, it would use staff from the Division of Accounting and Auditing.³⁰

Audit and Accounting Positions in the Department of Financial Services

Section 5 amends s. 110.205, F.S., to provide that all auditing and accounting positions in the DFS are exempt from the career services provisions of law.

Service of Process Fees

Section 8 of this bill amends s. 624.502, F.S., to provide that the \$15 service of process fee paid to the DFS will be deposited in the Administrative Trust Fund rather than the Insurance Regulatory Trust Fund. The Insurance Regulatory Trust Fund, created by s. 624.523, F.S., is

²⁹ See Department of Financial Services, *SB 1402 Analysis* (March 11, 2015).

³⁰ See Department of Financial Services, *SB 1402 Analysis* (March 11, 2015).

appropriated for use by the DFS and the OIR to defray the expenses in the discharge of administrative and regulatory powers. Chapter 2014-53, Laws of Florida, implementing the 2014-2015 General Appropriations Act, directed those funds to the Administrative Trust Fund for the 2014-15 fiscal year.

Effective Date

Section 31 provides an effective date of July 1, 2015.

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 DFS reports this bill would result in a \$500,000 reduction in FY 2015-2016.³¹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

³¹ See Department of Financial Services, *SB 1402 Analysis* (March 11, 2015).

VIII. Statutes Affected:

The bill substantially amends the following sections of the Florida Statutes: 20.121, 28.2401, 28.241, 28.35, 110.205, 624.26, 624.307, 624.502, 16.59, 400.9935, 409.91212, 440.105, 440.1051, 440.12, 624.521, 626.016, 626.989, 626.9891, 626.9892, 626.9893, 626.9894, 626.9895, 626.99278, 627.351, 627.711, 627.736, 627.7401, 631.156, 641.30, and 932.7055.

IX. Additional Information:

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

CS by Banking and Insurance on March 17, 2015:

The committee adopted an amendment to change the name of the “Division of Insurance Fraud” to the “Division of Criminal Investigations” in various sections of law.

- B. **Amendments:**

None.

By Senator Lee

24-00435C-15

20151402__

1 A bill to be entitled
 2 An act relating to the organization of the Department
 3 of Financial Services; amending s. 20.121, F.S.;
 4 revising the divisions and functions of the
 5 department; authorizing the Chief Financial Officer to
 6 establish divisions, bureaus, or offices of the
 7 department; amending s. 28.2401, F.S.; providing
 8 funding from certain probate petition service charges
 9 to the Florida Clerks of Court Operations Corporation
 10 for clerk education provided by the corporation;
 11 amending s. 28.241, F.S., relating to the deposit of
 12 certain filing fees for trial and appellate
 13 proceedings, to conform provisions to changes made by
 14 the act; amending s. 28.35, F.S.; deleting a
 15 requirement that the Florida Clerks of Court
 16 Operations Corporation contract with the department
 17 for certain audits; amending s. 110.205, F.S.;
 18 exempting audit and accounting positions of the
 19 department from career service requirements; amending
 20 s. 624.26, F.S.; conforming provisions to changes made
 21 by the act; amending s. 624.307, F.S.; providing
 22 powers and duties of the department's Division of
 23 Consumer Services; authorizing the division to impose
 24 certain penalties; authorizing the department to adopt
 25 rules relating to the division; providing for
 26 construction; amending s. 624.502, F.S.; requiring
 27 that certain service of process fees be deposited into
 28 the Administrative Trust Fund; providing an effective
 29 date.

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

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30
 31 Be It Enacted by the Legislature of the State of Florida:
 32
 33 Section 1. Subsections (2) and (6) of section 20.121,
 34 Florida Statutes, are amended to read:
 35 20.121 Department of Financial Services.—There is created a
 36 Department of Financial Services.
 37 (2) DIVISIONS.—The Department of Financial Services shall
 38 consist of the following divisions and offices:
 39 (a) The Division of Accounting and Auditing, ~~which shall~~
 40 ~~include the following bureau and office:~~
 41 1. ~~The Bureau of Unclaimed Property.~~
 42 2. ~~The Office of Fiscal Integrity which shall function as a~~
 43 ~~criminal justice agency for purposes of ss. 943.045-943.08 and~~
 44 ~~shall have a separate budget. The office may conduct~~
 45 ~~investigations within or outside this state as the bureau deems~~
 46 ~~necessary to aid in the enforcement of this section. If during~~
 47 ~~an investigation the office has reason to believe that any~~
 48 ~~criminal law of this state has or may have been violated, the~~
 49 ~~office shall refer any records tending to show such violation to~~
 50 ~~state or federal law enforcement or prosecutorial agencies and~~
 51 ~~shall provide investigative assistance to those agencies as~~
 52 ~~required.~~
 53 (b) The Division of State Fire Marshal.
 54 (c) The Division of Risk Management.
 55 (d) The Division of Treasury, which shall include a Bureau
 56 of Deferred Compensation responsible for administering the
 57 Government Employees Deferred Compensation Plan established
 58 under s. 112.215 for state employees.

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59 (e) The Division of Criminal Investigations, which shall
 60 function as a criminal justice agency for purposes of ss.
 61 943.045-943.08 Insurance Fraud.

62 (f) The Division of Rehabilitation and Liquidation.

63 (g) The Division of Insurance Agent and Agency Services.

64 (h) The Division of Consumer Services.

65 ~~1. The Division of Consumer Services shall perform the~~
 66 ~~following functions concerning products or services regulated by~~
 67 ~~the department or by the Office of Insurance Regulation:~~

68 a. ~~Receive inquiries and complaints from consumers.~~

69 b. ~~Prepare and disseminate such information as the~~
 70 ~~department deems appropriate to inform or assist consumers.~~

71 c. ~~Provide direct assistance and advocacy for consumers who~~
 72 ~~request such assistance or advocacy.~~

73 d. ~~With respect to apparent or potential violations of law~~
 74 ~~or applicable rules by a person or entity licensed by the~~
 75 ~~department or office, report apparent or potential violations to~~
 76 ~~the office or the appropriate division of the department, which~~
 77 ~~may take such further action as it deems appropriate.~~

78 e. ~~Designate an employee of the division as primary contact~~
 79 ~~for consumers on issues relating to sinkholes.~~

80 ~~2. Any person licensed or issued a certificate of authority~~
 81 ~~by the department or by the Office of Insurance Regulation shall~~
 82 ~~respond, in writing, to the Division of Consumer Services within~~
 83 ~~20 days after receipt of a written request for information from~~
 84 ~~the division concerning a consumer complaint. The response must~~
 85 ~~address the issues and allegations raised in the complaint. The~~
 86 ~~division may impose an administrative penalty for failure to~~
 87 ~~comply with this subparagraph of up to \$2,500 per violation upon~~

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88 ~~any entity licensed by the department or the office and \$250 for~~
 89 ~~the first violation, \$500 for the second violation, and up to~~
 90 ~~\$1,000 per violation thereafter upon any individual licensed by~~
 91 ~~the department or the office.~~

92 ~~3. The department may adopt rules to administer this~~
 93 ~~paragraph.~~

94 ~~4. The powers, duties, and responsibilities expressed or~~
 95 ~~granted in this paragraph do not limit the powers, duties, and~~
 96 ~~responsibilities of the Department of Financial Services, the~~
 97 ~~Financial Services Commission, the Office of Insurance~~
 98 ~~Regulation, or the Office of Financial Regulation set forth~~
 99 ~~elsewhere in the Florida Statutes.~~

100 (i) ~~The Division of Workers' Compensation.~~

101 (j) ~~The Division of Administration.~~

102 (k) ~~The Division of Legal Services.~~

103 (l) ~~The Division of Information Systems.~~

104 (j) (m) The Office of Insurance Consumer Advocate.

105 (k) (n) The Division of Funeral, Cemetery, and Consumer
 106 Services.

107 (l) (o) The Division of Public Assistance Fraud.

108
 109 The Chief Financial Officer may establish any other division,
 110 bureau, or office of the department that he or she deems
 111 necessary to promote the efficient and effective operation of
 112 the department pursuant to s. 20.04.

113 ~~(6) STRATEGIC MARKETS RESEARCH AND ASSESSMENT UNIT. The~~
 114 ~~Strategic Markets Research and Assessment Unit is established~~
 115 ~~within the Department of Financial Services. The Chief Financial~~
 116 ~~Officer or his or her designee shall report on September 1,~~

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24-00435C-15

20151402__

117 ~~2008, and quarterly thereafter, to the Cabinet, the President of~~
 118 ~~the Senate, and the Speaker of the House of Representatives on~~
 119 ~~the status of the state's financial services markets. At a~~
 120 ~~minimum, the report must include a summary of issues, trends,~~
 121 ~~and threats that broadly impact the condition of the financial~~
 122 ~~services industries, along with the effect of such conditions on~~
 123 ~~financial institutions, the securities industries, other~~
 124 ~~financial entities, and the credit market. The Chief Financial~~
 125 ~~Officer shall also provide findings and recommendations~~
 126 ~~regarding regulatory and policy changes to the Cabinet, the~~
 127 ~~President of the Senate, and the Speaker of the House of~~
 128 ~~Representatives.~~

129 Section 2. Subsection (3) of section 28.2401, Florida
 130 Statutes, is amended to read:

131 28.2401 Service charges and filing fees in probate
 132 matters.—

133 (3) An additional service charge of \$4 on petitions seeking
 134 summary administration, formal administration, ancillary
 135 administration, guardianship, curatorship, and conservatorship
 136 shall be paid to the clerk. The clerk shall transfer \$3.50 to
 137 the Department of Revenue for deposit into the Court Education
 138 Trust Fund and shall transfer 50 cents to the Department of
 139 Revenue for deposit into the Department of Financial Services'
 140 Administrative Trust Fund to fund clerk education provided by
 141 the Florida Clerks of Court Operations Corporation. No
 142 additional fees, charges, or costs shall be added to the service
 143 charges or filing fees imposed under this section, except as
 144 authorized by general law.

145 Section 3. Paragraph (a) of subsection (1) of section

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146 28.241, Florida Statutes, is amended to read:

147 28.241 Filing fees for trial and appellate proceedings.—

148 (1) Filing fees are due at the time a party files a
 149 pleading to initiate a proceeding or files a pleading for
 150 relief. Reopen fees are due at the time a party files a pleading
 151 to reopen a proceeding if at least 90 days have elapsed since
 152 the filing of a final order or final judgment with the clerk. If
 153 a fee is not paid upon the filing of the pleading as required
 154 under this section, the clerk shall pursue collection of the fee
 155 pursuant to s. 28.246.

156 (a)1.a. Except as provided in sub-subparagraph b. and
 157 subparagraph 2., the party instituting any civil action, suit,
 158 or proceeding in the circuit court shall pay to the clerk of
 159 that court a filing fee of up to \$395 in all cases in which
 160 there are not more than five defendants and an additional filing
 161 fee of up to \$2.50 for each defendant in excess of five. Of the
 162 first \$199 ~~\$200~~ in filing fees, \$195 must be remitted to the
 163 Department of Revenue for deposit into the State Courts Revenue
 164 Trust Fund and, \$4 must be remitted to the Department of Revenue
 165 for deposit into the Administrative Trust Fund within the
 166 Department of Financial Services and used to fund the contract
 167 with the Florida Clerks of Court Operations Corporation created
 168 in s. 28.35, ~~and \$1 must be remitted to the Department of~~
 169 ~~Revenue for deposit into the Administrative Trust Fund within~~
 170 ~~the Department of Financial Services to fund audits of~~
 171 ~~individual clerks' court-related expenditures conducted by the~~
 172 ~~Department of Financial Services~~. By the 10th of each month, the
 173 clerk shall submit that portion of the filing fees collected in
 174 the previous month which is in excess of one-twelfth of the

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175 clerk's total budget to the Department of Revenue for deposit
176 into the Clerks of the Court Trust Fund.

177 b. The party instituting any civil action, suit, or
178 proceeding in the circuit court under chapter 39, chapter 61,
179 chapter 741, chapter 742, chapter 747, chapter 752, or chapter
180 753 shall pay to the clerk of that court a filing fee of up to
181 \$295 in all cases in which there are not more than five
182 defendants and an additional filing fee of up to \$2.50 for each
183 defendant in excess of five. Of the first \$99 ~~\$100~~ in filing
184 fees, \$95 must be remitted to the Department of Revenue for
185 deposit into the State Courts Revenue Trust Fund ~~and~~ \$4 must be
186 remitted to the Department of Revenue for deposit into the
187 Administrative Trust Fund within the Department of Financial
188 Services and used to fund the contract with the Florida Clerks
189 of Court Operations Corporation created in s. 28.35, ~~and \$1 must~~
190 ~~be remitted to the Department of Revenue for deposit into the~~
191 ~~Administrative Trust Fund within the Department of Financial~~
192 ~~Services to fund audits of individual clerks' court-related~~
193 ~~expenditures conducted by the Department of Financial Services.~~

194 c. An additional filing fee of \$4 shall be paid to the
195 clerk. The clerk shall remit \$3.50 to the Department of Revenue
196 for deposit into the Court Education Trust Fund and shall remit
197 50 cents to the Department of Revenue for deposit into the
198 Administrative Trust Fund within the Department of Financial
199 Services to fund clerk education provided by the Florida Clerks
200 of Court Operations Corporation. An additional filing fee of up
201 to \$18 shall be paid by the party seeking each severance that is
202 granted. The clerk may impose an additional filing fee of up to
203 \$85 for all proceedings of garnishment, attachment, replevin,

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204 and distress. Postal charges incurred by the clerk of the
205 circuit court in making service by certified or registered mail
206 on defendants or other parties shall be paid by the party at
207 whose instance service is made. Additional fees, charges, or
208 costs may not be added to the filing fees imposed under this
209 section, except as authorized in this section or by general law.

210 2.a. Notwithstanding the fees prescribed in subparagraph
211 1., a party instituting a civil action in circuit court relating
212 to real property or mortgage foreclosure shall pay a graduated
213 filing fee based on the value of the claim.

214 b. A party shall estimate in writing the amount in
215 controversy of the claim upon filing the action. For purposes of
216 this subparagraph, the value of a mortgage foreclosure action is
217 based upon the principal due on the note secured by the
218 mortgage, plus interest owed on the note and any moneys advanced
219 by the lender for property taxes, insurance, and other advances
220 secured by the mortgage, at the time of filing the foreclosure.
221 The value shall also include the value of any tax certificates
222 related to the property. In stating the value of a mortgage
223 foreclosure claim, a party shall declare in writing the total
224 value of the claim, as well as the individual elements of the
225 value as prescribed in this sub-subparagraph.

226 c. In its order providing for the final disposition of the
227 matter, the court shall identify the actual value of the claim.
228 The clerk shall adjust the filing fee if there is a difference
229 between the estimated amount in controversy and the actual value
230 of the claim and collect any additional filing fee owed or
231 provide a refund of excess filing fee paid.

232 d. The party shall pay a filing fee of:

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233 (I) Three hundred and ninety-five dollars in all cases in
 234 which the value of the claim is \$50,000 or less and in which
 235 there are not more than five defendants. The party shall pay an
 236 additional filing fee of up to \$2.50 for each defendant in
 237 excess of five. Of the first ~~\$199~~ \$200 in filing fees, \$195 must
 238 be remitted by the clerk to the Department of Revenue for
 239 deposit into the General Revenue Fund ~~and~~, \$4 must be remitted
 240 to the Department of Revenue for deposit into the Administrative
 241 Trust Fund within the Department of Financial Services and used
 242 to fund the contract with the Florida Clerks of Court Operations
 243 Corporation created in s. 28.35, ~~and \$1 must be remitted to the~~
 244 ~~Department of Revenue for deposit into the Administrative Trust~~
 245 ~~Fund within the Department of Financial Services to fund audits~~
 246 ~~of individual clerks' court-related expenditures conducted by~~
 247 ~~the Department of Financial Services;~~

248 (II) Nine hundred dollars in all cases in which the value
 249 of the claim is more than \$50,000 but less than \$250,000 and in
 250 which there are not more than five defendants. The party shall
 251 pay an additional filing fee of up to \$2.50 for each defendant
 252 in excess of five. Of the first \$704 ~~\$795~~ in filing fees, \$700
 253 must be remitted by the clerk to the Department of Revenue for
 254 deposit into the General Revenue Fund ~~and~~, \$4 must be remitted
 255 to the Department of Revenue for deposit into the Administrative
 256 Trust Fund within the Department of Financial Services and used
 257 to fund the contract with the Florida Clerks of Court Operations
 258 Corporation created in s. 28.35, ~~and \$1 must be remitted to the~~
 259 ~~Department of Revenue for deposit into the Administrative Trust~~
 260 ~~Fund within the Department of Financial Services to fund audits~~
 261 ~~of individual clerks' court-related expenditures conducted by~~

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262 ~~the Department of Financial Services; or~~

263 (III) One thousand nine hundred dollars in all cases in
 264 which the value of the claim is \$250,000 or more and in which
 265 there are not more than five defendants. The party shall pay an
 266 additional filing fee of up to \$2.50 for each defendant in
 267 excess of five. Of the first \$1,704 ~~\$1,705~~ in filing fees, \$930
 268 must be remitted by the clerk to the Department of Revenue for
 269 deposit into the General Revenue Fund, \$770 must be remitted to
 270 the Department of Revenue for deposit into the State Courts
 271 Revenue Trust Fund ~~and~~, \$4 must be remitted to the Department of
 272 Revenue for deposit into the Administrative Trust Fund within
 273 the Department of Financial Services to fund the contract with
 274 the Florida Clerks of Court Operations Corporation created in s.
 275 28.35, ~~and \$1 must be remitted to the Department of Revenue for~~
 276 ~~deposit into the Administrative Trust Fund within the Department~~
 277 ~~of Financial Services to fund audits of individual clerks'~~
 278 ~~court-related expenditures conducted by the Department of~~
 279 ~~Financial Services.~~

280 e. An additional filing fee of \$4 shall be paid to the
 281 clerk. The clerk shall remit \$3.50 to the Department of Revenue
 282 for deposit into the Court Education Trust Fund and shall remit
 283 50 cents to the Department of Revenue for deposit into the
 284 Administrative Trust Fund within the Department of Financial
 285 Services to fund clerk education provided by the Florida Clerks
 286 of Court Operations Corporation. An additional filing fee of up
 287 to \$18 shall be paid by the party seeking each severance that is
 288 granted. The clerk may impose an additional filing fee of up to
 289 \$85 for all proceedings of garnishment, attachment, replevin,
 290 and distress. Postal charges incurred by the clerk of the

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 291 circuit court in making service by certified or registered mail
 292 on defendants or other parties shall be paid by the party at
 293 whose instance service is made. Additional fees, charges, or
 294 costs may not be added to the filing fees imposed under this
 295 section, except as authorized in this section or by general law.

296 Section 4. Paragraphs (e) through (h) of subsection (2) of
 297 section 28.35, Florida Statutes, are amended to read:

298 28.35 Florida Clerks of Court Operations Corporation.—

299 (2) The duties of the corporation shall include the
 300 following:

301 ~~(e) Entering into a contract with the Department of~~
 302 ~~Financial Services for the department to audit the court-related~~
 303 ~~expenditures of individual clerks pursuant to s. 17.03.~~

304 (e)(f) Reviewing, certifying, and recommending proposed
 305 budgets submitted by clerks of the court pursuant to s. 28.36.
 306 As part of this process, the corporation shall:

307 1. Calculate the minimum amount of revenue necessary for
 308 each clerk of the court to efficiently perform the list of
 309 court-related functions specified in paragraph (3)(a). The
 310 corporation shall apply the workload measures appropriate for
 311 determining the individual level of review required to fund the
 312 clerk's budget.

313 2. Prepare a cost comparison of similarly situated clerks
 314 of the court, based on county population and numbers of filings,
 315 using the standard list of court-related functions specified in
 316 paragraph (3)(a).

317 3. Conduct an annual base budget review and an annual
 318 budget exercise examining the total budget of each clerk of the
 319 court. The review shall examine revenues from all sources,

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 320 expenses of court-related functions, and expenses of noncourt-
 321 related functions as necessary to determine that court-related
 322 revenues are not being used for noncourt-related purposes. The
 323 review and exercise shall identify potential targeted budget
 324 reductions in the percentage amount provided in Schedule VIII-B
 325 of the state's previous year's legislative budget instructions,
 326 as referenced in s. 216.023(3), or an equivalent schedule or
 327 instruction as may be adopted by the Legislature.

328 4. Identify those proposed budgets containing funding for
 329 items not included on the standard list of court-related
 330 functions specified in paragraph (3)(a).

331 5. Identify those clerks projected to have court-related
 332 revenues insufficient to fund their anticipated court-related
 333 expenditures.

334 6. Use revenue estimates based on the official estimate for
 335 funds accruing to the clerks of the court made by the Revenue
 336 Estimating Conference.

337 7. Identify and report pay and benefit increases in any
 338 proposed clerk budget, including, but not limited to, cost of
 339 living increases, merit increases, and bonuses.

340 8. Provide detailed explanation for increases in
 341 anticipated expenditures in any clerk budget that exceeds the
 342 current year budget by more than 3 percent.

343 9. Identify and report the budget of any clerk which
 344 exceeds the average budget of similarly situated clerks by more
 345 than 10 percent.

346 ~~(f)(g)~~ Developing and conducting clerk education programs.

347 (g)(h) ~~Before Beginning August 1, 2014, and each August 1~~
 348 ~~of each year thereafter~~, submitting to the Legislative Budget

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349 Commission, as provided in s. 11.90, its proposed budget and the
 350 information described in paragraph ~~(e)~~ ~~(f)~~, as well as the
 351 proposed budgets for each clerk of the court. Before October 1
 352 of each year ~~beginning in 2014~~, the Legislative Budget
 353 Commission shall consider the submitted budgets and shall
 354 approve, disapprove, or amend and approve the corporation's
 355 budget and shall approve, disapprove, or amend and approve the
 356 total of the clerks' combined budgets or any individual clerk's
 357 budget. If the Legislative Budget Commission fails to approve or
 358 amend and approve the corporation's budget or the clerks'
 359 combined budgets before October 1, the clerk shall continue to
 360 perform the court-related functions based upon the clerk's
 361 budget for the previous county fiscal year.

362 Section 5. Paragraph (y) is added to subsection (2) of
 363 section 110.205, Florida Statutes, to read:

364 110.205 Career service; exemptions.—

365 (2) EXEMPT POSITIONS.—The exempt positions that are not
 366 covered by this part include the following:

367 (y) All audit and accounting positions of the Division of
 368 Accounting and Auditing of the Department of Financial Services.

369 Section 6. Subsection (4) of section 624.26, Florida
 370 Statutes, is amended to read:

371 624.26 Collaborative arrangement with the Department of
 372 Health and Human Services.—

373 (4) The department's Division of Consumer Services may
 374 respond to complaints by consumers relating to a requirement of
 375 PPACA ~~as authorized under s. 20.121(2)(h)~~, and report apparent
 376 or potential violations to the office and to the federal
 377 Department of Health and Human Services.

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378 Section 7. Subsection (10) is added to section 624.307,
 379 Florida Statutes, to read:

380 624.307 General powers; duties.—

381 (10) (a) The department's Division of Consumer Services
 382 shall perform the following functions concerning products or
 383 services regulated by the department or office:

384 1. Receive inquiries and complaints from consumers.

385 2. Prepare and disseminate such information as the
 386 department deems appropriate to inform or assist consumers.

387 3. Provide direct assistance and advocacy for consumers who
 388 request such assistance or advocacy.

389 4. With respect to apparent or potential violations of law
 390 or applicable rules by a person or entity licensed by the
 391 department or office, report apparent or potential violations to
 392 the office or the appropriate division of the department, which
 393 may take such further action as it deems appropriate.

394 5. Designate an employee of the division as primary contact
 395 for consumers on issues relating to sinkholes.

396 (b) Any person licensed or issued a certificate of
 397 authority by the department or the office shall respond, in
 398 writing, to the division within 20 days after receipt of a
 399 written request for information from the division concerning a
 400 consumer complaint. The response must address the issues and
 401 allegations raised in the complaint. The division may impose an
 402 administrative penalty for failure to comply with this paragraph
 403 of up to \$2,500 per violation upon any entity licensed by the
 404 department or the office and \$250 for the first violation, \$500
 405 for the second violation, and up to \$1,000 per violation
 406 thereafter upon any individual licensed by the department or the

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407 office.408 (c) The department may adopt rules to administer this
409 subsection.410 (d) The powers, duties, and responsibilities expressed or
411 granted in this subsection do not limit the powers, duties, and
412 responsibilities of the Department of Financial Services, the
413 Financial Services Commission, the Office of Insurance
414 Regulation, or the Office of Financial Regulation as otherwise
415 provided by law.416 Section 8. Section 624.502, Florida Statutes, as amended by
417 chapter 2014-53, Laws of Florida, is amended to read:418 624.502 Service of process fee.—In all instances as
419 provided in any section of the insurance code and s. 48.151(3)
420 in which service of process is authorized to be made upon the
421 Chief Financial Officer or the director of the office, the
422 plaintiff shall pay to the department or office a fee of \$15 for
423 such service of process, which fee shall be deposited into the
424 Administrative Trust Fund ~~Insurance Regulatory Trust Fund~~.

425 Section 9. This act shall take effect July 1, 2015.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations, *Chair*
Appropriations Subcommittee on General
Government
Banking and Insurance
Rules

JOINT COMMITTEE:

Joint Legislative Budget Commission,
Alternating Chair

SENATOR TOM LEE

24th District

March 4, 2015

The Honorable Lizbeth Benacquisto
Senate Committee on Banking and Insurance, Chair
326 Senate Office Building
404 South Monroe St.
Tallahassee, FL 32399

Dear Chair Benacquisto,

I respectfully request that SB 1402 related to the *Organization of the Department of Financial Services*, be placed on the Senate Committee on Banking and Insurance agenda at your earliest convenience.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Tom Lee".

Tom Lee
Senator, District 24

Cc: James Knudson, Staff Director

REPLY TO:

- 915 Oakfield Drive, Suite D, Brandon, Florida 33511 (813) 653-7061
- 418 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5024

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/17/15

Meeting Date

SB 1402

Bill Number (if applicable)

Topic SB 1402

Amendment Barcode (if applicable)

Name Elizabeth Boyd

Job Title Legislative Boyd

Address 400 N. Monroe St
Street

Phone 850-413-2829

Tallahassee FL 32399
City State Zip

Email elizabeth.boyd@myfloridaleg.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.



298990

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/17/2015	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsection (3) is added to section 627.6474, Florida Statutes, to read:

627.6474 Provider contracts.—

(3) (a) A contract between a health insurer or the insurer's third-party administrator and:

1. An ophthalmologist licensed pursuant to chapter 458 or



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11 chapter 459 or an optometrist licensed pursuant to chapter 463
12 may not require such licensee to:

13 a. Provide vision care services as a condition of
14 participating as a provider of any other type of service to an
15 insured; or

16 b. Purchase a material or service used by the licensee from
17 an entity in which the insurer or the insurer's third-party
18 administrator has a direct or indirect ownership, financial, or
19 controlling interest.

20 2. An optician licensed pursuant to part I of chapter 484
21 may not require such licensee to purchase a material used by the
22 licensee from an entity in which the insurer or the insurer's
23 third-party administrator has a direct or indirect ownership,
24 financial, or controlling interest.

25 (b) A violation of this subsection constitutes an unfair
26 insurance trade practice under s. 626.9541(1)(d).

27 Section 2. Subsection (14) is added to section 636.035,
28 Florida Statutes, to read:

29 636.035 Provider arrangements.—

30 (14) (a) A contract between a prepaid limited health service
31 organization or the organization's third party administrator
32 and:

33 1. An ophthalmologist licensed pursuant to chapter 458 or
34 chapter 459 or an optometrist licensed pursuant to chapter 463
35 may not require such licensee to:

36 a. Provide vision care services as a condition of
37 participating as a provider of any other type of service to a
38 subscriber; or

39 b. Purchase a material or service used by the licensee from



40 an entity in which the organization or organization's third-
41 party administrator has a direct or indirect ownership,
42 financial, or controlling interest.

43 2. An optician licensed pursuant to part I of chapter 484
44 may not require such licensee to purchase a material used by the
45 licensee from an entity in which the organization or
46 organization's third-party administrator has a direct or
47 indirect ownership, financial, or controlling interest.

48 (b) A violation of this subsection constitutes an unfair
49 insurance trade practice under s. 626.9541(1)(d).

50 Section 3. Subsection (12) is added to section 641.315,
51 Florida Statutes, to read:

52 641.315 Provider contracts.—

53 (12) (a) A contract between a health maintenance
54 organization or the organization's third-party administrator
55 and:

56 1. An ophthalmologist licensed pursuant to chapter 458 or
57 chapter 459 or an optometrist licensed pursuant to chapter 463
58 may not require such licensee to:

59 a. Provide vision care services as a condition of
60 participating as a provider of any other type of service to a
61 subscriber; or

62 b. Purchase a material or service used by the licensee from
63 an entity in which the organization or organization's third-
64 party administrator has a direct or indirect ownership,
65 financial, or controlling interest.

66 2. An optician licensed pursuant to part I of chapter 484
67 may not require such licensee to purchase a material used by the
68 licensee from an entity in which the organization or



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69 organization's third-party administrator has a direct or
70 indirect ownership, financial, or controlling interest.

71 (b) A violation of this subsection constitutes an unfair
72 insurance trade practice under s. 626.9541(1)(d).

73 Section 4. This act shall take effect July 1, 2015.

74

75

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

77 And the title is amended as follows:

78 Delete everything before the enacting clause
79 and insert:

80 A bill to be entitled
81 An act relating to health provider contracts; amending
82 ss. 627.6474, 636.035, and 641.315, F.S.; providing
83 that a contract between a health insurer, a prepaid
84 limited health service organization, or a health
85 maintenance organization, respectively, or a third-
86 party administrator thereof, and a licensed
87 ophthalmologist or optometrist may not require the
88 licensee to provide vision care services as a
89 condition of providing any other service or to
90 purchase certain materials or services from specified
91 entities; providing that a contract between a health
92 insurer, a prepaid limited health service
93 organization, or a health maintenance organization,
94 respectively, or a third-party administrator thereof,
95 and a licensed optician may not require the licensee
96 to purchase certain materials from specified entities;
97 providing that a violation of the act's prohibitions



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constitutes a specified unfair insurance trade
practice; providing an effective date.

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 856

INTRODUCER: Banking and Insurance Committee and Senator Latvala

SUBJECT: Vision Insurance

DATE: March 18, 2015

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 856 prohibits an insurer, prepaid limited health service organization (PLHSO), health maintenance organization (HMO), or a third-party administrator (TPA) from requiring a licensed ophthalmologist or optometrist to provide vision care services as a condition of participating as a provider of any other type of service to an insured. The bill also prohibits such entities from requiring a licensed ophthalmologist or optometrist to purchase a material or service used by the ophthalmologist or optometrist from another entity in which the insurer, PLHSO or HMO or its TPA has a financial interest. The bill provides that a violation of one of these provisions constitutes an unfair insurance trade practice under s. 626.9541, F.S.

II. Present Situation:

Regulation of Insurance

The Office of Insurance Regulation (OIR) licenses and regulates the activities of insurers, health maintenance organizations, and other risk-bearing entities. The Agency for Health Care Administration (agency) regulates the quality of care provided by HMOs under part III of chapter 641, F.S. Before receiving a certificate of authority from the OIR, an HMO must receive a Health Care Provider Certificate from the agency pursuant to part III of chapter 641, F.S.

Prepaid Limited Health Service Organizations Contracts

Prepaid limited health service organizations (PLHSO) provide limited health services to enrollees through an exclusive panel of providers in exchange for a prepayment authorized under chapter 636, F.S. Limited health services include ambulance, dental, vision, mental health, substance abuse, chiropractic, podiatric, and pharmaceutical.¹ Provider arrangements for prepaid limited health service organizations are authorized in s. 636.035, F.S., and must comply with the requirements in that section.

Health Maintenance Organization Provider Contracts

A HMO is an organization that provides a wide range of health care services, including emergency care, inpatient hospital care, physician care, ambulatory diagnostic treatment, and preventive health care pursuant to contractual arrangements with preferred providers in a designated service area. Traditionally, a HMO member must use the HMO's network of health care providers in order for the HMO to make payment of benefits. The use of a health care provider outside the HMO's network generally results in the HMO limiting or denying the payment of benefits for out-of-network services rendered to the member. Section 641.315, F.S., specifies requirements for the HMO provider contracts with providers.

Third Party Administrators

Third party administrators are regulated under part VII of chapter 626, F.S. An administrator is any person who directly or indirectly solicits or effects coverage of, collects charges or premiums from, or adjusts or settles claims on residents of this state in connection with authorized commercial self-insurance funds or with insured or self-insured programs which provide life or health insurance coverage or coverage of any other expenses described in s. 624.33(1), F.S., or any person who, through a contract as defined in s. 641.234, F.S., with an insurer or HMO, provides billing and collection services to health insurers and HMO on behalf of health care providers.

Prohibition against "All Products" Clauses in Health Care Provider Contracts

Section 627.6474, F.S., prohibits a health insurer from requiring that a contracted health care practitioner accept the terms of other practitioner contracts (including Medicare and Medicaid practitioner contracts) with the insurer or with an insurer, HMO, exclusive provider organization, or preferred provider organization that is under common management and control with the contracting insurer. The statute exempts practitioners in group practices who must accept the contract terms negotiated by the group.

State Group Insurance Program

Under the authority of s. 110.123, F.S., the Department of Management Services (Department), through the Division of State Group Insurance, administers the State Group Insurance Program providing employee benefits under a cafeteria plan consistent with Section 125, Internal Revenue Code. The Division of State Group Insurance offers a fully-insured vision insurance plan to eligible employees and their eligible dependents.

¹ Section 636.003(5), F.S.

Unfair Insurance Trade Practices

Part IX, chapter 626, F.S., regulates practices relating to the business of insurance by defining practices that constitute unfair methods of competition or unfair or deceptive acts or practices and prohibiting such activities. Section 626.941(1)(d), F.S., provides that the following acts are an unfair insurance trade practice:

Entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion, or intimidation resulting in, or tending to result in, unreasonable restraint of, or monopoly in, the business of insurance.

Section 626.9521, F.S., provides administrative fines and criminal penalties for violations under s. 626.9541, F.S. Further, the OIR is authorized to issue cease and desist orders and suspend or revoke an entity's certificate of authority for engaging in unfair insurance trade practices.²

Credentialing

Section 641.495(6), F.S., provides that each HMO must have a system for verification and examination of the credentials of each of its providers. If the organization has delegated the credentialing process to a contracted provider or entity, verify that the policies and procedures of the delegated provider or entity are consistent with the policies and procedures of the organization and there is evidence of oversight activities of the organization to determine that required standards are met and maintained.³

Credentialing is a process for the collection and verification of a provider's professional qualifications. The qualifications that are reviewed and verified include, but are not limited to, relevant training, licensure, certification and/or registration to practice in a health care field, experience, and academic background. A credentialing process is used by healthcare facilities as part of its process to allow practitioners to provide services at its facilities, health plans to allow providers to participate in its network (provider enrollment), medical group when hiring new providers, and other healthcare entities that have a need to hire or otherwise engage providers.

III. Effect of Proposed Changes:

Sections 1, 2, and 3 amend ss. 627.6474, 636.035, and 641.315, F.S., to prohibit insurers, PLHSO, HMOs, respectively, and their third-party administrators from requiring a licensed ophthalmologist or optometrist to provide vision care services as a condition of participating as a provider of any other type of service to an insured. The bill also prohibits these entities from requiring an ophthalmologist or optometrist from purchasing certain materials or services from an entity in which the insurer, PLHSO, or the HMO or its TPA has a direct or indirect ownership or financial interest. The bill also provides the same prohibition relating to the purchase of materials by opticians.

² Section 626.9581, F.S.

³ Agency for Health Care Administration, *Interpretive Guidelines for Initial Health Care Provider Certificates for Health Maintenance Organizations and Prepaid Health Clinics*, (2010).

The bill provides that a violation of one these provisions constitutes an unfair insurance trade practice under s. 626.9541 (1)(d), F.S., which relates to any act of boycott, coercion, or intimidation resulting in, or tending to result in, unreasonable restraint of, or monopoly in, the business of insurance.

The bill takes effect July 1, 2015.

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:

Ophthalmologist or optometrist contracting with insurers, HMOs, PLHSO, and TPAs (entities) would not be required to purchase materials and services from an entity in which the insurer, PLHSO, or HMO has a direct or indirect financial ownership or financial interest. This gives the provider flexibility in the provision of such materials or services.

Further, the specified entities could not require an ophthalmologist or optometrist that they contract with to provide vision care services as a condition of participating as a provider of any other type of service to an insured. According to advocates of the bill, insurers and HMO outsource credentialing to third parties. As a condition of such credentialing, a third party, such as a vision plan, may require the optometrist to join the vision plan network as a provider as a condition for being credentialed and participating on a panel with another health insurer, HMO, or PLHSO.

According to proponents of the bill, consumers access a wide variety of specialty care through limited benefit plans, such as vision care plans. Vision care plans contract with preferred providers and build supplier and laboratory networks to provide efficient networks that reduce consumer costs. They also assert that limiting business models flattens competition and provides fewer options to consumers and employers.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends sections 627.6474, 636.035, and 641.315 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 17, 2015

The CS amends the Insurance Code rather than chapter 501, F.S. The CS also provides that violations under the bill constitute an unfair insurance trade practice under part IX of chapter 626, F.S., of the Insurance Code rather than a violation of the Florida Deceptive and Unfair Trade Practices Act, under part II of chapter 501, F.S.

- B. Amendments:

None.

By Senator Latvala

20-00256A-15

2015856__

1 A bill to be entitled
 2 An act relating to vision insurance; creating s.
 3 501.501, F.S.; prohibiting specified insurers, prepaid
 4 limited health service organizations, and health
 5 maintenance organizations and third-party
 6 administrators thereof from requiring a licensed
 7 ophthalmologist or optometrist to provide vision care
 8 services under specified circumstances or to purchase
 9 certain materials or services; specifying that a
 10 violation of the section constitutes an unfair or
 11 deceptive act or practice subject to specified civil
 12 and administrative action; providing an effective
 13 date.

14
 15 Be It Enacted by the Legislature of the State of Florida:

16
 17 Section 1. Section 501.501, Florida Statutes, is created to
 18 read:

19 501.501 Vision insurance plan practices.-

20 (1) An insurer, a prepaid limited health service
 21 organization, or a health maintenance organization or third-
 22 party administrator thereof which is regulated under chapter
 23 627, chapter 636, or chapter 641 may not require an
 24 ophthalmologist licensed pursuant to chapter 458 or chapter 459
 25 or an optometrist licensed pursuant to chapter 463 to:

26 (a) Provide vision care services as a condition of
 27 participating as a provider of any other type of service to an
 28 insured.

29 (b) Purchase a material or service used by the

Page 1 of 2

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

20-00256A-15

2015856__

30 ophthalmologist or optometrist for the provision of vision care
 31 services from an entity in which the insurer, the prepaid
 32 limited health service organization, or the health maintenance
 33 organization or its third-party administrator has a direct or
 34 indirect ownership or financial interest.

35 (2) A violation of this section constitutes an unfair or
 36 deceptive act or practice under the Florida Deceptive and Unfair
 37 Trade Practices Act, and the violator may be subject to civil
 38 and administrative action by an enforcing authority under part
 39 II of this chapter.

40 Section 2. This act shall take effect July 1, 2015.

Page 2 of 2

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on
Transportation, Tourism, and Economic
Development, *Chair*
Appropriations
Commerce and Tourism
Governmental Oversight and Accountability
Regulated Industries
Rules

SENATOR JACK LATVALA

20th District

March 2, 2015

The Honorable Lizbeth Benaquisto, Chair
Senate Committee on Banking and Insurance
320 Knott Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Benaquisto:

I respectfully request consideration of Senate Bill 856/Vision Insurance by the Senate Banking and Insurance Committee at your earliest convenience.

This bill will prohibit insurance companies from requiring a licensed ophthalmologist or optometrist to provide vision care services under specified circumstances or to purchase certain materials or services as a condition for participating as a provider.

If you have any questions regarding this legislation, please contact me. Thank you in advance for your consideration.

Sincerely,

A handwritten signature in cursive that reads "Jack".

Jack Latvala
State Senator
District 20

Cc: James Knudson, Staff Director; Sheri Green, Administrative Assistant

REPLY TO:

- 26133 U.S. Highway 19 North, Suite 201, Clearwater, Florida 33763 (727) 793-2797 FAX: (727) 793-2799
- 408 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5020

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-17-2015

Meeting Date

5B856

Bill Number (if applicable)

Topic Vision Insurance

Amendment Barcode (if applicable)

Name Joy Ryan

Job Title Moorman P.A.

Address 325 W. College St.

Phone 425-4000

Street

Tallahassee, FL

State

32301

Zip

Email ~~joy.ryan@moorman.com~~
joy@moormanlawfirm.com

Speaking: For Against Information

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

Representing AHIP

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)

SB 856
Bill Number (if applicable)

Meeting Date _____

Topic Vision Service Plans

Amendment Barcode (if applicable) _____

Name AMY YOUNG

Job Title _____

Waive in Support

Address _____

Phone _____

Street

City

We "see" eye to eye and

State

Zip

Email _____

Speaking: For Against Information

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

Representing FLORIDA Society of Ophthalmology

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

Speak

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

3/17/15
Meeting Date

856
Bill Number (if applicable)

Topic VISION INSURANCE PLANS

Amendment Barcode (if applicable)

Name DR. KEN LAWSON

Job Title LEGISLATIVE CHAIR - FL OPTOMETRIC ASSOCIATION

Address 120 S. MONROE ST. Phone

Street

TALLAHASSEE FL 32301 Email

City

State

Zip

Speaking: For Against Information

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

Representing FLORIDA OPTOMETRIC 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)

3/17/2015

Meeting Date

SB 856

Bill Number (if applicable)

Topic VISION INSURANCE

Amendment Barcode (if applicable)

Name ROBERT HOLDEN

Job Title STATE POLICY DIRECTOR

Address 2300 CLARNDON BLVD

Phone 571 283 9747

Street

FAIRFAX

VA

22201

City

State

Zip

Email rch@stateside.com

Speaking: For Against Information

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

(NAACP)

Representing NATIONAL ASSOCIATION OF VISION CARE PLANS

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.

Request to be
excused/Sen. Lee



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations, *Chair*
Appropriations Subcommittee on General
Government
Banking and Insurance
Rules

JOINT COMMITTEE:
Joint Legislative Budget Commission,
Alternating Chair

SENATOR TOM LEE

24th District

March 17, 2015

Chairman Lizbeth Benacquisto
Senate Committee on Banking and Insurance, Chair
326 Senate Office Building
404 South Monroe St.
Tallahassee, FL 32399

Dear Chair Benacquisto,

I respectfully request to be excused from the Senate Committee on Banking and Insurance on March 17, 2014 due to a prior commitment.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Tom Lee".

Tom Lee
Senator, District 24

Cc: James Knudson, Staff Director

REPLY TO:

- 915 Oakfield Drive, Suite D, Brandon, Florida 33511 (813) 653-7061
- 418 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5024

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

CourtSmart Tag Report

Room: EL 110
Case: Senate Banking and Insurance Committee

Type:
Judge:

Started: 3/10/2015 1:34:35 PM
Ends: 3/10/2015 2:12:21 PM
Length: 00:37:47

1:34:42 PM Meeting called to order by Chairman
1:35:13 PM roll call -- quorum present
1:35:29 PM TAB 3 - SB 836 FL Insurance Guaranty Association
1:36:48 PM Senator Latvala recognized to explain the bill
1:37:48 PM Amd. 1 - 851116 - Technical amend. -- fw/adopted
1:38:14 PM Amd. 2 - 548084 - technical amendment - fwo/adopted
1:39:04 PM roll call on CS/SB 836 -- Favorable
1:39:34 PM TAB 1 - SB 456 - Labor Pools
1:39:54 PM Sen. Braynon recognized to explain the bill
1:40:30 PM Roll call on SB 456 - Favorable
1:40:58 PM TAB 5 - SB 1094 - Peril of Flood
1:41:26 PM Explanation of bill by Senator Brandes
1:44:02 PM Amd. 1 ()591894 - Fwo
1:44:33 PM Amd. 2 (657366) FWO
1:44:48 PM Amd. 3 (611562) by Sen. Lee - FWO
1:45:15 PM Amd. 4 (114946) Sen. Lee - FWO
1:45:39 PM Amd. 5 (748102) Sen. Lee FWO
1:47:27 PM On bill as amended - Roll call -- Faorable CS/SB 1094
1:49:16 PM TAB 4 S B 1126 - Continuing Care Communities
1:50:33 PM TAB 4 S B 1126 - Continuing Care Communities
1:50:35 PM Adm. 241974 - FWO
1:52:08 PM Roll call on CS/SB 1126 - Favorable
1:53:03 PM TAB 10 - S B 1130 by Senator Simmons - Windstorm Premium Discounts
1:54:04 PM Amd. 250328 - FWO
1:54:18 PM roll call on CS/SB 1130 - Fava rable
1:54:51 PM TAB 9 - SB 1060 Senator Simmons - Maximum Reimbursement Allowances
1:55:36 PM Senator Simmons explain the bill
1:56:15 PM Amd. (594738) Fav w/o objection
1:57:15 PM Fraser Cobbe,FL Orthopaedic Society
1:58:11 PM Peter Lohnenjag
1:58:34 PM Roll call on CS/S B 1060 - Favorable
1:58:55 PM TAB 6 - SB 916 by Montford - Commercial Insurer Rate Filing Procedures
1:59:22 PM Explanation of bill by Sen. Montford
1:59:54 PM Amd. (634480) fwo/adopted
2:00:46 PM Roll call on CS/SB 916 - Favorable
2:01:55 PM TAB 7 SB 728 - Health Insurance Coverage for Opioids
2:02:27 PM Explanation of bill by Sen. Benazquisto
2:03:25 PM Harold Dalton - FL Society of Intervential Pain Physicians
2:08:52 PM Sen. Benacquisto recognized to close on bill
2:09:15 PM Roll call on SB 728 - Favorable
2:09:39 PM TAB 8 - SB 842 - Citizens Property Insurance Corp.
2:10:05 PM Sen. Benacquisto recognized to explain bill.
2:10:23 PM Amd. (430690) fwo - adopted
2:11:23 PM Roll call on CS/842 - Favorable
2:12:10 PM meeting adjourned