

<b>Tab 1 SB 186 by Brandes; (Compare to H 01307) Citizens Property Insurance Corporation</b>						
154092	A	S	RCS	BI, Brandes	Delete L.153 - 1184:	01/26 04:20 PM
565560	AA	S	RS	BI, Brandes	btw L.825 - 826:	01/26 04:20 PM
811218	SA	S	RCS	BI, Brandes	btw L.825 - 826:	01/26 04:20 PM

<b>Tab 2 CS/SB 266 by CJ, Diaz; (Identical to CS/H 00139) Motor Vehicle Insurance</b>						
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<b>Tab 3 CS/SB 926 by HP, Albritton; (Similar to CS/H 00517) Licensure Examinations for Dental Practitioners</b>						
610222	A	S	RCS	BI, Albritton	Delete L.118:	01/27 04:46 PM

<b>Tab 4 SB 1182 by Broxson; (Similar to CS/H 00381) Breach of Bond Costs</b>						
810412	A	S	RCS	BI, Broxson	Delete L.15 - 21:	01/26 05:13 PM

<b>Tab 5 SB 1502 by Powell; (Identical to H 00625) Estates and Trusts</b>						
971550	A	S	RCS	BI, Powell	btw L.57 - 58:	01/27 04:46 PM

<b>Tab 6 SB 1526 by Boyd; (Identical to H 01413) Public Records/Annuity Contract Payees</b>						
345288	A	S	RCS	BI, Boyd	Delete L.24 - 43:	01/26 04:30 PM

<b>Tab 7 SB 1874 by Boyd; (Similar to CS/H 00959) Department of Financial Services</b>						
334330	D	S	RCS	BI, Boyd	Delete everything after	01/27 04:45 PM
467244	AA	S	RCS	BI, Brandes	Delete L.1733 - 1752:	01/27 04:45 PM

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**BANKING AND INSURANCE**  
**Senator Boyd, Chair**  
**Senator Broxson, Vice Chair**

**MEETING DATE:** Tuesday, January 25, 2022

**TIME:** 3:30—6:00 p.m.

**PLACE:** Pat Thomas Committee Room, 412 Knott Building

**MEMBERS:** Senator Boyd, Chair; Senator Broxson, Vice Chair; Senators Brandes, Burgess, Gruters, Passidomo, Rodrigues, Rouson, Stargel, Stewart, and Taddeo

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>SB 186</b> Brandes (Compare H 1307, S 1728)	Citizens Property Insurance Corporation; Revising the method for determining the amounts of potential surcharges to be levied against policyholders under certain circumstances; providing that eligible surplus lines insurers may participate, in the same manner and on the same terms as an authorized insurer, in depopulation, take-out, or keep-out programs relating to policies removed from Citizens Property Insurance Corporation; specifying that only the corporation's transfer of a policy file to an insurer, as opposed to the transfer of any file, changes the file's public record status, etc.  BI      01/25/2022 Fav/CS AEG AP	Fav/CS Yeas 8 Nays 2
2	<b>CS/SB 266</b> Criminal Justice / Diaz (Identical CS/H 139)	Motor Vehicle Insurance; Requiring agencies that employ law enforcement officers to maintain motor vehicle insurance under certain circumstances; providing exceptions; providing liability limitations; providing methods in which the employing agency may meet the liability insurance requirements, etc.  CJ      01/11/2022 Fav/CS BI      01/25/2022 Favorable AP	Favorable Yeas 10 Nays 0
3	<b>CS/SB 926</b> Health Policy / Albritton (Similar H 517, Compare H 997, S 1444)	Licensure Examinations for Dental Practitioners; Revising licensure examination requirements for dentists to require applicants to demonstrate certain clinical skills on a manikin rather than a live patient; revising requirements for regional licensure examinations offered by dental schools to dental students; revising licensure examination requirements for dental hygienists to require applicants to demonstrate certain clinical skills on a manikin rather than a live patient; deleting a requirement that applicants for dental practitioner licensure examinations maintain medical malpractice insurance to cover any incident of harm to a patient during the clinical examination, etc.  HP      01/13/2022 Fav/CS BI      01/25/2022 Fav/CS RC	Fav/CS Yeas 10 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Banking and Insurance

Tuesday, January 25, 2022, 3:30—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	<b>SB 1182</b> Broxson (Identical H 381)	Breach of Bond Costs; Providing for the exoneration from liability of a surety on a bond under certain circumstances if the surety agrees in writing to pay the costs and expenses incurred in returning the defendant to the jurisdiction of the court, etc.  BI 01/25/2022 Fav/CS CJ RC	Fav/CS Yeas 10 Nays 0
5	<b>SB 1502</b> Powell (Identical H 625)	Estates and Trusts; Providing that the requirement for a claimant to file an independent action is satisfied if specified actions are taken; specifying that claimants, not creditors, are given certain priority of claims; providing that a trustee may resign by specified procedure and with notice to certain parties, etc.  BI 01/25/2022 Fav/CS JU RC	Fav/CS Yeas 10 Nays 0
6	<b>SB 1526</b> Boyd (Identical H 1413)	Public Records/Annuity Contract Payees; Providing an exemption from public records requirements for personal identifying information and annuity contract numbers of a payee of a structured settlement and the names of family members, dependents, and beneficiaries of such payee; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc.  BI 01/25/2022 Fav/CS JU RC	Fav/CS Yeas 8 Nays 2
7	<b>SB 1874</b> Boyd (Similar CS/H 959, Compare CS/H 503, CS/CS/S 468)	Department of Financial Services; Authorizing specified persons relating to the Division of Rehabilitation and Liquidation to purchase coverage in a state group health insurance plan at specified premium costs; transferring the Stop Inmate Fraud Program from the Department of Financial Services to the Department of Economic Opportunity; specifying new and renewal workers' compensation policies that require physical onsite audits for a specified class; requiring insurance agencies' licenses to be immediately canceled under certain circumstances; providing an exception to the prohibition against unaffiliated insurance agents holding appointments from insurers, etc.  BI 01/25/2022 Fav/CS AEG AP	Fav/CS Yeas 10 Nays 0

Other Related Meeting Documents

**COMMITTEE MEETING EXPANDED AGENDA**

Banking and Insurance

Tuesday, January 25, 2022, 3:30—6:00 p.m.

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**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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

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BILL: CS/SB 186

INTRODUCER: Banking and Insurance Committee and Senator Brandes

SUBJECT: Citizens Property Insurance Corporation

DATE: January 27, 2022

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

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

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 186 revises Citizens Property Insurance Corporation (Citizens or corporation) eligibility criteria, rates, assessment surcharges on Citizens' policyholders, depopulation programs, producing agent commissions, and confidentiality exceptions for underwriting and claim files.

The bill makes it a requirement, rather than an option, that Citizens Property Insurance Corporation merge their Personal Lines, Commercial Lines, and Coastal Accounts if financing obligations entered into by the Florida Windstorm Underwriting Association or Residential Property and Casualty Joint Underwriting Association are no longer outstanding.

The bill provides that Citizens residential policyholders are ineligible for renewal with Citizens if an offer of coverage is received from an authorized insurer, unless that offer presents a premium that is more than 20 percent greater than the Citizens renewal premium for comparable coverage. Under current law, Citizens policyholders remain eligible unless they receive an offer of comparable coverage that has a premium that is less than the Citizens renewal premium.

The bill increases the maximum surcharge that may be levied on Citizens' policyholders if Citizens projects a deficit in one of its accounts to: 20 percent of premium if Citizens has one million policyholders but less than 1.5 million policyholders; and 25 percent of premium if Citizens has 1.5 million policyholders or more. The surcharge may be levied for each of Citizens' three accounts.

The bill provides that when Citizens assumes a policy from an unsound insurer, the premium charged by Citizens may not, until the 3rd renewal of said policy with Citizens, be less than that previously charged by the unsound insurer at the time of transfer and that which Citizens would normally charge for said risk.

The bill authorizes surplus lines insurers to participate in Citizens' depopulation, take-out, and keep-out plans if Citizens' policy count exceeds 700,000 policies. Citizens policy count was 759,305 policies as of December 31, 2021. The surplus lines insurer must: meet financial requirements; provide notice to the policyholder which outlines any coverage differences and explains surplus lines policies are not covered by the Florida Insurance Guaranty Association; and provide coverage similar to that provided by Citizens. A risk with a personal residential dwelling replacement cost or a single condominium unit with a combined dwelling and contents replacement cost that is less than \$700,000, remains eligible for Citizens regardless of receipt of an offer of comparable coverage from a surplus lines insurer. If such risk has a replacement cost of \$700,000 or more, however, the risk is ineligible for Citizens coverage upon receiving an offer of comparable coverage from a surplus lines insurer that is not greater than 15 percent more than the premium for Citizens coverage.

The bill also:

- Defines "primary residence" and requires a five dollar surcharge to be collected by Citizens upon the renewal of a "primary residence" policy;
- Revises confidentiality exceptions for Citizens' underwriting and confidential claim files;
- Limits the commissions Citizens may pay to producing agents; and
- Makes technical changes to s. 627.3517, F.S., and reenacts and makes conforming changes to s. 627.3518, F.S.

The bill takes effect January 1, 2023.

## II. Present Situation:

### **Citizens Property Insurance Corporation—Overview**

Citizens Property Insurance Corporation (Citizens or corporation) is a state-created, not-for-profit, tax-exempt governmental entity whose public purpose is to provide property insurance coverage to those unable to find affordable coverage in the voluntary admitted market.<sup>1</sup> Citizens is not a private insurance company.<sup>2</sup> Citizens was statutorily created in 2002 when the Florida Legislature combined the state's two insurers of last resort, the Florida Residential Property and Casualty Joint Underwriting Association (RPCJUA) and the Florida Windstorm Underwriting Association (FWUA). Citizens operates in accordance with the provisions in s. 627.351(6), F.S., and is governed by an eight member Board of Governors that administers its Plan of Operations. The Plan of Operations is reviewed and approved by the Financial Services Commission.<sup>3</sup> The Governor, President of the Senate, Speaker of the House of Representatives, and Chief Financial

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<sup>1</sup> Admitted market means insurance companies licensed to transact insurance in Florida.

<sup>2</sup> Section 627.351(6)(a)1., F.S.

<sup>3</sup> Section 627.351(6)(a)2., F.S.

Officer each appoints two members to the board.<sup>4</sup> Citizens is subject to regulation by the Florida Office of Insurance Regulation (OIR).

Citizens has three different accounts through which it offers property insurance: a personal lines account, a commercial lines account, and a coastal account.

### ***Citizens' Accounts***

*The Personal Lines Account (PLA)* offers personal lines residential policies that provide comprehensive, multi-peril coverage statewide, except for those areas contained in the Coastal Account. The PLA also writes policies that exclude coverage for wind in areas contained within the Coastal Account. Personal lines residential coverage consists of the types of coverage provided to homeowners, mobile home owners, dwellings, tenants, and condominium unit owner's policies.<sup>5</sup>

*The Commercial Lines Account (CLA)* offers commercial lines residential and non-residential policies that provide basic perils coverage statewide, except for those areas contained in the Coastal Account. The CLA also writes policies that exclude coverage for wind in areas contained within the Coastal Account. Commercial lines coverage includes commercial residential policies covering condominium associations, homeowners' associations, and apartment buildings. The coverage also includes commercial non-residential policies covering business properties.<sup>6</sup>

*The Coastal Account* offers personal residential, commercial residential, and commercial non-residential policies in coastal areas of the state. Citizens must offer policies that solely cover the peril of wind (wind only policies) and may offer multi-peril policies.<sup>7</sup>

The Citizens policyholder eligibility clearinghouse program was established by the Legislature in 2013.<sup>8</sup> Under the program, new and renewal policies for Citizens are placed into the clearinghouse where participating private insurers can review and decide to make offers of coverage before policies are placed or renewed with Citizens.<sup>9</sup>

### ***Current Policies***

As of December 31, 2021, Citizens reports 759,305 policies in-force with a total exposure of \$232,502,323,529.<sup>10</sup> The below chart outlines Citizens account and product type, number of policies in-force, total exposure and premium with surcharges.

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<sup>4</sup> Section 627.351(6)(c)4.a., F.S.

<sup>5</sup> See s. 627.351(6)(b)2.a., F.S. and *Account History and Characteristics*, Citizens Property Insurance Corporation, <https://www.citizensfla.com/documents/20702/1183352/20160315+05A+Citizens+Account+History.pdf/31f51358-7105-40e9-aa75-597f51a99563> (March 2016) (last visited Jan 22, 2022).

<sup>6</sup> *Id.*

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

<sup>8</sup> Section 10, ch. 2013-60, L.O.F.

<sup>9</sup> Section 627.3518(2)-(3), F.S.

<sup>10</sup> Citizens Property Insurance, *About Us, Snapshot, December 31, 2021*, <https://www.citizensfla.com/-/20211231-policies-in-force> (last visited Jan. 22, 2022).

Account	Product Line	Policies In-Force	Total Exposure	Premium with Surcharges
PLA	Personal Residential Multiperil (PR-M)	589,028	167,886,789,888	1,280,496,248
Coastal	Personal Residential Multiperil (PR-M)	98,105	23,245,226,192	278,331,349
Coastal	Personal Residential Wind-Only (PR-W)	67,342	28,784,726,623	178,916,825
Coastal	Commercial Residential Multiperil (CR-M)	111	592,392,383	2,789,952
Coastal	Commercial Residential Wind-Only (CR-W)	1,749	5,682,636,307	33,449,678
Coastal	Commercial Non-Residential Multiperil (CNR-M)	39	48,588,500	569,765
Coastal	Commercial Non-Residential Wind-Only (CNR-W)	2,212	1,837,291,826	23,692,614
CLA	Commercial Residential Multiperil (CR-M)	580	4,289,395,010	17,091,136
CLA	Commercial Non-Residential Multiperil (CNR-M)	139	135,276,800	879,248
		<b>Total</b>	<b>759,305</b>	<b>232,502,323,529</b>
				<b>1,816,216,815</b>

Source: Citizens Property Insurance<sup>11</sup>

These numbers do not reflect policies tagged for takeout via Citizens’ depopulation program but still serviced by Citizens.<sup>12</sup> From December, 2020 to December, 2021, Citizens’ policy count grew by nearly 40%, adding 216,566 total policies in force.<sup>13</sup> Citizens has expressed that it expects to exceed 1 million policies in force in 2022.<sup>14</sup>

**Citizens Glide Path Rates**

From 2007 until 2010, Citizens’ rates were frozen by statute at the level that had been established in 2006. In 2010, the Legislature established a “glide path” to impose annual rate increases up to a level that is actuarially sound. Under the originally established glide path, Citizens had to implement an annual rate increase which, except for sinkhole coverage, does not exceed 10 percent above the previous year for any individual policyholder, adjusted for coverage changes and surcharges. In 2021, the Legislature revised this glide path to increase it one percent per year to 15 percent, as follows:<sup>15</sup>

- 11 percent for 2022.
- 12 percent for 2023.
- 13 percent for 2024.

<sup>11</sup> *Id.* This table does not include policies tagged for takeout via the Depopulation Program but still serviced by Citizens.

<sup>12</sup> *Id.*

<sup>13</sup> Citizens Property Insurance Corporation, *Policies in Force*, <https://www.citizensfla.com/policies-in-force> (last visited Jan. 22, 2022).

<sup>14</sup> Citizens Property Insurance Corporation, *Press Release: Citizens Board approves 2022 rate recommendations* (December 15, 2021), available at: <https://www.citizensfla.com/-/2021/12/15-citizens-board-approves-2022-rate-recommendations>.

<sup>15</sup> Section 627.351(6)(n)5., F.S.



- 14 percent for 2025.
- 15 percent for 2026 and all subsequent years.

The implementation of this increase ceases when Citizens has achieved actuarially sound rates.<sup>16</sup> In addition to the overall glide path rate increase, Citizens can increase its rates to recover the additional reimbursement premium that it incurs as a result of the annual cash build-up factor added to the price of the mandatory layer of the Florida Hurricane Catastrophe Fund coverage, pursuant to s. 215.555(5)(b), F.S.<sup>17</sup>

### **Citizens Financial Resources**

Citizens' financial resources include insurance premiums, investment income, and operating surplus from prior years, Florida Hurricane Catastrophe Fund (FHCF) reimbursements, private reinsurance, policyholder surcharges, and regular and emergency assessments. Non-weather water losses, reinsurance costs and litigation are currently the major determinants of insurance rates.<sup>18</sup> In the event of a catastrophic storm or series of smaller storms, reserves could be exhausted, leaving Citizens unable to pay all claims.<sup>19</sup> Under Florida law, if the Citizens' Board of Directors determines that a Citizens' account has a projected deficit, Citizens is authorized to levy assessments<sup>20</sup> on its policyholders and on each line of property and casualty line of business other than workers' compensation insurance and medical malpractice insurance.<sup>21</sup> Citizens may impose three assessment tiers and their sequence is as follows:<sup>22</sup>

*Citizens Policyholder Surcharge* – A surcharge of up to 15 percent of premium on all Citizens' policies, collected upon issuance or renewal. This 15 percent assessment can be levied for each of the three Citizens' accounts—the CLA, the PLA, and the Coastal Account—that project a deficit. Thus, the total maximum premium surcharge a policyholder could be assessed is 45 percent.<sup>23</sup>

*Regular Assessment* – If the Citizens' surcharge is insufficient to cure the deficit for the coastal account, Citizens can require an assessment against all other insurers except medical malpractice and workers' compensation. The assessment may be recouped from policyholders through a rate

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<sup>16</sup> Section 627.351(6)(n)7., F.S.

<sup>17</sup> Section 627.351(6)(n)6., F.S.

<sup>18</sup> Citizens Property Insurance Corporation, *2022 Rate Kit, Citizens 2021 Rates, Frequently Asked Questions*, <https://www.citizensfla.com/documents/20702/15725518/20211213+2022+Rate+Kit.pdf/328181e5-1c41-a28d-76ea-b7d911462c6a?t=1639433573548> (last visited Jan. 22, 2022).

<sup>19</sup> Citizens Property Insurance Corporation, *Insurance/Insurance 101/Assessments*, <https://www.citizensfla.com/assessments> (last visited Jan. 22, 2022).

<sup>20</sup> Assessments are charges that Citizens and non-Citizens policyholders can be required to pay, in addition to their regular policy premiums.

<sup>21</sup> Accident and health insurance and policies written under the National Flood Insurance Program or the Federal Crop Insurance Program are not assessable types of property and casualty insurance. Surplus lines insurers are not assessable, but their policyholders are. Section 627.351.(6)(b)3.f.-h., F.S.

<sup>22</sup> Citizens Property Insurance Corporation, *supra* note 19.

<sup>23</sup> Sections 627.351.(6)(b)3.i.(I) and 627.351.(6)(c)21., F.S. *See also*, Citizens Property Insurance Corporation, *supra* note 19.

filing process of up to two percent of premium or two percent of the deficit, whichever is greater.<sup>24</sup> This assessment is not levied against Citizens' policyholders.

*Emergency Assessment* – Requires any remaining deficit for Citizens' three accounts be funded by multi-year emergency assessments on all insurance policyholders (except medical malpractice and workers' compensation), including Citizens' policyholders. This assessment may not exceed the greater of 10 percent of the amount needed to cover the deficit, plus interest, fees, commissions, required reserves, and other costs associated with financing the original deficit, or 10 percent of the aggregate statewide direct written premium for subject lines of business and all accounts of the corporation for the prior year, plus interest, fees, commissions, required reserves, and other costs associated with financing the deficit.<sup>25</sup>

### **Eligibility for Insurance in Citizens**

Current law requires Citizens to provide a procedure for determining the eligibility of a potential risk for insurance in Citizens and provides specific eligibility requirements based on premium amounts, value of the property insured, and the location of the property. Risks not meeting the statutory eligibility requirements cannot be insured by Citizens. Citizens has additional eligibility requirements set out in their underwriting rules. These rules are approved by the Office of Insurance Regulation (OIR) and are set out in Citizens' underwriting manuals.<sup>26</sup>

#### ***Eligibility Based on Premium Amount***

An applicant for residential insurance cannot buy insurance in Citizens if an authorized insurer in the private market offers the applicant insurance for a premium that does not exceed the Citizens premium by 20 percent or more.<sup>27</sup> In addition, the coverage offered by the private insurer must be comparable to Citizens' coverage.

A residential policyholder cannot renew insurance in Citizens if an authorized insurer offers to insure the property at a premium equal to or less than the Citizens' renewal premium. The insurance from the private market insurer must be comparable to the insurance from Citizens in order for the renewal premium eligibility requirement to apply.<sup>28</sup>

#### ***Eligibility Based on Value of Property Insured***

In addition to the eligibility restrictions based on premium amount, current law provides eligibility restrictions for homes and condominium units based on the value of the property insured.<sup>29</sup> Structures with a dwelling replacement cost of \$700,000 or more, or a single condominium unit that has a combined dwelling and contents replacement cost of \$700,000 or more, are not eligible for coverage with Citizens.<sup>30</sup> However, Citizens is allowed to insure structures with a dwelling replacement cost or a condominium unit with a dwelling and contents

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<sup>24</sup> Section 627.351.(6)(b)3.a., F.S.

<sup>25</sup> Section 627.351(6)(b)3.d., F.S.

<sup>26</sup> See Citizens Property Insurance Corporation *Revised Underwriting Manuals*, <https://www.citizensfla.com/-/20160329-revised-underwriting-manuals> (last visited Jan 22, 2022).

<sup>27</sup> Section 627.351(6)(c)5., F.S.

<sup>28</sup> Section 627.351(6)(c)5., F.S.

<sup>29</sup> Section 627.351(6)(a)3., F.S.

<sup>30</sup> Section 627.351(6)(a)3.d., F.S.

replacement cost of one million dollars or less in Miami-Dade and Monroe counties, after the OIR determined these counties to be non-competitive.<sup>31</sup>

### **Citizens Depopulation**

Florida law requires Citizens to create programs to help return Citizens policies to the private market and reduce the risk of additional assessments for all Floridians.<sup>32</sup> In 2016, the Legislature passed requirements that Citizens, by January 1, 2017, amend its operations relating to takeout agreements.<sup>33</sup> As part of these updated requirements, codified under s. 627.351(6)(ii), F.S., a policy may not be taken out of Citizens unless Citizens:

- Publishes a periodic schedule of cycles during which an insurer may identify, and notify Citizens of, policies the insurer is requesting to take out;<sup>34</sup>
- Maintains and makes available to the agent of record a consolidated list of all insurers requesting to take-out a policy; such list must include a description of the coverage offered and the estimated premium for each take-out request; and
- Provides written notice to the policyholder and the agent of record regarding all insurers requesting to take-out the policy and regarding the policyholder's option to accept a take-out offer or to reject all take-out offers and to remain with the corporation. The notice must be in a format prescribed by the corporation and include, for each take-out offer:
  - The amount of the estimated premium;
  - A description of the coverage; and
  - A comparison of the estimated premium and coverage offered by the insurer to the estimated premium and coverage provided by the corporation.

### **Access to Public Records – Generally**

The Florida Constitution provides the public has the right to inspect or copy records made or received in connection with official governmental business.<sup>35</sup> The right to inspect or copy applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.<sup>36</sup>

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, s. 11.0431, F.S., provides public access requirements for legislative records. Relevant exemptions are codified in ss. 11.0431(2)-(3), F.S., and the statutory provisions are adopted in the rules of each house of the

<sup>31</sup> Office of Insurance Regulation, Final Order Case No: 165625-14, Dec. 22, 2014 (*available at* <https://www.floir.com/siteDocuments/Citizens165625-14-O.pdf>) (last visited Jan. 22, 2022). *See also* Section 627.351(6)(a)3.d., F.S., and Citizens Property Insurance Corporation, *Update to Maximum Coverage Limits, November 12, 2019* <https://www.citizensfla.com/-/2019-roof-permits-acceptable-for-fbc-credits>.

<sup>32</sup> Section 627.351(6)(q)3.a., F.S.

<sup>33</sup> Chapter 2016-229, L.O.F.

<sup>34</sup> Such requests from insurers must include a description of the coverage offered and an estimated premium and must be submitted to the corporation in a form and manner prescribed by the corporation.

<sup>35</sup> FLA. CONST. art. I, s. 24(a).

<sup>36</sup> *Id.*

legislature.<sup>37</sup> Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.<sup>38</sup> Lastly, ch. 119, F.S., provides requirements for public records held by executive agencies.

### **Confidentiality of Citizens' Underwriting and Claims Files**

Section 627.351(1)(x), F.S., establishes certain records of Citizens are confidential and exempt from the provisions of s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution. Pursuant to sub-sub-paragraphs 1.a.-b., these exempt records include:

- Underwriting files, except that a policyholder or an applicant shall have access to his or her own underwriting files.
- Claims files, until termination of all litigation and settlement of all claims arising out of the same incident, although portions of the claims files may remain exempt, as otherwise provided by law.

Sub-sub-paragraphs 1.a.-b. also provide that such records may be released to other governmental agencies upon written request and demonstration of need. Records so released and held by the receiving agency would remain confidential and exempt.

The public records exemption authorizes the sharing of certain files and information for the purpose of depopulating Citizens. If an authorized insurer is considering underwriting a risk insured by Citizens, relevant underwriting files and confidential claims files may be released to the insurer if the insurer agrees in a sworn writing to maintain the confidentiality of the files. Citizens may also release such files to the staff and board of governors of the market assistance plan established by s. 627.3515, F.S., who also must maintain confidentiality, and may share such files with authorized insurers considering writing those risks if the authorized insurer agrees to maintain confidentiality. Citizens may also release the name, address, and phone number of a residential property owner or insured, the location of the risk, rating information, loss history, and policy type to an entity that has obtained a permit to become an authorized insurer, a reinsurer under s. 624.610, F.S., a licensed reinsurance broker, a licensed rating organization, a modeling company, or a licensed general lines agent. The recipient of such information must maintain confidentiality.

### **Insurer Insolvency**

Federal law specifies that insurance companies cannot file for bankruptcy and are instead subject to state laws regarding receivership.<sup>39</sup> Insurers are either "rehabilitated" or "liquidated" by the

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<sup>37</sup> See Rule 1.48, *Rules and Manual of the Florida Senate*, (2020-2022),

[https://www.flsenate.gov/UserContent/Publications/SenateRules/2020-2022\\_Rules.pdf](https://www.flsenate.gov/UserContent/Publications/SenateRules/2020-2022_Rules.pdf) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 1, (2020-2022), and <https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Reference&CommitteeId=&Session=2022&DocumentType=The+Rules+Of+The+House+of+Representatives&FileName=2020-2022+House+Rules+-++Edition+1.pdf> (last visited Jan. 22, 2022).

<sup>38</sup> *State v. Wooten*, 260 So. 3d 1060 (Fla. 4<sup>th</sup> DCA 2018).

<sup>39</sup> The Bankruptcy Code expressly provides that "a domestic insurance company" may not be the subject of a federal bankruptcy proceeding. 11 U.S.C. § 109(b)(2). The exclusion of insurers from the federal bankruptcy court process is consistent with federal policy generally allowing states to regulate the business of insurance. See 15 U.S.C. § 1012 (McCarran-Ferguson Act).

state. Typically, insurers are put into liquidation when the company is or is about to become insolvent;<sup>40</sup> whereas, insurers are placed in rehabilitation<sup>41</sup> for numerous reasons, one of which is that the insurer is impaired or failed to comply with an order of the Office of Insurance Regulation (OIR) to address an impairment of capital or surplus or both. The goal of rehabilitation is to return to solvency. The goal of liquidation, however, is to liquidate the business of the insurer and use the proceeds to pay off the company's debts and outstanding insurance claims.

In Florida, the Division of Rehabilitation and Liquidation of the Department of Financial Services (DFS) is responsible for rehabilitating or liquidating insurance companies. This process involves the initiation of a delinquency proceeding<sup>42</sup> and the placement of an insurer under the control of the DFS as the receiver. DFS as receiver has many responsibilities related to outstanding debts and insurance claims, which include collecting all debts and money due to the insurer for the good of policyholders and creditors alike, evaluating and paying claims with available assets, and assisting in the transition of policyholders to other insurance coverage.<sup>43</sup>

If an insurer is placed under liquidation, Citizens may, if ordered by a court of competent jurisdiction, assume policies or otherwise provide coverage for policyholders of said insurer under such forms, rates, terms, and conditions as the corporation deems appropriate. Such forms, rates, terms, and conditions are subject to approval by the OIR.

### **Effect of Proposed Changes:**

**Section 1** revises s. 627.021, F.S., to specify that the current inapplicability of the Rating Law under ch. 627, F.S., to surplus lines insurance placed pursuant to the Surplus Lines Law under ss. 626.913-626.937, F.S., does not apply to provisions of the Rating Law that are specifically stated to be applicable to surplus lines insurance.

**Section 2** amends s. 627.351(6), F.S., to revise criteria for Citizens eligibility, provide an escalating cap to the Citizens policyholder surcharge, limit producing agent commissions, authorize surplus lines insurers to develop Citizens "take-out" plans, and provide additional exceptions to a public records exemption.

### ***Combining of PLA, CLA, and Coastal Accounts***

The bill revises s. 627.351(6)(b)2.b., makes it a requirement, rather than an option, that Citizens Property Insurance Corporation (Citizens) merge its PLA, CLA, and Coastal Accounts if financing obligations entered into by the Florida Windstorm Underwriting Association or Residential Property and Casualty Joint Underwriting Association are no longer outstanding. Presently, these obligations are still outstanding, so this provision would not have an immediate effect.

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<sup>40</sup> Section 631.061, F.S.

<sup>41</sup> Section 631.051, F.S.

<sup>42</sup> Section 631.031, F.S.

<sup>43</sup> Florida Department of Financial Services, *Overview of Liquidation under Chapter 631, Florida Statutes*, <https://www.myfloridacfo.com/division/receiver/guide-to-the-receivership-process/liquidationsummary> (last visited December 29, 2021).

***Surcharge Levied on Citizens' Policyholders for Projected Account Deficits and For Primary Residence Policies***

The bill revises s. 627.351(6)(b)3.i.(I), F.S., to revise the 15 percent of premium surcharge cap for Citizens' policyholders when the Citizens' Board of Governors determines Citizens has a projected deficit. The 15 percent cap is replaced with an escalating cap for Citizens' policyholders, based upon the total number of Citizens' policyholders if:

- Citizens has less than one million policyholders, the premium surcharge cap is 15 percent per account.
- Citizens has at least one million policyholders, but less than 1.5 million policyholders, the premium surcharge cap is 20 percent per account.
- Citizens has at least 1.5 million or more policyholders, the premium surcharge cap is 25 percent per account.

As under current law, a surcharge may be levied for each of Citizens' three accounts. For example, under the bill, if Citizens has 1.2 million policies, a Citizens policyholder could be assessed a maximum policyholder surcharge of 60 percent of premium, consisting of a 20 percent surcharge for each of Citizens' three accounts.

In addition to the above surcharge, the bill also requires a five dollar surcharge to be collected by Citizens upon the renewal of a primary residence policy. The bill defines primary residence as "means a risk that has a dwelling replacement cost of less than \$700,000 or a single condominium unit that has a combined dwelling and contents replacement cost of less than \$700,000 and the insured has represented such dwelling as its permanent home." Spouses are limited to having only one primary residence insured with Citizens.

***Revision to Eligibility for Coverage with Citizens Regarding Renewal Premiums***

The bill revises s. 627.351(6)(c)5.a., F.S., to state that for a personal lines residential policy, it is ineligible for renewal with the Citizens if a an offer of coverage is received from an authorized insurer, unless that offer presents a premium that is more than 20 percent greater than the renewal premium for comparable coverage from Citizens.

Under existing law, a policyholder would be ineligible only if an authorized insurer could offer comparable coverage for less than or equal to Citizens' premium, which for many policyholders is subject to the glide path's current 11 percent limit on annual rate increases (which will increase by one percent each year to 15 percent in 2026).

***Limitations on Commissions***

In proposed new s. 627.351(6)(c)22., F.S., the bill limits the commissions Citizens may pay to producing agents of record. The bill limits the commissions to no more than the average of commissions paid in the preceding year by the 20 insurers writing the greatest market share of property insurance in Florida.

### ***Rates for Policies Assumed from Unsound Insurers***

The bill creates a new s. 627.351(6)(n)8., F.S., specifying that when Citizens assumes a policy from an unsound insurer, the premium charged by Citizens may not, until the 3rd renewal of said policy with Citizens, be less than:

- That previously charged by the unsound insurer at the time of transfer; and
- That which Citizens would normally charge for said risk pursuant to s. 627.351(6)(n), F.S..

The provision also defines “unsound insurer” as an insurer determined by the Office of Insurance Regulation to be in unsound condition as defined in s. 624.80(2), F.S.<sup>44</sup>, or an insurer placed in receivership under chapter 631, F.S.

### ***Surplus Lines Insurer Participation in Citizens’ Depopulation, Take-out, and Keep-out Plans***

The bill revises s. 627.351(6)(q)3.d., F.S., to allow eligible surplus lines insurers to participate in any Citizens’ depopulation, take-out, or keep-out plan in the same manner and terms as an authorized insurer if Citizens’ policy count more than 700,000 within the 30 days before the time a takeout offer is made by a surplus lines insurer. To be eligible for participation in a particular program, a surplus lines insurer must follow all Citizens’ requirements relating to the plan that would be applicable to admitted insurers, follow statutory requirements applicable to the removal of policies from Citizens, and obtain approval from the OIR. In considering a surplus lines insurer’s request for approval, the OIR must ensure that the insurer:

- Maintains surplus of \$50 million on a company or pooled basis;
- Has a superior, excellent, exceptional, or equally comparable financial strength rating by a rating agency acceptable to the OIR;
- Maintains reserves, surplus, reinsurance, and reinsurance equivalents sufficient to cover its 100-year probable maximum hurricane loss at least twice in a single hurricane season;<sup>45</sup>
- Provides prominent notice to the policyholder that surplus lines policies are not provided coverage by the Florida Insurance Guaranty Association and outline any substantial policy differences between the existing Citizens’ policy and the policy the insurer is offering; and
- Provides policy coverage similar to that provided by Citizens.

The surplus lines insurer also must file the following with the OIR:

- Information requested by the OIR to demonstrate compliance with s. 624.404(3), F.S., regarding basic qualifications to transact insurance in Florida;<sup>46</sup>
- A service-of-process consent and agreement form executed by the insurer;
- Proof that the insurer has been an eligible or authorized insurer for at least three years;

<sup>44</sup> Section 624.80(2), F.S., defines “unsound condition” to mean that the OIR has determined that one or more of the following conditions exist with respect to an insurer: (a) the insurer’s required surplus, capital, or capital stock is impaired to an extent prohibited by law; (b) the insurer continues to write new business when it has not maintained the required surplus or capital; (c) The insurer attempts to dissolve or liquidate without first having made provisions, satisfactory to the office, for liabilities arising from insurance policies issued by the insurer; or (d) the insurer meets one or more of the grounds in s. 631.051 for the appointment of the DFS as a receiver.

<sup>45</sup> The insurer also must submit such reinsurance to the OIR for review.

<sup>46</sup> This may include biographical affidavits, fingerprints processed pursuant to s. 624.34, F.S., and the results of criminal history records checks for officers and directors of the insurer and its parent or holding company.

- A duly authenticated copy of the insurer's current audited financial statement;<sup>47</sup>
- A certified copy of the insurer's most recent official financial statement required by the insurer's domiciliary state (this is only required if the authenticated copy provided above differs from what the insurer provided to their domiciliary state); and
- A copy of the United States trust account agreement, if applicable.

Participation in these plans would not make a surplus line insurer subject to additional requirements under ch. 626, F.S., except that which is already required under part VIII. Policies taken out are not subject to the exporting requirements provided in s. 626.916(1)(a)-(c), and (e), F.S.

After assuming policies under these plans, a surplus lines insurer would be required to remit a special deposit equal to the unearned premium net of unearned commissions on the assumed block of business to the Bureau of Collateral Management within the Department of Financial Services (DFS). The insurer would also need to submit to the OIR an accounting of the policies assumed and the amount of unearned premium for such policies and a sworn affidavit attesting to its accuracy by an officer of the surplus lines insurer. Subsequently, each quarter, the surplus lines insurer must update the OIR with the unearned premium in force for the previous quarter on policies assumed from the corporation, and must submit additional funds with that filing if the special deposit is insufficient to cover the unearned premium on assumed policies. The purpose of the special deposit is to allow the DFS, in the event of liquidation of the surplus lines insurer, to pay unearned premium or policy claims, return all or part of the deposit to the domiciliary receiver, or use the funds in accordance with any action authorized under part I of ch. 631, F.S., or in compliance with any order of a court having jurisdiction over the insurer's insolvency.

A surplus lines broker representing a surplus lines insurer must obtain confirmation, in advance, from the producing agent that the agent is willing to participate in the take-out plan with the surplus lines insurer. Also, authorized insurers are to be given priority over surplus lines insurers if both select a particular policy for removal.

The surplus lines insurer participation provision also states if a policyholder has a dwelling replacement cost of \$700,000 or more or if a single condominium unit has a combined dwelling and contents replacement cost of \$700,000 or more, the policyholder would no longer qualify for Citizens coverage should the premium offered by the surplus lines insurer is no greater than that offered by Citizens. This provision does not apply to policyholders with a dwelling replacement cost below \$700,000 or a single condominium unit with a combined dwelling and contents replacement cost below \$700,000. Such policyholders would maintain eligibility for coverage with Citizens.

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<sup>47</sup> The statement must be in English, expressing all monetary values in United States dollars, at an exchange rate then current and shown in the statement, in the case of statements originally made in the currencies of other countries, and including any additional information relative to the insurer as the OIR may request.



### *Underwriting and Confidential Claim Files*

The bill revises an existing public records exemption<sup>48</sup> under s. 626.916(1)(x)2., F.S., that allows authorized insurers, considering underwriting a risk held by Citizens, to access underwriting files and confidential claims files that would otherwise be exempt from public records requirements. The bill expands this exception to also include reinsurance intermediaries, eligible surplus lines insurers, or entities that have been created to seek authority to write property insurance in this state. The bill also revises activities that would allow such parties, including authorized insurers, to receive this information. In particular, relevant information from both the underwriting files and confidential claim files may be released to the parties seeking to underwrite or assist in underwriting a risk.

**Section 3** of the bill makes technical changes to s. 627.3517, F.S.

**Section 4** of the bill makes conforming changes to s. 627.3518(5) and reenacts s. 627.3518(6)(a) and (7)(a), F.S., to implement revisions made by **Section 2** of the bill above.

**Section 5** specifies an effective date of January 1, 2023 for the bill.

### III. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

#### D. State Tax or Fee Increases:

The Florida Constitution provides that no state tax or fee may be imposed, authorized, or raised by the Legislature except through legislation approved by two-thirds of the membership of each house of the Legislature.<sup>49</sup> For purposes of this requirement, a “fee” is any charge or payment required by law. This includes any fee or charge for services and fees or costs for licenses. To “raise” a fee or tax means to:<sup>50</sup>

- Increase or authorize an increase in the rate of a state tax or fee imposed on a percentage or per mill basis;
- Increase or authorize an increase in the amount of a state tax or fee imposed on a flat or fixed amount basis; or

<sup>48</sup> Public records, unless expressly stated to be confidential and exempt, are subject to s. 119.07(1) and s. 24(a), Art. 1 of the State Constitution.

<sup>49</sup> Fla. Const. art. VII, s. 19(a)-(b). The amendment appeared on the 2018 ballot as Amendment 5.

<sup>50</sup> Fla. Const. art. VII, s. 19(d).

- Decrease or eliminate a state tax or fee exemption or credit.

A bill that imposes, authorizes, or raises any state fee or tax may only contain the fee or tax provision(s) and may not contain any other subject.<sup>51</sup>

The constitutional provision does not authorize any state tax or fee to be imposed if it is otherwise prohibited by the constitution and does not apply to any tax or fee authorized or imposed by a county, municipality, school board, or special district.<sup>52</sup>

Pursuant to s. 627.351(6)(a)1., F.S., Citizens was created as “integral part of the state.” To that end, a fee or charge for service, required by statute and assessed by Citizens, may qualify as a “fee” under Fla. Const. art. VII, s. 19(d)(1). CS/SB 186 contains a provision that requires a five dollar surcharge to be collected by Citizens upon the renewal of a primary residence policy. This new surcharge may qualify as a new fee under Fla. Const. art. VII, s. 19, and therefore would require a separate bill and a two-thirds affirmative vote for passage.

E. Other Constitutional Issues:

None.

**IV. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill revises the surcharge limits that Citizens Property Insurance Corporation (Citizens) may charge its policyholders when a Citizens’ account shortfall is projected, which may, depending on the necessity of assessing such surcharges, lead to additional insurance costs for Citizens’ policyholders. However, the collection of additional funds through the policyholder surcharge may, in some circumstances, result in less funds being necessary to collect through regular assessments or emergency assessments.

The bill mandates a \$5 surcharge to be collected by Citizens upon the renewal of a primary residence policy which will result in an additional cost for such policyholders. Annually, the total amount transferred to Citizens from these homeowners will be \$5 times the total number of policyholders. For example, if Citizens were to have 500,000 such policies, the annual surcharge collected from homeowners would be \$2.5 million. Owners of non-primary residences and or residences with a replacement value as to the structure and contents of more than \$700,000 would not be assessed.

<sup>51</sup> Fla. Const. art. VII, s. 19(e).

<sup>52</sup> Fla. Const. art. VII s. 19(c).

The bill provides that Citizens' residential policyholders become ineligible for Citizens' personal lines residential coverage upon receiving an offer from an authorized insurer for comparable coverage that is not 20 percent greater than the renewal premium for comparable Citizens' coverage. This will result in ineligibility for some Citizens' policyholders, and up to 20 percent higher premiums for some such customers when their policy is taken out of Citizens. However, to the extent that this change serves to depopulate Citizens it will reduce the likelihood Citizens will need to impose policyholder surcharges and assessments upon a deficit in a Citizens account.

Provisions of the bill allowing surplus lines insurers to participate in Citizens' depopulation, take-out, and keep-out plans, when Citizens' policy count reaches 700,000 policies, will likely have some impact on the number of policies held by Citizens and may result in additional policies moving from Citizens into the private market. Allowing surplus lines insurers to participate in these plans may have an indeterminate negative impact on the number of such policies taken by authorized insurers due to increased competition. However, policyholders covered by surplus lines insurance would not have the protection afforded by FIGA when an authorized insurer becomes insolvent.

**C. Government Sector Impact:**

The provisions of the bill relating to allowing surplus lines insurers to participate in Citizens' depopulation, take-out, and keep-out plans, under certain conditions, requires such insurers, if they take out policies from Citizens, to make specified deposits with the Bureau of Collateral Management and to make regular filings with the Office of Insurance Regulation. This will likely lead to an indeterminate amount of additional regulatory cost for those government entities.

The bill's revisions to Citizens' eligibility criteria should result in further depopulation of policies, which will reduce the amount of risk insured by Citizens and the possibility of assessments.

**V. Technical Deficiencies:**

Section 2 revises s. 627.351(6)(b)2.b. to require Citizens' to combine its PLA, CLA, and Coastal Accounts once certain financial obligations are satisfied. In order to effectuate this change, and maintain Citizens' current authorities, additional substantive and conforming changes to statute may be needed, including revising:

- Section 627.351(6)(b)2.a. which specifies that all revenues, assets, liabilities, losses, and expenses of the Citizens be divided into its PLA, CLA, and Coastal Accounts; and
- Section 627.351(6)(c) providing Citizens plan of operation which specifies the types of lines which may be written under the PLA, CLA, and Coastal Accounts.

**VI. Related Issues:**

A proposed provision in the bill limits the commissions Citizens may pay to producing agents of record to no more than the average of commissions paid in the preceding year by the 20 insurers writing the greatest market share of property insurance in Florida. If Citizens is unable to obtain

information regarding the commissions paid by such insurers, Citizens may be unable to calculate the statutorily required limit of producing agent commissions.

## **VII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 627.021 and 627.351.

This bill makes technical changes to section 627.3517 of the Florida Statutes.

This bill reenacts and makes conforming changes to section 627.3518 of the Florida Statutes.

## **VIII. Additional Information:**

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

#### **CS by Banking and Insurance on January 25, 2022:**

The CS makes several substantive revisions to SB 186:

- Requires that Citizens Property Insurance Corporation (Citizens) merge their Personal Lines, Commercial Lines, and Coastal Accounts if financing obligations entered into by the Florida Windstorm Underwriting Association or Residential Property and Casualty Joint Underwriting Association are no longer outstanding.
- Provides that when Citizens Property Insurance Corporation assumes a policy from an unsound insurer, the premium charged by Citizens may not, until the 3rd renewal of said policy with Citizens, be less than:
  - That previously charged by the unsound insurer at the time of transfer; and
  - That which Citizens would normally charge for said risk pursuant to 627.351(6)(n).
- Creates a \$5 surcharge upon renewed Citizens' primary residence policies and revises the definition of "primary residence" to limit it to only a dwelling with a replacement cost of less than \$700,000 or a single condominium unit that has a combined dwelling and contents replacement cost of less than \$700,000.
- Specifies that a risk is not eligible for coverage with Citizens unless the premium for renewal coverage from an authorized insurer is more than 20 percent greater than the renewal premium for comparable coverage from Citizens.
- Specifies that for a surplus lines insurer to participate in a takeout program as specified in the original bill, the policy count of Citizens must be more than 700,000 properties. Also specifies that, for risks that have a dwelling replacement cost of \$700,000 or more or a single condominium unit that has a combined dwelling and contents replacement cost of \$700,000, such risks are not eligible for coverage by Citizens offered comparable coverage from a qualified surplus lines insurer at a premium no greater than that of Citizens.

### **B. Amendments:**

None.

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

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/26/2022	.	
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The Committee on Banking and Insurance (Brandes) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 153 - 1184

and insert:

shall ~~may~~ use a single account for all revenues, assets, liabilities, losses, and expenses of the corporation. Consistent with this subparagraph and prudent investment policies that minimize the cost of carrying debt, the board shall exercise its best efforts to retire existing debt or obtain the approval of necessary parties to amend the terms of existing debt, so as to



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11 structure the most efficient plan for consolidating the three  
12 separate accounts into a single account.

13 c. Creditors of the Residential Property and Casualty Joint  
14 Underwriting Association and the accounts specified in sub-sub-  
15 subparagraphs a.(I) and (II) may have a claim against, and  
16 recourse to, those accounts and no claim against, or recourse  
17 to, the account referred to in sub-sub-subparagraph a.(III).  
18 Creditors of the Florida Windstorm Underwriting Association have  
19 a claim against, and recourse to, the account referred to in  
20 sub-sub-subparagraph a.(III) and no claim against, or recourse  
21 to, the accounts referred to in sub-sub-subparagraphs a.(I) and  
22 (II).

23 d. Revenues, assets, liabilities, losses, and expenses not  
24 attributable to particular accounts shall be prorated among the  
25 accounts.

26 e. The Legislature finds that the revenues of the  
27 corporation are revenues that are necessary to meet the  
28 requirements set forth in documents authorizing the issuance of  
29 bonds under this subsection.

30 f. The income of the corporation may not inure to the  
31 benefit of any private person.

32 3. With respect to a deficit in an account:

33 a. After accounting for the Citizens policyholder surcharge  
34 imposed under sub-subparagraph i., if the remaining projected  
35 deficit incurred in the coastal account in a particular calendar  
36 year:

37 (I) Is not greater than 2 percent of the aggregate  
38 statewide direct written premium for the subject lines of  
39 business for the prior calendar year, the entire deficit shall



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40 be recovered through regular assessments of assessable insurers  
41 under paragraph (q) and assessable insureds.

42 (II) Exceeds 2 percent of the aggregate statewide direct  
43 written premium for the subject lines of business for the prior  
44 calendar year, the corporation shall levy regular assessments on  
45 assessable insurers under paragraph (q) and on assessable  
46 insureds in an amount equal to the greater of 2 percent of the  
47 projected deficit or 2 percent of the aggregate statewide direct  
48 written premium for the subject lines of business for the prior  
49 calendar year. Any remaining projected deficit shall be  
50 recovered through emergency assessments under sub-subparagraph  
51 d.

52 b. Each assessable insurer's share of the amount being  
53 assessed under sub-subparagraph a. must be in the proportion  
54 that the assessable insurer's direct written premium for the  
55 subject lines of business for the year preceding the assessment  
56 bears to the aggregate statewide direct written premium for the  
57 subject lines of business for that year. The assessment  
58 percentage applicable to each assessable insured is the ratio of  
59 the amount being assessed under sub-subparagraph a. to the  
60 aggregate statewide direct written premium for the subject lines  
61 of business for the prior year. Assessments levied by the  
62 corporation on assessable insurers under sub-subparagraph a.  
63 must be paid as required by the corporation's plan of operation  
64 and paragraph (q). Assessments levied by the corporation on  
65 assessable insureds under sub-subparagraph a. shall be collected  
66 by the surplus lines agent at the time the surplus lines agent  
67 collects the surplus lines tax required by s. 626.932, and paid  
68 to the Florida Surplus Lines Service Office at the time the





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69 surplus lines agent pays the surplus lines tax to that office.  
70 Upon receipt of regular assessments from surplus lines agents,  
71 the Florida Surplus Lines Service Office shall transfer the  
72 assessments directly to the corporation as determined by the  
73 corporation.

74 c. After accounting for the Citizens policyholder surcharge  
75 imposed under sub-subparagraph i., the remaining projected  
76 deficits in the personal lines account and in the commercial  
77 lines account in a particular calendar year shall be recovered  
78 through emergency assessments under sub-subparagraph d.

79 d. Upon a determination by the board of governors that a  
80 projected deficit in an account exceeds the amount that is  
81 expected to be recovered through regular assessments under sub-  
82 subparagraph a., plus the amount that is expected to be  
83 recovered through surcharges under sub-subparagraph i., the  
84 board, after verification by the office, shall levy emergency  
85 assessments for as many years as necessary to cover the  
86 deficits, to be collected by assessable insurers and the  
87 corporation and collected from assessable insureds upon issuance  
88 or renewal of policies for subject lines of business, excluding  
89 National Flood Insurance policies. The amount collected in a  
90 particular year must be a uniform percentage of that year's  
91 direct written premium for subject lines of business and all  
92 accounts of the corporation, excluding National Flood Insurance  
93 Program policy premiums, as annually determined by the board and  
94 verified by the office. The office shall verify the arithmetic  
95 calculations involved in the board's determination within 30  
96 days after receipt of the information on which the determination  
97 was based. The office shall notify assessable insurers and the



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98 Florida Surplus Lines Service Office of the date on which  
99 assessable insurers shall begin to collect and assessable  
100 insureds shall begin to pay such assessment. The date must be at  
101 least 90 days after the date the corporation levies emergency  
102 assessments pursuant to this sub-subparagraph. Notwithstanding  
103 any other provision of law, the corporation and each assessable  
104 insurer that writes subject lines of business shall collect  
105 emergency assessments from its policyholders without such  
106 obligation being affected by any credit, limitation, exemption,  
107 or deferment. Emergency assessments levied by the corporation on  
108 assessable insureds shall be collected by the surplus lines  
109 agent at the time the surplus lines agent collects the surplus  
110 lines tax required by s. 626.932 and paid to the Florida Surplus  
111 Lines Service Office at the time the surplus lines agent pays  
112 the surplus lines tax to that office. The emergency assessments  
113 collected shall be transferred directly to the corporation on a  
114 periodic basis as determined by the corporation and held by the  
115 corporation solely in the applicable account. The aggregate  
116 amount of emergency assessments levied for an account in any  
117 calendar year may be less than but may not exceed the greater of  
118 10 percent of the amount needed to cover the deficit, plus  
119 interest, fees, commissions, required reserves, and other costs  
120 associated with financing the original deficit, or 10 percent of  
121 the aggregate statewide direct written premium for subject lines  
122 of business and all accounts of the corporation for the prior  
123 year, plus interest, fees, commissions, required reserves, and  
124 other costs associated with financing the deficit.

125 e. The corporation may pledge the proceeds of assessments,  
126 projected recoveries from the Florida Hurricane Catastrophe



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127 Fund, other insurance and reinsurance recoverables, policyholder  
128 surcharges and other surcharges, and other funds available to  
129 the corporation as the source of revenue for and to secure bonds  
130 issued under paragraph (q), bonds or other indebtedness issued  
131 under subparagraph (c)3., or lines of credit or other financing  
132 mechanisms issued or created under this subsection, or to retire  
133 any other debt incurred as a result of deficits or events giving  
134 rise to deficits, or in any other way that the board determines  
135 will efficiently recover such deficits. The purpose of the lines  
136 of credit or other financing mechanisms is to provide additional  
137 resources to assist the corporation in covering claims and  
138 expenses attributable to a catastrophe. As used in this  
139 subsection, the term "assessments" includes regular assessments  
140 under sub-subparagraph a. or subparagraph (q)1. and emergency  
141 assessments under sub-subparagraph d. Emergency assessments  
142 collected under sub-subparagraph d. are not part of an insurer's  
143 rates, are not premium, and are not subject to premium tax,  
144 fees, or commissions; however, failure to pay the emergency  
145 assessment shall be treated as failure to pay premium. The  
146 emergency assessments shall continue as long as any bonds issued  
147 or other indebtedness incurred with respect to a deficit for  
148 which the assessment was imposed remain outstanding, unless  
149 adequate provision has been made for the payment of such bonds  
150 or other indebtedness pursuant to the documents governing such  
151 bonds or indebtedness.

152 f. As used in this subsection for purposes of any deficit  
153 incurred on or after January 25, 2007, the term "subject lines  
154 of business" means insurance written by assessable insurers or  
155 procured by assessable insureds for all property and casualty



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156 lines of business in this state, but not including workers'  
157 compensation or medical malpractice. As used in this sub-  
158 subparagraph, the term "property and casualty lines of business"  
159 includes all lines of business identified on Form 2, Exhibit of  
160 Premiums and Losses, in the annual statement required of  
161 authorized insurers under s. 624.424 and any rule adopted under  
162 this section, except for those lines identified as accident and  
163 health insurance and except for policies written under the  
164 National Flood Insurance Program or the Federal Crop Insurance  
165 Program. For purposes of this sub-subparagraph, the term  
166 "workers' compensation" includes both workers' compensation  
167 insurance and excess workers' compensation insurance.

168 g. The Florida Surplus Lines Service Office shall determine  
169 annually the aggregate statewide written premium in subject  
170 lines of business procured by assessable insureds and report  
171 that information to the corporation in a form and at a time the  
172 corporation specifies to ensure that the corporation can meet  
173 the requirements of this subsection and the corporation's  
174 financing obligations.

175 h. The Florida Surplus Lines Service Office shall verify  
176 the proper application by surplus lines agents of assessment  
177 percentages for regular assessments and emergency assessments  
178 levied under this subparagraph on assessable insureds and assist  
179 the corporation in ensuring the accurate, timely collection and  
180 payment of assessments by surplus lines agents as required by  
181 the corporation.

182 i. Upon determination by the board of governors that an  
183 account has a projected deficit, the board shall levy a Citizens  
184 policyholder surcharge against all policyholders of the



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185 corporation.

186 (I) The surcharge must ~~shall~~ be levied as a uniform  
187 percentage of the premium for the policy ~~of up to 15 percent of~~  
188 ~~such premium, and must~~ which funds shall be used to offset the  
189 deficit, as follows:

190 (A) If the total number of policyholders of the corporation  
191 is less than 1 million, a surcharge of 15 percent of the  
192 premium.

193 (B) If the total number of policyholders of the corporation  
194 is at least 1 million but less than 1.5 million, a surcharge of  
195 20 percent of the premium.

196 (C) If the total number of policyholders of the corporation  
197 is at least 1.5 million, a surcharge of 25 percent of the  
198 premium.

199 (II) The surcharge is payable upon cancellation or  
200 termination of the policy, upon renewal of the policy, or upon  
201 issuance of a new policy by the corporation within the first 12  
202 months after the date of the levy or the period of time  
203 necessary to fully collect the surcharge amount.

204 (III) The corporation may not levy any regular assessments  
205 under paragraph (q) pursuant to sub-subparagraph a. or sub-  
206 subparagraph b. with respect to a particular year's deficit  
207 until the corporation has first levied the full amount of the  
208 surcharge authorized by this sub-subparagraph.

209 (IV) The surcharge is not considered premium and is not  
210 subject to commissions, fees, or premium taxes. However, failure  
211 to pay the surcharge shall be treated as failure to pay premium.

212 j. The corporation shall annually collect a surcharge of \$5  
213 upon renewal on all policies listed as a primary residence with



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214 the corporation.

215       k. If the amount of any assessments or surcharges collected  
216 from corporation policyholders, assessable insurers or their  
217 policyholders, or assessable insureds exceeds the amount of the  
218 deficits, such excess amounts shall be remitted to and retained  
219 by the corporation in a reserve to be used by the corporation,  
220 as determined by the board of governors and approved by the  
221 office, to pay claims or reduce any past, present, or future  
222 plan-year deficits or to reduce outstanding debt.

223       (c) The corporation's plan of operation:

224       1. Must provide for adoption of residential property and  
225 casualty insurance policy forms and commercial residential and  
226 nonresidential property insurance forms, which must be approved  
227 by the office before use. The corporation shall adopt the  
228 following policy forms:

229       a. Standard personal lines policy forms that are  
230 comprehensive multiperil policies providing full coverage of a  
231 residential property equivalent to the coverage provided in the  
232 private insurance market under an HO-3, HO-4, or HO-6 policy.

233       b. Basic personal lines policy forms that are policies  
234 similar to an HO-8 policy or a dwelling fire policy that provide  
235 coverage meeting the requirements of the secondary mortgage  
236 market, but which is more limited than the coverage under a  
237 standard policy.

238       c. Commercial lines residential and nonresidential policy  
239 forms that are generally similar to the basic perils of full  
240 coverage obtainable for commercial residential structures and  
241 commercial nonresidential structures in the admitted voluntary  
242 market.



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243           d. Personal lines and commercial lines residential property  
244 insurance forms that cover the peril of wind only. The forms are  
245 applicable only to residential properties located in areas  
246 eligible for coverage under the coastal account referred to in  
247 sub-subparagraph (b)2.a.

248           e. Commercial lines nonresidential property insurance forms  
249 that cover the peril of wind only. The forms are applicable only  
250 to nonresidential properties located in areas eligible for  
251 coverage under the coastal account referred to in sub-  
252 subparagraph (b)2.a.

253           f. The corporation may adopt variations of the policy forms  
254 listed in sub-subparagraphs a.-e. which contain more restrictive  
255 coverage.

256           g. Effective January 1, 2013, the corporation shall offer a  
257 basic personal lines policy similar to an HO-8 policy with  
258 dwelling repair based on common construction materials and  
259 methods.

260           2. Must provide that the corporation adopt a program in  
261 which the corporation and authorized insurers enter into quota  
262 share primary insurance agreements for hurricane coverage, as  
263 defined in s. 627.4025(2) (a), for eligible risks, and adopt  
264 property insurance forms for eligible risks which cover the  
265 peril of wind only.

266           a. As used in this subsection, the term:

267           (II) "Primary residence" means a risk that has a dwelling  
268 replacement cost of less than \$700,000 or a single condominium  
269 unit that has a combined dwelling and contents replacement cost  
270 of less than \$700,000 and the insured has represented such  
271 dwelling as its permanent home on the insurance application or



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272 otherwise to the corporation. A policyholder and the  
273 policyholder's spouse may not collectively have more than one  
274 primary residence insured with the corporation.

275 (III)~~(I)~~ "Quota share primary insurance" means an  
276 arrangement in which the primary hurricane coverage of an  
277 eligible risk is provided in specified percentages by the  
278 corporation and an authorized insurer. The corporation and  
279 authorized insurer are each solely responsible for a specified  
280 percentage of hurricane coverage of an eligible risk as set  
281 forth in a quota share primary insurance agreement between the  
282 corporation and an authorized insurer and the insurance  
283 contract. The responsibility of the corporation or authorized  
284 insurer to pay its specified percentage of hurricane losses of  
285 an eligible risk, as set forth in the agreement, may not be  
286 altered by the inability of the other party to pay its specified  
287 percentage of losses. Eligible risks that are provided hurricane  
288 coverage through a quota share primary insurance arrangement  
289 must be provided policy forms that set forth the obligations of  
290 the corporation and authorized insurer under the arrangement,  
291 clearly specify the percentages of quota share primary insurance  
292 provided by the corporation and authorized insurer, and  
293 conspicuously and clearly state that the authorized insurer and  
294 the corporation may not be held responsible beyond their  
295 specified percentage of coverage of hurricane losses.

296 (I)~~(II)~~ "Eligible risks" means personal lines residential  
297 and commercial lines residential risks that meet the  
298 underwriting criteria of the corporation and are located in  
299 areas that were eligible for coverage by the Florida Windstorm  
300 Underwriting Association on January 1, 2002.





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301           b. The corporation may enter into quota share primary  
302 insurance agreements with authorized insurers at corporation  
303 coverage levels of 90 percent and 50 percent.

304           c. If the corporation determines that additional coverage  
305 levels are necessary to maximize participation in quota share  
306 primary insurance agreements by authorized insurers, the  
307 corporation may establish additional coverage levels. However,  
308 the corporation's quota share primary insurance coverage level  
309 may not exceed 90 percent.

310           d. Any quota share primary insurance agreement entered into  
311 between an authorized insurer and the corporation must provide  
312 for a uniform specified percentage of coverage of hurricane  
313 losses, by county or territory as set forth by the corporation  
314 board, for all eligible risks of the authorized insurer covered  
315 under the agreement.

316           e. Any quota share primary insurance agreement entered into  
317 between an authorized insurer and the corporation is subject to  
318 review and approval by the office. However, such agreement shall  
319 be authorized only as to insurance contracts entered into  
320 between an authorized insurer and an insured who is already  
321 insured by the corporation for wind coverage.

322           f. For all eligible risks covered under quota share primary  
323 insurance agreements, the exposure and coverage levels for both  
324 the corporation and authorized insurers shall be reported by the  
325 corporation to the Florida Hurricane Catastrophe Fund. For all  
326 policies of eligible risks covered under such agreements, the  
327 corporation and the authorized insurer must maintain complete  
328 and accurate records for the purpose of exposure and loss  
329 reimbursement audits as required by fund rules. The corporation



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330 and the authorized insurer shall each maintain duplicate copies  
331 of policy declaration pages and supporting claims documents.

332 g. The corporation board shall establish in its plan of  
333 operation standards for quota share agreements which ensure that  
334 there is no discriminatory application among insurers as to the  
335 terms of the agreements, pricing of the agreements, incentive  
336 provisions if any, and consideration paid for servicing policies  
337 or adjusting claims.

338 h. The quota share primary insurance agreement between the  
339 corporation and an authorized insurer must set forth the  
340 specific terms under which coverage is provided, including, but  
341 not limited to, the sale and servicing of policies issued under  
342 the agreement by the insurance agent of the authorized insurer  
343 producing the business, the reporting of information concerning  
344 eligible risks, the payment of premium to the corporation, and  
345 arrangements for the adjustment and payment of hurricane claims  
346 incurred on eligible risks by the claims adjuster and personnel  
347 of the authorized insurer. Entering into a quota sharing  
348 insurance agreement between the corporation and an authorized  
349 insurer is voluntary and at the discretion of the authorized  
350 insurer.

351 3. May provide that the corporation may employ or otherwise  
352 contract with individuals or other entities to provide  
353 administrative or professional services that may be appropriate  
354 to effectuate the plan. The corporation may borrow funds by  
355 issuing bonds or by incurring other indebtedness, and shall have  
356 other powers reasonably necessary to effectuate the requirements  
357 of this subsection, including, without limitation, the power to  
358 issue bonds and incur other indebtedness in order to refinance



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359 outstanding bonds or other indebtedness. The corporation may  
360 seek judicial validation of its bonds or other indebtedness  
361 under chapter 75. The corporation may issue bonds or incur other  
362 indebtedness, or have bonds issued on its behalf by a unit of  
363 local government pursuant to subparagraph (q)2. in the absence  
364 of a hurricane or other weather-related event, upon a  
365 determination by the corporation, subject to approval by the  
366 office, that such action would enable it to efficiently meet the  
367 financial obligations of the corporation and that such  
368 financings are reasonably necessary to effectuate the  
369 requirements of this subsection. The corporation may take all  
370 actions needed to facilitate tax-free status for such bonds or  
371 indebtedness, including formation of trusts or other affiliated  
372 entities. The corporation may pledge assessments, projected  
373 recoveries from the Florida Hurricane Catastrophe Fund, other  
374 reinsurance recoverables, policyholder surcharges and other  
375 surcharges, and other funds available to the corporation as  
376 security for bonds or other indebtedness. In recognition of s.  
377 10, Art. I of the State Constitution, prohibiting the impairment  
378 of obligations of contracts, it is the intent of the Legislature  
379 that no action be taken whose purpose is to impair any bond  
380 indenture or financing agreement or any revenue source committed  
381 by contract to such bond or other indebtedness.

382 4. Must require that the corporation operate subject to the  
383 supervision and approval of a board of governors consisting of  
384 nine individuals who are residents of this state and who are  
385 from different geographical areas of this ~~the~~ state, one of whom  
386 is appointed by the Governor and serves solely to advocate on  
387 behalf of the consumer. The appointment of a consumer



388 representative by the Governor is deemed to be within the scope  
389 of the exemption provided in s. 112.313(7)(b) and is in addition  
390 to the appointments authorized under sub-subparagraph a.

391 a. The Governor, the Chief Financial Officer, the President  
392 of the Senate, and the Speaker of the House of Representatives  
393 shall each appoint two members of the board. At least one of the  
394 two members appointed by each appointing officer must have  
395 demonstrated expertise in insurance and be deemed to be within  
396 the scope of the exemption provided in s. 112.313(7)(b). The  
397 Chief Financial Officer shall designate one of the appointees as  
398 chair. All board members serve at the pleasure of the appointing  
399 officer. All members of the board are subject to removal at will  
400 by the officers who appointed them. All board members, including  
401 the chair, must be appointed to serve for 3-year terms beginning  
402 annually on a date designated by the plan. However, for the  
403 first term beginning on or after July 1, 2009, each appointing  
404 officer shall appoint one member of the board for a 2-year term  
405 and one member for a 3-year term. A board vacancy shall be  
406 filled for the unexpired term by the appointing officer. The  
407 Chief Financial Officer shall appoint a technical advisory group  
408 to provide information and advice to the board in connection  
409 with the board's duties under this subsection. The executive  
410 director and senior managers of the corporation shall be engaged  
411 by the board and serve at the pleasure of the board. Any  
412 executive director appointed on or after July 1, 2006, is  
413 subject to confirmation by the Senate. The executive director is  
414 responsible for employing other staff as the corporation may  
415 require, subject to review and concurrence by the board.

416 b. The board shall create a Market Accountability Advisory



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417 Committee to assist the corporation in developing awareness of  
418 its rates and its customer and agent service levels in  
419 relationship to the voluntary market insurers writing similar  
420 coverage.

421 (I) The members of the advisory committee consist of the  
422 following 11 persons, one of whom must be elected chair by the  
423 members of the committee: four representatives, one appointed by  
424 the Florida Association of Insurance Agents, one by the Florida  
425 Association of Insurance and Financial Advisors, one by the  
426 Professional Insurance Agents of Florida, and one by the Latin  
427 American Association of Insurance Agencies; three  
428 representatives appointed by the insurers with the three highest  
429 voluntary market share of residential property insurance  
430 business in this ~~the~~ state; one representative from the Office  
431 of Insurance Regulation; one consumer appointed by the board who  
432 is insured by the corporation at the time of appointment to the  
433 committee; one representative appointed by the Florida  
434 Association of Realtors; and one representative appointed by the  
435 Florida Bankers Association. All members shall be appointed to  
436 3-year terms and may serve for consecutive terms.

437 (II) The committee shall report to the corporation at each  
438 board meeting on insurance market issues that ~~which~~ may include  
439 rates and rate competition with the voluntary market; service,  
440 including policy issuance, claims processing, and general  
441 responsiveness to policyholders, applicants, and agents; and  
442 matters relating to depopulation.

443 5. Must provide a procedure for determining the eligibility  
444 of a risk for coverage, as follows:

445 a. Subject to s. 627.3517, with respect to personal lines



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446 residential risks, if the risk is offered coverage from an  
447 authorized insurer at the insurer's approved rate under a  
448 standard policy including wind coverage or, if consistent with  
449 the insurer's underwriting rules as filed with the office, a  
450 basic policy including wind coverage, for a new application to  
451 the corporation for coverage, the risk is not eligible for any  
452 policy issued by the corporation unless the premium for coverage  
453 from the authorized insurer is more than 20 percent greater than  
454 the premium for comparable coverage from the corporation.  
455 Whenever an offer of coverage for a personal lines residential  
456 risk is received for a policyholder of the corporation ~~at~~  
457 ~~renewal~~ from an authorized insurer, ~~if the offer is equal to or~~  
458 ~~less than the corporation's renewal premium for comparable~~  
459 ~~coverage,~~ the risk is not eligible for coverage with the  
460 corporation unless the premium for coverage from the authorized  
461 insurer is more than 20 percent greater than the renewal premium  
462 for comparable coverage from the corporation. If the risk is not  
463 able to obtain such offer, the risk is eligible for a standard  
464 policy including wind coverage or a basic policy including wind  
465 coverage issued by the corporation; however, if the risk could  
466 not be insured under a standard policy including wind coverage  
467 regardless of market conditions, the risk is eligible for a  
468 basic policy including wind coverage unless rejected under  
469 subparagraph 8. However, a policyholder removed from the  
470 corporation through an assumption agreement remains eligible for  
471 coverage from the corporation until the end of the assumption  
472 period. The corporation shall determine the type of policy to be  
473 provided on the basis of objective standards specified in the  
474 underwriting manual and based on generally accepted underwriting



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475 practices.

476 (I) If the risk accepts an offer of coverage through the  
477 market assistance plan or through a mechanism established by the  
478 corporation other than a plan established by s. 627.3518, before  
479 a policy is issued to the risk by the corporation or during the  
480 first 30 days of coverage by the corporation, and the producing  
481 agent who submitted the application to the plan or to the  
482 corporation is not currently appointed by the insurer, the  
483 insurer shall:

484 (A) Pay to the producing agent of record of the policy for  
485 the first year, an amount that is the greater of the insurer's  
486 usual and customary commission for the type of policy written or  
487 a fee equal to the usual and customary commission of the  
488 corporation; or

489 (B) Offer to allow the producing agent of record of the  
490 policy to continue servicing the policy for at least 1 year and  
491 offer to pay the agent the greater of the insurer's or the  
492 corporation's usual and customary commission for the type of  
493 policy written.

494  
495 If the producing agent is unwilling or unable to accept  
496 appointment, the new insurer shall pay the agent in accordance  
497 with sub-sub-sub-subparagraph (A).

498 (II) If the corporation enters into a contractual agreement  
499 for a take-out plan, the producing agent of record of the  
500 corporation policy is entitled to retain any unearned commission  
501 on the policy, and the insurer shall:

502 (A) Pay to the producing agent of record, for the first  
503 year, an amount that is the greater of the insurer's usual and



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504 customary commission for the type of policy written or a fee  
505 equal to the usual and customary commission of the corporation;  
506 or

507 (B) Offer to allow the producing agent of record to  
508 continue servicing the policy for at least 1 year and offer to  
509 pay the agent the greater of the insurer's or the corporation's  
510 usual and customary commission for the type of policy written.

511

512 If the producing agent is unwilling or unable to accept  
513 appointment, the new insurer shall pay the agent in accordance  
514 with sub-sub-sub-subparagraph (A).

515 b. With respect to commercial lines residential risks, for  
516 a new application to the corporation for coverage, if the risk  
517 is offered coverage under a policy including wind coverage from  
518 an authorized insurer at its approved rate, the risk is not  
519 eligible for a policy issued by the corporation unless the  
520 premium for coverage from the authorized insurer is more than 15  
521 percent greater than the premium for comparable coverage from  
522 the corporation. Whenever an offer of coverage for a commercial  
523 lines residential risk is received for a policyholder of the  
524 corporation at renewal from an authorized insurer, if the offer  
525 is equal to or less than the corporation's renewal premium for  
526 comparable coverage, the risk is not eligible for coverage with  
527 the corporation. If the risk is not able to obtain any such  
528 offer, the risk is eligible for a policy including wind coverage  
529 issued by the corporation. However, a policyholder removed from  
530 the corporation through an assumption agreement remains eligible  
531 for coverage from the corporation until the end of the  
532 assumption period.





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533 (I) If the risk accepts an offer of coverage through the  
534 market assistance plan or through a mechanism established by the  
535 corporation other than a plan established by s. 627.3518, before  
536 a policy is issued to the risk by the corporation or during the  
537 first 30 days of coverage by the corporation, and the producing  
538 agent who submitted the application to the plan or the  
539 corporation is not currently appointed by the insurer, the  
540 insurer shall:

541 (A) Pay to the producing agent of record of the policy, for  
542 the first year, an amount that is the greater of the insurer's  
543 usual and customary commission for the type of policy written or  
544 a fee equal to the usual and customary commission of the  
545 corporation; or

546 (B) Offer to allow the producing agent of record of the  
547 policy to continue servicing the policy for at least 1 year and  
548 offer to pay the agent the greater of the insurer's or the  
549 corporation's usual and customary commission for the type of  
550 policy written.

551  
552 If the producing agent is unwilling or unable to accept  
553 appointment, the new insurer shall pay the agent in accordance  
554 with sub-sub-sub-subparagraph (A).

555 (II) If the corporation enters into a contractual agreement  
556 for a take-out plan, the producing agent of record of the  
557 corporation policy is entitled to retain any unearned commission  
558 on the policy, and the insurer shall:

559 (A) Pay to the producing agent of record, for the first  
560 year, an amount that is the greater of the insurer's usual and  
561 customary commission for the type of policy written or a fee



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562 equal to the usual and customary commission of the corporation;  
563 or

564 (B) Offer to allow the producing agent of record to  
565 continue servicing the policy for at least 1 year and offer to  
566 pay the agent the greater of the insurer's or the corporation's  
567 usual and customary commission for the type of policy written.

568

569 If the producing agent is unwilling or unable to accept  
570 appointment, the new insurer shall pay the agent in accordance  
571 with sub-sub-sub-subparagraph (A).

572 c. For purposes of determining comparable coverage under  
573 sub-subparagraphs a. and b., the comparison must be based on  
574 those forms and coverages that are reasonably comparable. The  
575 corporation may rely on a determination of comparable coverage  
576 and premium made by the producing agent who submits the  
577 application to the corporation, made in the agent's capacity as  
578 the corporation's agent. A comparison may be made solely of the  
579 premium with respect to the main building or structure only on  
580 the following basis: the same coverage A or other building  
581 limits; the same percentage hurricane deductible that applies on  
582 an annual basis or that applies to each hurricane for commercial  
583 residential property; the same percentage of ordinance and law  
584 coverage, if the same limit is offered by both the corporation  
585 and the authorized insurer; the same mitigation credits, to the  
586 extent the same types of credits are offered both by the  
587 corporation and the authorized insurer; the same method for loss  
588 payment, such as replacement cost or actual cash value, if the  
589 same method is offered both by the corporation and the  
590 authorized insurer in accordance with underwriting rules; and



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591 any other form or coverage that is reasonably comparable as  
592 determined by the board. If an application is submitted to the  
593 corporation for wind-only coverage in the coastal account, the  
594 premium for the corporation's wind-only policy plus the premium  
595 for the ex-wind policy that is offered by an authorized insurer  
596 to the applicant must be compared to the premium for multiperil  
597 coverage offered by an authorized insurer, subject to the  
598 standards for comparison specified in this subparagraph. If the  
599 corporation or the applicant requests from the authorized  
600 insurer a breakdown of the premium of the offer by types of  
601 coverage so that a comparison may be made by the corporation or  
602 its agent and the authorized insurer refuses or is unable to  
603 provide such information, the corporation may treat the offer as  
604 not being an offer of coverage from an authorized insurer at the  
605 insurer's approved rate.

606         6. Must include rules for classifications of risks and  
607 rates.

608         7. Must provide that if premium and investment income for  
609 an account attributable to a particular calendar year are in  
610 excess of projected losses and expenses for the account  
611 attributable to that year, such excess shall be held in surplus  
612 in the account. Such surplus must be available to defray  
613 deficits in that account as to future years and used for that  
614 purpose before assessing assessable insurers and assessable  
615 insureds as to any calendar year.

616         8. Must provide objective criteria and procedures to be  
617 uniformly applied to all applicants in determining whether an  
618 individual risk is so hazardous as to be uninsurable. In making  
619 this determination and in establishing the criteria and



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620 procedures, the following must be considered:

621 a. Whether the likelihood of a loss for the individual risk  
622 is substantially higher than for other risks of the same class;  
623 and

624 b. Whether the uncertainty associated with the individual  
625 risk is such that an appropriate premium cannot be determined.

626

627 The acceptance or rejection of a risk by the corporation must  
628 ~~shall~~ be construed as the private placement of insurance, and  
629 ~~the provisions of~~ chapter 120 does ~~de~~ not apply.

630 9. Must provide that the corporation make its best efforts  
631 to procure catastrophe reinsurance at reasonable rates, to cover  
632 its projected 100-year probable maximum loss as determined by  
633 the board of governors. If catastrophe reinsurance is not  
634 available at reasonable rates, the corporation need not purchase  
635 it, but the corporation shall include the costs of reinsurance  
636 to cover its projected 100-year probable maximum loss in its  
637 rate calculations even if it does not purchase catastrophe  
638 reinsurance.

639 10. The policies issued by the corporation must provide  
640 that if the corporation or the market assistance plan obtains an  
641 offer from an authorized insurer to cover the risk at its  
642 approved rates, the risk is no longer eligible for renewal  
643 through the corporation, except as otherwise provided in this  
644 subsection.

645 11. Corporation policies and applications must include a  
646 notice that the corporation policy could, under this section, be  
647 replaced with a policy issued by an authorized insurer which  
648 does not provide coverage identical to the coverage provided by



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649 the corporation. The notice must also specify that acceptance of  
650 corporation coverage creates a conclusive presumption that the  
651 applicant or policyholder is aware of this potential.

652 12. May establish, subject to approval by the office,  
653 different eligibility requirements and operational procedures  
654 for any line or type of coverage for any specified county or  
655 area if the board determines that such changes are justified due  
656 to the voluntary market being sufficiently stable and  
657 competitive in such area or for such line or type of coverage  
658 and that consumers who, in good faith, are unable to obtain  
659 insurance through the voluntary market through ordinary methods  
660 continue to have access to coverage from the corporation. If  
661 coverage is sought in connection with a real property transfer,  
662 the requirements and procedures may not provide an effective  
663 date of coverage later than the date of the closing of the  
664 transfer as established by the transferor, the transferee, and,  
665 if applicable, the lender.

666 13. Must provide that, with respect to the coastal account,  
667 any assessable insurer with a surplus as to policyholders of \$25  
668 million or less writing 25 percent or more of its total  
669 countrywide property insurance premiums in this state may  
670 petition the office, within the first 90 days of each calendar  
671 year, to qualify as a limited apportionment company. A regular  
672 assessment levied by the corporation on a limited apportionment  
673 company for a deficit incurred by the corporation for the  
674 coastal account may be paid to the corporation on a monthly  
675 basis as the assessments are collected by the limited  
676 apportionment company from its insureds, but a limited  
677 apportionment company must begin collecting the regular



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678 assessments not later than 90 days after the regular assessments  
679 are levied by the corporation, and the regular assessments must  
680 be paid in full within 15 months after being levied by the  
681 corporation. A limited apportionment company shall collect from  
682 its policyholders any emergency assessment imposed under sub-  
683 subparagraph (b)3.d. The plan must provide that, if the office  
684 determines that any regular assessment will result in an  
685 impairment of the surplus of a limited apportionment company,  
686 the office may direct that all or part of such assessment be  
687 deferred as provided in subparagraph (q)4. However, an emergency  
688 assessment to be collected from policyholders under sub-  
689 subparagraph (b)3.d. may not be limited or deferred.

690 14. Must provide that the corporation appoint as its  
691 licensed agents only those agents who throughout such  
692 appointments also hold an appointment as defined in s. 626.015  
693 by an insurer who is authorized to write and is actually writing  
694 or renewing personal lines residential property coverage,  
695 commercial residential property coverage, or commercial  
696 nonresidential property coverage within this ~~the~~ state.

697 15. Must provide a premium payment plan option to its  
698 policyholders which, at a minimum, allows for quarterly and  
699 semiannual payment of premiums. A monthly payment plan may, but  
700 is not required to, be offered.

701 16. Must limit coverage on mobile homes or manufactured  
702 homes built before 1994 to actual cash value of the dwelling  
703 rather than replacement costs of the dwelling.

704 17. Must provide coverage for manufactured or mobile home  
705 dwellings. Such coverage must also include the following  
706 attached structures:



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707           a. Screened enclosures that are aluminum framed or screened  
708 enclosures that are not covered by the same or substantially the  
709 same materials as those of the primary dwelling;

710           b. Carports that are aluminum or carports that are not  
711 covered by the same or substantially the same materials as those  
712 of the primary dwelling; and

713           c. Patios that have a roof covering that is constructed of  
714 materials that are not the same or substantially the same  
715 materials as those of the primary dwelling.

716

717 The corporation shall make available a policy for mobile homes  
718 or manufactured homes for a minimum insured value of at least  
719 \$3,000.

720           18. May provide such limits of coverage as the board  
721 determines, consistent with the requirements of this subsection.

722           19. May require commercial property to meet specified  
723 hurricane mitigation construction features as a condition of  
724 eligibility for coverage.

725           20. Must provide that new or renewal policies issued by the  
726 corporation on or after January 1, 2012, which cover sinkhole  
727 loss do not include coverage for any loss to appurtenant  
728 structures, driveways, sidewalks, decks, or patios that are  
729 directly or indirectly caused by sinkhole activity. The  
730 corporation shall exclude such coverage using a notice of  
731 coverage change, which may be included with the policy renewal,  
732 and not by issuance of a notice of nonrenewal of the excluded  
733 coverage upon renewal of the current policy.

734           21. As of January 1, 2012, must require that the agent  
735 obtain from an applicant for coverage from the corporation an



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736 acknowledgment signed by the applicant, which includes, at a  
737 minimum, the following statement:

738

739 ACKNOWLEDGMENT OF POTENTIAL SURCHARGE  
740 AND ASSESSMENT LIABILITY:

741

742 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE  
743 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A  
744 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,  
745 MY POLICY COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND  
746 PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE  
747 POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH AS 45 PERCENT  
748 OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA  
749 LEGISLATURE.

750 2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS POLICYHOLDER  
751 SURCHARGE, WHICH COULD BE AS HIGH AS 45 PERCENT OF MY PREMIUM,  
752 BY OBTAINING COVERAGE FROM A PRIVATE MARKET INSURER AND THAT TO  
753 BE ELIGIBLE FOR COVERAGE BY CITIZENS, I MUST FIRST TRY TO OBTAIN  
754 PRIVATE MARKET COVERAGE BEFORE APPLYING FOR OR RENEWING COVERAGE  
755 WITH CITIZENS. I UNDERSTAND THAT PRIVATE MARKET INSURANCE RATES  
756 ARE REGULATED AND APPROVED BY THE STATE.

757 3. I UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY  
758 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER  
759 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE  
760 FLORIDA LEGISLATURE.

761 4. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE  
762 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE  
763 STATE OF FLORIDA.

764





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765 a. The corporation shall maintain, in electronic format or  
766 otherwise, a copy of the applicant's signed acknowledgment and  
767 provide a copy of the statement to the policyholder as part of  
768 the first renewal after the effective date of this subparagraph.

769 b. The signed acknowledgment form creates a conclusive  
770 presumption that the policyholder understood and accepted his or  
771 her potential surcharge and assessment liability as a  
772 policyholder of the corporation.

773 22. The corporation shall pay a producing agent of record a  
774 reasonable commission not to exceed the average of commissions  
775 paid in the preceding year by the 20 admitted insurers writing  
776 the greatest market share of property insurance in this state.

777 (n)1. Rates for coverage provided by the corporation must  
778 be actuarially sound and subject to s. 627.062, except as  
779 otherwise provided in this paragraph. The corporation shall file  
780 its recommended rates with the office at least annually. The  
781 corporation shall provide any additional information regarding  
782 the rates which the office requires. The office shall consider  
783 the recommendations of the board and issue a final order  
784 establishing the rates for the corporation within 45 days after  
785 the recommended rates are filed. The corporation may not pursue  
786 an administrative challenge or judicial review of the final  
787 order of the office.

788 2. In addition to the rates otherwise determined pursuant  
789 to this paragraph, the corporation shall impose and collect an  
790 amount equal to the premium tax provided in s. 624.509 to  
791 augment the financial resources of the corporation.

792 3. If ~~After~~ the public hurricane loss-projection model  
793 under s. 627.06281 is ~~has been~~ found to be accurate and reliable



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794 by the Florida Commission on Hurricane Loss Projection  
795 Methodology, it must ~~the model shall~~ be considered when  
796 establishing the windstorm portion of the corporation's rates.  
797 The corporation may use the public model results in combination  
798 with the results of private models to calculate rates for the  
799 windstorm portion of the corporation's rates. This subparagraph  
800 does not require or allow the corporation to adopt rates lower  
801 than the rates otherwise required or allowed by this paragraph.

802 4. The corporation must make a recommended actuarially  
803 sound rate filing for each personal and commercial line of  
804 business it writes.

805 5. Notwithstanding the board's recommended rates and the  
806 office's final order regarding the corporation's filed rates  
807 under subparagraph 1., the corporation shall annually implement  
808 a rate increase that ~~which~~, except for sinkhole coverage, does  
809 not exceed the following for any single policy issued by the  
810 corporation, excluding coverage changes and surcharges:

- 811 a. Eleven percent for 2022.
- 812 b. Twelve percent for 2023.
- 813 c. Thirteen percent for 2024.
- 814 d. Fourteen percent for 2025.
- 815 e. Fifteen percent for 2026 and all subsequent years.

816 6. The corporation may also implement an increase to  
817 reflect the effect on the corporation of the cash buildup factor  
818 pursuant to s. 215.555(5)(b).

819 7. The corporation's implementation of rates as prescribed  
820 in subparagraph 5. must ~~shall~~ cease for any line of business  
821 written by the corporation upon the corporation's implementation  
822 of actuarially sound rates. Thereafter, the corporation shall



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823 annually make a recommended actuarially sound rate filing for  
824 each commercial and personal line of business the corporation  
825 writes.

826 (q)1. The corporation shall certify to the office its needs  
827 for annual assessments as to a particular calendar year, and for  
828 any interim assessments that it deems to be necessary to sustain  
829 operations as to a particular year pending the receipt of annual  
830 assessments. Upon verification, the office shall approve such  
831 certification, and the corporation shall levy such annual or  
832 interim assessments. Such assessments shall be prorated as  
833 provided in paragraph (b). The corporation shall take all  
834 reasonable and prudent steps necessary to collect the amount of  
835 assessments due from each assessable insurer, including, if  
836 prudent, filing suit to collect the assessments, and the office  
837 may provide such assistance to the corporation it deems  
838 appropriate. If the corporation is unable to collect an  
839 assessment from any assessable insurer, the uncollected  
840 assessments shall be levied as an additional assessment against  
841 the assessable insurers and any assessable insurer required to  
842 pay an additional assessment as a result of such failure to pay  
843 shall have a cause of action against such nonpaying assessable  
844 insurer. Assessments shall be included as an appropriate factor  
845 in the making of rates. The failure of a surplus lines agent to  
846 collect and remit any regular or emergency assessment levied by  
847 the corporation is considered to be a violation of s. 626.936  
848 and subjects the surplus lines agent to the penalties provided  
849 in that section.

850 2. The governing body of any unit of local government, any  
851 residents of which are insured by the corporation, may issue



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852 bonds as defined in s. 125.013 or s. 166.101 from time to time  
853 to fund an assistance program, in conjunction with the  
854 corporation, for the purpose of defraying deficits of the  
855 corporation. In order to avoid needless and indiscriminate  
856 proliferation, duplication, and fragmentation of such assistance  
857 programs, any unit of local government, any residents of which  
858 are insured by the corporation, may provide for the payment of  
859 losses, regardless of whether or not the losses occurred within  
860 or outside of the territorial jurisdiction of the local  
861 government. Revenue bonds under this subparagraph may not be  
862 issued until validated pursuant to chapter 75, unless a state of  
863 emergency is declared by executive order or proclamation of the  
864 Governor pursuant to s. 252.36 making such findings as are  
865 necessary to determine that it is in the best interests of, and  
866 necessary for, the protection of the public health, safety, and  
867 general welfare of residents of this state and declaring it an  
868 essential public purpose to permit certain municipalities or  
869 counties to issue such bonds as will permit relief to claimants  
870 and policyholders of the corporation. Any such unit of local  
871 government may enter into such contracts with the corporation  
872 and with any other entity created pursuant to this subsection as  
873 are necessary to carry out this paragraph. Any bonds issued  
874 under this subparagraph shall be payable from and secured by  
875 moneys received by the corporation from emergency assessments  
876 under sub-subparagraph (b)3.d., and assigned and pledged to or  
877 on behalf of the unit of local government for the benefit of the  
878 holders of such bonds. The funds, credit, property, and taxing  
879 power of the state or of the unit of local government may ~~shall~~  
880 not be pledged for the payment of such bonds.



881           3.a. The corporation shall adopt one or more programs  
882 subject to approval by the office for the reduction of both new  
883 and renewal writings in the corporation. Beginning January 1,  
884 2008, any program the corporation adopts for the payment of  
885 bonuses to an insurer for each risk the insurer removes from the  
886 corporation shall comply with s. 627.3511(2) and may not exceed  
887 the amount referenced in s. 627.3511(2) for each risk removed.  
888 The corporation may consider any prudent and not unfairly  
889 discriminatory approach to reducing corporation writings, and  
890 may adopt a credit against assessment liability or other  
891 liability that provides an incentive for insurers to take risks  
892 out of the corporation and to keep risks out of the corporation  
893 by maintaining or increasing voluntary writings in counties or  
894 areas in which corporation risks are highly concentrated and a  
895 program to provide a formula under which an insurer voluntarily  
896 taking risks out of the corporation by maintaining or increasing  
897 voluntary writings will be relieved wholly or partially from  
898 assessments under sub-subparagraph (b)3.a. However, any "take-  
899 out bonus" or payment to an insurer must be conditioned on the  
900 property being insured for at least 5 years by the insurer,  
901 unless canceled or nonrenewed by the policyholder. If the policy  
902 is canceled or nonrenewed by the policyholder before the end of  
903 the 5-year period, the amount of the take-out bonus must be  
904 prorated for the time period the policy was insured. When the  
905 corporation enters into a contractual agreement for a take-out  
906 plan, the producing agent of record of the corporation policy is  
907 entitled to retain any unearned commission on such policy, and  
908 the insurer shall either:

909           (I) Pay to the producing agent of record of the policy, for



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910 the first year, an amount which is the greater of the insurer's  
911 usual and customary commission for the type of policy written or  
912 a policy fee equal to the usual and customary commission of the  
913 corporation; or

914 (II) Offer to allow the producing agent of record of the  
915 policy to continue servicing the policy for a period of not less  
916 than 1 year and offer to pay the agent the insurer's usual and  
917 customary commission for the type of policy written. If the  
918 producing agent is unwilling or unable to accept appointment by  
919 the new insurer, the new insurer shall pay the agent in  
920 accordance with sub-sub-subparagraph (I).

921 b. Any credit or exemption from regular assessments adopted  
922 under this subparagraph shall last no longer than the 3 years  
923 following the cancellation or expiration of the policy by the  
924 corporation. With the approval of the office, the board may  
925 extend such credits for an additional year if the insurer  
926 guarantees an additional year of renewability for all policies  
927 removed from the corporation, or for 2 additional years if the  
928 insurer guarantees 2 additional years of renewability for all  
929 policies so removed.

930 c. There shall be no credit, limitation, exemption, or  
931 deferment from emergency assessments to be collected from  
932 policyholders pursuant to sub-subparagraph (b)3.d.

933 d. Notwithstanding any other law, for purposes of a  
934 depopulation, take-out, or keep-out program adopted by the  
935 corporation, including an initial or renewal offer of coverage  
936 made to a policyholder removed from the corporation pursuant to  
937 such program, an eligible surplus lines insurer may participate  
938 in the program in the same manner and on the same terms as an



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939 authorized insurer, except as provided under this sub-  
940 subparagraph.

941 (I) The policy count of the corporation must be more than  
942 700,000 within the 30 days before the time a takeout offer is  
943 made by a surplus lines insurer.

944 (II) To qualify for participation, the surplus lines  
945 insurer must first obtain approval from the office for its  
946 depopulation, take-out, or keep-out plan and then comply with  
947 all of the corporation's requirements for the plan applicable to  
948 admitted insurers and with all statutory provisions applicable  
949 to the removal of policies from the corporation.

950 (III) In considering a surplus lines insurer's request for  
951 approval for its plan, the office shall determine whether the  
952 surplus lines insurer meets the following requirements:

953 (A) Maintains a surplus of \$50 million on a company or  
954 pooled basis;

955 (B) Has a superior, excellent, exceptional, or equally  
956 comparable financial strength rating by a rating agency  
957 acceptable to the office;

958 (C) Maintains reserves, surplus, reinsurance, and  
959 reinsurance equivalents sufficient to cover the insurer's 100-  
960 year probable maximum hurricane loss at least twice in a single  
961 hurricane season and submits such reinsurance to the office to  
962 review for purposes of the take-out;

963 (D) Provides prominent notice to the policyholder before  
964 the assumption of the policy that surplus lines policies are not  
965 provided coverage by the Florida Insurance Guaranty Association  
966 and provides an outline of any substantial differences in  
967 coverage between the existing policy and the policy being



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968 offered to the insured; and  
969 (E) Provides policy coverage similar to that provided by  
970 the corporation.  
971 (IV) To obtain approval for a plan, the surplus lines  
972 insurer must file the following with the office:  
973 (A) Information requested by the office to demonstrate  
974 compliance with s. 624.404(3), including biographical  
975 affidavits, fingerprints processed pursuant to s. 624.34, and  
976 the results of criminal history records checks for officers and  
977 directors of the insurer and its parent or holding company;  
978 (B) A service-of-process consent and agreement form  
979 executed by the insurer;  
980 (C) Proof that the insurer has been an eligible or  
981 authorized insurer for at least 3 years;  
982 (D) A duly authenticated copy of the insurer's current  
983 audited financial statement, in English, which, in the case of  
984 statements originally made in the currencies of other countries,  
985 expresses all monetary values in United States dollars, at an  
986 exchange rate then current and shown in the statement, and  
987 including any additional information relative to the insurer as  
988 the office may request;  
989 (E) A complete certified copy of the latest official  
990 financial statement required by the insurer's domiciliary state,  
991 if different from the statement required by sub-sub-sub-  
992 subparagraph (D); and  
993 (F) If applicable, a copy of the United States trust  
994 account agreement.  
995  
996 This sub-sub-subparagraph does not subject any surplus lines





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997 insurer to requirements in addition to part VIII of chapter 626.  
998 Surplus lines brokers making an offer of coverage under this  
999 sub-subparagraph are not required to comply with s.  
1000 626.916(1) (a), (b), (c), or (e).

1001 (V) Within 10 days after the date of assumption, the  
1002 surplus lines insurer assuming policies from the corporation  
1003 shall remit to the Bureau of Collateral Management within the  
1004 Department of Financial Services a special deposit equal to the  
1005 unearned premium net of unearned commissions on the assumed  
1006 block of business. The surplus lines insurer shall submit to the  
1007 office, along with the special deposit, an accounting of the  
1008 policies assumed and the amount of unearned premium for such  
1009 policies and a sworn affidavit attesting to the accuracy of the  
1010 accounting by an officer of the surplus lines insurer.  
1011 Thereafter, the surplus lines insurer shall make a filing within  
1012 10 days after the end of each calendar quarter attesting to the  
1013 unearned premium in force for the previous quarter on policies  
1014 assumed from the corporation and shall submit additional funds  
1015 with that filing if the special deposit is insufficient to cover  
1016 the unearned premium on assumed policies, or shall receive a  
1017 return of funds within 60 days if the special deposit exceeds  
1018 the amount of unearned premium required for assumed policies.  
1019 The special deposit is an asset of the surplus lines insurer  
1020 which is held by the department for the benefit of state  
1021 policyholders of the surplus lines insurer in the event of the  
1022 insolvency of the surplus lines insurer. If an order of  
1023 liquidation is entered in any state against the surplus lines  
1024 insurer, the department may use the special deposit for payment  
1025 of unearned premium or policy claims, return all or part of the



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1026 deposit to the domiciliary receiver, or use the funds in  
1027 accordance with any action authorized under part I of chapter  
1028 631 or in compliance with any order of a court having  
1029 jurisdiction over the insolvency.

1030 (VI) In advance of a surplus lines insurer assuming a  
1031 policy, surplus lines brokers representing a surplus lines  
1032 insurer on a take-out program shall obtain confirmation, in  
1033 written or e-mail form, from each producing agent stating that  
1034 the agent is willing to participate in the take-out program with  
1035 the surplus lines insurer engaging in the take-out program. The  
1036 take-out program is also subject to s. 627.3517. If a  
1037 policyholder is selected for removal from the corporation by a  
1038 surplus lines insurer and an authorized insurer, the corporation  
1039 must give priority to the offer of coverage from the authorized  
1040 insurer.

1041 (VII) (A) A risk that has a dwelling replacement cost of  
1042 \$700,000 or more or a single condominium unit that has a  
1043 combined dwelling and contents replacement cost of \$700,000 or  
1044 more is not eligible for coverage by the corporation if it is  
1045 offered comparable coverage from a qualified surplus lines  
1046 insurer at a premium no greater than the

1047  
1048 ===== T I T L E A M E N D M E N T =====

1049 And the title is amended as follows:

1050 Delete lines 4 - 7

1051 and insert:

1052 applicability; amending s. 627.351, F.S.; requiring,  
1053 rather than authorizing, the corporation to use a  
1054 single account under certain circumstances; revising



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1055 the method for determining the amounts of potential  
1056 surcharges to be levied against policyholders under  
1057 certain circumstances; requiring the corporation to  
1058 annually collect a specified surcharge upon renewal on  
1059 certain policies; defining the term "primary



565560

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
01/26/2022	.	
	.	
	.	
	.	

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

**Senate Amendment to Amendment (154092)**

Between lines 825 and 826  
insert:

8. Premiums for coverage provided by the corporation for policies assumed from unsound insurers may not be discounted below the premiums established by the corporation for other policies pursuant to this paragraph at the time of the transfer and may not be reduced below the rate for the policy at the time the corporation assumed the policy until the policy's third



565560

11 renewal. For purposes of this subparagraph, the term "unsound  
12 insurer" means an insurer determined by the Office of Insurance  
13 Regulation to be in unsound condition as defined in s. 624.80(2)  
14 or an insurer placed in receivership under chapter 631.



811218

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/26/2022	.	
	.	
	.	
	.	

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

**Senate Substitute for Amendment (565560)**

Between lines 825 and 826  
insert:

8. Policies assumed by the corporation from an unsound insurer shall be charged a premium for coverage that is the higher of the last premium amount charged by the unsound insurer or the premium charged by the corporation applicable to the policy. Premiums established by the unsound insurer shall remain unchanged until such time as the corporation's rate exceeds this



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11 amount and the policy becomes subject to the corporation's  
12 annually approved rate. For purposes of this subparagraph, the  
13 term "unsound insurer" means an insurer determined by the Office  
14 of Insurance Regulation to be in unsound condition as defined in  
15 s. 624.80(2) or an insurer placed in receivership under chapter  
16 631.

By Senator Brandes

24-00069B-22

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1 A bill to be entitled  
 2 An act relating to Citizens Property Insurance  
 3 Corporation; amending s. 627.021, F.S.; revising  
 4 applicability; amending s. 627.351, F.S.; revising the  
 5 method for determining the amounts of potential  
 6 surcharges to be levied against policyholders under  
 7 certain circumstances; defining the term "primary  
 8 residence"; revising conditions for eligibility for  
 9 coverage with the corporation to require a certain  
 10 minimum premium; specifying a limit for agent  
 11 commission rates; providing that eligible surplus  
 12 lines insurers may participate, in the same manner and  
 13 on the same terms as an authorized insurer, in  
 14 depopulation, take-out, or keep-out programs relating  
 15 to policies removed from Citizens Property Insurance  
 16 Corporation; providing certain exceptions, conditions,  
 17 and requirements relating to such participation by a  
 18 surplus lines insurer in the corporation's  
 19 depopulation, take-out, or keep-out programs;  
 20 providing thresholds for eligibility for coverage by  
 21 the corporation for risks that are offered coverage  
 22 from qualified surplus lines insurers; authorizing  
 23 information from underwriting files and confidential  
 24 claims files to be released under certain  
 25 circumstances by the corporation to specified entities  
 26 that consider writing or underwriting risks insured by  
 27 the corporation; specifying that only the  
 28 corporation's transfer of a policy file to an insurer,  
 29 as opposed to the transfer of any file, changes the

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30 file's public record status; making technical changes;  
 31 amending s. 627.3517, F.S.; making technical changes;  
 32 amending s. 627.3518, F.S., and reenacting paragraphs  
 33 (6) (a) and (7) (a) of that section, relating to the  
 34 Citizens Property Insurance Corporation policyholder  
 35 eligibility clearinghouse program, to incorporate the  
 36 amendments made to s. 627.351, F.S., in references  
 37 thereto; conforming provisions to changes made by the  
 38 act; providing an effective date.  
 39  
 40 Be It Enacted by the Legislature of the State of Florida:  
 41  
 42 Section 1. Subsection (2) of section 627.021, Florida  
 43 Statutes, is amended to read:  
 44 627.021 Scope of this part.—  
 45 (2) This part does not apply to:  
 46 (a) Reinsurance, except joint reinsurance as provided in s.  
 47 627.311.  
 48 (b) Insurance against loss of or damage to aircraft, their  
 49 hulls, accessories, or equipment, or against liability, other  
 50 than workers' compensation and employer's liability, arising out  
 51 of the ownership, maintenance, or use of aircraft.  
 52 (c) Insurance of vessels or craft, their cargoes, marine  
 53 builders' risks, marine protection and indemnity, or other risks  
 54 commonly insured under marine insurance policies.  
 55 (d) Commercial inland marine insurance.  
 56 (e) Except as may be specifically stated to apply, surplus  
 57 lines insurance placed under ~~the provisions of~~ ss. 626.913-  
 58 626.937.

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59 Section 2. Paragraphs (b), (c), (n), (q), and (x) of  
60 subsection (6) of section 627.351, Florida Statutes, are amended  
61 to read:

62 627.351 Insurance risk apportionment plans.—

63 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

64 (b)1. All insurers authorized to write one or more subject  
65 lines of business in this state are subject to assessment by the  
66 corporation and, for the purposes of this subsection, are  
67 referred to collectively as "assessable insurers." Insurers  
68 writing one or more subject lines of business in this state  
69 pursuant to part VIII of chapter 626 are not assessable  
70 insurers; however, insureds who procure one or more subject  
71 lines of business in this state pursuant to part VIII of chapter  
72 626 are subject to assessment by the corporation and are  
73 referred to collectively as "assessable insureds." An insurer's  
74 assessment liability begins on the first day of the calendar  
75 year following the year in which the insurer was issued a  
76 certificate of authority to transact insurance for subject lines  
77 of business in this state and terminates 1 year after the end of  
78 the first calendar year during which the insurer no longer holds  
79 a certificate of authority to transact insurance for subject  
80 lines of business in this state.

81 2.a. All revenues, assets, liabilities, losses, and  
82 expenses of the corporation shall be divided into three separate  
83 accounts as follows:

84 (I) A personal lines account for personal residential  
85 policies issued by the corporation which provides comprehensive,  
86 multiperil coverage on risks that are not located in areas  
87 eligible for coverage by the Florida Windstorm Underwriting

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88 Association as those areas were defined on January 1, 2002, and  
89 for policies that do not provide coverage for the peril of wind  
90 on risks that are located in such areas;

91 (II) A commercial lines account for commercial residential  
92 and commercial nonresidential policies issued by the corporation  
93 which provides coverage for basic property perils on risks that  
94 are not located in areas eligible for coverage by the Florida  
95 Windstorm Underwriting Association as those areas were defined  
96 on January 1, 2002, and for policies that do not provide  
97 coverage for the peril of wind on risks that are located in such  
98 areas; and

99 (III) A coastal account for personal residential policies  
100 and commercial residential and commercial nonresidential  
101 property policies issued by the corporation which provides  
102 coverage for the peril of wind on risks that are located in  
103 areas eligible for coverage by the Florida Windstorm  
104 Underwriting Association as those areas were defined on January  
105 1, 2002. The corporation may offer policies that provide  
106 multiperil coverage and shall offer policies that provide  
107 coverage only for the peril of wind for risks located in areas  
108 eligible for coverage in the coastal account. Effective July 1,  
109 2014, the corporation shall cease offering new commercial  
110 residential policies providing multiperil coverage and shall  
111 instead continue to offer commercial residential wind-only  
112 policies, and may offer commercial residential policies  
113 excluding wind. The corporation may, however, continue to renew  
114 a commercial residential multiperil policy on a building that is  
115 insured by the corporation on June 30, 2014, under a multiperil  
116 policy. In issuing multiperil coverage, the corporation may use

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117 its approved policy forms and rates for the personal lines  
 118 account. An applicant or insured who is eligible to purchase a  
 119 multiperil policy from the corporation may purchase a multiperil  
 120 policy from an authorized insurer without prejudice to the  
 121 applicant's or insured's eligibility to prospectively purchase a  
 122 policy that provides coverage only for the peril of wind from  
 123 the corporation. An applicant or insured who is eligible for a  
 124 corporation policy that provides coverage only for the peril of  
 125 wind may elect to purchase or retain such policy and also  
 126 purchase or retain coverage excluding wind from an authorized  
 127 insurer without prejudice to the applicant's or insured's  
 128 eligibility to prospectively purchase a policy that provides  
 129 multiperil coverage from the corporation. It is the goal of the  
 130 Legislature that there be an overall average savings of 10  
 131 percent or more for a policyholder who currently has a wind-only  
 132 policy with the corporation, and an ex-wind policy with a  
 133 voluntary insurer or the corporation, and who obtains a  
 134 multiperil policy from the corporation. It is the intent of the  
 135 Legislature that the offer of multiperil coverage in the coastal  
 136 account be made and implemented in a manner that does not  
 137 adversely affect the tax-exempt status of the corporation or  
 138 creditworthiness of or security for currently outstanding  
 139 financing obligations or credit facilities of the coastal  
 140 account, the personal lines account, or the commercial lines  
 141 account. The coastal account must also include quota share  
 142 primary insurance under subparagraph (c)2. The area eligible for  
 143 coverage under the coastal account also includes the area within  
 144 Port Canaveral, which is bordered on the south by the City of  
 145 Cape Canaveral, bordered on the west by the Banana River, and

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146 bordered on the north by Federal Government property.  
 147 b. The three separate accounts must be maintained as long  
 148 as financing obligations entered into by the Florida Windstorm  
 149 Underwriting Association or Residential Property and Casualty  
 150 Joint Underwriting Association are outstanding, in accordance  
 151 with the terms of the corresponding financing documents. If the  
 152 financing obligations are no longer outstanding, the corporation  
 153 may use a single account for all revenues, assets, liabilities,  
 154 losses, and expenses of the corporation. Consistent with this  
 155 subparagraph and prudent investment policies that minimize the  
 156 cost of carrying debt, the board shall exercise its best efforts  
 157 to retire existing debt or obtain the approval of necessary  
 158 parties to amend the terms of existing debt, so as to structure  
 159 the most efficient plan for consolidating the three separate  
 160 accounts into a single account.  
 161 c. Creditors of the Residential Property and Casualty Joint  
 162 Underwriting Association and the accounts specified in sub-sub-  
 163 subparagraphs a.(I) and (II) may have a claim against, and  
 164 recourse to, those accounts and no claim against, or recourse  
 165 to, the account referred to in sub-sub-subparagraph a.(III).  
 166 Creditors of the Florida Windstorm Underwriting Association have  
 167 a claim against, and recourse to, the account referred to in  
 168 sub-sub-subparagraph a.(III) and no claim against, or recourse  
 169 to, the accounts referred to in sub-sub-subparagraphs a.(I) and  
 170 (II).  
 171 d. Revenues, assets, liabilities, losses, and expenses not  
 172 attributable to particular accounts shall be prorated among the  
 173 accounts.  
 174 e. The Legislature finds that the revenues of the

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175 corporation are revenues that are necessary to meet the  
176 requirements set forth in documents authorizing the issuance of  
177 bonds under this subsection.

178 f. The income of the corporation may not inure to the  
179 benefit of any private person.

180 3. With respect to a deficit in an account:

181 a. After accounting for the Citizens policyholder surcharge  
182 imposed under sub-subparagraph i., if the remaining projected  
183 deficit incurred in the coastal account in a particular calendar  
184 year:

185 (I) Is not greater than 2 percent of the aggregate  
186 statewide direct written premium for the subject lines of  
187 business for the prior calendar year, the entire deficit shall  
188 be recovered through regular assessments of assessable insurers  
189 under paragraph (q) and assessable insureds.

190 (II) Exceeds 2 percent of the aggregate statewide direct  
191 written premium for the subject lines of business for the prior  
192 calendar year, the corporation shall levy regular assessments on  
193 assessable insurers under paragraph (q) and on assessable  
194 insureds in an amount equal to the greater of 2 percent of the  
195 projected deficit or 2 percent of the aggregate statewide direct  
196 written premium for the subject lines of business for the prior  
197 calendar year. Any remaining projected deficit shall be  
198 recovered through emergency assessments under sub-subparagraph  
199 d.

200 b. Each assessable insurer's share of the amount being  
201 assessed under sub-subparagraph a. must be in the proportion  
202 that the assessable insurer's direct written premium for the  
203 subject lines of business for the year preceding the assessment

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204 bears to the aggregate statewide direct written premium for the  
205 subject lines of business for that year. The assessment  
206 percentage applicable to each assessable insured is the ratio of  
207 the amount being assessed under sub-subparagraph a. to the  
208 aggregate statewide direct written premium for the subject lines  
209 of business for the prior year. Assessments levied by the  
210 corporation on assessable insurers under sub-subparagraph a.  
211 must be paid as required by the corporation's plan of operation  
212 and paragraph (q). Assessments levied by the corporation on  
213 assessable insureds under sub-subparagraph a. shall be collected  
214 by the surplus lines agent at the time the surplus lines agent  
215 collects the surplus lines tax required by s. 626.932, and paid  
216 to the Florida Surplus Lines Service Office at the time the  
217 surplus lines agent pays the surplus lines tax to that office.  
218 Upon receipt of regular assessments from surplus lines agents,  
219 the Florida Surplus Lines Service Office shall transfer the  
220 assessments directly to the corporation as determined by the  
221 corporation.

222 c. After accounting for the Citizens policyholder surcharge  
223 imposed under sub-subparagraph i., the remaining projected  
224 deficits in the personal lines account and in the commercial  
225 lines account in a particular calendar year shall be recovered  
226 through emergency assessments under sub-subparagraph d.

227 d. Upon a determination by the board of governors that a  
228 projected deficit in an account exceeds the amount that is  
229 expected to be recovered through regular assessments under sub-  
230 subparagraph a., plus the amount that is expected to be  
231 recovered through surcharges under sub-subparagraph i., the  
232 board, after verification by the office, shall levy emergency

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233 assessments for as many years as necessary to cover the  
 234 deficits, to be collected by assessable insurers and the  
 235 corporation and collected from assessable insureds upon issuance  
 236 or renewal of policies for subject lines of business, excluding  
 237 National Flood Insurance policies. The amount collected in a  
 238 particular year must be a uniform percentage of that year's  
 239 direct written premium for subject lines of business and all  
 240 accounts of the corporation, excluding National Flood Insurance  
 241 Program policy premiums, as annually determined by the board and  
 242 verified by the office. The office shall verify the arithmetic  
 243 calculations involved in the board's determination within 30  
 244 days after receipt of the information on which the determination  
 245 was based. The office shall notify assessable insurers and the  
 246 Florida Surplus Lines Service Office of the date on which  
 247 assessable insurers shall begin to collect and assessable  
 248 insureds shall begin to pay such assessment. The date must be at  
 249 least 90 days after the date the corporation levies emergency  
 250 assessments pursuant to this sub-subparagraph. Notwithstanding  
 251 any other provision of law, the corporation and each assessable  
 252 insurer that writes subject lines of business shall collect  
 253 emergency assessments from its policyholders without such  
 254 obligation being affected by any credit, limitation, exemption,  
 255 or deferment. Emergency assessments levied by the corporation on  
 256 assessable insureds shall be collected by the surplus lines  
 257 agent at the time the surplus lines agent collects the surplus  
 258 lines tax required by s. 626.932 and paid to the Florida Surplus  
 259 Lines Service Office at the time the surplus lines agent pays  
 260 the surplus lines tax to that office. The emergency assessments  
 261 collected shall be transferred directly to the corporation on a

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262 periodic basis as determined by the corporation and held by the  
 263 corporation solely in the applicable account. The aggregate  
 264 amount of emergency assessments levied for an account in any  
 265 calendar year may be less than but may not exceed the greater of  
 266 10 percent of the amount needed to cover the deficit, plus  
 267 interest, fees, commissions, required reserves, and other costs  
 268 associated with financing the original deficit, or 10 percent of  
 269 the aggregate statewide direct written premium for subject lines  
 270 of business and all accounts of the corporation for the prior  
 271 year, plus interest, fees, commissions, required reserves, and  
 272 other costs associated with financing the deficit.

273 e. The corporation may pledge the proceeds of assessments,  
 274 projected recoveries from the Florida Hurricane Catastrophe  
 275 Fund, other insurance and reinsurance recoverables, policyholder  
 276 surcharges and other surcharges, and other funds available to  
 277 the corporation as the source of revenue for and to secure bonds  
 278 issued under paragraph (q), bonds or other indebtedness issued  
 279 under subparagraph (c)3., or lines of credit or other financing  
 280 mechanisms issued or created under this subsection, or to retire  
 281 any other debt incurred as a result of deficits or events giving  
 282 rise to deficits, or in any other way that the board determines  
 283 will efficiently recover such deficits. The purpose of the lines  
 284 of credit or other financing mechanisms is to provide additional  
 285 resources to assist the corporation in covering claims and  
 286 expenses attributable to a catastrophe. As used in this  
 287 subsection, the term "assessments" includes regular assessments  
 288 under sub-subparagraph a. or subparagraph (q)1. and emergency  
 289 assessments under sub-subparagraph d. Emergency assessments  
 290 collected under sub-subparagraph d. are not part of an insurer's

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291 rates, are not premium, and are not subject to premium tax,  
 292 fees, or commissions; however, failure to pay the emergency  
 293 assessment shall be treated as failure to pay premium. The  
 294 emergency assessments shall continue as long as any bonds issued  
 295 or other indebtedness incurred with respect to a deficit for  
 296 which the assessment was imposed remain outstanding, unless  
 297 adequate provision has been made for the payment of such bonds  
 298 or other indebtedness pursuant to the documents governing such  
 299 bonds or indebtedness.

300 f. As used in this subsection for purposes of any deficit  
 301 incurred on or after January 25, 2007, the term "subject lines  
 302 of business" means insurance written by assessable insurers or  
 303 procured by assessable insureds for all property and casualty  
 304 lines of business in this state, but not including workers'  
 305 compensation or medical malpractice. As used in this sub-  
 306 subparagraph, the term "property and casualty lines of business"  
 307 includes all lines of business identified on Form 2, Exhibit of  
 308 Premiums and Losses, in the annual statement required of  
 309 authorized insurers under s. 624.424 and any rule adopted under  
 310 this section, except for those lines identified as accident and  
 311 health insurance and except for policies written under the  
 312 National Flood Insurance Program or the Federal Crop Insurance  
 313 Program. For purposes of this sub-subparagraph, the term  
 314 "workers' compensation" includes both workers' compensation  
 315 insurance and excess workers' compensation insurance.

316 g. The Florida Surplus Lines Service Office shall determine  
 317 annually the aggregate statewide written premium in subject  
 318 lines of business procured by assessable insureds and report  
 319 that information to the corporation in a form and at a time the

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320 corporation specifies to ensure that the corporation can meet  
 321 the requirements of this subsection and the corporation's  
 322 financing obligations.

323 h. The Florida Surplus Lines Service Office shall verify  
 324 the proper application by surplus lines agents of assessment  
 325 percentages for regular assessments and emergency assessments  
 326 levied under this subparagraph on assessable insureds and assist  
 327 the corporation in ensuring the accurate, timely collection and  
 328 payment of assessments by surplus lines agents as required by  
 329 the corporation.

330 i. Upon determination by the board of governors that an  
 331 account has a projected deficit, the board shall levy a Citizens  
 332 policyholder surcharge against all policyholders of the  
 333 corporation.

334 (I) The surcharge must ~~shall~~ be levied as a uniform  
 335 percentage of the premium for the policy ~~of up to 15 percent of~~  
 336 ~~such premium, and must~~ which funds shall be used to offset the  
 337 deficit, as follows:

338 (A) If the total number of policyholders of the corporation  
 339 is less than 1 million, a surcharge of 15 percent of the  
 340 premium.

341 (B) If the total number of policyholders of the corporation  
 342 is at least 1 million but less than 1.5 million, a surcharge of  
 343 20 percent of the premium.

344 (C) If the total number of policyholders of the corporation  
 345 is at least 1.5 million, a surcharge of 25 percent of the  
 346 premium.

347 (II) The surcharge is payable upon cancellation or  
 348 termination of the policy, upon renewal of the policy, or upon

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349 issuance of a new policy by the corporation within the first 12  
350 months after the date of the levy or the period of time  
351 necessary to fully collect the surcharge amount.

352 (III) The corporation may not levy any regular assessments  
353 under paragraph (q) pursuant to sub-subparagraph a. or sub-  
354 subparagraph b. with respect to a particular year's deficit  
355 until the corporation has first levied the full amount of the  
356 surcharge authorized by this sub-subparagraph.

357 (IV) The surcharge is not considered premium and is not  
358 subject to commissions, fees, or premium taxes. However, failure  
359 to pay the surcharge shall be treated as failure to pay premium.

360 j. If the amount of any assessments or surcharges collected  
361 from corporation policyholders, assessable insurers or their  
362 policyholders, or assessable insureds exceeds the amount of the  
363 deficits, such excess amounts shall be remitted to and retained  
364 by the corporation in a reserve to be used by the corporation,  
365 as determined by the board of governors and approved by the  
366 office, to pay claims or reduce any past, present, or future  
367 plan-year deficits or to reduce outstanding debt.

368 (c) The corporation's plan of operation:

369 1. Must provide for adoption of residential property and  
370 casualty insurance policy forms and commercial residential and  
371 nonresidential property insurance forms, which must be approved  
372 by the office before use. The corporation shall adopt the  
373 following policy forms:

374 a. Standard personal lines policy forms that are  
375 comprehensive multiperil policies providing full coverage of a  
376 residential property equivalent to the coverage provided in the  
377 private insurance market under an HO-3, HO-4, or HO-6 policy.

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378 b. Basic personal lines policy forms that are policies  
379 similar to an HO-8 policy or a dwelling fire policy that provide  
380 coverage meeting the requirements of the secondary mortgage  
381 market, but which is more limited than the coverage under a  
382 standard policy.

383 c. Commercial lines residential and nonresidential policy  
384 forms that are generally similar to the basic perils of full  
385 coverage obtainable for commercial residential structures and  
386 commercial nonresidential structures in the admitted voluntary  
387 market.

388 d. Personal lines and commercial lines residential property  
389 insurance forms that cover the peril of wind only. The forms are  
390 applicable only to residential properties located in areas  
391 eligible for coverage under the coastal account referred to in  
392 sub-subparagraph (b)2.a.

393 e. Commercial lines nonresidential property insurance forms  
394 that cover the peril of wind only. The forms are applicable only  
395 to nonresidential properties located in areas eligible for  
396 coverage under the coastal account referred to in sub-  
397 subparagraph (b)2.a.

398 f. The corporation may adopt variations of the policy forms  
399 listed in sub-subparagraphs a.-e. which contain more restrictive  
400 coverage.

401 g. Effective January 1, 2013, the corporation shall offer a  
402 basic personal lines policy similar to an HO-8 policy with  
403 dwelling repair based on common construction materials and  
404 methods.

405 2. Must provide that the corporation adopt a program in  
406 which the corporation and authorized insurers enter into quota

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407 share primary insurance agreements for hurricane coverage, as  
 408 defined in s. 627.4025(2)(a), for eligible risks, and adopt  
 409 property insurance forms for eligible risks which cover the  
 410 peril of wind only.

411 a. As used in this subsection, the term:

412 (II) "Primary residence" means the dwelling that the  
 413 insured has represented as their permanent home on the insurance  
 414 application or otherwise to the corporation.

415 (III)-(I) "Quota share primary insurance" means an  
 416 arrangement in which the primary hurricane coverage of an  
 417 eligible risk is provided in specified percentages by the  
 418 corporation and an authorized insurer. The corporation and  
 419 authorized insurer are each solely responsible for a specified  
 420 percentage of hurricane coverage of an eligible risk as set  
 421 forth in a quota share primary insurance agreement between the  
 422 corporation and an authorized insurer and the insurance  
 423 contract. The responsibility of the corporation or authorized  
 424 insurer to pay its specified percentage of hurricane losses of  
 425 an eligible risk, as set forth in the agreement, may not be  
 426 altered by the inability of the other party to pay its specified  
 427 percentage of losses. Eligible risks that are provided hurricane  
 428 coverage through a quota share primary insurance arrangement  
 429 must be provided policy forms that set forth the obligations of  
 430 the corporation and authorized insurer under the arrangement,  
 431 clearly specify the percentages of quota share primary insurance  
 432 provided by the corporation and authorized insurer, and  
 433 conspicuously and clearly state that the authorized insurer and  
 434 the corporation may not be held responsible beyond their  
 435 specified percentage of coverage of hurricane losses.

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436 (I)-(II) "Eligible risks" means personal lines residential  
 437 and commercial lines residential risks that meet the  
 438 underwriting criteria of the corporation and are located in  
 439 areas that were eligible for coverage by the Florida Windstorm  
 440 Underwriting Association on January 1, 2002.

441 b. The corporation may enter into quota share primary  
 442 insurance agreements with authorized insurers at corporation  
 443 coverage levels of 90 percent and 50 percent.

444 c. If the corporation determines that additional coverage  
 445 levels are necessary to maximize participation in quota share  
 446 primary insurance agreements by authorized insurers, the  
 447 corporation may establish additional coverage levels. However,  
 448 the corporation's quota share primary insurance coverage level  
 449 may not exceed 90 percent.

450 d. Any quota share primary insurance agreement entered into  
 451 between an authorized insurer and the corporation must provide  
 452 for a uniform specified percentage of coverage of hurricane  
 453 losses, by county or territory as set forth by the corporation  
 454 board, for all eligible risks of the authorized insurer covered  
 455 under the agreement.

456 e. Any quota share primary insurance agreement entered into  
 457 between an authorized insurer and the corporation is subject to  
 458 review and approval by the office. However, such agreement shall  
 459 be authorized only as to insurance contracts entered into  
 460 between an authorized insurer and an insured who is already  
 461 insured by the corporation for wind coverage.

462 f. For all eligible risks covered under quota share primary  
 463 insurance agreements, the exposure and coverage levels for both  
 464 the corporation and authorized insurers shall be reported by the

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465 corporation to the Florida Hurricane Catastrophe Fund. For all  
 466 policies of eligible risks covered under such agreements, the  
 467 corporation and the authorized insurer must maintain complete  
 468 and accurate records for the purpose of exposure and loss  
 469 reimbursement audits as required by fund rules. The corporation  
 470 and the authorized insurer shall each maintain duplicate copies  
 471 of policy declaration pages and supporting claims documents.

472 g. The corporation board shall establish in its plan of  
 473 operation standards for quota share agreements which ensure that  
 474 there is no discriminatory application among insurers as to the  
 475 terms of the agreements, pricing of the agreements, incentive  
 476 provisions if any, and consideration paid for servicing policies  
 477 or adjusting claims.

478 h. The quota share primary insurance agreement between the  
 479 corporation and an authorized insurer must set forth the  
 480 specific terms under which coverage is provided, including, but  
 481 not limited to, the sale and servicing of policies issued under  
 482 the agreement by the insurance agent of the authorized insurer  
 483 producing the business, the reporting of information concerning  
 484 eligible risks, the payment of premium to the corporation, and  
 485 arrangements for the adjustment and payment of hurricane claims  
 486 incurred on eligible risks by the claims adjuster and personnel  
 487 of the authorized insurer. Entering into a quota sharing  
 488 insurance agreement between the corporation and an authorized  
 489 insurer is voluntary and at the discretion of the authorized  
 490 insurer.

491 3. May provide that the corporation may employ or otherwise  
 492 contract with individuals or other entities to provide  
 493 administrative or professional services that may be appropriate

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494 to effectuate the plan. The corporation may borrow funds by  
 495 issuing bonds or by incurring other indebtedness, and shall have  
 496 other powers reasonably necessary to effectuate the requirements  
 497 of this subsection, including, without limitation, the power to  
 498 issue bonds and incur other indebtedness in order to refinance  
 499 outstanding bonds or other indebtedness. The corporation may  
 500 seek judicial validation of its bonds or other indebtedness  
 501 under chapter 75. The corporation may issue bonds or incur other  
 502 indebtedness, or have bonds issued on its behalf by a unit of  
 503 local government pursuant to subparagraph (q)2. in the absence  
 504 of a hurricane or other weather-related event, upon a  
 505 determination by the corporation, subject to approval by the  
 506 office, that such action would enable it to efficiently meet the  
 507 financial obligations of the corporation and that such  
 508 financings are reasonably necessary to effectuate the  
 509 requirements of this subsection. The corporation may take all  
 510 actions needed to facilitate tax-free status for such bonds or  
 511 indebtedness, including formation of trusts or other affiliated  
 512 entities. The corporation may pledge assessments, projected  
 513 recoveries from the Florida Hurricane Catastrophe Fund, other  
 514 reinsurance recoverables, policyholder surcharges and other  
 515 surcharges, and other funds available to the corporation as  
 516 security for bonds or other indebtedness. In recognition of s.  
 517 10, Art. I of the State Constitution, prohibiting the impairment  
 518 of obligations of contracts, it is the intent of the Legislature  
 519 that no action be taken whose purpose is to impair any bond  
 520 indenture or financing agreement or any revenue source committed  
 521 by contract to such bond or other indebtedness.

522 4. Must require that the corporation operate subject to the

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523 supervision and approval of a board of governors consisting of  
 524 nine individuals who are residents of this state and who are  
 525 from different geographical areas of this ~~the~~ state, one of whom  
 526 is appointed by the Governor and serves solely to advocate on  
 527 behalf of the consumer. The appointment of a consumer  
 528 representative by the Governor is deemed to be within the scope  
 529 of the exemption provided in s. 112.313(7) (b) and is in addition  
 530 to the appointments authorized under sub-subparagraph a.

531 a. The Governor, the Chief Financial Officer, the President  
 532 of the Senate, and the Speaker of the House of Representatives  
 533 shall each appoint two members of the board. At least one of the  
 534 two members appointed by each appointing officer must have  
 535 demonstrated expertise in insurance and be deemed to be within  
 536 the scope of the exemption provided in s. 112.313(7) (b). The  
 537 Chief Financial Officer shall designate one of the appointees as  
 538 chair. All board members serve at the pleasure of the appointing  
 539 officer. All members of the board are subject to removal at will  
 540 by the officers who appointed them. All board members, including  
 541 the chair, must be appointed to serve for 3-year terms beginning  
 542 annually on a date designated by the plan. However, for the  
 543 first term beginning on or after July 1, 2009, each appointing  
 544 officer shall appoint one member of the board for a 2-year term  
 545 and one member for a 3-year term. A board vacancy shall be  
 546 filled for the unexpired term by the appointing officer. The  
 547 Chief Financial Officer shall appoint a technical advisory group  
 548 to provide information and advice to the board in connection  
 549 with the board's duties under this subsection. The executive  
 550 director and senior managers of the corporation shall be engaged  
 551 by the board and serve at the pleasure of the board. Any

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552 executive director appointed on or after July 1, 2006, is  
 553 subject to confirmation by the Senate. The executive director is  
 554 responsible for employing other staff as the corporation may  
 555 require, subject to review and concurrence by the board.

556 b. The board shall create a Market Accountability Advisory  
 557 Committee to assist the corporation in developing awareness of  
 558 its rates and its customer and agent service levels in  
 559 relationship to the voluntary market insurers writing similar  
 560 coverage.

561 (I) The members of the advisory committee consist of the  
 562 following 11 persons, one of whom must be elected chair by the  
 563 members of the committee: four representatives, one appointed by  
 564 the Florida Association of Insurance Agents, one by the Florida  
 565 Association of Insurance and Financial Advisors, one by the  
 566 Professional Insurance Agents of Florida, and one by the Latin  
 567 American Association of Insurance Agencies; three  
 568 representatives appointed by the insurers with the three highest  
 569 voluntary market share of residential property insurance  
 570 business in this ~~the~~ state; one representative from the Office  
 571 of Insurance Regulation; one consumer appointed by the board who  
 572 is insured by the corporation at the time of appointment to the  
 573 committee; one representative appointed by the Florida  
 574 Association of Realtors; and one representative appointed by the  
 575 Florida Bankers Association. All members shall be appointed to  
 576 3-year terms and may serve for consecutive terms.

577 (II) The committee shall report to the corporation at each  
 578 board meeting on insurance market issues that ~~which~~ may include  
 579 rates and rate competition with the voluntary market; service,  
 580 including policy issuance, claims processing, and general

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581 responsiveness to policyholders, applicants, and agents; and  
 582 matters relating to depopulation.

583 5. Must provide a procedure for determining the eligibility  
 584 of a risk for coverage, as follows:

585 a. Subject to s. 627.3517, with respect to personal lines  
 586 residential risks, if the risk is offered coverage from an  
 587 authorized insurer at the insurer's approved rate under a  
 588 standard policy including wind coverage or, if consistent with  
 589 the insurer's underwriting rules as filed with the office, a  
 590 basic policy including wind coverage, for a new application to  
 591 the corporation for coverage, the risk is not eligible for any  
 592 policy issued by the corporation unless the premium for coverage  
 593 from the authorized insurer is more than 20 percent greater than  
 594 the premium for comparable coverage from the corporation.  
 595 Whenever an offer of coverage for a personal lines residential  
 596 risk is received for a policyholder of the corporation ~~at~~  
 597 ~~renewal from an authorized insurer, if the offer is equal to or~~  
 598 ~~less than the corporation's renewal premium for comparable~~  
 599 ~~coverage,~~ the risk is not eligible for coverage with the  
 600 corporation unless the premium for comparable coverage from the  
 601 authorized insurer is more than 20 percent greater than the  
 602 premium under subparagraph (n)1. for personal residential  
 603 properties that are not the insured's primary residence. If the  
 604 risk is not able to obtain such offer, the risk is eligible for  
 605 a standard policy including wind coverage or a basic policy  
 606 including wind coverage issued by the corporation; however, if  
 607 the risk could not be insured under a standard policy including  
 608 wind coverage regardless of market conditions, the risk is  
 609 eligible for a basic policy including wind coverage unless

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610 rejected under subparagraph 8. However, a policyholder removed  
 611 from the corporation through an assumption agreement remains  
 612 eligible for coverage from the corporation until the end of the  
 613 assumption period. The corporation shall determine the type of  
 614 policy to be provided on the basis of objective standards  
 615 specified in the underwriting manual and based on generally  
 616 accepted underwriting practices.

617 (I) If the risk accepts an offer of coverage through the  
 618 market assistance plan or through a mechanism established by the  
 619 corporation other than a plan established by s. 627.3518, before  
 620 a policy is issued to the risk by the corporation or during the  
 621 first 30 days of coverage by the corporation, and the producing  
 622 agent who submitted the application to the plan or to the  
 623 corporation is not currently appointed by the insurer, the  
 624 insurer shall:

625 (A) Pay to the producing agent of record of the policy for  
 626 the first year, an amount that is the greater of the insurer's  
 627 usual and customary commission for the type of policy written or  
 628 a fee equal to the usual and customary commission of the  
 629 corporation; or

630 (B) Offer to allow the producing agent of record of the  
 631 policy to continue servicing the policy for at least 1 year and  
 632 offer to pay the agent the greater of the insurer's or the  
 633 corporation's usual and customary commission for the type of  
 634 policy written.

635  
 636 If the producing agent is unwilling or unable to accept  
 637 appointment, the new insurer shall pay the agent in accordance  
 638 with sub-sub-sub-subparagraph (A).

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639 (II) If the corporation enters into a contractual agreement  
640 for a take-out plan, the producing agent of record of the  
641 corporation policy is entitled to retain any unearned commission  
642 on the policy, and the insurer shall:

643 (A) Pay to the producing agent of record, for the first  
644 year, an amount that is the greater of the insurer's usual and  
645 customary commission for the type of policy written or a fee  
646 equal to the usual and customary commission of the corporation;  
647 or

648 (B) Offer to allow the producing agent of record to  
649 continue servicing the policy for at least 1 year and offer to  
650 pay the agent the greater of the insurer's or the corporation's  
651 usual and customary commission for the type of policy written.

652  
653 If the producing agent is unwilling or unable to accept  
654 appointment, the new insurer shall pay the agent in accordance  
655 with sub-sub-sub-subparagraph (A).

656 b. With respect to commercial lines residential risks, for  
657 a new application to the corporation for coverage, if the risk  
658 is offered coverage under a policy including wind coverage from  
659 an authorized insurer at its approved rate, the risk is not  
660 eligible for a policy issued by the corporation unless the  
661 premium for coverage from the authorized insurer is more than 15  
662 percent greater than the premium for comparable coverage from  
663 the corporation. Whenever an offer of coverage for a commercial  
664 lines residential risk is received for a policyholder of the  
665 corporation at renewal from an authorized insurer, if the offer  
666 is equal to or less than the corporation's renewal premium for  
667 comparable coverage, the risk is not eligible for coverage with

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668 the corporation. If the risk is not able to obtain any such  
669 offer, the risk is eligible for a policy including wind coverage  
670 issued by the corporation. However, a policyholder removed from  
671 the corporation through an assumption agreement remains eligible  
672 for coverage from the corporation until the end of the  
673 assumption period.

674 (I) If the risk accepts an offer of coverage through the  
675 market assistance plan or through a mechanism established by the  
676 corporation other than a plan established by s. 627.3518, before  
677 a policy is issued to the risk by the corporation or during the  
678 first 30 days of coverage by the corporation, and the producing  
679 agent who submitted the application to the plan or the  
680 corporation is not currently appointed by the insurer, the  
681 insurer shall:

682 (A) Pay to the producing agent of record of the policy, for  
683 the first year, an amount that is the greater of the insurer's  
684 usual and customary commission for the type of policy written or  
685 a fee equal to the usual and customary commission of the  
686 corporation; or

687 (B) Offer to allow the producing agent of record of the  
688 policy to continue servicing the policy for at least 1 year and  
689 offer to pay the agent the greater of the insurer's or the  
690 corporation's usual and customary commission for the type of  
691 policy written.

692  
693 If the producing agent is unwilling or unable to accept  
694 appointment, the new insurer shall pay the agent in accordance  
695 with sub-sub-sub-subparagraph (A).

696 (II) If the corporation enters into a contractual agreement

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697 for a take-out plan, the producing agent of record of the  
698 corporation policy is entitled to retain any unearned commission  
699 on the policy, and the insurer shall:

700 (A) Pay to the producing agent of record, for the first  
701 year, an amount that is the greater of the insurer's usual and  
702 customary commission for the type of policy written or a fee  
703 equal to the usual and customary commission of the corporation;  
704 or

705 (B) Offer to allow the producing agent of record to  
706 continue servicing the policy for at least 1 year and offer to  
707 pay the agent the greater of the insurer's or the corporation's  
708 usual and customary commission for the type of policy written.  
709

710 If the producing agent is unwilling or unable to accept  
711 appointment, the new insurer shall pay the agent in accordance  
712 with sub-sub-sub-subparagraph (A).

713 c. For purposes of determining comparable coverage under  
714 sub-subparagraphs a. and b., the comparison must be based on  
715 those forms and coverages that are reasonably comparable. The  
716 corporation may rely on a determination of comparable coverage  
717 and premium made by the producing agent who submits the  
718 application to the corporation, made in the agent's capacity as  
719 the corporation's agent. A comparison may be made solely of the  
720 premium with respect to the main building or structure only on  
721 the following basis: the same coverage A or other building  
722 limits; the same percentage hurricane deductible that applies on  
723 an annual basis or that applies to each hurricane for commercial  
724 residential property; the same percentage of ordinance and law  
725 coverage, if the same limit is offered by both the corporation

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726 and the authorized insurer; the same mitigation credits, to the  
727 extent the same types of credits are offered both by the  
728 corporation and the authorized insurer; the same method for loss  
729 payment, such as replacement cost or actual cash value, if the  
730 same method is offered both by the corporation and the  
731 authorized insurer in accordance with underwriting rules; and  
732 any other form or coverage that is reasonably comparable as  
733 determined by the board. If an application is submitted to the  
734 corporation for wind-only coverage in the coastal account, the  
735 premium for the corporation's wind-only policy plus the premium  
736 for the ex-wind policy that is offered by an authorized insurer  
737 to the applicant must be compared to the premium for multiperil  
738 coverage offered by an authorized insurer, subject to the  
739 standards for comparison specified in this subparagraph. If the  
740 corporation or the applicant requests from the authorized  
741 insurer a breakdown of the premium of the offer by types of  
742 coverage so that a comparison may be made by the corporation or  
743 its agent and the authorized insurer refuses or is unable to  
744 provide such information, the corporation may treat the offer as  
745 not being an offer of coverage from an authorized insurer at the  
746 insurer's approved rate.

747 6. Must include rules for classifications of risks and  
748 rates.

749 7. Must provide that if premium and investment income for  
750 an account attributable to a particular calendar year are in  
751 excess of projected losses and expenses for the account  
752 attributable to that year, such excess shall be held in surplus  
753 in the account. Such surplus must be available to defray  
754 deficits in that account as to future years and used for that

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755 purpose before assessing assessable insurers and assessable  
756 insureds as to any calendar year.

757 8. Must provide objective criteria and procedures to be  
758 uniformly applied to all applicants in determining whether an  
759 individual risk is so hazardous as to be uninsurable. In making  
760 this determination and in establishing the criteria and  
761 procedures, the following must be considered:

762 a. Whether the likelihood of a loss for the individual risk  
763 is substantially higher than for other risks of the same class;  
764 and

765 b. Whether the uncertainty associated with the individual  
766 risk is such that an appropriate premium cannot be determined.

767  
768 The acceptance or rejection of a risk by the corporation must  
769 ~~shall~~ be construed as the private placement of insurance, and  
770 ~~the provisions of chapter 120 does de~~ not apply.

771 9. Must provide that the corporation make its best efforts  
772 to procure catastrophe reinsurance at reasonable rates, to cover  
773 its projected 100-year probable maximum loss as determined by  
774 the board of governors. If catastrophe reinsurance is not  
775 available at reasonable rates, the corporation need not purchase  
776 it, but the corporation shall include the costs of reinsurance  
777 to cover its projected 100-year probable maximum loss in its  
778 rate calculations even if it does not purchase catastrophe  
779 reinsurance.

780 10. The policies issued by the corporation must provide  
781 that if the corporation or the market assistance plan obtains an  
782 offer from an authorized insurer to cover the risk at its  
783 approved rates, the risk is no longer eligible for renewal

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784 through the corporation, except as otherwise provided in this  
785 subsection.

786 11. Corporation policies and applications must include a  
787 notice that the corporation policy could, under this section, be  
788 replaced with a policy issued by an authorized insurer which  
789 does not provide coverage identical to the coverage provided by  
790 the corporation. The notice must also specify that acceptance of  
791 corporation coverage creates a conclusive presumption that the  
792 applicant or policyholder is aware of this potential.

793 12. May establish, subject to approval by the office,  
794 different eligibility requirements and operational procedures  
795 for any line or type of coverage for any specified county or  
796 area if the board determines that such changes are justified due  
797 to the voluntary market being sufficiently stable and  
798 competitive in such area or for such line or type of coverage  
799 and that consumers who, in good faith, are unable to obtain  
800 insurance through the voluntary market through ordinary methods  
801 continue to have access to coverage from the corporation. If  
802 coverage is sought in connection with a real property transfer,  
803 the requirements and procedures may not provide an effective  
804 date of coverage later than the date of the closing of the  
805 transfer as established by the transferor, the transferee, and,  
806 if applicable, the lender.

807 13. Must provide that, with respect to the coastal account,  
808 any assessable insurer with a surplus as to policyholders of \$25  
809 million or less writing 25 percent or more of its total  
810 countrywide property insurance premiums in this state may  
811 petition the office, within the first 90 days of each calendar  
812 year, to qualify as a limited apportionment company. A regular

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813 assessment levied by the corporation on a limited apportionment  
 814 company for a deficit incurred by the corporation for the  
 815 coastal account may be paid to the corporation on a monthly  
 816 basis as the assessments are collected by the limited  
 817 apportionment company from its insureds, but a limited  
 818 apportionment company must begin collecting the regular  
 819 assessments not later than 90 days after the regular assessments  
 820 are levied by the corporation, and the regular assessments must  
 821 be paid in full within 15 months after being levied by the  
 822 corporation. A limited apportionment company shall collect from  
 823 its policyholders any emergency assessment imposed under sub-  
 824 subparagraph (b)3.d. The plan must provide that, if the office  
 825 determines that any regular assessment will result in an  
 826 impairment of the surplus of a limited apportionment company,  
 827 the office may direct that all or part of such assessment be  
 828 deferred as provided in subparagraph (q)4. However, an emergency  
 829 assessment to be collected from policyholders under sub-  
 830 subparagraph (b)3.d. may not be limited or deferred.

831 14. Must provide that the corporation appoint as its  
 832 licensed agents only those agents who throughout such  
 833 appointments also hold an appointment as defined in s. 626.015  
 834 by an insurer who is authorized to write and is actually writing  
 835 or renewing personal lines residential property coverage,  
 836 commercial residential property coverage, or commercial  
 837 nonresidential property coverage within this ~~the~~ state.

838 15. Must provide a premium payment plan option to its  
 839 policyholders which, at a minimum, allows for quarterly and  
 840 semiannual payment of premiums. A monthly payment plan may, but  
 841 is not required to, be offered.

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842 16. Must limit coverage on mobile homes or manufactured  
 843 homes built before 1994 to actual cash value of the dwelling  
 844 rather than replacement costs of the dwelling.

845 17. Must provide coverage for manufactured or mobile home  
 846 dwellings. Such coverage must also include the following  
 847 attached structures:

848 a. Screened enclosures that are aluminum framed or screened  
 849 enclosures that are not covered by the same or substantially the  
 850 same materials as those of the primary dwelling;

851 b. Carports that are aluminum or carports that are not  
 852 covered by the same or substantially the same materials as those  
 853 of the primary dwelling; and

854 c. Patios that have a roof covering that is constructed of  
 855 materials that are not the same or substantially the same  
 856 materials as those of the primary dwelling.

857  
 858 The corporation shall make available a policy for mobile homes  
 859 or manufactured homes for a minimum insured value of at least  
 860 \$3,000.

861 18. May provide such limits of coverage as the board  
 862 determines, consistent with the requirements of this subsection.

863 19. May require commercial property to meet specified  
 864 hurricane mitigation construction features as a condition of  
 865 eligibility for coverage.

866 20. Must provide that new or renewal policies issued by the  
 867 corporation on or after January 1, 2012, which cover sinkhole  
 868 loss do not include coverage for any loss to appurtenant  
 869 structures, driveways, sidewalks, decks, or patios that are  
 870 directly or indirectly caused by sinkhole activity. The

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871 corporation shall exclude such coverage using a notice of  
872 coverage change, which may be included with the policy renewal,  
873 and not by issuance of a notice of nonrenewal of the excluded  
874 coverage upon renewal of the current policy.

875 21. As of January 1, 2012, must require that the agent  
876 obtain from an applicant for coverage from the corporation an  
877 acknowledgment signed by the applicant, which includes, at a  
878 minimum, the following statement:

879  
880 ACKNOWLEDGMENT OF POTENTIAL SURCHARGE  
881 AND ASSESSMENT LIABILITY:  
882

883 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE  
884 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A  
885 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,  
886 MY POLICY COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND  
887 PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE  
888 POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH AS 45 PERCENT  
889 OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA  
890 LEGISLATURE.

891 2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS POLICYHOLDER  
892 SURCHARGE, WHICH COULD BE AS HIGH AS 45 PERCENT OF MY PREMIUM,  
893 BY OBTAINING COVERAGE FROM A PRIVATE MARKET INSURER AND THAT TO  
894 BE ELIGIBLE FOR COVERAGE BY CITIZENS, I MUST FIRST TRY TO OBTAIN  
895 PRIVATE MARKET COVERAGE BEFORE APPLYING FOR OR RENEWING COVERAGE  
896 WITH CITIZENS. I UNDERSTAND THAT PRIVATE MARKET INSURANCE RATES  
897 ARE REGULATED AND APPROVED BY THE STATE.

898 3. I UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY  
899 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER

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900 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE  
901 FLORIDA LEGISLATURE.

902 4. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE  
903 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE  
904 STATE OF FLORIDA.

905  
906 a. The corporation shall maintain, in electronic format or  
907 otherwise, a copy of the applicant's signed acknowledgment and  
908 provide a copy of the statement to the policyholder as part of  
909 the first renewal after the effective date of this subparagraph.

910 b. The signed acknowledgment form creates a conclusive  
911 presumption that the policyholder understood and accepted his or  
912 her potential surcharge and assessment liability as a  
913 policyholder of the corporation.

914 22. The corporation shall pay a producing agent of record a  
915 reasonable commission not to exceed the average of commissions  
916 paid in the preceding year by the 20 admitted insurers writing  
917 the greatest market share of property insurance in this state.

918 (n)1. Rates for coverage provided by the corporation must  
919 be actuarially sound and subject to s. 627.062, except as  
920 otherwise provided in this paragraph. The corporation shall file  
921 its recommended rates with the office at least annually. The  
922 corporation shall provide any additional information regarding  
923 the rates which the office requires. The office shall consider  
924 the recommendations of the board and issue a final order  
925 establishing the rates for the corporation within 45 days after  
926 the recommended rates are filed. The corporation may not pursue  
927 an administrative challenge or judicial review of the final  
928 order of the office.

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929 2. In addition to the rates otherwise determined pursuant  
 930 to this paragraph, the corporation shall impose and collect an  
 931 amount equal to the premium tax provided in s. 624.509 to  
 932 augment the financial resources of the corporation.

933 3. ~~If After~~ the public hurricane loss-projection model  
 934 under s. 627.06281 ~~is has been~~ found to be accurate and reliable  
 935 by the Florida Commission on Hurricane Loss Projection  
 936 Methodology, it must ~~the model shall~~ be considered when  
 937 establishing the windstorm portion of the corporation's rates.  
 938 The corporation may use the public model results in combination  
 939 with the results of private models to calculate rates for the  
 940 windstorm portion of the corporation's rates. This subparagraph  
 941 does not require or allow the corporation to adopt rates lower  
 942 than the rates otherwise required or allowed by this paragraph.

943 4. The corporation must make a recommended actuarially  
 944 sound rate filing for each personal and commercial line of  
 945 business it writes.

946 5. Notwithstanding the board's recommended rates and the  
 947 office's final order regarding the corporation's filed rates  
 948 under subparagraph 1., the corporation shall annually implement  
 949 a rate increase that which, except for sinkhole coverage, does  
 950 not exceed the following for any single policy issued by the  
 951 corporation, excluding coverage changes and surcharges:

- 952 a. Eleven percent for 2022.
- 953 b. Twelve percent for 2023.
- 954 c. Thirteen percent for 2024.
- 955 d. Fourteen percent for 2025.
- 956 e. Fifteen percent for 2026 and all subsequent years.
- 957 6. The corporation may also implement an increase to

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958 reflect the effect on the corporation of the cash buildup factor  
 959 pursuant to s. 215.555(5)(b).

960 7. The corporation's implementation of rates as prescribed  
 961 in subparagraph 5. ~~must shall~~ cease for any line of business  
 962 written by the corporation upon the corporation's implementation  
 963 of actuarially sound rates. Thereafter, the corporation shall  
 964 annually make a recommended actuarially sound rate filing for  
 965 each commercial and personal line of business the corporation  
 966 writes.

967 (q)1. The corporation shall certify to the office its needs  
 968 for annual assessments as to a particular calendar year, and for  
 969 any interim assessments that it deems to be necessary to sustain  
 970 operations as to a particular year pending the receipt of annual  
 971 assessments. Upon verification, the office shall approve such  
 972 certification, and the corporation shall levy such annual or  
 973 interim assessments. Such assessments shall be prorated as  
 974 provided in paragraph (b). The corporation shall take all  
 975 reasonable and prudent steps necessary to collect the amount of  
 976 assessments due from each assessable insurer, including, if  
 977 prudent, filing suit to collect the assessments, and the office  
 978 may provide such assistance to the corporation it deems  
 979 appropriate. If the corporation is unable to collect an  
 980 assessment from any assessable insurer, the uncollected  
 981 assessments shall be levied as an additional assessment against  
 982 the assessable insurers and any assessable insurer required to  
 983 pay an additional assessment as a result of such failure to pay  
 984 shall have a cause of action against such nonpaying assessable  
 985 insurer. Assessments shall be included as an appropriate factor  
 986 in the making of rates. The failure of a surplus lines agent to

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987 collect and remit any regular or emergency assessment levied by  
 988 the corporation is considered to be a violation of s. 626.936  
 989 and subjects the surplus lines agent to the penalties provided  
 990 in that section.

991 2. The governing body of any unit of local government, any  
 992 residents of which are insured by the corporation, may issue  
 993 bonds as defined in s. 125.013 or s. 166.101 from time to time  
 994 to fund an assistance program, in conjunction with the  
 995 corporation, for the purpose of defraying deficits of the  
 996 corporation. In order to avoid needless and indiscriminate  
 997 proliferation, duplication, and fragmentation of such assistance  
 998 programs, any unit of local government, any residents of which  
 999 are insured by the corporation, may provide for the payment of  
 1000 losses, regardless of whether or not the losses occurred within  
 1001 or outside of the territorial jurisdiction of the local  
 1002 government. Revenue bonds under this subparagraph may not be  
 1003 issued until validated pursuant to chapter 75, unless a state of  
 1004 emergency is declared by executive order or proclamation of the  
 1005 Governor pursuant to s. 252.36 making such findings as are  
 1006 necessary to determine that it is in the best interests of, and  
 1007 necessary for, the protection of the public health, safety, and  
 1008 general welfare of residents of this state and declaring it an  
 1009 essential public purpose to permit certain municipalities or  
 1010 counties to issue such bonds as will permit relief to claimants  
 1011 and policyholders of the corporation. Any such unit of local  
 1012 government may enter into such contracts with the corporation  
 1013 and with any other entity created pursuant to this subsection as  
 1014 are necessary to carry out this paragraph. Any bonds issued  
 1015 under this subparagraph shall be payable from and secured by

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1016 moneys received by the corporation from emergency assessments  
 1017 under sub-subparagraph (b)3.d., and assigned and pledged to or  
 1018 on behalf of the unit of local government for the benefit of the  
 1019 holders of such bonds. The funds, credit, property, and taxing  
 1020 power of the state or of the unit of local government may ~~shall~~  
 1021 not be pledged for the payment of such bonds.

1022 3.a. The corporation shall adopt one or more programs  
 1023 subject to approval by the office for the reduction of both new  
 1024 and renewal writings in the corporation. Beginning January 1,  
 1025 2008, any program the corporation adopts for the payment of  
 1026 bonuses to an insurer for each risk the insurer removes from the  
 1027 corporation shall comply with s. 627.3511(2) and may not exceed  
 1028 the amount referenced in s. 627.3511(2) for each risk removed.  
 1029 The corporation may consider any prudent and not unfairly  
 1030 discriminatory approach to reducing corporation writings, and  
 1031 may adopt a credit against assessment liability or other  
 1032 liability that provides an incentive for insurers to take risks  
 1033 out of the corporation and to keep risks out of the corporation  
 1034 by maintaining or increasing voluntary writings in counties or  
 1035 areas in which corporation risks are highly concentrated and a  
 1036 program to provide a formula under which an insurer voluntarily  
 1037 taking risks out of the corporation by maintaining or increasing  
 1038 voluntary writings will be relieved wholly or partially from  
 1039 assessments under sub-subparagraph (b)3.a. However, any "take-  
 1040 out bonus" or payment to an insurer must be conditioned on the  
 1041 property being insured for at least 5 years by the insurer,  
 1042 unless canceled or nonrenewed by the policyholder. If the policy  
 1043 is canceled or nonrenewed by the policyholder before the end of  
 1044 the 5-year period, the amount of the take-out bonus must be

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1045 prorated for the time period the policy was insured. When the  
 1046 corporation enters into a contractual agreement for a take-out  
 1047 plan, the producing agent of record of the corporation policy is  
 1048 entitled to retain any unearned commission on such policy, and  
 1049 the insurer shall either:

1050 (I) Pay to the producing agent of record of the policy, for  
 1051 the first year, an amount which is the greater of the insurer's  
 1052 usual and customary commission for the type of policy written or  
 1053 a policy fee equal to the usual and customary commission of the  
 1054 corporation; or

1055 (II) Offer to allow the producing agent of record of the  
 1056 policy to continue servicing the policy for a period of not less  
 1057 than 1 year and offer to pay the agent the insurer's usual and  
 1058 customary commission for the type of policy written. If the  
 1059 producing agent is unwilling or unable to accept appointment by  
 1060 the new insurer, the new insurer shall pay the agent in  
 1061 accordance with sub-sub-subparagraph (I).

1062 b. Any credit or exemption from regular assessments adopted  
 1063 under this subparagraph shall last no longer than the 3 years  
 1064 following the cancellation or expiration of the policy by the  
 1065 corporation. With the approval of the office, the board may  
 1066 extend such credits for an additional year if the insurer  
 1067 guarantees an additional year of renewability for all policies  
 1068 removed from the corporation, or for 2 additional years if the  
 1069 insurer guarantees 2 additional years of renewability for all  
 1070 policies so removed.

1071 c. There shall be no credit, limitation, exemption, or  
 1072 deferment from emergency assessments to be collected from  
 1073 policyholders pursuant to sub-subparagraph (b)3.d.

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1074 d. Notwithstanding any other law, for purposes of a  
 1075 depopulation, take-out, or keep-out program adopted by the  
 1076 corporation, including an initial or renewal offer of coverage  
 1077 made to a policyholder removed from the corporation pursuant to  
 1078 such program, an eligible surplus lines insurer may participate  
 1079 in the program in the same manner and on the same terms as an  
 1080 authorized insurer, except as provided under this sub-  
 1081 subparagraph.

1082 (I) To qualify for participation, the surplus lines insurer  
 1083 must first obtain approval from the office for its depopulation,  
 1084 take-out, or keep-out plan and then comply with all of the  
 1085 corporation's requirements for the plan applicable to admitted  
 1086 insurers and with all statutory provisions applicable to the  
 1087 removal of policies from the corporation.

1088 (II) In considering a surplus lines insurer's request for  
 1089 approval for its plan, the office shall determine whether the  
 1090 surplus lines insurer meets the following requirements:

1091 (A) Maintains a surplus of \$50 million on a company or  
 1092 pooled basis;

1093 (B) Has a superior, excellent, exceptional, or equally  
 1094 comparable financial strength rating by a rating agency  
 1095 acceptable to the office;

1096 (C) Maintains reserves, surplus, reinsurance, and  
 1097 reinsurance equivalents sufficient to cover the insurer's 100-  
 1098 year probable maximum hurricane loss at least twice in a single  
 1099 hurricane season and submits such reinsurance to the office to  
 1100 review for purposes of the take-out;

1101 (D) Provides prominent notice to the policyholder before  
 1102 the assumption of the policy that surplus lines policies are not

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1103 provided coverage by the Florida Insurance Guaranty Association  
 1104 and provides an outline of any substantial differences in  
 1105 coverage between the existing policy and the policy being  
 1106 offered to the insured; and  
 1107 (E) Provides policy coverage similar to that provided by  
 1108 the corporation.  
 1109 (III) To obtain approval for a plan, the surplus lines  
 1110 insurer must file the following with the office:  
 1111 (A) Information requested by the office to demonstrate  
 1112 compliance with s. 624.404(3), including biographical  
 1113 affidavits, fingerprints processed pursuant to s. 624.34, and  
 1114 the results of criminal history records checks for officers and  
 1115 directors of the insurer and its parent or holding company;  
 1116 (B) A service-of-process consent and agreement form  
 1117 executed by the insurer;  
 1118 (C) Proof that the insurer has been an eligible or  
 1119 authorized insurer for at least 3 years;  
 1120 (D) A duly authenticated copy of the insurer's current  
 1121 audited financial statement, in English, which, in the case of  
 1122 statements originally made in the currencies of other countries,  
 1123 expresses all monetary values in United States dollars, at an  
 1124 exchange rate then current and shown in the statement, and  
 1125 including any additional information relative to the insurer as  
 1126 the office may request;  
 1127 (E) A complete certified copy of the latest official  
 1128 financial statement required by the insurer's domiciliary state,  
 1129 if different from the statement required by sub-sub-sub-  
 1130 subparagraph (D); and  
 1131 (F) If applicable, a copy of the United States trust

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1132 account agreement.  
 1133  
 1134 This sub-sub-subparagraph does not subject any surplus lines  
 1135 insurer to requirements in addition to part VIII of chapter 626.  
 1136 Surplus lines brokers making an offer of coverage under this  
 1137 sub-subparagraph are not required to comply with s.  
 1138 626.916(1)(a), (b), (c), or (e).  
 1139 (IV) Within 10 days after the date of assumption, the  
 1140 surplus lines insurer assuming policies from the corporation  
 1141 shall remit to the Bureau of Collateral Management within the  
 1142 Department of Financial Services a special deposit equal to the  
 1143 unearned premium net of unearned commissions on the assumed  
 1144 block of business. The surplus lines insurer shall submit to the  
 1145 office, along with the special deposit, an accounting of the  
 1146 policies assumed and the amount of unearned premium for such  
 1147 policies and a sworn affidavit attesting to the accuracy of the  
 1148 accounting by an officer of the surplus lines insurer.  
 1149 Thereafter, the surplus lines insurer shall make a filing within  
 1150 10 days after the end of each calendar quarter attesting to the  
 1151 unearned premium in force for the previous quarter on policies  
 1152 assumed from the corporation and shall submit additional funds  
 1153 with that filing if the special deposit is insufficient to cover  
 1154 the unearned premium on assumed policies, or shall receive a  
 1155 return of funds within 60 days if the special deposit exceeds  
 1156 the amount of unearned premium required for assumed policies.  
 1157 The special deposit is an asset of the surplus lines insurer  
 1158 which is held by the department for the benefit of state  
 1159 policyholders of the surplus lines insurer in the event of the  
 1160 insolvency of the surplus lines insurer. If an order of

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1161 liquidation is entered in any state against the surplus lines  
 1162 insurer, the department may use the special deposit for payment  
 1163 of unearned premium or policy claims, return all or part of the  
 1164 deposit to the domiciliary receiver, or use the funds in  
 1165 accordance with any action authorized under part I of chapter  
 1166 631 or in compliance with any order of a court having  
 1167 jurisdiction over the insolvency.

1168 (V) In advance of a surplus lines insurer assuming a  
 1169 policy, surplus lines brokers representing a surplus lines  
 1170 insurer on a take-out program shall obtain confirmation, in  
 1171 written or e-mail form, from each producing agent stating that  
 1172 the agent is willing to participate in the take-out program with  
 1173 the surplus lines insurer engaging in the take-out program. The  
 1174 take-out program is also subject to s. 627.3517. If a  
 1175 policyholder is selected for removal from the corporation by a  
 1176 surplus lines insurer and an authorized insurer, the corporation  
 1177 must give priority to the offer of coverage from the authorized  
 1178 insurer.

1179 (VI) (A) A risk that has a dwelling replacement cost of  
 1180 \$700,000 or more or a single condominium unit that has a  
 1181 combined dwelling and contents replacement cost of \$700,000 or  
 1182 more is not eligible for coverage by the corporation if it is  
 1183 offered comparable coverage from a qualified surplus lines  
 1184 insurer at a premium no greater than 15 percent above the  
 1185 premium charged by the corporation.

1186 (B) A risk that has a dwelling replacement cost below  
 1187 \$700,000 or a single condominium unit that has a combined  
 1188 dwelling and contents replacement cost below \$700,000 remains  
 1189 eligible for coverage by the corporation if it is offered

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1190 coverage from a qualified surplus lines insurer.

1191 4. The plan shall provide for the deferment, in whole or in  
 1192 part, of the assessment of an assessable insurer, other than an  
 1193 emergency assessment collected from policyholders pursuant to  
 1194 sub-subparagraph (b)3.d., if the office finds that payment of  
 1195 the assessment would endanger or impair the solvency of the  
 1196 insurer. In the event an assessment against an assessable  
 1197 insurer is deferred in whole or in part, the amount by which  
 1198 such assessment is deferred may be assessed against the other  
 1199 assessable insurers in a manner consistent with the basis for  
 1200 assessments set forth in paragraph (b).

1201 5. Effective July 1, 2007, in order to evaluate the costs  
 1202 and benefits of approved take-out plans, if the corporation pays  
 1203 a bonus or other payment to an insurer for an approved take-out  
 1204 plan, it shall maintain a record of the address or such other  
 1205 identifying information on the property or risk removed in order  
 1206 to track if and when the property or risk is later insured by  
 1207 the corporation.

1208 6. Any policy taken out, assumed, or removed from the  
 1209 corporation is, as of the effective date of the take-out,  
 1210 assumption, or removal, direct insurance issued by the insurer  
 1211 and not by the corporation, even if the corporation continues to  
 1212 service the policies. This subparagraph applies to policies of  
 1213 the corporation and not policies taken out, assumed, or removed  
 1214 from any other entity.

1215 7. For a policy taken out, assumed, or removed from the  
 1216 corporation, the insurer may, for a period of no more than 3  
 1217 years, continue to use any of the corporation's policy forms or  
 1218 endorsements that apply to the policy taken out, removed, or

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1219 assumed without obtaining approval from the office for use of  
1220 such policy form or endorsement.

1221 (x)1. The following records of the corporation are  
1222 confidential and exempt from ~~the provisions of~~ s. 119.07(1) and  
1223 s. 24(a), Art. I of the State Constitution:

1224 a. Underwriting files, except that a policyholder or an  
1225 applicant shall have access to his or her own underwriting  
1226 files. Confidential and exempt underwriting file records may  
1227 also be released to other governmental agencies upon written  
1228 request and demonstration of need; such records held by the  
1229 receiving agency remain confidential and exempt as provided  
1230 herein.

1231 b. Claims files, until termination of all litigation and  
1232 settlement of all claims arising out of the same incident,  
1233 although portions of the claims files may remain exempt, as  
1234 otherwise provided by law. Confidential and exempt claims file  
1235 records may be released to other governmental agencies upon  
1236 written request and demonstration of need; such records held by  
1237 the receiving agency remain confidential and exempt as provided  
1238 herein.

1239 c. Records obtained or generated by an internal auditor  
1240 pursuant to a routine audit, until the audit is completed, or if  
1241 the audit is conducted as part of an investigation, until the  
1242 investigation is closed or ceases to be active. An investigation  
1243 is considered "active" while the investigation is being  
1244 conducted with a reasonable, good faith belief that it could  
1245 lead to the filing of administrative, civil, or criminal  
1246 proceedings.

1247 d. Matters reasonably encompassed in privileged attorney-

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1248 client communications.

1249 e. Proprietary information licensed to the corporation  
1250 under contract and the contract provides for the confidentiality  
1251 of such proprietary information.

1252 f. All information relating to the medical condition or  
1253 medical status of a corporation employee which is not relevant  
1254 to the employee's capacity to perform his or her duties, except  
1255 as otherwise provided in this paragraph. Information that is  
1256 exempt includes ~~shall include~~, but is not limited to,  
1257 information relating to workers' compensation, insurance  
1258 benefits, and retirement or disability benefits.

1259 g. Upon an employee's entrance into the employee assistance  
1260 program, a program to assist any employee who has a behavioral  
1261 or medical disorder, substance abuse problem, or emotional  
1262 difficulty that affects the employee's job performance, all  
1263 records relative to that participation are ~~shall be~~ confidential  
1264 and exempt from ~~the provisions of~~ s. 119.07(1) and s. 24(a),  
1265 Art. I of the State Constitution, except as otherwise provided  
1266 in s. 112.0455(11).

1267 h. Information relating to negotiations for financing,  
1268 reinsurance, depopulation, or contractual services, until the  
1269 conclusion of the negotiations.

1270 i. Minutes of closed meetings regarding underwriting files,  
1271 and minutes of closed meetings regarding an open claims file  
1272 until termination of all litigation and settlement of all claims  
1273 with regard to that claim, except that information otherwise  
1274 confidential or exempt by law must ~~shall~~ be redacted.

1275 2. If an authorized insurer, a reinsurance intermediary, an  
1276 eligible surplus lines insurer, or an entity that has filed an

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1277 application with the office for licensure as a property and  
 1278 casualty insurer in this state is considering writing or  
 1279 assisting in the underwriting of a risk insured by the  
 1280 corporation, relevant information from both the underwriting  
 1281 files and confidential claims files may be released to the  
 1282 insurer, reinsurance intermediary, eligible surplus lines  
 1283 insurer, or entity that has been created to seek authority to  
 1284 write property insurance in this state, provided that the  
 1285 recipient insurer agrees in writing, notarized and under oath,  
 1286 to maintain the confidentiality of such files. If a policy file  
 1287 is transferred to an insurer, that policy file is no longer a  
 1288 public record because it is not held by an agency subject to ~~the~~  
 1289 ~~provisions of~~ the public records law. Underwriting files and  
 1290 confidential claims files may also be released to staff and the  
 1291 board of governors of the market assistance plan established  
 1292 pursuant to s. 627.3515, who must retain the confidentiality of  
 1293 such files, except such files may be released to authorized  
 1294 insurers that are considering assuming the risks to which the  
 1295 files apply, provided the insurer agrees in writing, notarized  
 1296 and under oath, to maintain the confidentiality of such files.  
 1297 Finally, the corporation or the board or staff of the market  
 1298 assistance plan may make the following information obtained from  
 1299 underwriting files and confidential claims files available to an  
 1300 entity that has obtained a permit to become an authorized  
 1301 insurer, a reinsurer that may provide reinsurance under s.  
 1302 624.610, a licensed reinsurance broker, a licensed rating  
 1303 organization, a modeling company, or a licensed general lines  
 1304 insurance agent: name, address, and telephone number of the  
 1305 residential property owner or insured; location of the risk;

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1306 rating information; loss history; and policy type. The receiving  
 1307 person must retain the confidentiality of the information  
 1308 received and may use the information only for the purposes of  
 1309 developing a take-out plan or a rating plan to be submitted to  
 1310 the office for approval or otherwise analyzing the underwriting  
 1311 of a risk or risks insured by the corporation on behalf of the  
 1312 private insurance market. A licensed general lines insurance  
 1313 agent may not use such information for the direct solicitation  
 1314 of policyholders.

1315 3. A policyholder who has filed suit against the  
 1316 corporation has the right to discover the contents of his or her  
 1317 own claims file to the same extent that discovery of such  
 1318 contents would be available from a private insurer in litigation  
 1319 as provided by the Florida Rules of Civil Procedure, the Florida  
 1320 Evidence Code, and other applicable law. Pursuant to subpoena, a  
 1321 third party has the right to discover the contents of an  
 1322 insured's or applicant's underwriting or claims file to the same  
 1323 extent that discovery of such contents would be available from a  
 1324 private insurer by subpoena as provided by the Florida Rules of  
 1325 Civil Procedure, the Florida Evidence Code, and other applicable  
 1326 law, and subject to any confidentiality protections requested by  
 1327 the corporation and agreed to by the seeking party or ordered by  
 1328 the court. The corporation may release confidential underwriting  
 1329 and claims file contents and information as it deems necessary  
 1330 and appropriate to underwrite or service insurance policies and  
 1331 claims, subject to any confidentiality protections deemed  
 1332 necessary and appropriate by the corporation.

1333 4. Portions of meetings of the corporation are exempt from  
 1334 ~~the provisions of~~ s. 286.011 and s. 24(b), Art. I of the State

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1335 Constitution wherein confidential underwriting files or  
 1336 confidential open claims files are discussed. All portions of  
 1337 corporation meetings which are closed to the public shall be  
 1338 recorded by a court reporter. The court reporter shall record  
 1339 the times of commencement and termination of the meeting, all  
 1340 discussion and proceedings, the names of all persons present at  
 1341 any time, and the names of all persons speaking. No portion of  
 1342 any closed meeting shall be off the record. Subject to the  
 1343 provisions hereof and s. 119.07(1)(d)-(f), the court reporter's  
 1344 notes of any closed meeting shall be retained by the corporation  
 1345 for a minimum of 5 years. A copy of the transcript, less any  
 1346 exempt matters, of any closed meeting wherein claims are  
 1347 discussed shall become public as to individual claims after  
 1348 settlement of the claim.

1349 Section 3. Section 627.3517, Florida Statutes, is amended  
 1350 to read:

1351 627.3517 Consumer choice.—No provision of s. 627.351, s.  
 1352 627.3511, or s. 627.3515 shall be construed to impair the right  
 1353 of any insurance risk apportionment plan policyholder, upon  
 1354 receipt of any keep-out ~~keepout~~ or take-out offer, to retain his  
 1355 or her current agent, so long as that agent is duly licensed and  
 1356 appointed by the insurance risk apportionment plan or otherwise  
 1357 authorized to place business with the insurance risk  
 1358 apportionment plan. This right ~~may shall~~ not be canceled,  
 1359 suspended, impeded, abridged, or otherwise compromised by any  
 1360 rule, plan of operation, or depopulation plan, whether through  
 1361 keep-out ~~keepout~~, take-out, midterm assumption, or any other  
 1362 means, of any insurance risk apportionment plan or depopulation  
 1363 plan, including, but not limited to, those described in s.

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1364 627.351, s. 627.3511, or s. 627.3515. The commission shall adopt  
 1365 any rules necessary to cause any insurance risk apportionment  
 1366 plan or market assistance plan under such sections to  
 1367 demonstrate that the operations of the plan do not interfere  
 1368 with, promote, or allow interference with the rights created  
 1369 under this section. If the policyholder's current agent is  
 1370 unable or unwilling to be appointed with the insurer making the  
 1371 take-out or keep-out ~~keepout~~ offer, the policyholder is shall  
 1372 not ~~be~~ disqualified from participation in the appropriate  
 1373 insurance risk apportionment plan because of an offer of  
 1374 coverage in the voluntary market. An offer of full property  
 1375 insurance coverage by the insurer currently insuring either the  
 1376 ex-wind or wind-only coverage on the policy to which the offer  
 1377 applies is shall not ~~be~~ considered a take-out or keep-out  
 1378 ~~keepout~~ offer. Any rule, plan of operation, or plan of  
 1379 depopulation, through keep-out ~~keepout~~, take-out, midterm  
 1380 assumption, or any other means, of any property insurance risk  
 1381 apportionment plan under s. 627.351(2) or (6) is subject to ss.  
 1382 627.351(2)(b) and (6)(c) and 627.3511(4).

1383 Section 4. Subsection (5) of section 627.3518, Florida  
 1384 Statutes, is amended, and paragraph (a) of subsection (6) and  
 1385 paragraph (a) of subsection (7) of that section are reenacted,  
 1386 to read:

1387 627.3518 Citizens Property Insurance Corporation  
 1388 policyholder eligibility clearinghouse program.—The purpose of  
 1389 this section is to provide a framework for the corporation to  
 1390 implement a clearinghouse program by January 1, 2014.

1391 (5) Notwithstanding s. 627.3517, any applicant for new  
 1392 coverage from the corporation is not eligible for coverage from

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1393 the corporation if provided an offer of coverage from an  
 1394 authorized insurer through the program at a premium that is at  
 1395 or below the eligibility threshold established in s.  
 1396 627.351(6)(c)5.a. Whenever an offer of coverage for a personal  
 1397 lines risk is received for a policyholder of the corporation at  
 1398 renewal from an authorized insurer through the program, if the  
 1399 offer is at or below the eligibility threshold specified in s.  
 1400 ~~627.351(6)(c)5.a. equal to or less than the corporation's~~  
 1401 ~~renewal premium for comparable coverage~~, the risk is not  
 1402 eligible for coverage with the corporation. In the event that an  
 1403 offer of coverage for a new applicant or a personal lines risk  
 1404 at renewal is received from an authorized insurer through the  
 1405 program, and the premium offered exceeds the eligibility  
 1406 thresholds specified ~~threshold contained~~ in s.  
 1407 627.351(6)(c)5.a., the applicant or insured may elect to accept  
 1408 such coverage, or may elect to accept or continue coverage with  
 1409 the corporation. ~~In the event an offer of coverage for a~~  
 1410 ~~personal lines risk is received from an authorized insurer at~~  
 1411 ~~renewal through the program, and the premium offered is more~~  
 1412 ~~than the corporation's renewal premium for comparable coverage,~~  
 1413 ~~the insured may elect to accept such coverage, or may elect to~~  
 1414 ~~accept or continue coverage with the corporation.~~ Section  
 1415 627.351(6)(c)5.a.(I) does not apply to an offer of coverage from  
 1416 an authorized insurer obtained through the program. An applicant  
 1417 for coverage from the corporation who was declared ineligible  
 1418 for coverage at renewal by the corporation in the previous 36  
 1419 months due to an offer of coverage pursuant to this subsection  
 1420 shall be considered a renewal under this section if the  
 1421 corporation determines that the authorized insurer making the

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1422 offer of coverage pursuant to this subsection continues to  
 1423 insure the applicant and increased the rate on the policy in  
 1424 excess of the increase allowed for the corporation under s.  
 1425 627.351(6)(n)5.  
 1426 (6) Independent insurance agents submitting new  
 1427 applications for coverage or that are the agent of record on a  
 1428 renewal policy submitted to the program:  
 1429 (a) Are granted and must maintain ownership and the  
 1430 exclusive use of expirations, records, or other written or  
 1431 electronic information directly related to such applications or  
 1432 renewals written through the corporation or through an insurer  
 1433 participating in the program, notwithstanding s.  
 1434 627.351(6)(c)5.a.(I)(B) and (II)(B). Such ownership is granted  
 1435 for as long as the insured remains with the agency or until sold  
 1436 or surrendered in writing by the agent. Contracts with the  
 1437 corporation or required by the corporation must not amend,  
 1438 modify, interfere with, or limit such rights of ownership. Such  
 1439 expirations, records, or other written or electronic information  
 1440 may be used to review an application, issue a policy, or for any  
 1441 other purpose necessary for placing such business through the  
 1442 program.  
 1443 Applicants ineligible for coverage in accordance with subsection  
 1444 (5) remain ineligible if their independent agent is unwilling or  
 1445 unable to enter into a standard or limited agency agreement with  
 1446 an insurer participating in the program.  
 1447 (7) Exclusive agents submitting new applications for  
 1448 coverage or that are the agent of record on a renewal policy  
 1449 submitted to the program:  
 1450

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1451 (a) Must maintain ownership and the exclusive use of  
1452 expirations, records, or other written or electronic information  
1453 directly related to such applications or renewals written  
1454 through the corporation or through an insurer participating in  
1455 the program, notwithstanding s. 627.351(6)(c)5.a.(I)(B) and  
1456 (II)(B). Contracts with the corporation or required by the  
1457 corporation must not amend, modify, interfere with, or limit  
1458 such rights of ownership. Such expirations, records, or other  
1459 written or electronic information may be used to review an  
1460 application, issue a policy, or for any other purpose necessary  
1461 for placing such business through the program.

1462

1463 Applicants ineligible for coverage in accordance with subsection  
1464 (5) remain ineligible if their exclusive agent is unwilling or  
1465 unable to enter into a standard or limited agency agreement with  
1466 an insurer making an offer of coverage to that applicant.

1467 Section 5. This act shall take effect January 1, 2023.

The Florida Senate

**APPEARANCE RECORD**

SB 186

1/25/22

Meeting Date

Bill Number or Topic

**Banking & Insurance**

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Committee

Amendment Barcode (if applicable)

Name **Carolyn Johnson**

Phone **521-1200**

Address **136 S Bronough St**

Email **cjohnson@flchamber.com**

Street

**Tallahassee**

**FL**

**32301**

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

**FL Chamber of Commerce**

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

# APPEARANCE RECORD

186

1/25/2022

Meeting Date

Bill Number or Topic

Banking and Insurance

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Committee

Amendment Barcode (if applicable)

Name Julie Fess

Phone 4074023776

Address 215 S. Monroe Street

Email jfess@gunster.com

Street

Tallahassee

FL

32301

City

State

Zip

**Reset Form**

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

**Security First**

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

1/25/2022

Meeting Date

SB 186

Bill Number or Topic

BI Committee

Committee

Deliver both copies of this form to Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name PAUL HANDERHAN

Phone 561 704 0428

Address 120 S Monroe Street

Email Paul@rmbconsulting.com

Street

Tallahassee FL 33021

City

State

Zip

Speaking: [ ] For [ ] Against [ ] Information OR Waive Speaking: [x] In Support [ ] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[ ] I am appearing without compensation or sponsorship.

[x] I am a registered lobbyist, representing:

FAIR

[ ] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf (flsenate.gov)

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

S-001 (08/10/2021)

The Florida Senate

# APPEARANCE RECORD

Deliver both copies of this form to  
Senate professional staff conducting the meeting

1/25/2022

Meeting Date

SB 186

Bill Number or Topic

BI Committee

Committee

154092

Amendment Barcode (if applicable)

Paul Handeohan

Handeohan

Name

Phone

561 704 0428

Address

120 S Monroe Street

Email

Paul@rambaconsulting.com

Street

Tallahassee

FL

33021

City

State

Zip

Speaking:

For

Against

Information

**OR**

Waive Speaking:

In Support

Against

### PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

FAIR

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Criminal Justice

---

BILL: CS/SB 266

INTRODUCER: Criminal Justice Committee and Senator Diaz

SUBJECT: Motor Vehicle Insurance

DATE: January 26, 2022

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Jones</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	<u>Arnold</u>	<u>Knudson</u>	<u>ACJ</u>	<u>Favorable</u>
3.	_____	_____	<u>AP</u>	_____

---

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 266 creates s. 627.7491, F.S., which provides that if an employing agency of a law enforcement officer authorizes the officer to travel to his or her place of residence in an official law enforcement vehicle outside of the course and scope of the officer's employment or function, the employing agency must maintain current and valid motor vehicle insurance.

This motor vehicle insurance includes bodily injury, death, and property damage liability coverage that covers the period in which a law enforcement officer travels to or from work in an official law enforcement vehicle and covers the time a law enforcement officer travels to and from any other employing agency assignment in an official law enforcement vehicle. However, such motor vehicle insurance is not required to provide for coverage if:

- The law enforcement officer makes a distinct deviation for a nonessential personal errand unless a collective bargaining agreement permits such deviation; or
- The law enforcement officer acts in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

Any suit or action brought or maintained against an employing agency for damages arising out of tort pursuant to the bill are limited to the statutory damages caps in s. 768.28(5), F.S. (\$200,000 per person and \$300,000 per incident). Further, the employing agency is authorized to be self-insured, to enter into risk management programs, or to purchase liability insurance in order to meet the bill's requirements.

Finally, the bill provides a declaration of an important state interest.

The bill may have a fiscal impact on counties and municipalities. See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2022.

## II. Present Situation:

### Motor Vehicle Insurance

Chapter 627, part XI, F.S., Motor Vehicle and Casualty Insurance Contracts, and ch. 324, F.S., the Financial Responsibility Law of 1955, establish motor vehicle insurance coverage requirements. Florida's financial responsibility law exists to ensure that the privilege of owning or operating a motor vehicle on the public streets and highways is exercised with due consideration for others and their property, to promote safety, and to provide financial security requirements for the owners or operators of motor vehicles who are responsible to recompense others for injury to person or property caused by a motor vehicle.<sup>1</sup>

Florida law requires owners of motor vehicles with four or more wheels to purchase both \$10,000 of property damage (PD) liability insurance and \$10,000 of personal injury protection (PIP) insurance.<sup>2</sup>

PD liability insurance covers damage to, or destruction of, property of others as a result of a crash.<sup>3</sup>

PIP insurance, on the other hand, compensates insured persons injured in accidents regardless of fault.<sup>4</sup> Policyholders are indemnified by their own insurer. The intent of no-fault insurance is to provide for medical, surgical, funeral, and disability insurance benefits without regard to fault.<sup>5</sup> This coverage also provides policyholders with immunity from liability for economic damages up to the policy limits and limits tort suits for non-economic damages (pain and suffering) below a specified injury threshold.<sup>6</sup>

A driver's license and vehicle registration are subject to suspension for failure to comply with the security requirement to maintain PD liability insurance and PIP insurance coverage.<sup>7</sup> A

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<sup>1</sup> Section 324.011, F.S.

<sup>2</sup> See ss. 627.733 and 324.022, F.S. A driver in compliance with the requirement to carry PIP insurance coverage is not required to maintain bodily injury (BI) liability coverage. However, Florida law requires proof of ability to pay monetary damages in the amount of \$10,000 because of bodily injury to, or death of, one person in any one crash, and \$20,000 for bodily injury to, or death of, two or more persons in any one crash, and \$10,000 in the event of damage to property of others, or \$30,000 combined BI/PD liability insurance after a motor vehicle accident. See ss. 324.011 and 324.051, F.S.

<sup>3</sup> Section 324.022, F.S.

<sup>4</sup> Section 627.733, F.S.

<sup>5</sup> Section 627.731, F.S.

<sup>6</sup> Section 627.737, F.S.

<sup>7</sup> Section 324.0221(2), F.S.

driver's license and registration may be reinstated by obtaining a liability policy and by paying a fee to the Department of Highway Safety and Motor Vehicles.<sup>8</sup>

### **Obligations of Insurer to Insured**

A liability insurer generally owes two major contractual duties to its insured in exchange for premium payments: the duty to indemnify and the duty to defend.

The term *indemnify* is generally interpreted as imposing an obligation on one party (the *indemnitor*) to pay or compensate the other party (the *indemnitee*) for certain legal liabilities or losses, but that obligation does not typically arise until the end of a case when the indemnitee has had a judgment entered against it for damages or has made payments or suffered actual loss. The term *defend*, on the other hand, usually imposes an independent duty to either actively defend or fund the defense of any claim brought against the indemnitee that falls within the scope of the indemnification provision. The duty to defend is a promise to render, or fund, the service of providing a defense on the indemnitee's behalf-- a duty that usually arises as soon as a claim is made against the indemnitee and may continue until the claim has been resolved.<sup>9</sup>

### **Vehicle Take-Home Programs for Law Enforcement Officers**

A vehicle take-home program, also referred to as an assigned vehicle program, is a program in which an agency that employs a law enforcement officer (employing agency) assigns a vehicle to a law enforcement officer that the officer may take home at the end of each shift. Vehicle take-home programs are currently in operation throughout Florida. In the 2020 Criminal Justice Agency Profile Report by the Florida Department of Law Enforcement, it was reported that approximately ninety percent of the state's law enforcement agencies operate a vehicle take-home program.<sup>10</sup> This includes all 67 county sheriff's offices, 218 of 232 municipal police departments, 26 of 34 state agencies that employ law enforcement officers, and 32 of 43 school systems and ports that employ law enforcement officers. Some of the cited reasons for and benefits of such a program include:

- An increased police presence in the community;
- Improved patrol shift transitions;
- Improved operational mobility and flexibility;
- Improved emergency response and control;
- Increased vehicle longevity;
- Lower operating cost; and

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<sup>8</sup> Section 324.0221(3), F.S.

<sup>9</sup> Sean McChristian, *Indemnity vs. Duty to Defend: Know the Differences and Potential Critical Variations in State Law* (Aug. 16, 2019), American Bar Assoc., available at [https://www.americanbar.org/groups/construction\\_industry/publications/under\\_construction/2019/summer/indemnity-vs-duty/](https://www.americanbar.org/groups/construction_industry/publications/under_construction/2019/summer/indemnity-vs-duty/) (last visited on January 20, 2022).

<sup>10</sup> Florida Department of Law Enforcement, Criminal Justice Agency Profile Report, Police Departments and Sheriffs' Offices, Supplemental Programs, available at <http://www.fdle.state.fl.us/CJSTC/Publications/CJAP/CJAP.aspx> (last visited on January 20, 2022); *See also Sheriffs' Offices, 2007* – Statistical Table (Dec. 2012), U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, available at <https://bjs.ojp.gov/content/pub/pdf/so07st.pdf> (last visited on January 20, 2022) (reporting that ninety-three percent of sheriffs' departments around the country allow personnel to take department vehicles home).



- Less down time for vehicle maintenance.<sup>11</sup>

### **Sovereign Immunity and s. 768.28, F.S.**

Sovereign immunity is a principle under which a government cannot be sued without its consent.<sup>12</sup> Article X, s. 13, of the Florida Constitution allows the Legislature to waive this immunity. Section 768.28(1), F.S., authorizes suits in tort against the State and its agencies and political subdivisions for damages resulting from the negligence of government employees acting in the scope of their employment. This liability exists only where a private person would be liable for the same conduct. The waiver applies only to “injury or loss of property, personal injury, or death caused by the negligent or wrongful act or omission of any employee of the agency or subdivision while acting within the scope of the employee’s office or employment....”<sup>13</sup> Section 768.28(5)(a), F.S., limits tort recovery from a governmental entity to \$200,000 per person and \$300,000 per accident. This limitation does not prevent a judgment in excess of such amounts from being entered, but a claimant is unable to collect above the statutory limit unless a claim bill is passed by the Legislature.<sup>14</sup>

### **Workers’ Compensation – “Going or Coming” Rule**

Section 440.092, F.S., in part, sets forth special requirements for compensability relating to workers’ compensation coverage. Section 440.092(2), F.S., codifies “the ‘going or coming’ rule.”<sup>15</sup> Specifically, subsection (2) provides that an injury suffered while going to or coming from work is not an injury arising out of and in the course of employment whether or not the employer provided transportation if such means of transportation was available for the exclusive personal use by the employee, unless the employee was engaged in a special errand or mission for the employer. For the purposes of subsection (2) and notwithstanding any other provisions of law to the contrary, an injury to a “law enforcement officer” as defined in s. 943.10(1), F.S., during the officer’s work period or while going to or coming from work in an official law enforcement vehicle, is presumed to be an injury arising out of and in the course of employment unless the injury occurred during a distinct deviation for a nonessential personal errand. If, however, the employer’s policy or the collective bargaining agreement that applies to the officer permits such deviations for nonessential errands, the injury is presumed to arise out of and in the course of employment.<sup>16</sup>

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<sup>11</sup> See *Assigned Vehicle Program*, Pima County Sheriff’s Department, available at [https://pimasheriff.org/application/files/5415/6346/6464/Assigned\\_Vehicles\\_Program.pdf](https://pimasheriff.org/application/files/5415/6346/6464/Assigned_Vehicles_Program.pdf) (last visited on January 20, 2022). See also 05-36 Fla. Op. Att’y Gen. (June 16, 2005).

<sup>12</sup> *Sovereign Immunity*, The Legal Information Institute, Cornell Law School, available at [https://www.law.cornell.edu/wex/sovereign\\_immunity](https://www.law.cornell.edu/wex/sovereign_immunity) (last visited on January 20, 2022).

<sup>13</sup> Section 768.28(1), F.S.

<sup>14</sup> Section 768.28(5)(a), F.S.

<sup>15</sup> *Dunnam v. Olsten Quality Care*, 667 So.2d 948, 949 (Fla. 1st DCA 1996).

<sup>16</sup> Section 440.092(2), F.S.

***Garcia v. City of Hollywood* – Officer was not acting within the course and scope of employment when he struck a pedestrian with his “take home” patrol vehicle**

In *Garcia v. City of Hollywood*,<sup>17</sup> the Florida Fourth District Court of Appeals (Fourth DCA) affirmed a trial court granting summary judgment for the City of Hollywood, finding that the city was not liable for a pedestrian’s injuries incurred when he was struck by a “take home” vehicle owned by the city and operated by a sergeant who traveled to the police station an hour before his shift to study for an exam. The marked patrol vehicle was provided to the sergeant pursuant to a vehicle take-home policy that was incorporated in a collective bargaining agreement between the Broward County Police Benevolent Association and the City of Hollywood.<sup>18</sup>

The Fourth DCA concluded that the sergeant was not within the course and scope of his employment when the accident occurred. The Fourth DCA noted that the uncontradicted testimony in the trial court established that the officer “had yet to begin work when the accident occurred and was merely driving to the police station an hour before his shift began to study for an exam prior to beginning work.”<sup>19</sup> Further, the appellate court commented:

The City notes that although ... [the sergeant] was driving a City-owned police vehicle, the Florida Supreme Court has held that our waiver of sovereign immunity statute, section 768.28(1), Florida Statutes (2004), does not waive sovereign immunity under the dangerous instrumentality doctrine.<sup>20</sup> *Rabideau v. State*, 409 So.2d 1045, 1046 (Fla.1982) (“twenty-four-hour assignment of a state-owned vehicle to a state employee does not enlarge state liability under section 768.28 to include acts committed outside the employee’s scope of employment”).<sup>21</sup>

The Fourth DCA found support for its conclusion in the following cases: *Foremost Dairies v. Godwin*,<sup>22</sup> a case in which the Florida Supreme Court reversed a negligence judgment against an employee whom the Court held was not in the course of his employment as a matter of law when he was “merely going to or from work in his own car”;<sup>23</sup> and *Everett Ford Co. v. Laney*,<sup>24</sup> a case in which the Florida Supreme Court held that an employee who worked irregular hours was not within the scope of her employment when the accident occurred (while driving home to recover a key to the closed office which she had forgotten).<sup>25</sup>

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<sup>17</sup> 966 So.2d 5 (Fla. 4th DCA 2007).

<sup>18</sup> *Id.* at 5-6.

<sup>19</sup> *Id.* at 6.

<sup>20</sup> “Adopted in 1920, Florida’s dangerous instrumentality doctrine imposes strict vicarious liability upon the owner of a motor vehicle who voluntarily entrusts that motor vehicle to an individual whose negligent operation causes damage to another.” *Aurbach v. Gallina*, 753 So.2d 60, 63 (Fla. 2000) (citation omitted). Under this doctrine, “an owner who gives authority to another to operate the owner’s vehicle, by either express or implied consent, has a nondelegable obligation to ensure that the vehicle is operated safely.” *Id.* (citation omitted).

<sup>21</sup> *Garcia*, 966 So.2d at 6.

<sup>22</sup> 158 Fla. 245, 26 So.2d 773 (Fla. 1946).

<sup>23</sup> *Garcia*, 966 So.2d at 7, citing *Foremost Dairies, Inc.*, 26 So.2d at 774.

<sup>24</sup> 189 So.2d 877.

<sup>25</sup> *Garcia*, 966 So.2d at 7, citing *Everett Ford. Co.*, 189 So.2d at 878.

The Fourth DCA found additional support for its conclusion in *Palm Beach County Sheriff's Office v. Ginn*,<sup>26</sup> a worker's compensation case involving a deputy who was injured in an accident while driving a vehicle provided by his employer. When the accident occurred, the deputy was off-duty and running a personal errand, which he was authorized by his employer to do. Prior to his accident the deputy had been monitoring a police radio in case he was called and was wearing a beeper. The First District Court of Appeal (First DCA) in *Ginn* found that the deputy was not acting within the course of his employment when the accident occurred.<sup>27</sup> The Fourth DCA quoted the following findings of the First DCA:

The fact that a law enforcement officer is on call for duty and has a police radio and other indicia of his authority in his possession is not dispositive in determining whether an off-duty officer is acting within the course of his employment. Rather, the issue, pursuant to the provisions of Section 440.091, is whether the officer is carrying out his primary responsibility, which is the "prevention or detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state."<sup>28</sup>

The Fourth DCA found this situation similar to the situation in the case it was reviewing. The sergeant was "not in the process of carrying out a 'primary responsibility' of his job as a police officer" and "not engaged in the 'prevention or detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the State.'"<sup>29</sup> The Fourth DCA concluded:

He was not furthering any interest of his employer or performing any duties of his employment. He was simply in transit to the police station an hour before he was required to report for work for the personal reason of studying for the Lieutenant's exam.<sup>30</sup>

### **Impact of *Garcia v. City of Hollywood***

As a result of the *Garcia* opinion, some law enforcement agencies recommend or require their law enforcement officers to obtain a "use of non-owned vehicle" insurance policy that provides liability coverage when the officer is operating a vehicle owned by another person or entity (i.e., an official law enforcement vehicle).<sup>31</sup> For example, the Orlando Police Department requires their officers to show proof of non-owned vehicle insurance coverage before issuance of a take-home vehicle. The stated purpose of "this policy is to recognize that certain potential liabilities

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<sup>26</sup> 570 So.2d 1059 (Fla. 1st DCA 1990).

<sup>27</sup> *Garcia*, 966 So.2d at 7 describing *Ginn*, 570 So.2d at 1060.

<sup>28</sup> *Garcia*, 966 So.2d at 7, quoting *Ginn*, 570 So.2d at 1060.

<sup>29</sup> *Garcia*, 966 So.2d at 7.

<sup>30</sup> *Id.* at 7-8.

<sup>31</sup> See e.g. Collective Bargaining Agreement between the City of Ocala, Florida and Florida State Lodge, Fraternal Order of Police, available at <https://www.ocalafl.org/home/showpublisheddocument/2130/637504395197530000> ; City of Hollywood, Florida, Take Home Vehicle Policy HB-038:2, available at <http://www.hollywoodfl.org/DocumentCenter/View/11445/038-2-TakeHome-Vehicle?bidId>; Orlando Police Department Policy and Procedure 1802.17, Use of City Vehicles, available at <https://www.orlando.gov/files/sharedassets/public/documents/opd/policies-and-procedures/city-owned-vehicles/1802.17-use-of-city-vehicles.pdf>; and Collective Bargaining Agreement between Town of Davie, Florida and Florida State Lodge Fraternal Order of Police, Inc., available at <https://www.davie-fl.gov/DocumentCenter/View/9755/FOP-CollectiveBargaining-Agreement-2019-2022-PDF> (all sites last visited on January 20, 2022).

incurred by employees are not covered by the City's insurance program, and that requiring personal insurance coverage is in the best interest of the City, the employee, and the public.”<sup>32</sup>

### III. Effect of Proposed Changes:

The bill creates s. 627.7491, F.S., which provides that if an employing agency<sup>33</sup> of a law enforcement officer<sup>34</sup> authorizes the officer to travel to his or her place of residence in an official law enforcement vehicle outside of the course and scope of the officer's employment or function, the employing agency must maintain current and valid motor vehicle insurance.

This motor vehicle insurance includes bodily injury, death, and property damage liability coverage that covers the period in which a law enforcement officer travels to or from work in an official law enforcement vehicle and covers the time a law enforcement officer travels to and from any other employing agency assignment in an official law enforcement vehicle. However, such motor vehicle insurance is not required to provide for coverage if:

- The law enforcement officer makes a distinct deviation for a nonessential personal errand unless a collective bargaining agreement permits such deviation; or
- The law enforcement officer acts in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

The bill specifies that any suit or action brought or maintained against an employing agency for damages arising out of tort pursuant to the bill are limited to the statutory damages caps in s. 768.28(5), F.S. (\$200,000 per person and \$300,000 per incident).

The bill specifies that the employing agency is authorized to be self-insured, to enter into risk management programs, or to purchase liability insurance in order to meet the bill's requirements.

The bill provides that the Legislature finds and declares that this act fulfills an important state interest.

The bill takes effect July 1, 2022.

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<sup>32</sup> Orlando Police Department Policy and Procedure 1802.17, Use of City Vehicles, available at <https://www.orlando.gov/files/sharedassets/public/documents/opd/policies-and-procedures/city-owned-vehicles/1802.17-use-of-city-vehicles.pdf> (last visited on January 20, 2022).

<sup>33</sup> The bill defines the term “employing agency” as an agency that employs a law enforcement officer.

<sup>34</sup> The bill defines the term “law enforcement officer” by reference to s. 943.10(1), F.S., which defines a “law enforcement officer” as any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency.

#### IV. Constitutional Issues:

##### A. Municipality/County Mandates Restrictions:

Article VII, s. 18(a), of the Florida Constitution provides, in relevant part, that: “No county or municipality shall be bound by any general law requiring such county or municipality to spend funds...unless the legislature has determined that such law fulfills an important state interest and unless: the law requiring such expenditure is approved by two-thirds vote of the membership of each house of the legislature; [or] . . . the expenditure is required to comply with a law that applies to all persons similarly situated, including the state and local governments....”

The bill provides a declaration of an important state interest. Further, the provisions of the bill appear to apply to all persons similarly situated (state and local law enforcement agencies).

The mandate requirements do not apply to laws having an “insignificant impact” which, for Fiscal Year 2021-2022, appears to be an amount not exceeding \$2.2 million.<sup>35</sup> The fiscal impact of this bill on municipalities and counties is indeterminate. If costs imposed by the bill are determined to exceed \$2.2 million in the aggregate, the bill may be binding on municipalities and counties if the bill contains a finding of important state interest and meets one of the exceptions specified in Article VII, s. 18(a) of the State Constitution (e.g., applies to all persons similarly situated or is enacted by a vote of two-thirds of the membership of each house of the Legislature).

##### B. Public Records/Open Meetings Issues:

None.

##### C. Trust Funds Restrictions:

None.

##### D. State Tax or Fee Increases:

None.

##### E. Other Constitutional Issues:

None identified.

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<sup>35</sup> A 2012 Senate interim report indicated that an “insignificant fiscal impact” is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See *Insignificant Impact*, Interim Report 2012-115: (Sep. 2011), Florida Senate Committee on Community Affairs, available at: <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited on January 20, 2022). The Florida Demographic Estimating Conference’s November 3, 2020, population forecast for 2021 was 21,830,364 persons. The conference packet is available at: <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited on January 20, 2022).

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

None.

**B. Private Sector Impact:**

The bill will likely have an indeterminate, positive fiscal impact on the private sector as a result of premiums collected by insurers on coverage purchased by employing agencies. Officers who are currently required to purchase coverage motor vehicle insurance covering use of a non-owned vehicle will benefit from no longer having to purchase such coverage.

**C. Government Sector Impact:**

An employing agency with a vehicle take-home program would no longer be able to recommend or require their law enforcement officers to obtain a “use of non-owned vehicle” insurance policy. The employing agency would have to provide motor vehicle insurance coverage. The cost of this coverage is currently indeterminate.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 627.7491 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 Criminal Justice on January 11, 2022:**

The committee substitute:

- Creates s. 627.7491, F.S., which provides that if an employing agency of a law enforcement officer authorizes the officer to travel to his or her place of residence in an official law enforcement vehicle outside of the course and scope of the officer’s employment or function, the employing agency must maintain current and valid motor vehicle insurance.
- Specifies types of vehicle insurance that must be obtained.
- Provides exceptions to providing vehicle insurance.

- Provides that any suit or action brought or maintained against an employing agency for damages arising out of tort pursuant to the bill are limited to the statutory damages caps in s. 768.28(5), F.S. (\$200,000 per person and \$300,000 per incident).
- Provides that the employing agency is authorized to be self-insured, to enter into risk management programs, or to purchase liability insurance in order to meet the bill's requirements.
- Provides a declaration of an important state interest.

B. Amendments:

None.

By the Committee on Criminal Justice; and Senator Diaz

591-01936-22

2022266c1

A bill to be entitled

An act relating to motor vehicle insurance; creating s. 627.7491, F.S.; defining terms; requiring agencies that employ law enforcement officers to maintain motor vehicle insurance under certain circumstances; providing exceptions; providing liability limitations; providing methods in which the employing agency may meet the liability insurance requirements; providing a declaration of important state interest; providing an effective date.

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

Section 1. Section 627.7491, Florida Statutes, is created to read:

627.7491 Official law enforcement vehicles; motor vehicle insurance requirements.—

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

(a) "Employing agency" means an agency that employs a law enforcement officer.

(b) "Law enforcement officer" has the same meaning as in s. 943.10(1).

(2) If an employing agency authorizes a law enforcement officer to travel to his or her place of residence in an official law enforcement vehicle outside of the course and scope of the officer's employment or function, the employing agency must maintain current and valid motor vehicle insurance, including bodily injury, death, and property damage liability coverage, which covers the period in which a law enforcement

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

591-01936-22

2022266c1

officer travels to or from work in an official law enforcement vehicle and covers the time a law enforcement officer travels to and from any other employing agency assignment in an official law enforcement vehicle. However, such motor vehicle insurance is not required to provide for coverage if:

(a) The law enforcement officer makes a distinct deviation for a nonessential personal errand unless a collective bargaining agreement permits such deviation; or

(b) The law enforcement officer acts in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

(3) Any suit or action brought or maintained against an employing agency for damages arising out of tort pursuant to this section, including, without limitation, any claim arising upon account of an act causing loss of property, personal injury, or death, shall be subject to the limitations provided in s. 768.28(5).

(4) The requirements of this section may be met by any method authorized by s. 768.28(16).

Section 2. The Legislature finds and declares that this act fulfills an important state interest.

Section 3. This act shall take effect July 1, 2022.

Page 2 of 2

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



The Florida Senate

APPEARANCE RECORD

3:30

Meeting Date

266

Bill Number or Topic

Banking & Insurance

Committee

Deliver both copies of this form to Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name

Lisa Henning

Phone

850-766-8808

Address

242 Office Plaza Dr

Email

lhenning@legislative.com

Street

Tallahassee

FL

32301

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Fraternal Order of Police

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](https://www.flsenate.gov/2020-2022/jointrules.pdf)

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

S-001 (08/10/2021)



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**SENATOR MANNY DIAZ, JR.**  
36th District

**COMMITTEES:**  
Health Policy Chair  
Appropriations Subcommittee on  
Education Vice Chair  
Appropriations  
Appropriations Subcommittee on Health  
and Human Services  
Education  
Commerce and Tourism  
Rules

January 14, 2022

Honorable Senator Jim Boyd  
Chair  
Committee on Banking and Insurance

Honorable Chair Boyd,

I respectfully request that SB 266 Motor Vehicles Insurance be placed in the next committee agenda.

Motor Vehicle Insurance; Requiring agencies that employ law enforcement officers to maintain motor vehicle insurance under certain circumstances; providing exceptions; providing liability limitations; providing methods in which the employing agency may meet the liability insurance requirements.

Sincerely,

A handwritten signature in blue ink, appearing to read "M. Diaz", written over a light blue circular stamp.

---

Senator Manny Diaz, Jr.  
Florida Senate, District 36

CC: James Knudson, Staff Director  
Amaura Canty, Committee Administrative Assistant  
Kathy Galea, Legislative Assistant

REPLY TO:

- 10001 Northwest 87th Avenue, Hialeah Gardens, Florida 33016 (305) 364-3073
- 306 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5036

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**Wilton Simpson**  
President of the Senate

**Aaron Bean**  
President Pro Tempore

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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

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**BILL:** CS/CS/SB 926

**INTRODUCER:** Banking and Insurance Committee, Health Policy Committee, and Senator Albritton

**SUBJECT:** Licensure Examinations for Dental Practitioners

**DATE:** January 27, 2022

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Rossitto-Vanwinkle</u>	<u>Brown</u>	<u>HP</u>	<u>Fav/CS</u>
2.	<u>Schrader</u>	<u>Knudson</u>	<u>BI</u>	<u>Fav/CS</u>
3.	_____	_____	<u>RC</u>	_____

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 926 revises dental licensure examination requirements for dentists and dental hygienists to require applicants to demonstrate certain clinical skills on a manikin rather than a live patient. The bill deletes the requirement that schools of dentistry wishing to offer licensure examinations must have a plan to require dental students to possess medical malpractice insurance in amounts not less than the amounts required to take the Florida licensure examinations, to make adequate arrangements for patients who require follow-up care, and to ensure that such students do not pose an unreasonable risk when conducting licensure exercises on a live patient. The bill also repeals the authorization for the Board of Dentistry to require that any person applying to take the practical dentistry or dental hygiene examination in Florida maintain medical malpractice insurance in amounts sufficient to cover any incident of harm to a patient during the examination.

The bill provides an effective date of July 1, 2022.

**II. Present Situation:**

**The Practice of Dentistry**

The Board of Dentistry (BOD) carries out the provisions of ch. 466, F.S., which establishes the requirements for the practice of dentistry in Florida by dentists, dental hygienists, and dental

assistants under the Dental Practice Act.<sup>1</sup> A dentist is licensed to examine, diagnose, treat, and care for conditions within the human oral cavity and its adjacent tissues and structures.<sup>2</sup> A dental hygienist provides education, preventive, and delegated therapeutic dental services.<sup>3</sup> Dental assistants are persons who, under the supervision and authorization of a dentist, provide dental care services directly to a patient, but who are not dental hygienists or licensed certified registered nurse anesthetists.<sup>4</sup> Licensure as a dentist or dental hygienist requires passing statutorily required licensure examinations.

Florida currently uses the American Dental Licensing Examination (ADLEX) and the American Dental Hygiene Licensing Examination (ADHLEX) for its clinical examinations. Both are produced by the American Board of Dental Examiners, Inc. (ADEX),<sup>5</sup> as the legislatively mandated state clinical licensure examinations for dentists and dental hygienists.<sup>6</sup> Both clinical examinations are administered by two national testing agencies:

- Commission for Dental Competency Assessments (CDCA).
- Council of Interstate Testing Agencies (CITA).

According to the American Dental Association (ADA) and the ADEX, there are currently four national clinical testing agencies:<sup>7,8</sup>

- CDCA-WREB (Formerly the Commission for Dental Competency Assessments-Western Regional Examining Board);
- Council of Interstate Testing Agencies (CITA);
- Central Regional Dental Testing Services, Inc. (CRDTS); and
- Southern Regional Testing Agency, Inc. (SRTA).

Delaware administers its own exam while New York requires completion of a one-year residency program for dentists.<sup>9</sup>

### ***Dentists***

The requirements for dental licensure in Florida are found in s. 466.006, F.S. An applicant must apply to the Department of Health (DOH) to take and pass the following examinations:

- The ADLEX;<sup>10</sup> and

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<sup>1</sup> Section 466.004, F.S.

<sup>2</sup> Section 466.003(3), F.S.

<sup>3</sup> Section 466.003(4) and (5), F.S.

<sup>4</sup> Section 466.003(6), F.S.

<sup>5</sup> The American Board of Dental Examiners, Inc. (ADEX) develops both dental and dental hygiene clinical examinations. The first ADLEX exam was produced by the ADEX and administered in 2005; and is now simply called the “ADEX Dental Exam” or the “ADEX Dental Hygiene Exam.” The ADEX does not administer examinations. For clarity purposes, this analysis will continue to refer to American Dental Licensing Examination as the “ADLEX,” the American Dental Hygiene Licensing Examination as the “ADHLEX,” and reserve the abbreviation “ADEX” for the American Board of Dental Examiners, Inc.

<sup>6</sup> See ss. 466.006(4)(b) and 466.007(4)(b), F.S.

<sup>7</sup> American Dental Association, *Licensure for Dental Students*, available at <https://www.ada.org/resources/licensure/student-licensure> (last visited Jan. 22, 2022).

<sup>8</sup> The American Board of Dental Examiners, Inc., ADEX. *What ADEX Does* available at <https://adexexams.org/about-adex/> (last visited Jan. 22, 2022).

<sup>9</sup> American Dental Association, *supra* note 7.

<sup>10</sup> Section 466.006, F.S.

- An exam on Florida laws and rules relating to dentistry.

To take the ADLEX clinical examination, a dental applicant must be at least 18 years of age and must:

- Be a graduate from a dental school accredited by the ADA Commission on Dental Accreditation (CODA) or any other dental accrediting entity recognized by the U.S. Department of Education (DOE); or
- Be a dental student in the final year of a program at an ADA-CODA-accredited dental school who has completed all the coursework necessary to prepare the student to perform the clinical and diagnostic procedures required to pass the examinations. A passing score on the examination is valid for 365 days; and
- Have passed Parts I and II of the National Board Dental Examination (NBDE), administered by the Joint Commission on National Dental Examinations (JCNDE).<sup>11</sup>

Current law requires the ADLEX clinical dental examination to include the following:

- Comprehensive diagnostic skills examination including an examination, clinical diagnosis and treatment planning;
- Two restorations on a live patient or patients;<sup>12</sup>
- Demonstration of periodontal skills on a live patient;
- Demonstration of prosthetics and restorative skills in complete and partial dentures and crowns and bridges and the utilization of practical methods of evaluation;
- Demonstration of restorative skills on a manikin including procedures performed in preparation for a cast restoration;
- Demonstration of endodontic skills; and
- A diagnostic skills examination demonstrating ability to diagnose conditions within the human oral cavity and its adjacent tissues and structures from photographs, slides, radiographs, or models.<sup>13</sup>

A dental school graduate from a school not accredited by the ADA CODA, a U.S. DOE-recognized dental accrediting entity, or approved by the BOD, and desiring to take the ADLEX, is not entitled to do so unless the applicant:

- Demonstrates completion of a program defined by BOD rule at an accredited American dental school and receives either a D.D.S. or D.M.D. from the school; or
- Submits proof of successful completion of at least two consecutive years at a full-time supplemental general dentistry program accredited by the ADA CODA.<sup>14</sup>

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<sup>11</sup> American Dental Association, Joint Commission on National Dental Examinations, *About the JCNDE*, available at <https://www.ada.org/en/jcnde/about-us> (last visited Jan. 22, 2022) The Joint Commission on National Dental Examinations (JCNDE) is the agency responsible for the development and administration of the National Board Dental Examinations (NBDE). This 16-member Commission includes representatives from dental schools, dental practice, state dental examining boards, dental hygiene, dental students, and the public.

<sup>12</sup> See Fla. Admin. Code R. 64B5-2.013 (2021), which specified the class of restorations required for the clinical examination. It was repealed by the BOD in May 2012, after the clinical examination was transitioned to the ADLEX, because the ADEX had specified the class of restorations required to be performed in the ADLEX.

<sup>13</sup> Section 466.006(5)(a), F.S.

<sup>14</sup> Section 466.006(3), F.S.

### ***Dental Hygienists***

The requirements for licensure as a dental hygienist are found in s. 466.007, F.S. An applicant must apply to the DOH to take the ADHLEX and is entitled to licensure if he or she is 18 years of age or older and has:<sup>15</sup>

- Graduated from a dental hygiene college or school that is:
  - Board-approved;
  - Accredited by the ADA CODA or by any other dental accrediting entity recognized by the U.S. DOE;
- Passed the Florida Laws and Rules examination; and
- Passed the ADHLEX examination.

A dentist who is a graduate of an accredited dental college or school or a graduate of an unaccredited dental college or school, may also take the ADHLEX and obtain licensure as a dental hygienist if he or she meets certain additional criteria.<sup>16</sup>

### **Dental and Dental Hygiene Examinations**

The Legislature has authorized the BOD to use the ADLEX and the ADHLEX dental exams developed by ADEX in lieu of an independent state-developed practical or clinical examination for both dentists and dental hygienists.<sup>17</sup> Dental licensure is a process every dentist must go through, and, in the United States, licensure requirements vary from state to state. State legislatures and dental boards establish the licensure requirements, including which licensure examinations its prospective licensees must take and pass as evidence of clinical competence for a dental license.

#### ***Dentists - The American Dental Licensing Examination (ADLEX)***

The ADLEX clinical examination administered by CDCA and the CITA is accepted in 48 states plus Puerto Rico, Jamaica, and the U.S. Virgin Islands.<sup>18</sup> The ADLEX clinical examination is given in two formats:

- The traditional format;<sup>19,20</sup> and
- The Patient-Centered Curriculum Integrated Format (PC CIF).<sup>21,22</sup>

<sup>15</sup> Section 466.007, F.S.

<sup>16</sup> See s. 466.007 (2)(b)1. and (3), F.S.

<sup>17</sup> See ss. 466.006(4)(b) and 466.007(4)(b), F.S.

<sup>18</sup> The Commission on Dental Competency Assessments, *2021 ADEX Acceptance Maps, Dental*, available at <https://www.cdcaexams.org/ADEX-acceptance-map/> (last visited Jan. 22, 2022). Only New York and Delaware do not accept the ADEX dental examination.

<sup>19</sup> The Commission on Dental Competency Assessments, *Dental (ADEX)*, available at <https://www.cdcaexams.org/dental-exams/> (last visited Jan. 22, 2022).

<sup>20</sup> American Dental Association, *supra* note 7.

<sup>21</sup> *Id.*

<sup>22</sup> American Board of Dental Examiners, Inc., ADEX Patient Centered Curriculum Integrated Format (PC CIF), *ADEX* available at <https://ADEXexams.org/wp-content/uploads/2016/06/ADEX-Patient-Centered-Curriculum-Integrated-Format-PC-CIF-2.pdf> (last visited Jan. 22, 2022). The PC CIF format focuses on patient care needs, rather than the candidate's examination. The examination itself is identical to the ADEX Licensing Examination for initial licensure in dentistry.

*The traditional format* uses a clinical manikin and patient-based examinations administered in a single sitting at the end of a dental student's senior year by a testing agency or individual state. It is for those students who have elected not to take the PC CIF or for those who have already graduated from dental school.<sup>23</sup>

*The PC CIF* is an alternative to the traditional format. The PC CIF option is offered by the CRDTS, CITA, CDCA, and SRTA, but not the WREB. The PC CIF allows dental students to be examined in sections, during the fourth year of dental school. With the PC CIF, the manikin-based clinical examinations are administered late in the junior year or early in the senior year, and the clinical patient-based examinations are administered during the senior year. Only students or graduates of schools accredited by the ADA CODA or the Commission on Dental Accreditation of Canada may take the ADLEX PC CIF clinical examination.<sup>24</sup>

All other candidates (including international graduates) must apply through a state's dental board in the state or jurisdiction where they wish to practice for permission to take an examination for licensure only in that state or jurisdiction.

*The ADLEX examination* series includes computer simulations and clinical examinations performed on patients and manikins and is an Objective Structured Clinical Examination (OSCE).<sup>25</sup> There are five skill-specific components including a high-fidelity computerized OSCE testing a candidate's ability to apply knowledge to the care of patients. The five areas are:

- Diagnostic Skill Examination;
- Restorative – Anterior and Posterior;
- Prosthodontics;<sup>26</sup>
- Endodontics;<sup>27</sup> and
- Periodontal Scaling.

The cost of taking the full dental ADLEX examination is \$2,295 plus ancillary fees.<sup>28</sup>

### **Dental Hygienist - The American Dental Licensing Examination (ADHLEX)**

The ADHLEX examination is used in Florida and administered by the CDCA and the CITA. The ADHLEX is designed for students about to complete dental hygiene training and graduate dental

<sup>23</sup> *Id.*

<sup>24</sup> Section 466.006(2)(b), F.S.

<sup>25</sup> National Institute of Health, US National Library of Medicine, *Oman Med J.* 2011 Jul; 26(4): 219–222, *Objective Structured Clinical Examination: The Assessment of Choice*, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3191703/> (last visited Jan. 22, 2022). The Objective Structured Clinical Examination is a versatile multipurpose evaluative tool that can be utilized to assess health care professionals in a clinical setting. It assesses competency, based on objective testing through direct observation. It is precise, objective, and reproducible allowing uniform testing of students for a wide range of clinical skills. Unlike the traditional clinical exam, the OSCE could evaluate areas most critical to performance of health care professionals such as communication skills and ability to handle unpredictable patient behavior.

<sup>26</sup> Prosthodontics is the branch of dentistry concerned with the design, manufacture, and fitting of artificial replacements for teeth and other parts of the mouth.

<sup>27</sup> Endodontics is the branch of dentistry concerning dental pulp and tissues surrounding the roots of a tooth. Endodontic treatment, or root canal treatment, treats the soft pulp tissue inside the tooth.

<sup>28</sup> See note 18.

hygienists. Forty-seven states accept the ADHLEX examination; only Delaware, Georgia, and Nebraska do not.<sup>29</sup>

The ADHLEX examination is based on specific performance criteria used to measure clinical competence. There are two skill-specific clinical and simulated clinical OSCE:

- The Computer Simulated Clinical Examination (CSCE-OSCE); and
- The Patient Treatment Clinical Examination (PTCE).<sup>30</sup>

The CSCE-OSCE exam is designed to assess various levels of diagnosis and treatment planning knowledge, skills, and abilities. Clinically-based questions are utilized through computer-enhanced photographs, radiographs, optical images of study and working models, laboratory data, and other clinical digitized reproductions.<sup>31</sup>

The PTCE evaluates candidates on their clinical and judgment skills. Clinical skills include:<sup>32</sup>

- Detection and removal of calculus;
- Accurate periodontal pocket depth measurements;
- Tissue management; and
- Final case presentation.

Judgment skills include:

- Presenting an eligible patient;
- Diagnostic-quality radiographs meeting all examination criteria; and
- An acceptable case selection of teeth that meets all calculus requirements.

The non-patient version of this ADHLEX examination is called the Manikin Treatment Clinical Examination (MTCE).<sup>33</sup>

The cost of taking the full ADHLEX exam, both patient and manikin based, is \$995.<sup>34</sup>

### **Medical Malpractice Insurance for Examinees**

As stated, Florida law currently requires dentist and dental hygienists to demonstrate competency on a live patient during their licensure examination. Because of this, s. 466.0075, F.S., authorizes the BOD to require that any person applying to take the examination to practice dentistry or dental hygiene in Florida to maintain medical malpractice insurance in amounts sufficient to cover any incident of harm to a patient during the clinical examination. Additionally, schools of dentistry wishing to offer licensure examinations must have a written plan in place requiring that dental student possess medical malpractice insurance in amounts not less than the amounts required to take the Florida licensure examinations and to make adequate arrangements for

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<sup>29</sup> The Commission on Dental Competency Assessments, 2021 ADEX Acceptance Maps, *Dental Hygiene*, available at <https://www.cdcaexams.org/ADEX-acceptance-map/> (last visited Jan. 22, 2022).

<sup>30</sup> The Commission on Dental Competency Assessments, *Dental Hygiene (ADEX)*, available at <https://www.cdcaexams.org/dental-hygiene-ADEX-exam/> (last visited Jan. 22, 2022).

<sup>31</sup> *Id.*

<sup>32</sup> *See* note 28.

<sup>33</sup> The Commission on Dental Competency Assessments, *supra* note 30.

<sup>34</sup> *Id.*



patients who require follow-up care as a result of procedures performed during the clinical portion of the regional examination.<sup>35</sup>

### III. Effect of Proposed Changes:

CS/CS/SB 926 amends s. 466.006, F.S., confirming that the ADLEX is the practical examination for dentists in Florida and revising the required minimum examination requirements to eliminate the requirement for use of live patient(s) for two restorations, the demonstration of periodontal skill with calculus,<sup>36</sup> and the demonstration of restorative skills, which requires the candidate to complete procedures performed in preparation for a cast restoration. The bill requires the candidate to use a manikin that has typodont teeth,<sup>37</sup> including one with simulated caries, as approved by the CDCA.

The bill amends s. 466.0065, F.S., deleting the requirement that dental schools wishing to offer dental licensure exams to students have a written plan to comply with the following requirements:

- A dental student must possess medical malpractice insurance in amounts not less than the amounts required to take the Florida licensure examinations;
- Adequate arrangements must be made for patients who require follow-up care as a result of procedures performed during the clinical portion of the regional examination; and
- There may not be any evidence in a student's academic record suggesting that the student may pose an unreasonable risk to any live patient required for the clinical portion of the examination.

CS/CS/SB 926 amends s. 466.007, F.S., to require that dental hygienists taking the ADEX licensure examination to demonstrate skills within the dental hygiene scope of practice on manikin that has typodont teeth with simulated dentition and calculus as approved by the CDCA, instead of a live patient.

The bill also repeals s 466.0075, F.S., which authorizes the BOD to require that any person applying to take the practical dentistry or dental hygiene examination in Florida to maintain medical malpractice insurance in amounts sufficient to cover any incident of harm to a patient during the clinical examination.

The bill provides an effective date of July 1, 2022.

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<sup>35</sup> Section 466.0065(2)(c) and (e)

<sup>36</sup> Dental caries is a process of demineralization of tooth enamel, leading to destruction of enamel and dentin, with cavitation of the tooth. Decayed and infected teeth can be the source of other infections throughout the body, and decayed or missing teeth can interfere with proper chewing of food, leading to nutritional deficiencies or disorders of digestion. Called also tooth decay. The Free Medical Dictionary, *Dental Caries*, available at <https://medical-dictionary.thefreedictionary.com/dental+caries> (last visited Jan. 22, 2022).

<sup>37</sup> A typodont is a model of the oral cavity, including teeth, gingiva, and the palate. A typodont is an educational tool for dental and hygienist students, allowing them to practice certain dental procedures on the plastic teeth of a model before actually performing the procedures on live patients. The Free Medical Dictionary, *Typodont*, available at <https://medical-dictionary.thefreedictionary.com/typodont> (last visited Jan. 22, 2022).

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

## D. State Tax or Fee Increases:

None.

## E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

The bill will probably reduce the cost of taking the licensure examinations for both dentists and dental hygienists as many often must pay patients large sums for patients to appear at examinations.

## 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: 466.006, 466.0065, and 466.007.

This bill repeals section 466.0075 of the Florida Statutes.

**IX. Additional Information:**

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

**CS by Banking and Insurance on January 25, 2022:**

The CS revises the type of manikin that may be used in an ADEX Dental Hygiene Examination to be one with typodont teeth with simulated dentition and calculus.

**CS by Health Policy on January 13, 2022:**

The CS makes technical corrections to the bill relating to required demonstration of a prospective dentist’s periodontal skills, by replacing “caries” with “calculus,” and makes a technical correction to a prospective hygienist’s required demonstration of skills, by adding “calculus” to those requirements.

- B. **Amendments:**

None.



610222

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/27/2022	.	
	.	
	.	
	.	

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

**Senate Amendment**

Delete line 118  
and insert:  
typodont teeth with simulated dentition and calculus as approved  
by

By the Committee on Health Policy; and Senator Albritton

588-01991-22

2022926c1

1 A bill to be entitled  
 2 An act relating to licensure examinations for dental  
 3 practitioners; amending s. 466.006, F.S.; revising  
 4 licensure examination requirements for dentists to  
 5 require applicants to demonstrate certain clinical  
 6 skills on a manikin rather than a live patient;  
 7 amending s. 466.0065, F.S.; revising requirements for  
 8 regional licensure examinations offered by dental  
 9 schools to dental students; amending s. 466.007, F.S.;  
 10 revising licensure examination requirements for dental  
 11 hygienists to require applicants to demonstrate  
 12 certain clinical skills on a manikin rather than a  
 13 live patient; repealing s. 466.0075, F.S.; deleting a  
 14 requirement that applicants for dental practitioner  
 15 licensure examinations maintain medical malpractice  
 16 insurance to cover any incident of harm to a patient  
 17 during the clinical examination; providing an  
 18 effective date.

19  
 20 Be It Enacted by the Legislature of the State of Florida:

21  
 22 Section 1. Paragraph (a) of subsection (5) of section  
 23 466.006, Florida Statutes, is amended to read:

24 466.006 Examination of dentists.—

25 (5) (a) The practical examination required under subsection  
 26 (4) ~~is shall be~~ the American Dental Licensing Examination  
 27 developed by the American Board of Dental Examiners, Inc., or  
 28 its successor entity, if any, provided the board finds that the  
 29 successor entity's clinical examination complies with the

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

588-01991-22

2022926c1

30 provisions of this section, and must ~~shall~~ include, at a  
 31 minimum:

32 1. A comprehensive diagnostic skills examination covering  
 33 the full scope of dentistry and an examination on applied  
 34 clinical diagnosis and treatment planning in dentistry for  
 35 dental candidates;

36 2. Two restorations on a manikin that has typodont teeth  
 37 with simulated caries as approved by the Commission on Dental  
 38 Competency Assessments ~~live patient or patients~~. The board by  
 39 rule shall determine the class of such restorations;

40 3. A demonstration of periodontal skills on a manikin that  
 41 has typodont teeth with simulated calculus as approved by the  
 42 Commission on Dental Competency Assessments ~~live patient~~;

43 4. A demonstration of prosthetics and restorative skills in  
 44 complete and partial dentures and crowns and bridges and the  
 45 utilization of practical methods of evaluation, specifically  
 46 including the evaluation by the candidate of completed  
 47 laboratory products such as, but not limited to, crowns and  
 48 inlays filled to prepared model teeth;

49 5. A demonstration of restorative skills on a manikin  
 50 ~~mannequin~~ which requires the candidate to complete procedures  
 51 performed in preparation for a cast restoration;

52 6. A demonstration of endodontic skills; and

53 7. A diagnostic skills examination demonstrating ability to  
 54 diagnose conditions within the human oral cavity and its  
 55 adjacent tissues and structures from photographs, slides,  
 56 radiographs, or models pursuant to rules of the board. If an  
 57 applicant fails to pass the diagnostic skills examination in  
 58 three attempts, the applicant is ~~shall~~ not ~~be~~ eligible for

Page 2 of 5

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

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59 reexamination unless she or he completes additional educational  
60 requirements established by the board.

61  
62 The department shall require a mandatory standardization  
63 exercise for all examiners prior to each practical or clinical  
64 examination and shall retain for employment only those dentists  
65 who have substantially adhered to the standard of grading  
66 established at such exercise.

67 Section 2. Paragraphs (c), (e), and (j) of subsection (2)  
68 of section 466.0065, Florida Statutes, are amended to read:

69 466.0065 Regional licensure examinations.—

70 (2) Each school of dentistry in this state which is  
71 accredited by the Commission on Accreditation of the American  
72 Dental Association or its successor agency may, upon written  
73 approval by the Board of Dentistry, offer regional licensure  
74 examinations only to dental students in the final year of a  
75 program at an approved dental school, if the board has approved  
76 the hosting school's written plan to comply with the following  
77 conditions:

78 ~~(c) The student must possess medical malpractice insurance~~  
79 ~~in amounts not less than the amounts required to take the~~  
80 ~~Florida licensure examinations.~~

81 ~~(e) Adequate arrangements, as defined by the regional~~  
82 ~~examination body and as otherwise required by law, must be made,~~  
83 ~~when necessary, for patients who require followup care as a~~  
84 ~~result of procedures performed during the clinical portion of~~  
85 ~~the regional examination. The regional examination body must~~  
86 ~~inform patients in writing of their right to followup care in~~  
87 ~~advance of any procedures performed by a student.~~

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88 ~~(j) The student's academic record must not include any~~  
89 ~~evidence suggesting that the student poses an unreasonable risk~~  
90 ~~to any live patients who are required for the clinical portion~~  
91 ~~of the regional examination. In order to protect the health and~~  
92 ~~safety of the public, the dental school may request additional~~  
93 ~~information and documents pertaining to the candidate's mental~~  
94 ~~and physical health in order to fully assess the candidate's~~  
95 ~~fitness to engage in exercises involving a live patient.~~

96 Section 3. Paragraph (b) of subsection (4) of section  
97 466.007, Florida Statutes, is amended to read:

98 466.007 Examination of dental hygienists.—

99 (4) Effective July 1, 2012, to be licensed as a dental  
100 hygienist in this state, an applicant must successfully complete  
101 the following:

102 (b) A practical or clinical examination approved by the  
103 board. The examination shall be the Dental Hygiene Examination  
104 produced by the American Board of Dental Examiners, Inc., (ADEX)  
105 or its successor entity, if any, if the board finds that the  
106 successor entity's clinical examination meets or exceeds the  
107 provisions of this section. The board shall approve the ADEX  
108 Dental Hygiene Examination if the board has attained and  
109 continues to maintain representation on the ADEX House of  
110 Representatives, the ADEX Dental Hygiene Examination Development  
111 Committee, and such other ADEX Dental Hygiene committees as the  
112 board deems appropriate through rulemaking to ensure that the  
113 standards established in this section are maintained  
114 organizationally. The ADEX Dental Hygiene Examination or the  
115 examination produced by its successor entity is a comprehensive  
116 examination in which an applicant must demonstrate skills within

588-01991-22

2022926c1

117 the dental hygiene scope of practice on a manikin that has  
118 typodont teeth with simulated caries and calculus as approved by  
119 the Commission on Dental Competency Assessments ~~live patient~~ and  
120 any other components that the board deems necessary for the  
121 applicant to successfully demonstrate competency for the purpose  
122 of licensure.

123 Section 4. Section 466.0075, Florida Statutes, is repealed.

124 Section 5. This act shall take effect July 1, 2022.

The Florida Senate

APPEARANCE RECORD

11/25/22

Meeting Date

926

Bill Number or Topic

Banning Insurance

Committee

Deliver both copies of this form to Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name Philip Suterman Phone

Address Street Email

City State Zip

Speaking: [ ] For [ ] Against [ ] Information OR Waive Speaking: [x] In Support [ ] Against

PLEASE CHECK ONE OF THE FOLLOWING:

- [ ] I am appearing without compensation or sponsorship. [x] I am a registered lobbyist, representing: Amenities for Prosperity [ ] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

Amenities for Prosperity

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf (flsenate.gov)

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The Florida Senate

APPEARANCE RECORD

SB 926

Bill Number or Topic

11/25/22

Meeting Date

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Banking & Ins

Committee

Amendment Barcode (if applicable)

Name Leslie Dughi

Phone

Address

Email Leslie.Dughi@MHDfirm.com

Street

City

State

Zip

Speaking: [ ] For [ ] Against [ ] Information OR Waive Speaking: [X] In Support [ ] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[ ] I am appearing without compensation or sponsorship.

[X] I am a registered lobbyist, representing:

Florida Dental Hygienists Association

[ ] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. 511.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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SB 926

Bill Number or Topic

1/25/22

Meeting Date

Banking & Insurance

Committee

Amendment Barcode (if applicable)

Name Alexandra Abboud

Phone 850-224-1089

Address 118 E Jefferson St

Email aabboud@floridadental.org

Street

Tallahassee

City

FL

State

32301

Zip

Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Dental Association

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

1/25/22

The Florida Senate  
**APPEARANCE RECORD**

SB 926

Meeting Date

Bill Number or Topic

Banking & Insurance

Deliver both copies of this form to  
Senate professional staff conducting the meeting

610222

Committee

Amendment Barcode (if applicable)

Name Alexandra Abboud

Phone 850 224-1089

Address 118 E Jefferson St

Email raboud@floridadental.org

Street

Tallahassee

FL

32301

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Dental Association

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)



The Florida Senate

## Committee Agenda Request

**To:** Senator Jim Boyd, Chair  
Committee on Banking and Insurance

**Subject:** Committee Agenda Request

**Date:** January 13, 2022

---

I respectfully request that **Senate Bill #926**, relating to Licensure Examinations for Dental Practitioners, be placed on the:

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

A handwritten signature in blue ink, appearing to read "Ben Albritton".

---

Senator Ben Albritton  
Florida Senate, District 26

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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

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BILL: CS/SB 1182

INTRODUCER: Banking and Insurance Committee and Senator Broxson

SUBJECT: Breach of Bond Costs

DATE: January 26, 2022

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Arnold</u>	<u>Knudson</u>	<u>BI</u>	<u>Fav/CS</u>
2.	_____	_____	<u>CJ</u>	_____
3.	_____	_____	<u>RC</u>	_____

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1182 requires that a bail bond agent pay to return an incarcerated defendant to the county in which the defendant was released on bail, rather than any county within the same judicial circuit, in order to be released of liability on a criminal surety bail bond.

The bill also requires a bail bond agent to pay the costs and expenses in returning the defendant to the original court's jurisdiction, while the defendant is under the bail bond's fiduciary, rather than just the cost of transportation.

The bill specifies costs and expenses may not exceed the prorated salary of the officers or the contracted transportation company involved in transporting the defendant. The bill limits transportation expenses to mileage, vehicle expenses, meals, and, when necessary, overnight lodging for the officer or contracted transportation company and the defendant.

The bill takes effect July 1, 2022.

**II. Present Situation:**

**Pretrial Release**

Article I, section 14, of the Florida Constitution provides, with some exceptions, that every person charged with a crime or violation of a municipal or county ordinance is entitled to pretrial

release on reasonable grounds. A judge is required to presume that nonmonetary conditions<sup>1</sup> are sufficient for any person to be granted pretrial release who is not charged with a dangerous crime.<sup>2</sup> Although a court has the authority to impose any number of pretrial release conditions, it must impose conditions of release that require the defendant to refrain from criminal activity and to refrain from contact with the victim.<sup>3</sup> If a defendant violates the pretrial release conditions, he or she may be arrested and held to answer before the court having jurisdiction to try the defendant.<sup>4</sup>

## **Bail Bonds**

### ***Issuance of a Bail Bond***

Bail is a common monetary condition of pretrial release that requires an arrestee to pay a set sum of money to the court to be released from jail.<sup>5</sup> As an alternative to posting the entire bail amount, a defendant may use a criminal surety bail bond executed by a bail bond agent licensed under ch. 648, F.S.<sup>6</sup> Generally, to use the services of a bail bond agent, an incarcerated person must pay a nonrefundable fee to the bail bond agent equal to 10 percent of the bond amount set by the court.<sup>7</sup> This contract obligates the bail bond agent to ensure a defendant appears at all required court appearances.<sup>8</sup>

### ***Breach and Forfeiture of a Bail Bond***

If a defendant fails to appear in court or violates any pretrial release conditions, he or she breaches the bond and a court generally must declare the bond and any money deposited to be forfeited.<sup>9</sup> However, this forfeiture requirement does not apply, even if there is a breach of the bond, when the information, indictment, or affidavit in the criminal case was not filed within six months of arrest, or the clerk of the court failed to provide the agent with at least 72 hours' notice of the time and date of the required appearance for the defendant.<sup>10</sup> Within five days after forfeiture of a bond, the court must mail or electronically transmit a notice to the bail bond agent

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<sup>1</sup> Nonmonetary conditions include any condition that does not require the payment of a financial guarantee, such as releasing the arrestee on his or her recognizance, placement in a pretrial release program, or placing restrictions on the arrestee's travel, association, or place of abode. *See* Fla. R. Crim. P. 3.131.

<sup>2</sup> Section 907.041(3), F.S. "Dangerous crimes" include: arson; aggravated assault; aggravated battery; illegal use of explosives; child abuse or aggravated child abuse; abuse or aggravated abuse of an elderly person or disabled adult; aircraft piracy; kidnapping; homicide; manslaughter; sexual battery; robbery; carjacking; lewd, lascivious, or indecent assault or act upon or in presence of a child under the age of 16 years; sexual activity with a child, who is 12 years of age or older but less than 18 years of age, by or at solicitation of person in familial or custodial authority; burglary of a dwelling; stalking and aggravated stalking; act of domestic violence as defined in s. 741.28, F.S.; home invasion robbery; act of terrorism as defined in s. 775.30, F.S.; manufacturing any substances in violation of chapter 893; attempting or conspiring to commit any such crime; and human trafficking. s. 907.041, F.S.

<sup>3</sup> Section 903.047, F.S.

<sup>4</sup> Section. 903.0471 and 907.041, F.S.

<sup>5</sup> Section 903.011, F.S.

<sup>6</sup> Section 903.105, F.S.

<sup>7</sup> *Id.* *See also* Florida Dept. of Financial Services, *Bail Bonds Overview*

<https://www.myfloridacfo.com/division/consumers/understandingcoverage/bailbondsoverview.htm> (last visited January 20, 2022).

<sup>8</sup> Section 903.045, F.S.

<sup>9</sup> Section 903.26(2)(a), F.S.

<sup>10</sup> Section 903.26(1), F.S.

and the surety company.<sup>11</sup> The value of the forfeited bond must be paid by the bail bond agent within 60 days of the date the notice was mailed or transmitted.<sup>12</sup>

### ***Exoneration of Liability***

A bail bond agent is exonerated of any further liability on a bail bond if, prior to a breach of the bond, the bail bond agent agrees to pay the transportation cost of returning a defendant who is incarcerated in another county jail or prison to the jurisdiction of the court.<sup>13</sup> Surrendering an incarcerated defendant prior to the breach of the bond eliminates the need for a bail bond agent to go through the bond forfeiture and discharge process, and absolves the bail bond agent of future liability on the bond.

The term “transportation cost” is not defined in statute. However, the Second District Court of Appeal has interpreted the term narrowly, applying only to actual transportation expenses.<sup>14</sup> This does not include ancillary costs associated with transportation, such as the salary of the officers involved in transporting the defendant, vehicle costs, meals, and lodging.<sup>15</sup>

The “jurisdiction” to which the bail bond agent must return the defendant under s. 903.21(3), F.S., is any county within the judicial circuit of the court which issued the bond.<sup>16</sup> This means a bail bond agent is only required to pay the cost to return a defendant to the closest county from where the defendant is incarcerated which lies within the same judicial circuit as the court that

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<sup>11</sup> Section 903.26(2)(a), F.S.

<sup>12</sup> *Id.*

<sup>13</sup> Section 903.21(3), F.S.

<sup>14</sup> *Easy Bail Bonds v. Polk County*, 784 So. 2d 1173, 1177 (Fla. 2d DCA 2001).

<sup>15</sup> *Id.* at 1176.

<sup>16</sup> Section 903.21(3), F.S.

issued the bond.<sup>17</sup> Consequently, the county sheriff often bears the cost of transporting the defendant the remaining distance to the actual county which issued the bond.<sup>18</sup>

For example, to be exonerated from liability on the bond, if a defendant is released on bail in Franklin County (Apalachicola) and is subsequently arrested and detained in Duval County (Jacksonville), the bail bond agent is only required to pay transportation costs to return the defendant to Jefferson County, the nearest county to Jacksonville that is in the same judicial circuit as Franklin County. The Franklin County Sheriff's Office is then responsible for the costs associated with transporting the defendant the remaining 93 miles from Jefferson County to Franklin County.<sup>19</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 903.21, F.S., related to method of surrendering a defendant and the exoneration of a bail bond agent of liability on a bond, to require that a bail bond agent pay the costs and expenses incurred in returning the defendant to the county in which he or she was released on bail, while under the bail bond's fiduciary, in order to be exonerated from liability on a bond prior to a breach.

Costs and expenses may not exceed the prorated salary of the officers or the contracted transportation company involved in transporting the defendant. Transportation expenses are limited to mileage, vehicle expenses, meals, and, when necessary, overnight lodging for the officer or contracted transportation company and the defendant.

**Section 2** provides an effective date of July 1, 2022.

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<sup>17</sup> Section 26.021, F.S., provides Florida's circuit courts are divided into 20 judicial circuits as follows:

- First Circuit - Escambia, Okaloosa, Santa Rosa and Walton Counties.
- Second Circuit - Franklin, Gadsden, Jefferson, Leon, Liberty and Wakulla Counties.
- Third Circuit - Columbia, Dixie, Hamilton, Lafayette, Madison, Suwannee and Taylor Counties.
- Fourth Circuit - Clay, Duval and Nassau Counties.
- Fifth Circuit - Citrus, Hernando, Lake, Marion and Sumter
- Sixth Circuit - Pasco and Pinellas Counties.
- Seventh Circuit - Flagler, Putnam, St. Johns and Volusia Counties.
- Eighth Circuit - Alachua, Baker, Bradford, Gilchrist, Levy and Union Counties.
- Ninth Circuit - Orange and Osceola Counties.
- Tenth Circuit - Hardee, Highlands and Polk Counties.
- Eleventh Circuit - Miami-Dade County.
- Twelfth Circuit - DeSoto, Manatee and Sarasota Counties.
- Thirteenth Circuit - Hillsborough County.
- Fourteenth Circuit - Bay, Calhoun, Gulf, Holmes, Jackson and Washington Counties.
- Fifteenth Circuit - Palm Beach County.
- Sixteenth Circuit - Monroe County.
- Seventeenth Circuit - Broward County.
- Eighteenth Circuit - Brevard and Seminole Counties.
- Nineteenth Circuit - Indian River, Martin, Okeechobee and St. Lucie Counties.
- Twentieth Circuit - Charlotte, Collier, Glades, Hendry and Lee Counties.

<sup>18</sup> Florida Office of the State Courts Administrator, *HB 381 Bill Analysis*, November 9, 2021 (on file with the Senate Committee on Banking and Insurance).

<sup>19</sup> Google Maps, <http://www.google.com/maps/dir> (last visited Jan. 13, 2022).



**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

## D. State Tax or Fee Increases:

None.

## E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

Indeterminate. The bill may require a bail bond agent to transport a defendant a greater distance, thereby shifting the cost of transporting a defendant from the sheriff to the bail bond agent. Additionally, the bill may increase costs and expenses incurred by a bail bond agent to related to meals, vehicle expenses, and overnight lodging for officers of contracted transportation companies involved in the transportation of a defendant.

## C. Government Sector Impact:

Indeterminate. The bill may result in fewer hearings related to bond issues.<sup>20</sup> The bill may also reduce expenditures incurred by sheriffs from transporting a defendant from a county within a judicial circuit to the county from a which a defend was released on bail.

**VI. Technical Deficiencies:**

None.

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<sup>20</sup> Florida Office of the State Courts Administrator, *HB 381 Bill Analysis*, November 9, 2021 (on file with the Senate Committee on Banking and Insurance).

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following section 903.21 of the Florida Statutes.

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

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

**CS by Banking and Insurance on January 25, 2022:**

The committee substitute:

- Specifies the types of costs and expenses the bail bond agent agrees to pay in the course of transporting the defendant, to be:
  - Not more than the prorated salary of the officers or the contracted transportation company involved;
  - Mileage;
  - Vehicle expenses;
  - Meals;
  - Overnight lodging for the officer or contracted transportation company and the defendant, when necessary.
- Specifies the bail bond agent is responsible only for costs and expenses incurred during the transport of the defendant while the defendant is under the bail bond's fiduciary.

**B. Amendments:**

None.



810412

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/26/2022	.	
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	.	
	.	

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

**Senate Amendment (with title amendment)**

Delete lines 15 - 21

and insert:

(3) (a) As used in this subsection, the term "jurisdiction"  
means the county from which the defendant was released on bail.

(b) The surety shall be exonerated of liability on the bond  
if it is determined before ~~prior to~~ breach of the bond that the  
defendant is in any jail or prison and the surety agrees in  
writing to pay the costs and expenses incurred in transportation



810412

11 ~~cost of~~ returning the defendant to the jurisdiction of the  
12 court. Such costs and expenses incurred may not be more than the  
13 prorated salary of the officers or the contracted transportation  
14 company involved and the actual expenses of transporting each  
15 defendant. Such actual expenses of transportation shall only  
16 consist of mileage, vehicle expenses, meals, and, when  
17 necessary, overnight lodging for the officer or contracted  
18 transportation company and the defendant.

19 (c) A surety agent is responsible only for the costs and  
20 expenses incurred during transport of defendants who are under  
21 his or her fiduciary ~~For purposes of this subsection,~~  
22 ~~"jurisdiction" means within the~~

23  
24 ===== T I T L E A M E N D M E N T =====

25 And the title is amended as follows:

26 Delete lines 3 - 8

27 and insert:

28 903.21, F.S.; redefining the term "jurisdiction";  
29 providing for the exoneration from liability of a  
30 surety on a bond under certain circumstances if the  
31 surety agrees in writing to pay the costs and expenses  
32 incurred in returning the defendant to the  
33 jurisdiction of the court; providing for calculation  
34 of costs and expenses; providing construction;  
35 providing an effective date.

By Senator Broxson

1-00907-22

20221182\_\_

1 A bill to be entitled

2 An act relating to breach of bond costs; amending s.  
3 903.21, F.S.; providing for the exoneration from  
4 liability of a surety on a bond under certain  
5 circumstances if the surety agrees in writing to pay  
6 the costs and expenses incurred in returning the  
7 defendant to the jurisdiction of the court; redefining  
8 the term "jurisdiction"; providing an effective date.  
9

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

11  
12 Section 1. Subsection (3) of section 903.21, Florida  
13 Statutes, is amended to read:

14 903.21 Method of surrender; exoneration of obligors.—

15 (3) The surety shall be exonerated of liability on the bond  
16 if it is determined prior to breach of the bond that the  
17 defendant is in any jail or prison and the surety agrees in  
18 writing to pay the costs and expenses incurred in ~~transportation~~  
19 ~~cost of~~ returning the defendant to the jurisdiction of the  
20 court. For purposes of this subsection, "jurisdiction" means the  
21 county from which the defendant was released on bail ~~within the~~  
22 ~~judicial circuit as prescribed by law.~~

23 Section 2. This act shall take effect July 1, 2022.

01/25/2022

Meeting Date

Banking and Insurance

Committee

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

SB 1182 - Breach of I

Bill Number or Topic

810412

Amendment Barcode (if applicable)

Name Andrew Kalel

Phone (813)240-7632

Address 113 East College Ave

Street

Email akalel@scgroup.us

Tallahassee

City

Florida

State

32301

Zip

Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florid Bail Agents Association

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. 511.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

OFFICE OF THE STATE COURTS ADMINISTRATOR  
2022 JUDICIAL IMPACT STATEMENT

DATE: November 9, 2021

BILL NUMBER: HB 381

SPONSOR(S): Representative Maney

STATUTE(S) AFFECTED: s. 903.21, F.S.

COMPANION BILL(S): None

AGENCY CONTACT: Tashiba Robinson, Legislative Affairs

TELEPHONE: (850) 922-5692

ASSIGNED OSCA STAFF: BNS

- I. SUMMARY: The bill requires that a bail bond agent pay to return an incarcerated defendant to the county in which the defendant was released on bail, rather than any county within the same judicial circuit, in order to be released of liability on a bond. The bill also requires a bail bond agent to pay all costs and expenses incurred in returning the defendant to the original court's jurisdiction, rather than just the cost of transportation.

The bill takes effect July 1, 2022.

II. ANALYSIS:

Section 903.21(3), F.S., exonerates a bail bond agent of liability on a bond if, prior to a breach of the bond:

- It is determined that the defendant is in any jail or prison; and
- The bail bond agent agrees to pay the transportation cost of returning the defendant to the jurisdiction of the court which issued the bond.

For purposes of s. 903.21(3), F.S., the term "jurisdiction" is defined as "within the judicial circuit." As a result, a bail bond agent may be exonerated of liability on a bond by paying the cost to return the defendant to any county within the same judicial circuit, often the closest county, rather than the actual county which issued the bond. Costs for transporting the defendant the remaining distance to the actual county which issued the bond is often borne by the sheriff.

Additionally, current law does not specify the party responsible for ancillary expenses associated with transporting the defendant back to the original court's jurisdiction. Such ancillary expenses may include the

OFFICE OF THE STATE COURTS ADMINISTRATOR  
2022 JUDICIAL IMPACT STATEMENT

salary of the officers involved in transporting the defendant, vehicle costs, meals, and lodging.

Effect of Proposed Changes

The bill requires that a bail bond agent pay to return an incarcerated defendant to the county in which the defendant was released on bail, rather than any county within the same judicial circuit, in order to be released of liability on a bond. The bill also provides that the bail bond agent is responsible for all costs and expenses incurred in returning the defendant to the original court's jurisdiction, rather than just the cost of transportation.

The bill may shift costs currently borne by sheriffs to bail bond agents.

The bill takes effect July 1, 2022.

III. ANTICIPATED JUDICIAL OR COURT WORKLOAD IMPACT: The bill may result in fewer hearings related to bond issues. However, the bill is not likely to have a significant effect on judicial workload.

IV. IMPACT TO COURT RULES/JURY INSTRUCTIONS: None anticipated.

**V. ESTIMATED FISCAL IMPACTS ON THE JUDICIARY:**

**A. Revenues:** None.

**B. Expenditures:** The fiscal impact of this legislation cannot be accurately determined due to the unavailability of data needed to establish any potential decrease in judicial workload due to fewer hearings related to bond issues, as discussed in Section III, above.



Senator Doug Broxson  
418 West Garden Street, Room 403  
Pensacola Florida 32502

Senator Jim Boyd, Chair  
Committee on Banking and Insurance  
320 Knott Building  
404 South Monroe Street  
Tallahassee, Florida 32399-1100



The Florida Senate

## Committee Agenda Request

**To:** Senator Jim Boyd, Chair  
Committee on Banking and Insurance

**Subject:** Committee Agenda Request

**Date:** January 10, 2022

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I respectfully request that **Senate Bill # 1182**, relating to Breach of Bond Costs, be placed on the:

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

A handwritten signature in cursive script, appearing to read "Doug Broxson".

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Senator Doug Broxson  
Florida Senate, District 1

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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

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BILL: CS/SB 1502

INTRODUCER: Banking and Insurance Committee and Senator Powell

SUBJECT: Estates and Trusts

DATE: January 27, 2022

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

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

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

SB 1502 amends two sections of Florida's estates and trusts law to:

- Codify an existing procedure used by Florida courts to address the circumstance, in probate, where a creditor has pending action against a decedent at the time of the decedent's death.
- Eliminates a provision, under certain circumstances, that if a settlor-spouse creates a lifetime trust for a beneficiary-spouse and names themselves as a subsequent beneficiary if the beneficiary-spouse dies, assets in the trust may be available to the settlor-spouse's creditors pursuant to s. 736.0505(1)(b), F.S.
- Allow trustees to resign from a trust with less than 30 days' notice if the trust instrument specifically allows for this shorter period.

The effective date of the bill is July 1, 2022.

**II. Present Situation:**

**Probate, In General**

Probate is a court supervised process for identifying and gathering the assets of a deceased person (also called a decedent), paying the decedent's debts, and distributing the decedent's

assets to beneficiaries.<sup>1</sup> A personal representative (this is Florida’s term for an executor) is appointed to execute this process, and the representative may retain an attorney using funds from the estate.<sup>2</sup> The personal representative may be appointed by a will, or, if no such person has been appointed (or if the person does not meet the legal requirements to serve as the personal representative), the court will assign a personal representative. A personal representative may be a real person or a bank or trust company, subject to certain restrictions.<sup>3</sup>

The Florida Probate Code provides the statutory mechanism for the transfer of property from a decedent to persons or entities named in a decedent’s will (often called beneficiaries) or to the decedent’s heirs, if there is no will (called dying intestate). The property transferred via the probate process is called the “estate.”<sup>4</sup> Assets subject to probate are those that were solely owned by the decedent at their time of death or that were owned by the decedent and one or more co-owners, but such asset lacked a provision for automatic succession of ownership at death.<sup>5</sup> Some assets owned by a decedent may not be probate assets— these potentially include:<sup>6</sup>

- Bank accounts that are pay-on-death, or transferable on death, to another person, or an account jointly held with rights of survivorship;
- Life insurance, annuities, and retirement accounts payable to a beneficiary;
- Homestead property;
- Real property held as joint tenants with another person with a right of survivorship; and
- Property owned by spouses as tenants in common, so long as the other spouse survives.

If the decedent had a will, the property is transferred as directed by the will. If a person dies intestate, the person’s property is transferred to heirs according to the laws of intestate succession under ch. 732, F.S.<sup>7</sup>

### ***Personal Representative***

In order for the decedent’s estate to be transferred to heirs or to the beneficiaries of the will, a petition for administration must be filed with the circuit court; any interested person may file for such administration.<sup>8</sup> The personal representative must provide a notice of administration to various persons—such as family members and beneficiaries, and other entities such as trustees and persons who may be entitled to exempt property.<sup>9</sup> Those persons must act to contest the will or take other actions within statutory time limits.<sup>10</sup> The personal representative must search for

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<sup>1</sup> The Florida Bar, *Consumer Pamphlet: Probate in Florida*, What is Probate? available at <https://www.floridabar.org/public/consumer/pamphlet026/#whatisprobate> (last visited Jan 21, 2022).

<sup>2</sup> *Id.* and Section 733.106(2) & (3), F.S.

<sup>3</sup> The Florida Bar, *supra* note 1.

<sup>4</sup> Section 731.201(14), F.S.

<sup>5</sup> The Florida Bar, *supra* note 1.

<sup>6</sup> *Id.*

<sup>7</sup> Section 732.101(1), F.S.

<sup>8</sup> *See* s. 733.202, F.S.

<sup>9</sup> *See* s. 733.212, F.S.

<sup>10</sup> *See* s. 733.212(3), F.S.

and provide notice, by publication in a newspaper, to creditors of the decedent.<sup>11</sup> This notice must include name of the decedent, the file number of the estate, the designation and address of the court in which the proceedings are pending, the name and address of the personal representative, the name and address of the personal representative's attorney, and the date of first publication.<sup>12</sup> Creditors must generally make claims against the estate within 3 months of first published notice.<sup>13</sup> As to any creditor required to be served with a copy of the notice to creditors, the deadline is 30 days after the date of service on the creditor.<sup>14</sup>

In order for personal representatives to claim monies from bank accounts for the estate, the court must issue letters of administration granting the personal representative the authority to act on behalf of the estate. The letters give the personal representative the power to administer the estate.<sup>15</sup>

### ***Creditor Pending Actions***

A creditor believing that they are entitled to a compensation from the decedent's estate to satisfy a debt must file a statement of claim in the probate proceeding with the appropriate clerk of the circuit court.<sup>16</sup> The personal representative, or any other interested person, may file an objection to a creditor's statement of claim.<sup>17</sup> If an objection is filed against a creditor's statement of claim, the creditor must file a separate independent lawsuit against the decedent's estate to pursue the claim within thirty days from the date the objection was served.<sup>18</sup> While this procedure is specified in statute for claims that have yet to be filed upon the decedent's death, there exists some conjecture on how to handle claims that had been already filed. That is to say, does the already pending lawsuit satisfy the requirement under s. 733.705(5), F.S., that the claimant bring an independent lawsuit? Currently, Florida does not have an established procedure in statute, or in Florida's Probate Rules, for what occurs when a creditor has a pending action against a decedent that was filed prior to the decedent in question's death. There does, however, appear to be a number of cases that appear to establish how such a situation is to be handled.<sup>19</sup> The Florida Fourth District Court of Appeal, in *Lewsadder v. Estate of Lewsadder*, 757 So. 2d 1221, 1224 (Fla. 4th DCA 2000), summarizes the existing case law regarding current 733.705(5), F.S., thusly:

In applying this statute [current s. 733.705(5), F.S.]<sup>20</sup> and its similarly worded predecessor statutes, the courts have held that an action pending against a defendant at the time of the defendant's death will suffice to satisfy the "independent action" provision of the statute when there has been a substitution of

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<sup>11</sup> See s. 733.2121, F.S.

<sup>12</sup> Section 733.2121(1), F.S.

<sup>13</sup> See s. 733.702(1), F.S.

<sup>14</sup> *Id.*

<sup>15</sup> The Florida Bar, *supra* note 1.

<sup>16</sup> *Id.* and s. 733.702(1), F.S.

<sup>17</sup> The Florida Bar, *supra* note 1 and s. 733.705, F.S.

<sup>18</sup> The Florida Bar, *supra* note 1 and s. 733.705, F.S.

<sup>19</sup> Probate Law and Procedure Committee of the Real Property, Probate and Trust Law Section of the Florida Bar, *White Paper on Proposed Amendments to S. 733.705(5)*, F.S. (2022).

<sup>20</sup> *Lewsadder v. Estate of Lewsadder*, cites to s. 733.705(4), F.S., the pertinent language of which is now codified in s. 733.705(5), F.S.

the personal representative of the decedent's estate, either by timely filed motion for substitution.

## **Trusts**

Chapter 736, F.S., contains the Florida Trust Code (Code). The Code applies to express trusts, charitable or noncharitable, and to trusts created pursuant to a law, judgment, or decree that requires the trust to be administered in the manner of an express trust.<sup>21</sup>

Under the Code, a settlor is the person who creates or contributes property to a trust.<sup>22</sup> A beneficiary of a trust is a person who has a present or future beneficial interest in the trust.<sup>23</sup> In general, a trustee is the person who holds the legal title to the property of the trust for the benefit of the trust's beneficiaries. The trustee is granted certain powers over the trust and is subject to certain duties relating to the trust, which are imposed by the terms of the trust, equity jurisprudence, or by statute.<sup>24</sup> Under the Code, "trustee" means the original trustee, and also includes any additional trustee, any successor trustee, and any cotrustee.<sup>25</sup>

### ***Trustees, In General***

A trustee derives his or her rules of conduct, extent and limit of authority, and measure of obligation from the trust instrument. Except as otherwise provided in the terms of the trust, the Code governs the duties and powers of a trustee, relations among trustees, and the rights and interests of beneficiaries.<sup>26</sup> The terms of a trust prevail over any provision of the Code, except as provided in s. 736.0105(2), F.S., which provides 23 terms that are solely governed by the Code and cannot be changed, waived, or otherwise altered by the terms of the trust.<sup>27</sup> This includes the right of a trustee to resign a trusteeship pursuant to s. 736.0705, F.S.

### ***Resignation of a Trustee***

Section 736.0705, F.S., provides that trustees may resign:

- Upon at least 30 days' notice to the qualified beneficiaries, the settlor, if living, and all cotrustees; or
- With the approval of the court

In approving a trustee's resignation, a court may issue orders and impose conditions reasonably necessary for the protection of the trust property. Further, s. 736.0705(3), F.S., provides that any liability of a resigning trustee or of any sureties on the trustee's bond for acts or omissions of the trustee is not discharged or affected by the trustee's resignation. If a resigning trustee is the last remaining trustee for the trust, that trustee still retains the fiduciary duties of trustee, and the

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<sup>21</sup> Section 736.0102(1), F.S.

<sup>22</sup> Section 736.0103(18), F.S.

<sup>23</sup> Section 736.0103(4), F.S.

<sup>24</sup> 55A Fla. Jur 2d Trusts s. 114.

<sup>25</sup> Section 736.0103(27), F.S.

<sup>26</sup> Section 736.01015(1), F.S.

<sup>27</sup> Section 736.0105(2), F.S.

powers necessary to protect trust property, until a successor trustee named by a court is in place.<sup>28</sup>

### **Creditor Claims against Settlers**

Section 736.0505, F.S., specifies provisions regarding when a creditor may bring a claim against the property in a trust. For revocable trusts, creditors may bring claims against the property in said trust during the settlor's lifetime to the extent the property would not otherwise be exempt by law if owned directly by the settlor. For irrevocable trusts, a creditor may reach the maximum amount that can be distributed to or for the settlor's benefit. If a trust has more than one settlor, the amount the creditor or assignee of a particular settlor may reach may not exceed the settlor's interest in the portion of the trust attributable to that settlor's contribution. Essentially, this provision, codified as s. 736.0505(1)(b), F.S., prevents the creation, if one wishes to maintain the trust's creditor protections, of a trust where a settlor is also a beneficiary. An example of this would be where a settlor-spouse sets up a trust for a beneficiary spouse, with the provision that the trust reverts back to the settlor if the beneficiary-spouse pre-deceases the settlor. Florida law currently provides exceptions to this rule for life estate with power of appointment in the beneficiary-spouse and lifetime irrevocable trusts for which a qualified terminable interest property election has been made.<sup>29</sup>

### **III. Effect of Proposed Changes:**

**Section 1** of the bill amends s. 733.705, F.S. to codify an existing procedure presently used in Florida courts regarding creditor's pending action against a decedent at the time of the decedent's death. Specifically, the proposed provision states that if an action or proceeding by the claimant is pending against a decedent at the time of said decedent's death, the requirement to bring an independent action under present s. 733.705(5), F.S., is satisfied if, within 30 days after the filing of an objection to the claim, one the following conditions are met:

- A motion complying with all applicable rules of procedure is filed, or a similar procedure is initiated, to substitute the proper party (i.e. the decedent's estate instead of the decedent).
- An order substituting the proper party is entered.

The proposed section also provides a similar procedure for circumstances where the decedent entered into a binding arbitration agreement relating to the claim during that person's lifetime, or if arbitration is required under s. 731.401 (regarding arbitration of disputes when arbitration provisions are included in the will or trust instrument). The proposed provision, in this circumstance, calls for a motion to be interested to compel arbitration against the decedent's estate (instead of the decedent). If arbitration had already commenced at the time of the decedent's death, then the requirement is for simply notice to be provided to the proper party.<sup>30</sup>

**Section 2** of the bill amends s. 736.0505, F.S., regarding creditor claims against settlers. Currently, under Florida law, if a settlor-spouse creates a lifetime trust for a beneficiary-spouse

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<sup>28</sup> Section 736.0707(1), F.S.

<sup>29</sup> Section 736.0505(3), F.S.

<sup>30</sup> Where such arbitration had been undertaken pursuant to court order, such notice must take the form of a properly filed notice with such court.

and names themselves as a subsequent beneficiary if the beneficiary-spouse dies, assets in the trust may be available to the settlor-spouse's creditors pursuant to s. 736.0505(1)(b), F.S. The CS eliminates this provision for irrevocable trusts (using certain tax exemptions) where the beneficiary is the settlor's spouse for that spouse's lifetime and the transfers to the trust are completed gifts pursuant to s. 2511 of the Internal Revenue Code of 1986.<sup>31</sup>

**Section 3** of the bill amends s. 736.0705, F.S., to make it easier for a trustee to resign. The provision clarifies that a trust instrument can make it easier for a trustee to resign from a trust. Specifically, the proposed provision allows that if a shorter notice period than the current 30-day notice provision provided in s. 736.0705(1)(a) is allowed for under the trust instrument, then the trustee may resign utilizing this shorter period—subject to certain noticing requirements. It does maintain current law that a trustee may still also resign with 30-days' notice, or with approval of the court, and these provisions may not be altered by the trust instrument.

**Section 3** of the bill provides and effective date of the bill of July 1, 2022.

#### IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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<sup>31</sup> Principally, a completed gift is when:

- There is an irrevocable transfer by the settlor;
- Who is competent to make the gift;
- Who unmistakably intends to divest themselves of title, dominion, and control over the subject matter of said gift;
- To a donor (i.e. beneficiary) capable of accepting said gift.

*See Talge v. United States*, 229 F. Supp. 836 (W.D. Mo. 1964), *Finley v. C.I.R.*, 255 F.2d 128 (10th Cir. 1958), and *Jordan v. United States*, 297 F. Supp. 1326 (W.D. Okla. 1969).



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

The revisions to the trust code, expanding the types of trusts that are protected from creditors when certain tax exemptions are utilized, will likely serve to encourage Florida residents to use these types of trusts. The persons impacted and able to establish such trusts may see significant federal tax benefits from doing so.

**B. Private Sector Impact:**

The revisions to the trust code, expanding the types of trusts that are protected from creditors when certain tax exemptions are utilized, will likely serve to encourage Florida residents to use these types of trusts. This will likely cause additional assets owned by Floridians to be protected from creditors and likely have a negative financial impact on creditors seeking to recover debts from persons who have established such trusts.

**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: 733.705 and 736.0705.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Banking and Insurance on January 25, 2022:**

Currently, under Florida law, if a settlor-spouse creates a lifetime trust for a beneficiary-spouse and names themselves as a subsequent beneficiary if the beneficiary-spouse dies, assets in the trust may be available to the settlor-spouse's creditors pursuant to s. 736.0505(1)(b), F.S. The CS eliminates this provision for irrevocable trusts (using certain tax exemptions) where the beneficiary is the settlor's spouse for that spouse's lifetime and the transfers to the trust are completed gifts pursuant to s. 2511 of the Internal Revenue Code of 1986.

B. Amendments:

None.

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

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971550

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/27/2022	.	
	.	
	.	
	.	

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

**Senate Amendment (with title amendment)**

Between lines 57 and 58

insert:

Section 2. Subsection (3) of section 736.0505, Florida Statutes, is amended to read:

736.0505 Creditors' claims against settlor.—

(3) Subject to the provisions of s. 726.105, for purposes of this section, the assets in:

(a)1. A trust described in s. 2523(e) of the Internal



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11 Revenue Code of 1986, as amended; ~~or~~

12 2. A trust for which the election described in s. 2523(f)  
13 of the Internal Revenue Code of 1986, as amended, has been made;  
14 or

15 3. An irrevocable trust not otherwise described in  
16 subparagraph 1. or subparagraph 2. in which:

17 a. The settlor's spouse is a beneficiary as described in s.  
18 736.0103(19) (a) for the lifetime of the settlor's spouse;

19 b. At no time during the lifetime of the settlor's spouse  
20 is the settlor a beneficiary as described in s. 736.0103(19) (a);  
21 and

22 c. Transfers to the trust by the settlor are completed  
23 gifts under s. 2511 of the Internal Revenue Code of 1986, as  
24 amended; and

25 (b) Another trust, to the extent that the assets in the  
26 other trust are attributable to a trust described in paragraph  
27 (a),

28  
29 shall, after the death of the settlor's spouse, be deemed to  
30 have been contributed by the settlor's spouse and not by the  
31 settlor.

32  
33 ===== T I T L E A M E N D M E N T =====

34 And the title is amended as follows:

35 Delete line 7

36 and insert:

37 of claims; amending s. 736.0505, F.S.; revising the  
38 types of trusts deemed to have been contributed by a  
39 settlor's spouse and not the settlor; amending s.



971550

40

736.0705, F.S.; providing that

By Senator Powell

30-00648A-22

20221502\_\_

A bill to be entitled

An act relating to estates and trusts; amending s. 733.705, F.S.; providing that the requirement for a claimant to file an independent action is satisfied if specified actions are taken; specifying that claimants, not creditors, are given certain priority of claims; amending s. 736.0705, F.S.; providing that a trustee may resign by specified procedure and with notice to certain parties; providing an effective date.

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

Section 1. Subsection (5) of section 733.705, Florida Statutes, is amended to read:

733.705 Payment of and objection to claims.—

(5) The claimant is limited to a period of 30 days from the date of service of an objection within which to bring an independent action upon the claim, or a declaratory action to establish the validity and amount of an unmatured claim which is not yet due but which is certain to become due in the future, or a declaratory action to establish the validity of a contingent claim upon which no cause of action has accrued on the date of service of an objection and that may or may not become due in the future, unless an extension of this time is agreed to by the personal representative in writing before it expires.

(a) For good cause, the court may extend the time for filing an action or proceeding after objection is filed. No action or proceeding on the claim may be brought against the

Page 1 of 3

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

30-00648A-22

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personal representative after the time limited above, and the claim is barred without court order.

(b) If an action or proceeding by the claimant is pending against the decedent at the time of the decedent's death, the requirement to bring an independent action is satisfied if, within 30 days after the filing of an objection to the claim:

1. A motion complying with all applicable rules of procedure is filed, or a similar procedure is initiated, to substitute the proper party; or

2. An order substituting the proper party is entered.

(c) If the decedent entered into a binding arbitration agreement relating to the claim during his or her lifetime, or if arbitration is required under s. 731.401, the requirement to bring an independent action is satisfied if, within 30 days after the filing of an objection to the claim, a motion to compel arbitration against the proper party is initiated, as provided for in s. 682.03.

(d) If arbitration was commenced before the decedent's death, the requirement to bring an independent action is satisfied if, within 30 days after the filing of an objection to the claim, notice is given to the proper party. If the arbitration was commenced by order of the court, the notice must take the form of a timely filed motion, complying with all applicable rules of procedure, to substitute the proper party.

(e) If an objection is filed to the claim of any claimant ~~creditor~~ and the claimant ~~creditor~~ brings an action to establish the claim, a judgment establishing the claim shall give it no priority over claims of the same class to which it belongs.

Section 2. Subsection (1) of section 736.0705, Florida

Page 2 of 3

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

30-00648A-22

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59 Statutes, is amended to read:

60 736.0705 Resignation of trustee.-

61 (1) A trustee may resign in accordance with the procedure  
62 set forth in the trust instrument and upon notice to the  
63 cotrustees or, if none, to the successor trustee who has  
64 accepted the appointment, or, if none, to the person or persons  
65 who have the authority to appoint a successor trustee.

66 Notwithstanding any provision of the terms of the trust, a  
67 trustee may also resign:

68 (a) Upon at least 30 days' notice to the qualified  
69 beneficiaries, the settlor, if living, and all cotrustees; or

70 (b) With the approval of the court.

71 Section 3. This act shall take effect July 1, 2022.

1/25/22

Meeting Date

Banking and Insurance

Committee

The Florida Senate

# APPEARANCE RECORD

Deliver both copies of this form to  
Senate professional staff conducting the meeting

DUPLICATE

SB 1502

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Martha Edenfield**

Phone **850-999-4100**

Address **106 E. College Ave # 1200**

Email **medenfield@deanmead.com**

Street

**Tallahassee**

**FL**

**32301**

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

### PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

**The Real Property, Probate and Trust  
Law Section of the Florida Bar**

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(fisenate.gov\)](#)*

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



The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

1/25/22

Meeting Date

SB 1502

Bill Number or Topic

971550

Amendment Barcode (if applicable)

Banking & Insurance  
Committee

Name FRENCH BROWN

Phone 850-459-0992

Address 106 E. College Ave. Suite 1200  
Street

Email fbrown@deanmead.com

Tallahassee FL 32301  
City State Zip

Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

Tax Section of the Florida Bar

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)



The Florida Senate

## Committee Agenda Request

**To:** Senator Jim Boyd, Chair  
Committee on Banking and Insurance

**Subject:** Committee Agenda Request

**Date:** January 19, 2022

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I respectfully request that **Senate Bill #1502**, relating to Estates and Trusts, be placed on the:

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

A handwritten signature in blue ink, appearing to read "Bobby Powell".

---

Senator Bobby Powell  
Florida Senate, District 30

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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

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BILL: CS/SB 1526

INTRODUCER: Banking and Insurance Committee and Senator Boyd

SUBJECT: Public Records/Annuity Contract Payees

DATE: January 26, 2022

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

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

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

SB 1526 exempts from public record the personal identifying information and annuity contract numbers of a payee of a structured settlement as defined in s. 626.99296(2) and the names of family members, dependents, and beneficiaries of such payee, contained within a court file relating to a proceeding for the approval of the transfer of structured settlement payment rights under s. 626.99296. Such records are to remain exempt until six months after a final judgment is entered on the transfer application.

The bill has an effective date of July 1, 2022.

**II. Present Situation:**

**Access to Public Records - Generally**

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.<sup>1</sup> The right to inspect or copy applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.<sup>2</sup>

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<sup>1</sup> FLA. CONST. art. I, s. 24(a).

<sup>2</sup> *Id.*

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, section 11.0431, F.S., provides public access requirements for legislative records. Relevant exemptions are codified in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.<sup>3</sup> Florida Rule of General Practice and Judicial Administration 2.420 governs public access to judicial branch records.<sup>4</sup> Lastly, chapter 119, F.S., known as the Public Records Act, provides requirements for public records held by executive agencies.

### **Executive Agency Records – The Public Records Act**

The Public Records Act provides that all state, county and municipal records are open for personal inspection and copying by any person, and that providing access to public records is a duty of each agency.<sup>5</sup>

Section 119.011(12), F.S., defines “public records” to include:

All documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connections with the transaction of official business by any agency.

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business that are used to “perpetuate, communicate, or formalize knowledge of some type.”<sup>6</sup>

The Florida Statutes specify conditions under which public access to public records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.<sup>7</sup> A violation of the Public Records Act may result in civil or criminal liability.<sup>8</sup>

The Legislature may exempt public records from public access requirements by passing a general law by a two-thirds vote of both the House and the Senate.<sup>9</sup> The exemption must state

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<sup>3</sup> See Rule 1.48, *Rules and Manual of the Florida Senate*, (2018-2020) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 2, (2018-2020)

<sup>4</sup> *State v. Wooten*, 260 So. 3d 1060 (Fla. 4<sup>th</sup> DCA 2018).

<sup>5</sup> Section 119.01(1), F.S. Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

<sup>6</sup> *Shevin v. Byron, Harless, Schaffer, Reid and Assoc., Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

<sup>7</sup> Section 119.07(1)(a), F.S.

<sup>8</sup> Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

<sup>9</sup> FLA. CONST. art. I, s. 24(c).

with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.<sup>10</sup>

General exemptions from the public records requirements are contained in the Public Records Act.<sup>11</sup> Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.<sup>12</sup>

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Public Records Act *and confidential*.<sup>13</sup> Records designated as “confidential and exempt” are not subject to inspection by the public and may only be released under the circumstances defined by statute.<sup>14</sup> Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.<sup>15</sup>

### **Open Government Sunset Review Act**

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act<sup>16</sup> (the Act), prescribe a legislative review process for newly created or substantially amended<sup>17</sup> public records or open meetings exemptions, with specified exceptions.<sup>18</sup> The Act requires the repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.<sup>19</sup>

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.<sup>20</sup> An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

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<sup>10</sup> *Id. See, e.g., Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999) (holding that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

<sup>11</sup> *See, e.g., s. 119.071(1)(a), F.S.* (exempting from public disclosure examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure).

<sup>12</sup> *See, e.g., s. 213.053(2)(a), F.S.* (exempting from public disclosure information contained in tax returns received by the Department of Revenue).

<sup>13</sup> *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5<sup>th</sup> DCA 2004).

<sup>14</sup> *Id.*

<sup>15</sup> *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5<sup>th</sup> DCA 1991).

<sup>16</sup> Section 119.15, F.S.

<sup>17</sup> An exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings as well as records. Section 119.15(4)(b), F.S.

<sup>18</sup> Section 119.15(2)(a) and (b), F.S., provides that exemptions required by federal law or applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

<sup>19</sup> Section 119.15(3), F.S.

<sup>20</sup> Section 119.15(6)(b), F.S.

- It allows the state or its political subdivisions to effectively and efficiently administer a governmental program, and administration would be significantly impaired without the exemption;<sup>21</sup>
- It protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;<sup>22</sup> or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.<sup>23</sup>

The Act also requires specified questions to be considered during the review process.<sup>24</sup> In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are required.<sup>25</sup> If the exemption is continued without substantive changes or if the exemption is continued and narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.<sup>26</sup>

### Public Records and the Judicial Branch

In *Locke v. Hawkes*, 595 So. 2d 32, at 36-37 (Fla. 1992), the Florida Supreme Court found that the Legislature, and its members, are not an “agency” as specified in the Public Records Act. Thus, the Public Records Act would not apply to records of the Legislature. Further, looking at the history of the legislation, the court found that if the Legislature intended to include itself within the definition of ch. 119, F.S., it would have done so (but it did not).<sup>27</sup> Instead, the court found that the Public Records Act only applied to “executive branch agencies and their officers and to local governmental entities and their officers;” entities over which the Legislature has some means of control. As a coequal branch of government, the judicial branch “is not an ‘agency’ subject to the supervision or control by another coequal branch of government.”<sup>28</sup>

<sup>21</sup> Section 119.15(6)(b)1., F.S.

<sup>22</sup> Section 119.15(6)(b)2., F.S.

<sup>23</sup> Section 119.15(6)(b)3., F.S.

<sup>24</sup> Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

<sup>25</sup> See generally s. 119.15, F.S.

<sup>26</sup> Section 119.15(7), F.S.

<sup>27</sup> Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the Legislature.

<sup>28</sup> *Times Pub. Co. v. Ake*, 645 So. 2d 1003, 1004 (Fla. 2d DCA 1994), *approved*, 660 So. 2d 255 (Fla. 1995). See also FLA. CONST., art. II, s. 3 (providing for the separation of powers between the executive, judicial, and legislative branches; stating “[n]o person belonging to one branch shall exercise any powers appertaining to either of the other branches unless expressly

Similarly, as with similar reasoning used regarding the Legislature in *Locke*, the Public Records Act would not also apply to judicial records.<sup>29</sup>

However, the judicial branch is required to maintain access to public records pursuant to article 1, section 24(a) of the Florida Constitution.<sup>30</sup> To meet its constitutional obligation, the judicial branch adopted Florida Rule of General Practice and Judicial Administration 2.420 entitled “Public Access to and Protection of Judicial Branch Records” which states that the public is to have access to all records of the judicial branch of government, except as provided in that rule. These exceptions include:

- All records made confidential under the Florida and United States Constitutions and Florida and federal law; and
- All records presently deemed to be confidential by court rule, including the Rules for Admission to the Bar, by Florida Statutes, by prior case law of the State of Florida, and by the rules of the Judicial Qualifications Commission;

The judiciary may adopt, and has adopted, “legislative statements of policy as part of the rules governing matters within the jurisdiction of the judiciary,” including the disclosure or public inspection of court records.<sup>31</sup>

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provided herein.”). See also Florida Attorney General, GOVERNMENT-IN-THE-SUNSHINE MANUAL, A REFERENCE FOR COMPLIANCE WITH FLORIDA’S PUBLIC RECORDS AND OPEN MEETINGS LAWS, *Judiciary* at 11, (Vol. 43, 2021 Ed.), available at [http://myfloridalegal.com/webfiles.nsf/wf/mnos-b9qq79/\\$file/sunshinemanual.pdf](http://myfloridalegal.com/webfiles.nsf/wf/mnos-b9qq79/$file/sunshinemanual.pdf).

<sup>29</sup> See *Times*, *supra* note 28, which states that “chapter 119 does not apply to judicial records nor to the clerk of the circuit court in his capacity as the court’s record keeper”

<sup>30</sup> See GOVERNMENT-IN-THE-SUNSHINE MANUAL, *supra* note 28. Even before article I, section 24 was passed to require access to public records and meetings by all branches of government, the Florida Supreme Court had recognized that access to court proceedings must be safeguarded as open, “public events.” See *Barron v. Florida Freedom Newspapers, Inc.*, 531 So. 2d 113, 116–19 (Fla. 1988) (“[B]oth civil and criminal court proceedings in Florida are public events and adhere to the well-established common law right of access to court proceedings and records. . . . The reason for openness is basic to our form of government. Public trials are essential to the judicial system’s credibility in a free society.”) (citing *Craig v. Harney*, 331 U.S. 367, 374 (1947); *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 580 n. 17 (1980)). See also William A. Buzzett and Deborah K. Kearney, *Commentary to 1992 Addition [of FLA. CONST., art. I, s. 24]*, Fla. Stat. Ann. (Westlaw 1992), noting the following history leading to the passage of article I, section 24:

Florida’s public records and open meetings laws have been a matter of statute since 1967. (Earlier requirements for public records had existed for some time.) Those statutes were not designed to apply to the legislative or judicial branches of state government, but were expressly intended to apply throughout the executive branch and to local governments, including counties, municipalities, and districts. The Supreme Court, the Senate and the House of Representatives each provided some form of access to records and proceedings by rule. In 1978, the Constitution Revision Commission proposed elevating these laws to constitutional status and applying them to records and meetings of the Legislature. That proposal was not adopted.

In *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992), the Florida Supreme Court determined that, based on separation of powers requirements, the public records law did not apply to the legislative branch, nor to constitutional officers of the other branches. The decision meant that records of legislators, as well as those of the governor and cabinet officers, at least with respect to the exercise of their constitutional powers, were not subject to the law. The decision caused a stir among the public and particularly the press. Efforts were quickly begun for constitutional change, which concluded with the successful passage of this amendment.

<sup>31</sup> See *Florida Pub. Co. v. State*, 706 So. 2d 54, 56 (Fla. 1st DCA 1998) (citing *Timmons v. Combs*, 608 So.2d 1, 3 (Fla.1992)). The court in *Florida Pub. Co.*, did, however, decline to rule on whether the courts *must* adopting legislative statements or expressions of policy as part of rules governing matters within the jurisdiction of the judiciary. Rather, the court, only ruled that it is not precluded from doing so.

## Public Record Exemptions for Certain Court Records and Files

In s. 119.0714(1), F.S., the Legislature has provided that certain information, such as social security numbers<sup>32</sup> and bank account numbers,<sup>33</sup> contained in court records and files should be either exempt or confidential and exempt from the disclosure requirements of the public records laws. Rule of General Practice and Judicial Administration 2.420 has not expressly adopted all of the statutory public records exemptions contained in s. 119.0714, F.S. However, the rule cross-references s. 119.0714, F.S., in several places including:

- Fla. R. Jud. Admin. 2.420(d)(1)(B)(iii), regarding Social Security, bank account, charge, debit, and credit card numbers;
- Fla. R. Jud. Admin. 2.420(d)(1)(B)(xiii), regarding protected information regarding victims of child abuse or sexual offenses; and
- Fla. R. Jud. Admin. 2.420(d)(1)(B)(xxiii), in formation that can be used to identify a petitioner or respondent in a petition for an injunction against domestic violence, repeat violence, dating violence, sexual violence, stalking, or cyberstalking.

## Structured Settlements

A structured settlement is an agreement for the periodic payment of damages for personal injuries, the payments of which are established by a settlement or judgment in resolution of a tort claim.<sup>34</sup> This arrangement typically involves one party paying a lump-sum premium to an insurance company to purchase an annuity in the name of the injured victim (the payee). Once the annuity is purchased, the insurance company begins to make periodic payments to the payee for a negotiated period of time.

Instead of making the payments itself, the insurance company may instead decide to assign its payment obligations to a structured settlement company. In exchange for accepting its new payment obligations, the structured settlement company typically receives from the insurance company a lump-sum payment equivalent to the present value of the future payments that are owed to the payee.<sup>35</sup> In order to obtain the necessary liquidity to make its newly-obligated periodic payments, the structured settlement company may use this lump-sum to purchase an annuity from a life insurance company.<sup>36</sup>

After the establishment of a structured settlement, the payee's financial circumstances may change. For example, the payee's periodic payments may be insufficient to pay for an immediate, large financial need, or the payee may see the benefit of a one-time cash infusion to alleviate an incurred obligation. As such, instead of receiving payments under a structured settlement plan, the payee may wish to transfer his or her rights to payments to another organization—known as a transferee—in exchange for a lump sum payout of all or part of the structured settlement. In 2001, the Legislature created s. 626.99296, F.S., to protect recipients of

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<sup>32</sup> Section 119.0714(1)(i), F.S.

<sup>33</sup> Section 119.0714(1)(j), F.S.

<sup>34</sup> See s. 626.99296(2)(m), F.S.

<sup>35</sup> Gregg D. Polsky and Brant J. Hellwig, *Taxing Structured Settlements*, 51 B.C. L. REV. 39, 41-2 (January 2010).

<sup>36</sup> *Id.*



structured settlements during the transfer process.<sup>37</sup> Fundamentally, the statute requires such transfers to receive prior court approval.<sup>38</sup> This approval must be conditioned upon statutorily-enumerated factors, including the payee establishing that the transfer is in their own best interests—taking into account the welfare and support of the payee’s dependents.<sup>39</sup>

The transferee contracting to receive structured settlement rights must, at least 20 days before the scheduled hearing on an application for such a transfer, file with the court (and provide to all interested parties) a notice of the proposed transfer and the application for its authorization.<sup>40</sup>

Interested parties in this circumstance includes:

- The payee;
- The current party obligated to make continuing periodic payments to the payee;
- An insurer that has issued an annuity contract to be used to fund these periodic payments;
- Any beneficiary irrevocably designated under said annuity contract to receive payments following the payee’s death (or, if such designated beneficiary is a minor, the designated beneficiary’s parent or guardian); and
- Any other party to the structured settlement who has continuing rights or obligations to receive or make payments pursuant to said settlement.

The notice must include:

- A copy of the transferee’s application to the court;
- A copy of the transfer agreement;
- A copy of the required disclosure statement that was provided to the payee;
- A statement that interested parties may support, oppose, or otherwise respond to the transferee’s application, in person or by counsel, by submitting written comments to the court or by participating in the upcoming hearing; and
- The time and place of the hearing and the manner in which, and the time by which, a written response to the application must be filed in order to be considered by the court.

### ***2016 Revisions to Structured Settlement Law***

In 2016, the Legislature revised s. 626.99296, F.S., for the purpose of greater protecting the recipients of structured settlements. As part of these revisions, s. 626.99296, F.S., expanded the information that must be provided to the court about the payee in a transfer application. This information includes:<sup>41</sup>

- The payee’s name, age, and county of domicile and the number and ages of the payee’s dependents;
- A copy of the transfer agreement;

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<sup>37</sup> Section 626.99296, F.S.

<sup>38</sup> *Id.* at subsection (3); and *Rapid Settlements, Ltd. v. Dickerson*, 941 So. 2d 1275, 1276-77 (Fla. 4th DCA 2006) (affirming lower court decision to deny petition, noting that “[t]ransfers of structured settlement rights are regulated by statute and court approval is required before a transfer may go forward.”).

<sup>39</sup> Section 626.99296(3), F.S.

<sup>40</sup> *Id.* at (4).

<sup>41</sup> *Id.* at (4)(d).

- A copy of the required disclosure statement that was provided to the payee;
- An explanation of reasons as to why the payee is seeking approval of the proposed transfer; and
- A summary of each of the following:
  - Any transfers by the payee to the transferee or an affiliate, or through the transferee or an affiliate to an assignee, within the 4 years preceding the date of the transfer agreement.
  - Any transfers within the 3 years preceding the date of the transfer agreement made by the payee to any person or entity other than the transferee or an affiliate, or an assignee of a transferee or an affiliate, to the extent such transfers were disclosed to the transferee by the payee in writing or are otherwise actually known by the transferee.
  - Any proposed transfers by the payee to the transferee or an affiliate, or through the transferee or an affiliate to an assignee, for which an application was denied within the 2 years preceding the date of the transfer agreement.
  - Any proposed transfers by the payee to any person or entity other than the transferee, or an assignee of a transferee or an affiliate, to the extent such proposed transfers were disclosed to the transferee by the payee in writing or are otherwise actually known by the transferee, for which applications were denied within the year preceding the date of the transfer agreement.

### ***Structured Settlement Transfer Fraud***

The large amount of personal and financial information about the payee, and, potentially, that payee's dependents, that must be submitted to a court to approve a structured settlement transfer may increase the risk of such persons being targeted by fraud relating to the transfer. The potential for such fraud, and the incentives for fraud, is increased by the revelation that:

- The payee potentially has a substantial sum of money due to them, with the specified amount due to them contained within the transfer agreement submitted to the court;
- The payee may be experiencing a financial hardship and have an immediate need for funds (s. 626.99296(4)(d), F.S., requires the submission of an explanation of reasons as to why the payee is seeking approval of the proposed transfer);<sup>42</sup>
- The payee may have recently serious negative life event, such as a serious injury or the death or serious injury of a loved one, (which could be the reason for the tort claim that gave rise to the structured settlement to begin with);<sup>43</sup> and
- A transfer of funds is imminent.

Fraudulent actors, and other companies engaging in misleading marketing tactics, are able to search court records looking for orders and other information relating to the transfer of a

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<sup>42</sup> Persons having significant debt concerns, experiencing job loss, or having had a negative change in financial status are more likely to be victims of fraud. See: Federal Trade Commission, *Consumer Fraud in the United States* (March 2013), available at: [https://www.ftc.gov/sites/default/files/documents/reports/consumer-fraud-united-states-2011-third-ftc-survey/130419fraudsurvey\\_0.pdf](https://www.ftc.gov/sites/default/files/documents/reports/consumer-fraud-united-states-2011-third-ftc-survey/130419fraudsurvey_0.pdf), and D Shadel, K Pak & J Sauer 2014, *Caught in the scammer's net: Risk factors that may lead to becoming an internet fraud victim*, AARP RESEARCH (2014), available at: [https://www.aarp.org/content/dam/aarp/research/surveys\\_statistics/econ/2014/Caught-Scammer-Net-Indiana.doi.10.26419%252Fres.00076.007.pdf](https://www.aarp.org/content/dam/aarp/research/surveys_statistics/econ/2014/Caught-Scammer-Net-Indiana.doi.10.26419%252Fres.00076.007.pdf).

<sup>43</sup> Persons having experienced recent serious negative life events, such as a serious injury or the death or serious injury of a loved one, are more likely to be victims of fraud. *Id.*

structured settlement. Using the substantial publicly available information, such a person can approach a payee with customized solicitation via mail, email, text message, or other medium, that appears to be from a legitimate source (such as a court official or representative of the transferee). The person can then engage with the payee and obtain all, or a portion of, that payees structured settlement through fraud or deceit.

### III. Effect of Proposed Changes:

**Section 1** of the bill amends s. 119.0714(1), F.S., to make exempt from public records disclosure, if not already closed by order of a court, the following information in a court file relating to a proceeding for the approval of the transfer of structured settlement payment rights:

- Personal identifying information and annuity contract numbers of a payee of a structured settlement as defined in s. 626.99296(2), F.S.; and
- The names of family members, dependents, and beneficiaries of such a payee.

The bill limits this exemption to the pendency of the transfer proceeding and for six months after the final order approving, or not approving, the transfer is entered. The section also provides that this new exemption is subject to the Open Government Sunset Review Act, s. 119.15, F.S., and will be repealed, unless saved from repeal by the Legislature, on October 2, 2027.

**Section 2** of the bill provides the public necessity statement, required pursuant to Article I, s. 24(c) of the State Constitution, for the public records exemption. It states, in part, that recipients of structured settlements have been targets of criminal and fraudulent acts based upon publicly available identifying information. Further, it states that protecting the personal identifying information and annuity contract numbers of a payee of a structured settlement and the names of family members, dependents, and beneficiaries of such payee outweighs any public benefit that may be derived from the disclosure of such information.

**Section 3** of the bill specifies an effective date of the bill of July 1, 2022.

### IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

#### Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill enacts a new exemption for the protection of personal identifying information and annuity contract numbers of a payee of a structured settlement and the names of family members, dependents, and beneficiaries of such payee, thus, the bill requires a two-thirds vote to be enacted.

**Public Necessity Statement**

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. Section 2 of the bill contains a statement of public necessity for the exemption.

**Breadth of Exemption**

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to protect personal identifying information and annuity contract numbers of a payee of a structured settlement and the names of family members, dependents, and beneficiaries of such payee. This bill exempts only this information from the public records requirements. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

The judicial branch is not subject to the Public Records Act. Florida Rule of General Practice and Judicial Administration 2.420(c)(7), however, provides that records made confidential by Florida law shall be confidential, with the burden of having such documents treated as confidential within a court file upon the filing party. Additionally, the judicial branch may adopt the public records exemptions passed by the Legislature.

**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 section 119.0714 of the Florida Statutes:

**IX. Additional Information:**

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

**CS by Banking and Insurance on January 25, 2022:**

The CS narrows the proposed public records exemption to include only court files relating to a proceeding for the approval of the transfer of structured settlement payment rights. It also limits the duration of the exemption to be during the pendency of the transfer proceeding and for 6 months after a final judgment on the transfer. Finally, the CS revises the public necessity statement for the exemption.

- B. **Amendments:**

None.



345288

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/26/2022	.	
	.	
	.	
	.	

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

**Senate Amendment (with title amendment)**

Delete lines 24 - 43  
and insert:  
beneficiaries of such payee contained within a court file  
relating to a proceeding for the approval of the transfer of  
structured settlement payment rights under s. 626.99296. Such  
information shall remain exempt from s. 119.07(1) and s. 24(a),  
Art. I of the State Constitution during the pendency of the  
transfer proceeding and for 6 months after the final court order



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11 approving, or not approving, the transferee's application. This  
12 paragraph is subject to the Open Government Sunset Review Act in  
13 accordance with s. 119.15 and shall stand repealed on October 2,  
14 2027, unless reviewed and saved from repeal through reenactment  
15 by the Legislature.

16       Section 2. The Legislature finds that it is a public  
17 necessity that the personal identifying information and annuity  
18 contract numbers of a payee of a structured settlement and the  
19 names of family members, dependents, and beneficiaries of such  
20 payee be made exempt from s. 119.07(1), Florida Statutes, and s.  
21 24(a), Article I of the State Constitution. Recipients of  
22 structured settlements have been targets of criminal and  
23 fraudulent acts based upon publicly available identifying  
24 information and are especially vulnerable during transfer  
25 proceedings to fraudulent actors purporting to be from  
26 legitimate entities. These fraudulent actors may use such  
27 information to intercept transfer payments or obtain other  
28 sensitive information, such as bank account and social security  
29 numbers. The Legislature finds that the harm that may result  
30 from the release of personal identifying information and annuity  
31 contract numbers of a payee of a structured settlement and the  
32 names of family members, dependents, and beneficiaries of such  
33 payee outweighs any public benefit that may be derived from the  
34 disclosure of such information during the specified period.

35  
36 ===== T I T L E   A M E N D M E N T =====

37 And the title is amended as follows:

38       Delete line 7

39 and insert:



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40 members, dependents, and beneficiaries of such payee  
41 contained in the court records for a proceeding for  
42 the approval of the transfer of structured settlement  
43 payment rights; limiting such exemption to a specified  
44 period;



By Senator Boyd

21-01425-22

20221526\_\_

A bill to be entitled

An act relating to public records; amending s. 119.0714, F.S.; providing an exemption from public records requirements for personal identifying information and annuity contract numbers of a payee of a structured settlement and the names of family members, dependents, and beneficiaries of such payee; providing for future legislative review and repeal of the exemption; providing a statement of public necessity; providing an effective date.

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

Section 1. Paragraph (1) is added to subsection (1) of section 119.0714, Florida Statutes, to read:

119.0714 Court files; court records; official records.—

(1) COURT FILES.—Nothing in this chapter shall be construed to exempt from s. 119.07(1) a public record that was made a part of a court file and that is not specifically closed by order of court, except:

(1) Personal identifying information and annuity contract numbers of a payee of a structured settlement as defined in s. 626.99296(2) and the names of family members, dependents, and beneficiaries of such payee are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2027, unless reviewed and saved from repeal through reenactment by the Legislature.

Page 1 of 2

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

21-01425-22

20221526\_\_

Section 2. The Legislature finds that it is a public necessity that the personal identifying information and annuity contract numbers of a payee of a structured settlement and the names of family members, dependents, and beneficiaries of such payee be made exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. Recipients of structured settlements have been targets of criminal and fraudulent acts based upon publicly available identifying information. The Legislature finds that the harm that may result from the release of personal identifying information and annuity contract numbers of a payee of a structured settlement and the names of family members, dependents, and beneficiaries of such payee outweighs any public benefit that may be derived from the disclosure of such information.

Section 3. This act shall take effect July 1, 2022.

Page 2 of 2

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

01/25/22

Meeting Date

The Florida Senate  
**APPEARANCE RECORD**

1526

Bill Number or Topic

Deliver both copies of this form to  
Senate professional staff conducting the meeting

**Banking and Insurance**

Committee

Amendment Barcode (if applicable)

Name **Tim Stanfield**

Phone **850-222-6891**

Address **101 College Avenue**

Email **stanfieldt@gtlaw.com**

Street

**Tallahassee**

**FL**

**32301**

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

**National Association of Settlement Purchasers**

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)*

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

S-001 (08/10/2021)

**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 1874

INTRODUCER: Banking and Insurance Committee and Senator Boyd

SUBJECT: Department of Financial Services

DATE: January 27, 2022      REVISED: \_\_\_\_\_

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

**I. Summary:**

CS/SB 1874 amends sections of Florida Statutes relating to the powers and duties of the Department of Financial Services (DFS). The Chief Financial Officer (CFO) is the head of DFS. The SB revises service of process requirements by providing that the service of process is valid and binding upon the insurer on the date the process served on the CFO is delivered to the insurer, or the insurer has been notified by DFS that such information has made been made available on the DFS online portal. In addition, the CS/SB provides the additional changes:

**Division of Insurance Agents and Agencies**

- Adds an exemption to the examination requirements for an all-lines adjuster who has received the designation of a Certified All Lines Adjuster from Kaplan Financial Education.
- Authorizes an adjuster who holds an adjuster license and who is an unaffiliated insurance agent to obtain an adjuster appointment while maintaining his or her unaffiliated agent appointment. This will allow the adjuster to adjust claims and receive compensation.
- Limits the appointment of public adjuster apprentice to a public adjusting firm may appoint a public adjuster apprentice. Currently a public adjuster may also appoint an apprentice.
- Revises provisions relating to the fingerprinting requirements to comply with federal law.
- Creates notice requirements for agencies that cease doing business, and creates penalties for noncompliance.
- Increases the authority of DFS to investigate and prosecute violations committed by a licensee while licensed under ch. 626, F.S., even if the license has expired, is not renewed, or is surrendered.
- Revises compensation for public adjusters by requiring that the compensation be based on the recovery allocated to the insured for covered damage, exclusive of attorney fees and costs.

**Funeral, Cemetery, and Consumer Services**

- Eliminates the fee cap of \$50 for a consumer transferring the burial rights from one purchaser to another and revises the licensure requirements for embalmers and funeral directors.

**State Fire Marshal**

- Authorizes expenditure of funds from the Firefighter Assistance Grant Program for the purchase of other equipment and tools and protective clothing and equipment compliant with certain standards.
- Revises firefighter certification requirements.
- Revises provisions relating to the inspection of boiler rooms.

**Division of Workers' Compensation**

- Exempts the schedules of maximum reimbursement allowances adopted by the three-member panel from rule ratification requirements by the Legislature.
- Requires a carrier to reimburse a physician, hospital, or ambulatory surgical center at the agreed-upon contract price, or if there is no contract price, the lesser of the provider's billed charge or the maximum reimbursement allowance. Currently, the carrier must reimburse at the agreed-upon contract price or the maximum reimbursement allowance.
- Clarifies the definition of employer.
- Clarifies that an employer applying for an exemption from workers' compensation coverage to provide a *valid* driver's license or *valid* identification card. An applicant is also required to complete an online DFS coverage and compliance tutorial as a condition for application.
- Revises the formula for calculating coverage penalties to reduce the period subject to a penalty with exceptions.
- Provides a penalty credit for an employer who has been issued a stop-work order or an enforcement action if the employer successfully completes an online coverage and compliance tutorial.
- Extends the deadline for an employer to provide submit requested business records from 10 business days to 21 days before DFS can take an administrative action.
- Requires an employer to pay any outstanding assessed payment prior to entering into a new penalty payment program with DFS.
- Requires the carrier to send an informational brochure to the injured within three business days, instead of three days, after the employee or employer notifies the carrier. A carrier is authorized to provide informational brochure to an injured worker or an employer by e-mail or regular mail.
- Revises onsite audit requirements for construction classes by requiring such annual audits if the estimated annual premium is \$10,000 or more. Currently, there is no minimum threshold.

**Division of Accounting and Auditing**

- Amends provisions relating to the planning and accounting, ledger management system (PALM) and local government financial reporting.

**Division of Rehabilitation and Liquidation**

- Provides that employees and retired employees of the Division of Rehabilitation and Liquidation or their surviving spouses are enrollees of the state group insurance program.

**Florida Patient's Compensation Fund (Fund)**

- Revises structure and authority of the Fund by eliminating the board of governors of the Fund and transferring the supervision of the Fund to the CFO or his or her designee.
- Prescribes duties of the CFO and DFS to wind down the fund, and to dissolve the fund on or before December 31, 2023.

**II. Present Situation:**

The Chief Financial Officer (CFO) is the chief fiscal officer of Florida and is responsible for settling and approving accounts against the state and keeping all state funds and securities.<sup>1</sup> The CFO serves as the head of the Department of Financial Services (DFS). Offices and divisions within the DFS include:

- Insurance Consumer Advocate;
- Accounting and Auditing;
- Administration;
- Consumer Services;
- Funeral, Cemetery, and Consumer Services;
- Insurance Agent and Agency Services;
- Investigative and Forensic Services;
- Public Assistance Fraud;
- Rehabilitation and Liquidation;
- Risk Management;
- State Fire Marshal;
- Treasury;
- Unclaimed Property; and
- Workers' Compensation.<sup>2</sup>

**Division of Accounting and Auditing**

Section 215.93, F.S., establishes the Florida Financial Management Information System (FFMIS) for the state. The intent of the FFMIS is to ensure the efficient operation of an integrated financial management information system and to provide necessary information for the effective operation of state government.<sup>3</sup> The Florida Accounting Information Resource Subsystem (FLAIR) is the state's accounting system, and it is a subsystem of the FFMIS.<sup>4</sup> The functions of FLAIR include accounting and reporting of information to producing financial statements for the state and auditing and settling claims against the state.<sup>5</sup> In 2014, DFS created the Florida Planning, Accounting, and Ledger Management (PALM) Project to replace the State of Florida's current accounting and cash management systems with an integrated, enterprise financial management solution that will allow the state to organize, define, and standardize its financial management processes. The Florida PALM Project is a multiyear project.<sup>6</sup>

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<sup>1</sup> Section 17.001, F.S.

<sup>2</sup> Florida Department of Financial Services, *Divisions and Offices* <https://www.myfloridacfo.com/> (last visited Jan.17, 2022).

<sup>3</sup> Section 215.93(1), F.S.

<sup>4</sup> Section 215.93(10(b)), F.S. The DFS is the functional owner of FLAIR. Section 215.94(2), F.S.

<sup>5</sup> Section 215.94(2), F.S.

<sup>6</sup> *Id.*

The Division of Accounting and Auditing, Bureau of Financial Reporting (Bureau), is responsible for the oversight of local government financial reports and the Comprehensive Annual Financial Reports (CAFR). The Chief Financial Officer is required to publish a CAFR in accordance with generally accepted accounting principles (GAAP).<sup>7</sup> The CAFR includes the audited financial statements, other disclosures, and supplementary information, presenting the state's financial condition and results of operations during the fiscal year.<sup>8</sup> The Government Accounting Standards Board (GASB) establishes accounting and financial reporting standards for U.S. state and local governments that follow GAAP and, recently changed the term, "Comprehensive Annual Financial Report" (CAFR)<sup>9</sup> to the term, "Annual Comprehensive Financial Report" (ACFR).

Chapter 218, F.S., prescribes financial management and reporting requirements for local governments, which include counties, municipalities, and special districts. The Division of Accounting and Auditing's website provides resources to assist local governments in fulfilling their reporting requirements.<sup>10</sup> Local governments must submit their annual financial reports (AFRs) to DFS and provide their audited financial statements.<sup>11</sup> The AFR is available to the public in the local government electronic reporting (LOGGER).

In 2018,<sup>12</sup> legislation was enacted to require DFS to create an interactive repository of financial statement information, known as the Florida Open Financial Statement System.<sup>13</sup> This system must have standardized taxonomies for state, county, municipal, and special district financial filings. The Division of Accounting & Auditing and the Office of Information Technology are designing the Florida Open Financial Statement System.<sup>14</sup>

### **Division of Rehabilitation and Liquidation**

Federal law provides that insurance companies may not file for bankruptcy.<sup>15</sup> The state, through the Division of Rehabilitation (division or receiver), is instead responsible for rehabilitating or liquidating an insurer.<sup>16</sup> States primarily regulate insurance companies, and the state of domicile serves as the primary regulator for insurers. The receiver administers insurance companies that are placed into receivership in Florida.<sup>17</sup>

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<sup>7</sup> Section 216.102(3), F.S.

<sup>8</sup> See Florida's Comprehensive Annual Financial Report, Fiscal Year ended June 30, 2020, available at [Dept. of Fin Serv - State of FL CAFR 2020 \(myfloridacfo.com\)](https://myfloridacfo.com) (last viewed Jan. 17, 2022).

<sup>9</sup> GASB, Statement No. 98, The Annual Comprehensive Financial Report, (Oct. 2021) available at [GASB Statement No. 98, The Annual Comprehensive Financial Report](https://www.gasb.org/Statement-No-98) (last visited Jan. 18, 2022).

<sup>10</sup> DFS, Division of Accounting and Auditing, Local Governments, available at [Local Governments Home \(myfloridacfo.com\)](https://myfloridacfo.com) (last visited Jan. 17, 2022).

<sup>11</sup> Section 218.32, F.S.

<sup>12</sup> Ch. 2018-102, s. 4, Laws of Fla.

<sup>13</sup> Section 218.32(1)(h), F.S.

<sup>14</sup> DFS, Florida Open Financial Statement Project, available at [Florida Open Financial Statement System Project \(myfloridacfo.com\)](https://myfloridacfo.com) (last visited Jan. 21, 2021).

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

<sup>16</sup> Sections 631.051 and 631.061, F.S. Chapter 631, F.S., governs the receivership process for insurance companies in Florida.

<sup>17</sup> *Id.*

Insurance companies in receivership fund positions within the division. Since these positions are not appropriated from state funds, the positions are not state employee positions and are not eligible for the state group insurance program.<sup>18</sup> Because the division must purchase health insurance in the small group market, it is unable to leverage the economies of scale, and faces yearly premium increases. The division anticipates these increases will continue to occur in the future, which ultimately affects the claimants in the receivership estates. The division is a participating entity of the Florida Retirement System.<sup>19</sup> The division also participates in the State's Deferred Compensation program.

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

Section 20.121(4), F.S., creates the Board of Funeral, Cemetery, and Consumer Services (board) within the Division of Funeral, Cemetery, and Consumer Services of the DFS. The board acts as the licensing and rulemaking authority for the purposes of certain matters related to examinations and other substantive requirements for licensure within the death care industry under ch. 497, F.S., including facility requirements.<sup>20</sup>

#### ***Fees***

Current law imposes a maximum charge to consumers of \$50 for transference of burial rights from one purchaser to another.<sup>21</sup>

#### ***Licensure***

There are several options for embalmers or funeral directors to obtain reciprocal licensure in Florida.<sup>22</sup> One method to receive a reciprocal licensure for an embalmer is to hold an original licensure in a state that has requirements at the time of initial licensure that are substantially equivalent to or more stringent than Florida's requirements at the same time.<sup>23</sup> One of the paths for a funeral director to obtain a reciprocal licensure in Florida includes the requirement that an applicant holds a valid license to practice funeral directing in another state, provided that, when the applicant secured her or his original license, the requirements for licensure were substantially equivalent to or more stringent than those existing in Florida.

Current law prescribes the scope of practice of funeral directing that a licensed funeral director may perform.<sup>24</sup> These duties include:

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<sup>18</sup> DFS, Division of Rehabilitation and Liquidation, [Human Resources Recruitment and Selection Frequently Asked Questions \(myfloridacfo.com\)](https://myfloridacfo.com) (last visited Jan. 17, 2022).

<sup>19</sup> *Id.*

<sup>20</sup> See s. 497.103(1)(a)-(cc), F.S. Licenses available to natural persons include: embalmer apprentice and intern; funeral directors and intern; funeral director and embalmer, direct disposer, monument establishment sales agent, and preneed sales agent. Section 497.141(12)(a), F.S. Licenses available to natural persons, corporations, limited liability companies, and partnerships include: funeral establishment, centralized embalming facility, refrigeration facility, direct disposal establishment, monument establishment, cinerator facility, removal service, preneed sales business under s. 497.453, F.S., and cemetery. Section 497.141(12)(b)-(c), F.S.

<sup>21</sup> Section 497.277(2), F.S.

<sup>22</sup> Section 497.369, F.S.

<sup>23</sup> Section 497.369

<sup>24</sup> Section 497.372(1), F.S.

- Planning or arranging the details of the funeral services;
- Embalming, cremation, or other services relating to the final disposition of human remains; including the removals of such remains from the state;
- Setting the time of the service;
- Establishing the type of services to be rendered;
- Acquiring the services of the clergy;
- Obtaining vital information for the filing of death certificates and burial transit permits
- Directing any memorial services that is held prior to or within 72 hours of the burial or cremation if such service is old or arranged by the licensee.

### **Division of Insurance Agents and Agencies**

Chapter 626, F.S., governs the regulation of insurance field representatives, navigators, insurance administrators, unauthorized insurers and surplus lines, viatical settlements, structured settlements, and operations.<sup>25</sup> The powers and duties of CFO and DFS in part I of ch. 626, F.S., apply only with respect to insurance agents, insurance agencies, managing general agents, insurance adjusters, reinsurance intermediaries, customer representatives, service representatives, and agencies.<sup>26</sup> Further, DFS has jurisdiction to enforce provisions of parts VIII and IX of ch. 626, F.S., with respect to persons engaged in actions for which a license issued by DFS is required.<sup>27</sup> The powers and duties of the Financial Service Commission and the Office of Insurance Regulation (OIR)<sup>28</sup> specified in part I apply only with respect to service companies, insurance administrators, and viatical settlement providers and contracts.<sup>29</sup> The OIR has jurisdiction to enforce provisions of parts VIII and IX of ch. 626, F.S., with respect to persons who engage in actions for which a license or certificate of authority issued by the OIR is required.<sup>30</sup> However, s. 626.016, F.S., is not intended to limit the authority of the DFS and the Division of Investigative and Forensic Services within DFS, as specified in s. 626.989, F.S.

The Division of Insurance Agent and Agency Services licenses and appoints individuals and entities authorized to transact insurance in Florida as provided in s. 626.016, F.S.. Further, the division receives and reviews applications for insurance licenses and oversees the examination, licensing, and continuing education of licensees. The division also conducts investigations of alleged violations of the Florida Insurance Code and refers suspected criminal violations of the Florida Insurance Code to the Division of Investigative and Forensic Services' Bureau of Insurance Fraud within DFS or other law enforcement agencies as appropriate.<sup>31</sup>

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<sup>25</sup> This includes licensing and other requirements (part I), general lines agents (part II), life insurance agents (part III), health insurance agents (part IV), title insurance agents (part V), and insurance adjusters (part VI), insurance administrators (part VII), viatical settlements (part X)

<sup>26</sup> Section 626.016(1), F.S.

<sup>27</sup> Section 626.016(3), F.S.

<sup>28</sup> Pursuant to s. 20.121(3), F.S., the Office of Insurance Regulation is an office within the Financial Services Commission (FSC). The FSC is composed of the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture. The FSC members serve as the agency head for purposes of rulemaking under ss. 120.536-120.565, F.S.

<sup>29</sup> Section 626.016(2), F.S.

<sup>30</sup> Sections 626.016(3), F.S.

<sup>31</sup> Sections 624.307, 624.317, and 624.321, F.S.



Section 626.112, F.S., states that no person may be, act as, or advertise or hold himself or herself out to be an insurance agent, insurance adjuster, customer representative, service representative, or managing general agent unless he or she is currently licensed by the department and appointed by an appropriate appointing entity or person. All licenses require an appointment with the exception of insurance agency licenses.

### ***Agents with Unaffiliated appointments***

According to DFS, unaffiliated appointments were intended to allow a licensee to hold their license in good standing, giving the licensee credentials in the knowledge for holding a license, without soliciting insurance coverage.<sup>32</sup> Licensees who do not want or need to maintain an active appointment may want to maintain their license so they can provide insurance consultation, can appoint themselves as an unaffiliated agent under s. 626.015(18), F.S.<sup>33</sup>

### ***Insurance Adjuster Licensure Examination***

An adjuster is an individual employed by an insurer to evaluate losses and settle policyholder claims.<sup>34</sup> An adjuster may be licensed as either an “all-lines adjuster” or a “public adjuster.”<sup>35</sup> An all-lines adjuster “is a person who, for money, commission, or any other thing of value, directly or indirectly undertakes on behalf of a public adjuster or an insurer to ascertain and determine the amount of any claim, loss, or damage payable under an insurance contract or undertakes to effect settlement of such claim, loss, or damage.”<sup>36</sup> Subject to certain exceptions, a public adjuster is someone that is paid by an insured to prepare and file a claim against his or her insurer.<sup>37</sup>

Among other requirements, an applicant must pass an examination to obtain an adjuster’s license; however, the examination requirement is waived if the applicant has attained certain professional designations that document their successful completion of professional education coursework. An examination is not required for all-lines adjuster applicants that obtains certain specified professional designations.<sup>38</sup> The DFS must approve the curriculum, which must include comprehensive analysis of basic property and casualty lines of insurance and testing at least equal to that of standard DFS testing for the all-lines adjuster license.<sup>39</sup>

### ***Closure of an Insurance Agency***

Currently an agency is not required to provide notification to a policyholder or premium finance company or follow protocols when an agency is closing for an extended period or closing permanently.

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<sup>32</sup> *Supra* at note 50.

<sup>33</sup> DFS, Division of Agent and Agency Services, *Insurance Insights*, (Apr.2015), available at [Insurance Insights - April 2015 - Compliance Corner \(myfloridacfo.com\)](https://www.floridacfo.com/Insurance-Insights-April-2015-Compliance-Corner) (last visited January 17, 2022).

<sup>34</sup> INSURANCE INFORMATION INSTITUTE, GLOSSARY (defining “adjuster”), <https://www.iii.org/resource-center/iii-glossary/A> (last visited Jan. 21, 2022).

<sup>35</sup> Section 626.864, F.S.

<sup>36</sup> Sections 626.015 and 626.8548, F.S.

<sup>37</sup> Section 626.854, F.S.

<sup>38</sup> Section 626.221, F.S.

<sup>39</sup> Section 626.221(2)(j), F.S.

## Division of State Fire Marshal

The Division of State Fire Marshal protects people and property throughout Florida and has authority to inspect buildings, structures, equipment, vehicles and chemicals when there is reasonable cause to believe a violation of the Florida Fire Code has occurred.<sup>40</sup> The Division of State Fire Marshal:

- Conducts safety inspections and reviews construction plans for all state-owned buildings, regulates fireworks and the fire sprinkler industry, inspects and licenses boilers, and certifies persons working in the fire suppression industry; and
- Approves curricula and training at the Florida State Fire College and certifies that fire service members meet industry standards.<sup>41</sup>

## Firefighter Certification

To be certified as a firefighter, a person must complete a minimum standards course and examination established by the State Fire Marshal or show proof of equivalent training in another state, and pass an exam within one year of completing the minimum standards course.<sup>42</sup> Additionally, the applicant must be in good physical condition, as determined by a medical examination, and have good moral character, as determined by a background investigation that includes the processing of fingerprints for a national criminal background check.<sup>43</sup>

To serve as an administrative and command head of a fire service provider, or to work in a position directing incident outcomes, a certified firefighter must earn a Special Certificate of Compliance.<sup>44</sup> Such person must be active as a firefighter, maintain a valid fire service instructor certificate and teach at least 40 hours of instruction during a four-year period, and complete a Firefighter Retention Refresher Course prior to expiration of the four-year period.<sup>45</sup>

To renew a certification, a firefighter must:

- Be active as a firefighter, meaning the certificate holder was employed as a firefighter or served as a volunteer firefighter for at least six months during a four-year period; or
- Hold a fire service instructor certificate and instruct at least 40 hours during a four-year period, or
- Complete a Firefighter Retention Refresher Course during the six months before the four-year period expires, or
- Retake and pass the Minimum Standards Course examination during the six months before the four-year period expires.<sup>46</sup>

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<sup>40</sup> DFS, Division of State Fire Marshal, available at [State Fire Marshal Home \(myfloridacfo.com\)](http://StateFireMarshalHome(myfloridacfo.com)) (last visited Jan. 21, 2022).

<sup>41</sup> *Id.*

<sup>42</sup> Section 633.408(4), F.S.

<sup>43</sup> Sections 633.408 and 633.412, F.S.

<sup>44</sup> Section 633.408(6), F.S.

<sup>45</sup> *Id.*

<sup>46</sup> Section 633.414, F.S.

### ***Firefighter Assistance Grant Program***

The Firefighter Assistance grant was created to improve the emergency response capability of volunteer fire departments and combination fire departments.<sup>47</sup> The program is required to provide financial assistance to improve firefighter safety and to enable such fire departments to provide firefighting, emergency medical, and rescue services to their communities.<sup>48</sup> Funding is available for training, personal protective equipment, self-contained breathing apparatus, and fire engine pumper apparatus.<sup>49</sup> According to DFS, many of the fire departments that are eligible to participate in this grant program are in rural economically challenged areas of the state and have limited funding opportunities to purchase additional crucially needed tools and equipment.<sup>50</sup>

### ***Boiler Safety Act***

Chapter 554, F.S., is the “Boiler Safety Act.”<sup>51</sup> The DFS is authorized to adopt by rule a State Boiler Code for the safe construction, installation, inspection, maintenance, and repair of boilers in Florida.<sup>52</sup> The State Fire Marshall performs inspections to ensure the safety of boilers in public buildings.<sup>53</sup> Boiler inspectors must meet initial and ongoing certification requirements.<sup>54</sup> The DFS may impose various fees, such as, initial and annual certificates of competency, certificate inspections.

According to DFS, some provisions within ch. 554 are outdated. For example, a requirement for ASME<sup>55</sup> stamping of boilers between 200,000 and 400,000 BTU has been in the statute for several years but did not have a phase in date to allow for utilization of manufacturer’s inventory.<sup>56</sup> Additionally, the carbon monoxide detector requirement of ch. 509, F.S., lacks clarity as to the enforcement ability of authorized third-party inspectors.<sup>57</sup>

### **Stop Inmate Fraud Program/Division of Public Assistance Fraud**

Effective July 1, 2011, the Stop Inmate Fraud Program was transferred from the Florida Department of Law Enforcement to DFS.<sup>58</sup> The intent of the program is to identify incarcerated persons who are wrongfully receiving public assistance benefits or entitlement benefits.<sup>59</sup> The Stop Inmate Fraud Program is housed within the Division of Public Assistance Fraud. This

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<sup>47</sup> Section 633.135(1), F.S. Combination fire department is a fire department that is composed of career and volunteer firefighters.

<sup>48</sup> Section 633.135, F.S., and Rule 69A-37-501, F.A.C.

<sup>49</sup> Section 633.135(4), F.S..

<sup>50</sup> Department of Financial Services, *2022 Legislative Bill Analysis of HB 959* (companion to SB 1874) (Dec. 22, 2022).

<sup>51</sup> Section 554.1011, F.S.

<sup>52</sup> Section 554.103, F.S.

<sup>53</sup> Department of Financial Services, Division of State Fire Marshal, Boiler Safety Section, available at [Boiler Safety \(myfloridacfo.com\)](http://myfloridacfo.com) (last visited Jan. 22, 2022).

<sup>54</sup> Section 554.104, F.S.

<sup>55</sup> “ASME Code” is the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code published by that Society, which are incorporated by reference in Rule 69A-51.010, F.A.C. See Rule 69A-51.005(6), F.A.C.

<sup>56</sup> Supra at note 50.

<sup>57</sup> *Id.*

<sup>58</sup> Section 414.40, F.S. (Ch. 2011-213).

<sup>59</sup> Section 414.40(2)(a), F.S.

division investigates all public assistance provided to all residents of the state or provided to others by the state.<sup>60</sup>

### **Division of Workers' Compensation**

The workers' compensation law<sup>61</sup> requires an employer<sup>62</sup> to obtain coverage for their "employees" that provides for lost income and all medically necessary remedial treatment, attendance, and care resulting from work related injuries and occupational diseases. The Division of Workers' Compensation within the DFS provides regulatory oversight of the system.<sup>63</sup> The DFS' responsibilities include enforcing employer compliance with coverage requirements,<sup>64</sup> administration of the workers' compensation health care delivery system, collecting system data, educating and assisting employers and injured workers.

### ***Coverage Requirements; Enforcement***

Whether an employer is required to have workers' compensation insurance depends upon the employer's industry (i.e., construction, non-construction, or agricultural) and the number of employees.<sup>65</sup> The coverage thresholds are as follows:

- Construction – one or more "employees;"
- Non-construction – four or more "employees;" and
- Agricultural - six or more regular employees and/or 12 or more seasonal employees who work for more than 30 days.

Employers may obtain coverage by purchasing a workers' compensation insurance policy from an insurer; purchasing coverage from the Workers' Compensation Joint Underwriting Association (for employers that are unable to purchase a workers' compensation insurance policy from an authorized insurance company); or qualifying as a self-insurer.<sup>66</sup> In order to apply for or renew an exemption from workers' compensation law, the exemption applicant must complete and submit a Notice of Election to be Exempt application online. The notice must list the name,

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<sup>60</sup> Section 414.411, F.S.

<sup>61</sup> Ch. 440, F.S.

<sup>62</sup> Employer" means the state and all political subdivisions thereof, all public and quasi-public corporations therein, every person carrying on any employment, and the legal representative of a deceased person or the receiver or trustees of any person. "Employer" also includes employment agencies, employee leasing companies, and similar agents who provide employees to other persons. s. 440.02(16), F.S. The most common exception to this is non-construction industry employers with fewer than four employees. There are a number of other exceptions, exclusions, and exemptions that affect whether an employer must provide workers' compensation coverage generally or to a particular individual. See s. 440.02(15)–(17), F.S.

<sup>63</sup> Section 440.191, F.S.

<sup>64</sup> Section 440.107, F.S.

<sup>65</sup> The terms "injured employee" and "injured worker" are used interchangeably throughout ch. 440, F.S., in relation to individuals claiming or receiving workers' compensation benefits. However, neither term is expressly defined in the workers' compensation law. Since the term "injured employee" implies a continuing employment relationship that may not in fact exist following an injury, this analysis will use the term "injured worker" exclusively, but it is intended to mean both "injured employee" and "injured worker" wherever it is used, unless the context or law requires otherwise. The term "injured employee" is not same as "employee." The former denotes one who is claiming benefits following an injury, while the latter denotes one who may be subject to the coverage requirements of the workers' compensation law, depending upon the circumstances of their employment and nature of their employer.

<sup>66</sup> Sections 440.38 and 627.311(5), F.S.

date of birth, and driver's license number of Florida identification card number, and other specified information.<sup>67</sup>

The DFS has the authority to enter and inspect any place of business for purposes of ensuring employer compliance with workers' compensation law, and DFS can request an employer's business records.<sup>68</sup> An employer must produce the required business records within ten business days of receiving the written request for records. The failure of an employer to comply with the workers' compensation coverage requirements is considered to pose an immediate danger to public health, safety, and welfare; DFS must issue a Stop-Work Order within 72 hours of determination of non-compliance, which requires the employer to cease all business operations.<sup>69</sup> DFS may release a Stop-Work Order when an employer provides proof of compliance and pays \$1,000, as a down payment, and agrees to enter into a penalty payment agreement with DFS for the full amount.<sup>70</sup> The penalty is a minimum of \$1,000 and is based on the insurance premiums, which should have been paid, but were not, multiplied by 2 for the prior two years.<sup>71</sup>

### ***Reporting by Carriers and Audits by Carriers***

Within 3 days after the employer or the employee informs the carrier of an injury, the carrier must mail to the injured worker an informational brochure approved by DFS that provides an explanation of the rights, benefits, procedures for obtaining benefits and assistance, criminal penalties, and obligations of injured workers and their employers under the Florida Workers' Compensation Law.<sup>72</sup>

Further, the carrier or its third-party administrator is required to mail the same brochure annually to employers.<sup>73</sup>

### ***Three-member Panel; Guides of Maximum Reimbursement Allowances; Rulemaking***

Florida's workers' compensation law provides for medically necessary treatment and care of injured employees. An individual physician, hospital, ambulatory surgical center, pain program, or work-hardening program must be reimbursed at either the agreed-upon contract price or the maximum reimbursement allowance in the appropriate schedule.<sup>74</sup> The law provides reimbursement formulas and methodologies to compensate providers of health services, subject to maximum reimbursement allowances (MRAs).<sup>75</sup>

A three-member panel (panel) consisting of the Chief Financial Officer (CFO) or CFO's designee and two Governor's appointees sets the MRAs.<sup>76</sup> The DFS incorporates the statewide schedules of the MRAs by rule in reimbursement manuals. In establishing the MRA manuals, the panel considers the usual and customary levels of reimbursement for treatment, services, and

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<sup>67</sup> Section 440.05(3), F.S.

<sup>68</sup> Section 440.107(7)(a), F.S.

<sup>69</sup> *Id.*

<sup>70</sup> Section 440.107(7)(d), F.S.

<sup>71</sup> *Id.*

<sup>72</sup> Section 440.185(3), F.S.

<sup>73</sup> *Id.*

<sup>74</sup> *Id.*

<sup>75</sup> Section 440.13(12), F.S.

<sup>76</sup> Section 440.13(12)(a), F.S.

care;<sup>77</sup> the cost impact to employers for providing reimbursement that ensures that injured workers have access to necessary medical care; and the financial impact of the MRAs on healthcare providers and facilities.<sup>78</sup> Florida law requires the panel to develop MRA manuals that are reasonable, promote the workers' compensation system's healthcare cost containment and efficiency, and are sufficient to ensure that medically necessary treatment is available for injured workers.<sup>79</sup>

The panel develops four different reimbursement manuals to determine statewide schedules of maximum reimbursement allowances. The healthcare provider manual limits the maximum reimbursement for licensed physicians to 110 percent of Medicare reimbursement,<sup>80</sup> while reimbursement for surgical procedures is limited to 140 percent of Medicare.<sup>81</sup> The hospital manual sets maximum reimbursement for outpatient scheduled surgeries at 60 percent of usual and customary charges,<sup>82</sup> while other outpatient services are limited to 75 percent of usual and customary charges.<sup>83</sup> Reimbursement of inpatient hospital care is limited based on a schedule of per diem rates approved by the panel.<sup>84</sup> The ambulatory surgical centers manual limits reimbursement to 60 percent of usual and customary as such services are generally scheduled outpatient surgeries. The prescription drug reimbursement manual limits reimbursement to the average wholesale price plus a \$4.18 dispensing fee.<sup>85</sup> Repackaged or relabeled prescription medication dispensed by a dispensing practitioner has a maximum reimbursement of 112.5 percent of the average wholesale price plus an \$8.00 dispensing fee.<sup>86</sup> Fees may not exceed the schedules adopted under Ch. 440, F.S., and department rule.<sup>87</sup>

### **Rulemaking Authority and Legislative Ratification**

A rule is an “agency statement of general applicability that implements, interprets, or prescribes law or policy.”<sup>88</sup> Rulemaking authority is delegated by the Legislature in law to an agency, and authorizes an agency to adopt, develop, establish, or otherwise create a rule.<sup>89</sup> An agency may not engage in rulemaking unless it has a legislative grant of authority to do so.<sup>90</sup> The statutory authority for rulemaking must be specific enough to guide an agency's rulemaking and an agency rule must not exceed the bounds of authority granted by the Legislature.<sup>91</sup>

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<sup>77</sup> Section 440.13(12)(d)1., F.S.

<sup>78</sup> Section 440.13(12)(d)2., F.S.

<sup>79</sup> Section 440.13(12)(d)3., F.S.

<sup>80</sup> Section 440.13(12)(b)4., F.S.

<sup>81</sup> Section 440.13(12)(b)5., F.S.

<sup>82</sup> Section 440.13(12)(b)3., F.S.

<sup>83</sup> Section 440.13(12)(a), F.S.

<sup>84</sup> Section 440.13(12)(a), F.S.

<sup>85</sup> Section 440.13(12)(c), F.S.

<sup>86</sup> *Id.*

<sup>87</sup> Section 440.13(13)(b), F.S. The department also has broad rulemaking authority under s. 440.591, F.S.

<sup>88</sup> Section 120.52(16), F.S.

<sup>89</sup> Section 120.52(17), F.S.

<sup>90</sup> See ss. 120.52(8) and 120.536, F.S.

<sup>91</sup> See *Sloban v. Florida Board of Pharmacy*, 982 So.2d 26 (Fla. 1st DCA 2008) and *Southwest Florida Water Management District v. Save the Manatee Club, Inc.*, 773 So.2d 594 (Fla 1st DCA 2000).

Prior to the adoption, amendment, or repeal of any rule, an agency must file a notice of the proposed rule in the Florida Administrative Register.<sup>92</sup> The notice of the proposed rule must include:

- An explanation of the purpose and effect;
- The specific legal authority for the rule;
- The full text of the rule; and
- A summary of the agency's statement of estimated regulatory costs (SERC), if one is prepared.<sup>93</sup>

Within 21 days of the notice, the public may provide an agency with information regarding the SERC or provide proposals for a lower cost alternative to the rule.<sup>94</sup>

### ***SERC Requirements***

Agencies must prepare the SERC for a rule that has an adverse impact on small businesses or that increases regulatory costs more than \$200,000 within one year after implementation of the rule.<sup>95</sup>

A SERC must include estimates of the following:

- The number of people and entities effected by the proposed rule;
- The cost to the agency and other governmental entities to implement the proposed rule;
- Transactional costs likely to be incurred for compliance; and
- An analysis of the proposed rule's impact on small businesses, counties, and cities.<sup>96</sup>

The SERC must also include an economic analysis on the likelihood that the proposed rule will have an adverse impact in excess of \$1 million within the first five years of implementation on:

- Economic growth, private-sector job creation or employment, or private-sector investment;
- Business competitiveness,<sup>97</sup> productivity, or innovation; or
- Regulatory costs, including any transactional costs.<sup>98</sup>

If the economic analysis results in an adverse impact or regulatory costs in excess of \$1 million within 5 years after implementation of the rule, then the Legislature must ratify the rule in order for it to take effect.<sup>99</sup>

The Legislature previously ratified Rule 69L-7.020, F.A.C., of the DFS, which incorporates by reference the 2016 Edition of the Florida Workers' Compensation Health Care Provider Manual,

<sup>92</sup> See ss. 120.54(2)(a) and 120.55(1)(b), F.S.

<sup>93</sup> Section 120.54(3)(a)1., F.S.

<sup>94</sup> See ss. 120.54(3)(a)1., and 120.541(1)(a), F.S.

<sup>95</sup> Section 120.541(1)(a), F.S.

<sup>96</sup> Section 120.541(2)(b)-(e), F.S. A small city has an unincarcerated population of 10,000 or less. A small county has an unincarcerated population of 75,000 or less. A small business employs less than 200 people, and has a net worth of \$5 million or less.

<sup>97</sup> Business competitiveness includes the ability of those doing business in Florida to compete with those doing business in other states or domestic markets.

<sup>98</sup> Section 120.541(2)(a), F.S.

<sup>99</sup> Section 120.541(3), F.S. Legislative ratification is not required for adoption of federal standards, amendments to the Florida Building Code, or amendments to the Florida Fire Prevention Code. See s. 120.541(4), F.S.

providing for reimbursement of healthcare providers under the increased MRAs approved by the panel. The DFS has subsequently adopted amended versions of the rule, incorporating by referenced the Manual. The updated Manual is estimated to increase workers' compensation system costs by 0.2 percent (\$8 million).<sup>100</sup> According to the SERC, the revisions to the MRAs in the updated manual are projected to result in increased costs to the overall compensation system of \$8 million over the next five years.<sup>101</sup>

In 2022, SB 1274 was filed, which would ratify Rule 69L-7.020, F.A.C.

### **The Chief Financial Officer as Agent for Service of Process on Insurers**

Florida's Chief Financial Officer<sup>102</sup> (CFO) is the agent for service of process on all insurers applying for authority to transact insurance in this state, all licensed nonresident insurance agents, all nonresident disability insurance agents licensed pursuant to s. 626.835, F.S., any unauthorized insurer under s. 626.906, F.S. or s. 626.937, F.S., domestic reciprocal insurers, fraternal benefit societies under ch. 632, F.S., warranty associations under ch. 634, F.S., prepaid limited health service organizations under ch. 636, F.S., and persons required to file statements under s. 628.461, F.S.<sup>103</sup>

Service of process on the CFO is made by mail, personal service, or internet-based transmission system created by DFS.<sup>104</sup> Upon receipt of service of process, the CFO retains a record copy in paper or electronic form and promptly forwards one copy of the process documents to the insurer's designated process agent by registered or certified mail.<sup>105</sup> The CFO may also make the process documents available from a secure website created by DFS and provide notice of availability and retrieval instructions to the insurer's designated process agent under s. 624.307(9), F.S. Under current law, service of process is considered valid and binding service on the insurer when the process documents are served on the CFO and sent or made available to the insurer pursuant to s. 624.307(9), F.S., rather than at such time the insurer receives the process documents.<sup>106</sup>

Recent court cases have addressed similar questions related to whether service of process on an insurer is perfected at the time served on the CFO or at the time received by the insurer. For example, in *Markovits*,<sup>107</sup> an uninsured motorist lawsuit that also involved an award of attorney fees for a rejected proposal for settlement, the court was asked to determine whether a proposal for settlement served on the insurer 91 days after service of the complaint on the CFO but 88 days after the complaint was forwarded by the CFO to the insurer, constituted valid service within a 90-day deadline for proposals for settlement on the insurer. In addition to finding statutory authority under s. 624.423(3), F.S., the court ultimately based its decision on

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<sup>100</sup> National Council on Compensation Insurance, Inc., *Analysis of Florida Medical Fee Schedule Changes Proposed to be Effective July 1, 2021*, November 16, 2020 (on file with the Senate Committee on Banking and Insurance).

<sup>101</sup> Florida Department of Financial Services, *Statement of Estimated Regulatory Costs Rule 69L-7.020, F.A.C.* (November 2021)(on file with the Senate Committee on Banking and Insurance).

<sup>102</sup> The CFO's assistant, deputy, or another person in charge of the office may also serve as the agent for service of process.

<sup>103</sup> Section 48.151(3), F.S.

<sup>104</sup> *Id.*

<sup>105</sup> Section 624.423(1), F.S.

<sup>106</sup> Section 624.423(3), F.S.

<sup>107</sup> *Markovits v. Stater Farm Mutual Automobile Insurance*, 235 So. 3d 1018 (Fla. 1st DCA 2018).



s. 48.151(1), F.S., relating to service on statutory agents for certain persons, citing in part “[w]hen any law designates a public officer, board, agency, or commission as agent for service of process” and the person or entity so designated is served with process, then “service is valid service for all purposes,” and holding that service of process is considered valid and binding on the insurer when served on the CFO.<sup>108</sup>

### **Fingerprints for Background Checks**

The Florida Insurance Code authorizes DFS to investigate any applicant or licensee, and further states that licensing statutes, which require an evaluation of an applicant’s character or fitness must include the submission of fingerprints for a national criminal records check.<sup>109</sup> Applicants and licensees submit fingerprints to the Florida Department of Law Enforcement (FDLE), which forwards the fingerprints to the FBI for a federal background check.<sup>110</sup> The federal check is conducted through the FBI, which manages a criminal history record information (CHRI) system, through which this information can be obtained. The purpose of the CHRI system is to assure that criminal history record information wherever it appears is collected, stored, and disseminated in a manner to ensure the accuracy, completeness, currency, integrity, and security of such information and to protect individual privacy.<sup>111</sup>

Federal law authorizes the exchange of CHRI with officials of state and local governmental agencies for licensing and employment purposes.<sup>112</sup> However, this access can only be authorized by a state statute, which has been subsequently approved by the Attorney General of the United States. The FBI processes fingerprints only if the criteria established by the U.S. Department of Justice has been satisfied. To satisfy federal law, a state licensing statute must identify the specific categories of licenses that require the submission of fingerprints as part of an application and expressly state that the applicant’s fingerprints will be submitted to the FBI or submitted for a national criminal records background check.

The DFS has recommended many technical amendments to licensing laws including chs. 626, and 648, F.S., to ensure compliance with federal law and continuation of FBI background checks for applicants seeking licensure with DFS.<sup>113</sup>

### **Florida’s Patient Compensation Fund**

In response to the mid-1970’s medical malpractice crisis, the Florida Legislature enacted comprehensive medical malpractice reforms with the passage of "The Medical Malpractice Reform Act of 1975."<sup>114</sup> One of the main features of the 1975 Medical Malpractice Act was the creation of the Florida Patient's Compensation Fund (Fund), which was designed to provide medical malpractice coverage to doctors, practitioners, hospitals, and health care facilities that were unable to purchase coverage in the commercial market. The Fund commenced operations

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<sup>108</sup> *Markovitz* at 1020.

<sup>109</sup> Section 626.201, F.S.

<sup>110</sup> Section 624.34, F.S.

<sup>111</sup> 28 C.F.R. s. 20.1

<sup>112</sup> Pub. L. 92-544.

<sup>113</sup> *Supra* at note 50.

<sup>114</sup> Ch. 75-9, Laws of Fla.

on July 1, 1975, in accordance with s. 766.105, F.S. The Fund is a political subdivision of the state; however, it is not a state agency, board, or commission.<sup>115</sup>

The Fund is subject to the supervision of a board of governors consisting of 11 representatives.<sup>116</sup> Seven representatives, one each from the insurance industry, physicians' insurance, physicians' self-insurance, hospital insurance, hospital self-insurance, osteopathic or podiatric physicians' insurance or self-insurance, and the general public, are appointed by the CFO.<sup>117</sup> The Florida Bar appoints one attorney, the Florida Medical Association appoints one physician's representative, and the Florida Hospital Association appoints two hospital representatives.<sup>118</sup>

Hospitals licensed pursuant to ch. 395, F.S., are mandatory members unless they can demonstrate financial responsibility to pay claims and costs described in s. 766.105(2)(c), F.S. Other health care providers<sup>119</sup> such as physicians, osteopaths, and professional associations are allowed to participate in the Fund. To become members of the Fund, all licensed Florida hospitals and health care providers electing to enroll in the fund must pay an annual membership fee and any applicable assessments based upon past and prospective loss and expense experience; and prior claims experience of the members covered under the fund. Members receive coverage for claims arising from rendering or failure to render medical care or services resulting in injury or death to a patient. Health care providers choose between two coverage limits afforded by the Fund. Coverage may not exceed \$1 million per claim, \$3 million annual aggregate, or \$2 million per claim, \$4 million annual aggregate. Health care providers are responsible for paying claim amounts in excess of the selected limit and the Fund is not responsible for paying punitive damages that may be awarded to plaintiffs. Coverage limits afforded by the Fund to hospitals may not exceed \$2.5 million per claim and does not provide an annual aggregate.<sup>120</sup>

The board of governors may authorize refunds when revenues exceed known liabilities and expenses.<sup>121</sup> Excesses or unearned fees are refunded to members in proportion to the contributions made in accordance with procedures adopted by the Board and approved by the OIR. The Fund has certified to the OIR twelve assessments, and OIR has approved 11 refunds.<sup>122</sup> The last year the hospitals contributed member fees was in 1982; the last year the physician class contributed member fees was in 1983.<sup>123</sup> The last refund approved by OIR was in March 2004.<sup>124</sup> As of December 31, 2019, the Fund reported a reserve for unearned fees of \$14,790,396.<sup>125</sup>

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<sup>115</sup> Section 766.105(1)(a), F.S.

<sup>116</sup> Section 766.105(3)(b), F.S.

<sup>117</sup> *Id.*

<sup>118</sup> *Id.*

<sup>119</sup> Section 766.105(1)(b), F.S.

<sup>120</sup> Section 766.105, F.S.

<sup>121</sup> Section 766.105(3), F.S.

<sup>122</sup> Office of Insurance Regulation, Target Market Conduct Examination Report of the Florida Patient's Compensation Fund (Apr. 25, 2014) available at [2003 TARGET P&C MARKET CONDUCT EXAMINATION OF: \(floir.com\)](https://www.floir.com) (last visited Jan. 8, 2022).

<sup>123</sup> *Id.*

<sup>124</sup> *Id.*

<sup>125</sup> Carr, Riggs, and Ingram CPAs, Florida Patient's Compensation Fund Audit Report, as of Dec. 31, 2019, (May 19, 2021) on file with Senate Banking and Insurance Committee.

The Fund ceased to offer coverage effective July 1, 1983, because it failed to attain the necessary minimum membership levels to offer coverage.<sup>126</sup> The fund purchased structured settlement annuities to fulfill the terms and conditions of settlement agreements with claimants in medical malpractice cases.<sup>127</sup> According to DFS, the Fund has represented that there are no open or active claims that are not being serviced through a structured settlement.<sup>128</sup>

### **Division of State Group Insurance**

The Division of State Group Insurance within the Department of Management Services administers the state group health insurance program (program) under a cafeteria plan consistent with s. 125 of the Internal Revenue Code for state employees.<sup>129</sup> Eligible Employees of the program include, state officers; state employees paid from “salaries and benefits” appropriation categories, regardless of the number of hours worked; retired state officers and state employees; surviving spouses of deceased state officers and state employees; certain terminated state officers and state employees; and certain state employees paid from “other-personal-services” appropriation categories.<sup>130</sup>

## **III. Effect of Proposed Changes:**

### **Division of Accounting and Auditing**

**Sections 1 and 6-10** repeals s. 17.0315, and amends ss. 215.34, 215.93, 215.94, 216.102, and 218.32, respectively, relating to financial and cash management programs and local government financial reporting. **Section 1** repeals 17.0315, F.S., relating to the CFO’s financial and cash management task force due to the creation of the PALM financial and cash management system and its executive steering committee. **Section 6** eliminates the requirement for an agency to post journal entries since PALM records debit memorandums. **Sections 7 and 8** remove the term, “cash management subsystem” and replaces it with the term, “financial management system.” **Section 9** replaces the term, “comprehensive annual financial report, with the term, “annual comprehensive financial report,” to conform to a change in GASB standards. **Section 10** revises the local government reporting system to designate the Florida Open Government Financial Statement System as the primary location for governmental financial reporting.

### **Service of Process**

**Section 2** amends s. 48.151, F.S., relating to service on statutory agents, to clarify that the CFO is the agent for service of process on all insurers applying for authority to transact insurance and other specified entities licensed under the Florida Insurance Code. The section also requires DFS to create a secure online portal as the sole means to accept service of process on the CFO under this section.

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<sup>126</sup> At least 7 days prior to the beginning of each fiscal year, the Fund determines whether it will attain the minimum membership levels to offer coverage. The minimum membership thresholds are total membership fees of \$5 million for non-hospital health care provider members and \$12.5 million for hospital members.

<sup>127</sup> The Florida Patient’s Compensation Fund: Status Report on Terminating Activities of the Fund (Dec. 10, 1994) by House of Representatives Committee on Insurance. On file with the Senate Committee on Banking and Insurance.

<sup>128</sup> *Supra* at note 50.

<sup>129</sup> Section 110.123, F.S.

<sup>130</sup> *Id.*

**Section 26** amends s. 624.307, F.S., to require any regulated person or any unauthorized insurer under s. 626.906, F.S., to appoint the CFO as its agent to receive services of all legal process. Further, the CFO must make the process available through a secure online portal to the person designated by the regulated person or unauthorized insurer to receive the process. The notice must disclose the uniform resource locator (URL) where the process may be obtained.

**Section 27** amends s. 624.422, F.S., relating to service of process, to require each licensed insurer to file with DFS designation of the name and e-mail address of the person to whom process against it served upon the CFO is to be made through the online portal. The online portal is the sole method for service of process.

**Section 28** amends s. 624.423, F.S., to clarify that service of process is valid and binding upon the insurer on the date the process is served upon the Chief Financial Officer and is delivered to the insurer or DFS has notified the insurer that such information has been made available upon a secured online portal.

**Section 29** amends s. 624.610, F.S., relating to reinsurance, to provide conforming changes relating to service of process referencing s. 48.151(3), F.S., and to provide service to agents of insurers solely through the department's online portal.

**Sections 55-57** amend ss. 626.906, 626.912, and 626.937, F.S., respectively, to provide conforming changes.

### **Division of Rehabilitation and Liquidation**

**Sections 3 and 4** amend ss. 110.123 and 110.131, F.S., respectively, to allow full-time and part-time employees, retired employees, and surviving spouses of employees of the Division of Rehabilitation and Liquidation to participate in the state group insurance program.

### **Rule Ratification**

**Section 5** amends s. 120.541, F.S., to exempt the schedules of maximum reimbursement allowances adopted by the three-member panel within the DFS from the rule ratification requirements.

### **Stop Inmate Fraud Program/Division of Public Assistance Fraud**

**Section 12** amends s. 414.40, F.S., to transfer the Stop Inmate Fraud Program within the Division of Public Assistance Fraud from DFS to the Department of Economic Opportunity. Further, the section is amended to authorize the Division of Public Assistance Fraud of DFS to have access to records containing correctional information not exempt from public records on incarcerated persons that have been generated as criminal justice information.

## **Division of Workers' Compensation**

**Section 13** amends s. 440.02, F.S., to revise the definition of the term, "employer," to include employment agencies and employment leasing companies that provide employees to other business entities or persons. Currently, the definition includes employment agencies, employee leasing companies, and similar agents who provide employees to other persons. The term, "similar agents," is an undefined term, and is removed.

**Section 14** amends s. 440.05, F.S. relating to the election of exemption from workers' compensation insurance coverage requirements to provide the following changes:

- Requires an applicant for an exemption to provide a valid driver's license number or valid identification card number as a prerequisite for DFS to process the application. Currently, the statute does not specify such documents must be valid.
- Eliminates the requirement for an applicant for an exemption from coverage to provide a social security number as a requirement for processing the application.
- Requires an applicant for a workers' compensation exemption to certify he or she has completed an online workers' compensation coverage and compliance tutorial developed by DFS.
- Replaces the mandatory exemption and revocation of exemption notification requirement to carriers with a carrier opt-in via electronic notification process.
- Adds disclosures to the Certificate of Election to be Exempt that provide that the exemption is not a license issued by the Department of Business and Professional Regulation (DBPR) and that the DBPR's website has information that can be used to verify an exemption holder's licensure status.
- Eliminates a duplicative business records requirement for exemption holders in the construction industry.
- Eliminates the scope of business or trade to disclosure on the notice of election to be exempt.

**Section 15** amends s. 440.107, F.S., relating to DFS' powers to enforce employer compliance with coverage requirements. The bill extends the deadline for an employer to submit business records to DFS from 10 business days to 21 days before DFS can take an administrative action. The section eliminates the requirement for DFS to update the Stop-Work Order database on a daily basis. The bill also clarifies that an employer must pay any outstanding assessed penalty prior to entering into a new payment agreement schedule with DFS. In addition, the bill modifies the timeframe for an employer to enter into a payment agreement schedule with the DFS or pay the penalty in full from 28 days after the service of the stop work order to within 21 days after service of the first penalty assessment. For first time employers that do not comply with coverage requirements, the timeframe to calculate a penalty for an employer's penalty formula is reduced from a 24-month period to a 12-month period, thereby reducing the penalty. The 24-month period will remain for employers who were previously issued a stop-work order or materially or understated payroll. The section allows an employer who has not been issued a Stop-Work Order or an enforcement action an opportunity to reduce their penalty by 15 percent by completing and correctly answering 80 percent of the questions from an on-line workers' compensation coverage and compliance tutorial.

**Section 16** amends s. 440.13, F.S., relating to maximum reimbursement allowances for medical services by allowing a carrier to reimburse a health care provider the lesser of the billed charge

of a provider or the maximum reimbursement allowance, if an agreed-upon contract price is not in effect. Currently, a carrier must reimburse a provider at the agreed-upon contract or the maximum reimbursement allowance. The section provides rulemaking authority for implementing this section. See also Section 5.

**Sections 17 and 18** amend ss. 440.185 and 440.381, F.S., relating to employer and carrier reporting and carrier audits of employers, respectively. **Section 17** extends the amount of time an employer has to notify a carrier of an injury from three days to three business days and authorizes a carrier to send specified information to an injured worker or employer by e-mail as an option to regular mail. **Section 18** provides that a carrier must conduct a physical onsite audit of construction class employers with policies with an estimated annual premium of \$10,000 or more. Currently, there is no minimum premium threshold for physical onsite audits.

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

**Section 19** amends s. 497.277, F.S., to eliminate the fee cap of \$50 for the transference of burial rights from the purchaser to another.

**Section 20** amends s. 497.369, F.S., to revise the requirements for obtaining an embalmer's license in Florida. The changes would allow an applicant to obtain a reciprocal licensure in Florida if they held a valid license in another and had engaged in the full-time licensed practice of embalming in that state for at least 5 years.

**Section 21** amends s. 497.372, F.S., to revise the duties that only a licensed funeral director may perform. The changes will result in non-licensed individuals being able to handle more clerical responsibilities, including obtaining information from families for the filing of death certificates and setting a time for services. Further, the section removes the current period during which funeral directors must direct memorial services. As a result, a funeral director would be responsible for directing any memorial service arranged by the funeral establishment following burial or cremation, regardless of when the memorial service takes place.

**Section 22** amends s. 497.374, F.S. to revise the requirements for a funeral director to obtain a reciprocal license by allowing individuals licensed in another state to obtain licensure in Florida if they have a current license in that state and have practiced funeral directing for at least five years. As an alternative, a funeral directors may obtain a reciprocal license if the applicant has a diploma or certificate from an accredited program of mortuary science instead of an associate degree or higher, and meets other current requirements.

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

**Section 23** amends s. 554.108, F.S., relating to boiler inspections, to clarify that a boiler with an input of 200,000 British thermal units (Btu) per hour and above, up to an input of 400,000 Btu per hour, is exempt from inspection. However, such an exempt boiler, if manufactured after July 1, 2022, must be stamped with the ASME code symbol. A requirement for ASME stamping of boilers between 200,000 and 400,000 Btu has been in the statute for several years but did not have a phase in date to allow for utilization of a manufacturer's inventory. The addition of the

carbon monoxide detector requirements currently found in ch. 509, F.S., clarifies the authority of authorized third party inspectors to enforce this safety feature.

**Section 24** amends s. 554.111, F.S., relating to fees, clarifies the certification inspection fees and the reporting of the manufacturer's data report.

**Section 25** amends s. 554.114, F.S., relating to prohibited acts and penalties, to revise compliance deadlines and penalties for an insurer authorized to sell boiler insurance that fails to inspect a boiler pursuant to the requirements of this section.

### **Division Insurance Agents and Agencies**

**Section 30** amends s. 626.015, F.S., to relating to definitions. The definition of licensing authority is created to mean the department or the office. The definition of unaffiliated appointment is revised to provide an exception to the current prohibition that an unaffiliated insurance agent may not be affiliated with an insurer, insurer-appointed insurance agent, or insurance agency contracted with or employing insurer-appointed insurance agents. This change would allow a licensed adjuster to obtain an adjuster appointment in order to adjust claims on behalf of an insurer while holding an unaffiliated appointment on an agent license.

**Section 31** amends s. 626.171, F.S., relating to application for licensure, to provide that the fingerprinting requirements in s. 624.34, F.S., apply to all applicants for licensure under ch. 626, F.S.

**Section 32** amends s. 626.172, F.S., relating to insurance agency licensure, to clarify fingerprinting must be processed in accordance with the requirements of s. 626.171, F.S.

**Section 33** creates s. 626.173, F.S., relating to insurance agency closure, to specify an insurance agency's responsibilities, when closing or ceasing to transact business for more than 30 days, Within 35 days after the agency first ceases to transact insurance, the agency owner or an officer listed on the original application for licensure must:

- Cancel the insurance agency's license by notifying DFS by the submission of completed form prescribed by DFS.
- Notify all insurers with whom the agency or agent in charge are appointed, that the agency operations have ceased, the date operations ceased, the identity of any agent or agency to whom the agency's current book of business has been transferred, and the method by which the agency records may be obtained during the time stipulated in sections 626.748 and 626.561, F.S.
- Notify all policyholders currently insured by a policy written, produced, or serviced by the agency that the agency has ceased operations, the date the operations ceased and the identity of the agency or agent to whom the agency's current book of business was transferred. If no transfer has occurred, notification should direct the policyholder to contact the insurance company that will assist the policyholder in locating a licensed agent to service the policy.
- Notify all premium finance companies through which active policies are financed, that the agency has ceased operations, the date operations ceased and the identity of the agent or agency to whom the agency's current book of business has been transferred.
- Ensure all funds held in a fiduciary capacity are distributed to the rightful owners.

The section provides that in a proceeding initiated pursuant to ch. 120, F.S., DFS may, impose an administrative fine against the agent in charge or director or officer found in the proceeding to have violated any provision of this section. A proceeding may not be initiated and fine may not accrue until after the person has been notified in writing of the nature of the violation, has been afforded 10 business days to correct the violation, and has failed to do so. Fines imposed pursuant to this section may not exceed the amounts specified in s. 626.681, F.S. per violation. Further, DFS may also suspend or revoke the license of a licensee fined pursuant to this section. The section provides factors for DFS to consider when determining the appropriateness of the penalty.

**Section 34** amends s. 626.201, F.S., relating to investigations of an applicants by DFS, provides that submission of an applicant' fingerprints must be in accordance with s. 626.171(4), F.S. Further, the section provides that the expiration, nonrenewal, or surrender of a license under ch. 626, F.S., does not eliminate jurisdiction of the licensing authority to investigate and prosecute for a violation committed by the licensee while licensed under ch. 626, F.S. Further, the section provides that notwithstanding the withdrawal of a complaint, the prosecution of any matter may be initiated or continued. According to DFS, the expiration, nonrenewal, or surrender of a license jeopardizes the licensing authority of DFS to continue to investigate or prosecute violations committed while an individual was licensed.<sup>131</sup>

**Section 35** amends s. 626.202, F.S., relating to fingerprinting requirements, to require that the submission of fingerprints must be in accordance with s. 626.171(4), F.S.

**Section 36** amends s. 626.221, F.S., to exempt an all-lines adjuster applicant who has holds a designation as a Certified All Lines Adjuster (CALA) from Kaplan Financial Education from the statutory examination requirements.

**Section 37** amends s. 626.311, F.S., to provide that a licensed adjuster may obtain an adjuster appointment in order to adjust claims on behalf of an insurer while holding an unaffiliated appointment on an agent license.

**Section 38** amends s. 626.321, F.S., to provide a conforming change regarding fingerprint requirements in s. 626.171(4), F.S.

**Section 39** amends s. 626.601, F.S., to provide conforming amendment regarding fingerprint requirements provided in s. 626.171(4), F.S.

**Section 40** amends s. 626.7845, F.S., to provide technical conforming cross reference.

**Section 41** amends 626.8411, F.S., relating to application provisions applicable to general lines agents or agencies, to require compliance with fingerprint requirements in s. 626.172(2)(f), F.S. Subsection (2) of the section is amended to clarify that paragraph (2)(f) of s. 626.172, F.S., applies to the agent in full charge.

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<sup>131</sup> *Supra* at note 50.



**Section 42** amends s. 626.8412, F.S., to clarify that in addition to the agent, the insurance agency must also hold an appointment issued by an insurer in order to sell a title insurance policy.

**Section 43** amends s. 626.8417, F.S., to allow an applicant for a title insurance license to fulfill the 40-hour course requirement in person or online by removing the requirement that it be a classroom course.

**Section 44** amends s. 626.8421, F.S., to specify that a title agent and a title agency must have a separate appointment as to each insurer by which they are appointed as agents.

**Section 45** amends s. 626.843, F.S., relating to the renewal, continuation, reinstatement, or termination of a title insurance agent's or title agency's appointment, to require a title insurance agency to be appointed, as prescribed by section 624.501, F.S., until suspended, revoked, or otherwise terminated. Further, the section requires that title insurance agency appointments must be renewed pursuant to s. 626.381, F.S.

**Section 46** amends s. 626.8433, F.S., relating to termination of appointments, to subject title insurance agencies to reporting terminations to DFS.

**Section 47** amends s. 626.8447, F.S., relating to effect of suspension or revocation upon other licensees and appointees, to subject title insurance agencies to the same provisions.

**Section 48** amends s. 626.854, F.S., to prohibit compensation of a public adjuster being based on amounts attributable to additional living expenses, unless the insured agrees to a separate agreement with a prescribed disclosure. In addition, the section provides that compensation of a public adjuster must be based on the recovery allocated to the insured for covered damages, exclusive of attorney fees and costs. The bill also prohibits increasing public adjuster compensation based on a claim being resolved by litigation.

**Section 49** amends s. 626.8561, F.S., relating to the definition of the term, "public adjuster apprentice," to allow an adjusting firm to appoint, employ, or contract with a public adjuster apprentice. Currently, a public adjuster may also appoint an apprentice.

**Section 50** amends s. 626.865, F.S., relating to public adjuster qualifications, to provide that a nonresident public adjuster who has been licensed and appointed on a continual basis for the previous 6 months to the list of licensed categories considered qualified for the public adjuster license. The section also requires that the \$50,000 bond required as a condition for licensure must remain in effect for 1 year after the expiration or termination of the license.

**Section 51** amends s. 626.8651, F.S., relating to public adjuster apprentice appointment and qualifications, to require that only a public adjusting firm that has a designated primary adjuster, as required in section 626.8695, F.S., may appoint the public adjuster apprentice, while eliminating a public all-lines adjuster's ability to appoint a public adjuster apprentice.

**Section 52** amends s. 626.8696, F.S., relating to requirements of an application for an adjusting firm license, to require the name and license number of the designated primary adjuster for each adjusting firm location as required in s. 626.8695, F.S. Further, fingerprints of each individual to

be disclosed in the application (each majority owner, partner, officer, and director of the adjusting firm) must be filed with DFS in accordance with s. 626.171(4), F.S., unless an individual is currently licensed and appointed under ch. 626, F.S. Only one of the individuals required to be listed on the application must sign the application. Currently, each owner of the firm must sign the application.

**Section 53** amends s. 626.8732, F.S., relating to bond requirements for a nonresident public adjuster, to provide that the mandated bond must be maintained unimpaired throughout the existence of the license and for a period of 1 year following the expiration or termination of the license.

**Section 54** amends s. 626.8734, F.S., relating to nonresident all-lines adjuster license qualifications, to revise the fingerprinting requirements.

**Section 58** amends s. 626.9953, F.S., relating to qualifications for registration, to provide conforming fingerprinting requirements.

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

**Section 59** amends s. 633.135, F.S., relating to the Firefighter Assistance Grant Program, to expand the list of purchases eligible for the grant program to include:

- Other equipment and tools that improve firesafety and fire rescue capabilities for firefighters.
- Protective clothing and equipment compliant with NFPA 1977, “Standard on Protective Clothing Equipment for Wildland Fire Fighting and Urban Interface Fire Fighting.”

**Section 60** amends s. 633.216, F.S., relating to inspections of buildings and equipment; training and certification requirements, to eliminate the requirement that a previously certified firesafety inspector with a certification that has lapsed for 8 years or more to repeat the fire safety inspector training required by the division. Current law requires that a certificate is valid for 4 years and renewal is contingent upon the completion of continuing education. An exception allowing a licensee to pass successfully the examination in lieu of the training is deleted.

**Section 61** amends s. 633.408, F.S., relating to training and certification, to authorize the Division of Fire Marshal to establish the requirements of the minimum standards course by rule. The section also provides technical changes.

**Section 62** amends s. 633.414, F.S., relating to retention of firefighter and volunteer firefighter certifications, to provide that the renewal requirements for the special certificate of compliance is the same as a firefighter certificate of compliance. The bill also changes the definition of an active firefighter.

**Section 63** amends s. 648.34, F.S., relating to qualification of bail bond agents, to revise the fingerprinting process to be in accordance with s. 626.171(4), F.S.

**Section 64** amends s. 648.355, F.S., relating to temporary limited license as limited surety agent or professional bail bond agent, to revise fingerprinting requirements to conform to s. 626.171(4), F.S.

**Section 65** amends s. 648.46, F.S., relating to disciplinary action against bail bond licensees, to provide that the expiration, nonrenewal, or surrender of licensure under ch. 648, F.S., does not eliminate the jurisdiction of the licensing authority to investigate and prosecute for a violation committed by a licensee while licensed under this chapter. Notwithstanding the withdrawal of a complaint, the prosecution of any matter may be initiated or continued.

### **Florida Patient Compensation Fund**

**Section 66** amends s. 766.105, F.S., relating to the Florida Patient's Compensation Fund, to revise operations and duties of the board of governors of the fund and the Agency for Health Care Administration (agency) relating to financial responsibility or coverage requirements and certification of such coverage. The section provides that the agency would receive and review the documents and determine compliance. The supervision of the fund is transferred from the board of governors to the Chief Financial Officer or his or her designee.

Currently, the agency must review documentation submitted by hospitals demonstrating financial responsibility to pay claims and costs arising out of the rendering or failure to render medical services and for bodily injury or property damage to a person or property arising out of the activities of the hospital, as provided in s. 766.105(2), F.S. Once the agency completes the review, the agency delivers the documents to the board of governors. At least 60 days prior to the issuance or renewal of a hospital's license, the agency must request that the board of governors certify that each hospital complies with coverage requirements. Currently, the board of governors of the Fund are responsible for the supervision and operation of the Fund.

The section provides that the Fund must operate subject to the supervision of the CFO or his or her designee, subject to the policies and procedures and under the auspices of the Division of Rehabilitation and Liquidation within DFS until DFS executes a legal dissolution of the fund on or before December 31, 2023. Prior to the legal dissolution of the fund, DFS must:

- Obtain all existing records and retain necessary records of the fund pursuant to law.
- Identify all remaining property held by the fund and attempt to return such property to its owners and, for property that cannot be returned to the owner, transfer such property to the Division of Unclaimed Property within DFS.
- Make a final accounting of the finances of the fund.
- Ensure that the fund has met all its obligations pursuant to structured settlements, annuities, or other instruments established to pay covered claims, and, if the fund has not done so, attempt to meet such obligations before final and complete dissolution of the fund.
- Sell or otherwise dispose of all physical assets of the fund.
- Execute a legal dissolution of the fund.
- Transfer any remaining money or assets of the fund to the CFO for deposit in the General Revenue Fund.

The section also provides that s. 766.105, F.S., is repealed effective January 1, 2024.

**Section 11** creates ss. 395.1061 and **section 67 and 68** amend s.945.6041, F.S., and 985.6441, F.S., to provide conforming changes relating to the repeal of s. 766.105, F.S., and transferring a provision relating to health care providers and their financial responsibility in complying with

professional liability requirements. The provision is being transferred to s. 395.1061, F.S., because the bill repeals the current provision in 766.105, F.S..

**Section 69** transfers all powers, duties, functions, records, offices, positions, property, pending issues, existing contracts, and administrative authority relating to the Stop Inmate Fraud Program within the DFS to the Department of Economic Opportunity.

**Section 70** provides that, except as otherwise expressly provided in this act, this act takes effect July 1, 2022.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill eliminates the current maximum fee of \$50 to consumers for the transference of burial rights.

C. Government Sector Impact:

The implementation of SB 1874 will reduce penalties imposed on employers that do not comply with the workers' compensation insurance coverage requirements. The fiscal impact is unknown.

The changes made to the Firefighter Assistance Grant program will allow the program to fund additional necessary tools and equipment to firefighters.

## **VI. Technical Deficiencies:**

Section 30 creates a definition for the term, “licensing authority.” The term means the respective jurisdiction of the department or the office, as provided by law. Sections 34 and 64 of the bill amends s. 626.201, F.S., and uses the term, “licensing authority.” Other existing provisions in the Florida Insurance Code use the term, “department or office.” Currently, the term licensing authority is used in ss. 626.8732 and 626.8734, F.S., in the context of a licensing authority of another state. The replacement of the term, “licensing authority,” with “department or office” in Sections 34 and 64, and the removal of the definition of “licensing authority” in Section 30 would provide greater clarity and consistency with the use of the term, “licensing authority,” in current law.

## **VII. Related Issues:**

None.

## **VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 48.151, 110.123, 110.131, 120.541, 215.34, 215.93, 215.94, 216.102, 218.32, 414.40, 440.02, 440.05, 440.107, 440.13, 440.185, 440.381, 497.277, 497.369, 497.372, 497.374, 554.108, 554.111, 554.114, 624.307, 624.422, 624.423, 626.015, 626.171, 626.172, 626.201, 626.202, 626.221, 626.311, 626.321, 626.601, 626.7845, 626.8411, 626.8412, 626.8417, 626.8421, 626.843, 626.8433, 626.8447, 626.854, 626.8561, 626.865, 626.8651, 626.8696, 626.8732, 626.8734, 626.906, 626.912, 626.937, 626.9953, 633.135, 633.216, 633.408, 633.414, 648.34, 648.355, 648.46, 766.105, 945.6041, and 985.6441.

This bill creates sections 395.1061 and 626.173 of the Florida Statutes:

This bill repeals section 17.035 of the Florida Statutes.

## **IX. Additional Information:**

### **A. Committee Substitute – Statement of Changes:**

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

#### **CS by Banking and Insurance on January 25, 2022:**

- Revises compensation for public adjuster by requiring that the compensation must be based on the recovery allocated to the insured for covered damage, exclusive of attorney fee and costs.
- Revises service of process requirements and provides conforming changes relating to service of process.
- Transfers responsibilities of the Florida Patient’s Compensation Fund relating to hospitals demonstrating financial responsibility for maintaining professional liability coverage to the Agency for Health Care Administration.
- Revising requirements for closing an insurance agency.

- Provides technical changes.

B. Amendments:

None.

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

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/27/2022	.	
	.	
	.	
	.	

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

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 17.0315, Florida Statutes, is repealed.

Section 2. Subsections (1) and (3) of section 48.151,  
Florida Statutes, are amended to read:

48.151 Service on statutory agents for certain persons.—

(1) When any law designates a public officer, board,  
agency, or commission as the agent for service of process on any



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11 person, firm, or corporation, service of process thereunder  
12 shall be made by leaving one copy of the process with the public  
13 officer, board, agency, or commission or in the office thereof,  
14 or by mailing one copy to the public officer, board, agency, or  
15 commission, except as provided in subsection (3). The public  
16 officer, board, agency, or commission so served shall retain a  
17 record copy and promptly send the copy served, by registered or  
18 certified mail, to the person to be served as shown by his or  
19 her or its records. Proof of service on the public officer,  
20 board, agency, or commission shall be by a notice accepting the  
21 process which shall be issued by the public officer, board,  
22 agency, or commission promptly after service and filed in the  
23 court issuing the process. The notice accepting service shall  
24 state the date upon which the copy of the process was mailed by  
25 the public officer, board, agency, or commission to the person  
26 being served and the time for pleading prescribed by the rules  
27 of procedure shall run from this date. The service is valid  
28 service for all purposes on the person for whom the public  
29 officer, board, agency, or commission is statutory agent for  
30 service of process.

31 (3) The Chief Financial Officer ~~or his or her assistant or~~  
32 ~~deputy or another person in charge of the office~~ is the agent  
33 for service of process on all insurers applying for authority to  
34 transact insurance in this state, all licensed nonresident  
35 insurance agents, all nonresident disability insurance agents  
36 licensed pursuant to s. 626.835, any unauthorized insurer under  
37 s. 626.906 or s. 626.937, domestic reciprocal insurers,  
38 fraternal benefit societies under chapter 632, warranty  
39 associations under chapter 634, prepaid limited health service





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40 organizations under chapter 636, and persons required to file  
41 statements under s. 628.461. ~~As an alternative to service of~~  
42 ~~process made by mail or personal service on the Chief Financial~~  
43 ~~Officer, on his or her assistant or deputy, or on another person~~  
44 ~~in charge of the office,~~ The Department of Financial Services  
45 shall may create a secure online portal as the sole means an  
46 Internet-based transmission system to accept service of process  
47 on the Chief Financial Officer under this section by electronic  
48 transmission of documents.

49 Section 3. Present subsections (9) through (13) of section  
50 110.123, Florida Statutes, are redesignated as subsections (10)  
51 through (14), respectively, a new subsection (9) is added to  
52 that section, and paragraphs (b), (c), (f), (h), (i), and (o) of  
53 subsection (2) and paragraph (i) of subsection (5) are amended,  
54 to read:

55 110.123 State group insurance program.—

56 (2) DEFINITIONS.—As used in ss. 110.123-110.1239, the term:

57 (b) "Enrollee" means all state officers and employees,  
58 retired state officers and employees, surviving spouses of  
59 deceased state officers and employees, and terminated employees  
60 or individuals with continuation coverage who are enrolled in an  
61 insurance plan offered by the state group insurance program. The  
62 term "Enrollee" includes all state university officers and  
63 employees, retired state university officers and employees,  
64 surviving spouses of deceased state university officers and  
65 employees, and terminated state university employees or  
66 individuals with continuation coverage who are enrolled in an  
67 insurance plan offered by the state group insurance program. As  
68 used in this paragraph, state employees and retired state



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69 employees also include employees and retired employees of the  
70 Division of Rehabilitation and Liquidation.

71 (c) "Full-time state employees" means employees of all  
72 branches or agencies of state government holding salaried  
73 positions who are paid by state warrant or from agency funds and  
74 who work or are expected to work an average of at least 30 ~~or~~  
75 more hours per week; employees of the Division of Rehabilitation  
76 and Liquidation who work or are expected to work an average of  
77 at least 30 hours per week; employees paid from regular salary  
78 appropriations for 8 months' employment, including university  
79 personnel on academic contracts; and employees paid from other-  
80 personal-services (OPS) funds as described in subparagraphs 1.  
81 and 2. The term includes all full-time employees of the state  
82 universities. The term does not include seasonal workers who are  
83 paid from OPS funds.

84 1. For persons hired before April 1, 2013, the term  
85 includes any person paid from OPS funds who:

86 a. Has worked an average of at least 30 hours or more per  
87 week during the initial measurement period from April 1, 2013,  
88 through September 30, 2013; or

89 b. Has worked an average of at least 30 hours or more per  
90 week during a subsequent measurement period.

91 2. For persons hired after April 1, 2013, the term includes  
92 any person paid from OPS funds who:

93 a. Is reasonably expected to work an average of at least 30  
94 hours or more per week; or

95 b. Has worked an average of at least 30 hours or more per  
96 week during the person's measurement period.

97 (f) "Part-time state employee" means an employee of any



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98 branch or agency of state government paid by state warrant from  
99 salary appropriations or from agency funds, or an employee of  
100 the Division of Rehabilitation and Liquidation, and who is  
101 employed for less than an average of 30 hours per week or, if on  
102 academic contract or seasonal or other type of employment which  
103 is less than year-round, is employed for less than 8 months  
104 during any 12-month period, but does not include a person paid  
105 from other-personal-services (OPS) funds. The term includes all  
106 part-time employees of the state universities.

107 (h) "Retired state officer or employee" or "retiree" means  
108 any state or state university officer or employee, or, beginning  
109 with the 2023 plan year, an employee of the Division of  
110 Rehabilitation and Liquidation, who retires under a state  
111 retirement system or a state optional annuity or retirement  
112 program or is placed on disability retirement, and who was  
113 insured under the state group insurance program or the Division  
114 of Rehabilitation and Liquidation's group insurance program at  
115 the time of retirement, and who begins receiving retirement  
116 benefits immediately after retirement from state or state  
117 university office or employment. The term also includes any  
118 state officer or state employee who retires under the Florida  
119 Retirement System Investment Plan established under part II of  
120 chapter 121 if he or she:

- 121 1. Meets the age and service requirements to qualify for  
122 normal retirement as set forth in s. 121.021(29); or  
123 2. Has attained the age specified by s. 72(t)(2)(A)(i) of  
124 the Internal Revenue Code and has 6 years of creditable service.

125 (i) "State agency" or "agency" means any branch,  
126 department, or agency of state government. "State agency" or



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127 "agency" includes any state university and the Division of  
128 Rehabilitation and Liquidation for purposes of this section  
129 only.

130 (o) "Surviving spouse" means the widow or widower of a  
131 deceased state officer, full-time state employee, part-time  
132 state employee, or retiree if such widow or widower was covered  
133 as a dependent under the state group health insurance plan,  
134 TRICARE supplemental insurance plan, ~~or~~ a health maintenance  
135 organization plan established pursuant to this section, or the  
136 Division of Rehabilitation and Liquidation's group insurance  
137 program at the time of the death of the deceased officer,  
138 employee, or retiree. "Surviving spouse" also means any widow or  
139 widower who is receiving or eligible to receive a monthly state  
140 warrant from a state retirement system as the beneficiary of a  
141 state officer, full-time state employee, or retiree who died  
142 prior to July 1, 1979. For the purposes of this section, any  
143 such widow or widower shall cease to be a surviving spouse upon  
144 his or her remarriage.

145 (5) DEPARTMENT POWERS AND DUTIES.—The department is  
146 responsible for the administration of the state group insurance  
147 program. The department shall initiate and supervise the program  
148 as established by this section and shall adopt such rules as are  
149 necessary to perform its responsibilities. To implement this  
150 program, the department shall, with prior approval by the  
151 Legislature:

152 (i) Contract with a single custodian to provide services  
153 necessary to implement and administer the health savings  
154 accounts authorized in subsection (13) ~~(12)~~.  
155



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156 Final decisions concerning enrollment, the existence of  
157 coverage, or covered benefits under the state group insurance  
158 program shall not be delegated or deemed to have been delegated  
159 by the department.

160 (9) COVERAGE AND ENROLLMENT PERIOD FOR EMPLOYEES, RETIREES,  
161 AND WIDOWS AND WIDOWERS OF EMPLOYEES AND RETIREES OF THE  
162 DIVISION OF REHABILITATION AND LIQUIDATION.—

163 (a) Beginning with the 2023 plan year:

164 1. A retired employee insured under the Division of  
165 Rehabilitation and Liquidation's group insurance program, or a  
166 widow or widower of an employee or of a retired employee of the  
167 Division of Rehabilitation and Liquidation who is covered as a  
168 dependent under the Division of Rehabilitation and Liquidation's  
169 group insurance program, may purchase coverage in a state group  
170 health insurance plan at the same premium cost as that for a  
171 retiree or a surviving spouse, respectively, enrolled in the  
172 state group insurance program.

173 2. A terminated employee of the Division of Rehabilitation  
174 and Liquidation or an individual with continuation coverage who  
175 is insured under the Division of Rehabilitation and  
176 Liquidation's group insurance program may purchase coverage in a  
177 state group health insurance plan at the same premium cost as  
178 that for a terminated employee or an individual with  
179 continuation coverage, respectively, enrolled in the state group  
180 insurance program.

181 (b) The enrollment period for the state group insurance  
182 program begins with the 2023 plan year for:

183 1. Current and retired employees of the Division of  
184 Rehabilitation and Liquidation.



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185           2. Widows and widowers of employees and of retired  
186 employees of the Division of Rehabilitation and Liquidation.

187           3. Terminated employees of the Division of Rehabilitation  
188 and Liquidation or individuals with continuation coverage who  
189 are insured under the Division of Rehabilitation and  
190 Liquidation's group insurance program.

191           Section 4. Subsection (5) of section 110.131, Florida  
192 Statutes, is amended to read:

193           110.131 Other-personal-services employment.—

194           (5) Beginning January 1, 2014, an other-personal-services  
195 (OPS) employee who has worked an average of at least 30 or more  
196 hours per week during the measurement period described in s.  
197 110.123(14) (c) or (d) ~~s. 110.123(13) (c) or (d)~~, or who is  
198 reasonably expected to work an average of at least 30 or more  
199 hours per week following his or her employment, is eligible to  
200 participate in the state group insurance program as provided  
201 under s. 110.123.

202           Section 5. Paragraph (d) is added to subsection (4) of  
203 section 120.541, Florida Statutes, and paragraph (a) of  
204 subsection (2) and subsection (3) of that section are  
205 republished, to read:

206           120.541 Statement of estimated regulatory costs.—

207           (2) A statement of estimated regulatory costs shall  
208 include:

209           (a) An economic analysis showing whether the rule directly  
210 or indirectly:

211           1. Is likely to have an adverse impact on economic growth,  
212 private sector job creation or employment, or private sector  
213 investment in excess of \$1 million in the aggregate within 5



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214 years after the implementation of the rule;

215       2. Is likely to have an adverse impact on business  
216 competitiveness, including the ability of persons doing business  
217 in the state to compete with persons doing business in other  
218 states or domestic markets, productivity, or innovation in  
219 excess of \$1 million in the aggregate within 5 years after the  
220 implementation of the rule; or

221       3. Is likely to increase regulatory costs, including any  
222 transactional costs, in excess of \$1 million in the aggregate  
223 within 5 years after the implementation of the rule.

224       (3) If the adverse impact or regulatory costs of the rule  
225 exceed any of the criteria established in paragraph (2) (a), the  
226 rule shall be submitted to the President of the Senate and  
227 Speaker of the House of Representatives no later than 30 days  
228 prior to the next regular legislative session, and the rule may  
229 not take effect until it is ratified by the Legislature.

230       (4) Subsection (3) does not apply to the adoption of:

231       (d) Schedules of maximum reimbursement allowances by the  
232 three-member panel which are expressly authorized by s. 440.13.

233       Section 6. Subsection (1) of section 215.34, Florida  
234 Statutes, is amended to read:

235       215.34 State funds; noncollectible items; procedure.—

236       (1) Any check, draft, or other order for the payment of  
237 money in payment of any licenses, fees, taxes, commissions, or  
238 charges of any sort authorized to be made under the laws of the  
239 state and deposited in the State Treasury as provided herein,  
240 which may be returned for any reason by the bank or other payor  
241 upon which same shall have been drawn shall be forthwith  
242 returned by the Chief Financial Officer for collection to the



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243 state officer, the state agency, or the entity of the judicial  
244 branch making the deposit. In such case, the Chief Financial  
245 Officer may issue a debit memorandum charging an account of the  
246 agency, officer, or entity of the judicial branch which  
247 originally received the payment. The original of the debit  
248 memorandum shall state the reason for the return of the check,  
249 draft, or other order and shall accompany the item being  
250 returned to the officer, agency, or entity of the judicial  
251 branch being charged. The officer, agency, or entity of the  
252 judicial branch receiving the charged-back item shall ~~prepare a~~  
253 ~~journal transfer which shall~~ debit the charge against the fund  
254 or account to which the same shall have been originally  
255 credited. Such procedure for handling noncollectible items shall  
256 not be construed as paying funds out of the State Treasury  
257 without an appropriation, but shall be considered as an  
258 administrative procedure for the efficient handling of state  
259 records and accounts.

260 Section 7. Paragraph (c) of subsection (1) of section  
261 215.93, Florida Statutes, is amended to read:

262 215.93 Florida Financial Management Information System.—

263 (1) To provide the information necessary to carry out the  
264 intent of the Legislature, there shall be a Florida Financial  
265 Management Information System. The Florida Financial Management  
266 Information System shall be fully implemented and shall be  
267 upgraded as necessary to ensure the efficient operation of an  
268 integrated financial management information system and to  
269 provide necessary information for the effective operation of  
270 state government. Upon the recommendation of the coordinating  
271 council and approval of the board, the Florida Financial





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272 Management Information System may require data from any state  
273 agency information system or information subsystem or may  
274 request data from any judicial branch information system or  
275 information subsystem that the coordinating council and board  
276 have determined to have statewide financial management  
277 significance. Each functional owner information subsystem within  
278 the Florida Financial Management Information System shall be  
279 developed in such a fashion as to allow for timely, positive,  
280 preplanned, and prescribed data transfers between the Florida  
281 Financial Management Information System functional owner  
282 information subsystems and from other information systems. The  
283 principal unit of the system shall be the functional owner  
284 information subsystem, and the system shall include, but shall  
285 not be limited to, the following:

286 (c) Financial ~~Cash~~ Management Subsystem.

287 Section 8. Subsection (3) of section 215.94, Florida  
288 Statutes, is amended to read:

289 215.94 Designation, duties, and responsibilities of  
290 functional owners.—

291 (3) The Chief Financial Officer shall be the functional  
292 owner of the Financial ~~Cash~~ Management Subsystem. The Chief  
293 Financial Officer shall design, implement, and operate the  
294 subsystem in accordance with the provisions of ss. 215.90-  
295 215.96. The subsystem shall include, but shall not be limited  
296 to, functions for:

297 (a) Recording and reconciling credits and debits to  
298 treasury fund accounts.

299 (b) Monitoring cash levels and activities in state bank  
300 accounts.



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301 (c) Monitoring short-term investments of idle cash.

302 (d) Administering the provisions of the Federal Cash  
303 Management Improvement Act of 1990.

304 Section 9. Subsection (3) of section 216.102, Florida  
305 Statutes, is amended to read:

306 216.102 Filing of financial information; handling by Chief  
307 Financial Officer; penalty for noncompliance.-

308 (3) The Chief Financial Officer shall:

309 (a) Prepare and furnish to the Auditor General annual  
310 financial statements for the state on or before December 31 of  
311 each year, using generally accepted accounting principles.

312 (b) Prepare and publish an annual ~~a comprehensive annual~~  
313 financial report for the state in accordance with generally  
314 accepted accounting principles on or before February 28 of each  
315 year.

316 (c) Furnish the Governor, the President of the Senate, and  
317 the Speaker of the House of Representatives with a copy of the  
318 annual comprehensive ~~annual~~ financial report prepared pursuant  
319 to paragraph (b).

320 (d) Notify each agency and the judicial branch of the data  
321 that is required to be recorded to enhance accountability for  
322 tracking federal financial assistance.

323 (e) Provide reports, as requested, to executive or judicial  
324 branch entities, the President of the Senate, the Speaker of the  
325 House of Representatives, and the members of the Florida  
326 Congressional Delegation, detailing the federal financial  
327 assistance received and disbursed by state agencies and the  
328 judicial branch.

329 (f) Consult with and elicit comments from the Executive



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330 Office of the Governor on changes to the Florida Accounting  
331 Information Resource Subsystem which clearly affect the  
332 accounting of federal funds, so as to ensure consistency of  
333 information entered into the Federal Aid Tracking System by  
334 state executive and judicial branch entities. While efforts  
335 shall be made to ensure the compatibility of the Florida  
336 Accounting Information Resource Subsystem and the Federal Aid  
337 Tracking System, any successive systems serving identical or  
338 similar functions shall preserve such compatibility.

339  
340 The Chief Financial Officer may furnish and publish in  
341 electronic form the financial statements and the annual  
342 comprehensive ~~annual~~ financial report required under paragraphs  
343 (a), (b), and (c).

344 Section 10. Paragraph (h) of subsection (1) of section  
345 218.32, Florida Statutes, is amended, and paragraph (i) is added  
346 to that subsection, to read:

347 218.32 Annual financial reports; local governmental  
348 entities.-

349 (1)

350 (h) ~~It is the intent of the Legislature to create The~~  
351 Florida Open Financial Statement System must serve as an  
352 interactive repository for governmental financial statements.  
353 This system serves as the primary reporting location for  
354 government financial information. A local government shall use  
355 the system to file with the department copies of all audit  
356 reports compiled pursuant to ss. 11.45 and 218.39. The system  
357 must be accessible to the public and must be open to inspection  
358 at all times by the Legislature, the Auditor General, and the



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359 Chief Inspector General.

360 1. The Chief Financial Officer may consult with  
361 stakeholders with regard to, ~~including the department, the~~  
362 ~~Auditor General, a representative of a municipality or county, a~~  
363 ~~representative of a special district, a municipal bond investor,~~  
364 ~~and an information technology professional employed in the~~  
365 ~~private sector, for input on the design and implementation of~~  
366 the Florida Open Financial Statement System.

367 2. The Chief Financial Officer may choose contractors to  
368 build one or more eXtensible Business Reporting Language (XBRL)  
369 taxonomies suitable for state, county, municipal, and special  
370 district financial filings and to create a software tool that  
371 enables financial statement filers to easily create XBRL  
372 documents consistent with such taxonomies. The Chief Financial  
373 Officer must recruit and select contractors through an open  
374 request for proposals process pursuant to chapter 287.

375 3. The Chief Financial Officer must require that all work  
376 products be completed no later than December 31, 2021.

377 4. If the Chief Financial Officer deems the work products  
378 adequate, all local governmental financial statements for fiscal  
379 years ending on or after September 1, 2022, may ~~must~~ be filed in  
380 XBRL format as prescribed by the Chief Financial Officer ~~and~~  
381 ~~must meet the validation requirements of the relevant taxonomy.~~

382 5. A local government that begins filing in XBRL format may  
383 not be required to make filings in Portable Document Format.

384 (i) Each local governmental entity that enters all required  
385 information in the Florida Open Financial Statement System is  
386 deemed to be compliant with this section, except as otherwise  
387 provided in this section.



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388 Section 11. Section 395.1061, Florida Statutes, is created  
389 to read:

390 395.1061 Professional liability coverage.-

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

392 (a) "Committee" means a committee or board of a hospital  
393 established to make recommendations, policies, or decisions  
394 regarding patient institutional utilization, patient treatment,  
395 or institutional staff privileges or to perform other  
396 administrative or professional purposes or functions.

397 (b) "Covered individuals" means the officers; trustees;  
398 volunteer workers; trainees; committee members, including  
399 physicians, osteopathic physicians, podiatric physicians, and  
400 dentists; and employees of the hospital other than employed  
401 physicians licensed under chapter 458, physician assistants  
402 licensed under chapter 458, osteopathic physicians licensed  
403 under chapter 459, dentists licensed under chapter 466, and  
404 podiatric physicians licensed under chapter 461. However, with  
405 respect to a hospital, the term also includes house physicians,  
406 interns, employed physician residents in a resident training  
407 program, and physicians performing purely administrative duties  
408 for the hospital instead of treating patients. The coverage  
409 applies to the hospital and those included in the definition of  
410 health care provider as provided in s. 985.6441(1).

411 (c) "Hospital system" means two or more hospitals  
412 associated by common ownership or corporate affiliation.

413 (d) "House physician" means any physician, osteopathic  
414 physician, podiatric physician, or dentist at a hospital,  
415 except:

416 1. The physician, osteopathic physician, podiatric



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417 physician, or dentist who has staff privileges at a hospital,  
418 provides emergency room services, or performs a medical or  
419 dental service for a fee; or

420 2. An anesthesiologist, a pathologist, or a radiologist.

421 (e) "Occurrence" means an accident or incident, including  
422 continuous or repeated exposure to certain harmful conditions,  
423 which results in patient injuries.

424 (f) "Per claim" means all claims per patient arising out of  
425 an occurrence.

426 (2) Each hospital, unless exempted under paragraph (3) (b),  
427 must demonstrate financial responsibility for maintaining  
428 professional liability coverage to pay claims and costs  
429 ancillary thereto arising out of the rendering of or failure to  
430 render medical care or services and for bodily injury or  
431 property damage to the person or property of any patient arising  
432 out of the activities of the hospital or arising out of the  
433 activities of covered individuals, to the satisfaction of the  
434 agency, by meeting one of the following requirements:

435 (a) Establish an escrow account in an amount equivalent to  
436 \$10,000 per claim for each bed in such hospital, not to exceed a  
437 \$2.5 million annual aggregate.

438 (b) Obtain professional liability coverage in an amount  
439 equivalent to \$10,000 or more per claim for each bed in such  
440 hospital from a private insurer, from the Joint Underwriting  
441 Association established under s. 627.351(4), or through a plan  
442 of self-insurance as provided in s. 627.357. However, a hospital  
443 may not be required to obtain such coverage in an amount  
444 exceeding a \$2.5 million annual aggregate.

445 (3) (a) Each hospital, unless exempted under paragraph (b),



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446 shall provide evidence of compliance and remain in continuous  
447 compliance with the professional liability coverage provisions  
448 of this section. The agency may not issue or renew the license  
449 of any hospital that does not provide evidence of compliance or  
450 that provides evidence of insufficient coverage.

451 (b) Any hospital operated by an agency, subdivision, or  
452 instrumentality of the state is exempt from the provisions of  
453 this section.

454 (4) A hospital system may meet the professional liability  
455 coverage requirement with an escrow account, insurance, or self-  
456 insurance policies if the \$10,000 per claim and \$2.5 million  
457 annual aggregate are met for each hospital in the hospital  
458 system.

459 Section 12. Section 414.40, Florida Statutes, is amended to  
460 read:

461 414.40 Stop Inmate Fraud Program established; guidelines.—

462 (1) There is created within the Department of Economic  
463 Opportunity ~~Financial Services~~ a Stop Inmate Fraud Program.

464 (2) The Department of Economic Opportunity ~~Financial~~  
465 ~~Services~~ is directed to implement the Stop Inmate Fraud Program  
466 in accordance with the following guidelines:

467 (a) The program shall establish procedures for sharing  
468 public records not exempt from the public records law among  
469 social services agencies regarding the identities of persons  
470 incarcerated in state correctional institutions, as defined in  
471 s. 944.02, and ~~or~~ in county, municipal, or regional jails or  
472 other detention facilities of local governments under chapter  
473 950 and ~~or~~ chapter 951 who are wrongfully receiving public  
474 assistance benefits or entitlement benefits.



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475 (b) Pursuant to these procedures, the program shall have  
476 access to records containing correctional information not exempt  
477 from the public records law on incarcerated persons which have  
478 been generated as criminal justice information. As used in this  
479 paragraph, the terms "record" and "criminal justice information"  
480 have the same meanings as provided in s. 943.045.

481 (c) Database searches shall be conducted of the inmate  
482 population at each correctional institution or other detention  
483 facility. A correctional institution or a detention facility  
484 shall provide the Stop Inmate Fraud Program with the information  
485 necessary to identify persons wrongfully receiving benefits in  
486 the medium requested by the Stop Inmate Fraud Program if the  
487 correctional institution or detention facility maintains the  
488 information in that medium.

489 (d) Data obtained from correctional institutions or other  
490 detention facilities shall be compared with the client files of  
491 the Department of Children and Families, the Department of  
492 Economic Opportunity, and other state or local agencies as  
493 needed to identify persons wrongfully obtaining benefits. Data  
494 comparisons shall be accomplished during periods of low  
495 information demand by agency personnel to minimize inconvenience  
496 to the agency.

497 (e) Results of data comparisons shall be furnished to the  
498 appropriate office for use in the county in which the data  
499 originated. The program may provide reports of the data it  
500 obtains to appropriate state, federal, and local government  
501 agencies or governmental entities, including, but not limited  
502 to:

503 1. The Child Support Enforcement Program of the Department





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504 of Revenue, so that the data may be used as locator information  
505 on persons being sought for purposes of child support.

506 2. The Social Security Administration, so that the data may  
507 be used to reduce federal entitlement fraud within the state.

508 3. The Division of Public Assistance Fraud of the  
509 Department of Financial Services, so that an investigation of  
510 the fraudulent receipt of public assistance may be facilitated.

511 (f) Reports by the program to another agency or entity  
512 shall be generated bimonthly, or as otherwise directed, and  
513 shall be designed to accommodate that agency's or entity's  
514 particular needs for data.

515 (g) Only those persons with active cases, or with cases  
516 that were active during the incarceration period, shall be  
517 reported, in order that the funding agency or entity, upon  
518 verification of the data, may take whatever action is deemed  
519 appropriate.

520 (h) For purposes of program review and analysis, each  
521 agency or entity receiving data from the program shall submit  
522 reports to the program which indicate the results of how the  
523 data was used.

524 Section 13. Paragraph (a) of subsection (16) of section  
525 440.02, Florida Statutes, is amended to read:

526 440.02 Definitions.—When used in this chapter, unless the  
527 context clearly requires otherwise, the following terms shall  
528 have the following meanings:

529 (16) (a) "Employer" means the state and all political  
530 subdivisions thereof, all public and quasi-public corporations  
531 therein, every person carrying on any employment, and the legal  
532 representative of a deceased person or the receiver or trustees



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533 of any person. The term "Employer" also includes employment  
534 agencies and, employee leasing companies that, ~~and similar~~  
535 ~~agents who~~ provide employees to other business entities or  
536 persons. If the employer is a corporation, parties in actual  
537 control of the corporation, including, but not limited to, the  
538 president, officers who exercise broad corporate powers,  
539 directors, and all shareholders who directly or indirectly own a  
540 controlling interest in the corporation, are considered the  
541 employer for the purposes of ss. 440.105, 440.106, and 440.107.

542 Section 14. Effective January 1, 2023, subsections (3),  
543 (4), (10), and (12) of section 440.05, Florida Statutes, are  
544 amended to read:

545 440.05 Election of exemption; revocation of election;  
546 notice; certification.—

547 (3) The notice of election to be exempt must be  
548 electronically submitted to the department by the officer of a  
549 corporation who is allowed to claim an exemption as provided by  
550 this chapter and must list the name, date of birth, valid driver  
551 license number or Florida identification card number, and all  
552 certified or registered licenses issued pursuant to chapter 489  
553 held by the person seeking the exemption, the registration  
554 number of the corporation filed with the Division of  
555 Corporations of the Department of State, and the percentage of  
556 ownership evidencing the required ownership under this chapter.  
557 The notice of election to be exempt must identify each  
558 corporation that employs the person electing the exemption and  
559 must list the ~~social security number or~~ federal tax  
560 identification number of each such employer and the additional  
561 documentation required by this section. In addition, the notice



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562 of election to be exempt must provide that the officer electing  
563 an exemption is not entitled to benefits under this chapter,  
564 must provide that the election does not exceed exemption limits  
565 for officers provided in s. 440.02, ~~and~~ must certify that any  
566 employees of the corporation whose officer elects an exemption  
567 are covered by workers' compensation insurance, and must certify  
568 that the officer electing an exemption has completed an online  
569 workers' compensation coverage and compliance tutorial developed  
570 by the department. Upon receipt of the notice of the election to  
571 be exempt, receipt of all application fees, and a determination  
572 by the department that the notice meets the requirements of this  
573 subsection, the department shall issue a certification of the  
574 election to the officer, unless the department determines that  
575 the information contained in the notice is invalid. The  
576 department shall revoke a certificate of election to be exempt  
577 from coverage upon a determination by the department that the  
578 person does not meet the requirements for exemption or that the  
579 information contained in the notice of election to be exempt is  
580 invalid. The certificate of election must list the name of the  
581 corporation listed in the request for exemption. A new  
582 certificate of election must be obtained each time the person is  
583 employed by a new or different corporation that is not listed on  
584 the certificate of election. Upon written request from a  
585 workers' compensation carrier, the department shall send  
586 thereafter an electronic notification to the carrier identifying  
587 each of its policyholders for which a notice of election to be  
588 exempt has been issued or for which a notice of revocation to be  
589 exempt has been received ~~A notice of the certificate of election~~  
590 ~~must be sent to each workers' compensation carrier identified in~~



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591 ~~the request for exemption. Upon filing a notice of revocation of~~  
592 ~~election, an officer who is a subcontractor or an officer of a~~  
593 ~~corporate subcontractor must notify her or his contractor. Upon~~  
594 ~~revocation of a certificate of election of exemption by the~~  
595 ~~department, the department shall notify the workers'~~  
596 ~~compensation carriers identified in the request for exemption.~~

597 (4) The notice of election to be exempt from the provisions  
598 of this chapter must contain a notice that clearly states in  
599 substance the following: "Any person who, knowingly and with  
600 intent to injure, defraud, or deceive the department or any  
601 employer or employee, insurance company, or any other person,  
602 files a notice of election to be exempt containing any false or  
603 misleading information is guilty of a felony of the third  
604 degree." Each person filing a notice of election to be exempt  
605 shall personally sign the notice and attest that he or she has  
606 reviewed, understands, and acknowledges the foregoing notice.  
607 The certificate of election to be exempt must contain the  
608 following notice: "This certificate of election to be exempt is  
609 NOT a license issued by the Department of Business and  
610 Professional Regulation (DBPR). To determine if the  
611 certificateholder is required to have a license to perform work  
612 or to verify the license of the certificateholder, go to (insert  
613 DBPR's website address for where to find this information)."

614 ~~(10) Each officer of a corporation who is actively engaged~~  
615 ~~in the construction industry and who elects an exemption from~~  
616 ~~this chapter shall maintain business records as specified by the~~  
617 ~~department by rule.~~

618 ~~(11)-(12)~~ Certificates of election to be exempt issued under  
619 subsection (3) shall apply only to the corporate officer named



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620 on the notice of election to be exempt and ~~apply only within the~~  
621 ~~scope of the business or trade listed on the notice of election~~  
622 ~~to be exempt.~~

623 Section 15. Effective January 1, 2023, paragraphs (a) and  
624 (d) of subsection (7) of section 440.107, Florida Statutes, are  
625 amended to read:

626 440.107 Department powers to enforce employer compliance  
627 with coverage requirements.—

628 (7) (a) Whenever the department determines that an employer  
629 who is required to secure the payment to his or her employees of  
630 the compensation provided for by this chapter has failed to  
631 secure the payment of workers' compensation required by this  
632 chapter or to produce the required business records under  
633 subsection (5) within 21 ~~10-business~~ days after receipt of the  
634 written request of the department, such failure shall be deemed  
635 an immediate serious danger to public health, safety, or welfare  
636 sufficient to justify service by the department of a stop-work  
637 order on the employer, requiring the cessation of all business  
638 operations. If the department makes such a determination, the  
639 department shall issue a stop-work order within 72 hours. The  
640 order shall take effect when served upon the employer or, for a  
641 particular employer worksite, when served at that worksite. In  
642 addition to serving a stop-work order at a particular worksite  
643 which shall be effective immediately, the department shall  
644 immediately proceed with service upon the employer which shall  
645 be effective upon all employer worksites in the state for which  
646 the employer is not in compliance. A stop-work order may be  
647 served with regard to an employer's worksite by posting a copy  
648 of the stop-work order in a conspicuous location at the



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649 worksite. Information related to an employer's stop-work order  
650 shall be made available on the division's website, ~~be updated~~  
651 ~~daily~~, and remain on the website for at least 5 years. The order  
652 shall remain in effect until the department issues an order  
653 releasing the stop-work order upon a finding that the employer  
654 has come into compliance with the coverage requirements of this  
655 chapter and has paid any penalty assessed under this section.  
656 The department may issue an order of conditional release from a  
657 stop-work order to an employer upon a finding that the employer  
658 has complied with the coverage requirements of this chapter,  
659 paid a penalty of \$1,000 as a down payment, and agreed to remit  
660 periodic payments of the remaining penalty amount pursuant to a  
661 payment agreement schedule with the department or pay the  
662 remaining penalty amount in full. An employer may not enter into  
663 a payment agreement schedule unless the employer has fully paid  
664 any previous penalty assessed under this section. If an order of  
665 conditional release is issued, failure by the employer to pay  
666 the penalty in full or enter into a payment agreement with the  
667 department within 21 ~~28~~ days after service of the first penalty  
668 assessment calculation ~~stop-work order~~ upon the employer, or to  
669 meet any term or condition of such penalty payment agreement,  
670 shall result in the immediate reinstatement of the stop-work  
671 order and the entire unpaid balance of the penalty shall become  
672 immediately due.

673 (d)1. In addition to any penalty, stop-work order, or  
674 injunction, the department shall assess against an ~~any~~ employer  
675 who has failed to secure the payment of compensation as required  
676 by this chapter a penalty equal to 2 times the amount the  
677 employer would have paid in premium when applying approved



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678 manual rates to the employer's payroll during periods for which  
679 it failed to secure the payment of workers' compensation  
680 required by this chapter within the preceding 12-month 2-year  
681 period or \$1,000, whichever is greater. However, for an employer  
682 who is issued a stop-work order for materially understating or  
683 concealing payroll or has been previously issued a stop-work  
684 order or an order of penalty assessment, the preceding 24-month  
685 period shall be used to calculate the penalty as specified in  
686 this subparagraph.

687 a. For an employer ~~employers~~ who has ~~have~~ not been  
688 previously issued a stop-work order or order of penalty  
689 assessment, the department must allow the employer to receive a  
690 credit for the initial payment of the estimated annual workers'  
691 compensation policy premium, as determined by the carrier, to be  
692 applied to the penalty. Before applying the credit to the  
693 penalty, the employer must provide the department with  
694 documentation reflecting that the employer has secured the  
695 payment of compensation pursuant to s. 440.38 and proof of  
696 payment to the carrier. In order for the department to apply a  
697 credit for an employer that has secured workers' compensation  
698 for leased employees by entering into an employee leasing  
699 contract with a licensed employee leasing company, the employer  
700 must provide the department with a written confirmation, by a  
701 representative from the employee leasing company, of the dollar  
702 or percentage amount attributable to the initial estimated  
703 workers' compensation expense for leased employees, and proof of  
704 payment to the employee leasing company. The credit may not be  
705 applied unless the employer provides the documentation and proof  
706 of payment to the department within 21 ~~28~~ days after the



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707 employer's receipt of the written request to produce business  
708 records for calculating the penalty under this subparagraph  
709 ~~service of the stop-work order or first order of penalty~~  
710 ~~assessment upon the employer.~~

711 b. For an employer ~~employers~~ who has ~~have~~ not been  
712 previously issued a stop-work order or order of penalty  
713 assessment, the department must reduce the final assessed  
714 penalty by 25 percent if the employer has complied with  
715 administrative rules adopted pursuant to subsection (5) and has  
716 provided such business records to the department within 21 ~~10~~  
717 ~~business~~ days after the employer's receipt of the written  
718 request to produce business records for calculating the penalty  
719 under this subparagraph.

720 c. For an employer who has not been previously issued a  
721 stop-work order or an order of penalty assessment, the  
722 department must reduce the final assessed penalty by 15 percent  
723 if the employer correctly answers at least 80 percent of the  
724 questions from an online workers' compensation coverage and  
725 compliance tutorial, developed by the department, within 21 days  
726 after the employer's receipt of the written request to produce  
727 business records for calculating the penalty under this  
728 subparagraph. The online tutorial must be taken in a department  
729 office location identified by rule.

730  
731 The \$1,000 penalty shall be assessed against the employer even  
732 if the calculated penalty after the credit provided in sub-  
733 subparagraph a., the ~~and~~ 25 percent reduction provided in sub-  
734 subparagraph b., and the 15 percent reduction provided in sub-  
735 subparagraph c., as applicable, have been applied is less than





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736 \$1,000.

737 2. Any subsequent violation within 5 years after the most  
738 recent violation shall, in addition to the penalties set forth  
739 in this subsection, be deemed a knowing act within the meaning  
740 of s. 440.105.

741 Section 16. Subsection (12) of section 440.13, Florida  
742 Statutes, is amended to read:

743 440.13 Medical services and supplies; penalty for  
744 violations; limitations.—

745 (12) CREATION OF THREE-MEMBER PANEL; GUIDES OF MAXIMUM  
746 REIMBURSEMENT ALLOWANCES.—

747 (a) A three-member panel is created, consisting of the  
748 Chief Financial Officer, or the Chief Financial Officer's  
749 designee, and two members to be appointed by the Governor,  
750 subject to confirmation by the Senate, one member who, on  
751 account of present or previous vocation, employment, or  
752 affiliation, shall be classified as a representative of  
753 employers, the other member who, on account of previous  
754 vocation, employment, or affiliation, shall be classified as a  
755 representative of employees. The panel shall determine statewide  
756 schedules of maximum reimbursement allowances for medically  
757 necessary treatment, care, and attendance provided by  
758 physicians, hospitals, ambulatory surgical centers, work-  
759 hardening programs, pain programs, and durable medical  
760 equipment. The maximum reimbursement allowances for inpatient  
761 hospital care shall be based on a schedule of per diem rates, to  
762 be approved by the three-member panel no later than March 1,  
763 1994, to be used in conjunction with a precertification manual  
764 as determined by the department, including maximum hours in



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765 which an outpatient may remain in observation status, which  
766 shall not exceed 23 hours. All compensable charges for hospital  
767 outpatient care shall be reimbursed at 75 percent of usual and  
768 customary charges, except as otherwise provided by this  
769 subsection. Annually, the three-member panel shall adopt  
770 schedules of maximum reimbursement allowances for physicians,  
771 hospital inpatient care, hospital outpatient care, ambulatory  
772 surgical centers, work-hardening programs, and pain programs. An  
773 individual physician, hospital, ambulatory surgical center, pain  
774 program, or work-hardening program shall be reimbursed:

- 775       1. either The agreed-upon contract price; or  
776       2. If there is no agreed-upon contract price, the lesser of  
777 the provider's billed charge or the maximum reimbursement  
778 allowance in the appropriate schedule.

779       (b) It is the intent of the Legislature to increase the  
780 schedule of maximum reimbursement allowances for selected  
781 physicians effective January 1, 2004, and to pay for the  
782 increases through reductions in payments to hospitals. Revisions  
783 developed pursuant to this subsection are limited to the  
784 following:

785           1. Payments for outpatient physical, occupational, and  
786 speech therapy provided by hospitals shall be reduced to the  
787 schedule of maximum reimbursement allowances for these services  
788 which applies to nonhospital providers.

789           2. Payments for scheduled outpatient nonemergency  
790 radiological and clinical laboratory services that are not  
791 provided in conjunction with a surgical procedure shall be  
792 reduced to the schedule of maximum reimbursement allowances for  
793 these services which applies to nonhospital providers.



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794           3. Outpatient reimbursement for scheduled surgeries shall  
795 be reduced from 75 percent of charges to 60 percent of charges.

796           4. Maximum reimbursement for a physician licensed under  
797 chapter 458 or chapter 459 shall be increased to 110 percent of  
798 the reimbursement allowed by Medicare, using appropriate codes  
799 and modifiers or the medical reimbursement level adopted by the  
800 three-member panel as of January 1, 2003, whichever is greater.

801           5. Maximum reimbursement for surgical procedures shall be  
802 increased to 140 percent of the reimbursement allowed by  
803 Medicare or the medical reimbursement level adopted by the  
804 three-member panel as of January 1, 2003, whichever is greater.

805           (c) As to reimbursement for a prescription medication, the  
806 reimbursement amount for a prescription shall be the average  
807 wholesale price plus \$4.18 for the dispensing fee. For  
808 repackaged or relabeled prescription medications dispensed by a  
809 dispensing practitioner as provided in s. 465.0276, the fee  
810 schedule for reimbursement shall be 112.5 percent of the average  
811 wholesale price, plus \$8.00 for the dispensing fee. For purposes  
812 of this subsection, the average wholesale price shall be  
813 calculated by multiplying the number of units dispensed times  
814 the per-unit average wholesale price set by the original  
815 manufacturer of the underlying drug dispensed by the  
816 practitioner, based upon the published manufacturer's average  
817 wholesale price published in the Medi-Span Master Drug Database  
818 as of the date of dispensing. All pharmaceutical claims  
819 submitted for repackaged or relabeled prescription medications  
820 must include the National Drug Code of the original  
821 manufacturer. Fees for pharmaceuticals and pharmaceutical  
822 services shall be reimbursable at the applicable fee schedule



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823 amount except where the employer or carrier, or a service  
824 company, third party administrator, or any entity acting on  
825 behalf of the employer or carrier directly contracts with the  
826 provider seeking reimbursement for a lower amount.

827 (d) Reimbursement for all fees and other charges for such  
828 treatment, care, and attendance, including treatment, care, and  
829 attendance provided by any hospital or other health care  
830 provider, ambulatory surgical center, work-hardening program, or  
831 pain program, must not exceed the amounts provided by the  
832 uniform schedule of maximum reimbursement allowances as  
833 determined by the panel or as otherwise provided in this  
834 section. This subsection also applies to independent medical  
835 examinations performed by health care providers under this  
836 chapter. In determining the uniform schedule, the panel shall  
837 first approve the data which it finds representative of  
838 prevailing charges in the state for similar treatment, care, and  
839 attendance of injured persons. Each health care provider, health  
840 care facility, ambulatory surgical center, work-hardening  
841 program, or pain program receiving workers' compensation  
842 payments shall maintain records verifying their usual charges.  
843 In establishing the uniform schedule of maximum reimbursement  
844 allowances, the panel must consider:

845 1. The levels of reimbursement for similar treatment, care,  
846 and attendance made by other health care programs or third-party  
847 providers;

848 2. The impact upon cost to employers for providing a level  
849 of reimbursement for treatment, care, and attendance which will  
850 ensure the availability of treatment, care, and attendance  
851 required by injured workers;



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852           3. The financial impact of the reimbursement allowances  
853 upon health care providers and health care facilities, including  
854 trauma centers as defined in s. 395.4001, and its effect upon  
855 their ability to make available to injured workers such  
856 medically necessary remedial treatment, care, and attendance.  
857 The uniform schedule of maximum reimbursement allowances must be  
858 reasonable, must promote health care cost containment and  
859 efficiency with respect to the workers' compensation health care  
860 delivery system, and must be sufficient to ensure availability  
861 of such medically necessary remedial treatment, care, and  
862 attendance to injured workers; and

863           4. The most recent average maximum allowable rate of  
864 increase for hospitals determined by the Health Care Board under  
865 chapter 408.

866           (e) In addition to establishing the uniform schedule of  
867 maximum reimbursement allowances, the panel shall:

868           1. Take testimony, receive records, and collect data to  
869 evaluate the adequacy of the workers' compensation fee schedule,  
870 nationally recognized fee schedules and alternative methods of  
871 reimbursement to health care providers and health care  
872 facilities for inpatient and outpatient treatment and care.

873           2. Survey health care providers and health care facilities  
874 to determine the availability and accessibility of workers'  
875 compensation health care delivery systems for injured workers.

876           3. Survey carriers to determine the estimated impact on  
877 carrier costs and workers' compensation premium rates by  
878 implementing changes to the carrier reimbursement schedule or  
879 implementing alternative reimbursement methods.

880           4. Submit recommendations on or before January 15, 2017,



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881 and biennially thereafter, to the President of the Senate and  
882 the Speaker of the House of Representatives on methods to  
883 improve the workers' compensation health care delivery system.

884  
885 The department, as requested, shall provide data to the panel,  
886 including, but not limited to, utilization trends in the  
887 workers' compensation health care delivery system. The  
888 department shall provide the panel with an annual report  
889 regarding the resolution of medical reimbursement disputes and  
890 any actions pursuant to subsection (8). The department shall  
891 provide administrative support and service to the panel to the  
892 extent requested by the panel and may adopt rules necessary to  
893 administer this subsection. For prescription medication  
894 purchased under the requirements of this subsection, a  
895 dispensing practitioner shall not possess such medication unless  
896 payment has been made by the practitioner, the practitioner's  
897 professional practice, or the practitioner's practice management  
898 company or employer to the supplying manufacturer, wholesaler,  
899 distributor, or drug repackager within 60 days of the dispensing  
900 practitioner taking possession of that medication.

901 Section 17. Subsection (3) of section 440.185, Florida  
902 Statutes, is amended to read:

903 440.185 Notice of injury or death; reports; penalties for  
904 violations.-

905 (3) Within 3 business days after the employer or the  
906 employee informs the carrier of an injury, the carrier shall  
907 send by regular mail or e-mail to the injured worker an  
908 informational brochure approved by the department which sets  
909 forth in clear and understandable language an explanation of the



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910 rights, benefits, procedures for obtaining benefits and  
911 assistance, criminal penalties, and obligations of injured  
912 workers and their employers under the Florida Workers'  
913 Compensation Law. Annually, the carrier or its third-party  
914 administrator shall send by regular mail or e-mail to the  
915 employer an informational brochure approved by the department  
916 which sets forth in clear and understandable language an  
917 explanation of the rights, benefits, procedures for obtaining  
918 benefits and assistance, criminal penalties, and obligations of  
919 injured workers and their employers under the Florida Workers'  
920 Compensation Law. All such informational brochures shall contain  
921 a notice that clearly states in substance the following: "Any  
922 person who, knowingly and with intent to injure, defraud, or  
923 deceive any employer or employee, insurance company, or self-  
924 insured program, files a statement of claim containing any false  
925 or misleading information commits a felony of the third degree."

926 Section 18. Subsection (3) of section 440.381, Florida  
927 Statutes, is amended to read:

928 440.381 Application for coverage; reporting payroll;  
929 payroll audit procedures; penalties.—

930 (3) The Financial Services Commission, in consultation with  
931 the department, shall establish by rule minimum requirements for  
932 audits of payroll and classifications ~~in order~~ to ensure that  
933 the appropriate premium is charged for workers' compensation  
934 coverage. The rules must ~~shall~~ ensure that audits performed by  
935 both carriers and employers are adequate to provide that all  
936 sources of payments to employees, subcontractors, and  
937 independent contractors are ~~have been~~ reviewed and that the  
938 accuracy of classification of employees is ~~has been~~ verified.



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939 The rules must require ~~shall provide~~ that employers in all  
940 classes other than the construction class be audited at least  
941 ~~not less frequently than~~ biennially and may provide for more  
942 frequent audits of employers in specified classifications based  
943 on factors such as amount of premium, type of business, loss  
944 ratios, or other relevant factors. ~~In no event shall~~ Employers  
945 in the construction class, ~~generating more than the amount of~~  
946 premium required to be experience rated must, ~~be audited at~~  
947 least less than annually. The annual audits required for  
948 construction classes must ~~shall~~ consist of physical onsite  
949 audits for policies only if the estimated annual premium is  
950 \$10,000 or more. Payroll verification audit rules must include,  
951 but need not be limited to, the use of state and federal reports  
952 of employee income, payroll and other accounting records,  
953 certificates of insurance maintained by subcontractors, and  
954 duties of employees. At the completion of an audit, the employer  
955 or officer of the corporation and the auditor must print and  
956 sign their names on the audit document and attach proof of  
957 identification to the audit document.

958 Section 19. Subsection (2) of section 497.277, Florida  
959 Statutes, is amended to read:

960 497.277 Other charges.—Other than the fees for the sale of  
961 burial rights, burial merchandise, and burial services, no other  
962 fee may be directly or indirectly charged, contracted for, or  
963 received by a cemetery company as a condition for a customer to  
964 use any burial right, burial merchandise, or burial service,  
965 except for:

966 (2) Charges paid for transferring burial rights from one  
967 purchaser to another; ~~however, no such fee may exceed \$50.~~





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968 Section 20. Paragraph (b) of subsection (1) of section  
969 497.369, Florida Statutes, is amended to read:

970 497.369 Embalmers; licensure as an embalmer by endorsement;  
971 licensure of a temporary embalmer.—

972 (1) The licensing authority shall issue a license by  
973 endorsement to practice embalming to an applicant who has  
974 remitted an examination fee set by rule of the licensing  
975 authority not to exceed \$200 and who the licensing authority  
976 certifies:

977 (b)1. Holds a valid license in good standing to practice  
978 embalming in another state of the United States and has engaged  
979 in the full-time, licensed practice of embalming in that state  
980 for at least 5 years, ~~provided that, when the applicant secured~~  
981 ~~her or his original license, the requirements for licensure were~~  
982 ~~substantially equivalent to or more stringent than those~~  
983 ~~existing in this state; or~~

984 2. Meets the qualifications for licensure in s. 497.368,  
985 except that the internship requirement shall be deemed to have  
986 been satisfied by 1 year's practice as a licensed embalmer in  
987 another state, and has, within 10 years before ~~prior to~~ the date  
988 of application, successfully completed a state, regional, or  
989 national examination in mortuary science, which, as determined  
990 by rule of the licensing authority, is substantially equivalent  
991 to or more stringent than the examination given by the licensing  
992 authority.

993 Section 21. Paragraphs (b) and (f) of subsection (1) of  
994 section 497.372, Florida Statutes, are amended to read:

995 497.372 Funeral directing; conduct constituting practice of  
996 funeral directing.—



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997 (1) The practice of funeral directing shall be construed to  
998 consist of the following functions, which may be performed only  
999 by a licensed funeral director:

1000 (b) Planning or arranging, on an at-need basis, the details  
1001 of funeral services, embalming, cremation, or other services  
1002 relating to the final disposition of human remains, and  
1003 ~~including the removal of such remains from the state; setting~~  
1004 ~~the time of the services;~~ establishing the type of services to  
1005 be rendered; ~~acquiring the services of the clergy; and obtaining~~  
1006 ~~vital information for the filing of death certificates and~~  
1007 ~~obtaining of burial transit permits.~~

1008 (f) Directing, being in charge or apparent charge of, or  
1009 supervising, directly or indirectly, any memorial service ~~held~~  
1010 ~~prior to or within 72 hours of the burial or cremation,~~ if such  
1011 memorial service is sold or arranged by a licensee.

1012 Section 22. Paragraph (b) of subsection (1) of section  
1013 497.374, Florida Statutes, is amended to read:

1014 497.374 Funeral directing; licensure as a funeral director  
1015 by endorsement; licensure of a temporary funeral director.-

1016 (1) The licensing authority shall issue a license by  
1017 endorsement to practice funeral directing to an applicant who  
1018 has remitted a fee set by rule of the licensing authority not to  
1019 exceed \$200 and who:

1020 (b)1. Holds a valid license in good standing to practice  
1021 funeral directing in another state of the United States and has  
1022 engaged in the full-time, licensed practice of funeral directing  
1023 in that state for at least 5 years, ~~provided that, when the~~  
1024 ~~applicant secured her or his original license, the requirements~~  
1025 ~~for licensure were substantially equivalent to or more stringent~~



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1026 ~~than those existing in this state; or~~

1027       2. Meets the qualifications for licensure in s. 497.373,  
1028 except that the applicant need not hold an associate degree or  
1029 higher if the applicant holds a diploma or certificate from an  
1030 accredited program of mortuary science, and has successfully  
1031 completed a state, regional, or national examination in mortuary  
1032 science or funeral service arts, which, as determined by rule of  
1033 the licensing authority, is substantially equivalent to or more  
1034 stringent than the examination given by the licensing authority.

1035       Section 23. Present subsection (6) of section 554.108,  
1036 Florida Statutes, is redesignated as subsection (7), a new  
1037 subsection (6) is added to that section, and subsection (1) of  
1038 that section is amended, to read:

1039       554.108 Inspection.—

1040       (1) The inspection requirements of this chapter apply only  
1041 to boilers located in public assembly locations. A ~~potable hot~~  
1042 ~~water supply~~ boiler with an a-heat input of 200,000 British  
1043 thermal units (Btu) per hour and above, up to an a-heat input  
1044 not exceeding 400,000 Btu per hour, is exempt from inspection;  
1045 however, such an exempt boiler, if manufactured after July 1,  
1046 2022, but must be stamped with the A.S.M.E. code symbol.  
1047 Additionally, "HLW" and the boiler's A.S.M.E data report of a  
1048 boiler with an input of 200,000 to 400,000 Btu per hour must be  
1049 filed as required under s. 554.103(2).

1050       (6) Each enclosed space or room containing a boiler  
1051 regulated under this chapter which is fired by the direct  
1052 application of energy from the combustion of fuels and which is  
1053 located in any portion of a public lodging establishment under  
1054 s. 509.242 shall be equipped with one or more carbon monoxide



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1055 detector devices.

1056           Section 24. Paragraphs (a) and (e) of subsection (1) and  
1057 paragraph (a) of subsection (2) of section 554.111, Florida  
1058 Statutes, are amended to read:

1059           554.111 Fees.—

1060           (1) The department shall charge the following fees:

1061           (a) For an applicant for a certificate of competency, the  
1062 initial application fee shall be \$50, and the annual renewal fee  
1063 shall be \$30. ~~The fee for examination shall be \$50.~~

1064           (e) An application for a boiler permit must include the  
1065 manufacturer's data report ~~applicable certificate inspection fee~~  
1066 ~~provided in paragraph (b).~~

1067           (2) Not more than an amount equal to one certificate  
1068 inspection fee may be charged or collected for any and all  
1069 boiler inspections in any inspection period, except as otherwise  
1070 provided in this chapter.

1071           (a) When it is necessary to make a special trip for testing  
1072 and verification inspections ~~to observe the application of a~~  
1073 ~~hydrostatic test~~, an additional fee equal to the fee for a  
1074 certificate inspection of the boiler must be charged.

1075           Section 25. Subsection (4) of section 554.114, Florida  
1076 Statutes, is amended to read:

1077           554.114 Prohibitions; penalties.—

1078           (4) A boiler insurance company, authorized inspection  
1079 agency, or other person in violation of this section for more  
1080 than 30 days shall pay a fine of \$10 per day for the subsequent  
1081 ~~first~~ 10 days of noncompliance, \$50 per day for the subsequent  
1082 20 days of noncompliance, and \$100 per day for each subsequent  
1083 day ~~over 20 days~~ of noncompliance thereafter.



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1084 Section 26. Subsection (9) of section 624.307, Florida  
1085 Statutes, is amended to read:

1086 624.307 General powers; duties.—

1087 (9) Upon receiving service of legal process issued in any  
1088 civil action or proceeding in this state against any regulated  
1089 person or any unauthorized insurer under s. 626.906 or s.  
1090 626.937 that ~~which~~ is required to appoint the Chief Financial  
1091 Officer as its agent ~~attorney~~ to receive service of all legal  
1092 process, the Chief Financial Officer shall make the process  
1093 available through a secure online portal, ~~as attorney, may, in~~  
1094 ~~lieu of sending the process by registered or certified mail,~~  
1095 ~~send the process or make it available by any other verifiable~~  
1096 ~~means, including, but not limited to, making the documents~~  
1097 ~~available by electronic transmission from a secure website~~  
1098 established by the department to the person last designated by  
1099 the regulated person or the unauthorized insurer to receive the  
1100 process. When process documents are made available  
1101 electronically, the Chief Financial Officer shall promptly send  
1102 a notice of receipt of service of process to the person last  
1103 designated by the regulated person or unauthorized insurer to  
1104 receive legal process. The notice must state the date ~~and manner~~  
1105 ~~in which the copy of~~ the process was made available to the  
1106 regulated person or unauthorized insurer being served and  
1107 contain the uniform resource locator (URL) where ~~for a hyperlink~~  
1108 ~~to access files and information on the department's website to~~  
1109 ~~obtain a copy of~~ the process may be obtained.

1110 Section 27. Section 624.422, Florida Statutes, is amended  
1111 to read:

1112 624.422 Service of process; appointment of Chief Financial



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1113 Officer as process agent.-

1114 (1) Each licensed insurer, whether domestic, foreign, or  
1115 alien, shall be deemed to have appointed the Chief Financial  
1116 Officer and her or his successors in office as its agent  
1117 ~~attorney~~ to receive service of all legal process issued against  
1118 it in any civil action or proceeding in this state; and process  
1119 so served shall be valid and binding upon the insurer.

1120 (2) Before ~~Prior to~~ its authorization to transact insurance  
1121 in this state, each insurer shall file with the department  
1122 designation of the name and e-mail address of the person to whom  
1123 process against it served upon the Chief Financial Officer is to  
1124 be made available through the department's secure online portal  
1125 ~~forwarded~~. Each insurer shall also file with the department  
1126 designation of the name and e-mail address of the person to whom  
1127 the department shall forward civil remedy notices filed under s.  
1128 624.155. The insurer may change a designation at any time by a  
1129 new filing.

1130 (3) Service of process submitted through the department's  
1131 secure online portal upon the Chief Financial Officer as the  
1132 insurer's agent ~~attorney~~ pursuant to such an appointment shall  
1133 be the sole method of service of process upon an authorized  
1134 domestic, foreign, or alien insurer in this state.

1135 Section 28. Subsection (1) of section 624.423, Florida  
1136 Statutes, is amended to read:

1137 624.423 Serving process.-

1138 (1) Service of process upon the Chief Financial Officer as  
1139 process agent of the insurer under s. 624.422 and s. 626.937  
1140 shall be made ~~by serving a copy of the process upon the Chief~~  
1141 ~~Financial Officer or upon her or his assistant, deputy, or other~~



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1142 ~~person in charge of her or his office. Service may also be made~~  
1143 ~~by mail or~~ electronically as provided in s. 48.151(3) ~~s. 48.151.~~  
1144 Upon receiving such service, the Chief Financial Officer shall  
1145 retain a record of the process ~~copy~~ and promptly notify and make  
1146 ~~forward one copy of~~ the process available through the  
1147 department's secure online portal ~~by registered or certified~~  
1148 ~~mail or by other verifiable means,~~ as provided under s.  
1149 624.307(9), to the person last designated by the insurer to  
1150 receive the same, as provided under s. 624.422(2). For purposes  
1151 of this section, records shall ~~may~~ be retained electronically ~~as~~  
1152 ~~paper or electronic copies.~~

1153 Section 29. Paragraph (f) of subsection (3) and paragraph  
1154 (d) of subsection (4) of section 624.610, Florida Statutes, are  
1155 amended to read:

1156 624.610 Reinsurance.—

1157 (3)

1158 (f) If the assuming insurer is not authorized or accredited  
1159 to transact insurance or reinsurance in this state pursuant to  
1160 paragraph (a) or paragraph (b), the credit permitted by  
1161 paragraph (c) or paragraph (d) must not be allowed unless the  
1162 assuming insurer agrees in the reinsurance agreements:

1163 1.a. That in the event of the failure of the assuming  
1164 insurer to perform its obligations under the terms of the  
1165 reinsurance agreement, the assuming insurer, at the request of  
1166 the ceding insurer, shall submit to the jurisdiction of any  
1167 court of competent jurisdiction in any state of the United  
1168 States, will comply with all requirements necessary to give the  
1169 court jurisdiction, and will abide by the final decision of the  
1170 court or of any appellate court in the event of an appeal; and



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1171           b. To designate the Chief Financial Officer, pursuant to s.  
1172 48.151(3) ~~s. 48.151~~, as its true and lawful agent ~~attorney~~ upon  
1173 whom may be served any lawful process in any action, suit, or  
1174 proceeding instituted by or on behalf of the ceding company.

1175           2. This paragraph is not intended to conflict with or  
1176 override the obligation of the parties to a reinsurance  
1177 agreement to arbitrate their disputes, if this obligation is  
1178 created in the agreement.

1179           (4) Credit must be allowed when the reinsurance is ceded to  
1180 an assuming insurer meeting the requirements of this subsection.

1181           (d) The assuming insurer must, in a form specified by the  
1182 commission:

1183           1. Agree to provide prompt written notice and explanation  
1184 to the office if the assuming insurer falls below the minimum  
1185 requirements set forth in paragraph (b) or paragraph (c), or if  
1186 any regulatory action is taken against it for serious  
1187 noncompliance with applicable law of any jurisdiction.

1188           2. Consent in writing to the jurisdiction of the courts of  
1189 this state and to the designation of the Chief Financial  
1190 Officer, pursuant to s. 48.151(3) ~~s. 48.151~~, as its true and  
1191 lawful agent ~~attorney~~ upon whom may be served any lawful process  
1192 in any action, suit, or proceeding instituted by or on behalf of  
1193 the ceding insurer. This subparagraph does not limit or alter in  
1194 any way the capacity of parties to a reinsurance agreement to  
1195 agree to an alternative dispute resolution mechanism, except to  
1196 the extent that such agreement is unenforceable under applicable  
1197 insolvency or delinquency laws.

1198           3. Consent in writing to pay all final judgments, wherever  
1199 enforcement is sought, obtained by a ceding insurer or its legal





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1200 successor which have been declared enforceable in the  
1201 jurisdiction where the judgment was obtained.

1202 4. Confirm in writing that it will include in each  
1203 reinsurance agreement a provision requiring the assuming insurer  
1204 to provide security in an amount equal to 100 percent of the  
1205 assuming insurer's liabilities attributable to reinsurance ceded  
1206 pursuant to that agreement, if the assuming insurer resists  
1207 enforcement of a final judgment that is enforceable under the  
1208 law of the jurisdiction in which it was obtained or enforcement  
1209 of a properly enforceable arbitration award, whether obtained by  
1210 the ceding insurer or by its legal successor on behalf of its  
1211 resolution estate.

1212 5. Confirm in writing that it is not presently  
1213 participating in any solvent scheme of arrangement which  
1214 involves this state's ceding insurers, and agree to notify the  
1215 ceding insurer and the office and to provide security in an  
1216 amount equal to 100 percent of the assuming insurer's  
1217 liabilities to the ceding insurer if the assuming insurer enters  
1218 into such a solvent scheme of arrangement. Such security must be  
1219 consistent with subsection (5) or as specified by commission  
1220 rule.

1221 Section 30. Present subsections (12) through (21) of  
1222 section 626.015, Florida Statutes, are redesignated as  
1223 subsections (13) through (22), respectively, a new subsection  
1224 (12) is added to that section, and present subsection (20) of  
1225 that section is amended, to read:

1226 626.015 Definitions.—As used in this part:

1227 (12) "Licensing authority" means the respective  
1228 jurisdiction of the department or the office, as provided by



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1229 law.

1230 (21)~~(20)~~ "Unaffiliated insurance agent" means a licensed  
1231 insurance agent, except a limited lines agent, who is self-  
1232 appointed and who practices as an independent consultant in the  
1233 business of analyzing or abstracting insurance policies,  
1234 providing insurance advice or counseling, or making specific  
1235 recommendations or comparisons of insurance products for a fee  
1236 established in advance by written contract signed by the  
1237 parties. An unaffiliated insurance agent may not be affiliated  
1238 with an insurer, insurer-appointed insurance agent, or insurance  
1239 agency contracted with or employing insurer-appointed insurance  
1240 agents. A licensed adjuster who is also an unaffiliated  
1241 insurance agent may obtain an adjuster appointment in order to  
1242 adjust claims while holding an unaffiliated appointment on the  
1243 agent license.

1244 Section 31. Subsection (4) of section 626.171, Florida  
1245 Statutes, is amended to read:

1246 626.171 Application for license as an agent, customer  
1247 representative, adjuster, service representative, or reinsurance  
1248 intermediary.—

1249 (4) An applicant for a license issued by the department  
1250 under this chapter as an agent, customer representative,  
1251 adjuster, service representative, or reinsurance intermediary  
1252 must submit a set of the individual applicant's fingerprints,  
1253 or, if the applicant is not an individual, a set of the  
1254 fingerprints of the sole proprietor, majority owner, partners,  
1255 officers, and directors, to the department and must pay the  
1256 fingerprint processing fee set forth in s. 624.501. Fingerprints  
1257 must be processed in accordance with s. 624.34 and used to



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1258 investigate the applicant's qualifications pursuant to s.  
1259 626.201. The fingerprints must be taken by a law enforcement  
1260 agency, designated examination center, or other department-  
1261 approved entity. The department shall require all designated  
1262 examination centers to have fingerprinting equipment and to take  
1263 fingerprints from any applicant or prospective applicant who  
1264 pays the applicable fee. The department may not approve an  
1265 application for licensure as an agent, customer service  
1266 representative, adjuster, service representative, or reinsurance  
1267 intermediary if fingerprints have not been submitted.

1268 Section 32. Paragraph (f) of subsection (2) of section  
1269 626.172, Florida Statutes, is amended to read:

1270 626.172 Application for insurance agency license.—

1271 (2) An application for an insurance agency license must be  
1272 signed by an individual required to be listed in the application  
1273 under paragraph (a). An insurance agency may permit a third  
1274 party to complete, submit, and sign an application on the  
1275 insurance agency's behalf; however, the insurance agency is  
1276 responsible for ensuring that the information on the application  
1277 is true and correct and is accountable for any misstatements or  
1278 misrepresentations. The application for an insurance agency  
1279 license must include:

1280 (f) The fingerprints submitted in accordance with s.  
1281 626.171(4) of each of the following:

1282 1. A sole proprietor;

1283 2. Each individual required to be listed in the application  
1284 under paragraph (a); and

1285 3. Each individual who directs or participates in the  
1286 management or control of an incorporated agency whose shares are



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1287 not traded on a securities exchange.

1288

1289 ~~Fingerprints must be taken by a law enforcement agency or other~~  
1290 ~~entity approved by the department and must be accompanied by the~~  
1291 ~~fingerprint processing fee specified in s. 624.501. Fingerprints~~  
1292 ~~must be processed in accordance with s. 624.34. However,~~  
1293 Fingerprints need not be filed for an individual who is  
1294 currently licensed and appointed under this chapter. This  
1295 paragraph does not apply to corporations whose voting shares are  
1296 traded on a securities exchange.

1297 Section 33. Section 626.173, Florida Statutes, is created  
1298 to read:

1299 626.173 Insurance agency closure; cancellation of  
1300 licenses.—

1301 (1) If a licensed insurance agency permanently ceases the  
1302 transaction of insurance or ceases the transaction of insurance  
1303 for more than 30 days, the agent in charge, the director of the  
1304 agency, or other officer listed on the original application for  
1305 licensure must, within 35 days after the agency first ceases the  
1306 transaction of insurance, do all of the following:

1307 (a) Cancel the insurance agency's license by completing and  
1308 submitting a form prescribed by the department to notify the  
1309 department of the cancellation of the license.

1310 (b) Notify all insurers by which the agency or agent in  
1311 charge is appointed of the agency's cessation of operations, the  
1312 date on which operations ceased, the identity of any agency or  
1313 agent to which the agency's current book of business has been  
1314 transferred, and the method by which agency records may be  
1315 obtained during the time periods specified in ss. 626.561 and



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1316 626.748.

1317 (c) Notify all policyholders currently insured by a policy  
1318 written, produced, or serviced by the agency of the agency's  
1319 cessation of operations; the date on which operations ceased;  
1320 and the identity of the agency or agent to which the agency's  
1321 current book of business has been transferred or, if no transfer  
1322 has occurred, a statement directing the policyholder to contact  
1323 the insurance company for assistance in locating a licensed  
1324 agent to service the policy.

1325 (d) Notify all premium finance companies through which  
1326 active policies are financed of the agency's cessation of  
1327 operations, the date on which operations ceased, and the  
1328 identity of the agency or agent to which the agency's current  
1329 book of business has been transferred.

1330 (e) Ensure that all funds held in a fiduciary capacity are  
1331 properly distributed to the rightful owners.

1332 (2) (a) The department may, in a proceeding initiated  
1333 pursuant to chapter 120, impose an administrative fine against  
1334 the agent in charge or director or officer of the agency found  
1335 in the proceeding to have violated any provision of this  
1336 section. A proceeding may not be initiated and a fine may not  
1337 accrue until after the person has been notified in writing of  
1338 the nature of the violation, has been afforded 10 business days  
1339 to correct the violation, and has failed to do so.

1340 (b) A fine imposed under this subsection may not exceed the  
1341 amounts specified in s. 626.681 per violation.

1342 (c) The department may, in addition to the imposition of an  
1343 administrative fine under this subsection, suspend or revoke the  
1344 license of a licensee fined under this subsection.



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1345           (d) In imposing any administrative penalty or remedy  
1346 provided under this subsection, the department shall take into  
1347 account the appropriateness of the penalty with respect to the  
1348 size of the financial resources and the good faith of the person  
1349 charged, the gravity of the violation, the history of previous  
1350 violations, and other matters as justice may require.

1351           Section 34. Subsection (3) of section 626.201, Florida  
1352 Statutes, is amended, and subsection (4) is added to that  
1353 section, to read:

1354           626.201 Investigation.—

1355           (3) An inquiry or investigation of the applicant's  
1356 qualifications, character, experience, background, and fitness  
1357 must include submission of the applicant's fingerprints, in  
1358 accordance with s. 626.171(4), to the Department of Law  
1359 Enforcement and the Federal Bureau of Investigation and  
1360 consideration of any state criminal records, federal criminal  
1361 records, or local criminal records obtained from these agencies  
1362 or from local law enforcement agencies.

1363           (4) The expiration, nonrenewal, or surrender of a license  
1364 under this chapter does not eliminate jurisdiction of the  
1365 licensing authority to investigate and prosecute for a violation  
1366 committed by the licensee while licensed under this chapter. The  
1367 prosecution of any matter may be initiated or continued  
1368 notwithstanding the withdrawal of a complaint.

1369           Section 35. Section 626.202, Florida Statutes, is amended  
1370 to read:

1371           626.202 Fingerprinting requirements.—

1372           (1) The requirements for completion and submission of  
1373 fingerprints under this chapter in accordance with s. 626.171(4)



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1374 are deemed to be met when an individual currently licensed under  
1375 this chapter seeks additional licensure and has previously  
1376 submitted fingerprints to the department within the past 48  
1377 months. However, the department may require the individual to  
1378 file fingerprints if it has reason to believe that an applicant  
1379 or licensee has been found guilty of, or pleaded guilty or nolo  
1380 contendere to, a felony or a crime related to the business of  
1381 insurance in this state or any other state or jurisdiction.

1382 (2) If there is a change in ownership or control of any  
1383 entity licensed under this chapter, or if a new partner,  
1384 officer, or director is employed or appointed, a set of  
1385 fingerprints of the new owner, partner, officer, or director  
1386 must be filed with the department or office within 30 days after  
1387 the change. The acquisition of 10 percent or more of the voting  
1388 securities of a licensed entity is considered a change of  
1389 ownership or control. The fingerprints must be submitted in  
1390 accordance with s. 626.171(4) ~~taken by a law enforcement agency~~  
1391 ~~or other department-approved entity and be accompanied by the~~  
1392 ~~fingerprint processing fee in s. 624.501.~~

1393 Section 36. Paragraph (j) of subsection (2) of section  
1394 626.221, Florida Statutes, is amended to read:

1395 626.221 Examination requirement; exemptions.—

1396 (2) However, an examination is not necessary for any of the  
1397 following:

1398 (j) An applicant for license as an all-lines adjuster who  
1399 has the designation of Accredited Claims Adjuster (ACA) from a  
1400 regionally accredited postsecondary institution in this state,  
1401 Certified All Lines Adjuster (CALA) from Kaplan Financial  
1402 Education, Associate in Claims (AIC) from the Insurance



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1403 Institute of America, Professional Claims Adjuster (PCA) from  
1404 the Professional Career Institute, Professional Property  
1405 Insurance Adjuster (PPIA) from the HurriClaim Training Academy,  
1406 Certified Adjuster (CA) from ALL LINES Training, Certified  
1407 Claims Adjuster (CCA) from AE21 Incorporated, Claims Adjuster  
1408 Certified Professional (CACP) from WebCE, Inc., Accredited  
1409 Insurance Claims Specialist (AICS) from Encore Claim Services,  
1410 or Universal Claims Certification (UCC) from Claims and  
1411 Litigation Management Alliance (CLM) whose curriculum has been  
1412 approved by the department and which includes comprehensive  
1413 analysis of basic property and casualty lines of insurance and  
1414 testing at least equal to that of standard department testing  
1415 for the all-lines adjuster license. The department shall adopt  
1416 rules establishing standards for the approval of curriculum.

1417 Section 37. Subsection (6) of section 626.311, Florida  
1418 Statutes, is amended to read:

1419 626.311 Scope of license.—

1420 (6) An agent who appoints his or her license as an  
1421 unaffiliated insurance agent may not hold an appointment from an  
1422 insurer for any license he or she holds, with the exception of  
1423 an adjuster license; transact, solicit, or service an insurance  
1424 contract on behalf of an insurer; interfere with commissions  
1425 received or to be received by an insurer-appointed insurance  
1426 agent or an insurance agency contracted with or employing  
1427 insurer-appointed insurance agents; or receive compensation or  
1428 any other thing of value from an insurer, an insurer-appointed  
1429 insurance agent, or an insurance agency contracted with or  
1430 employing insurer-appointed insurance agents for any transaction  
1431 or referral occurring after the date of appointment as an





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1432 unaffiliated insurance agent. An unaffiliated insurance agent  
1433 may continue to receive commissions on sales that occurred  
1434 before the date of appointment as an unaffiliated insurance  
1435 agent if the receipt of such commissions is disclosed when  
1436 making recommendations or evaluating products for a client that  
1437 involve products of the entity from which the commissions are  
1438 received. An adjuster who holds an adjuster license and who is  
1439 also an unaffiliated insurance agent may obtain an adjuster  
1440 appointment while maintaining his or her unaffiliated insurance  
1441 agent appointment and may adjust claims and receive compensation  
1442 in accordance with the authority granted by the adjuster license  
1443 and appointment.

1444 Section 38. Paragraph (h) of subsection (1) of section  
1445 626.321, Florida Statutes, is amended to read:

1446 626.321 Limited licenses and registration.—

1447 (1) The department shall issue to a qualified applicant a  
1448 license as agent authorized to transact a limited class of  
1449 business in any of the following categories of limited lines  
1450 insurance:

1451 (h) *Portable electronics insurance.*—License for property  
1452 insurance or inland marine insurance that covers only loss,  
1453 theft, mechanical failure, malfunction, or damage for portable  
1454 electronics.

1455 1. The license may be issued only to:

1456 a. Employees or authorized representatives of a licensed  
1457 general lines agent; or

1458 b. The lead business location of a retail vendor that sells  
1459 portable electronics insurance. The lead business location must  
1460 have a contractual relationship with a general lines agent.



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1461           2. Employees or authorized representatives of a licensee  
1462 under subparagraph 1. may sell or offer for sale portable  
1463 electronics coverage without being subject to licensure as an  
1464 insurance agent if:

1465           a. Such insurance is sold or offered for sale at a licensed  
1466 location or at one of the licensee's branch locations if the  
1467 branch location is appointed by the licensed lead business  
1468 location or its appointing insurers;

1469           b. The insurer issuing the insurance directly supervises or  
1470 appoints a general lines agent to supervise the sale of such  
1471 insurance, including the development of a training program for  
1472 the employees and authorized representatives of vendors that are  
1473 directly engaged in the activity of selling or offering the  
1474 insurance; and

1475           c. At each location where the insurance is offered,  
1476 brochures or other written materials that provide the  
1477 information required by this subparagraph are made available to  
1478 all prospective customers. The brochures or written materials  
1479 may include information regarding portable electronics  
1480 insurance, service warranty agreements, or other incidental  
1481 services or benefits offered by a licensee.

1482           3. Individuals not licensed to sell portable electronics  
1483 insurance may not be paid commissions based on the sale of such  
1484 coverage. However, a licensee who uses a compensation plan for  
1485 employees and authorized representatives which includes  
1486 supplemental compensation for the sale of noninsurance products,  
1487 in addition to a regular salary or hourly wages, may include  
1488 incidental compensation for the sale of portable electronics  
1489 insurance as a component of the overall compensation plan.



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1490           4. Brochures or other written materials related to portable  
1491 electronics insurance must:

1492           a. Disclose that such insurance may duplicate coverage  
1493 already provided by a customer's homeowners insurance policy,  
1494 renters insurance policy, or other source of coverage;

1495           b. State that enrollment in insurance coverage is not  
1496 required in order to purchase or lease portable electronics or  
1497 services;

1498           c. Summarize the material terms of the insurance coverage,  
1499 including the identity of the insurer, the identity of the  
1500 supervising entity, the amount of any applicable deductible and  
1501 how it is to be paid, the benefits of coverage, and key terms  
1502 and conditions of coverage, such as whether portable electronics  
1503 may be repaired or replaced with similar make and model  
1504 reconditioned or nonoriginal manufacturer parts or equipment;

1505           d. Summarize the process for filing a claim, including a  
1506 description of how to return portable electronics and the  
1507 maximum fee applicable if the customer fails to comply with  
1508 equipment return requirements; and

1509           e. State that an enrolled customer may cancel coverage at  
1510 any time and that the person paying the premium will receive a  
1511 refund of any unearned premium.

1512           5. A licensed and appointed general lines agent is not  
1513 required to obtain a portable electronics insurance license to  
1514 offer or sell portable electronics insurance at locations  
1515 already licensed as an insurance agency, but may apply for a  
1516 portable electronics insurance license for branch locations not  
1517 otherwise licensed to sell insurance.

1518           6. A portable electronics license authorizes the sale of



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1519 individual policies or certificates under a group or master  
1520 insurance policy. The license also authorizes the sale of  
1521 service warranty agreements covering only portable electronics  
1522 to the same extent as if licensed under s. 634.419 or s.  
1523 634.420.

1524 7. A licensee may bill and collect the premium for the  
1525 purchase of portable electronics insurance provided that:

1526 a. If the insurance is included with the purchase or lease  
1527 of portable electronics or related services, the licensee  
1528 clearly and conspicuously discloses that insurance coverage is  
1529 included with the purchase. Disclosure of the stand-alone cost  
1530 of the premium for same or similar insurance must be made on the  
1531 customer's bill and in any marketing materials made available at  
1532 the point of sale. If the insurance is not included, the charge  
1533 to the customer for the insurance must be separately itemized on  
1534 the customer's bill.

1535 b. Premiums are incidental to other fees collected, are  
1536 maintained in a manner that is readily identifiable, and are  
1537 accounted for and remitted to the insurer or supervising entity  
1538 within 60 days of receipt. Licensees are not required to  
1539 maintain such funds in a segregated account.

1540 c. All funds received by a licensee from an enrolled  
1541 customer for the sale of the insurance are considered funds held  
1542 in trust by the licensee in a fiduciary capacity for the benefit  
1543 of the insurer. Licensees may receive compensation for billing  
1544 and collection services.

1545 8. Notwithstanding any other provision of law, the terms  
1546 for the termination or modification of coverage under a policy  
1547 of portable electronics insurance are those set forth in the



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1548 policy.

1549           9. Notice or correspondence required by the policy, or  
1550 otherwise required by law, may be provided by electronic means  
1551 if the insurer or licensee maintains proof that the notice or  
1552 correspondence was sent. Such notice or correspondence may be  
1553 sent on behalf of the insurer or licensee by the general lines  
1554 agent appointed by the insurer to supervise the administration  
1555 of the program. For purposes of this subparagraph, an enrolled  
1556 customer's provision of an electronic mail address to the  
1557 insurer or licensee is deemed to be consent to receive notices  
1558 and correspondence by electronic means if a conspicuously  
1559 located disclosure is provided to the customer indicating the  
1560 same.

1561           10. ~~The provisions of this chapter requiring submission of~~  
1562 ~~fingerprints~~ requirements in s. 626.171(4) do not apply to  
1563 licenses issued to qualified entities under this paragraph.

1564           11. A branch location that sells portable electronics  
1565 insurance may, in lieu of obtaining an appointment from an  
1566 insurer or warranty association, obtain a single appointment  
1567 from the associated lead business location licensee and pay the  
1568 prescribed appointment fee under s. 624.501 if the lead business  
1569 location has a single appointment from each insurer or warranty  
1570 association represented and such appointment applies to the lead  
1571 business location and all of its branch locations. Branch  
1572 location appointments shall be renewed 24 months after the  
1573 initial appointment date of the lead business location and every  
1574 24 months thereafter. Notwithstanding s. 624.501, the renewal  
1575 fee applicable to such branch location appointments is \$30 per  
1576 appointment.



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1577 12. For purposes of this paragraph:

1578 a. "Branch location" means any physical location in this  
1579 state at which a licensee offers its products or services for  
1580 sale.

1581 b. "Portable electronics" means personal, self-contained,  
1582 easily carried by an individual, battery-operated electronic  
1583 communication, viewing, listening, recording, gaming, computing  
1584 or global positioning devices, including cell or satellite  
1585 phones, pagers, personal global positioning satellite units,  
1586 portable computers, portable audio listening, video viewing or  
1587 recording devices, digital cameras, video camcorders, portable  
1588 gaming systems, docking stations, automatic answering devices,  
1589 and other similar devices and their accessories, and service  
1590 related to the use of such devices.

1591 c. "Portable electronics transaction" means the sale or  
1592 lease of portable electronics or a related service, including  
1593 portable electronics insurance.

1594 Section 39. Subsection (5) of section 626.601, Florida  
1595 Statutes, is amended to read:

1596 626.601 Improper conduct; inquiry; fingerprinting.—

1597 (5) If the department or office, after investigation, has  
1598 reason to believe that an individual may have been found guilty  
1599 of or pleaded guilty or nolo contendere to a felony or a crime  
1600 related to the business of insurance in this or any other state  
1601 or jurisdiction, the department or office may require the  
1602 individual to file with the department or office a complete set  
1603 of his or her fingerprints, in accordance with s. 626.171(4),  
1604 which shall be accompanied by the fingerprint processing fee set  
1605 forth in s. 624.501. The fingerprints shall be taken by an



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1606 authorized law enforcement agency or other department-approved  
1607 entity.

1608 Section 40. Subsection (2) of section 626.7845, Florida  
1609 Statutes, is amended to read:

1610 626.7845 Prohibition against unlicensed transaction of life  
1611 insurance.—

1612 (2) Except as provided in s. 626.112(6), with respect to  
1613 any line of authority specified in s. 626.015(13) ~~s.~~

1614 ~~626.015(12)~~, an individual may not, unless licensed as a life  
1615 agent:

1616 (a) Solicit insurance or annuities or procure applications;

1617 (b) In this state, engage or hold himself or herself out as  
1618 engaging in the business of analyzing or abstracting insurance  
1619 policies or of counseling or advising or giving opinions to  
1620 persons relative to insurance or insurance contracts, unless the  
1621 individual is:

1622 1. A consulting actuary advising insurers;

1623 2. An employee of a labor union, association, employer, or  
1624 other business entity, or the subsidiaries and affiliates of  
1625 each, who counsels and advises such entity or entities relative  
1626 to their interests and those of their members or employees under  
1627 insurance benefit plans; or

1628 3. A trustee advising a settlor, a beneficiary, or a person  
1629 regarding his or her interests in a trust, relative to insurance  
1630 benefit plans; or

1631 (c) In this state, from this state, or with a resident of  
1632 this state, offer or attempt to negotiate on behalf of another  
1633 person a viatical settlement contract as defined in s. 626.9911.

1634 Section 40. Paragraph (d) of subsection (2) of section



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1635 626.8411, Florida Statutes, is amended, and paragraph (f) is  
1636 added to subsection (1) of that section, to read:

1637 626.8411 Application of Florida Insurance Code provisions  
1638 to title insurance agents or agencies.—

1639 (1) The following provisions applicable to general lines  
1640 agents or agencies also apply to title insurance agents or  
1641 agencies:

1642 (f) Section 626.172(2)(f), relating to fingerprints.

1643 (2) The following provisions of part I do not apply to  
1644 title insurance agents or title insurance agencies:

1645 (d) Section 626.172, except for paragraph (2)(f) of that  
1646 section, relating to agent in full-time charge.

1647 Section 41. Paragraph (b) of subsection (1) of section  
1648 626.8412, Florida Statutes, is amended to read:

1649 626.8412 License and appointments required.—

1650 (1) Except as otherwise provided in this part:

1651 (b) A title insurance agent may not sell a title insurance  
1652 policy issued by an insurer for which the agent and the agency  
1653 do ~~es~~ not hold a current appointment.

1654 Section 42. Paragraph (a) of subsection (3) of section  
1655 626.8417, Florida Statutes, is amended to read:

1656 626.8417 Title insurance agent licensure; exemptions.—

1657 (3) The department may not grant or issue a license as a  
1658 title insurance agent to an individual who is found by the  
1659 department to be untrustworthy or incompetent, who does not meet  
1660 the qualifications for examination specified in s. 626.8414, or  
1661 who does not meet the following qualifications:

1662 (a) Within the 4 years immediately preceding the date of  
1663 the application for license, the applicant must have completed a





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1664 40-hour ~~classroom~~ course in title insurance, 3 hours of which  
1665 are on the subject matter of ethics, as approved by the  
1666 department, or must have had at least 12 months of experience in  
1667 responsible title insurance duties, under the supervision of a  
1668 licensed title insurance agent, title insurer, or attorney while  
1669 working in the title insurance business as a substantially full-  
1670 time, bona fide employee of a title insurance agency, title  
1671 insurance agent, title insurer, or attorney who conducts real  
1672 estate closing transactions and issues title insurance policies  
1673 but who is exempt from licensure under subsection (4). If an  
1674 applicant's qualifications are based upon the periods of  
1675 employment at responsible title insurance duties, the applicant  
1676 must submit, with the license application, an affidavit of the  
1677 applicant and of the employer affirming the period of such  
1678 employment, that the employment was substantially full time, and  
1679 giving a brief abstract of the nature of the duties performed by  
1680 the applicant.

1681 Section 43. Section 626.8421, Florida Statutes, is amended  
1682 to read:

1683 626.8421 Number of appointments permitted or required.—A  
1684 title agent and a title agency shall be required to have a  
1685 separate appointment as to each insurer by which they are ~~he or~~  
1686 ~~she is~~ appointed as agents ~~agent~~. As a part of each appointment  
1687 there shall be a certified statement or affidavit of an  
1688 appropriate officer or official of the appointing insurer  
1689 stating that to the best of the insurer's knowledge and belief  
1690 the applicant, or its principals in the case of a corporation or  
1691 other legal entity, has met the requirements of s. 626.8417.

1692 Section 44. Subsections (1) and (2) of section 626.843,



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1693 Florida Statutes, are amended to read:

1694           626.843 Renewal, continuation, reinstatement, termination  
1695 of title insurance agent's and title insurance agency's  
1696 appointments appointment.—

1697           (1) Appointments ~~the appointment~~ of a title insurance agent  
1698 and a title insurance agency shall continue in force until  
1699 suspended, revoked, or otherwise terminated, but subject to a  
1700 renewed request filed by the insurer every 24 months after the  
1701 original issue dates ~~date~~ of the appointments ~~appointment~~,  
1702 accompanied by payments ~~payment~~ of the renewal appointment fees  
1703 ~~fee~~ and taxes as prescribed in s. 624.501.

1704           (2) Title insurance agent and title insurance agency  
1705 appointments shall be renewed pursuant to s. 626.381 for  
1706 insurance representatives in general.

1707           Section 45. Subsection (1) of section 626.8433, Florida  
1708 Statutes, is amended to read:

1709           626.8433 Filing of reasons for terminating appointment of  
1710 title insurance agent and title insurance agency; confidential  
1711 information.—

1712           (1) Any title insurer that is terminating the appointment  
1713 of a title insurance agent or title insurance agency, whether  
1714 such termination is by direct action of the appointing title  
1715 insurer or by failure to renew or continue the appointment as  
1716 provided, shall file with the department a statement of the  
1717 reasons, if any, for, and the facts relative to, such  
1718 termination.

1719           Section 46. Section 626.8447, Florida Statutes, is amended  
1720 to read:

1721           626.8447 Effect of suspension or revocation upon other



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1722 licensees, appointees.—In case of the suspension or revocation  
1723 of the license and appointment of any title insurance agent or  
1724 title insurance agency, the licenses and appointments of all  
1725 other title insurance agents who knowingly were parties to the  
1726 act that ~~which~~ formed the ground for such suspension or  
1727 revocation may likewise be suspended or revoked for the same  
1728 period as that of the offending title insurance agent or title  
1729 insurance agency, but such suspension or revocation does ~~shall~~  
1730 not prevent any title insurance agent, except the one whose  
1731 license and appointment was first suspended or revoked, from  
1732 being issued an appointment for some other title insurer.

1733 Section 47. Present paragraph (d) of subsection (10) of  
1734 section 626.854, Florida Statutes, is redesignated as paragraph  
1735 (f), and a new paragraph (d) and paragraph (e) are added to that  
1736 subsection, to read:

1737 626.854 "Public adjuster" defined; prohibitions.—The  
1738 Legislature finds that it is necessary for the protection of the  
1739 public to regulate public insurance adjusters and to prevent the  
1740 unauthorized practice of law.

1741 (10)

1742 (d) Public adjuster compensation may not be based on  
1743 amounts attributable to additional living expenses, unless such  
1744 compensation is affirmatively agreed to in a separate agreement  
1745 that includes a disclosure in substantially the following form:  
1746 "I agree to retain and compensate the public adjuster for  
1747 adjusting my additional living expenses and securing payment  
1748 from my insurer for amounts attributable to additional living  
1749 expenses payable under the policy issued on my (home/mobile  
1750 home/condominium unit)."



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1751 (e) Public adjuster compensation may not be increased based  
1752 on a claim being resolved by litigation.

1753 Section 48. Section 626.8561, Florida Statutes, is amended  
1754 to read:

1755 626.8561 "Public adjuster apprentice" defined.—The term  
1756 "public adjuster apprentice" means a person licensed as an all-  
1757 lines adjuster who:

1758 (1) Is appointed and employed or contracted by ~~a public~~  
1759 ~~adjuster or~~ a public adjusting firm;

1760 (2) Assists the ~~public adjuster or~~ public adjusting firm in  
1761 ascertaining and determining the amount of any claim, loss, or  
1762 damage payable under an insurance contract, or who undertakes to  
1763 effect settlement of such claim, loss, or damage; and

1764 (3) Satisfies the requirements of s. 626.8651.

1765 Section 49. Paragraph (e) of subsection (1) and subsection  
1766 (2) of section 626.865, Florida Statutes, are amended to read:

1767 626.865 Public adjuster's qualifications, bond.—

1768 (1) The department shall issue a license to an applicant  
1769 for a public adjuster's license upon determining that the  
1770 applicant has paid the applicable fees specified in s. 624.501  
1771 and possesses the following qualifications:

1772 (e) Has been licensed and appointed in this state as a  
1773 nonresident public adjuster on a continual basis for the  
1774 previous 6 months, or has been licensed as an all-lines  
1775 adjuster, and has been appointed on a continual basis for the  
1776 previous 6 months as a public adjuster apprentice under s.  
1777 626.8561, as an independent adjuster under s. 626.855, or as a  
1778 company employee adjuster under s. 626.856.

1779 (2) At the time of application for license as a public



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1780 adjuster, the applicant shall file with the department a bond  
1781 executed and issued by a surety insurer authorized to transact  
1782 such business in this state, in the amount of \$50,000,  
1783 conditioned for the faithful performance of his or her duties as  
1784 a public adjuster under the license for which the applicant has  
1785 applied, and thereafter maintain the bond unimpaired throughout  
1786 the existence of the license ~~and for at least 1 year after~~  
1787 ~~termination of the license.~~

1788 (a) The bond must ~~shall~~ be in favor of the department and  
1789 must ~~shall~~ specifically authorize recovery by the department of  
1790 the damages sustained in case the licensee is guilty of fraud or  
1791 unfair practices in connection with his or her business as  
1792 public adjuster.

1793 (b) The bond must remain in effect for 1 year after the  
1794 expiration or termination of the license.

1795 (c) The aggregate liability of the surety for all such  
1796 damages may not ~~shall in no event~~ exceed the amount of the bond.  
1797 The ~~Such~~ bond may ~~shall~~ not be terminated unless at least 30  
1798 days' written notice is given to the licensee and filed with the  
1799 department.

1800 Section 50. Paragraph (a) of subsection (1) and subsection  
1801 (3) of section 626.8651, Florida Statutes, are amended to read:

1802 626.8651 Public adjuster apprentice appointment;  
1803 qualifications.—

1804 (1)(a) The department shall issue an appointment as a  
1805 public adjuster apprentice to a licensee who:

- 1806 1. Is licensed as an all-lines adjuster under s. 626.866;  
1807 2. Has filed with the department a bond executed and issued  
1808 by a surety insurer that is authorized to transact such business



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1809 in this state in the amount of \$50,000, which is conditioned  
1810 upon the faithful performance of his or her duties as a public  
1811 adjuster apprentice; and

1812 3. Maintains such bond unimpaired throughout the existence  
1813 of the appointment. The bond must remain in effect for 1 year  
1814 after the expiration or termination of the license and for at  
1815 least 1 year after termination of the appointment.

1816 (3) A public adjuster apprentice has the same authority as  
1817 the licensed public adjuster or public adjusting firm that  
1818 employs the apprentice except that an apprentice may not execute  
1819 contracts for the services of a public adjuster or public  
1820 adjusting firm. An individual may not be, act as, or hold  
1821 himself or herself out to be a public adjuster apprentice unless  
1822 the individual is licensed as an all-lines adjuster and holds a  
1823 current appointment by a licensed ~~public all-lines adjuster or a~~  
1824 public adjusting firm that has designated with the department a  
1825 primary ~~employs a licensed public adjuster as required by s.~~  
1826 626.8695.

1827 Section 51. Section 626.8696, Florida Statutes, is amended  
1828 to read:

1829 626.8696 Application for adjusting firm license.—

1830 (1) The application for an adjusting firm license must  
1831 include:

1832 (a) The name of each majority owner, partner, officer, and  
1833 director of the adjusting firm.

1834 (b) The resident address of each person required to be  
1835 listed in the application under paragraph (a).

1836 (c) The name of the adjusting firm and its principal  
1837 business address.



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1838 (d) The location of each adjusting firm office and the name  
1839 under which each office conducts or will conduct business.

1840 (e) The name and license number of the designated primary  
1841 adjuster for each adjusting firm location as required in s.  
1842 626.8695.

1843 (f) The fingerprints of each individual required to be  
1844 listed in the application under paragraph (a), filed in  
1845 accordance with s. 626.171(4). However, fingerprints need not be  
1846 filed for an individual who is currently licensed and appointed  
1847 under this chapter.

1848 (g) Any additional information that the department  
1849 requires.

1850 (2) An application for an adjusting firm license must be  
1851 signed by one of the individuals required to be listed in the  
1852 application under paragraph (1)(a) each owner of the firm. If  
1853 ~~the firm is incorporated, the application must be signed by the~~  
1854 ~~president and secretary of the corporation.~~

1855 ~~(3) Each application must be accompanied by payment of any~~  
1856 ~~applicable fee as prescribed in s. 624.501.~~

1857 ~~(4) License fees are not refundable.~~

1858 ~~(5) An adjusting firm required to be licensed pursuant to~~  
1859 ~~s. 626.8695 must remain so licensed for a period of 3 years from~~  
1860 ~~the date of licensure, unless the license is suspended or~~  
1861 ~~revoked. The department may suspend or revoke the adjusting~~  
1862 ~~firm's authority to do business for activities occurring during~~  
1863 ~~the time the firm is licensed, regardless of whether the~~  
1864 ~~licensing period has terminated.~~

1865 Section 52. Subsection (3) of section 626.8732, Florida  
1866 Statutes, is amended to read:



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1867           626.8732 Nonresident public adjuster's qualifications,  
1868 bond.—

1869           (3) At the time of application for license as a nonresident  
1870 public adjuster, the applicant shall file with the department a  
1871 bond executed and issued by a surety insurer authorized to  
1872 transact surety business in this state, in the amount of  
1873 \$50,000, conditioned for the faithful performance of his or her  
1874 duties as a nonresident public adjuster under the license  
1875 applied for. Thereafter, the applicant shall maintain the bond  
1876 unimpaired throughout the existence of the license and for 1  
1877 year after the expiration or termination of the license.

1878           (a) The bond must be in favor of the department and must  
1879 specifically authorize recovery by the department of the damages  
1880 sustained if the licensee commits fraud or unfair practices in  
1881 connection with his or her business as nonresident public  
1882 adjuster.

1883           (b) The aggregate liability of the surety for all the  
1884 damages may not exceed the amount of the bond. The bond may not  
1885 be terminated unless at least 30 days' written notice is given  
1886 to the licensee and filed with the department.

1887           Section 53. Paragraph (a) of subsection (2) of section  
1888 626.8734, Florida Statutes, is amended to read:

1889           626.8734 Nonresident all-lines adjuster license  
1890 qualifications.—

1891           (2) The applicant must furnish the following with his or  
1892 her application:

1893           (a) A complete set of his or her fingerprints in accordance  
1894 with s. 626.171(4). ~~The applicant's fingerprints must be~~  
1895 ~~certified by an authorized law enforcement officer.~~





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1896 Section 54. Section 626.906, Florida Statutes, is amended  
1897 to read:

1898 626.906 Acts constituting Chief Financial Officer as  
1899 process agent.—Any of the following acts in this state, effected  
1900 by mail or otherwise, by an unauthorized foreign insurer, alien  
1901 insurer, or person representing or aiding such an insurer is  
1902 equivalent to and shall constitute an appointment by such  
1903 insurer or person representing or aiding such insurer of the  
1904 Chief Financial Officer to be its true and lawful agent  
1905 ~~attorney~~, upon whom may be served all lawful process in any  
1906 action, suit, or proceeding instituted by or on behalf of an  
1907 insured or beneficiary, arising out of any such contract of  
1908 insurance; and any such act shall be signification of the  
1909 insurer's or person's agreement that such service of process is  
1910 of the same legal force and validity as personal service of  
1911 process in this state upon such insurer or person representing  
1912 or aiding such insurer:

1913 (1) The issuance or delivery of contracts of insurance to  
1914 residents of this state or to corporations authorized to do  
1915 business therein;

1916 (2) The solicitation of applications for such contracts;

1917 (3) The collection of premiums, membership fees,  
1918 assessments, or other considerations for such contracts; or

1919 (4) Any other transaction of insurance.

1920 Section 55. Subsection (4) of section 626.912, Florida  
1921 Statutes, is amended to read:

1922 626.912 Exemptions from ss. 626.904-626.911.—The provisions  
1923 of ss. 626.904-626.911 do not apply to any action, suit, or  
1924 proceeding against any unauthorized foreign insurer, alien



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1925 insurer, or person representing or aiding such an insurer  
1926 arising out of any contract of insurance:

1927 (4) Issued under and in accordance with the Surplus Lines  
1928 Law, when such insurer or person representing or aiding such  
1929 insurer enters a general appearance or when such contract of  
1930 insurance contains a provision designating the Chief Financial  
1931 Officer or designating a Florida resident agent to be the true  
1932 and lawful agent ~~attorney~~ of such unauthorized insurer or person  
1933 representing or aiding such insurer upon whom may be served all  
1934 lawful process in any action, suit, or proceeding instituted by  
1935 or on behalf of an insured or person representing or aiding such  
1936 insurer or beneficiary arising out of any such contract of  
1937 insurance; and service of process effected on such Chief  
1938 Financial Officer or such resident agent shall be deemed to  
1939 confer complete jurisdiction over such unauthorized insurer or  
1940 person representing or aiding such insurer in such action.

1941 Section 56. Subsections (3) and (4) of section 626.937,  
1942 Florida Statutes, are amended to read:

1943 626.937 Actions against insurer; service of process.-

1944 (3) Each unauthorized insurer requesting eligibility  
1945 pursuant to s. 626.918 shall file with the department its  
1946 appointment of the Chief Financial Officer, on a form as  
1947 furnished by the department, as its agent ~~attorney~~ to receive  
1948 service of all legal process issued against it in any civil  
1949 action or proceeding in this state, and agreeing that process so  
1950 served shall be valid and binding upon the insurer. The  
1951 appointment shall be irrevocable, shall bind the insurer and any  
1952 successor in interest as to the assets or liabilities of the  
1953 insurer, and shall remain in effect as long as there is



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1954 outstanding in this state any obligation or liability of the  
1955 insurer resulting from its insurance transactions therein.

1956 (4) At the time of such appointment of the Chief Financial  
1957 Officer as its process agent, the insurer shall file with the  
1958 department designation of the name and e-mail address of the  
1959 person to whom process against it served upon the Chief  
1960 Financial Officer is to be made available through the  
1961 department's secure online portal ~~forwarded~~. The insurer may  
1962 change the designation at any time by a new filing.

1963 Section 57. Subsection (5) of section 626.9953, Florida  
1964 Statutes, is amended to read:

1965 626.9953 Qualifications for registration; application  
1966 required.—

1967 (5) An applicant must submit a set of his or her  
1968 fingerprints in accordance with s. 626.171(4) ~~to the department~~  
1969 ~~and pay the processing fee established under s. 624.501(23)~~. The  
1970 department shall submit the applicant's fingerprints to the  
1971 Department of Law Enforcement for processing state criminal  
1972 history records checks and local criminal records checks through  
1973 local law enforcement agencies and for forwarding to the Federal  
1974 Bureau of Investigation for national criminal history records  
1975 checks. The fingerprints shall be taken by a law enforcement  
1976 agency, a designated examination center, or another department-  
1977 approved entity. The department may not approve an application  
1978 for registration as a navigator if fingerprints have not been  
1979 submitted.

1980 Section 58. Paragraphs (e) and (f) are added to subsection  
1981 (4) of section 633.135, Florida Statutes, to read:

1982 633.135 Firefighter Assistance Grant Program.—



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1983 (4) Funds shall be used to:  
1984 (e) Purchase other equipment and tools that improve  
1985 firesafety and fire rescue capabilities for firefighters.  
1986 (f) Purchase protective clothing and equipment compliant  
1987 with NFPA 1977, "Standard on Protective Clothing and Equipment  
1988 for Wildland Fire Fighting and Urban Interface Fire Fighting."  
1989 Section 59. Subsections (4) and (5) of section 633.216,  
1990 Florida Statutes, are amended to read:  
1991 633.216 Inspection of buildings and equipment; orders;  
1992 firesafety inspection training requirements; certification;  
1993 disciplinary action.—The State Fire Marshal and her or his  
1994 agents or persons authorized to enforce laws and rules of the  
1995 State Fire Marshal shall, at any reasonable hour, when the State  
1996 Fire Marshal has reasonable cause to believe that a violation of  
1997 this chapter or s. 509.215, or a rule adopted thereunder, or a  
1998 minimum firesafety code adopted by the State Fire Marshal or a  
1999 local authority, may exist, inspect any and all buildings and  
2000 structures which are subject to the requirements of this chapter  
2001 or s. 509.215 and rules adopted thereunder. The authority to  
2002 inspect shall extend to all equipment, vehicles, and chemicals  
2003 which are located on or within the premises of any such building  
2004 or structure.  
2005 (4) Every firesafety inspector certificate is valid for a  
2006 period of 4 years from the date of issuance. Renewal of  
2007 certification is subject to the affected person's completing  
2008 proper application for renewal and meeting all of the  
2009 requirements for renewal as established under this chapter or by  
2010 rule adopted under this chapter, which must include completion  
2011 of at least 54 hours during the preceding 4-year period of



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2012 continuing education as required by the rule of the department  
2013 ~~or, in lieu thereof, successful passage of an examination as~~  
2014 ~~established by the department.~~

2015 ~~(5) A previously certified firesafety inspector whose~~  
2016 ~~certification has lapsed for 8 years or more must repeat the~~  
2017 ~~fire safety inspector training as specified by the division.~~

2018 Section 60. Paragraph (b) of subsection (4) and paragraphs  
2019 (a) and (c) of subsection (6) of section 633.408, Florida  
2020 Statutes, are amended to read:

2021 633.408 Firefighter and volunteer firefighter training and  
2022 certification.—

2023 (4) The division shall issue a Firefighter Certificate of  
2024 Compliance to an individual who does all of the following:

2025 (b) Passes the Minimum Standards Course certification  
2026 ~~examination~~ within 12 months after completing the required  
2027 courses.

2028 (6) (a) The division may issue a Special Certificate of  
2029 Compliance to an individual who does all of the following:

2030 1. Satisfactorily completes the course established by rule  
2031 by the division and successfully passes any examination  
2032 corresponding to such course ~~in paragraph (1) (b)~~ to obtain a  
2033 Special Certificate of Compliance.

2034 2. ~~Passes the examination established in paragraph (1) (b)~~  
2035 ~~to obtain a Special Certificate of Compliance.~~

2036 3. Possesses the qualifications in s. 633.412.

2037 ~~(c) In order to retain a Special Certificate of Compliance,~~  
2038 ~~every 4 years an individual must:~~

2039 1. ~~Be active as a firefighter;~~

2040 2. ~~Maintain a current and valid fire service instructor~~



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2041 ~~certificate, instruct at least 40 hours during the 4-year~~  
2042 ~~period, and provide proof of such instruction to the division,~~  
2043 ~~which proof must be registered in an electronic database~~  
2044 ~~designated by the division; or~~

2045 ~~3. Within 6 months before the 4-year period expires,~~  
2046 ~~successfully complete a Firefighter Retention Refresher Course~~  
2047 ~~consisting of a minimum of 40 hours of training as prescribed by~~  
2048 ~~rule.~~

2049 Section 61. Subsections (1) and (4) of section 633.414,  
2050 Florida Statutes, are amended to read:

2051 633.414 Retention of firefighter and volunteer firefighter  
2052 certifications.—

2053 (1) In order for a firefighter to retain her or his  
2054 Firefighter Certificate of Compliance or Special Certificate of  
2055 Compliance, every 4 years he or she must meet the requirements  
2056 for renewal provided in this chapter and by rule, which must  
2057 include at least one of the following:

2058 (a) Be active as a firefighter. As used in this section,  
2059 the term "active" means being employed as a firefighter or  
2060 providing service as a volunteer firefighter as evidenced by the  
2061 individual's name appearing on a fire service provider's  
2062 employment roster in the Florida State Fire College database or  
2063 a letter by the fire service provider attesting to dates of  
2064 employment.

2065 (b) Maintain a current and valid fire service instructor  
2066 certificate, instruct at least 40 hours during the 4-year  
2067 period, and provide proof of such instruction to the division,  
2068 which proof must be registered in an electronic database  
2069 designated by the division.



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2070           (c) Before the expiration of the certificate ~~Within 6~~  
2071 ~~months before the 4-year period expires~~, successfully complete a  
2072 Firefighter Retention Refresher Course consisting of a minimum  
2073 of 40 hours of training to be prescribed by rule.

2074           (d) Before the expiration of the certificate ~~Within 6~~  
2075 ~~months before the 4-year period expires~~, successfully retake and  
2076 pass the Minimum Standards Course examination pursuant to s.  
2077 633.408.

2078           ~~(4) For the purposes of this section, the term "active"~~  
2079 ~~means being employed as a firefighter or providing service as a~~  
2080 ~~volunteer firefighter for a cumulative period of 6 months within~~  
2081 ~~a 4-year period.~~

2082  
2083 The 4-year period may, in the discretion of the department, be  
2084 extended to 12 months after discharge from military service if  
2085 the military service does not exceed 3 years, but in no event  
2086 more than 6 years from the date of issue or renewal, if  
2087 applicable, for an honorably discharged veteran of the United  
2088 States Armed Forces or the spouse of such a veteran. A qualified  
2089 individual must provide a copy of a military identification  
2090 card, military dependent identification card, military service  
2091 record, military personnel file, veteran record, discharge  
2092 paper, or separation document that indicates such member is  
2093 currently in good standing or such veteran is honorably  
2094 discharged.

2095           Section 62. Subsection (4) of section 648.34, Florida  
2096 Statutes, is amended to read:

2097           648.34 Bail bond agents; qualifications.—

2098           (4) The applicant shall furnish, with his or her



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2099 application, a complete set of his or her fingerprints in  
2100 accordance with s. 626.171(4) and a recent credential-sized,  
2101 fullface photograph of the applicant. ~~The applicant's~~  
2102 ~~fingerprints shall be certified by an authorized law enforcement~~  
2103 ~~officer.~~ The department shall not authorize an applicant to take  
2104 the required examination until the department has received a  
2105 report from the Department of Law Enforcement and the Federal  
2106 Bureau of Investigation relative to the existence or  
2107 nonexistence of a criminal history report based on the  
2108 applicant's fingerprints.

2109 Section 63. Subsection (4) of section 648.355, Florida  
2110 Statutes, is amended to read:

2111 648.355 Temporary limited license as limited surety agent  
2112 or professional bail bond agent; pending examination.—

2113 (4) The applicant shall furnish, with the application for  
2114 temporary license, a complete set of the applicant's  
2115 fingerprints in accordance with s. 626.171(4) and a recent  
2116 credential-sized, fullface photograph of the applicant. ~~The~~  
2117 ~~applicant's fingerprints shall be certified by an authorized law~~  
2118 ~~enforcement officer.~~ The department shall not issue a temporary  
2119 license under this section until the department has received a  
2120 report from the Department of Law Enforcement and the Federal  
2121 Bureau of Investigation relative to the existence or  
2122 nonexistence of a criminal history report based on the  
2123 applicant's fingerprints.

2124 Section 64. Subsection (4) is added to section 648.46,  
2125 Florida Statutes, to read:

2126 648.46 Procedure for disciplinary action against  
2127 licensees.—





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2128           (4) The expiration, nonrenewal, or surrender of licensure  
2129 under this chapter does not eliminate the jurisdiction of the  
2130 licensing authority to investigate and prosecute for a violation  
2131 committed by a licensee while licensed under this chapter. The  
2132 prosecution of any matter may be initiated or continued  
2133 notwithstanding the withdrawal of a complaint.

2134           Section 65. Paragraph (d) of subsection (2) and paragraphs  
2135 (b), (c), and (e) of subsection (3) of section 766.105, Florida  
2136 Statutes, are amended, and paragraph (i) is added to subsection  
2137 (3) and subsection (4) is added to that section, to read:

2138           766.105 Florida Patient's Compensation Fund.—

2139           (2) COVERAGE.—

2140           (d)1. Any health care provider who participates in the fund  
2141 and who does not meet the provisions of paragraph (b) shall not  
2142 be covered by the fund.

2143           2. Annually, the Agency for Health Care Administration  
2144 shall require documentation by each hospital that such hospital  
2145 is in compliance, and will remain in compliance, with the  
2146 provisions of this section. ~~The agency shall review the~~  
2147 ~~documentation and then deliver the documentation to the board of~~  
2148 ~~governors. At least 60 days before the time a license will be~~  
2149 ~~issued or renewed, the agency shall request from the board of~~  
2150 ~~governors a certification that each hospital is in compliance~~  
2151 ~~with the provisions of this section. The board of governors~~  
2152 ~~shall not be liable under the law for any erroneous~~  
2153 ~~certification. The agency may not issue or renew the license of~~  
2154 ~~any hospital which has not been certified by the board of~~  
2155 ~~governors. The license of any hospital that fails to remain in~~  
2156 ~~compliance or fails to provide such documentation shall be~~



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2157 ~~revoked or suspended by the agency.~~

2158 (3) THE FUND.—

2159 (b) *Fund administration and operation.*—

2160 1. The fund shall operate subject to the supervision and  
2161 approval of the Chief Financial Officer or his or her designee ~~a~~  
2162 ~~board of governors consisting of a representative of the~~  
2163 ~~insurance industry appointed by the Chief Financial Officer, an~~  
2164 ~~attorney appointed by The Florida Bar, a representative of~~  
2165 ~~physicians appointed by the Florida Medical Association, a~~  
2166 ~~representative of physicians' insurance appointed by the Chief~~  
2167 ~~Financial Officer, a representative of physicians' self-~~  
2168 ~~insurance appointed by the Chief Financial Officer, two~~  
2169 ~~representatives of hospitals appointed by the Florida Hospital~~  
2170 ~~Association, a representative of hospital insurance appointed by~~  
2171 ~~the Chief Financial Officer, a representative of hospital self-~~  
2172 ~~insurance appointed by the Chief Financial Officer, a~~  
2173 ~~representative of the osteopathic physicians' or podiatric~~  
2174 ~~physicians' insurance or self-insurance appointed by the Chief~~  
2175 ~~Financial Officer, and a representative of the general public~~  
2176 ~~appointed by the Chief Financial Officer. The board of governors~~  
2177 ~~shall, during the first meeting after June 30 of each year,~~  
2178 ~~choose one of its members to serve as chair of the board and~~  
2179 ~~another member to serve as vice chair of the board. The members~~  
2180 ~~of the board shall be appointed to serve terms of 4 years,~~  
2181 ~~except that the initial appointments of a representative of the~~  
2182 ~~general public by the Chief Financial Officer, an attorney by~~  
2183 ~~The Florida Bar, a representative of physicians by the Florida~~  
2184 ~~Medical Association, and one of the two representatives of the~~  
2185 ~~Florida Hospital Association shall be for terms of 3 years;~~



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2186 ~~thereafter, such representatives shall be appointed for terms of~~  
2187 ~~4 years. Subsequent to initial appointments for 4-year terms,~~  
2188 ~~the representative of the osteopathic physicians' or podiatric~~  
2189 ~~physicians' insurance or self-insurance appointed by the Chief~~  
2190 ~~Financial Officer and the representative of hospital self-~~  
2191 ~~insurance appointed by the Chief Financial Officer shall be~~  
2192 ~~appointed for 2-year terms; thereafter, such representatives~~  
2193 ~~shall be appointed for terms of 4 years. Each appointed member~~  
2194 ~~may designate in writing to the chair an alternate to act in the~~  
2195 ~~member's absence or incapacity. A member of the board, or the~~  
2196 ~~member's alternate, may be reimbursed from the assets of the~~  
2197 ~~fund for expenses incurred by him or her as a member, or~~  
2198 ~~alternate member, of the board and for committee work, but he or~~  
2199 ~~she may not otherwise be compensated by the fund for his or her~~  
2200 ~~service as a board member or alternate.~~

2201       2. There shall be no liability on the part of, and no cause  
2202 of action of any nature shall arise against, the fund or its  
2203 agents or employees, professional advisers or consultants, the  
2204 Chief Financial Officer or his or her designee ~~members of the~~  
2205 ~~board of governors or their alternates~~, or the Department of  
2206 Financial Services or the Office of Insurance Regulation of the  
2207 Financial Services Commission or their representatives for any  
2208 action taken by them in the performance of their powers and  
2209 duties pursuant to this section.

2210       (c) *Powers of the fund.*—The fund has the power to:

2211       1. Sue and be sued, and appear and defend, in all actions  
2212 and proceedings in its name to the same extent as a natural  
2213 person.

2214       2. Adopt, change, amend, and repeal a plan of operation,



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2215 not inconsistent with law, for the regulation and administration  
2216 of the affairs of the fund. The plan and any changes thereto  
2217 shall be filed with the Office of Insurance Regulation of the  
2218 Financial Services Commission and are all subject to its  
2219 approval before implementation by the fund. All fund members,  
2220 board members, and employees shall comply with the plan of  
2221 operation.

2222         3. Have and exercise all powers necessary or convenient to  
2223 effect any or all of the purposes for which the fund is created.

2224         4. Enter into such contracts as are necessary or proper to  
2225 carry out the provisions and purposes of this section.

2226         5. Employ or retain such persons as are necessary to  
2227 perform the administrative and financial transactions and  
2228 responsibilities of the fund and to perform other necessary or  
2229 proper functions unless prohibited by law.

2230         6. Take such legal action as may be necessary to avoid  
2231 payment of improper claims.

2232         7. Indemnify any ~~employee, agent, member of the board of~~  
2233 ~~governors or his or her alternate, or~~ person acting on behalf of  
2234 the fund in an official capacity, for expenses, including  
2235 attorney's fees, judgments, fines, and amounts paid in  
2236 settlement actually and reasonably incurred by him or her in  
2237 connection with any action, suit, or proceeding, including any  
2238 appeal thereof, arising out of his or her capacity in acting on  
2239 behalf of the fund, if he or she acted in good faith and in a  
2240 manner he or she reasonably believed to be in, or not opposed  
2241 to, the best interests of the fund and, with respect to any  
2242 criminal action or proceeding, he or she had reasonable cause to  
2243 believe his or her conduct was lawful.



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2244 (e) *Fund accounting and audit.*—

2245 1. Money shall be withdrawn from the fund only upon a  
2246 voucher as authorized by the Chief Financial Officer or his or  
2247 her designee ~~board of governors~~.

2248 2. All books, records, and audits of the fund shall be open  
2249 for reasonable inspection to the general public, except that a  
2250 claim file in possession of the fund, fund members, and their  
2251 insurers is confidential and exempt from the provisions of s.  
2252 119.07(1) and s. 24(a), Art. I of the State Constitution until  
2253 termination of litigation or settlement of the claim, although  
2254 medical records and other portions of the claim file may remain  
2255 confidential and exempt as otherwise provided by law. Any book,  
2256 record, document, audit, or asset acquired by, prepared for, or  
2257 paid for by the fund is subject to the authority of the Chief  
2258 Financial Officer or his or her designee ~~board of governors~~,  
2259 which shall be responsible therefor.

2260 3. Persons authorized to receive deposits, issue vouchers,  
2261 or withdraw or otherwise disburse any fund moneys shall post a  
2262 blanket fidelity bond in an amount reasonably sufficient to  
2263 protect fund assets. The cost of such bond shall be paid from  
2264 the fund.

2265 4. Annually, the fund shall furnish, upon request, audited  
2266 financial reports to any fund participant and to the Office of  
2267 Insurance Regulation and the Joint Legislative Auditing  
2268 Committee. The reports shall be prepared in accordance with  
2269 accepted accounting procedures and shall include income and such  
2270 other information as may be required by the Office of Insurance  
2271 Regulation or the Joint Legislative Auditing Committee.

2272 5. Any money held in the fund shall be invested in



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2273 ~~interest-bearing investments by the board of governors of the~~  
2274 ~~fund as administrator.~~ However, in no case may any such money be  
2275 invested in the stock of any insurer participating in the Joint  
2276 Underwriting Association authorized by s. 627.351(4) or in the  
2277 parent company of, or company owning a controlling interest in,  
2278 such insurer. All income derived from such investments shall be  
2279 credited to the fund.

2280 6. Any health care provider participating in the fund may  
2281 withdraw from such participation only at the end of a fiscal  
2282 year; however, such health care provider shall remain subject to  
2283 any assessment or any refund pertaining to any year in which  
2284 such member participated in the fund.

2285 (i) Dissolution of the fund.—The fund shall operate subject  
2286 to the supervision of the Chief Financial Officer or his or her  
2287 designee, pursuant to the policies and procedures and under the  
2288 auspices of the Department of Financial Services, Division of  
2289 Rehabilitation and Liquidation, until the department executes a  
2290 legal dissolution of the fund on or before December 31, 2023.

2291 Before the legal dissolution of the fund, the Department of  
2292 Financial Services must:

2293 1. Obtain all existing records and retain necessary records  
2294 of the fund pursuant to law.

2295 2. Identify all remaining property held by the fund and  
2296 attempt to return such property to its owners and, for property  
2297 that cannot be returned to the owner, transfer such property to  
2298 the Department of Financial Services, Division of Unclaimed  
2299 Property.

2300 3. Make a final accounting of the finances of the fund.

2301 4. Ensure that the fund has met all its obligations



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2302 pursuant to structured settlements, annuities, or other  
2303 instruments established to pay covered claims, and, if the fund  
2304 has not done so, attempt to meet such obligations before final  
2305 and complete dissolution of the fund.

2306 5. Sell or otherwise dispose of all physical assets of the  
2307 fund.

2308 6. Execute a legal dissolution of the fund.

2309 7. Transfer any remaining money or assets of the fund to  
2310 the Chief Financial Officer for deposit in the General Revenue  
2311 Fund.

2312 (4) REPEAL.—This section is repealed January 1, 2024.

2313 Section 66. Paragraph (b) of subsection (1) of section  
2314 945.6041, Florida Statutes, is amended to read:

2315 945.6041 Inmate medical services.—

2316 (1) As used in this section, the term:

2317 (b) "Health care provider" means:

2318 1. A hospital licensed under chapter 395.

2319 2. A physician or physician assistant licensed under  
2320 chapter 458.

2321 3. An osteopathic physician or physician assistant licensed  
2322 under chapter 459.

2323 4. A podiatric physician licensed under chapter 461.

2324 5. A health maintenance organization certificated under  
2325 part I of chapter 641.

2326 6. An ambulatory surgical center licensed under chapter  
2327 395.

2328 7. A professional association, partnership, corporation,  
2329 joint venture, or other association established by the  
2330 individuals set forth in subparagraphs 2., 3., and 4. for



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2331 professional activity.  
2332 8. Other medical facility.  
2333 a. As used in this subparagraph, the term "other medical  
2334 facility" means:  
2335 (I) A facility the primary purpose of which is to provide  
2336 human medical diagnostic services, or a facility providing  
2337 nonsurgical human medical treatment which discharges patients on  
2338 the same working day that the patients are admitted; and  
2339 (II) A facility that is not part of a hospital.  
2340 b. The term does not include a facility existing for the  
2341 primary purpose of performing terminations of pregnancy, or an  
2342 office maintained by a physician or dentist for the practice of  
2343 medicine has the same meaning as provided in s. 766.105.  
2344 Section 67. Paragraph (a) of subsection (1) of section  
2345 985.6441, Florida Statutes, is amended to read:  
2346 985.6441 Health care services.—  
2347 (1) As used in this section, the term:  
2348 (a) "Health care provider" means:  
2349 1. A hospital licensed under chapter 395.  
2350 2. A physician or physician assistant licensed under  
2351 chapter 458.  
2352 3. An osteopathic physician or physician assistant licensed  
2353 under chapter 459.  
2354 4. A podiatric physician licensed under chapter 461.  
2355 5. A health maintenance organization certificated under  
2356 part I of chapter 641.  
2357 6. An ambulatory surgical center licensed under chapter  
2358 395.  
2359 7. A professional association, partnership, corporation,





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2360 joint venture, or other association established by the  
2361 individuals set forth in subparagraphs 2., 3., and 4. for  
2362 professional activity.

2363 8. Other medical facility.

2364 a. As used in this subparagraph, the term "other medical  
2365 facility" means:

2366 (I) A facility the primary purpose of which is to provide  
2367 human medical diagnostic services, or a facility providing  
2368 nonsurgical human medical treatment which discharges patients on  
2369 the same working day that the patients are admitted; and

2370 (II) A facility that is not part of a hospital.

2371 b. The term does not include a facility existing for the  
2372 primary purpose of performing terminations of pregnancy, or an  
2373 office maintained by a physician or dentist for the practice of  
2374 medicine has the same meaning as provided in s. 766.105.

2375 Section 68. All powers, duties, functions, records,  
2376 offices, personnel, associated administrative support positions,  
2377 property, pending issues, existing contracts, administrative  
2378 authority, and administrative rules relating to the Stop Inmate  
2379 Fraud Program within the Department of Financial Services are  
2380 transferred by a type two transfer as defined in s. 20.06(2),  
2381 Florida Statutes, to the Department of Economic Opportunity.

2382 Section 69. Except as otherwise expressly provided in this  
2383 act, this act shall take effect July 1, 2022.

2384  
2385 ===== T I T L E A M E N D M E N T =====

2386 And the title is amended as follows:

2387 Delete everything before the enacting clause  
2388 and insert:



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2389                                   A bill to be entitled  
2390           An act relating to the Department of Financial  
2391           Services; repealing s. 17.0315, F.S., relating to the  
2392           financial and cash management system and task force;  
2393           amending s. 48.151, F.S.; providing an exception to  
2394           service of process on public entities under certain  
2395           circumstances; deleting the Chief Financial Officer's  
2396           assistant or deputy or another person in charge of the  
2397           office as agents for service of process on insurers;  
2398           requiring the Department of Financial Services to  
2399           create a secure online portal as the sole means to  
2400           accept certain service of process; amending s.  
2401           110.123, F.S.; revising definitions; authorizing  
2402           specified persons relating to the Division of  
2403           Rehabilitation and Liquidation to purchase coverage in  
2404           a state group health insurance plan at specified  
2405           premium costs; providing that the enrollment period  
2406           for the state group insurance program begins with a  
2407           specified plan year for certain persons relating to  
2408           the division; amending s. 110.131, F.S.; conforming a  
2409           cross-reference; amending s. 120.541, F.S.; revising  
2410           applicability of certain provisions relating to a  
2411           specified proposed rule; amending s. 215.34, F.S.;  
2412           deleting the requirement for specified entities  
2413           receiving certain charged-back items to prepare a  
2414           journal transfer; amending s. 215.93, F.S.; renaming a  
2415           subsystem of the Florida Financial Management  
2416           Information System; amending s. 215.94, F.S.;  
2417           conforming a provision to changes made by the act;



2418 amending s. 216.102, F.S.; making technical changes;  
2419 amending s. 218.32, F.S.; revising legislative intent;  
2420 providing functions of the Florida Open Financial  
2421 Statement System; requiring local governments to use  
2422 the system to file specified reports; providing  
2423 requirements for the system; revising the list of  
2424 entities with which the Chief Financial Officer may  
2425 consult with regard to the system; authorizing, rather  
2426 than requiring, certain local governmental financial  
2427 statements to be filed in a specified format; deleting  
2428 certain requirements for such statements; providing  
2429 construction; providing an exception; creating s.  
2430 395.1061, F.S.; defining terms; requiring certain  
2431 hospitals to demonstrate financial responsibility for  
2432 maintaining professional liability coverage;  
2433 specifying requirements for such financial  
2434 responsibility; requiring hospitals to provide  
2435 evidence of compliance and to remain in compliance;  
2436 prohibiting the Agency for Health Care Administration  
2437 from issuing or renewing licenses of hospitals under  
2438 certain circumstances; providing exemptions from  
2439 professional liability coverage requirements;  
2440 authorizing hospital systems to meet such professional  
2441 liability coverage requirements in a specified manner;  
2442 amending s. 414.40, F.S.; transferring the Stop Inmate  
2443 Fraud Program from the Department of Financial  
2444 Services to the Department of Economic Opportunity;  
2445 authorizing the program to provide reports of certain  
2446 data to the Division of Public Assistance Fraud for a



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2447 specified purpose; amending s. 440.02, F.S.; revising  
2448 the definition of the term "employer"; amending s.  
2449 440.05, F.S.; revising information that must be  
2450 submitted with the notice of election to be exempt  
2451 from workers' compensation coverage; specifying the  
2452 circumstances under which the Department of Financial  
2453 Services is required to send certain notifications to  
2454 workers' compensation carriers; requiring such  
2455 notifications to be electronic; requiring certificates  
2456 of election to be exempt to contain a specified  
2457 notice; deleting a provision requiring certain  
2458 corporation officers to maintain business records;  
2459 revising applicability of certificates of election to  
2460 be exempt; amending s. 440.107, F.S.; revising the  
2461 timeframe for certain employers to produce specified  
2462 records under certain circumstances; prohibiting  
2463 employers who failed to secure payment of workers'  
2464 compensation from entering a payment agreement  
2465 schedule with the department unless a specified  
2466 condition is met; revising circumstances that result  
2467 in immediate reinstatement of stop-work orders;  
2468 revising penalty assessments; amending s. 440.13,  
2469 F.S.; revising statewide schedules of maximum  
2470 reimbursement allowances for medically necessary  
2471 treatment, care, and attendance; authorizing the  
2472 department to adopt rules; amending s. 440.185, F.S.;  
2473 revising the timeline and methods for workers'  
2474 compensation carriers to send a certain informational  
2475 brochure to injured workers; revising methods by which



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2476 such informational brochure is sent to employers;  
2477 amending s. 440.381, F.S.; specifying workers'  
2478 compensation policies that require physical onsite  
2479 audits for a specified class; amending s. 497.277,  
2480 F.S.; deleting a cap on transferring burial rights  
2481 fees; amending s. 497.369, F.S.; revising requirements  
2482 for licenses by endorsement to practice embalming;  
2483 amending s. 497.372, F.S.; revising the scope of  
2484 funeral directing practice; amending s. 497.374, F.S.;  
2485 revising requirements for licenses by endorsement to  
2486 practice funeral directing; amending s. 554.108, F.S.;  
2487 requiring boilers manufactured after a specified date,  
2488 rather than boilers of certain heat input, to be  
2489 stamped with a specified code symbol; revising the  
2490 boilers' information that must be filed; requiring  
2491 that specified spaces and rooms be equipped with  
2492 carbon monoxide detector devices; amending s. 554.111,  
2493 F.S.; deleting a requirement for a specified fee for a  
2494 certificate of competency; requiring applications for  
2495 boiler permits to include a specified report; revising  
2496 the purpose for special trips that the department is  
2497 required to make for boiler inspections; amending s.  
2498 554.114, F.S.; revising the schedules of penalties  
2499 against boiler insurance companies, inspection  
2500 agencies, and other persons for specified violations;  
2501 amending s. 624.307, F.S.; providing that certain  
2502 regulated persons or unauthorized insurers are  
2503 required to appoint the Chief Financial Officer as  
2504 their agents, rather than as their attorneys, to



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2505 receive service of legal process; revising the method  
2506 by which the Chief Financial Officer makes the process  
2507 available; requiring the Chief Financial Officer to  
2508 promptly send notice of receipt of service of process;  
2509 revising requirements for the contents of such notice;  
2510 amending s. 624.422, F.S.; requiring insurers to file  
2511 with the department e-mail addresses, rather than  
2512 addresses, of specified persons; providing that a  
2513 specified method by which process is served upon the  
2514 Chief Financial Officer is the sole method of service;  
2515 conforming provisions to changes made by the act;  
2516 amending s. 624.423, F.S.; revising procedures for  
2517 service of process; requiring the Chief Financial  
2518 Officer to promptly notify certain persons of the  
2519 process and to make the process available to such  
2520 persons through specified means; revising the method  
2521 by which records are retained; amending s. 624.610,  
2522 F.S.; conforming provisions to changes made by the  
2523 act; amending s. 626.015, F.S.; defining the term  
2524 "licensing authority"; revising the definition of the  
2525 term "unaffiliated insurance agent"; amending s.  
2526 626.171, F.S.; requiring fingerprints for certain  
2527 licenses to be processed in accordance with specified  
2528 laws; amending s. 626.172, F.S.; revising the method  
2529 by which fingerprints for applications for insurance  
2530 agency licenses are submitted; deleting a fingerprint  
2531 processing fee; creating s. 626.173, F.S.; providing  
2532 duties for certain insurance agency persons within a  
2533 specified timeframe after cessation of insurance



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2534 transactions; authorizing the department to impose  
2535 administrative fines against such persons for  
2536 specified violations; prohibiting the initiation of  
2537 certain proceedings and imposition of fines until  
2538 specified prerequisites are completed; providing a cap  
2539 on such fines; authorizing the department to suspend  
2540 or revoke licenses under certain circumstances;  
2541 providing requirements for determining penalties and  
2542 remedies; amending s. 626.201, F.S.; conforming a  
2543 provision to changes made by the act; providing  
2544 continuation of jurisdiction of the licensing  
2545 authority to investigate and prosecute specified  
2546 violations under certain circumstances; amending s.  
2547 626.202, F.S.; conforming provisions to changes made  
2548 by the act; amending s. 626.221, F.S.; adding a  
2549 designation to the list of designations that allow  
2550 applicants for an all-lines adjuster license to be  
2551 exempt from an examination; amending s. 626.311, F.S.;  
2552 providing an exception to the prohibition against  
2553 unaffiliated insurance agents holding appointments  
2554 from insurers; authorizing certain adjusters to obtain  
2555 adjuster appointments while maintaining unaffiliated  
2556 insurance agent appointments and to adjust claims and  
2557 receive certain compensation; amending ss. 626.321 and  
2558 626.601, F.S.; conforming provisions to changes made  
2559 by the act; amending s. 626.7845, F.S.; conforming a  
2560 cross-reference; amending ss. 626.8411 and 626.8412,  
2561 F.S.; conforming provisions to changes made by the  
2562 act; amending s. 626.8417, F.S.; revising requirements



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2563 to qualify for title insurance agent licenses;  
2564 amending s. 626.8421, F.S.; requiring title agencies  
2565 to have separate appointments under certain  
2566 circumstances; amending s. 626.843, F.S.; providing  
2567 requirements for appointments of title insurance  
2568 agencies; amending s. 626.8433, F.S.; requiring title  
2569 insurers that terminate appointments of title  
2570 insurance agencies to file certain information with  
2571 the department; amending s. 626.8447, F.S.; providing  
2572 effects of suspension or revocation of title insurance  
2573 agency licenses; amending s. 626.854, F.S.; providing  
2574 restrictions on public adjuster compensation;  
2575 providing exceptions to such restrictions; amending s.  
2576 626.8561, F.S.; revising the definition of the term  
2577 "public adjuster apprentice"; amending s. 626.865,  
2578 F.S.; revising requirements to qualify for public  
2579 adjuster licenses; requiring that certain bonds remain  
2580 in effect for a specified period after expiration of  
2581 the license; amending s. 626.8651, F.S.; requiring  
2582 that certain bonds remain in effect for a specified  
2583 period after expiration of a public adjuster  
2584 apprentice license; revising requirements for public  
2585 adjuster apprentices to be, act as, or hold themselves  
2586 out to be public adjuster apprentices; amending s.  
2587 626.8696, F.S.; revising requirements for adjusting  
2588 firm license applications; amending s. 626.8732, F.S.;  
2589 requiring applicants for nonresident public adjuster  
2590 licenses to maintain certain bonds after the  
2591 expiration or termination of licenses; amending ss.





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2592 626.8734, 626.906, 626.912, 626.937, and 626.9953,  
2593 F.S.; conforming provisions to changes made by the  
2594 act; amending s. 633.135, F.S.; providing additional  
2595 uses for firefighter funds; amending s. 633.216, F.S.;  
2596 revising requirements for renewal of firesafety  
2597 inspector certificates; amending s. 633.408, F.S.;  
2598 revising requirements for the issuance of a  
2599 Firefighter Certificate of Compliance and Special  
2600 Certificate of Compliance; deleting provisions  
2601 relating to requirements to retain a Special  
2602 Certificate of Compliance; amending s. 633.414, F.S.;  
2603 providing requirements to retain a Special Certificate  
2604 of Compliance; revising requirements to retain a  
2605 Firefighter Certificate of Compliance; redefining the  
2606 term "active"; amending ss. 648.34 and 648.355, F.S.;  
2607 conforming provisions to changes made by the act;  
2608 amending s. 648.46, F.S.; providing continuation of  
2609 jurisdiction of the licensing authority to investigate  
2610 and prosecute specified violations under certain  
2611 circumstances; amending s. 766.105, F.S.; deleting  
2612 requirements and procedures for the certification of  
2613 hospital compliance with the Florida Patient's  
2614 Compensation Fund; providing that the fund is subject  
2615 to the supervision and approval of the Chief Financial  
2616 Officer or his or her designee, rather than the board  
2617 of governors; conforming provisions to changes made by  
2618 the act; providing for supervision of the fund until  
2619 dissolution; specifying duties of the Department of  
2620 Financial Services before dissolution of the fund;



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2621 providing for future repeal; amending ss. 945.6041 and  
2622 985.6441, F.S.; revising the definition of the term  
2623 "health care provider"; defining the term "other  
2624 medical facility"; transferring the Stop Inmate Fraud  
2625 Program within the Department of Financial Services to  
2626 the Department of Economic Opportunity by a type two  
2627 transfer; providing effective dates.



467244

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/27/2022	.	
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The Committee on Banking and Insurance (Brandes) recommended the following:

1           **Senate Amendment to Amendment (334330) (with title**  
2 **amendment)**

3  
4           Delete lines 1733 - 1752  
5 and insert:

6           Section 47. Subsection (10) of section 626.854, Florida  
7 Statutes, is amended to read:

8           626.854 "Public adjuster" defined; prohibitions.—The  
9 Legislature finds that it is necessary for the protection of the  
10 public to regulate public insurance adjusters and to prevent the



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11 unauthorized practice of law.

12 (10) (a) If a public adjuster enters into a contract with an  
13 insured or claimant to reopen a claim or file a supplemental  
14 claim that seeks additional payments for a claim that has been  
15 previously paid in part or in full or settled by the insurer,  
16 the public adjuster may not charge, agree to, or accept from any  
17 source compensation, payment, commission, fee, or any other  
18 thing of value based on a previous settlement or previous claim  
19 payments by the insurer for the same cause of loss. The charge,  
20 compensation, payment, commission, fee, or any other thing of  
21 value must be based only on the recovery allocated to the  
22 insured for covered damages, exclusive of attorney fees and  
23 costs, ~~claim payments or settlement~~ obtained through the work of  
24 the public adjuster after entering into the contract with the  
25 insured or claimant. Compensation for the reopened or  
26 supplemental claim may not exceed 20 percent of the reopened or  
27 supplemental claim payment. In no event shall the contracts  
28 described in this paragraph exceed the limitations in paragraph  
29 (b).

30 (b) A public adjuster may not charge, agree to, or accept  
31 from any source compensation, payment, commission, fee, or any  
32 other thing of value in excess of:

33 1. Ten percent of the amount of insurance recovery  
34 allocated to the insured for covered damages, exclusive of  
35 attorney fees and costs, ~~claim payments made~~ by the insurer for  
36 claims based on events that are the subject of a declaration of  
37 a state of emergency by the Governor. This provision applies to  
38 claims made during the year after the declaration of emergency.  
39 After that year, the limitations in subparagraph 2. apply.



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40           2. Twenty percent of the amount of insurance recovery  
41 allocated to the insured for covered damages, exclusive of  
42 attorney fees and costs, ~~claim payments made~~ by the insurer for  
43 claims that are not based on events that are the subject of a  
44 declaration of a state of emergency by the Governor.

45           (c) Insurance claim payments made by the insurer do not  
46 include policy deductibles, and public adjuster compensation may  
47 not be based on the deductible portion of a claim.

48           (d) Public adjuster compensation may not be based on  
49 amounts attributable to additional living expenses unless such  
50 compensation is affirmatively agreed to in a separate agreement  
51 that includes a disclosure in substantially the following form:  
52 "I agree to retain and compensate the public adjuster for  
53 adjusting my additional living expenses and securing payment  
54 from my insurer for amounts attributable to additional living  
55 expenses payable under the policy issued on my (home/mobile  
56 home/condominium unit)."

57           (e) Public adjuster compensation may not be increased based  
58 on a claim being resolved by litigation.

59           (f) Any maneuver, shift, or device through which the limits  
60 on compensation set forth in this subsection are exceeded is a  
61 violation of this chapter punishable as provided under s.  
62 626.8698.

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

65 And the title is amended as follows:

66           Delete line 2573

67 and insert:

68           agency licenses; amending s. 626.854, F.S.; revising



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69

and providing

By Senator Boyd

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1 A bill to be entitled  
 2 An act relating to the Department of Financial  
 3 Services; repealing s. 17.0315, F.S., relating to the  
 4 financial and cash management system and task force;  
 5 amending s. 110.123, F.S.; revising definitions;  
 6 authorizing specified persons relating to the Division  
 7 of Rehabilitation and Liquidation to purchase coverage  
 8 in a state group health insurance plan at specified  
 9 premium costs; providing that the enrollment period  
 10 for the state group insurance program begins with a  
 11 specified plan year for certain persons relating to  
 12 the division; amending s. 110.131, F.S.; conforming a  
 13 cross-reference; amending s. 120.541, F.S.; revising  
 14 applicability of certain provisions relating to a  
 15 specified proposed rule; amending s. 215.34, F.S.;  
 16 deleting the requirement for specified entities  
 17 receiving certain charged-back items to prepare a  
 18 journal transfer; amending s. 215.93, F.S.; renaming a  
 19 subsystem of the Florida Financial Management  
 20 Information System; amending s. 215.94, F.S.;  
 21 conforming a provision to changes made by the act;  
 22 amending s. 216.102, F.S.; making technical changes;  
 23 amending s. 218.32, F.S.; revising legislative intent;  
 24 providing functions of the Florida Open Financial  
 25 Statement System; requiring local governments to use  
 26 the system to file specified reports; providing  
 27 requirements for the system; revising the list of  
 28 entities with which the Chief Financial Officer may  
 29 consult with regard to the system; authorizing, rather

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30 than requiring, certain local governmental financial  
 31 statements to be filed in a specified format; deleting  
 32 certain requirements for such statements; providing  
 33 construction; providing an exception; amending s.  
 34 414.40, F.S.; transferring the Stop Inmate Fraud  
 35 Program from the Department of Financial Services to  
 36 the Department of Economic Opportunity; authorizing  
 37 the program to provide reports of certain data to the  
 38 Division of Public Assistance Fraud for a specified  
 39 purpose; amending s. 440.02, F.S.; revising the  
 40 definition of the term "employer"; amending s. 440.05,  
 41 F.S.; revising information that must be submitted with  
 42 the notice of election to be exempt from workers'  
 43 compensation coverage; specifying the circumstances  
 44 under which the Department of Financial Services is  
 45 required to send certain notifications to workers'  
 46 compensation carriers; requiring such notifications to  
 47 be electronic; requiring certificates of election to  
 48 be exempt to contain a specified notice; deleting a  
 49 provision requiring certain corporation officers to  
 50 maintain business records; revising applicability of  
 51 certificates of election to be exempt; amending s.  
 52 440.107, F.S.; revising the timeframe for certain  
 53 employers to produce specified records under certain  
 54 circumstances; prohibiting employers who failed to  
 55 secure payment of workers' compensation from entering  
 56 a payment agreement schedule with the department  
 57 unless a specified condition is met; revising  
 58 circumstances that result in immediate reinstatement

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59 of stop-work orders; revising penalty assessments;  
 60 amending s. 440.13, F.S.; revising statewide schedules  
 61 of maximum reimbursement allowances for medically  
 62 necessary treatment, care, and attendance; authorizing  
 63 the department to adopt rules; amending s. 440.185,  
 64 F.S.; revising the timeline and methods for workers'  
 65 compensation carriers to send a certain informational  
 66 brochure to injured workers; revising methods by which  
 67 such informational brochure is sent to employers;  
 68 amending s. 440.381, F.S.; specifying new and renewal  
 69 workers' compensation policies that require physical  
 70 onsite audits for a specified class; amending s.  
 71 497.277, F.S.; deleting a cap on transferring burial  
 72 rights fees; amending s. 497.369, F.S.; revising  
 73 requirements for licenses by endorsement to practice  
 74 embalming; amending s. 497.372, F.S.; revising the  
 75 scope of funeral directing practice; amending s.  
 76 497.374, F.S.; revising requirements for licenses by  
 77 endorsement to practice funeral directing; amending s.  
 78 554.108, F.S.; requiring boilers manufactured after a  
 79 specified date, rather than boilers of certain heat  
 80 input, to be stamped with a specified code symbol;  
 81 revising the boilers' information that must be filed;  
 82 requiring that specified spaces and rooms be equipped  
 83 with carbon monoxide detector devices; amending s.  
 84 554.111, F.S.; deleting a requirement for a specified  
 85 fee for a certificate of competency; requiring  
 86 applications for boiler permits to include a specified  
 87 report; revising the purpose for special trips that

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88 the department is required to make for boiler  
 89 inspections; amending s. 554.114, F.S.; revising the  
 90 schedules of penalties against boiler insurance  
 91 companies, inspection agencies, and other persons for  
 92 specified violations; amending s. 624.423, F.S.;  
 93 specifying procedures for service of process upon  
 94 insurers; amending s. 626.015, F.S.; revising the  
 95 definition of the term "unaffiliated insurance agent";  
 96 amending s. 626.171, F.S.; requiring fingerprints for  
 97 certain licenses to be processed in accordance with  
 98 specified laws; amending s. 626.172, F.S.; revising  
 99 the method by which fingerprints for applications for  
 100 insurance agency licenses are submitted; deleting a  
 101 fingerprint processing fee; creating s. 626.173, F.S.;  
 102 requiring insurance agencies' licenses to be  
 103 immediately canceled under certain circumstances;  
 104 providing the method by which such cancellations must  
 105 be made; providing duties for certain insurance agency  
 106 persons within a specified timeframe after cessation  
 107 of insurance transactions; authorizing the department  
 108 and the Office of Insurance Regulation to impose  
 109 administrative fines against such persons for  
 110 specified violations; prohibiting the initiation of  
 111 certain proceedings and imposition of fines until  
 112 specified prerequisites are completed; providing a cap  
 113 on such fines; authorizing the department and the  
 114 office to suspend or revoke licenses under certain  
 115 circumstances; providing requirements for determining  
 116 penalties and remedies; amending s. 626.201, F.S.;

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117 conforming a provision to changes made by the act;  
 118 providing continuation of jurisdiction of the  
 119 licensing authority to investigate and prosecute  
 120 specified violations under certain circumstances;  
 121 amending s. 626.202, F.S.; conforming provisions to  
 122 changes made by the act; amending s. 626.221, F.S.;  
 123 adding a designation to the list of designations that  
 124 allow applicants for an all-lines adjuster license to  
 125 be exempt from an examination; amending s. 626.311,  
 126 F.S.; providing an exception to the prohibition  
 127 against unaffiliated insurance agents holding  
 128 appointments from insurers; authorizing certain  
 129 adjusters to obtain adjuster appointments while  
 130 maintaining unaffiliated insurance agent appointments  
 131 and to adjust claims and receive certain compensation;  
 132 amending ss. 626.321, 626.601, 626.8411, and 626.8412,  
 133 F.S.; conforming provisions to changes made by the  
 134 act; amending s. 626.8417, F.S.; revising requirements  
 135 to qualify for title insurance agent licenses;  
 136 amending s. 626.8421, F.S.; requiring title agencies  
 137 to have separate appointments under certain  
 138 circumstances; amending s. 626.843, F.S.; providing  
 139 requirements for appointments of title insurance  
 140 agencies; amending s. 626.8433, F.S.; requiring title  
 141 insurers that terminate appointments of title  
 142 insurance agencies to file certain information with  
 143 the department; amending s. 626.8447, F.S.; providing  
 144 effects of suspension or revocation of title insurance  
 145 agency licenses; amending s. 626.854, F.S.; providing

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146 restrictions on public adjuster compensation;  
 147 providing exceptions to such restrictions; amending s.  
 148 626.8561, F.S.; revising the definition of the term  
 149 "public adjuster apprentice"; amending s. 626.865,  
 150 F.S.; revising requirements to qualify for public  
 151 adjuster licenses; requiring that certain bonds remain  
 152 in effect for a specified period after expiration of  
 153 the license; amending s. 626.8651, F.S.; requiring  
 154 that certain bonds remain in effect for a specified  
 155 period after expiration of a public adjuster  
 156 apprentice license; revising requirements for public  
 157 adjuster apprentices to be, act as, or hold themselves  
 158 out to be public adjuster apprentices; amending s.  
 159 626.8696, F.S.; revising requirements for adjusting  
 160 firm license applications; amending s. 626.8732, F.S.;  
 161 requiring applicants for nonresident public adjuster  
 162 licenses to maintain certain bonds after the  
 163 expiration or termination of licenses; amending ss.  
 164 626.8734 and 626.9953, F.S.; conforming provisions to  
 165 changes made by the act; amending s. 633.135, F.S.;  
 166 providing additional uses for firefighter funds;  
 167 amending s. 633.216, F.S.; revising requirements for  
 168 renewal of firesafety inspector certificates; amending  
 169 s. 633.408, F.S.; revising requirements for the  
 170 issuance of a Firefighter Certificate of Compliance  
 171 and Special Certificate of Compliance; deleting  
 172 provisions relating to requirements to retain a  
 173 Special Certificate of Compliance; amending s.  
 174 633.414, F.S.; providing requirements to retain a

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175 Special Certificate of Compliance; revising  
 176 requirements to retain a Firefighter Certificate of  
 177 Compliance; redefining the term "active"; amending ss.  
 178 648.34 and 648.355, F.S.; conforming provisions to  
 179 changes made by the act; amending s. 648.46, F.S.;  
 180 providing continuation of jurisdiction of the  
 181 licensing authority to investigate and prosecute  
 182 specified violations under certain circumstances;  
 183 amending s. 766.105, F.S.; deleting requirements and  
 184 procedures for the certification of hospital  
 185 compliance with the Florida Patient's Compensation  
 186 Fund; providing that the fund is subject to the  
 187 supervision and approval of the Chief Financial  
 188 Officer or his or her designee, rather than the board  
 189 of governors; conforming provisions to changes made by  
 190 the act; providing for supervision of the fund until  
 191 dissolution; specifying duties of the Department of  
 192 Financial Services before dissolution of the fund;  
 193 providing for future repeal; amending ss. 945.6041 and  
 194 985.6441, F.S.; revising the definition of the term  
 195 "health care provider"; defining the term "other  
 196 medical facility"; transferring the Stop Inmate Fraud  
 197 Program within the Department of Financial Services to  
 198 the Department of Economic Opportunity by a type two  
 199 transfer; providing effective dates.

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

203 Section 1. Section 17.0315, Florida Statutes, is repealed.

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204 Section 2. Present subsections (9) through (13) of section  
 205 110.123, Florida Statutes, are redesignated as subsections (10)  
 206 through (14), respectively, a new subsection (9) is added to  
 207 that section, and paragraphs (b), (c), (f), (h), (i), and (o) of  
 208 subsection (2) and paragraph (i) of subsection (5) are amended,  
 209 to read:

210 110.123 State group insurance program.—

211 (2) DEFINITIONS.—As used in ss. 110.123-110.1239, the term:

212 (b) "Enrollee" means all state officers and employees,  
 213 retired state officers and employees, surviving spouses of  
 214 deceased state officers and employees, and terminated employees  
 215 or individuals with continuation coverage who are enrolled in an  
 216 insurance plan offered by the state group insurance program. The  
 217 term "Enrollee" includes all state university officers and  
 218 employees, retired state university officers and employees,  
 219 surviving spouses of deceased state university officers and  
 220 employees, and terminated state university employees or  
 221 individuals with continuation coverage who are enrolled in an  
 222 insurance plan offered by the state group insurance program. As  
 223 used in this paragraph, state employees and retired state  
 224 employees also include employees and retired employees of the  
 225 Division of Rehabilitation and Liquidation.

226 (c) "Full-time state employees" means employees of all  
 227 branches or agencies of state government holding salaried  
 228 positions who are paid by state warrant or from agency funds and  
 229 who work or are expected to work an average of at least 30 ~~or~~  
 230 more hours per week; employees of the Division of Rehabilitation  
 231 and Liquidation who work or are expected to work an average of  
 232 at least 30 hours per week; employees paid from regular salary

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233 appropriations for 8 months' employment, including university  
 234 personnel on academic contracts; and employees paid from other-  
 235 personal-services (OPS) funds as described in subparagraphs 1.  
 236 and 2. The term includes all full-time employees of the state  
 237 universities. The term does not include seasonal workers who are  
 238 paid from OPS funds.

239 1. For persons hired before April 1, 2013, the term  
 240 includes any person paid from OPS funds who:

241 a. Has worked an average of at least 30 hours or more per  
 242 week during the initial measurement period from April 1, 2013,  
 243 through September 30, 2013; or

244 b. Has worked an average of at least 30 hours or more per  
 245 week during a subsequent measurement period.

246 2. For persons hired after April 1, 2013, the term includes  
 247 any person paid from OPS funds who:

248 a. Is reasonably expected to work an average of at least 30  
 249 hours or more per week; or

250 b. Has worked an average of at least 30 hours or more per  
 251 week during the person's measurement period.

252 (f) "Part-time state employee" means an employee of any  
 253 branch or agency of state government paid by state warrant from  
 254 salary appropriations or from agency funds, or an employee of  
 255 the Division of Rehabilitation and Liquidation, ~~and~~ who is  
 256 employed for less than an average of 30 hours per week or, if on  
 257 academic contract or seasonal or other type of employment which  
 258 is less than year-round, is employed for less than 8 months  
 259 during any 12-month period, but does not include a person paid  
 260 from other-personal-services (OPS) funds. The term includes all  
 261 part-time employees of the state universities.

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262 (h) "Retired state officer or employee" or "retiree" means  
 263 any state or state university officer or employee, or, beginning  
 264 with the 2023 plan year, an employee of the Division of  
 265 Rehabilitation and Liquidation, who retires under a state  
 266 retirement system or a state optional annuity or retirement  
 267 program or is placed on disability retirement, and who was  
 268 insured under the state group insurance program or the Division  
 269 of Rehabilitation and Liquidation's group insurance program at  
 270 the time of retirement, and who begins receiving retirement  
 271 benefits immediately after retirement from state or state  
 272 university office or employment. The term also includes any  
 273 state officer or state employee who retires under the Florida  
 274 Retirement System Investment Plan established under part II of  
 275 chapter 121 if he or she:

276 1. Meets the age and service requirements to qualify for  
 277 normal retirement as set forth in s. 121.021(29); or

278 2. Has attained the age specified by s. 72(t)(2)(A)(i) of  
 279 the Internal Revenue Code and has 6 years of creditable service.

280 (i) "State agency" or "agency" means any branch,  
 281 department, or agency of state government. "State agency" or  
 282 "agency" includes any state university and the Division of  
 283 Rehabilitation and Liquidation for purposes of this section  
 284 only.

285 (o) "Surviving spouse" means the widow or widower of a  
 286 deceased state officer, full-time state employee, part-time  
 287 state employee, or retiree if such widow or widower was covered  
 288 as a dependent under the state group health insurance plan,  
 289 TRICARE supplemental insurance plan, ~~or~~ a health maintenance  
 290 organization plan established pursuant to this section, or the

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291 Division of Rehabilitation and Liquidation's group insurance  
 292 program at the time of the death of the deceased officer,  
 293 employee, or retiree. "Surviving spouse" also means any widow or  
 294 widower who is receiving or eligible to receive a monthly state  
 295 warrant from a state retirement system as the beneficiary of a  
 296 state officer, full-time state employee, or retiree who died  
 297 prior to July 1, 1979. For the purposes of this section, any  
 298 such widow or widower shall cease to be a surviving spouse upon  
 299 his or her remarriage.

300 (5) DEPARTMENT POWERS AND DUTIES.—The department is  
 301 responsible for the administration of the state group insurance  
 302 program. The department shall initiate and supervise the program  
 303 as established by this section and shall adopt such rules as are  
 304 necessary to perform its responsibilities. To implement this  
 305 program, the department shall, with prior approval by the  
 306 Legislature:

307 (i) Contract with a single custodian to provide services  
 308 necessary to implement and administer the health savings  
 309 accounts authorized in subsection (13) ~~(12)~~.

310

311 Final decisions concerning enrollment, the existence of  
 312 coverage, or covered benefits under the state group insurance  
 313 program shall not be delegated or deemed to have been delegated  
 314 by the department.

315 (9) COVERAGE AND ENROLLMENT PERIOD FOR EMPLOYEES, RETIREES,  
 316 AND WIDOWS AND WIDOWERS OF EMPLOYEES AND RETIREES OF THE  
 317 DIVISION OF REHABILITATION AND LIQUIDATION.—

318 (a) Beginning with the 2023 plan year:

319 1. A retired employee insured under the Division of

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320 Rehabilitation and Liquidation's group insurance program, or a  
 321 widow or widower of an employee or of a retired employee of the  
 322 Division of Rehabilitation and Liquidation who is covered as a  
 323 dependent under the Division of Rehabilitation and Liquidation's  
 324 group insurance program, may purchase coverage in a state group  
 325 health insurance plan at the same premium cost as that for a  
 326 retiree or a surviving spouse, respectively, enrolled in the  
 327 state group insurance program.

328 2. A terminated employee of the Division of Rehabilitation  
 329 and Liquidation or an individual with continuation coverage who  
 330 is insured under the Division of Rehabilitation and  
 331 Liquidation's group insurance program may purchase coverage in a  
 332 state group health insurance plan at the same premium cost as  
 333 that for a terminated employee or an individual with  
 334 continuation coverage, respectively, enrolled in the state group  
 335 insurance program.

336 (b) The enrollment period for the state group insurance  
 337 program begins with the 2023 plan year for:

338 1. Current and retired employees of the Division of  
 339 Rehabilitation and Liquidation.

340 2. Widows and widowers of employees and of retired  
 341 employees of the Division of Rehabilitation and Liquidation.

342 3. Terminated employees of the Division of Rehabilitation  
 343 and Liquidation or individuals with continuation coverage who  
 344 are insured under the Division of Rehabilitation and  
 345 Liquidation's group insurance program.

346 Section 3. Subsection (5) of section 110.131, Florida  
 347 Statutes, is amended to read:

348 110.131 Other-personal-services employment.—

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349 (5) Beginning January 1, 2014, an other-personal-services  
 350 (OPS) employee who has worked an average of at least 30 or more  
 351 hours per week during the measurement period described in s.  
 352 ~~110.123(14)(c) or (d) s. 110.123(13)(e) or (d)~~, or who is  
 353 reasonably expected to work an average of at least 30 or more  
 354 hours per week following his or her employment, is eligible to  
 355 participate in the state group insurance program as provided  
 356 under s. 110.123.

357 Section 4. Paragraph (d) is added to subsection (4) of  
 358 section 120.541, Florida Statutes, and paragraph (a) of  
 359 subsection (2) and subsection (3) of that section are  
 360 republished, to read:

361 120.541 Statement of estimated regulatory costs.—

362 (2) A statement of estimated regulatory costs shall  
 363 include:

364 (a) An economic analysis showing whether the rule directly  
 365 or indirectly:

366 1. Is likely to have an adverse impact on economic growth,  
 367 private sector job creation or employment, or private sector  
 368 investment in excess of \$1 million in the aggregate within 5  
 369 years after the implementation of the rule;

370 2. Is likely to have an adverse impact on business  
 371 competitiveness, including the ability of persons doing business  
 372 in the state to compete with persons doing business in other  
 373 states or domestic markets, productivity, or innovation in  
 374 excess of \$1 million in the aggregate within 5 years after the  
 375 implementation of the rule; or

376 3. Is likely to increase regulatory costs, including any  
 377 transactional costs, in excess of \$1 million in the aggregate

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378 within 5 years after the implementation of the rule.

379 (3) If the adverse impact or regulatory costs of the rule  
 380 exceed any of the criteria established in paragraph (2) (a), the  
 381 rule shall be submitted to the President of the Senate and  
 382 Speaker of the House of Representatives no later than 30 days  
 383 prior to the next regular legislative session, and the rule may  
 384 not take effect until it is ratified by the Legislature.

385 (4) Subsection (3) does not apply to the adoption of:

386 (d) Schedules of maximum reimbursement allowances by the  
 387 three-member panel which are expressly authorized by s. 440.13.

388 Section 5. Subsection (1) of section 215.34, Florida  
 389 Statutes, is amended to read:

390 215.34 State funds; noncollectible items; procedure.—

391 (1) Any check, draft, or other order for the payment of  
 392 money in payment of any licenses, fees, taxes, commissions, or  
 393 charges of any sort authorized to be made under the laws of the  
 394 state and deposited in the State Treasury as provided herein,  
 395 which may be returned for any reason by the bank or other payor  
 396 upon which same shall have been drawn shall be forthwith  
 397 returned by the Chief Financial Officer for collection to the  
 398 state officer, the state agency, or the entity of the judicial  
 399 branch making the deposit. In such case, the Chief Financial  
 400 Officer may issue a debit memorandum charging an account of the  
 401 agency, officer, or entity of the judicial branch which  
 402 originally received the payment. The original of the debit  
 403 memorandum shall state the reason for the return of the check,  
 404 draft, or other order and shall accompany the item being  
 405 returned to the officer, agency, or entity of the judicial  
 406 branch being charged. The officer, agency, or entity of the

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 407 judicial branch receiving the charged-back item shall ~~prepare a~~  
 408 ~~journal transfer which shall~~ debit the charge against the fund  
 409 or account to which the same shall have been originally  
 410 credited. Such procedure for handling noncollectible items shall  
 411 not be construed as paying funds out of the State Treasury  
 412 without an appropriation, but shall be considered as an  
 413 administrative procedure for the efficient handling of state  
 414 records and accounts.

415 Section 6. Paragraph (c) of subsection (1) of section  
 416 215.93, Florida Statutes, is amended to read:

417 215.93 Florida Financial Management Information System.—

418 (1) To provide the information necessary to carry out the  
 419 intent of the Legislature, there shall be a Florida Financial  
 420 Management Information System. The Florida Financial Management  
 421 Information System shall be fully implemented and shall be  
 422 upgraded as necessary to ensure the efficient operation of an  
 423 integrated financial management information system and to  
 424 provide necessary information for the effective operation of  
 425 state government. Upon the recommendation of the coordinating  
 426 council and approval of the board, the Florida Financial  
 427 Management Information System may require data from any state  
 428 agency information system or information subsystem or may  
 429 request data from any judicial branch information system or  
 430 information subsystem that the coordinating council and board  
 431 have determined to have statewide financial management  
 432 significance. Each functional owner information subsystem within  
 433 the Florida Financial Management Information System shall be  
 434 developed in such a fashion as to allow for timely, positive,  
 435 preplanned, and prescribed data transfers between the Florida

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 436 Financial Management Information System functional owner  
 437 information subsystems and from other information systems. The  
 438 principal unit of the system shall be the functional owner  
 439 information subsystem, and the system shall include, but shall  
 440 not be limited to, the following:

441 (c) Financial ~~Cash~~ Management Subsystem.

442 Section 7. Subsection (3) of section 215.94, Florida  
 443 Statutes, is amended to read:

444 215.94 Designation, duties, and responsibilities of  
 445 functional owners.—

446 (3) The Chief Financial Officer shall be the functional  
 447 owner of the Financial ~~Cash~~ Management Subsystem. The Chief  
 448 Financial Officer shall design, implement, and operate the  
 449 subsystem in accordance with the provisions of ss. 215.90-  
 450 215.96. The subsystem shall include, but shall not be limited  
 451 to, functions for:

452 (a) Recording and reconciling credits and debits to  
 453 treasury fund accounts.

454 (b) Monitoring cash levels and activities in state bank  
 455 accounts.

456 (c) Monitoring short-term investments of idle cash.

457 (d) Administering the provisions of the Federal Cash  
 458 Management Improvement Act of 1990.

459 Section 8. Subsection (3) of section 216.102, Florida  
 460 Statutes, is amended to read:

461 216.102 Filing of financial information; handling by Chief  
 462 Financial Officer; penalty for noncompliance.—

463 (3) The Chief Financial Officer shall:

464 (a) Prepare and furnish to the Auditor General annual

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465 financial statements for the state on or before December 31 of  
466 each year, using generally accepted accounting principles.

467 (b) Prepare and publish an annual ~~a comprehensive annual~~  
468 financial report for the state in accordance with generally  
469 accepted accounting principles on or before February 28 of each  
470 year.

471 (c) Furnish the Governor, the President of the Senate, and  
472 the Speaker of the House of Representatives with a copy of the  
473 annual comprehensive ~~annual~~ financial report prepared pursuant  
474 to paragraph (b).

475 (d) Notify each agency and the judicial branch of the data  
476 that is required to be recorded to enhance accountability for  
477 tracking federal financial assistance.

478 (e) Provide reports, as requested, to executive or judicial  
479 branch entities, the President of the Senate, the Speaker of the  
480 House of Representatives, and the members of the Florida  
481 Congressional Delegation, detailing the federal financial  
482 assistance received and disbursed by state agencies and the  
483 judicial branch.

484 (f) Consult with and elicit comments from the Executive  
485 Office of the Governor on changes to the Florida Accounting  
486 Information Resource Subsystem which clearly affect the  
487 accounting of federal funds, so as to ensure consistency of  
488 information entered into the Federal Aid Tracking System by  
489 state executive and judicial branch entities. While efforts  
490 shall be made to ensure the compatibility of the Florida  
491 Accounting Information Resource Subsystem and the Federal Aid  
492 Tracking System, any successive systems serving identical or  
493 similar functions shall preserve such compatibility.

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494  
495 The Chief Financial Officer may furnish and publish in  
496 electronic form the financial statements and the annual  
497 comprehensive ~~annual~~ financial report required under paragraphs  
498 (a), (b), and (c).

499 Section 9. Paragraph (h) of subsection (1) of section  
500 218.32, Florida Statutes, is amended, and paragraph (i) is added  
501 to that subsection, to read:

502 218.32 Annual financial reports; local governmental  
503 entities.—

504 (1)

505 (h) ~~It is the intent of the Legislature to create~~ The  
506 Florida Open Financial Statement System must serve as an  
507 interactive repository for governmental financial statements.  
508 This system serves as the primary reporting location for  
509 government financial information. A local government shall use  
510 the system to file with the department copies of all audit  
511 reports compiled pursuant to ss. 11.45 and 218.39. The system  
512 must be accessible to the public and must be open to inspection  
513 at all times by the Legislature, the Auditor General, and the  
514 Chief Inspector General.

515 1. The Chief Financial Officer may consult with  
516 stakeholders with regard to, ~~including the department, the~~  
517 ~~Auditor General, a representative of a municipality or county, a~~  
518 ~~representative of a special district, a municipal bond investor,~~  
519 ~~and an information technology professional employed in the~~  
520 ~~private sector, for input on the design and implementation of~~  
521 the Florida Open Financial Statement System.

522 2. The Chief Financial Officer may choose contractors to

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523 build one or more eXtensible Business Reporting Language (XBRL)  
 524 taxonomies suitable for state, county, municipal, and special  
 525 district financial filings and to create a software tool that  
 526 enables financial statement filers to easily create XBRL  
 527 documents consistent with such taxonomies. The Chief Financial  
 528 Officer must recruit and select contractors through an open  
 529 request for proposals process pursuant to chapter 287.

530 3. The Chief Financial Officer must require that all work  
 531 products be completed no later than December 31, 2021.

532 4. If the Chief Financial Officer deems the work products  
 533 adequate, all local governmental financial statements for fiscal  
 534 years ending on or after September 1, 2022, may ~~must~~ be filed in  
 535 XBRL format as prescribed by the Chief Financial Officer and  
 536 ~~must meet the validation requirements of the relevant taxonomy.~~

537 5. A local government that begins filing in XBRL format may  
 538 not be required to make filings in Portable Document Format.

539 (i) Each local governmental entity that enters all required  
 540 information in the Florida Open Financial Statement System is  
 541 deemed to be compliant with this section, except as otherwise  
 542 provided in this section.

543 Section 10. Section 414.40, Florida Statutes, is amended to  
 544 read:

545 414.40 Stop Inmate Fraud Program established; guidelines.—

546 (1) There is created within the Department of Economic  
 547 Opportunity ~~Financial Services~~ a Stop Inmate Fraud Program.

548 (2) The Department of Economic Opportunity ~~Financial~~  
 549 ~~Services~~ is directed to implement the Stop Inmate Fraud Program  
 550 in accordance with the following guidelines:

551 (a) The program shall establish procedures for sharing

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552 public records not exempt from the public records law among  
 553 social services agencies regarding the identities of persons  
 554 incarcerated in state correctional institutions, as defined in  
 555 s. 944.02, and ~~or~~ in county, municipal, or regional jails or  
 556 other detention facilities of local governments under chapter  
 557 950 and ~~or~~ chapter 951 who are wrongfully receiving public  
 558 assistance benefits or entitlement benefits.

559 (b) Pursuant to these procedures, the program shall have  
 560 access to records containing correctional information not exempt  
 561 from the public records law on incarcerated persons which have  
 562 been generated as criminal justice information. As used in this  
 563 paragraph, the terms "record" and "criminal justice information"  
 564 have the same meanings as provided in s. 943.045.

565 (c) Database searches shall be conducted of the inmate  
 566 population at each correctional institution or other detention  
 567 facility. A correctional institution or a detention facility  
 568 shall provide the Stop Inmate Fraud Program with the information  
 569 necessary to identify persons wrongfully receiving benefits in  
 570 the medium requested by the Stop Inmate Fraud Program if the  
 571 correctional institution or detention facility maintains the  
 572 information in that medium.

573 (d) Data obtained from correctional institutions or other  
 574 detention facilities shall be compared with the client files of  
 575 the Department of Children and Families, the Department of  
 576 Economic Opportunity, and other state or local agencies as  
 577 needed to identify persons wrongfully obtaining benefits. Data  
 578 comparisons shall be accomplished during periods of low  
 579 information demand by agency personnel to minimize inconvenience  
 580 to the agency.



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581 (e) Results of data comparisons shall be furnished to the  
 582 appropriate office for use in the county in which the data  
 583 originated. The program may provide reports of the data it  
 584 obtains to appropriate state, federal, and local government  
 585 agencies or governmental entities, including, but not limited  
 586 to:

- 587 1. The Child Support Enforcement Program of the Department  
 588 of Revenue, so that the data may be used as locator information  
 589 on persons being sought for purposes of child support.
- 590 2. The Social Security Administration, so that the data may  
 591 be used to reduce federal entitlement fraud within the state.
- 592 3. The Division of Public Assistance Fraud of the  
 593 Department of Financial Services, so that an investigation of  
 594 the fraudulent receipt of public assistance may be facilitated.
- 595 (f) Reports by the program to another agency or entity  
 596 shall be generated bimonthly, or as otherwise directed, and  
 597 shall be designed to accommodate that agency's or entity's  
 598 particular needs for data.
- 599 (g) Only those persons with active cases, or with cases  
 600 that were active during the incarceration period, shall be  
 601 reported, in order that the funding agency or entity, upon  
 602 verification of the data, may take whatever action is deemed  
 603 appropriate.
- 604 (h) For purposes of program review and analysis, each  
 605 agency or entity receiving data from the program shall submit  
 606 reports to the program which indicate the results of how the  
 607 data was used.
- 608 Section 11. Paragraph (a) of subsection (16) of section  
 609 440.02, Florida Statutes, is amended to read:

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- 610 440.02 Definitions.—When used in this chapter, unless the  
 611 context clearly requires otherwise, the following terms shall  
 612 have the following meanings:
- 613 (16) (a) “Employer” means the state and all political  
 614 subdivisions thereof, all public and quasi-public corporations  
 615 therein, every person carrying on any employment, and the legal  
 616 representative of a deceased person or the receiver or trustees  
 617 of any person. The term “Employer” also includes employment  
 618 agencies and, employee leasing companies that, and similar  
 619 ~~agents who~~ provide employees to other business entities or  
 620 persons. If the employer is a corporation, parties in actual  
 621 control of the corporation, including, but not limited to, the  
 622 president, officers who exercise broad corporate powers,  
 623 directors, and all shareholders who directly or indirectly own a  
 624 controlling interest in the corporation, are considered the  
 625 employer for the purposes of ss. 440.105, 440.106, and 440.107.
- 626 Section 12. Effective January 1, 2023, subsections (3),  
 627 (4), (10), and (12) of section 440.05, Florida Statutes, are  
 628 amended to read:
- 629 440.05 Election of exemption; revocation of election;  
 630 notice; certification.—
- 631 (3) The notice of election to be exempt must be  
 632 electronically submitted to the department by the officer of a  
 633 corporation who is allowed to claim an exemption as provided by  
 634 this chapter and must list the name, date of birth, valid driver  
 635 license number or Florida identification card number, and all  
 636 certified or registered licenses issued pursuant to chapter 489  
 637 held by the person seeking the exemption, the registration  
 638 number of the corporation filed with the Division of

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639 Corporations of the Department of State, and the percentage of  
 640 ownership evidencing the required ownership under this chapter.  
 641 The notice of election to be exempt must identify each  
 642 corporation that employs the person electing the exemption and  
 643 must list the ~~social security number or~~ federal tax  
 644 identification number of each such employer and the additional  
 645 documentation required by this section. In addition, the notice  
 646 of election to be exempt must provide that the officer electing  
 647 an exemption is not entitled to benefits under this chapter,  
 648 must provide that the election does not exceed exemption limits  
 649 for officers provided in s. 440.02, ~~and~~ must certify that any  
 650 employees of the corporation whose officer elects an exemption  
 651 are covered by workers' compensation insurance, and must certify  
 652 that the officer electing an exemption has completed an online  
 653 workers' compensation coverage and compliance tutorial developed  
 654 by the department. Upon receipt of the notice of the election to  
 655 be exempt, receipt of all application fees, and a determination  
 656 by the department that the notice meets the requirements of this  
 657 subsection, the department shall issue a certification of the  
 658 election to the officer, unless the department determines that  
 659 the information contained in the notice is invalid. The  
 660 department shall revoke a certificate of election to be exempt  
 661 from coverage upon a determination by the department that the  
 662 person does not meet the requirements for exemption or that the  
 663 information contained in the notice of election to be exempt is  
 664 invalid. The certificate of election must list the name of the  
 665 corporation listed in the request for exemption. A new  
 666 certificate of election must be obtained each time the person is  
 667 employed by a new or different corporation that is not listed on

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668 the certificate of election. Upon written request from a  
 669 workers' compensation carrier, the department shall send  
 670 thereafter an electronic notification to the carrier identifying  
 671 each of its policyholders for which a notice of election to be  
 672 exempt has been issued or for which a notice of revocation to be  
 673 exempt has been received ~~A notice of the certificate of election~~  
 674 ~~must be sent to each workers' compensation carrier identified in~~  
 675 ~~the request for exemption.~~ Upon filing a notice of revocation of  
 676 election, an officer who is a subcontractor or an officer of a  
 677 corporate subcontractor must notify her or his contractor. ~~Upon~~  
 678 ~~revocation of a certificate of election of exemption by the~~  
 679 ~~department, the department shall notify the workers'~~  
 680 ~~compensation carriers identified in the request for exemption.~~  
 681 (4) The notice of election to be exempt from the provisions  
 682 of this chapter must contain a notice that clearly states in  
 683 substance the following: "Any person who, knowingly and with  
 684 intent to injure, defraud, or deceive the department or any  
 685 employer or employee, insurance company, or any other person,  
 686 files a notice of election to be exempt containing any false or  
 687 misleading information is guilty of a felony of the third  
 688 degree." Each person filing a notice of election to be exempt  
 689 shall personally sign the notice and attest that he or she has  
 690 reviewed, understands, and acknowledges the foregoing notice.  
 691 The certificate of election to be exempt must contain the  
 692 following notice: "This certificate of election to be exempt is  
 693 NOT a license issued by the Department of Business and  
 694 Professional Regulation (DBPR). To determine if the  
 695 certificateholder is required to have a license to perform work  
 696 or to verify the license of the certificateholder, go to (insert

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697 DBPR's website address for where to find this information)."

698 ~~(10) Each officer of a corporation who is actively engaged~~  
 699 ~~in the construction industry and who elects an exemption from~~  
 700 ~~this chapter shall maintain business records as specified by the~~  
 701 ~~department by rule.~~

702 ~~(11)(12)~~ Certificates of election to be exempt issued under  
 703 subsection (3) ~~shall~~ apply only to the corporate officer named  
 704 on the notice of election to be exempt ~~and apply only within the~~  
 705 ~~scope of the business or trade listed on the notice of election~~  
 706 ~~to be exempt.~~

707 Section 13. Effective January 1, 2023, paragraphs (a) and  
 708 (d) of subsection (7) of section 440.107, Florida Statutes, are  
 709 amended to read:

710 440.107 Department powers to enforce employer compliance  
 711 with coverage requirements.—

712 (7) (a) Whenever the department determines that an employer  
 713 who is required to secure the payment to his or her employees of  
 714 the compensation provided for by this chapter has failed to  
 715 secure the payment of workers' compensation required by this  
 716 chapter or to produce the required business records under  
 717 subsection (5) within 21 10 business days after receipt of the  
 718 written request of the department, such failure shall be deemed  
 719 an immediate serious danger to public health, safety, or welfare  
 720 sufficient to justify service by the department of a stop-work  
 721 order on the employer, requiring the cessation of all business  
 722 operations. If the department makes such a determination, the  
 723 department shall issue a stop-work order within 72 hours. The  
 724 order shall take effect when served upon the employer or, for a  
 725 particular employer worksite, when served at that worksite. In

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726 addition to serving a stop-work order at a particular worksite  
 727 which shall be effective immediately, the department shall  
 728 immediately proceed with service upon the employer which shall  
 729 be effective upon all employer worksites in the state for which  
 730 the employer is not in compliance. A stop-work order may be  
 731 served with regard to an employer's worksite by posting a copy  
 732 of the stop-work order in a conspicuous location at the  
 733 worksite. Information related to an employer's stop-work order  
 734 shall be made available on the division's website, ~~be updated~~  
 735 ~~daily~~, and remain on the website for at least 5 years. The order  
 736 shall remain in effect until the department issues an order  
 737 releasing the stop-work order upon a finding that the employer  
 738 has come into compliance with the coverage requirements of this  
 739 chapter and has paid any penalty assessed under this section.  
 740 The department may issue an order of conditional release from a  
 741 stop-work order to an employer upon a finding that the employer  
 742 has complied with the coverage requirements of this chapter,  
 743 paid a penalty of \$1,000 as a down payment, and agreed to remit  
 744 periodic payments of the remaining penalty amount pursuant to a  
 745 payment agreement schedule with the department or pay the  
 746 remaining penalty amount in full. An employer may not enter into  
 747 a payment agreement schedule unless the employer has fully paid  
 748 any previous penalty assessed under this section. If an order of  
 749 conditional release is issued, failure by the employer to pay  
 750 the penalty in full or enter into a payment agreement with the  
 751 department within 21 28 days after service of the first penalty  
 752 assessment calculation ~~stop-work order~~ upon the employer, or to  
 753 meet any term or condition of such penalty payment agreement,  
 754 shall result in the immediate reinstatement of the stop-work

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755 order and the entire unpaid balance of the penalty shall become  
756 immediately due.

757 (d)1. In addition to any penalty, stop-work order, or  
758 injunction, the department shall assess against ~~an any~~ employer  
759 who has failed to secure the payment of compensation as required  
760 by this chapter a penalty equal to 2 times the amount the  
761 employer would have paid in premium when applying approved  
762 manual rates to the employer's payroll during periods for which  
763 it failed to secure the payment of workers' compensation  
764 required by this chapter within the preceding ~~12-month 2-year~~  
765 period or \$1,000, whichever is greater. However, for an employer  
766 who is issued a stop-work order for materially understating or  
767 concealing payroll or has been previously issued a stop-work  
768 order or an order of penalty assessment, the preceding 24-month  
769 period shall be used to calculate the penalty as specified in  
770 this subparagraph.

771 a. For an employer ~~employers~~ who has ~~have~~ not been  
772 previously issued a stop-work order or order of penalty  
773 assessment, the department must allow the employer to receive a  
774 credit for the initial payment of the estimated annual workers'  
775 compensation policy premium, as determined by the carrier, to be  
776 applied to the penalty. Before applying the credit to the  
777 penalty, the employer must provide the department with  
778 documentation reflecting that the employer has secured the  
779 payment of compensation pursuant to s. 440.38 and proof of  
780 payment to the carrier. In order for the department to apply a  
781 credit for an employer that has secured workers' compensation  
782 for leased employees by entering into an employee leasing  
783 contract with a licensed employee leasing company, the employer

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784 must provide the department with a written confirmation, by a  
785 representative from the employee leasing company, of the dollar  
786 or percentage amount attributable to the initial estimated  
787 workers' compensation expense for leased employees, and proof of  
788 payment to the employee leasing company. The credit may not be  
789 applied unless the employer provides the documentation and proof  
790 of payment to the department within ~~21 28~~ days after the  
791 employer's receipt of the written request to produce business  
792 records for calculating the penalty under this subparagraph  
793 ~~service of the stop-work order or first order of penalty~~  
794 ~~assessment upon the employer.~~

795 b. For an employer ~~employers~~ who has ~~have~~ not been  
796 previously issued a stop-work order or order of penalty  
797 assessment, the department must reduce the final assessed  
798 penalty by 25 percent if the employer has complied with  
799 administrative rules adopted pursuant to subsection (5) and has  
800 provided such business records to the department within ~~21 10~~  
801 ~~business~~ days after the employer's receipt of the written  
802 request to produce business records for calculating the penalty  
803 under this subparagraph.

804 c. For an employer who has not been previously issued a  
805 stop-work order or an order of penalty assessment, the  
806 department must reduce the final assessed penalty by 15 percent  
807 if the employer correctly answers at least 80 percent of the  
808 questions from an online workers' compensation coverage and  
809 compliance tutorial, developed by the department, within 21 days  
810 after the employer's receipt of the written request to produce  
811 business records for calculating the penalty under this  
812 subparagraph. The online tutorial must be taken in a department

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813 office location identified by rule.

814

815 The \$1,000 penalty shall be assessed against the employer even  
816 if the calculated penalty after the credit provided in sub-  
817 subparagraph a., the ~~and~~ 25 percent reduction provided in sub-  
818 subparagraph b., and the 15 percent reduction provided in sub-  
819 subparagraph c., as applicable, have been applied is less than  
820 \$1,000.

821 2. Any subsequent violation within 5 years after the most  
822 recent violation shall, in addition to the penalties set forth  
823 in this subsection, be deemed a knowing act within the meaning  
824 of s. 440.105.

825 Section 14. Subsection (12) of section 440.13, Florida  
826 Statutes, is amended to read:

827 440.13 Medical services and supplies; penalty for  
828 violations; limitations.-

829 (12) CREATION OF THREE-MEMBER PANEL; GUIDES OF MAXIMUM  
830 REIMBURSEMENT ALLOWANCES.-

831 (a) A three-member panel is created, consisting of the  
832 Chief Financial Officer, or the Chief Financial Officer's  
833 designee, and two members to be appointed by the Governor,  
834 subject to confirmation by the Senate, one member who, on  
835 account of present or previous vocation, employment, or  
836 affiliation, shall be classified as a representative of  
837 employers, the other member who, on account of previous  
838 vocation, employment, or affiliation, shall be classified as a  
839 representative of employees. The panel shall determine statewide  
840 schedules of maximum reimbursement allowances for medically  
841 necessary treatment, care, and attendance provided by

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842 physicians, hospitals, ambulatory surgical centers, work-  
843 hardening programs, pain programs, and durable medical  
844 equipment. The maximum reimbursement allowances for inpatient  
845 hospital care shall be based on a schedule of per diem rates, to  
846 be approved by the three-member panel no later than March 1,  
847 1994, to be used in conjunction with a precertification manual  
848 as determined by the department, including maximum hours in  
849 which an outpatient may remain in observation status, which  
850 shall not exceed 23 hours. All compensable charges for hospital  
851 outpatient care shall be reimbursed at 75 percent of usual and  
852 customary charges, except as otherwise provided by this  
853 subsection. Annually, the three-member panel shall adopt  
854 schedules of maximum reimbursement allowances for physicians,  
855 hospital inpatient care, hospital outpatient care, ambulatory  
856 surgical centers, work-hardening programs, and pain programs. An  
857 individual physician, hospital, ambulatory surgical center, pain  
858 program, or work-hardening program shall be reimbursed:

859 1. ~~either~~ The agreed-upon contract price; or  
860 2. If there is no agreed-upon contract price, the lesser of  
861 the provider's billed charge or the maximum reimbursement  
862 allowance in the appropriate schedule.

863 (b) It is the intent of the Legislature to increase the  
864 schedule of maximum reimbursement allowances for selected  
865 physicians effective January 1, 2004, and to pay for the  
866 increases through reductions in payments to hospitals. Revisions  
867 developed pursuant to this subsection are limited to the  
868 following:

869 1. Payments for outpatient physical, occupational, and  
870 speech therapy provided by hospitals shall be reduced to the

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871 schedule of maximum reimbursement allowances for these services  
872 which applies to nonhospital providers.

873 2. Payments for scheduled outpatient nonemergency  
874 radiological and clinical laboratory services that are not  
875 provided in conjunction with a surgical procedure shall be  
876 reduced to the schedule of maximum reimbursement allowances for  
877 these services which applies to nonhospital providers.

878 3. Outpatient reimbursement for scheduled surgeries shall  
879 be reduced from 75 percent of charges to 60 percent of charges.

880 4. Maximum reimbursement for a physician licensed under  
881 chapter 458 or chapter 459 shall be increased to 110 percent of  
882 the reimbursement allowed by Medicare, using appropriate codes  
883 and modifiers or the medical reimbursement level adopted by the  
884 three-member panel as of January 1, 2003, whichever is greater.

885 5. Maximum reimbursement for surgical procedures shall be  
886 increased to 140 percent of the reimbursement allowed by  
887 Medicare or the medical reimbursement level adopted by the  
888 three-member panel as of January 1, 2003, whichever is greater.

889 (c) As to reimbursement for a prescription medication, the  
890 reimbursement amount for a prescription shall be the average  
891 wholesale price plus \$4.18 for the dispensing fee. For  
892 repackaged or relabeled prescription medications dispensed by a  
893 dispensing practitioner as provided in s. 465.0276, the fee  
894 schedule for reimbursement shall be 112.5 percent of the average  
895 wholesale price, plus \$8.00 for the dispensing fee. For purposes  
896 of this subsection, the average wholesale price shall be  
897 calculated by multiplying the number of units dispensed times  
898 the per-unit average wholesale price set by the original  
899 manufacturer of the underlying drug dispensed by the

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900 practitioner, based upon the published manufacturer's average  
901 wholesale price published in the Medi-Span Master Drug Database  
902 as of the date of dispensing. All pharmaceutical claims  
903 submitted for repackaged or relabeled prescription medications  
904 must include the National Drug Code of the original  
905 manufacturer. Fees for pharmaceuticals and pharmaceutical  
906 services shall be reimbursable at the applicable fee schedule  
907 amount except where the employer or carrier, or a service  
908 company, third party administrator, or any entity acting on  
909 behalf of the employer or carrier directly contracts with the  
910 provider seeking reimbursement for a lower amount.

911 (d) Reimbursement for all fees and other charges for such  
912 treatment, care, and attendance, including treatment, care, and  
913 attendance provided by any hospital or other health care  
914 provider, ambulatory surgical center, work-hardening program, or  
915 pain program, must not exceed the amounts provided by the  
916 uniform schedule of maximum reimbursement allowances as  
917 determined by the panel or as otherwise provided in this  
918 section. This subsection also applies to independent medical  
919 examinations performed by health care providers under this  
920 chapter. In determining the uniform schedule, the panel shall  
921 first approve the data which it finds representative of  
922 prevailing charges in the state for similar treatment, care, and  
923 attendance of injured persons. Each health care provider, health  
924 care facility, ambulatory surgical center, work-hardening  
925 program, or pain program receiving workers' compensation  
926 payments shall maintain records verifying their usual charges.  
927 In establishing the uniform schedule of maximum reimbursement  
928 allowances, the panel must consider:

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929 1. The levels of reimbursement for similar treatment, care,  
930 and attendance made by other health care programs or third-party  
931 providers;

932 2. The impact upon cost to employers for providing a level  
933 of reimbursement for treatment, care, and attendance which will  
934 ensure the availability of treatment, care, and attendance  
935 required by injured workers;

936 3. The financial impact of the reimbursement allowances  
937 upon health care providers and health care facilities, including  
938 trauma centers as defined in s. 395.4001, and its effect upon  
939 their ability to make available to injured workers such  
940 medically necessary remedial treatment, care, and attendance.  
941 The uniform schedule of maximum reimbursement allowances must be  
942 reasonable, must promote health care cost containment and  
943 efficiency with respect to the workers' compensation health care  
944 delivery system, and must be sufficient to ensure availability  
945 of such medically necessary remedial treatment, care, and  
946 attendance to injured workers; and

947 4. The most recent average maximum allowable rate of  
948 increase for hospitals determined by the Health Care Board under  
949 chapter 408.

950 (e) In addition to establishing the uniform schedule of  
951 maximum reimbursement allowances, the panel shall:

952 1. Take testimony, receive records, and collect data to  
953 evaluate the adequacy of the workers' compensation fee schedule,  
954 nationally recognized fee schedules and alternative methods of  
955 reimbursement to health care providers and health care  
956 facilities for inpatient and outpatient treatment and care.

957 2. Survey health care providers and health care facilities

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958 to determine the availability and accessibility of workers'  
959 compensation health care delivery systems for injured workers.

960 3. Survey carriers to determine the estimated impact on  
961 carrier costs and workers' compensation premium rates by  
962 implementing changes to the carrier reimbursement schedule or  
963 implementing alternative reimbursement methods.

964 4. Submit recommendations on or before January 15, 2017,  
965 and biennially thereafter, to the President of the Senate and  
966 the Speaker of the House of Representatives on methods to  
967 improve the workers' compensation health care delivery system.

968  
969 The department, as requested, shall provide data to the panel,  
970 including, but not limited to, utilization trends in the  
971 workers' compensation health care delivery system. The  
972 department shall provide the panel with an annual report  
973 regarding the resolution of medical reimbursement disputes and  
974 any actions pursuant to subsection (8). The department shall  
975 provide administrative support and service to the panel to the  
976 extent requested by the panel and may adopt rules necessary to  
977 administer this subsection. For prescription medication  
978 purchased under the requirements of this subsection, a  
979 dispensing practitioner shall not possess such medication unless  
980 payment has been made by the practitioner, the practitioner's  
981 professional practice, or the practitioner's practice management  
982 company or employer to the supplying manufacturer, wholesaler,  
983 distributor, or drug repackager within 60 days of the dispensing  
984 practitioner taking possession of that medication.

985 Section 15. Subsection (3) of section 440.185, Florida  
986 Statutes, is amended to read:

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987 440.185 Notice of injury or death; reports; penalties for  
 988 violations.—

989 (3) Within 3 business days after the employer or the  
 990 employee informs the carrier of an injury, the carrier shall  
 991 send by regular mail or e-mail to the injured worker an  
 992 informational brochure approved by the department which sets  
 993 forth in clear and understandable language an explanation of the  
 994 rights, benefits, procedures for obtaining benefits and  
 995 assistance, criminal penalties, and obligations of injured  
 996 workers and their employers under the Florida Workers'  
 997 Compensation Law. Annually, the carrier or its third-party  
 998 administrator shall send by regular mail or e-mail to the  
 999 employer an informational brochure approved by the department  
 1000 which sets forth in clear and understandable language an  
 1001 explanation of the rights, benefits, procedures for obtaining  
 1002 benefits and assistance, criminal penalties, and obligations of  
 1003 injured workers and their employers under the Florida Workers'  
 1004 Compensation Law. All such informational brochures shall contain  
 1005 a notice that clearly states in substance the following: "Any  
 1006 person who, knowingly and with intent to injure, defraud, or  
 1007 deceive any employer or employee, insurance company, or self-  
 1008 insured program, files a statement of claim containing any false  
 1009 or misleading information commits a felony of the third degree."

1010 Section 16. Subsection (3) of section 440.381, Florida  
 1011 Statutes, is amended to read:

1012 440.381 Application for coverage; reporting payroll;  
 1013 payroll audit procedures; penalties.—

1014 (3) The Financial Services Commission, in consultation with  
 1015 the department, shall establish by rule minimum requirements for

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1016 audits of payroll and classifications ~~in order~~ to ensure that  
 1017 the appropriate premium is charged for workers' compensation  
 1018 coverage. The rules ~~must shall~~ ensure that audits performed by  
 1019 both carriers and employers are adequate to provide that all  
 1020 sources of payments to employees, subcontractors, and  
 1021 independent contractors ~~are have been~~ reviewed and that the  
 1022 accuracy of classification of employees ~~is has been~~ verified.  
 1023 The rules ~~must require shall provide~~ that employers in all  
 1024 classes other than the construction class be audited at least  
 1025 ~~not less frequently than~~ biennially and may provide for more  
 1026 frequent audits of employers in specified classifications based  
 1027 on factors such as amount of premium, type of business, loss  
 1028 ratios, or other relevant factors. ~~In no event shall~~ Employers  
 1029 in the construction class, generating more than the amount of  
 1030 premium required to be experience rated ~~must,~~ be audited at  
 1031 least less than annually. The annual audits required for  
 1032 construction classes ~~must shall~~ consist of physical onsite  
 1033 audits for new and renewal policies only if the estimated annual  
 1034 premium is \$10,000 or more. Payroll verification audit rules  
 1035 must include, but need not be limited to, the use of state and  
 1036 federal reports of employee income, payroll and other accounting  
 1037 records, certificates of insurance maintained by subcontractors,  
 1038 and duties of employees. At the completion of an audit, the  
 1039 employer or officer of the corporation and the auditor must  
 1040 print and sign their names on the audit document and attach  
 1041 proof of identification to the audit document.

1042 Section 17. Subsection (2) of section 497.277, Florida  
 1043 Statutes, is amended to read:

1044 497.277 Other charges.—Other than the fees for the sale of

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1045 burial rights, burial merchandise, and burial services, no other  
 1046 fee may be directly or indirectly charged, contracted for, or  
 1047 received by a cemetery company as a condition for a customer to  
 1048 use any burial right, burial merchandise, or burial service,  
 1049 except for:

1050 (2) Charges paid for transferring burial rights from one  
 1051 purchaser to another; ~~however, no such fee may exceed \$50.~~

1052 Section 18. Paragraph (b) of subsection (1) of section  
 1053 497.369, Florida Statutes, is amended to read:

1054 497.369 Embalmers; licensure as an embalmer by endorsement;  
 1055 licensure of a temporary embalmer.-

1056 (1) The licensing authority shall issue a license by  
 1057 endorsement to practice embalming to an applicant who has  
 1058 remitted an examination fee set by rule of the licensing  
 1059 authority not to exceed \$200 and who the licensing authority  
 1060 certifies:

1061 (b)1. Holds a valid license in good standing to practice  
 1062 embalming in another state of the United States and has engaged  
 1063 in the full-time, licensed practice of embalming in that state  
 1064 for at least 5 years, provided that, when the applicant secured  
 1065 her or his original license, the requirements for licensure were  
 1066 substantially equivalent to or more stringent than those  
 1067 existing in this state; or

1068 2. Meets the qualifications for licensure in s. 497.368,  
 1069 except that the internship requirement shall be deemed to have  
 1070 been satisfied by 1 year's practice as a licensed embalmer in  
 1071 another state, and has, within 10 years ~~before~~ prior to the date  
 1072 of application, successfully completed a state, regional, or  
 1073 national examination in mortuary science, which, as determined

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1074 by rule of the licensing authority, is substantially equivalent  
 1075 to or more stringent than the examination given by the licensing  
 1076 authority.

1077 Section 19. Paragraphs (b) and (f) of subsection (1) of  
 1078 section 497.372, Florida Statutes, are amended to read:

1079 497.372 Funeral directing; conduct constituting practice of  
 1080 funeral directing.-

1081 (1) The practice of funeral directing shall be construed to  
 1082 consist of the following functions, which may be performed only  
 1083 by a licensed funeral director:

1084 (b) Planning or arranging, on an at-need basis, the details  
 1085 of funeral services, embalming, cremation, or other services  
 1086 relating to the final disposition of human remains, and  
 1087 ~~including the removal of such remains from the state; setting~~  
 1088 ~~the time of the services;~~ establishing the type of services to  
 1089 be rendered; ~~acquiring the services of the clergy; and obtaining~~  
 1090 ~~vital information for the filing of death certificates and~~  
 1091 ~~obtaining of burial transit permits.~~

1092 (f) Directing, being in charge or apparent charge of, or  
 1093 supervising, directly or indirectly, any memorial service ~~held~~  
 1094 ~~prior to or within 72 hours of the burial or cremation,~~ if such  
 1095 memorial service is sold or arranged by a licensee.

1096 Section 20. Paragraph (b) of subsection (1) of section  
 1097 497.374, Florida Statutes, is amended to read:

1098 497.374 Funeral directing; licensure as a funeral director  
 1099 by endorsement; licensure of a temporary funeral director.-

1100 (1) The licensing authority shall issue a license by  
 1101 endorsement to practice funeral directing to an applicant who  
 1102 has remitted a fee set by rule of the licensing authority not to

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1103 exceed \$200 and who:

1104 (b)1. Holds a valid license in good standing to practice  
 1105 funeral directing in another state of the United States and has  
 1106 engaged in the full-time, licensed practice of funeral directing  
 1107 in that state for at least 5 years, provided that, when the  
 1108 applicant secured her or his original license, the requirements  
 1109 for licensure were substantially equivalent to or more stringent  
 1110 than those existing in this state; or

1111 2. Meets the qualifications for licensure in s. 497.373,  
 1112 except that the applicant need not hold an associate degree or  
 1113 higher if the applicant holds a diploma or certificate from an  
 1114 accredited program of mortuary science, and has successfully  
 1115 completed a state, regional, or national examination in mortuary  
 1116 science or funeral service arts, which, as determined by rule of  
 1117 the licensing authority, is substantially equivalent to or more  
 1118 stringent than the examination given by the licensing authority.

1119 Section 21. Present subsection (6) of section 554.108,  
 1120 Florida Statutes, is redesignated as subsection (7), a new  
 1121 subsection (6) is added to that section, and subsection (1) of  
 1122 that section is amended, to read:

1123 554.108 Inspection.—

1124 (1) The inspection requirements of this chapter apply only  
 1125 to boilers located in public assembly locations. A ~~potable hot~~  
 1126 ~~water supply~~ boiler with ~~an a heat~~ input of 200,000 British  
 1127 thermal units (Btu) per hour and above, up to ~~an a heat~~ input  
 1128 not exceeding 400,000 Btu per hour, is exempt from inspection;  
 1129 however, such an exempt boiler, if manufactured after July 1,  
 1130 2022, ~~but~~ must be stamped with the A.S.M.E. code symbol.  
 1131 Additionally, "HLW" and the boiler's A.S.M.E data report of a

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1132 boiler with an input of 200,000 to 400,000 Btu per hour must be  
 1133 filed as required under s. 554.103(2).

1134 (6) Each enclosed space or room containing a boiler  
 1135 regulated under this chapter which is fired by the direct  
 1136 application of energy from the combustion of fuels and which is  
 1137 located in any portion of a public lodging establishment under  
 1138 s. 509.242 shall be equipped with one or more carbon monoxide  
 1139 detector devices.

1140 Section 22. Paragraphs (a) and (e) of subsection (1) and  
 1141 paragraph (a) of subsection (2) of section 554.111, Florida  
 1142 Statutes, are amended to read:

1143 554.111 Fees.—

1144 (1) The department shall charge the following fees:

1145 (a) For an applicant for a certificate of competency, the  
 1146 initial application fee shall be \$50, and the annual renewal fee  
 1147 shall be \$30. ~~The fee for examination shall be \$50.~~

1148 (e) An application for a boiler permit must include the  
 1149 manufacturer's data report ~~applicable certificate inspection fee~~  
 1150 ~~provided in paragraph (b).~~

1151 (2) Not more than an amount equal to one certificate  
 1152 inspection fee may be charged or collected for any and all  
 1153 boiler inspections in any inspection period, except as otherwise  
 1154 provided in this chapter.

1155 (a) When it is necessary to make a special trip for testing  
 1156 and verification inspections ~~to observe the application of a~~  
 1157 ~~hydrostatic test~~, an additional fee equal to the fee for a  
 1158 certificate inspection of the boiler must be charged.

1159 Section 23. Subsection (4) of section 554.114, Florida  
 1160 Statutes, is amended to read:

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1161 554.114 Prohibitions; penalties.-

1162 (4) A boiler insurance company, authorized inspection  
1163 agency, or other person in violation of this section for more  
1164 than 30 days shall pay a fine of \$10 per day for the subsequent  
1165 ~~first~~ 10 days of noncompliance, \$50 per day for the subsequent  
1166 20 days of noncompliance, and \$100 per day for each subsequent  
1167 day ~~over 20 days~~ of noncompliance thereafter.

1168 Section 24. Subsection (3) of section 624.423, Florida  
1169 Statutes, is amended to read:

1170 624.423 Serving process.-

1171 (3) Service of process is valid and binding upon the  
1172 insurer on the date the process served upon the Chief Financial  
1173 Officer is delivered to the insurer and sent or the insurer has  
1174 been notified by the department that such information has been  
1175 made available on the department's secure online portal in  
1176 accordance with this section and s. 624.307(9) shall for all  
1177 purposes constitute valid and binding service thereof upon the  
1178 insurer.

1179 Section 25. Subsection (20) of section 626.015, Florida  
1180 Statutes, is amended to read:

1181 626.015 Definitions.-As used in this part:

1182 (20) "Unaffiliated insurance agent" means a licensed  
1183 insurance agent, except a limited lines agent, who is self-  
1184 appointed and who practices as an independent consultant in the  
1185 business of analyzing or abstracting insurance policies,  
1186 providing insurance advice or counseling, or making specific  
1187 recommendations or comparisons of insurance products for a fee  
1188 established in advance by written contract signed by the  
1189 parties. An unaffiliated insurance agent may not be affiliated

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1190 with an insurer, insurer-appointed insurance agent, or insurance  
1191 agency contracted with or employing insurer-appointed insurance  
1192 agents. A licensed adjuster who is also an unaffiliated  
1193 insurance agent may obtain an adjuster appointment in order to  
1194 adjust claims while holding an unaffiliated appointment on the  
1195 agent license.

1196 Section 26. Subsection (4) of section 626.171, Florida  
1197 Statutes, is amended to read:

1198 626.171 Application for license as an agent, customer  
1199 representative, adjuster, service representative, or reinsurance  
1200 intermediary.-

1201 (4) An applicant for a license under this chapter ~~as an~~  
1202 ~~agent, customer representative, adjuster, service~~  
1203 ~~representative, or reinsurance intermediary~~ must submit a set of  
1204 the individual applicant's fingerprints, or, if the applicant is  
1205 not an individual, a set of the fingerprints of the sole  
1206 proprietor, majority owner, partners, officers, and directors,  
1207 to the department and must pay the fingerprint processing fee  
1208 set forth in s. 624.501. Fingerprints must be processed in  
1209 accordance with s. 624.34 and used to investigate the  
1210 applicant's qualifications pursuant to s. 626.201. The  
1211 fingerprints must be taken by a law enforcement agency,  
1212 designated examination center, or other department-approved  
1213 entity. The department shall require all designated examination  
1214 centers to have fingerprinting equipment and to take  
1215 fingerprints from any applicant or prospective applicant who  
1216 pays the applicable fee. The department may not approve an  
1217 application for licensure as an agent, customer service  
1218 representative, adjuster, service representative, or reinsurance

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1219 intermediary if fingerprints have not been submitted.  
 1220 Section 27. Paragraph (f) of subsection (2) of section  
 1221 626.172, Florida Statutes, is amended to read:  
 1222 626.172 Application for insurance agency license.—  
 1223 (2) An application for an insurance agency license must be  
 1224 signed by an individual required to be listed in the application  
 1225 under paragraph (a). An insurance agency may permit a third  
 1226 party to complete, submit, and sign an application on the  
 1227 insurance agency's behalf; however, the insurance agency is  
 1228 responsible for ensuring that the information on the application  
 1229 is true and correct and is accountable for any misstatements or  
 1230 misrepresentations. The application for an insurance agency  
 1231 license must include:  
 1232 (f) The fingerprints submitted in accordance with s.  
 1233 626.171(4) of each of the following:  
 1234 1. A sole proprietor;  
 1235 2. Each individual required to be listed in the application  
 1236 under paragraph (a); and  
 1237 3. Each individual who directs or participates in the  
 1238 management or control of an incorporated agency whose shares are  
 1239 not traded on a securities exchange.  
 1240  
 1241 ~~Fingerprints must be taken by a law enforcement agency or other~~  
 1242 ~~entity approved by the department and must be accompanied by the~~  
 1243 ~~fingerprint processing fee specified in s. 624.501. Fingerprints~~  
 1244 ~~must be processed in accordance with s. 624.34. However,~~  
 1245 Fingerprints need not be filed for an individual who is  
 1246 currently licensed and appointed under this chapter. This  
 1247 paragraph does not apply to corporations whose voting shares are

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1248 traded on a securities exchange.  
 1249 Section 28. Section 626.173, Florida Statutes, is created  
 1250 to read:  
 1251 626.173 Insurance agency closure; cancellation of  
 1252 licenses.—  
 1253 (1) If a licensed insurance agency permanently ceases the  
 1254 transacting of insurance or ceases the transacting of insurance  
 1255 for more than 31 days, the agent in charge, director of the  
 1256 agency, or other officer listed on the original application for  
 1257 licensure shall immediately cancel the insurance agency's  
 1258 license by completing and submitting a form to notify the Bureau  
 1259 of Licensing of the Division of Insurance Agent and Agency  
 1260 Services within the department of the cancellation of the  
 1261 license.  
 1262 (2) Within 30 days after the agency ceases the transaction  
 1263 of insurance, the agent in charge, the director of the agency,  
 1264 or other officer listed on the original application for  
 1265 licensure shall:  
 1266 (a) Notify all insurers by which the agency or agent in  
 1267 charge is appointed of the agency's cessation of operations, the  
 1268 date on which operations ceased, the identity of any agency or  
 1269 agent to which the agency's current book of business has been  
 1270 transferred, and the method by which agency records may be  
 1271 obtained during the time periods specified in ss. 626.561 and  
 1272 626.748.  
 1273 (b) Notify all policyholders currently insured by a policy  
 1274 written, produced, or serviced by the agency of the agency's  
 1275 cessation of operations; the date on which operations ceased;  
 1276 and the identity of the agency or agent to which the agency's

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1277 current book of business has been transferred or, if no transfer  
 1278 has occurred, a statement directing the policyholder to contact  
 1279 the insurance company for assistance in locating a licensed  
 1280 agent to service the policy.

1281 (c) Notify all premium finance companies through which  
 1282 active policies are financed of the agency's cessation of  
 1283 operations, the date on which operations ceased, and the  
 1284 identity of the agency or agent to which the agency's current  
 1285 book of business has been transferred.

1286 (d) Ensure that all funds held in a fiduciary capacity are  
 1287 properly distributed to the rightful owners.

1288 (3) (a) The department or office may, in a proceeding  
 1289 initiated pursuant to chapter 120, impose an administrative fine  
 1290 against the agent in charge or director or officer of the agency  
 1291 found in the proceeding to have violated any provision of this  
 1292 section. A proceeding may not be initiated and a fine may not  
 1293 accrue until after the person has been notified in writing of  
 1294 the nature of the violation, has been afforded 10 business days  
 1295 to correct the violation, and has failed to do so.

1296 (b) A fine imposed under this subsection may not exceed the  
 1297 amounts specified in s. 626.681 per violation.

1298 (c) The department or office may, in addition to the  
 1299 imposition of an administrative fine under this subsection,  
 1300 suspend or revoke the license of a licensee fined under this  
 1301 subsection.

1302 (d) In imposing any administrative penalty or remedy  
 1303 provided under this subsection, the department or office shall  
 1304 take into account the appropriateness of the penalty with  
 1305 respect to the size of the financial resources and the good

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1306 faith of the person charged, the gravity of the violation, the  
 1307 history of previous violations, and other matters as justice may  
 1308 require.

1309 Section 29. Subsection (3) of section 626.201, Florida  
 1310 Statutes, is amended, and subsection (4) is added to that  
 1311 section, to read:

1312 626.201 Investigation.—

1313 (3) An inquiry or investigation of the applicant's  
 1314 qualifications, character, experience, background, and fitness  
 1315 must include submission of the applicant's fingerprints, in  
 1316 accordance with s. 626.171(4), to the Department of Law  
 1317 Enforcement and the Federal Bureau of Investigation and  
 1318 consideration of any state criminal records, federal criminal  
 1319 records, or local criminal records obtained from these agencies  
 1320 or from local law enforcement agencies.

1321 (4) The expiration, nonrenewal, or surrender of a license  
 1322 under this chapter does not eliminate jurisdiction of the  
 1323 licensing authority to investigate and prosecute for a violation  
 1324 committed by the licensee while licensed under this chapter. The  
 1325 prosecution of any matter may be initiated or continued  
 1326 notwithstanding the withdrawal of a complaint.

1327 Section 30. Section 626.202, Florida Statutes, is amended  
 1328 to read:

1329 626.202 Fingerprinting requirements.—

1330 (1) The requirements for completion and submission of  
 1331 fingerprints under this chapter in accordance with s. 626.171(4)  
 1332 are deemed to be met when an individual currently licensed under  
 1333 this chapter seeks additional licensure and has previously  
 1334 submitted fingerprints to the department within the past 48

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1335 months. However, the department may require the individual to  
 1336 file fingerprints if it has reason to believe that an applicant  
 1337 or licensee has been found guilty of, or pleaded guilty or nolo  
 1338 contendere to, a felony or a crime related to the business of  
 1339 insurance in this state or any other state or jurisdiction.

1340 (2) If there is a change in ownership or control of any  
 1341 entity licensed under this chapter, or if a new partner,  
 1342 officer, or director is employed or appointed, a set of  
 1343 fingerprints of the new owner, partner, officer, or director  
 1344 must be filed with the department or office within 30 days after  
 1345 the change. The acquisition of 10 percent or more of the voting  
 1346 securities of a licensed entity is considered a change of  
 1347 ownership or control. The fingerprints must be submitted in  
 1348 accordance with s. 626.171(4) taken by a law enforcement agency  
 1349 ~~or other department-approved entity and be accompanied by the~~  
 1350 ~~fingerprint processing fee in s. 624.501.~~

1351 Section 31. Paragraph (j) of subsection (2) of section  
 1352 626.221, Florida Statutes, is amended to read:

1353 626.221 Examination requirement; exemptions.—

1354 (2) However, an examination is not necessary for any of the  
 1355 following:

1356 (j) An applicant for license as an all-lines adjuster who  
 1357 has the designation of Accredited Claims Adjuster (ACA) from a  
 1358 regionally accredited postsecondary institution in this state,  
 1359 Certified All Lines Adjuster (CALA) from Kaplan Financial  
 1360 Education, Associate in Claims (AIC) from the Insurance  
 1361 Institute of America, Professional Claims Adjuster (PCA) from  
 1362 the Professional Career Institute, Professional Property  
 1363 Insurance Adjuster (PPIA) from the HurriClaim Training Academy,

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1364 Certified Adjuster (CA) from ALL LINES Training, Certified  
 1365 Claims Adjuster (CCA) from AE21 Incorporated, Claims Adjuster  
 1366 Certified Professional (CACP) from WebCE, Inc., Accredited  
 1367 Insurance Claims Specialist (AICS) from Encore Claim Services,  
 1368 or Universal Claims Certification (UCC) from Claims and  
 1369 Litigation Management Alliance (CLM) whose curriculum has been  
 1370 approved by the department and which includes comprehensive  
 1371 analysis of basic property and casualty lines of insurance and  
 1372 testing at least equal to that of standard department testing  
 1373 for the all-lines adjuster license. The department shall adopt  
 1374 rules establishing standards for the approval of curriculum.

1375 Section 32. Subsection (6) of section 626.311, Florida  
 1376 Statutes, is amended to read:

1377 626.311 Scope of license.—

1378 (6) An agent who appoints his or her license as an  
 1379 unaffiliated insurance agent may not hold an appointment from an  
 1380 insurer for any license he or she holds, with the exception of  
 1381 an adjuster license; transact, solicit, or service an insurance  
 1382 contract on behalf of an insurer; interfere with commissions  
 1383 received or to be received by an insurer-appointed insurance  
 1384 agent or an insurance agency contracted with or employing  
 1385 insurer-appointed insurance agents; or receive compensation or  
 1386 any other thing of value from an insurer, an insurer-appointed  
 1387 insurance agent, or an insurance agency contracted with or  
 1388 employing insurer-appointed insurance agents for any transaction  
 1389 or referral occurring after the date of appointment as an  
 1390 unaffiliated insurance agent. An unaffiliated insurance agent  
 1391 may continue to receive commissions on sales that occurred  
 1392 before the date of appointment as an unaffiliated insurance

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1393 agent if the receipt of such commissions is disclosed when  
 1394 making recommendations or evaluating products for a client that  
 1395 involve products of the entity from which the commissions are  
 1396 received. An adjuster who holds an adjuster license and who is  
 1397 also an unaffiliated insurance agent may obtain an adjuster  
 1398 appointment while maintaining his or her unaffiliated insurance  
 1399 agent appointment and may adjust claims and receive compensation  
 1400 in accordance with the authority granted by the adjuster license  
 1401 and appointment.

1402 Section 33. Paragraph (h) of subsection (1) of section  
 1403 626.321, Florida Statutes, is amended to read:

1404 626.321 Limited licenses and registration.—

1405 (1) The department shall issue to a qualified applicant a  
 1406 license as agent authorized to transact a limited class of  
 1407 business in any of the following categories of limited lines  
 1408 insurance:

1409 (h) *Portable electronics insurance.*—License for property  
 1410 insurance or inland marine insurance that covers only loss,  
 1411 theft, mechanical failure, malfunction, or damage for portable  
 1412 electronics.

1413 1. The license may be issued only to:

1414 a. Employees or authorized representatives of a licensed  
 1415 general lines agent; or

1416 b. The lead business location of a retail vendor that sells  
 1417 portable electronics insurance. The lead business location must  
 1418 have a contractual relationship with a general lines agent.

1419 2. Employees or authorized representatives of a licensee  
 1420 under subparagraph 1. may sell or offer for sale portable  
 1421 electronics coverage without being subject to licensure as an

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1422 insurance agent if:

1423 a. Such insurance is sold or offered for sale at a licensed  
 1424 location or at one of the licensee's branch locations if the  
 1425 branch location is appointed by the licensed lead business  
 1426 location or its appointing insurers;

1427 b. The insurer issuing the insurance directly supervises or  
 1428 appoints a general lines agent to supervise the sale of such  
 1429 insurance, including the development of a training program for  
 1430 the employees and authorized representatives of vendors that are  
 1431 directly engaged in the activity of selling or offering the  
 1432 insurance; and

1433 c. At each location where the insurance is offered,  
 1434 brochures or other written materials that provide the  
 1435 information required by this subparagraph are made available to  
 1436 all prospective customers. The brochures or written materials  
 1437 may include information regarding portable electronics  
 1438 insurance, service warranty agreements, or other incidental  
 1439 services or benefits offered by a licensee.

1440 3. Individuals not licensed to sell portable electronics  
 1441 insurance may not be paid commissions based on the sale of such  
 1442 coverage. However, a licensee who uses a compensation plan for  
 1443 employees and authorized representatives which includes  
 1444 supplemental compensation for the sale of noninsurance products,  
 1445 in addition to a regular salary or hourly wages, may include  
 1446 incidental compensation for the sale of portable electronics  
 1447 insurance as a component of the overall compensation plan.

1448 4. Brochures or other written materials related to portable  
 1449 electronics insurance must:

1450 a. Disclose that such insurance may duplicate coverage

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1451 already provided by a customer's homeowners insurance policy,  
 1452 renters insurance policy, or other source of coverage;

1453 b. State that enrollment in insurance coverage is not  
 1454 required in order to purchase or lease portable electronics or  
 1455 services;

1456 c. Summarize the material terms of the insurance coverage,  
 1457 including the identity of the insurer, the identity of the  
 1458 supervising entity, the amount of any applicable deductible and  
 1459 how it is to be paid, the benefits of coverage, and key terms  
 1460 and conditions of coverage, such as whether portable electronics  
 1461 may be repaired or replaced with similar make and model  
 1462 reconditioned or nonoriginal manufacturer parts or equipment;

1463 d. Summarize the process for filing a claim, including a  
 1464 description of how to return portable electronics and the  
 1465 maximum fee applicable if the customer fails to comply with  
 1466 equipment return requirements; and

1467 e. State that an enrolled customer may cancel coverage at  
 1468 any time and that the person paying the premium will receive a  
 1469 refund of any unearned premium.

1470 5. A licensed and appointed general lines agent is not  
 1471 required to obtain a portable electronics insurance license to  
 1472 offer or sell portable electronics insurance at locations  
 1473 already licensed as an insurance agency, but may apply for a  
 1474 portable electronics insurance license for branch locations not  
 1475 otherwise licensed to sell insurance.

1476 6. A portable electronics license authorizes the sale of  
 1477 individual policies or certificates under a group or master  
 1478 insurance policy. The license also authorizes the sale of  
 1479 service warranty agreements covering only portable electronics

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1480 to the same extent as if licensed under s. 634.419 or s.  
 1481 634.420.

1482 7. A licensee may bill and collect the premium for the  
 1483 purchase of portable electronics insurance provided that:

1484 a. If the insurance is included with the purchase or lease  
 1485 of portable electronics or related services, the licensee  
 1486 clearly and conspicuously discloses that insurance coverage is  
 1487 included with the purchase. Disclosure of the stand-alone cost  
 1488 of the premium for same or similar insurance must be made on the  
 1489 customer's bill and in any marketing materials made available at  
 1490 the point of sale. If the insurance is not included, the charge  
 1491 to the customer for the insurance must be separately itemized on  
 1492 the customer's bill.

1493 b. Premiums are incidental to other fees collected, are  
 1494 maintained in a manner that is readily identifiable, and are  
 1495 accounted for and remitted to the insurer or supervising entity  
 1496 within 60 days of receipt. Licensees are not required to  
 1497 maintain such funds in a segregated account.

1498 c. All funds received by a licensee from an enrolled  
 1499 customer for the sale of the insurance are considered funds held  
 1500 in trust by the licensee in a fiduciary capacity for the benefit  
 1501 of the insurer. Licensees may receive compensation for billing  
 1502 and collection services.

1503 8. Notwithstanding any other provision of law, the terms  
 1504 for the termination or modification of coverage under a policy  
 1505 of portable electronics insurance are those set forth in the  
 1506 policy.

1507 9. Notice or correspondence required by the policy, or  
 1508 otherwise required by law, may be provided by electronic means

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1509 if the insurer or licensee maintains proof that the notice or  
 1510 correspondence was sent. Such notice or correspondence may be  
 1511 sent on behalf of the insurer or licensee by the general lines  
 1512 agent appointed by the insurer to supervise the administration  
 1513 of the program. For purposes of this subparagraph, an enrolled  
 1514 customer's provision of an electronic mail address to the  
 1515 insurer or licensee is deemed to be consent to receive notices  
 1516 and correspondence by electronic means if a conspicuously  
 1517 located disclosure is provided to the customer indicating the  
 1518 same.

1519 10. The ~~provisions of this chapter requiring submission of~~  
 1520 ~~fingerprints~~ requirements in s. 626.171(4) do not apply to  
 1521 licenses issued to qualified entities under this paragraph.

1522 11. A branch location that sells portable electronics  
 1523 insurance may, in lieu of obtaining an appointment from an  
 1524 insurer or warranty association, obtain a single appointment  
 1525 from the associated lead business location licensee and pay the  
 1526 prescribed appointment fee under s. 624.501 if the lead business  
 1527 location has a single appointment from each insurer or warranty  
 1528 association represented and such appointment applies to the lead  
 1529 business location and all of its branch locations. Branch  
 1530 location appointments shall be renewed 24 months after the  
 1531 initial appointment date of the lead business location and every  
 1532 24 months thereafter. Notwithstanding s. 624.501, the renewal  
 1533 fee applicable to such branch location appointments is \$30 per  
 1534 appointment.

1535 12. For purposes of this paragraph:

1536 a. "Branch location" means any physical location in this  
 1537 state at which a licensee offers its products or services for

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1538 sale.

1539 b. "Portable electronics" means personal, self-contained,  
 1540 easily carried by an individual, battery-operated electronic  
 1541 communication, viewing, listening, recording, gaming, computing  
 1542 or global positioning devices, including cell or satellite  
 1543 phones, pagers, personal global positioning satellite units,  
 1544 portable computers, portable audio listening, video viewing or  
 1545 recording devices, digital cameras, video camcorders, portable  
 1546 gaming systems, docking stations, automatic answering devices,  
 1547 and other similar devices and their accessories, and service  
 1548 related to the use of such devices.

1549 c. "Portable electronics transaction" means the sale or  
 1550 lease of portable electronics or a related service, including  
 1551 portable electronics insurance.

1552 Section 34. Subsection (5) of section 626.601, Florida  
 1553 Statutes, is amended to read:

1554 626.601 Improper conduct; inquiry; fingerprinting.—

1555 (5) If the department or office, after investigation, has  
 1556 reason to believe that an individual may have been found guilty  
 1557 of or pleaded guilty or nolo contendere to a felony or a crime  
 1558 related to the business of insurance in this or any other state  
 1559 or jurisdiction, the department or office may require the  
 1560 individual to file with the department or office a complete set  
 1561 of his or her fingerprints, in accordance with s. 626.171(4),  
 1562 which shall be accompanied by the fingerprint processing fee set  
 1563 forth in s. 624.501. The fingerprints shall be taken by an  
 1564 authorized law enforcement agency or other department-approved  
 1565 entity.

1566 Section 35. Paragraph (d) of subsection (2) of section

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1567 626.8411, Florida Statutes, is amended, and paragraph (f) is  
 1568 added to subsection (1) of that section, to read:  
 1569 626.8411 Application of Florida Insurance Code provisions  
 1570 to title insurance agents or agencies.—  
 1571 (1) The following provisions applicable to general lines  
 1572 agents or agencies also apply to title insurance agents or  
 1573 agencies:  
 1574 (f) Section 626.172(2)(f), relating to fingerprints.  
 1575 (2) The following provisions of part I do not apply to  
 1576 title insurance agents or title insurance agencies:  
 1577 (d) Section 626.172, except for paragraph (2)(f) of that  
 1578 section, relating to agent in full-time charge.  
 1579 Section 36. Paragraph (b) of subsection (1) of section  
 1580 626.8412, Florida Statutes, is amended to read:  
 1581 626.8412 License and appointments required.—  
 1582 (1) Except as otherwise provided in this part:  
 1583 (b) A title insurance agent may not sell a title insurance  
 1584 policy issued by an insurer for which the agent and the agency  
 1585 do ~~does~~ not hold a current appointment.  
 1586 Section 37. Paragraph (a) of subsection (3) of section  
 1587 626.8417, Florida Statutes, is amended to read:  
 1588 626.8417 Title insurance agent licensure; exemptions.—  
 1589 (3) The department may not grant or issue a license as a  
 1590 title insurance agent to an individual who is found by the  
 1591 department to be untrustworthy or incompetent, who does not meet  
 1592 the qualifications for examination specified in s. 626.8414, or  
 1593 who does not meet the following qualifications:  
 1594 (a) Within the 4 years immediately preceding the date of  
 1595 the application for license, the applicant must have completed a

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1596 40-hour ~~classroom~~ course in title insurance, 3 hours of which  
 1597 are on the subject matter of ethics, as approved by the  
 1598 department, or must have had at least 12 months of experience in  
 1599 responsible title insurance duties, under the supervision of a  
 1600 licensed title insurance agent, title insurer, or attorney while  
 1601 working in the title insurance business as a substantially full-  
 1602 time, bona fide employee of a title insurance agency, title  
 1603 insurance agent, title insurer, or attorney who conducts real  
 1604 estate closing transactions and issues title insurance policies  
 1605 but who is exempt from licensure under subsection (4). If an  
 1606 applicant's qualifications are based upon the periods of  
 1607 employment at responsible title insurance duties, the applicant  
 1608 must submit, with the license application, an affidavit of the  
 1609 applicant and of the employer affirming the period of such  
 1610 employment, that the employment was substantially full time, and  
 1611 giving a brief abstract of the nature of the duties performed by  
 1612 the applicant.  
 1613 Section 38. Section 626.8421, Florida Statutes, is amended  
 1614 to read:  
 1615 626.8421 Number of appointments permitted or required.—A  
 1616 title agent and a title agency shall be required to have a  
 1617 separate appointment as to each insurer by which they are ~~he or~~  
 1618 ~~she is~~ appointed as agents agent. As a part of each appointment  
 1619 there shall be a certified statement or affidavit of an  
 1620 appropriate officer or official of the appointing insurer  
 1621 stating that to the best of the insurer's knowledge and belief  
 1622 the applicant, or its principals in the case of a corporation or  
 1623 other legal entity, has met the requirements of s. 626.8417.  
 1624 Section 39. Subsections (1) and (2) of section 626.843,

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1625 Florida Statutes, are amended to read:

1626 626.843 Renewal, continuation, reinstatement, termination  
1627 of title insurance agent's and title insurance agency's  
1628 appointments ~~appointment~~.-

1629 (1) ~~Appointments the appointment~~ of a title insurance agent  
1630 and a title insurance agency shall continue in force until  
1631 suspended, revoked, or otherwise terminated, but subject to a  
1632 renewed request filed by the insurer every 24 months after the  
1633 original issue ~~dates date~~ of the appointments appointment,  
1634 accompanied by payments payment of the renewal appointment fees  
1635 ~~fee~~ and taxes as prescribed in s. 624.501.

1636 (2) Title insurance agent and title insurance agency  
1637 appointments shall be renewed pursuant to s. 626.381 for  
1638 insurance representatives in general.

1639 Section 40. Subsection (1) of section 626.8433, Florida  
1640 Statutes, is amended to read:

1641 626.8433 Filing of reasons for terminating appointment of  
1642 title insurance agent and title insurance agency; confidential  
1643 information.-

1644 (1) Any title insurer that is terminating the appointment  
1645 of a title insurance agent or title insurance agency, whether  
1646 such termination is by direct action of the appointing title  
1647 insurer or by failure to renew or continue the appointment as  
1648 provided, shall file with the department a statement of the  
1649 reasons, if any, for, and the facts relative to, such  
1650 termination.

1651 Section 41. Section 626.8447, Florida Statutes, is amended  
1652 to read:

1653 626.8447 Effect of suspension or revocation upon other

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1654 licensees, appointees.-In case of the suspension or revocation  
1655 of the license and appointment of any title insurance agent or  
1656 title insurance agency, the licenses and appointments of all  
1657 other title insurance agents who knowingly were parties to the  
1658 act ~~that which~~ formed the ground for such suspension or  
1659 revocation may likewise be suspended or revoked for the same  
1660 period as that of the offending title insurance agent or title  
1661 insurance agency, but such suspension or revocation ~~does shall~~  
1662 not prevent any title insurance agent, except the one whose  
1663 license and appointment was first suspended or revoked, from  
1664 being issued an appointment for some other title insurer.

1665 Section 42. Present paragraph (d) of subsection (10) of  
1666 section 626.854, Florida Statutes, is redesignated as paragraph  
1667 (f), and a new paragraph (d) and paragraph (e) are added to that  
1668 subsection, to read:

1669 626.854 "Public adjuster" defined; prohibitions.-The  
1670 Legislature finds that it is necessary for the protection of the  
1671 public to regulate public insurance adjusters and to prevent the  
1672 unauthorized practice of law.

1673 (10)

1674 (d) Public adjuster compensation may not be based on  
1675 amounts attributable to additional living expenses, unless such  
1676 compensation is affirmatively agreed to in a separate agreement  
1677 that includes a disclosure in substantially the following form:  
1678 "I agree to retain and compensate the public adjuster for  
1679 adjusting my additional living expenses and securing payment  
1680 from my insurer for amounts attributable to additional living  
1681 expenses payable under the policy issued on my (home/mobile  
1682 home/condominium unit)."

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1683 (e) Public adjuster compensation may not be increased based  
 1684 on a claim being resolved by litigation.

1685 Section 43. Section 626.8561, Florida Statutes, is amended  
 1686 to read:

1687 626.8561 "Public adjuster apprentice" defined.—The term  
 1688 "public adjuster apprentice" means a person licensed as an all-  
 1689 lines adjuster who:

1690 (1) Is appointed and employed or contracted by ~~a public~~  
 1691 ~~adjuster or~~ a public adjusting firm;

1692 (2) Assists the ~~public adjuster or~~ public adjusting firm in  
 1693 ascertaining and determining the amount of any claim, loss, or  
 1694 damage payable under an insurance contract, or who undertakes to  
 1695 effect settlement of such claim, loss, or damage; and

1696 (3) Satisfies the requirements of s. 626.8651.

1697 Section 44. Paragraph (e) of subsection (1) and subsection  
 1698 (2) of section 626.865, Florida Statutes, are amended to read:

1699 626.865 Public adjuster's qualifications, bond.—

1700 (1) The department shall issue a license to an applicant  
 1701 for a public adjuster's license upon determining that the  
 1702 applicant has paid the applicable fees specified in s. 624.501  
 1703 and possesses the following qualifications:

1704 (e) Has been licensed and appointed in this state as a  
 1705 nonresident public adjuster on a continual basis for the  
 1706 previous 6 months, or has been licensed as an all-lines  
 1707 adjuster, and has been appointed on a continual basis for the  
 1708 previous 6 months as a public adjuster apprentice under s.  
 1709 626.8561, as an independent adjuster under s. 626.855, or as a  
 1710 company employee adjuster under s. 626.856.

1711 (2) At the time of application for license as a public

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1712 adjuster, the applicant shall file with the department a bond  
 1713 executed and issued by a surety insurer authorized to transact  
 1714 such business in this state, in the amount of \$50,000,  
 1715 conditioned for the faithful performance of his or her duties as  
 1716 a public adjuster under the license for which the applicant has  
 1717 applied, and thereafter maintain the bond unimpaired throughout  
 1718 the existence of the license ~~and for at least 1 year after~~  
 1719 ~~termination of the license.~~

1720 (a) The bond ~~must shall~~ be in favor of the department and  
 1721 ~~must shall~~ specifically authorize recovery by the department of  
 1722 the damages sustained in case the licensee is guilty of fraud or  
 1723 unfair practices in connection with his or her business as  
 1724 public adjuster.

1725 (b) The bond must remain in effect for 1 year after the  
 1726 expiration or termination of the license.

1727 (c) The aggregate liability of the surety for all such  
 1728 damages ~~may not shall in no event~~ exceed the amount of the bond.  
 1729 The ~~Such~~ bond ~~may shall~~ not be terminated unless at least 30  
 1730 days' written notice is given to the licensee and filed with the  
 1731 department.

1732 Section 45. Paragraph (a) of subsection (1) and subsection  
 1733 (3) of section 626.8651, Florida Statutes, are amended to read:  
 1734 626.8651 Public adjuster apprentice appointment;  
 1735 qualifications.—

1736 (1) (a) The department shall issue an appointment as a  
 1737 public adjuster apprentice to a licensee who:

- 1738 1. Is licensed as an all-lines adjuster under s. 626.866;
- 1739 2. Has filed with the department a bond executed and issued  
 1740 by a surety insurer that is authorized to transact such business

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1741 in this state in the amount of \$50,000, which is conditioned  
1742 upon the faithful performance of his or her duties as a public  
1743 adjuster apprentice; and

1744 3. Maintains such bond unimpaired throughout the existence  
1745 of the appointment. The bond must remain in effect for 1 year  
1746 after the expiration or termination of the license and for at  
1747 least 1 year after termination of the appointment.

1748 (3) A public adjuster apprentice has the same authority as  
1749 the licensed public adjuster or public adjusting firm that  
1750 employs the apprentice except that an apprentice may not execute  
1751 contracts for the services of a public adjuster or public  
1752 adjusting firm. An individual may not be, act as, or hold  
1753 himself or herself out to be a public adjuster apprentice unless  
1754 the individual is licensed as an all-lines adjuster and holds a  
1755 current appointment by a licensed ~~public all-lines adjuster or a~~  
1756 public adjusting firm that has designated with the department a  
1757 primary employs a licensed public adjuster as required by s.  
1758 626.8695.

1759 Section 46. Section 626.8696, Florida Statutes, is amended  
1760 to read:

1761 626.8696 Application for adjusting firm license.—

1762 (1) The application for an adjusting firm license must  
1763 include:

1764 (a) The name of each majority owner, partner, officer, and  
1765 director of the adjusting firm.

1766 (b) The resident address of each person required to be  
1767 listed in the application under paragraph (a).

1768 (c) The name of the adjusting firm and its principal  
1769 business address.

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1770 (d) The location of each adjusting firm office and the name  
1771 under which each office conducts or will conduct business.

1772 (e) The name and license number of the designated primary  
1773 adjuster for each adjusting firm location as required in s.  
1774 626.8695.

1775 (f) The fingerprints of each individual required to be  
1776 listed in the application under paragraph (a), filed in  
1777 accordance with s. 626.171(4). However, fingerprints need not be  
1778 filed for an individual who is currently licensed and appointed  
1779 under this chapter.

1780 (g) Any additional information that the department  
1781 requires.

1782 (2) An application for an adjusting firm license must be  
1783 signed by one of the individuals required to be listed in the  
1784 application under paragraph (1)(a) each owner of the firm. If  
1785 the firm is incorporated, the application must be signed by the  
1786 president and secretary of the corporation.

1787 ~~(3) Each application must be accompanied by payment of any~~  
1788 ~~applicable fee as prescribed in s. 624.501.~~

1789 ~~(4) License fees are not refundable.~~

1790 ~~(5) An adjusting firm required to be licensed pursuant to~~  
1791 ~~s. 626.8695 must remain so licensed for a period of 3 years from~~  
1792 ~~the date of licensure, unless the license is suspended or~~  
1793 ~~revoked. The department may suspend or revoke the adjusting~~  
1794 ~~firm's authority to do business for activities occurring during~~  
1795 ~~the time the firm is licensed, regardless of whether the~~  
1796 ~~licensing period has terminated.~~

1797 Section 47. Subsection (3) of section 626.8732, Florida  
1798 Statutes, is amended to read:

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1799 626.8732 Nonresident public adjuster's qualifications,  
1800 bond.—

1801 (3) At the time of application for license as a nonresident  
1802 public adjuster, the applicant shall file with the department a  
1803 bond executed and issued by a surety insurer authorized to  
1804 transact surety business in this state, in the amount of  
1805 \$50,000, conditioned for the faithful performance of his or her  
1806 duties as a nonresident public adjuster under the license  
1807 applied for. Thereafter, the applicant shall maintain the bond  
1808 unimpaired throughout the existence of the license and for 1  
1809 year after the expiration or termination of the license.

1810 (a) The bond must be in favor of the department and must  
1811 specifically authorize recovery by the department of the damages  
1812 sustained if the licensee commits fraud or unfair practices in  
1813 connection with his or her business as nonresident public  
1814 adjuster.

1815 (b) The aggregate liability of the surety for all the  
1816 damages may not exceed the amount of the bond. The bond may not  
1817 be terminated unless at least 30 days' written notice is given  
1818 to the licensee and filed with the department.

1819 Section 48. Paragraph (a) of subsection (2) of section  
1820 626.8734, Florida Statutes, is amended to read:

1821 626.8734 Nonresident all-lines adjuster license  
1822 qualifications.—

1823 (2) The applicant must furnish the following with his or  
1824 her application:

1825 (a) A complete set of his or her fingerprints in accordance  
1826 with s. 626.171(4). ~~The applicant's fingerprints must be~~  
1827 ~~certified by an authorized law enforcement officer.~~

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1828 Section 49. Subsection (5) of section 626.9953, Florida  
1829 Statutes, is amended to read:

1830 626.9953 Qualifications for registration; application  
1831 required.—

1832 (5) An applicant must submit a set of his or her  
1833 fingerprints in accordance with s. 626.171(4) ~~to the department~~  
1834 ~~and pay the processing fee established under s. 624.501(23).~~ The  
1835 department shall submit the applicant's fingerprints to the  
1836 Department of Law Enforcement for processing state criminal  
1837 history records checks and local criminal records checks through  
1838 local law enforcement agencies and for forwarding to the Federal  
1839 Bureau of Investigation for national criminal history records  
1840 checks. The fingerprints shall be taken by a law enforcement  
1841 agency, a designated examination center, or another department-  
1842 approved entity. The department may not approve an application  
1843 for registration as a navigator if fingerprints have not been  
1844 submitted.

1845 Section 50. Paragraphs (e) and (f) are added to subsection  
1846 (4) of section 633.135, Florida Statutes, to read:

1847 633.135 Firefighter Assistance Grant Program.—

1848 (4) Funds shall be used to:

1849 (e) Purchase other equipment and tools that improve  
1850 firesafety and fire rescue capabilities for firefighters.

1851 (f) Purchase protective clothing and equipment compliant  
1852 with NFPA 1977, "Standard on Protective Clothing and Equipment  
1853 for Wildland Fire Fighting and Urban Interface Fire Fighting."

1854 Section 51. Subsections (4) and (5) of section 633.216,  
1855 Florida Statutes, are amended to read:

1856 633.216 Inspection of buildings and equipment; orders;

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1857 firesafety inspection training requirements; certification;  
 1858 disciplinary action.—The State Fire Marshal and her or his  
 1859 agents or persons authorized to enforce laws and rules of the  
 1860 State Fire Marshal shall, at any reasonable hour, when the State  
 1861 Fire Marshal has reasonable cause to believe that a violation of  
 1862 this chapter or s. 509.215, or a rule adopted thereunder, or a  
 1863 minimum firesafety code adopted by the State Fire Marshal or a  
 1864 local authority, may exist, inspect any and all buildings and  
 1865 structures which are subject to the requirements of this chapter  
 1866 or s. 509.215 and rules adopted thereunder. The authority to  
 1867 inspect shall extend to all equipment, vehicles, and chemicals  
 1868 which are located on or within the premises of any such building  
 1869 or structure.

1870 (4) Every firesafety inspector certificate is valid for a  
 1871 period of 4 years from the date of issuance. Renewal of  
 1872 certification is subject to the affected person's completing  
 1873 proper application for renewal and meeting all of the  
 1874 requirements for renewal as established under this chapter or by  
 1875 rule adopted under this chapter, which must include completion  
 1876 of at least 54 hours during the preceding 4-year period of  
 1877 continuing education as required by the rule of the department  
 1878 ~~or, in lieu thereof, successful passage of an examination as~~  
 1879 ~~established by the department.~~

1880 ~~(5) A previously certified firesafety inspector whose~~  
 1881 ~~certification has lapsed for 8 years or more must repeat the~~  
 1882 ~~fire safety inspector training as specified by the division.~~

1883 Section 52. Paragraph (b) of subsection (4) and paragraphs  
 1884 (a) and (c) of subsection (6) of section 633.408, Florida  
 1885 Statutes, are amended to read:

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1886 633.408 Firefighter and volunteer firefighter training and  
 1887 certification.—

1888 (4) The division shall issue a Firefighter Certificate of  
 1889 Compliance to an individual who does all of the following:

1890 (b) Passes the Minimum Standards Course certification  
 1891 ~~examination~~ within 12 months after completing the required  
 1892 courses.

1893 (6) (a) The division may issue a Special Certificate of  
 1894 Compliance to an individual who does all of the following:

1895 1. Satisfactorily completes the course established by rule  
 1896 by the division and successfully passes any examination  
 1897 corresponding to such course in paragraph (1) (b) to obtain a  
 1898 Special Certificate of Compliance.

1899 2. ~~Passes the examination established in paragraph (1) (b)~~  
 1900 ~~to obtain a Special Certificate of Compliance.~~

1901 3. ~~Possesses the qualifications in s. 633.412.~~

1902 ~~(c) In order to retain a Special Certificate of Compliance,~~  
 1903 ~~every 4 years an individual must:~~

1904 1. ~~Be active as a firefighter;~~

1905 2. ~~Maintain a current and valid fire service instructor~~  
 1906 ~~certificate, instruct at least 40 hours during the 4-year~~  
 1907 ~~period, and provide proof of such instruction to the division,~~  
 1908 ~~which proof must be registered in an electronic database~~  
 1909 ~~designated by the division; or~~

1910 3. ~~Within 6 months before the 4 year period expires,~~  
 1911 ~~successfully complete a Firefighter Retention Refresher Course~~  
 1912 ~~consisting of a minimum of 40 hours of training as prescribed by~~  
 1913 ~~rule.~~

1914 Section 53. Subsections (1) and (4) of section 633.414,

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1915 Florida Statutes, are amended to read:

1916 633.414 Retention of firefighter and volunteer firefighter  
1917 certifications.—

1918 (1) In order for a firefighter to retain her or his  
1919 Firefighter Certificate of Compliance or Special Certificate of  
1920 Compliance, every 4 years he or she must meet the requirements  
1921 for renewal provided in this chapter and by rule, which must  
1922 include at least one of the following:

1923 (a) Be active as a firefighter. As used in this section,  
1924 the term "active" means being employed as a firefighter or  
1925 providing service as a volunteer firefighter as evidenced by the  
1926 individual's name appearing on a fire service provider's  
1927 employment roster in the Florida State Fire College database or  
1928 a letter by the fire service provider attesting to dates of  
1929 employment.

1930 (b) Maintain a current and valid fire service instructor  
1931 certificate, instruct at least 40 hours during the 4-year  
1932 period, and provide proof of such instruction to the division,  
1933 which proof must be registered in an electronic database  
1934 designated by the division.

1935 (c) Before the expiration of the certificate within 6  
1936 months before the 4-year period expires, successfully complete a  
1937 Firefighter Retention Refresher Course consisting of a minimum  
1938 of 40 hours of training to be prescribed by rule.

1939 (d) Before the expiration of the certificate within 6  
1940 months before the 4-year period expires, successfully retake and  
1941 pass the Minimum Standards Course examination pursuant to s.  
1942 633.408.

1943 ~~(4) For the purposes of this section, the term "active"~~

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1944 ~~means being employed as a firefighter or providing service as a~~  
1945 ~~volunteer firefighter for a cumulative period of 6 months within~~  
1946 ~~a 4-year period.~~

1947  
1948 The 4-year period may, in the discretion of the department, be  
1949 extended to 12 months after discharge from military service if  
1950 the military service does not exceed 3 years, but in no event  
1951 more than 6 years from the date of issue or renewal, if  
1952 applicable, for an honorably discharged veteran of the United  
1953 States Armed Forces or the spouse of such a veteran. A qualified  
1954 individual must provide a copy of a military identification  
1955 card, military dependent identification card, military service  
1956 record, military personnel file, veteran record, discharge  
1957 paper, or separation document that indicates such member is  
1958 currently in good standing or such veteran is honorably  
1959 discharged.

1960 Section 54. Subsection (4) of section 648.34, Florida  
1961 Statutes, is amended to read:

1962 648.34 Bail bond agents; qualifications.—

1963 (4) The applicant shall furnish, with his or her  
1964 application, a complete set of his or her fingerprints in  
1965 accordance with s. 626.171(4) and a recent credential-sized,  
1966 fullface photograph of the applicant. ~~The applicant's~~  
1967 ~~fingerprints shall be certified by an authorized law enforcement~~  
1968 ~~officer.~~ The department shall not authorize an applicant to take  
1969 the required examination until the department has received a  
1970 report from the Department of Law Enforcement and the Federal  
1971 Bureau of Investigation relative to the existence or  
1972 nonexistence of a criminal history report based on the

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1973 applicant's fingerprints.

1974 Section 55. Subsection (4) of section 648.355, Florida  
1975 Statutes, is amended to read:

1976 648.355 Temporary limited license as limited surety agent  
1977 or professional bail bond agent; pending examination.-

1978 (4) The applicant shall furnish, with the application for  
1979 temporary license, a complete set of the applicant's  
1980 fingerprints in accordance with s. 626.171(4) and a recent  
1981 credential-sized, fullface photograph of the applicant. ~~The~~  
1982 ~~applicant's fingerprints shall be certified by an authorized law~~  
1983 ~~enforcement officer.~~ The department shall not issue a temporary  
1984 license under this section until the department has received a  
1985 report from the Department of Law Enforcement and the Federal  
1986 Bureau of Investigation relative to the existence or  
1987 nonexistence of a criminal history report based on the  
1988 applicant's fingerprints.

1989 Section 56. Subsection (4) is added to section 648.46,  
1990 Florida Statutes, to read:

1991 648.46 Procedure for disciplinary action against  
1992 licensees.-

1993 (4) The expiration, nonrenewal, or surrender of licensure  
1994 under this chapter does not eliminate the jurisdiction of the  
1995 licensing authority to investigate and prosecute for a violation  
1996 committed by a licensee while licensed under this chapter. The  
1997 prosecution of any matter may be initiated or continued  
1998 notwithstanding the withdrawal of a complaint.

1999 Section 57. Paragraph (d) of subsection (2) and paragraphs  
2000 (b), (c), and (e) of subsection (3) of section 766.105, Florida  
2001 Statutes, are amended, and paragraph (i) is added to subsection

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2002 (3) and subsection (4) is added to that section, to read:

2003 766.105 Florida Patient's Compensation Fund.-

2004 (2) COVERAGE.-

2005 (d)1. Any health care provider who participates in the fund  
2006 and who does not meet the provisions of paragraph (b) shall not  
2007 be covered by the fund.

2008 2. Annually, the Agency for Health Care Administration  
2009 shall require documentation by each hospital that such hospital  
2010 is in compliance, and will remain in compliance, with the  
2011 provisions of this section. ~~The agency shall review the~~  
2012 ~~documentation and then deliver the documentation to the board of~~  
2013 ~~governors. At least 60 days before the time a license will be~~  
2014 ~~issued or renewed, the agency shall request from the board of~~  
2015 ~~governors a certification that each hospital is in compliance~~  
2016 ~~with the provisions of this section. The board of governors~~  
2017 ~~shall not be liable under the law for any erroneous~~  
2018 ~~certification. The agency may not issue or renew the license of~~  
2019 ~~any hospital which has not been certified by the board of~~  
2020 ~~governors. The license of any hospital that fails to remain in~~  
2021 ~~compliance or fails to provide such documentation shall be~~  
2022 ~~revoked or suspended by the agency.~~

2023 (3) THE FUND.-

2024 (b) *Fund administration and operation.*-

2025 1. The fund shall operate subject to the supervision and  
2026 approval of the Chief Financial Officer or his or her designee ~~a~~  
2027 ~~board of governors consisting of a representative of the~~  
2028 ~~insurance industry appointed by the Chief Financial Officer, an~~  
2029 ~~attorney appointed by The Florida Bar, a representative of~~  
2030 ~~physicians appointed by the Florida Medical Association, a~~

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2031 ~~representative of physicians' insurance appointed by the Chief~~  
 2032 ~~Financial Officer, a representative of physicians' self-~~  
 2033 ~~insurance appointed by the Chief Financial Officer, two~~  
 2034 ~~representatives of hospitals appointed by the Florida Hospital~~  
 2035 ~~Association, a representative of hospital insurance appointed by~~  
 2036 ~~the Chief Financial Officer, a representative of hospital self-~~  
 2037 ~~insurance appointed by the Chief Financial Officer, a~~  
 2038 ~~representative of the osteopathic physicians' or podiatric~~  
 2039 ~~physicians' insurance or self-insurance appointed by the Chief~~  
 2040 ~~Financial Officer, and a representative of the general public~~  
 2041 ~~appointed by the Chief Financial Officer. The board of governors~~  
 2042 ~~shall, during the first meeting after June 30 of each year,~~  
 2043 ~~choose one of its members to serve as chair of the board and~~  
 2044 ~~another member to serve as vice chair of the board. The members~~  
 2045 ~~of the board shall be appointed to serve terms of 4 years,~~  
 2046 ~~except that the initial appointments of a representative of the~~  
 2047 ~~general public by the Chief Financial Officer, an attorney by~~  
 2048 ~~The Florida Bar, a representative of physicians by the Florida~~  
 2049 ~~Medical Association, and one of the two representatives of the~~  
 2050 ~~Florida Hospital Association shall be for terms of 3 years,~~  
 2051 ~~thereafter, such representatives shall be appointed for terms of~~  
 2052 ~~4 years. Subsequent to initial appointments for 4 year terms,~~  
 2053 ~~the representative of the osteopathic physicians' or podiatric~~  
 2054 ~~physicians' insurance or self insurance appointed by the Chief~~  
 2055 ~~Financial Officer and the representative of hospital self-~~  
 2056 ~~insurance appointed by the Chief Financial Officer shall be~~  
 2057 ~~appointed for 2 year terms; thereafter, such representatives~~  
 2058 ~~shall be appointed for terms of 4 years. Each appointed member~~  
 2059 ~~may designate in writing to the chair an alternate to act in the~~

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2060 ~~member's absence or incapacity. A member of the board, or the~~  
 2061 ~~member's alternate, may be reimbursed from the assets of the~~  
 2062 ~~fund for expenses incurred by him or her as a member, or~~  
 2063 ~~alternate member, of the board and for committee work, but he or~~  
 2064 ~~she may not otherwise be compensated by the fund for his or her~~  
 2065 ~~service as a board member or alternate.~~

2066 2. There shall be no liability on the part of, and no cause  
 2067 of action of any nature shall arise against, the fund or its  
 2068 agents or employees, professional advisers or consultants,  
 2069 ~~members of the board of governors or their alternates,~~ or the  
 2070 Department of Financial Services or the Office of Insurance  
 2071 Regulation of the Financial Services Commission or their  
 2072 representatives for any action taken by them in the performance  
 2073 of their powers and duties pursuant to this section.

2074 (c) *Powers of the fund.*-The fund has the power to:  
 2075 1. Sue and be sued, and appear and defend, in all actions  
 2076 and proceedings in its name to the same extent as a natural  
 2077 person.

2078 2. Adopt, change, amend, and repeal a plan of operation,  
 2079 not inconsistent with law, for the regulation and administration  
 2080 of the affairs of the fund. The plan and any changes thereto  
 2081 shall be filed with the Office of Insurance Regulation of the  
 2082 Financial Services Commission and are all subject to its  
 2083 approval before implementation by the fund. All fund members,  
 2084 board members, and employees shall comply with the plan of  
 2085 operation.

2086 3. Have and exercise all powers necessary or convenient to  
 2087 effect any or all of the purposes for which the fund is created.

2088 4. Enter into such contracts as are necessary or proper to

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2089 carry out the provisions and purposes of this section.

2090 5. Employ or retain such persons as are necessary to  
2091 perform the administrative and financial transactions and  
2092 responsibilities of the fund and to perform other necessary or  
2093 proper functions unless prohibited by law.

2094 6. Take such legal action as may be necessary to avoid  
2095 payment of improper claims.

2096 7. Indemnify any ~~employee, agent, member of the board of~~  
2097 ~~governors or his or her alternate, or~~ person acting on behalf of  
2098 the fund in an official capacity, for expenses, including  
2099 attorney's fees, judgments, fines, and amounts paid in  
2100 settlement actually and reasonably incurred by him or her in  
2101 connection with any action, suit, or proceeding, including any  
2102 appeal thereof, arising out of his or her capacity in acting on  
2103 behalf of the fund, if he or she acted in good faith and in a  
2104 manner he or she reasonably believed to be in, or not opposed  
2105 to, the best interests of the fund and, with respect to any  
2106 criminal action or proceeding, he or she had reasonable cause to  
2107 believe his or her conduct was lawful.

2108 (e) *Fund accounting and audit.*—

2109 1. Money shall be withdrawn from the fund only upon a  
2110 voucher as authorized by the Chief Financial Officer or his or  
2111 her designee ~~board of governors.~~

2112 2. All books, records, and audits of the fund shall be open  
2113 for reasonable inspection to the general public, except that a  
2114 claim file in possession of the fund, fund members, and their  
2115 insurers is confidential and exempt from the provisions of s.  
2116 119.07(1) and s. 24(a), Art. I of the State Constitution until  
2117 termination of litigation or settlement of the claim, although

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2118 medical records and other portions of the claim file may remain  
2119 confidential and exempt as otherwise provided by law. Any book,  
2120 record, document, audit, or asset acquired by, prepared for, or  
2121 paid for by the fund is subject to the authority of the  
2122 Department of Financial Services ~~board of governors~~, which shall  
2123 be responsible therefor.

2124 3. Persons authorized to receive deposits, issue vouchers,  
2125 or withdraw or otherwise disburse any fund moneys shall post a  
2126 blanket fidelity bond in an amount reasonably sufficient to  
2127 protect fund assets. The cost of such bond shall be paid from  
2128 the fund.

2129 4. Annually, the fund shall furnish, upon request, audited  
2130 financial reports to any fund participant and to the Office of  
2131 Insurance Regulation and the Joint Legislative Auditing  
2132 Committee. The reports shall be prepared in accordance with  
2133 accepted accounting procedures and shall include income and such  
2134 other information as may be required by the Office of Insurance  
2135 Regulation or the Joint Legislative Auditing Committee.

2136 5. Any money held in the fund shall be invested in  
2137 interest-bearing investments ~~by the board of governors of the~~  
2138 ~~fund as administrator.~~ However, in no case may any such money be  
2139 invested in the stock of any insurer participating in the Joint  
2140 Underwriting Association authorized by s. 627.351(4) or in the  
2141 parent company of, or company owning a controlling interest in,  
2142 such insurer. All income derived from such investments shall be  
2143 credited to the fund.

2144 6. Any health care provider participating in the fund may  
2145 withdraw from such participation only at the end of a fiscal  
2146 year; however, such health care provider shall remain subject to

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2147 any assessment or any refund pertaining to any year in which  
2148 such member participated in the fund.

2149 (i) Dissolution of the fund.—The fund shall operate subject  
2150 to the supervision of the Chief Financial Officer or his or her  
2151 designee, pursuant to the policies and procedures and under the  
2152 auspices of the Division of Rehabilitation and Liquidation,  
2153 until the Department of Financial Services executes a legal  
2154 dissolution of the fund on or before December 31, 2023. Before  
2155 the legal dissolution of the fund, the Department of Financial  
2156 Services must:

2157 1. Obtain all existing records and retain necessary records  
2158 of the fund pursuant to law.

2159 2. Identify all remaining property held by the fund and  
2160 attempt to return such property to its owners and, for property  
2161 that cannot be returned to the owner, transfer such property to  
2162 the Department of Financial Services, Division of Unclaimed  
2163 Property.

2164 3. Make a final accounting of the finances of the fund.

2165 4. Ensure that the fund has met all its obligations  
2166 pursuant to structured settlements, annuities, or other  
2167 instruments established to pay covered claims, and, if the fund  
2168 has not done so, attempt to meet such obligations before final  
2169 and complete dissolution of the fund.

2170 5. Sell or otherwise dispose of all physical assets of the  
2171 fund.

2172 6. Execute a legal dissolution of the fund.

2173 7. Transfer any remaining money or assets of the fund to  
2174 the Chief Financial Officer for deposit in the General Revenue  
2175 Fund.

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2176 (4) REPEAL.—This section is repealed January 1, 2024.

2177 Section 58. Paragraph (b) of subsection (1) of section  
2178 945.6041, Florida Statutes, is amended, and paragraph (c) is  
2179 added to that subsection, to read:

2180 945.6041 Inmate medical services.—

2181 (1) As used in this section, the term:

2182 (b) "Health care provider" means:

2183 1. A hospital licensed under chapter 395.

2184 2. A physician or physician assistant licensed under  
2185 chapter 458.

2186 3. An osteopathic physician or physician assistant licensed  
2187 under chapter 459.

2188 4. A podiatric physician licensed under chapter 461.

2189 5. A health maintenance organization certificated under  
2190 part I of chapter 641.

2191 6. An ambulatory surgical center licensed under chapter  
2192 395.

2193 7. Other medical facility as defined in paragraph (c).

2194 8. A professional association, partnership, corporation,  
2195 joint venture, or other association by the individuals set forth  
2196 in subparagraphs 2., 3., and 4. for professional activity ~~has~~  
2197 the same meaning as provided in s. 766.105.

2198 (c) "Other medical facility" means a facility the primary  
2199 purpose of which is to provide human medical diagnostic services  
2200 or a facility providing nonsurgical human medical treatment and  
2201 in which the patient is admitted to and discharged from such  
2202 facility within the same working day, and which is not part of a  
2203 hospital. However, a facility existing for the primary purpose  
2204 of performing terminations of pregnancy or an office maintained

Page 76 of 78

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

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2205 by a physician or dentist for the practice of medicine shall not  
 2206 be construed to be an other medical facility.

2207 Section 59. Paragraph (a) of subsection (1) of section  
 2208 985.6441, Florida Statutes, is amended, and paragraph (c) is  
 2209 added to that subsection, to read:

2210 985.6441 Health care services.—

2211 (1) As used in this section, the term:

2212 (a) "Health care provider" means:

2213 1. A hospital licensed under chapter 395.

2214 2. A physician or physician assistant licensed under  
 2215 chapter 458.

2216 3. An osteopathic physician or physician assistant licensed  
 2217 under chapter 459.

2218 4. A podiatric physician licensed under chapter 461.

2219 5. A health maintenance organization certificated under  
 2220 part I of chapter 641.

2221 6. An ambulatory surgical center licensed under chapter  
 2222 395.

2223 7. Other medical facility as defined in paragraph (c).

2224 8. A professional association, partnership, corporation,  
 2225 joint venture, or other association by the individuals set forth  
 2226 in subparagraphs 2., 3., and 4. for professional activity ~~has~~  
 2227 ~~the same meaning as provided in s. 766.105.~~

2228 (c) "Other medical facility" means a facility the primary  
 2229 purpose of which is to provide human medical diagnostic services  
 2230 or a facility providing nonsurgical human medical treatment and  
 2231 in which the patient is admitted to and discharged from such  
 2232 facility within the same working day, and which is not part of a  
 2233 hospital. However, a facility existing for the primary purpose

21-01175A-22 20221874\_\_

2234 of performing terminations of pregnancy or an office maintained  
 2235 by a physician or dentist for the practice of medicine shall not  
 2236 be construed to be an other medical facility.

2237 Section 60. All powers, duties, functions, records,  
 2238 offices, personnel, associated administrative support positions,  
 2239 property, pending issues, existing contracts, administrative  
 2240 authority, and administrative rules relating to the Stop Inmate  
 2241 Fraud Program within the Department of Financial Services are  
 2242 transferred by a type two transfer as defined in s. 20.06(2),  
 2243 Florida Statutes, to the Department of Economic Opportunity.

2244 Section 61. Except as otherwise expressly provided in this  
 2245 act, this act shall take effect July 1, 2022.

The Florida Senate

APPEARANCE RECORD

SB 1874

1/25/22

Meeting Date

Bill Number or Topic

Deliver both copies of this form to Senate professional staff conducting the meeting

BANKING AND INSURANCE

Committee

Amendment Barcode (if applicable)

Name

TASHA CARTER, INSURANCE CONSUMER ADVOCATE

Phone

850-413-2868

Address

200 E. GAINES STREET

Email

TASHA.CARTER@MYFLORIDA.GOV.COM

Street

TALLAHASSEE, FL

32399

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

The office of the INSURANCE CONSUMER ADVOCATE

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

SB 1874 Bill Number or Topic

1/25/2022 Meeting Date

Banking & Insurance Committee

Amendment Barcode (if applicable)

Name Meredith Snowden

Phone (850) 510-9257

Address 150 S. Monroe St. Suite 300 Street

Email meredith@leathfl.com

Tallahassee FL 32301 City State Zip

Speaking: [ ] For [ ] Against [ ] Information

OR

Waive Speaking: [x] In Support [ ] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[ ] I am appearing without compensation or sponsorship.

[x] I am a registered lobbyist, representing:

Florida Workers' Compensation Joint Underwriting Association

[ ] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

1 / 25 / 2022

Meeting Date

1874

Bill Number or Topic

Banking & Insurance

Committee

Amendment Barcode (if applicable)

Name Austin Stowers

Phone 850 413 - 5939

Address PL 11 The Capitol

Street

Email austin.stowers@myfloridacfo.com

Tallahassee

City

FL

State

32399

Zip

Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing: CFO Patronis Dept. of Financial Services

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)



The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

JAN 25, 2022

Meeting Date

SB 1874

Bill Number or Topic

BANKING & INSURANCE

Committee

Amendment Barcode (if applicable)

Name Chief Ray Colburn

Phone 407-468-6622

Address 221 Pinewood Dr.

Email ray@ffca.org

Street

TALLAHASSEE

FL

32303

City

State

Zip

Speaking:  For  Against  Information

OR

Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

Florida Fire Chiefs' ASSOC.

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

1-25-2022

SB 1874

Meeting Date

B + I

Deliver both copies of this form to Senate professional staff conducting the meeting

Bill Number or Topic

334330

Committee

Amendment Barcode (if applicable)

(Strike all)

Name

Reggie Garcia

Phone

933-7150

Address

P.O. BOX 11069

Email

Street

Tallahassee

Fla

32301

reggiegarcialaw@icloud.com

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Fla. Justice Association

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

**APPEARANCE RECORD**

SB 1874

January 25, 2022

Meeting Date

**Banking & Insurance**

Committee

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Bill Number or Topic

**334330**

Amendment Barcode (if applicable)

Name **Joshua Harris - FJA**

Phone **850-435-7000**

Address **31 South Baylen Street, Suite 600**

Email **jharris@levinlaw.com**

Street

**Pensacola**

**FL**

**32502**

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11,045 and Joint Rule 1: [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

1/25/2022

Meeting Date

1874

Bill Number or Topic

334330

Amendment Barcode (if applicable)

Banking & Insurance  
Committee

Name Austin Stowers

Phone 850 413-5939

Address PL 11 The Capitol

Email austin.stowers@myfloridacfo.com

Street

Tallahassee

FL

32399

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

CFO Jimmy Patronis  
Dept. of Financial Services

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

1/25/22 Meeting Date

SB 1874 Bill Number or Topic

BANKING AND INSURANCE Committee

# 334330 Amendment Barcode (if applicable)

Name TASHA CARTER, INSURANCE CONSUMER Advocate Phone 850-413-2868

Address 200 E GAINES STREET Email TASHA.CARTER@MYFLORIDA.COM

Tallahassee, FL 32399 City State Zip

Speaking: [ ] For [ ] Against [ ] Information OR Waive Speaking: [x] In Support [ ] Against

PLEASE CHECK ONE OF THE FOLLOWING:

- [ ] I am appearing without compensation or sponsorship. [x] I am a registered lobbyist, representing: OFFICE of the INSURANCE CONSUMER ADVOCATE [ ] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf (flsenate.gov)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

1/25/22 Meeting Date

SB 1874 Bill Number or Topic

Banking And Insurance Committee

# 467244 Amendment Barcode (if applicable)

Name TASHA CARTER, INSURANCE CONSUMER ADVOCATE Phone 850-413-2868

Address 200 E. GAINES Street Email TASHA.CARTER@MYFLORIDA.GOV.COM

Tallahassee, FL 32399 City State Zip

Speaking: [ ] For [ ] Against [ ] Information OR Waive Speaking: [x] In Support [ ] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[ ] I am appearing without compensation or sponsorship.

[x] I am a registered lobbyist, representing:

[ ] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

Office of the Insurance Consumer Advocate

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf (flsenate.gov)



# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**SENATOR JIM BOYD**  
21st District

**COMMITTEES:**

Banking and Insurance, *Chair*  
Agriculture  
Appropriations Subcommittee on Agriculture,  
Environment, and General Government  
Appropriations Subcommittee on Transportation,  
Tourism, and Economic Development  
Judiciary  
Rules

**JOINT COMMITTEE:**

Joint Legislative Auditing Committee

January 25, 2022

President Wilton Simpson  
409, The Capitol  
404 South Monroe Street  
Tallahassee, FL 32399-1100

Dear President Simpson:

I am writing to request approval to be excused from the Committee on Banking and Insurance meeting scheduled for today, Tuesday, January 25, 2022, due to illness.

I appreciate your consideration in this matter.

Sincerely,

A handwritten signature in blue ink that reads "Jim Boyd".

Jim Boyd

cc: James Knudson  
Amaura Canty  
Senate Secretary

REPLY TO:

- 717 Manatee Avenue West, Bradenton, Florida 34205 (941) 742-6445
- 312 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5021

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**WILTON SIMPSON**  
President of the Senate

**AARON BEAN**  
President Pro Tempore



# CourtSmart Tag Report

**Room:** KB 412

**Case No.:** -

**Type:**

**Caption:** Senate Banking and Insurance Committee

**Judge:**

**Started:** 1/25/2022 3:31:09 PM

**Ends:** 1/25/2022 4:01:16 PM

**Length:** 00:30:08

3:31:08 PM Meeting called to order, roll call  
3:31:15 PM Chair Boyd is excused from today's meeting  
3:31:53 PM Comments by Vice Chair Broxson  
3:32:38 PM Tab 6 - SB 1526 Public Records/Annuity Contract Payees by Senator Boyd  
3:32:45 PM Senator Burgess presenting for Senator Boyd  
3:34:23 PM Amendment Barcode 345288  
3:35:07 PM Amendment Barcode 345288 is adopted  
3:35:26 PM Tim Stanfield, National Assoc. of Settlement Purchasers, waives in support  
3:35:41 PM Senator Rodrigues comments  
3:36:15 PM Senator Burgess closes on the bill  
3:36:27 PM Roll call on CS/SB 1526  
3:36:36 PM CS/SB 1526 is reported favorably  
3:37:01 PM Tab 5 - SB 1502 Estates and Trusts by Senator Powell  
3:37:07 PM Senator Powell presenting  
3:38:31 PM Amendment Barcode 971550  
3:38:42 PM French Brown, Tax Section of The Florida Bar, waives in support  
3:39:36 PM Amendment Barcode 971550 is adopted  
3:39:53 PM Martha Edenfield, Real Property, Probate and Trust Law Section of The Fla. Bar, waives in support  
3:40:06 PM Senator Powell closes on the bill  
3:40:18 PM Roll call on CS/SB 1502  
3:40:24 PM CS/SB 1502 is reported favorably  
3:40:59 PM Tab 2 - CS/SB 266 Motor Vehicle Insurance  
3:41:05 PM Senator Diaz presenting the bill  
3:42:03 PM Question by Senator Brandes  
3:42:11 PM Response by Senator Diaz  
3:42:25 PM Lisa Henning, Fraternal Order of Police, waives in support  
3:42:39 PM Senator Diaz waives close  
3:42:44 PM Roll call on CS/SB 266  
3:42:50 PM CS/SB 266 is reported favorably  
3:43:12 PM Tab 3 - CS/SB 926 Licensure Examinations for Dental Practitioners  
3:43:17 PM Senator Albritton presenting  
3:43:56 PM Amendment Barcode 610222  
3:44:09 PM Alexandra Abboud, Florida Dental Assoc., waives in support  
3:44:48 PM Amendment Barcode 610222 is adopted  
3:45:06 PM Phillip Sunserman, Americans for Prosperity waives in support  
3:45:11 PM Leslie Dughi, Florida Dental Assoc. waives in support  
3:45:17 PM Alexandra Abboud, Florida Dental Assoc., waives in support  
3:45:39 PM Senator Albritton waives close  
3:45:44 PM Roll call on CS/CS/SB 926  
3:45:58 PM CS/CS/SB 926 is reported favorably  
3:46:15 PM Tab 1 - SB 186 Citizens Property Insurance Corporation by Senator Brandes  
3:46:17 PM Senator Brandes presenting the bill  
3:46:33 PM Amendment Barcode 154092  
3:48:14 PM Barcode 565560 Amend to the Amend  
3:48:26 PM Sub. Amend. 811218  
3:49:38 PM Sub. Amendment adopted  
3:49:46 PM Back on the main amendment 154092 as amended  
3:50:00 PM Paul Handerhan, FAIR, waives in support  
3:50:10 PM Amendment Barcode 154092 is adopted  
3:50:32 PM Paul Handerhan, FAIR, waives in support  
3:50:38 PM Julie Fess, Security First, waives in support  
3:50:39 PM Carolyn Johnson, Fla. Chamber of Commerce, waives in support



**3:50:52 PM** Senator Brandes waives close  
**3:51:00 PM** Roll call on CS/SB 186  
**3:51:08 PM** CS/SB 186 is reported favorably  
**3:51:31 PM** Tab 7 - SB 1874 Department of Financial Services by Senator Boyd  
**3:51:39 PM** Senator Burgess is presenting for Senator Boyd  
**3:52:10 PM** Barcode 334330 Delete all  
**3:53:17 PM** Barcode 467244 Amend. to the Amend.  
**3:53:46 PM** Senator Rouson for a question  
**3:53:51 PM** Senator Brandes responds  
**3:54:09 PM** Tasha Carter, Office of the Insurance Consumer Advocate, waives in support  
**3:54:48 PM** Amendment Barcode 467244 adopted  
**3:54:59 PM** Tasha Carter, Office of the Insurance Consumer Advocate, waives in support  
**3:55:24 PM** Austin Stowers, CFO Patronis Dept. of Financial Services, waives in support  
**3:55:28 PM** Joshua Harris, FJA, waives in support  
**3:55:30 PM** Reggie Garcia, Fla. Justice Assoc., waives in support  
**3:55:37 PM** Amendment Barcode 334330 is adopted  
**3:56:06 PM** Tasha Carter, Office of the Insurance Consumer Advocate, waives in support  
**3:56:10 PM** Meredith Snowden, Florida Workers' Comp. Join Underwriting Assoc., waives in support  
**3:56:15 PM** Austin Stowers, CFO Jimmy Patronis - Dept. of Financial Services, waives in support  
**3:56:18 PM** Chief Ray Cohburn, Florida Fire Chiefs Assoc., waives in support  
**3:56:30 PM** Senator Burgess waives close  
**3:56:35 PM** Roll call on CS/SB 1874  
**3:56:43 PM** CS/SB 1874 is reported favorably  
**3:57:11 PM** Senator Broxson passes chair to Senator Rouson  
**3:57:25 PM** Tab 4 - Breach of Bond Costs by Senator Broxson  
**3:57:29 PM** Senator Broxson presenting the bill  
**3:58:47 PM** Amendment Barcode 810412  
**3:58:57 PM** Andrew Kalel, Florida Bail Agents Assoc., waives in support of the amendment  
**3:59:28 PM** Amendment Barcode 810412 is adopted  
**3:59:38 PM** Senator Broxson waives close  
**4:00:15 PM** Roll call on CS/SB 1182  
**4:00:23 PM** CS/SB 1182 is reported favorably  
**4:00:45 PM** Senator Rouson gives chair back to Senator Broxson  
**4:01:01 PM** Senator Rouson moves to adjourn