

Tab 1	SB 356 by Boyd; (Identical to H 00503) Practice of Dentistry					
180704	A	S	RCS	BI, Boyd	Delete L.31 - 257:	03/22 12:34 PM
Tab 2	SB 410 by Garcia (CO-INTRODUCERS) Hutson; (Similar to H 00793) Collateral Protection Insurance					
Tab 3	SB 516 by DiCeglie; (Identical to H 00057) Motor Vehicle Liability Policies					
509382	A	S	RCS	BI, DiCeglie	Delete L.28:	03/22 12:33 PM
Tab 4	SB 628 by Grall; (Identical to H 00599) Debt Management Services					
806972	A	S	RCS	BI, Grall	Delete L.21:	03/22 12:34 PM
Tab 5	SB 670 by Yarborough; (Similar to CS/H 00721) Paid Family Leave Insurance					
187688	D	S	RCS	BI, Yarborough	Delete everything after	03/22 12:35 PM
Tab 6	SB 1158 by DiCeglie; (Compare to H 00487) Department of Financial Services					
176642	D	S	RCS	BI, DiCeglie	Delete everything after	03/22 12:35 PM
Tab 7	SB 1398 by DiCeglie; (Similar to H 01185) Consumer Protection					
533280	D	S	RCS	BI, DiCeglie	Delete everything after	03/22 12:35 PM
Tab 8	SPB 7040 by BI; OGSR/Security or Firesafety System Plans					
Tab 9	SPB 7042 by BI; OGSR/Citizens Property Insurance Corporation					

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

BANKING AND INSURANCE
Senator Boyd, Chair
Senator DiCeglie, Vice Chair

MEETING DATE: Wednesday, March 22, 2023

TIME: 11:00 a.m.—1:30 p.m.

PLACE: Pat Thomas Committee Room, 412 Knott Building

MEMBERS: Senator Boyd, Chair; Senator DiCeglie, Vice Chair; Senators Broxson, Burgess, Burton, Hutson, Ingoglia, Mayfield, Powell, Thompson, Torres, and Trumbull

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 356 Boyd (Identical H 503)	Practice of Dentistry; Requiring dentists to provide each patient with specified information; requiring individuals and entities that provide dental services through telehealth to make specified information available to each patient before rendering such services and at any time upon patient request; requiring that advertisements of specified dental services provided through telehealth contain a specified disclaimer; providing additional grounds for disciplinary action against dental practitioners, etc. HP 03/06/2023 Favorable BI 03/22/2023 Fav/CS RC	Fav/CS Yeas 10 Nays 0
2	SB 410 Garcia (Similar H 793)	Collateral Protection Insurance; Defining terms; specifying requirements for collateral protection insurance policy terms; providing for the calculation of collateral protection insurance coverages and premiums; specifying prohibited practices by insurers and insurance agents relating to collateral protection insurance; specifying requirements for the filing of policy forms and rates, etc. BI 03/22/2023 Favorable AEG FP	Favorable Yeas 11 Nays 0
3	SB 516 DiCeglie (Identical H 57)	Motor Vehicle Liability Policies; Revising the definition of the term "motor vehicle liability policy" to include certain policies issued by risk retention groups; defining the term "risk retention group", etc. BI 03/15/2023 Temporarily Postponed BI 03/22/2023 Fav/CS JU RC	Fav/CS Yeas 11 Nays 0
4	SB 628 Grall (Identical H 599)	Debt Management Services; Increasing the maximum fee that may be charged for debt management services, etc. BI 03/22/2023 Fav/CS CM RC	Fav/CS Yeas 8 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Banking and Insurance

Wednesday, March 22, 2023, 11:00 a.m.—1:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	SB 670 Yarborough (Similar CS/H 721)	<p>Paid Family Leave Insurance; Citing this act as the "Florida Paid Family Leave Insurance Act"; authorizing life insurers to transact paid family leave insurance; specifying circumstances under which family leave benefits may be provided; requiring paid family leave insurance policies to specify details and requirements with regard to covered family leave reasons; specifying requirements for policies relating to benefit periods, waiting periods, benefit amounts and certain offsets, and the payment of benefits, etc.</p> <p>BI 03/22/2023 Fav/CS AEG FP</p>	Fav/CS Yeas 8 Nays 0
6	SB 1158 DiCeglie (Compare H 487)	<p>Department of Financial Services; Revising powers and duties of the department's Division of Investigative and Forensic Services; deleting a requirement for the Department of Children and Families and the community-based care lead agency to provide certain financial literacy curriculum information to certain youth; revising conditions for a nonprofit religious organization to be exempt from requirements of the Florida Insurance Code; adding violations for which the department may pay rewards under the Anti-Fraud Reward Program; authorizing the Division of State Fire Marshal to establish a direct-support organization; specifying requirements and procedures for the licensure of nonresident sales representatives for home warranty associations, etc.</p> <p>BI 03/22/2023 Fav/CS AEG FP</p>	Fav/CS Yeas 11 Nays 0
7	SB 1398 DiCeglie (Similar H 1185)	<p>Consumer Protection; Defining the term "remote location"; authorizing a licensee under ch. 494, F.S., to allow loan originators to work from remote locations if specified conditions are met; providing requirements for organizers of crowd-funding campaigns related to disasters and for crowd-funding platforms; prohibiting public adjusters from contracting with anyone other than the named insured without the insured's written consent; revising recordkeeping requirements for appointed independent adjusters and licensed public adjusters; revising the definition of the term "hurricane," and defining the term "hurricane deductible," as used in policies providing residential coverage, etc.</p> <p>BI 03/22/2023 Fav/CS AEG FP</p>	Fav/CS Yeas 10 Nays 1

Consideration of proposed bill:

COMMITTEE MEETING EXPANDED AGENDA

Banking and Insurance

Wednesday, March 22, 2023, 11:00 a.m.—1:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	SPB 7040	OGSR/Security or Firesafety System Plans; Amending a provision which provides an exemption from public records requirements for security or firesafety system plans held by an agency; amending a provision which provides an exemption from public records and public meetings requirements for information relating to security or firesafety systems for certain properties and meetings relating to such systems and information; amending a provision which provides an exemption from public meetings requirements for portions of meetings that would reveal security or firesafety system plans held by an agency; removing the scheduled repeal of the exemption, etc.	Submitted and Reported Favorably as Committee Bill Yeas 10 Nays 0
Consideration of proposed bill:			
9	SPB 7042	OGSR/Citizens Property Insurance Corporation; Amending a provision which provides an exemption from public records requirements for certain data and information from technology systems owned by, under contract with, or maintained by Citizens Property Insurance Corporation and an exemption from public meetings requirements for portions of meetings which would reveal such data and information; removing the scheduled repeal of the exemptions, etc.	Submitted and Reported Favorably as Committee Bill Yeas 10 Nays 0
Other Related Meeting Documents			

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Health Policy

BILL: CS/SB 356

INTRODUCER: Banking and Insurance Committee and Senator Boyd

SUBJECT: Practice of Dentistry

DATE: March 24, 2023

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 356 requires dentists and any individual, partnership, corporation, or other entity that provides dental services through telehealth to make available the dentist's name, telephone number, after-hours contact information for emergencies, and upon request, licensure information.

The bill requires the dentist of record to remain primarily responsible for all dental treatment for any patient who is treated through telehealth, whether care is rendered by the dentist of record, another dentist, dental hygienist, or dental assistant.

The bill creates a definition for advertisement and requires that if dental services are provided through telehealth, an advertisement must include a specific disclaimer for each of the following services, if advertised:

- The taking of an impression or the digital scanning of the human tooth, teeth, or jaws, directly or indirectly and by any means or method;
- Placing an appliance or a structure in the human mouth or adjusting or attempting to adjust the appliance or structure; and
- Correcting or attempting to correct malformations of teeth or jaws.

The bill sets supervisory standards for dental hygienists and dental assistants who take an impression or perform digital scanning of the human tooth, teeth, or jaws, directly or indirectly and by any means or method, for the purpose of the practice of dentistry, and provides for such

standards with respect to a dental laboratory technician who performs a digital scanning of the human tooth, teeth, or jaws in such circumstances.

The bill creates new disciplinary offenses that establish a standard that would require a dentist of record to perform an in-person examination of a patient or obtain records from an in-person examination within the last six months before the initial diagnosis and correction of a malposition of human teeth or initial use of an orthodontic appliance.

The bill provides an effective date of July 1, 2023.

II. Present Situation:

The Practice of Dentistry

The Board of Dentistry (BOD) regulates the practice of dentistry in Florida, including dentists, dental hygienists, and dental assistants under the Dental Practice Act.¹ A dentist is licensed to examine, diagnose, treat, and care for conditions within the human oral cavity and its adjacent tissues and structures.² A dental hygienist provides education, preventive, and delegated therapeutic dental services.³

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 American Dental Licensing Examination (ADLEX);⁴ and
- 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 American Dental Association's (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; and
- Have passed Parts I and II of the National Board Dental Examination (NBDE), administered by the Joint Commission on National Dental Examinations (JCNDE).⁵

¹ Section 466.004, F.S.

² Section 466.003(3), F.S.

³ Section 466.003(4) and (5), F.S.

⁴ Section 466.006, F.S.

⁵ Section 466.006(2), F.S. American Dental Association, Joint Commission on National Dental Examinations, *Upholding Quality Oral Care For All*, available at <https://jcnde.ada.org/> (last visited Mar. 16, 2023) 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.

If an applicant fails to pass the diagnostic skills examination in three attempts, the applicant is not eligible for reexamination unless she or he completes additional educational requirements established by the BOD.⁶

Dental Hygienist

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 American Board of Dental Examiners' Dental Hygiene Examination (ADHLEX) and is entitled to licensure if he or she is 18 years of age or older and has:⁷

- Graduated from a dental hygiene college or school that is:
 - BOD-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.⁸

License Display Requirements

Every dentist or dental hygienist licensed in Florida must post and keep conspicuously displayed his or her license in the office wherein she or he practices, in plain sight of patients. Any dentist or dental hygienist who practices at more than one location shall be required to display a copy of his or her license in each location where she or he practices.⁹

Dental Patient Records

Every dentist must maintain written dental records and medical history records on every patient which must justify the dentist's course of treatment for the patient. The records must include, but not be limited to:

- Patient history;
- Examination results;
- Test results; and,
- X rays, if taken.¹⁰

In a multidentist practice, the owner dentist(s) must maintain either the original or duplicates of all patient records, including dental charts, patient histories, examination and test results, study models, and X rays, of any patient treated by a dentist at the owner dentist's practice facility for four years from the date of the last patient's visit.¹¹ The owner dentist(s) of a multidentist

⁶ Section 466.006(5)(a)7., F.S.

⁷ Section 466.007(2), F.S.

⁸ See s. 466.007 (2)(b)1. and (3), F.S.

⁹ Section 466.016, F.S.

¹⁰ Section 466.018 (3), F.S.

¹¹ Section 466.018(5), F.S.

practice may be relieved of this responsibility if, upon request of the patient or the patient's legal representative, the dentist transfers custody of the records to another dentist, the patient, or the patient's legal representative and retains, in lieu of the records, a written statement, signed by the owner dentist, the person who received the records, and two witnesses, that lists the date, the records that were transferred and the persons to whom the records were transferred. The owner dentist(s) must provide reasonable access to duplicate records at cost.¹²

Dentist of Record

Section 466.018, F.S., requires that each dental patient shall have a dentist of record. The dentist of record must remain primarily responsible for all dental treatment on a patient regardless of whether the treatment is rendered by the dentist or by another dentist, dental hygienist, or dental assistant rendering such treatment in conjunction with, at the direction or request of, or under the supervision of such dentist of record. The dentist of record must be identified in the record of the patient. If treatment is rendered by a dentist other than the dentist of record or by a dental hygienist or assistant, the name or initials of such person must be placed in the record of the patient. In any disciplinary proceeding against a dentist, it is presumed as a matter of law that treatment was rendered by the dentist of record unless otherwise noted on the patient record.¹³

Delegation of Duties

A dentist may not delegate irremediable tasks to a dental hygienist or dental assistant, except as provided by law. A dentist may delegate remediable tasks to a dental hygienist or dental assistant when such tasks pose no risk to the patient. A dentist may only delegate remediable tasks so defined by law or BOD rule.¹⁴

The BOD designates by rule which tasks are remediable and delegable, except that the following are found by law to be remediable and delegable:

- Taking impressions for study casts but not for the purpose of fabricating any intraoral restorations or orthodontic appliance;
- Placing periodontal dressings;
- Removing periodontal or surgical dressings;
- Removing sutures;
- Placing or removing rubber dams;
- Placing or removing matrices;
- Placing or removing temporary restorations;
- Applying cavity liners, varnishes, or bases;
- Polishing amalgam restorations;
- Polishing clinical crowns of the teeth for the purpose of removing stains but not changing the existing contour of the tooth;
- Obtaining bacteriological cytological specimens not involving cutting of the tissue; and
- Administering local anesthesia.¹⁵

¹² Section 466.018(4), F.S.

¹³ Section 466.018,(1), F.S.

¹⁴ Section 466.024, (1), F.S.

¹⁵ *Id.*

All other remediable tasks must be performed under the direct, indirect, or general supervision of a dentist, after such additional training as required by BOD rule.¹⁶

A dentist may not delegate to anyone other than another licensed dentist:

- Any prescription of drugs or medications requiring the written order or prescription of a licensed dentist or physician; or
- Any diagnosis for treatment or treatment planning.¹⁷

According to the DOH, a direct-to-consumer teeth aligner business model currently exists for consumers. Dental impressions are being taken by the consumer using a dental impression kit mailed by the aligner company, or the consumer visits a location for a digital scan by a technician. The impression or image is then reviewed by a dentist to create custom aligners, which are shipped back to the consumer for use. This business model does not include an in-person examination by a licensed dentist or direct supervision by a licensed dentist when digital scanning is performed.¹⁸

Dental Advertising

A licensed dentist's advertisements may not contain any false, fraudulent, misleading, or deceptive statement or claim or any statement or claim which:

- Contains misrepresentations of fact;
- Is likely to mislead or deceive because, in context, it makes only a partial disclosure of relevant facts;
- Contains laudatory statements about the dentist or group of dentists;
- Is intended or is likely to create false, unjustified expectations of favorable results;
- Relates to the quality of dental services provided as compared to other available dental services;
- Is intended or is likely to appeal primarily to a layperson's fears;
- Contains fee information without a disclaimer that such is a minimum fee only; or
- Contains other representations or implications that in reasonable probability will cause an ordinary, prudent person to misunderstand or to be deceived.¹⁹

Telehealth

Section 456.47, F.S., defines the term "telehealth" as the use of synchronous or asynchronous telecommunications technology by a telehealth provider to provide health care services, including, but not limited to, assessment, diagnosis, consultation, treatment, and monitoring of a patient; transfer of medical data; patient and professional health-related education; public health services; and health administration. The term does not include audio-only telephone calls, e-mail messages, or facsimile transmissions.

¹⁶ Section 466.024(7), F.S.

¹⁷ Section 466.024(8), F.S.

¹⁸ Florida Department of Health, *2023 Agency Legislative Bill Analysis, Senate Bill 356*, Jan. 25, 2023 (on file with the Senate Committee on Health Policy).

¹⁹ Section 466.019, F.S.

In a general sense, “synchronous” telehealth happens in live, real-time settings where the patient interacts with a provider, usually via phone or video. Providers and patients communicate directly, often resulting in a diagnosis, treatment plan, or prescription. Synchronous telehealth can include additional at-home devices such as a blood pressure or heart rate monitors, thermometers, oximeters, cameras, or scales to help the provider more accurately assess the patient’s health status.²⁰

“Asynchronous” telehealth, also known as “store-and-forward,” is often used for patient intake or follow-up care. For example, a patient sends a photo of a skin condition that is later reviewed by a dermatologist who recommends treatment.²¹

Section 456.47, F.S., also authorizes out-of-state health care providers to use telehealth to deliver health care services to Florida patients if they register with the DOH or the applicable board²² and meet certain eligibility requirements.²³ A registered out-of-state telehealth provider may use telehealth, within the relevant scope of practice established by Florida law and rule, to provide health care services to Florida patients but is prohibited from opening an office in Florida and from providing in-person health care services to patients located in Florida without first becoming licensed by the state of Florida.

A telehealth provider may not use telehealth to prescribe a controlled substance listed in Schedule II²⁴ or s. 893.03, F.S., unless the controlled substance is prescribed for the following:

- The treatment of a psychiatric disorder;
- Inpatient treatment at a hospital licensed under ch. 395, F.S.;
- The treatment of a patient receiving hospice services as defined in s. 400.601, F.S.; or
- The treatment of a resident of a nursing home facility as defined in s. 400.021, F.S.²⁵

A telehealth provider must document in the patient’s medical record the health care services rendered using telehealth according to the same standard as used for in-person services. Medical records, including video, audio, electronic, or other records generated as a result of providing such services, are confidential pursuant to ss. 395.3025(4), and 456.057, F.S.²⁶

²⁰ TELEHEALTH.HHS.GOV, “Synchronous direct-to-consumer telehealth,” available at <https://telehealth.hhs.gov/providers/direct-to-consumer/synchronous-direct-to-consumer-telehealth/> (last visited Mar. 16, 2023).

²¹ TELEHEALTH.HHS.GOV, “Asynchronous direct-to-consumer telehealth,” available at <https://telehealth.hhs.gov/providers/direct-to-consumer/asynchronous-direct-to-consumer-telehealth/> (last visited Mar. 16, 2023).

²² Under s. 456.001(1), F.S., the term “board” is defined as any board, commission, or other statutorily created entity, to the extent such entity is authorized to exercise regulatory or rulemaking functions within DOH or, in some cases, within DOH’s Division of Medical Quality Assurance (MQA).

²³ Section 456.47(4), F.S.

²⁴ Schedule II drugs, substances, or chemicals are defined as drugs with a high potential for abuse, with use potentially leading to severe psychological or physical dependence. These drugs are also considered dangerous. Some examples of Schedule II drugs are: combination products with less than 15 milligrams of hydrocodone per dosage unit (Vicodin), cocaine, methamphetamine, methadone, hydromorphone (Dilaudid), meperidine (Demerol), oxycodone (OxyContin), fentanyl, Dexedrine, Adderall, and Ritalin. United States Drug Enforcement Administration, Drug Scheduling, *Schedule II*, available at <https://www.dea.gov/drug-information/drug-scheduling> (last visited Mar. 16, 2023).

²⁵ Section 456.47(2)(c), F.S.

²⁶ Section 456.47(3), F.S.

The website of an out-of-state telehealth provider registered under s. 456.47, F.S., must prominently display a hyperlink to the DOH's website, and the DOH's website must publish a list of all out-of-state registrants and include the following information for each:

- Name;
- Health care occupation;
- Health care training and education, including completion dates and any certificates or degrees obtained;
- Out-of-state health care licenses, including license numbers;
- Florida telehealth provider registration number;
- Specialty, if any;
- Board certification, if any;
- Five-years of disciplinary history, including sanctions imposed and board actions;
- Medical malpractice insurance provider and policy limits, including whether the policy covers claims that arise in Florida; and
- The name and address of the registered agent designated for service of process in this state.²⁷

A health care professional may not register under s. 456.47, F.S., if his or her license to provide health care services is subject to a pending disciplinary investigation or action; or has been revoked in any state or jurisdiction. A health care professional registered under this subsection must notify the appropriate board, or the DOH if there is no board, of any restrictions placed on his or her license to practice, or any disciplinary action taken or pending against him or her, in any state or jurisdiction. The notification must be provided within five business days after the restriction is placed or disciplinary action is initiated or taken.²⁸

The applicable board, or the DOH if there is no board, may take disciplinary action against an out-of-state telehealth provider registered under s. 456.47, F.S., if the registrant:

- Fails to notify the applicable board, or the DOH if there is no board, of any adverse actions taken against his or her license;
- Has restrictions placed on, or disciplinary action taken against, his or her license in any state or jurisdiction;
- Violates any of the requirements of s. 456.47, F.S.; or
- Commits any act that constitutes grounds for disciplinary action under s. 456.072, F.S., or the applicable practice act for similarly licensed Florida providers.²⁹

Venue for civil or administrative actions initiated by the DOH, a board, or a patient who receives telehealth services from an out-of-state telehealth provider may be located in the patient's county of residence or in Leon County.³⁰ A health care professional who is not licensed to provide health care services in Florida, but who holds an active license to provide health care services in another state or jurisdiction, and who provides such services using telehealth to a patient located in Florida, is not subject to the registration requirement under s. 456.47, F.S., if the services are provided:

- In response to an emergency medical condition; or

²⁷ Section 456.47(4)(h), F.S.

²⁸ Section 456.47 (4)(d), F.S.

²⁹ Section 456.47(4)(i), F.S.

³⁰ Section 456.47(5), F.S.

- In consultation with a health care professional licensed Florida who has ultimate authority over the diagnosis and care of the patient.³¹

III. Effect of Proposed Changes:

SB 356 defines “digital scanning” for dentistry as the use of digital technology to create a computer-generated replica of the hard and soft tissue of the oral cavity using enhanced digital photography, lasers, or other optical scanning devices.

The bill amends s. 466.016, F.S. to require that every dentist must provide each of his or her patients with the dentist’s name, contact telephone number, after-hours contact information for emergencies, and, upon the patient’s request, license information. Any individual, partnership, corporation, or other entity that provides dental services through telehealth must also provide its patients with the name, contact telephone number, after-hours contact information for emergencies, and, upon the patient’s request, the license information of each dentist who provides dental services to the patient.

For any dental patient treated through telehealth, the bill requires that there must be a dentist of record as described in s. 466.018, F.S., who remains primarily responsible for all dental treatment on the patient regardless of whether the treatment is rendered by the dentist of record, another dentist, a dental hygienist, or dental assistant, in conjunction, or at the direction of, or under the supervision of, the dentist of record. A dentist of record for a telehealth patient is subject to all of the requirements S. 466.018, F.S., applicable to dentists of record.

The bill requires that any individual, partnership, corporation, or other entity that provides dental services through telehealth must also make available to the patient, before services are rendered, the name, the telephone number, practice address, and state license number for the dentist of record and any other dentist who will be providing dental services to the patient, and at any time requested by a patient.

SB 356 clarifies that s. 466.018, F.S., is not to be construed to assign any responsibility to a dentist of record for treatment rendered pursuant to a proper referral to another dentist who is not in the same practice with the dentist of record or to prohibit a patient from voluntarily selecting a new dentist without permission of the dentist of record.

SB 356 defines advertisement for s. 466.019, F.S., as a representation disseminated in any manner or by any means to solicit patients and includes, but is not limited to, business cards, circulars, pamphlets, newspapers, websites, and social media.

The bill amends s. 466.019, F.S., to require that an advertisement for dental services provided through telehealth must include a disclaimer that reads, in a clearly legible font and size, “An in-person examination with a dentist licensed under chapter 466, Florida Statutes, is recommended before beginning telehealth treatment in order to prevent injury or harm” for each of the following dental services, if advertised:

³¹ Section 456.47(6), F.S.

- The taking of an impression or the digital scanning of the human tooth, teeth, or jaws by any means or method, directly or indirectly;
- Furnishing, supplying, constructing, reproducing, or repairing any prosthetic denture, bridge, or appliance or any other structure designed to be worn in the human mouth;
- Placing an appliance or a structure in the human mouth or adjusting or attempting to adjust the appliance or structure; and
- Correcting or attempting to correct malformations of teeth or jaws.

The bill amends s. 466.024, F.S., to require that only a licensed dentist, a dental hygienist under general supervision, or a dental assistant under direct supervision, may take an impression of the human tooth, teeth, or jaws, directly or indirectly, by any means or method, for the purpose of the practice of dentistry. The bill also amends the section to provide that only a licensed dentist, or a dental hygienist, dental assistant, or dental laboratory technician under general supervision may perform digital scanning of the human tooth, teeth, or jaws, directly or indirectly, by any means or method, for the purpose of the practice of dentistry.

SB 356 amends s. 466.028, F.S., to add the following additional grounds for the denial of a dental license or disciplinary action against a dentist:

- Failure by the dentist of record, before the initial diagnosis and correction of a malposition of human teeth or initial use of an orthodontic appliance, to perform an in-person examination of the patient or obtain records from an in-person examination within the last six months and to perform a review of the patient's most recent diagnostic digital or conventional radiographs or other equivalent bone imaging suitable for orthodontia;
- For dental services provided in-person or through telehealth by an individual, a partnership, a corporation, or any other entity, failing to provide each patient with the name, contact telephone number, after-hours contact information for emergencies, and, upon the patient's request, the license information of each dentist who is providing dental services to the patient; and
- For dental services provided through telehealth by an individual, a partnership, a corporation, or any other entity, failing to designate a dentist of record and make available, before the rendering of such services and upon the patient's request, the name, telephone number, practice address, and state license number for the dentist of record and any other dentist who will be involved in the provision of dental services to the patient through telehealth.

The bill makes a conforming amendment to s. 409.906, F.S., to reflect a numbering change in s. 466.024, F.S.

The bill provides an effective date of July 1, 2023.

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:³²

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

According to the DOH, the provisions of the bill may result in an increase in revenues for individual dentistry practices due to the creation of new disciplinary offenses that establish a standard that would require a dentist of record to perform an in-person examination of a patient or obtain records from an in-person examination within the last six months before the initial diagnosis and correction of a malposition of human teeth or initial use of an orthodontic appliance.

C. Government Sector Impact:

According to the DOH, the department will experience an increase in workload associated with complaints and investigations under the bill. The impact is indeterminate; therefore, the fiscal impact cannot be calculated at this time.

The DOH has also indicated it will incur nonrecurring costs for rulemaking, which current budget authority is adequate to absorb.

The department will also experience a nonrecurring increase in workload and costs associated with updating the Licensing and Enforcement Information Database System, Online Service Portal, Artificial Intelligence Virtual Customer Contact Agent, Continuing Education Tracking System, License Verification Search Site, and BOD website. Resources and budget authority are adequate to absorb.³³

VI. Technical Deficiencies:

None.

³² *Supra*, note 18.

³³ *Id.*

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 466.003, 466.016, 466.018, 466.019, 466.024, 466.028, and 409.906.

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 Committee on March 22, 2023:

- Defines the term “dental laboratory technician;”
- Provides that only a licensed dentist, or a dental hygienist, dental assistant or dental laboratory technician under direct supervision may perform digital scanning of the human tooth, teeth, or jaws, directly or indirectly and by any means or method, for the purpose of the practice of dentistry; and
- Makes technical changes.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/22/2023	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 31 - 257

and insert:

Section 1. Present subsections (7) through (15) of section 466.003, Florida Statutes, are redesignated as subsections (9) through (17), respectively, new subsections (7) and (8) are added to that section, and present subsection (15) of that section is amended, to read:

466.003 Definitions.—As used in this chapter:



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(7) "Dental laboratory technician" means a person, other than a dental hygienist or dental assistant, who is under the direct supervision of a dentist, and pursuant to a prescription from a dentist, designs, makes, repairs, or alters artificial dental restorations for the correction of disease, loss, deformity, malposition, dislocation, fracture, or injury to the jaws, teeth, lips, gums, cheeks, palate, or associated tissues or parts.

(8) "Digital scanning" means the use of digital technology that creates a computer-generated replica of the hard and soft tissue of the oral cavity using enhanced digital photography, lasers, or other optical scanning devices.

~~(17)~~ ~~(15)~~ "School-based prevention program" means preventive oral health services offered at a school by one of the entities defined in subsection (16) ~~(14)~~ or by a nonprofit organization that is exempt from federal income taxation under s. 501(a) of the Internal Revenue Code, and described in s. 501(c)(3) of the Internal Revenue Code.

Section 2. Section 466.016, Florida Statutes, is amended to read:

466.016 License to be displayed.—

(1) Every practitioner of dentistry or dental hygiene within the meaning of this chapter shall post and keep conspicuously displayed her or his license in the office wherein she or he practices, in plain sight of the practitioner's patients. Any dentist or dental hygienist who practices at more than one location must ~~shall be required to~~ display a copy of her or his license in each office where she or he practices.

(2) Every dentist shall provide each of her or his patients



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with the dentist's name, contact telephone number, after-hours contact information for emergencies, and, upon the patient's request, license information.

(3) Any individual, partnership, corporation, or other entity that provides dental services through telehealth as defined in s. 456.47 shall provide each patient with the name, contact telephone number, after-hours contact information for emergencies, and, upon the patient's request, license information of each dentist who provides dental services to the patient through telehealth.

Section 3. Subsection (6) is added to section 466.018, Florida Statutes, to read:

466.018 Dentist of record; patient records.—

(6) For any patient treated through telehealth as defined in s. 456.47, there must be a dentist of record who remains primarily responsible for all dental treatment on the patient regardless of whether the treatment is rendered by the dentist of record or by another dentist, dental hygienist, or dental assistant rendering such treatment in conjunction with, at the direction or request of, or under the supervision of such dentist of record. A dentist of record for a patient treated through telehealth is subject to all of the requirements of this section applicable to dentists of record.

(a) Any individual, partnership, corporation, or other entity that provides dental services through telehealth shall make available the name, telephone number, practice address, and state license number for the dentist of record and any other dentist who will be involved in the provision of services to a patient before the rendering of such services and at any time



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requested by a patient.

(b) This subsection may not be construed to assign any responsibility to a dentist of record for treatment rendered pursuant to a proper referral to another dentist who is not in the same practice with the dentist of record or to prohibit a patient from voluntarily selecting a new dentist without permission of the dentist of record.

Section 4. Section 466.019, Florida Statutes, is amended to read:

466.019 Advertising by dentists.—

(1) As used in this section, the term "advertisement" means a representation disseminated in any manner or by any means to solicit patients and includes, but is not limited to, business cards, circulars, pamphlets, newspapers, websites, and social media.

(2) The purpose of this section is to ensure that the public has access to information which provides a sufficient basis upon which to make an informed selection of dentists while also ensuring that the public is protected from false or misleading advertisements which would detract from a fair and rational selection process. The board shall adopt rules to carry out the intent of this section, the purpose of which shall be to regulate the manner of such advertising in keeping with the provisions hereof.

(3) ~~(2)~~ An ~~no~~ advertisement by a licensed dentist may not ~~shall~~ contain any false, fraudulent, misleading, or deceptive statement or claim or any statement or claim which:

(a) Contains misrepresentations of fact;

(b) Is likely to mislead or deceive because in context it



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98 makes only a partial disclosure of relevant facts;

99 (c) Contains laudatory statements about the dentist or
100 group of dentists;

101 (d) Is intended or is likely to create false, unjustified
102 expectations of favorable results;

103 (e) Relates to the quality of dental services provided as
104 compared to other available dental services;

105 (f) Is intended or is likely to appeal primarily to a
106 layperson's fears;

107 (g) Contains fee information without a disclaimer that such
108 is a minimum fee only; or

109 (h) Contains other representations or implications that in
110 reasonable probability will cause an ordinary, prudent person to
111 misunderstand or to be deceived.

112 (4) An advertisement of dental services provided through
113 telehealth as defined in s. 456.47 must include a disclaimer
114 that reads, in a clearly legible font and size, "An in-person
115 examination with a dentist licensed under chapter 466, Florida
116 Statutes, is recommended before beginning telehealth treatment
117 in order to prevent injury or harm" for each of the following
118 services, if advertised:

119 (a) The taking of an impression or the digital scanning of
120 the human tooth, teeth, or jaws by any means or method, directly
121 or indirectly.

122 (b) Furnishing, supplying, constructing, reproducing, or
123 repairing any prosthetic denture, bridge, or appliance or any
124 other structure designed to be worn in the human mouth.

125 (c) Placing an appliance or a structure in the human mouth
126 or adjusting or attempting to adjust the appliance or structure.



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(d) Correcting or attempting to correct malformations of teeth or jaws.

(5)~~(3)~~ For purposes of this section, D.D.S. or D.M.D. are synonymous and may be used interchangeably by licensed dentists who have graduated from an accredited American dental school with a D.D.S. or D.M.D. degree, when advertising dental services.

Section 5. Present subsections (2) through (10) of section 466.024, Florida Statutes, are redesignated as subsections (4) through (12), respectively, new subsections (2) and (3) are added to that section, and present subsections (3), (5), (6), and (8) are amended, to read:

466.024 Delegation of duties; expanded functions.—

(2) Only a licensed dentist, a dental hygienist under general supervision, or a dental assistant under direct supervision may take an impression of the human tooth, teeth, or jaws, directly or indirectly and by any means or method, for the purpose of the practice of dentistry.

(3) Only a licensed dentist, a dental hygienist under general supervision, or a dental assistant or dental laboratory technician under direct supervision may perform digital scanning of the human tooth, teeth, or jaws, directly or indirectly and by any means or method, for the purpose of the practice of dentistry.

(5)~~(3)~~ For all remediable tasks listed in subsection (4)~~(2)~~, the following disclaimer must be provided to the patient in writing before any procedure is performed:

(a) The services being offered are not a substitute for a comprehensive dental exam by a dentist.



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(b) The diagnosis of caries, soft tissue disease, oral cancer, temporomandibular joint disease (TMJ), and dentofacial malocclusions will be completed only by a dentist in the context of delivering a comprehensive dental exam.

~~(7)(5)~~ A dental hygienist who performs, without supervision, the remediable tasks listed in subsection (4) ~~(2)~~ shall:

(a) Provide a dental referral in strict compliance with federal and state patient referral, anti-kickback, and patient brokering laws.

(b) Encourage the establishment of a dental home.

(c) Maintain professional malpractice insurance coverage that has minimum limits of \$100,000 per occurrence and \$300,000 in the aggregate through the employing health access setting or individual policy.

~~(8)(6)~~ Notwithstanding subsection (1) or subsection (4) ~~(2)~~, a dentist may delegate the tasks of gingival curettage and root planing to a dental hygienist but not to a dental assistant.

~~(10)(8)~~ Notwithstanding subsection (1) or subsection (4) ~~(2)~~, a dentist may not delegate to anyone other than another licensed dentist:

(a) Any prescription of drugs or medications requiring the written order or prescription of a licensed dentist or physician.

(b) Any diagnosis for treatment or treatment planning.

Section 6. Present paragraph (mm) of subsection (1) of section 466.028, Florida Statutes, is redesignated as paragraph (pp), and a new paragraph (mm) and paragraphs (nn) and (oo) are



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added to that subsection, to read:

466.028 Grounds for disciplinary action; action by the board.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(mm) Failure by the dentist of record, before the initial diagnosis and correction of a malposition of human teeth or initial use of an orthodontic appliance, to perform an in-person examination of the patient or obtain records from an in-person examination within the last 6 months and to perform a review of the patient's most recent diagnostic digital or conventional radiographs or other equivalent bone imaging suitable for orthodontia.

(nn) For dental services provided in-person or through telehealth by an individual, a partnership, a corporation, or any other entity, failing to provide each patient with the name, contact telephone number, after-hours contact information for emergencies, and, upon the patient's request, the license information of each dentist who is providing dental services to the patient.

(oo) For dental services provided through telehealth by an individual, a partnership, a corporation, or any other entity, failing to designate a dentist of record and make available, before the rendering of such services and upon the patient's request, the name, telephone number, practice address, and state license number for the dentist of record and any other dentist who will be involved in the provision of dental services to the patient through telehealth.

Section 7. Subsection (6) of section 409.906, Florida



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Statutes, is amended to read:

409.906 Optional Medicaid services.—Subject to specific appropriations, the agency may make payments for services which are optional to the state under Title XIX of the Social Security Act and are furnished by Medicaid providers to recipients who are determined to be eligible on the dates on which the services were provided. Any optional service that is provided shall be provided only when medically necessary and in accordance with state and federal law. Optional services rendered by providers in mobile units to Medicaid recipients may be restricted or prohibited by the agency. Nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. If necessary to safeguard the state's systems of providing services to elderly and disabled persons and subject to the notice and review provisions of s. 216.177, the Governor may direct the Agency for Health Care Administration to amend the Medicaid state plan to delete the optional Medicaid service known as "Intermediate Care Facilities for the Developmentally Disabled." Optional services may include:

(6) CHILDREN'S DENTAL SERVICES.—The agency may pay for diagnostic, preventive, or corrective procedures, including orthodontia in severe cases, provided to a recipient under age 21, by or under the supervision of a licensed dentist. The agency may also reimburse a health access setting as defined in s. 466.003 for the remediable tasks that a licensed dental



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243 | hygienist is authorized to perform under s. 466.024(4) ~~s.~~
244 | ~~466.024(2)~~. Services provided under this program include
245 |
246 | ===== T I T L E A M E N D M E N T =====
247 | And the title is amended as follows:
248 | Delete lines 3 - 4
249 | and insert:
250 | s. 466.003, F.S.; defining the terms "dental
251 | laboratory technician" and "digital scanning";
252 | amending s. 466.016, F.S.; requiring

By Senator Boyd

20-00350A-23

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A bill to be entitled

An act relating to the practice of dentistry; amending s. 466.003, F.S.; defining the term "digital scanning"; amending s. 466.016, F.S.; requiring dentists to provide each patient with specified information; requiring individuals and entities that provide dental services through telehealth to provide each patient with specified information regarding the dentists treating such patient; amending s. 466.018, F.S.; requiring that there be a dentist of record for each patient treated through telehealth; subjecting such dentists to certain requirements; requiring individuals and entities that provide dental services through telehealth to make specified information available to each patient before rendering such services and at any time upon patient request; providing construction; amending s. 466.019, F.S.; defining the term "advertisement"; requiring that advertisements of specified dental services provided through telehealth contain a specified disclaimer; amending s. 466.024, F.S.; specifying that only certain dental practitioners may perform specified functions of dentistry; amending s. 466.028, F.S.; providing additional grounds for disciplinary action against dental practitioners; amending s. 409.906, F.S.; conforming a cross-reference; providing an effective date.

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

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Section 1. Present subsections (8) through (15) of section 466.003, Florida Statutes, are redesignated as subsections (9) through (16), respectively, a new subsection (8) is added to that section, and present subsection (15) of that section is amended, to read:

466.003 Definitions.—As used in this chapter:

(8) "Digital scanning" means the use of digital technology that creates a computer-generated replica of the hard and soft tissue of the oral cavity using enhanced digital photography, lasers, or other optical scanning devices.

(16)~~(15)~~ "School-based prevention program" means preventive oral health services offered at a school by one of the entities defined in subsection (15) ~~(14)~~ or by a nonprofit organization that is exempt from federal income taxation under s. 501(a) of the Internal Revenue Code, and described in s. 501(c)(3) of the Internal Revenue Code.

Section 2. Section 466.016, Florida Statutes, is amended to read:

466.016 License to be displayed.—

(1) Every practitioner of dentistry or dental hygiene within the meaning of this chapter shall post and keep conspicuously displayed her or his license in the office wherein she or he practices, in plain sight of the practitioner's patients. Any dentist or dental hygienist who practices at more than one location ~~must~~ shall be required to display a copy of her or his license in each office where she or he practices.

(2) Every dentist shall provide each of her or his patients with the dentist's name, contact telephone number, after-hours

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contact information for emergencies, and, upon the patient's request, license information.

(3) Any individual, partnership, corporation, or other entity that provides dental services through telehealth as defined in s. 456.47 shall provide each patient with the name, contact telephone number, after-hours contact information for emergencies, and, upon the patient's request, license information of each dentist who provides dental services to the patient through telehealth.

Section 3. Subsection (6) is added to section 466.018, Florida Statutes, to read:

466.018 Dentist of record; patient records.—

(6) For any patient treated through telehealth as defined in s. 456.47, there must be a dentist of record who remains primarily responsible for all dental treatment on the patient regardless of whether the treatment is rendered by the dentist of record or by another dentist, dental hygienist, or dental assistant rendering such treatment in conjunction with, at the direction or request of, or under the supervision of such dentist of record. A dentist of record for a patient treated through telehealth is subject to all of the requirements of this section applicable to dentists of record.

(a) Any individual, partnership, corporation, or other entity that provides dental services through telehealth shall make available the name, telephone number, practice address, and state license number for the dentist of record and any other dentist who will be involved in the provision of services to a patient before the rendering of such services and at any time requested by a patient.

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(b) This subsection may not be construed to assign any responsibility to a dentist of record for treatment rendered pursuant to a proper referral to another dentist who is not in the same practice with the dentist of record or to prohibit a patient from voluntarily selecting a new dentist without permission of the dentist of record.

Section 4. Section 466.019, Florida Statutes, is amended to read:

466.019 Advertising by dentists.—

(1) As used in this section, the term "advertisement" means a representation disseminated in any manner or by any means to solicit patients and includes, but is not limited to, business cards, circulars, pamphlets, newspapers, websites, and social media.

(2) The purpose of this section is to ensure that the public has access to information which provides a sufficient basis upon which to make an informed selection of dentists while also ensuring that the public is protected from false or misleading advertisements which would detract from a fair and rational selection process. The board shall adopt rules to carry out the intent of this section, the purpose of which shall be to regulate the manner of such advertising in keeping with the provisions hereof.

~~(3)-(2)~~ An ~~no~~ advertisement by a licensed dentist may not ~~shall~~ contain any false, fraudulent, misleading, or deceptive statement or claim or any statement or claim which:

(a) Contains misrepresentations of fact;

(b) Is likely to mislead or deceive because in context it makes only a partial disclosure of relevant facts;

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- 117 (c) Contains laudatory statements about the dentist or
 118 group of dentists;
 119 (d) Is intended or is likely to create false, unjustified
 120 expectations of favorable results;
 121 (e) Relates to the quality of dental services provided as
 122 compared to other available dental services;
 123 (f) Is intended or is likely to appeal primarily to a
 124 layperson's fears;
 125 (g) Contains fee information without a disclaimer that such
 126 is a minimum fee only; or
 127 (h) Contains other representations or implications that in
 128 reasonable probability will cause an ordinary, prudent person to
 129 misunderstand or to be deceived.
- 130 (4) An advertisement of dental services provided through
 131 telehealth as defined in s. 456.47 must include a disclaimer
 132 that reads, in a clearly legible font and size, "An in-person
 133 examination with a dentist licensed under chapter 466, Florida
 134 Statutes, is recommended before beginning telehealth treatment
 135 in order to prevent injury or harm" for each of the following
 136 services, if advertised:
- 137 (a) The taking of an impression or the digital scanning of
 138 the human tooth, teeth, or jaws by any means or method, directly
 139 or indirectly.
 140 (b) Furnishing, supplying, constructing, reproducing, or
 141 repairing any prosthetic denture, bridge, or appliance or any
 142 other structure designed to be worn in the human mouth.
 143 (c) Placing an appliance or a structure in the human mouth
 144 or adjusting or attempting to adjust the appliance or structure.
 145 (d) Correcting or attempting to correct malformations of

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- 146 teeth or jaws.
 147 ~~(5)(3)~~ For purposes of this section, D.D.S. or D.M.D. are
 148 synonymous and may be used interchangeably by licensed dentists
 149 who have graduated from an accredited American dental school
 150 with a D.D.S. or D.M.D. degree, when advertising dental
 151 services.
 152 Section 5. Present subsections (2) through (10) of section
 153 466.024, Florida Statutes, are redesignated as subsections (3)
 154 through (11), respectively, a new subsection (2) is added to
 155 that section, and present subsections (3), (5), (6), and (8) are
 156 amended, to read:
 157 466.024 Delegation of duties; expanded functions.—
 158 (2) Only a licensed dentist, a dental hygienist under
 159 general supervision, or a dental assistant under direct
 160 supervision may take an impression or perform digital scanning
 161 of the human tooth, teeth, or jaws, directly or indirectly and
 162 by any means or method, for the purpose of the practice of
 163 dentistry.
 164 ~~(4)(3)~~ For all remediable tasks listed in subsection (3)
 165 ~~(2)~~, the following disclaimer must be provided to the patient in
 166 writing before any procedure is performed:
 167 (a) The services being offered are not a substitute for a
 168 comprehensive dental exam by a dentist.
 169 (b) The diagnosis of caries, soft tissue disease, oral
 170 cancer, temporomandibular joint disease (TMJ), and dentofacial
 171 malocclusions will be completed only by a dentist in the context
 172 of delivering a comprehensive dental exam.
 173 ~~(6)(5)~~ A dental hygienist who performs, without
 174 supervision, the remediable tasks listed in subsection (3) ~~(2)~~

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175 shall:

176 (a) Provide a dental referral in strict compliance with
177 federal and state patient referral, anti-kickback, and patient
178 brokering laws.

179 (b) Encourage the establishment of a dental home.

180 (c) Maintain professional malpractice insurance coverage
181 that has minimum limits of \$100,000 per occurrence and \$300,000
182 in the aggregate through the employing health access setting or
183 individual policy.

184 (7)~~(6)~~ Notwithstanding subsection (1) or subsection (3)
185 ~~(2)~~, a dentist may delegate the tasks of gingival curettage and
186 root planing to a dental hygienist but not to a dental
187 assistant.

188 (9)~~(8)~~ Notwithstanding subsection (1) or subsection (3)
189 ~~(2)~~, a dentist may not delegate to anyone other than another
190 licensed dentist:

191 (a) Any prescription of drugs or medications requiring the
192 written order or prescription of a licensed dentist or
193 physician.

194 (b) Any diagnosis for treatment or treatment planning.

195 Section 6. Present paragraph (mm) of subsection (1) of
196 section 466.028, Florida Statutes, is redesignated as paragraph
197 (pp), and a new paragraph (mm) and paragraphs (nn) and (oo) are
198 added to that subsection, to read:

199 466.028 Grounds for disciplinary action; action by the
200 board.—

201 (1) The following acts constitute grounds for denial of a
202 license or disciplinary action, as specified in s. 456.072(2):

203 (mm) Failure by the dentist of record, before the initial

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204 diagnosis and correction of a malposition of human teeth or
205 initial use of an orthodontic appliance, to perform an in-person
206 examination of the patient or obtain records from an in-person
207 examination within the last 6 months and to perform a review of
208 the patient's most recent diagnostic digital or conventional
209 radiographs or other equivalent bone imaging suitable for
210 orthodontia.

211 (nn) For dental services provided in-person or through
212 telehealth by an individual, a partnership, a corporation, or
213 any other entity, failing to provide each patient with the name,
214 contact telephone number, after-hours contact information for
215 emergencies, and, upon the patient's request, the license
216 information of each dentist who is providing dental services to
217 the patient.

218 (oo) For dental services provided through telehealth by an
219 individual, a partnership, a corporation, or any other entity,
220 failing to designate a dentist of record and make available,
221 before the rendering of such services and upon the patient's
222 request, the name, telephone number, practice address, and state
223 license number for the dentist of record and any other dentist
224 who will be involved in the provision of dental services to the
225 patient through telehealth.

226 Section 7. Subsection (6) of section 409.906, Florida
227 Statutes, is amended to read:

228 409.906 Optional Medicaid services.—Subject to specific
229 appropriations, the agency may make payments for services which
230 are optional to the state under Title XIX of the Social Security
231 Act and are furnished by Medicaid providers to recipients who
232 are determined to be eligible on the dates on which the services

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233 were provided. Any optional service that is provided shall be
 234 provided only when medically necessary and in accordance with
 235 state and federal law. Optional services rendered by providers
 236 in mobile units to Medicaid recipients may be restricted or
 237 prohibited by the agency. Nothing in this section shall be
 238 construed to prevent or limit the agency from adjusting fees,
 239 reimbursement rates, lengths of stay, number of visits, or
 240 number of services, or making any other adjustments necessary to
 241 comply with the availability of moneys and any limitations or
 242 directions provided for in the General Appropriations Act or
 243 chapter 216. If necessary to safeguard the state's systems of
 244 providing services to elderly and disabled persons and subject
 245 to the notice and review provisions of s. 216.177, the Governor
 246 may direct the Agency for Health Care Administration to amend
 247 the Medicaid state plan to delete the optional Medicaid service
 248 known as "Intermediate Care Facilities for the Developmentally
 249 Disabled." Optional services may include:

250 (6) CHILDREN'S DENTAL SERVICES.—The agency may pay for
 251 diagnostic, preventive, or corrective procedures, including
 252 orthodontia in severe cases, provided to a recipient under age
 253 21, by or under the supervision of a licensed dentist. The
 254 agency may also reimburse a health access setting as defined in
 255 s. 466.003 for the remediable tasks that a licensed dental
 256 hygienist is authorized to perform under s. 466.024(3) ~~s.~~
 257 ~~466.024(2)~~. Services provided under this program include
 258 treatment of the teeth and associated structures of the oral
 259 cavity, as well as treatment of disease, injury, or impairment
 260 that may affect the oral or general health of the individual.
 261 However, Medicaid will not provide reimbursement for dental

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262 services provided in a mobile dental unit, except for a mobile
 263 dental unit:

264 (a) Owned by, operated by, or having a contractual
 265 agreement with the Department of Health and complying with
 266 Medicaid's county health department clinic services program
 267 specifications as a county health department clinic services
 268 provider.

269 (b) Owned by, operated by, or having a contractual
 270 arrangement with a federally qualified health center and
 271 complying with Medicaid's federally qualified health center
 272 specifications as a federally qualified health center provider.

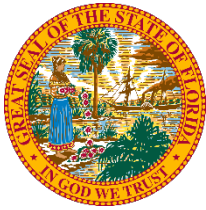
273 (c) Rendering dental services to Medicaid recipients, 21
 274 years of age and older, at nursing facilities.

275 (d) Owned by, operated by, or having a contractual
 276 agreement with a state-approved dental educational institution.

277 Section 8. This act shall take effect July 1, 2023.

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2023 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Florida Department of Health



BILL INFORMATION

BILL NUMBER:	SB 356
BILL TITLE:	Practice of Dentistry
BILL SPONSOR:	Boyd
EFFECTIVE DATE:	July 1, 2023

COMMITTEES OF REFERENCE

1)	Click or tap here to enter text.
2)	Click or tap here to enter text.
3)	Click or tap here to enter text.
4)	Click or tap here to enter text.
5)	Click or tap here to enter text.

CURRENT COMMITTEE

Click or tap here to enter text.

SIMILAR BILLS

BILL NUMBER:	Click or tap here to enter text.
BILL SPONSOR:	Click or tap here to enter text.

PREVIOUS LEGISLATION

BILL NUMBER:	Click or tap here to enter text.
BILL TITLE:	Click or tap here to enter text.
BILL SPONSOR:	Click or tap here to enter text.
YEAR:	Click or tap here to enter text.
LAST ACTION:	Click or tap here to enter text.

IDENTICAL BILLS

BILL NUMBER:	HB 503
BILL SPONSOR:	Berfield

Is this bill part of an Agency Package?

Yes ☐ No ☒

BILL ANALYSIS INFORMATION

DATE OF ANALYSIS:	January 25, 2023
LEAD AGENCY ANALYST:	Jessica Sapp
ADDITIONAL ANALYST(S):	Click or tap here to enter text.
FISCAL ANALYST:	Madison Adkins
LEGAL ANALYST:	John Wilson

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

This bill amends the Dental Practice Act to include a definition of digital scanning and sets certain requirements for dental services provided through telehealth.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

The Board of Dentistry, within the Department of Health (DOH), regulates dental practice in Florida, including dentists, dental hygienists, and dental assistants under the Dental Practice Act. A dentist is licensed to examine, diagnose, treat, and care for conditions within the human oral cavity and its adjacent tissues and structures. A dental hygienist is licensed to provide education, preventive and delegated therapeutic dental services. A dental assistant is not licensed in Florida but can provide certain dental care services, as outlined by rule of the Board, directly to a patient under the supervision and authorization of a dentist.

Section 466.024, Florida Statutes, allows the Board of Dentistry to create a certification process for expanded-duty dental assistants. Rule 64B5-9.011, F.A.C., establishes the process for dental assistants that position and expose dental radiographic images, and certifies them as a Dental Radiographer.

Section 466.003, Florida Statutes, defines dentistry to include the taking of an impression of the human tooth, teeth, or jaws directly or indirectly and by any means or method. Section 456.74, Florida Statutes, defines telehealth to mean the use of synchronous or asynchronous telecommunications technology by a telehealth provider to provide health care services, including, but not limited to, assessment, diagnosis, consultation, treatment, and monitoring of a patient; transfer of medical data; patient and professional health-related education; public health services; and health administration. The term does not include audio-only telephone calls, e-mail messages, or facsimile transmissions.

An optical impression by an intraoral scanner (IOS) is used to create a digital scan and involves optically measuring the surface shape of the target teeth or gums directly in the patient's mouth. IOSs have many advantages, such as reduce patients' pain and discomfort, the operator's burden and the risk of infection, real-time impression scanning and visualization, simple replication and selective scanning, reduction of cost and waste of materials and detection of dental caries.

Rule 64B5-17.004, F.A.C., requires every dentist to provide, either personally, through another licensed dentist, or through a reciprocal agreement with another agency, reasonable 24-hour emergency services for all patients under his or her continuing care.

Rule 64B5-17.002, F.A.C., defines a dentist of record as a dentist who:

- Is identified and noted in the patient record as the dentist of record
- Provides a specific treatment or service and is noted in the patient record as the dentist of record for that treatment or service
- If there has been more than one provider of treatment, is the dentist who places the final restoration, does the surgical procedure, makes the diagnosis or finishes the service or procedure in question
- If the dentist of record is not identifiable, then the owner of the dental practice in which the patient was treated is the dentist of record

Rule 64B5-4.002, F.A.C., defines advertising to mean any statements, oral or written, disseminated to or before the public or any portion thereof with the intent of furthering the purpose, either directly or indirectly, of selling professional services, or offering to perform professional services, or inducing members of the public to enter into

any obligation relating to such professional services. The provisions of this rule shall apply to media exposure of any nature regardless of whether it is in the form of paid advertising.

General supervision requires that a licensed dentist authorizes the procedures to be performed but need not be present when the authorized procedures are being performed. The authorized procedures may also be performed at a place other than the dentist's usual place of practice.

Under general supervision, a dental hygienist can:

- Take impressions for study casts which are not being made for the purpose of fabricating any intra-oral appliances, restorations or orthodontic appliances;
- Take impressions to be used for creating opposing models or the fabrication of bleaching stents and surgical stents to be used for the purpose of providing palatal coverage as well as impressions used for fabrication of topical fluoride trays for home application;
- Take of impressions for and delivery of at-home bleaching trays; and
- Take impressions for passive appliances, occlusal guards, space maintainers and protective mouth guards.

Direct supervision requires that a licensed dentist examine the patient, diagnose a condition to be treated, authorize the procedure to be performed, be on the premises while the procedure is performed, and approve the work performed prior to the patient's departure from the premises.

Under direct supervision, a dental assistant can:

- Make impressions for study casts which are being made for the purpose of fabricating orthodontic retainers;
- Take of impressions for and delivery of at-home bleaching trays; and
- Take impressions for passive appliance, occlusal guards, space maintainers and protective mouth guards.

Indirect supervision requires that a licensed dentist examine the patient, diagnose a condition to be treated, authorize the procedure to be performed, and be on the premises while the procedure is performed.

Under indirect supervision, a dental assistant can:

- Making impressions for study casts which are not being made for the purpose of fabricating any intra-oral appliances, restorations or orthodontic appliances; and
- Making impressions to be used for creating opposing models or the fabrication of bleaching stents and surgical stents to be used for the purpose of providing palatal coverage as well as impressions used for fabrication of topical fluoride trays for home application.

The Florida Board of Dentistry has the authority to issue a final order imposing appropriate penalties as recommended in their disciplinary guidelines if they find that an applicant, licensee, certificate holder, or telehealth registrant whom it regulates under Chapter 466, Florida Statutes, has committed any of the acts set forth in Sections 456.072(1), 466.028, or 456.47, Florida Statutes.

As of December 31, 2022, there were 18,238 licensed dentists, 18,335 licensed dental hygienists, 31, 444 licensed dental radiographers, and 35 out-of-state registered telehealth dentists.

2. EFFECT OF THE BILL:

The bill creates a new definition of "digital scanning" in section 466.003, Florida Statutes, to mean the use of digital technology that creates a computer-generated replica of the hard and soft tissue of the oral cavity using enhanced digital photography, lasers, or other optical scanning devices.

The bill requires every dentist and any individual, partnership, corporation, or other entity that provides dental services through telehealth to make available the name, telephone number, after-hours contact information for

emergencies, and upon request, licensure information. A violation of this provision would constitute grounds for disciplinary action.

The bill requires a dentist of record to remain primarily responsible for all dental treatment for any patient who is treated through telehealth, whether that is rendered by the dentist of record, another dentist, dental hygienist, or dental assistant. A dentist of record would not be responsible for the patient if a proper referral to another dentist was performed, or if the patient voluntarily selects a new dentist of record.

The bill creates a definition for advertisement to mean a representation disseminated in any manner or by any means to solicit patients and includes business cards, circulars, pamphlets, newspapers, websites, and social media. If dental services are provided through telehealth, an advertisement must include a disclaimer that reads, "An in-person examination with a dentist licensed under chapter 466, Florida Statutes, is recommended before beginning telehealth treatment in order to prevent injury or harm." This disclaimer would be required for each of the following advertised services:

- The taking of an impression or the digital scanning of the human tooth, teeth, or jaws, directly or indirectly and by any means or method;
- Placing an appliance or a structure in the human mouth or adjusting or attempting to adjust the appliance or structure; and
- Correcting or attempting to correct malformations of teeth or jaws.

The bill sets forth supervision requirements for dental hygienists and dental assistants who take an impression or perform digital scanning of the human tooth, teeth, or jaws, directly or indirectly and by any means or method, for the purpose of the practice of dentistry.

The bill creates a new disciplinary offense, which establishes a standard that would require a dentist of record to perform an in-person examination of a patient or obtain records from an in-person examination with the last six months before the initial diagnosis and correction of a malposition of human teeth or initial use of an orthodontic appliance.

A direct-to-consumer teeth aligner business model currently exists for consumers. This consists of dental impressions being taken by the consumer using a dental impression kit mailed by the aligner company, or the consumer visiting a location for a digital scan by a technician. The impression or image is then reviewed by a dentist to create custom aligners, which are shipped back to the consumer for use. This model does not include an in-person examination by a licensed dentist or include direct supervision by a dentist when digital scanning is performed. The requirements of the bill would eliminate this business model.

The bill provides an effective date of July 1, 2023.

3. DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES?

Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
If yes, explain:	The Board of Dentistry would be required to amend their disciplinary guidelines to incorporate the violations this bill creates.
Is the change consistent with the agency's core mission?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	Rule 64B5-13.005, F.A.C., Disciplinary Guidelines

4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

Proponents and Summary of Position:	Unknown
Opponents and Summary of Position:	Unknown

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL?

Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
If yes, provide a description:	N/A
Date Due:	N/A
Bill Section Number(s):	N/A

6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL?

Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Board:	N/A
Board Purpose:	N/A
Who Appoints?	N/A
Changes:	N/A
Bill Section Number(s):	N/A

FISCAL ANALYSIS**1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT?**

Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Revenues:	N/A
Expenditures:	N/A
Does the legislation increase local taxes or fees? If yes, explain:	N/A
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	N/A

2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?

Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
Revenues:	N/A
Expenditures:	<p>DOH/MQA will experience an increase in workload associated with complaints and investigations due to the provisions of this legislation. The impact is indeterminate; therefore, the fiscal impact cannot be calculated at this time.</p> <p>DOH will incur non-recurring costs for rulemaking, which current budget authority is adequate to absorb.</p> <p>DOH/MQA will experience a non-recurring increase in workload and costs associated with updating the Licensing and Enforcement Information Database System, Online Service Portal, Artificial Intelligence Virtual Customer Contact Agent, Continuing Education Tracking System, License Verification Search Site, and board website. Resources and budget authority are adequate to absorb.</p>
Does the legislation contain a State Government appropriation?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If yes, was this appropriated last year?	N/A

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR?

Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
Revenues:	The provisions of this legislation may result in an increase in revenues for individual dentistry practices due to the creation of a standard that would require a dentist of record to perform an in-person examination of a patient or obtain records from an in-person examination with the last six months before the initial diagnosis and correction of a malposition of human teeth or initial use of an orthodontic appliance.
Expenditures:	N/A
Other:	N/A

4. DOES THE BILL INCREASE OF DECREASE TAXES, FEES, OR FINES?

Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
If yes, explain impact:	N/A
Bill Section Number:	N/A

TECHNOLOGY IMPACT

1. DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)?

Yes <input type="checkbox"/> No <input type="checkbox"/>	
If yes, describe the anticipated impact to the agency including any fiscal impact:	N/A

FEDERAL IMPACT

1. DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)?

Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
If yes, describe the anticipated impact including any fiscal impact:	N/A

ADDITIONAL COMMENTS

None.

LEGAL – GENERAL COUNSEL'S OFFICE REVIEW

Issues/Concerns/Comments: Section 466.018(2), Florida Statutes, may need to be updated as well to reference the new subsection (6) beginning at line 71. Specifically, to make it clear if the dentist of record is not identified in the telehealth patient record, it shall be presumed as a matter of law that the dentist of record is the dentist owner of the telehealth dental practice in which the patient was treated.

Further clarification may be needed if lines 158-163 are intended to end the aligner industry described above. Although based on Board action and not statutes, the North Carolina antitrust case concerned the same industry.

Marc 22, 2023

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 356

Bill Number or Topic

180704

Amendment Barcode (if applicable)

Name **Joe Anne Hart**

Phone **(850) 224-1089**

Address **118 East Jefferson Street**
Street

Email **jahart@floridadental.org**

Tallahassee

FL

32311

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 \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

SB 356

Bill Number or Topic

Amendment Barcode (if applicable)

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

3/22/23

Meeting Date

Banking + Insurance

Committee

Name Ray Colas

Phone 954-849-4036

Address 414 Union Street

Street

Email ray.colas@smokedirectclub.com

Nashville

City

TN

State

37219

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 \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

Marc 22, 2023

Meeting Date

Banking and Insurance

Committee

Name Joe Anne Hart

Address 118 East Jefferson Street
Street

Tallahassee

City

FL

State

32311

Zip

The Florida Senate
APPEARANCE RECORD

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

SB 356

Bill Number or Topic

Amendment Barcode (if applicable)

Phone (850) 224-1089

Email jahart@floridadental.org

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:

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

S-001 (08/10/2021)

3/22/2023

The Florida Senate
APPEARANCE RECORD

SB 356

Meeting Date
Banking & Insurance

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

Bill Number or Topic

Committee
Anita Berry

Name

Amendment Barcode (if applicable)
(301) 524-0172

Phone

Address
21748 State Road 54, Suite 101

Email
anita@johnstonstewart.com

Street

Lutz

FL

33549

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:

**American Association of
Orthodontists**

☐ 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

3/22/23

Meeting Date

Banking & Insurance

Committee

SB 357

Bill Number or Topic

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

Amendment Barcode (if applicable)

Name Brion Long

Phone 850-765-3748

Address 1771 Capital Circle NE

Street

Email Dr. brionlong@gmail.com

Tallahassee

City

FL

State

32308

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 \(flsenate.gov\)](#)

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: SB 410

INTRODUCER: Senator Garcia

SUBJECT: Collateral Protection Insurance

DATE: March 21, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Moody	Knudson	BI	Favorable
2.			AEG	
3.			FP	

I. Summary:

In general, mortgages require borrowers to maintain adequate homeowners' insurance on their property. Borrowers may fail to maintain the required insurance coverage for a variety of reasons, including policy cancellation or withdrawal of an insurer from the market. If the policy lapses and the borrower does not secure a replacement policy, most mortgages allow the lender to obtain insurance for the borrower and "force-place" it.

A lender-placed, or force-placed, insurance policy is an insurance policy placed by a bank or mortgage servicer on a home when the homeowners' property insurance has lapsed or is deemed insufficient by the bank or mortgage servicer. In recent years, there has been significant media attention on the rates charged for lender-placed insurance (LPI) policies and whether insurers and lenders are making excess profits on this line of business. LPI typically is more expensive than the insurance a borrower purchases on his or her own and provides more limited coverage. Concerns have also been raised about "reverse competition" stemming from the use of lender-placed insurance because the lender chooses the coverage provider and amount, but the borrower must pay for the coverage.

In order to address some of these concerns, the National Association of Insurance Commissioners (NAIC) issued a Real Property Lender-Placed Insurance Model Act (Model Act) that can be adopted by member states. Florida law does not use the term LPI. Instead, it refers to collateral protection insurance (CPI). The bill creates a new statutory chapter part (Part XXII) for the purposes of:

- Regulating CPI on real property;
- Establishing a legal framework for the writing of CPI on real property in Florida;
- Maintaining separation between lenders or servicers, and insurers or insurance agents; and
- Minimizing the possibilities of unfair competition practices in the sale, placement, or solicitation, and negotiation of CPI.

Part XXII applies to insurers and insurance agents engaged in transactions of CPI on real property. All CPI policies for mortgaged real property, including manufactured and mobile homes are subject to Part XXII, with certain exceptions. The bill contains statutory definitions of CPI and several related terms. CPI is defined as commercial property insurance under which a creditor is the primary beneficiary and policyholder, and which protects or covers the creditor's interest arising out of a credit transaction secured by the real property. CPI is triggered by the mortgagor's failure to maintain insurance coverage required by the mortgage or other lending document. The bill provides the Office of Insurance Regulation with authority to develop rules related to the regulation of Part XXII.

The bill has no effect on local revenues or expenditures or state revenues. It has an indeterminate impact on state expenditures. It may have a positive direct economic impact on the private sector.

The bill has an effective date of July 1, 2023.

II. Present Situation:

Mortgages on Real Property

A mortgage is an agreement between a borrower and a lender that gives the lender the right to take the property if the borrower fails to pay the loan plus interest.¹ A mortgage is generally secured by a mortgage note, which is a note evidencing a loan for which real property has been offered as security.² All mortgages require borrowers to maintain adequate homeowners' insurance on their property.³ Borrowers may fail to maintain the required insurance coverage for a variety of reasons, including cancellation or withdrawal of an insurer from the market.⁴ If the policy lapses and the borrower does not secure a replacement policy, most mortgages allow the lender to obtain insurance for the borrower and "force-place" it.⁵

Lender-placed Insurance (LPI)

A LPI policy⁶ is an insurance policy placed by a bank or mortgage servicer on a home when the homeowners' property insurance has lapsed or when the bank or mortgage servicer deems it insufficient.⁷ In recent years, there has been significant media attention on the rates charged for LPI policies and whether insurers and lenders are making excess profits on this line of business.⁸ LPI typically is more expensive than the insurance a borrower purchases on his or her own and

¹ Consumer Financial Protection Bureau, *What is a mortgage?*, [Mortgage answers | Consumer Financial Protection Bureau \(consumerfinance.gov\)](https://consumerfinance.gov/mortgage-answers) (last visited Mar. 17, 2023). The borrower and the lender are also referred to as the mortgagor and mortgagee, respectively.

² Black's Law Dictionary (11th ed. 2019).

³ NAIC, *Lender-Placed Insurance*, <https://content.naic.org/cipr-topics/lender-placed-insurance> (last visited Mar. 12, 2023) (hereinafter cited as "NAIC Lender-Placed Insurance")

⁴ *Id.*

⁵ *Id.*

⁶ LPI is also known as creditor-placed or force-placed insurance.

⁷ NAIC, *supra* note 3.

⁸ *Id.*; The Office of Insurance Regulation, *Agency Analysis SB 410*, Jan. 31, 2023 (hereinafter cited as "OIR Agency Analysis of SB 410") (on file with Senate Committee on Banking and Insurance).

provides more limited coverage.⁹ Concerns have also been raised about “reverse competition” stemming from the use of lender-place insurance because the lender chooses the coverage provider and amount, but the borrower must pay for the coverage.¹⁰

In November 2020 order to address some of these concerns, the National Association of Insurance Commissioners (NAIC) issued a Real Property Lender-Placed Insurance Model Act (Model Act) that can be adopted by member states.¹¹ Its stated purpose includes creating a legal framework within which LPI on real property may be written in a particular state.¹² The Model Act also contains provisions regarding terms of insurance policies, calculation of coverage and payment premiums, evidence of coverage, and filing, approval, and withdrawal of forms and rates, and penalties.¹³

Florida Laws

The Department of Financial Services and the Office of Insurance Regulation (OIR) have general powers and duties, including, in part:

- Enforce the provisions of the Florida Insurance Code;
- Conduct investigations;
- Collect, propose, publish, and disseminate certain information; and
- Publish all orders.¹⁴

Collateral Protection Insurance

Florida law does not use the term LPI. Instead, it refers to collateral protection insurance (CPI), which is defined as:

[C]ommercial property insurance under which a creditor is the primary beneficiary and policyholder and which protects or covers an interest of the creditor arising out of a credit transaction secured by real or personal property. Initiation of such coverage is triggered by the mortgagor’s failure to maintain insurance coverage as required by the mortgage or other lending document. Collateral protection insurance is not residential coverage.¹⁵

This definition applies to a limited number of provisions, including ss. 215.55, F.S. (relating to Florida Hurricane Catastrophe Fund), 627.311, F.S. (relating to joint underwriting and joint reinsurers), and 627.351, F.S. (relating to insurance risk apportionment plans). Further, s. 627.062, F.S., relating to insurance rates, provides for categories or kinds of insurance and types

⁹ *Id.*

¹⁰ *Id.*

¹¹ NAIC Lender-Placed Insurance; OIR Agency Analysis of SB 410.

¹² The NAIC, *Real Property Lender-Placed Insurance Model Act*, Spring 2021, available at: [Model Regulation Service—January 2006 \(naic.org\)](https://www.naic.org/model-regulation-service-january-2006-naic.org) (last visited Mar. 18, 2023) (hereinafter cited as “NAIC Model Act”).

¹³ *Id.*

¹⁴ Section 627.307, F.S.

¹⁵ Section 627.6085, F.S.

of commercial lines risks are not subject to certain provisions in the subsection regulating rates.¹⁶ One category is nonresidential property but the provision explicitly excludes CPI.¹⁷

Review of Insurance Policy Forms and Rates

In general, an insurer may not use forms to issue insurance policies in the state unless the forms have been filed with, and approved by, the OIR.¹⁸ Once filed, OIR has 30 days to review insurance forms.¹⁹ At the end of the 30-day period, forms will be deemed approved unless they have been affirmatively approved or disapproved by OIR.²⁰

Property and casualty insurers must also file a copy of rates, rating schedules, rating manuals, premium credits or discount schedules, and surcharge schedules, and changes to these documents, for approval by OIR.²¹ OIR must review insurers' rate filings to determine whether rates are excessive, inadequate, or unfairly discriminatory.²² In doing so, OIR must consider factors including, but not limited to, the following:

- Past and prospective loss experience in and out of Florida.
- Past and prospective expenses.
- Degree of competition among insurers for particular risk to be insured.
- Investment income reasonably expected by the insurer.
- Reasonableness of the judgment reflected in the filing.
- Dividends, savings, or unabsorbed premium deposits allowed or returns to policyholders, members or subscribers in Florida.
- Adequacy of loss reserves.
- Cost of reinsurance.
- Trend factors.
- Conflagration and catastrophe hazards, if applicable.
- Projected hurricane losses.
- Projected flood losses.
- Reasonable margin for underwriting profit and contingencies.²³

Insurers may make rate filings with OIR on a file and use, or use and file basis. If a filing is made on a file and use basis, OIR has 90 days²⁴ to review and approve the filing before an insurer may use the filed rate.²⁵ In contrast, a use and file rate may be used before filing, but must be filed within 30 days of the effective date.²⁶ A use and file rate is still subject to review and disapproval by OIR.²⁷

¹⁶ Section 627.062(3)(d)1., F.S.

¹⁷ Section 627.062(3)(d)1.j., F.S.

¹⁸ Section 627.410(1), F.S.

¹⁹ Section 627.410(2), F.S.

²⁰ *Id.*

²¹ Section 627.062(2)(a), F.S.

²² Section 627.062(1), F.S.

²³ Section 627.062(2)(b), F.S.

²⁴ For motor vehicle insurance OIR has 60 days to review the filing. See s. 627.0651, F.S.

²⁵ Section 627.062(2)(a)1., F.S.

²⁶ Section 627.062(2)(a)2., F.S.

²⁷ *Id.*

The office may also require an insurer to provide all information necessary to evaluate the condition of the company and the reasonableness of the filing according to the criteria for rates under s. 627.062, F.S.²⁸

Consent Orders

The OIR has disapproved rates of two entities that offer CPI, including Praetorian Insurance Company (Florida's second largest LPI provider) and American Securities Insurance Company.²⁹ The OIR issued consent orders³⁰ ("Consent Orders") with respect to these two companies which required the companies to implement the following business practices prohibiting:

- The payment of commissions to a mortgage servicer on LPI policies obtained by that servicer;
- The payment of contingent commissions based on underwriting profitability or loss ratios;
- The issuance of LPI policies on mortgaged property serviced by an affiliate;
- The issuance of reinsurance on LPI policies with a captive insurer of any mortgage servicer;
- The provision of free or below-cost outsourced services to a mortgage servicer; and,
- The payment of any incentive to a mortgage servicer as an inducement to secure LPI business.³¹

III. Effect of Proposed Changes:

Section 1 of the bill creates a new statutory part of chapter 627, F.S. (Part XXII),³² and substantially adopts the Model Act.

Section 2 of the bill sets out the purposes of:

- Regulating CPI on real property;
- Establishing a legal framework for the writing of CPI on real property in Florida;
- Maintaining separation between lenders or services, and insurers or insurance agents; and
- Minimizing the possibilities of unfair competition practices in the sale, placement, or solicitation, and negotiation of CPI.

²⁸ Section 627.062(2)(f), F.S.

²⁹ Bogner, A., *Office Approves Praetorian Insurance Company's Second Rate Filing for Lender-Placed Insurance*, Feb. 11, 2013, available at: [FLOIR Press Release - Office Approves Praetorian Insurance Company's Second Rate Filing for Lender-Placed Insurance](#) (last visited Mar. 18, 2023); Bogner, A., *Office Disapproves American Security Insurance Company's Lender-Placed Insurance Rate Filing and Issues Order to Decrease Rates by Approximately \$51 million*, Oct. 8, 2013, available at: [FLOIR Press Release - Office Disapproves American Security Insurance Company's Lender-Placed Insurance Rate Filing and Issues Order to Decrease Rates by Approximately \\$51 Million](#) (last visited Mar. 18, 2023).

³⁰ *Id.*; See The OIR, *Consent Order*, Oct. 7, 2013, available at: [AmericanSecurity141841-13-CO.pdf \(floir.com\)](#) (last visited Mar. 18, 2023) (hereinafter cited as "Consent Order").

³¹ *Id.* (noting that these prohibitions and requirements shall be effective one (1) year from the date of the Consent Order, if certain conditions are met).

³² The new statutory chapter part will be part XXII of chapter 627, F.S., and will contain ss. 627.9901-627.9913, F.S. (except for s. 627.9910, F.S.). It is similar to the NAIC Model Act, but is drafted in a way that will fit appropriately within the Florida Insurance Code. Chapters 624-632, 634, 635, 636, 641, 642, 648, and 651 constitute the Florida Insurance Code. Section 624.01, F.S.

Section 3 of the bill provides that Part XXII applies to insurers and insurance agents engaged in transactions of CPI on real property. All CPI policies for mortgaged real property, including manufactured and mobile homes is subject to Part XXII except:

- Transactions involving extensions of credit primarily for business, commercial, or agricultural purposes.
- Insurance offered by a lender or servicer and elected by the mortgagor at the mortgagor's option.
- Insurance purchased by a lender or servicer on real-estate owned property.³³
- Insurance for which no specific charge is made to the mortgagor or mortgagor's account.

Section 4 of the bill contains statutory definitions of CPI and several related terms. CPI has the same meaning as the definition in s. 624.6085, F.S., except the term applies only to mortgaged real property and not to personal property. Section 624.6085, F.S., defines CPI as commercial property insurance under which a creditor is the primary beneficiary and policyholder, and which protects or covers the creditor's interest arising out of a credit transaction secured by the real property.³⁴ CPI is triggered by the mortgagor's failure to maintain insurance coverage required by the mortgage or other lending document.

Individual CPI is defined in the bill as coverage for individual real property evidenced by a certificate of coverage under a master CPI policy or a CPI policy for individual real property. A master CPI policy is a group policy issued to a lender or servicer providing coverage for all loans in the lender's or servicer's loan portfolio, as needed.

Pursuant to **section 5** of the bill, CPI becomes effective no earlier than the date of lapse of insurance on mortgaged real property. Individual CPI terminates on the earliest of the following dates:

- The date on which insurance acceptable under the mortgage agreement becomes effective.
- The date on which the applicable real property no longer serves as collateral for a mortgage loan.
- Such other date specified by the individual policy or certificate of insurance.
- Such other date as specified by the lender or servicers
- The termination date of the policy.

According to **section 6** of the bill, CPI coverage, and the calculation of the related premium, should be based on the replacement cost value of the real property serving as collateral, as best determined by the last known coverage amount. The last known coverage amount is the dwelling coverage amount specified in the most recent evidence of insurance coverage provided by the mortgagee. The bill requires that an insurer or insurance agent ask the insured, at least once, for the last known coverage amount. If the insurer or insurance agent cannot obtain the last known coverage amount from the insured or by another means, the CPI coverage and the calculation of the related premium may be based on the:

- Replacement cost of the real property serving as collateral as calculated by the insurer; or

³³ Real-estate owned property is often referred to as bank-owned property, and may be property that failed to sell during a foreclosure.

³⁴ This definition is similar to the definition of collateral protection insurance in s. 624.6085, F.S., discussed above, except that definition also includes coverage secured by personal property.

- If the replacement cost is prohibited by other state or federal law, the unpaid principal balance of the mortgage loan.

In any event, a mortgagor must not be charged for CPI before the effective date of the CPI or for a term longer than the scheduled term of the CPI.

Section 7 of the bill prohibits the following practices by insurers or insurance agents related to CPI:

- Issuing CPI on mortgaged real property if the insurer or insurance agent or an affiliate of the insurer or insurance agent owns the real property or performs the servicing for, or owns the servicing rights to, the real property.
- Compensating a lender, insurer, investor, or servicer, including through the payment of commissions, on CPI policies issued by the insurer.
- Sharing CPI premium or risk with the lender, investor, or servicer that obtained the CPI.
- Offering contingent commissions, profit-sharing, or other payments dependent on profitability or loss ratios to any person affiliated with a servicer or the insurer in connection with CPI.
- Providing free or below-cost outsourced services to a lender, investor, or servicer and outsourcing its own functions to a lender, investor, or servicer at a rate above cost.
- Making any payments, including, but not limited to, the payment of expenses to a lender, insurer, investor, or servicer to secure CPI business or related outsourced services.

Section 8 of the bill provides that this part may not be construed to authorize an insurance agent or insurer solely underwriting CPI to circumvent the requirements of Part XXII. Any requirement, limitation, or exclusion provided in Part XXII applies to an insurer or insurance agent involved in CPI.

Section 9 of the bill requires that proof of CPI is provided in an individual policy or certificate of insurance, which must be delivered to the mortgagor either by mail, in person, or electronically.³⁵ The individual policy or certificate of insurance must include all of the following information:

- Address and identification of the insured real property.
- Coverage amount, or amounts if multiple coverages are provided.
- Effective date of coverage.
- Term of coverage.
- Premium charged for the coverage.
- Contact information for filing a claim.
- Complete description of the coverage provided.

Section 10 of the bill provides, except as otherwise provided in Part XXII, rate and form filing requirements are subject to the Florida Insurance Code. The policy forms and certificates of insurance for CPI, and related premium rates, must be reviewed and approved by OIR as provided in s. 627.062, F.S. As part of the rate review, OIR must also evaluate whether expenses included by the insurer in the rates are appropriate. The bill requires that insurers subject to Part XXII refile CPI insurance rates at least once every four years. All insurers writing CPI must have

³⁵The Uniform Electronic Transaction Act, s. 668.50, F.S., provides the requirements for electronic delivery.

separate rates for CPI and voluntary insurance obtained by a mortgage servicer on real-estate owned property.

An insurer must include its experience in existing programs in the associated filings upon the introduction of a new CPI program. Part XXII does not limit an insurer's discretion, as actuarially appropriate, to distinguish different terms, conditions, exclusions, eligibility criteria, or other unique or different characteristics. An insurer may also rely on models, where actuarially acceptable, or in the case of flood filings where applicable experience is not credible, on National Flood Insurance Program data.

By April 1 each year, each insurer with at least \$100,000 in direct written premium for CPI in Florida during the prior calendar year must report the following information to OIR for the prior calendar year:

- Actual loss ratio.³⁶
- Earned premiums.
- Any aggregate schedule rating debit or credit to earned premium.
- Itemized expenses.
- Paid losses.
- Loss reserves, including case reserves and reserves for incurred but not reported losses.³⁷

The report must be produced for each CPI program and presented on both an individual-jurisdiction and countrywide basis. Except for CPI for flood insurance, an insurer experiencing an annual rate loss ratio of less than 35 percent in any collateral protection insurance program for 2 consecutive years, must submit a rate filing, either adjusting its rates or supporting their continuance, to the office no more than 90 days after the submission of the data required.

Section 11 of the bill provides OIR with the rights and powers to enforce Part XXII, and all proceedings brought pursuant to Part XXII will be conducted under the Florida Administrative Procedures Act.³⁸ Any penalties must be assessed in accordance with 624.4211, F.S. **Section 12** of the bill provides OIR with rulemaking authority so that it may, after notice and hearing, adopt reasonable rules and regulations to implement and administer Part XXII. Finally, **section 13** of the bill contains a severability clause so that if any portion of Part XXII is held invalid, the remainder of the Part is not affected.

The OIR has reported that the “majority of insurers in Florida are already in compliance with the requirements of the proposed law,” but smaller companies that are not yet complying with the model provisions could be impacted by the provisions of the bill.³⁹

Section 14 provides the bill is effective July 1, 2023.

³⁶ Loss ratio is an insurer's actual claims paid plus loss adjustment expenses divided by total earned premiums.

³⁷ Incurred but not reported losses are estimated liabilities from losses that have taken place and not yet been reported to insurers as claims.

³⁸ The Florida Administrative Procedures Act is ch. 120, F.S.

³⁹ OIR Agency Analysis of SB 410.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates part XXII of ch. 627, F.S., including ss. 627.9901, 627.9902, 627.9903, 627.9904, 627.9905, 627.9906, 627.9907, 627.9908, 627.9909, 627.9911, 627.9912 627.9913 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

By Senator Garcia

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1 A bill to be entitled
 2 An act relating to collateral protection insurance;
 3 creating part XXII of ch. 627, F.S., entitled
 4 "Collateral Protection Insurance"; creating s.
 5 627.9901, F.S.; providing legislative purpose;
 6 creating s. 627.9902, F.S.; providing applicability;
 7 creating s. 627.9903, F.S.; defining terms; creating
 8 s. 627.9904, F.S.; specifying requirements for
 9 collateral protection insurance policy terms;
 10 providing a restriction on insurance charges made to
 11 mortgagors; creating s. 627.9905, F.S.; providing for
 12 the calculation of collateral protection insurance
 13 coverages and premiums; requiring certain excess
 14 replacement cost coverage to be paid to the mortgagor;
 15 prohibiting insurers from writing collateral
 16 protection insurance having certain premium rates;
 17 creating s. 627.9906, F.S.; specifying prohibited
 18 practices by insurers and insurance agents relating to
 19 collateral protection insurance; creating s. 627.9907,
 20 F.S.; providing construction relating to
 21 noncircumvention; creating s. 627.9908, F.S.;
 22 providing requirements for the delivery and contents
 23 of policies or certificates of collateral protection
 24 insurance; creating s. 627.9909, F.S.; specifying
 25 requirements for the filing of policy forms and rates;
 26 requiring certain insurers to file specified annual
 27 reports with the Office of Insurance Regulation;
 28 providing construction; creating s. 627.9911, F.S.;
 29 specifying the office's authority to enforce the

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

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30 provisions of the part; specifying applicable
 31 provisions for proceedings and for assessing
 32 penalties; creating s. 627.9912, F.S.; authorizing the
 33 Financial Services Commission to adopt rules; creating
 34 s. 627.9913, F.S.; providing severability; providing
 35 an effective date.
 36

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

38
 39 Section 1. Part XXII of chapter 627, Florida Statutes,
 40 consisting of ss. 627.9901-627.9913, Florida Statutes, is
 41 created and entitled "Collateral Protection Insurance."

42 Section 2. Section 627.9901, Florida Statutes, is created
 43 to read:

44 627.9901 Purpose.—The purpose of this part is to:

45 (1) Promote the public welfare by regulating collateral
 46 protection insurance on real property.

47 (2) Create a legal framework within which collateral
 48 protection insurance on real property may be written in this
 49 state.

50 (3) Help maintain the separation between the lenders and
 51 servicers and the insurers and insurance agents.

52 (4) Minimize the possibility of unfair competitive
 53 practices in the sale, placement, solicitation, and negotiation
 54 of collateral protection insurance.

55 Section 3. Section 627.9902, Florida Statutes, is created
 56 to read:

57 627.9902 Scope.—

58 (1) This part applies to insurers and insurance agents

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engaged in any mortgage transaction involving collateral protection insurance.

(2) All collateral protection insurance written in connection with mortgaged real property, including manufactured and mobile homes, is subject to the provisions of this part, except:

(a) Insurance associated with mortgage loans or other extensions of credit made primarily for business, commercial, or agricultural purposes.

(b) Insurance offered by the lender or servicer and elected by the mortgagor at the mortgagor's option.

(c) Insurance purchased by a lender or servicer on real estate owned property.

(d) Insurance for which no specific charge is made to the mortgagor or the mortgagor's account.

Section 4. Section 627.9903, Florida Statutes, is created to read:

627.9903 Definitions.—As used in this part, the term:

(1) "Affiliate" has the same meaning as in s. 624.10.

(2) "Collateral protection insurance" has the same meaning as in s. 624.6085, provided that for purposes of this part, the term applies only to mortgaged real property and not to personal property.

(3) "Individual collateral protection insurance" means coverage for individual real property evidenced by a certificate of coverage under a master collateral protection insurance policy or a collateral protection insurance policy for individual real property.

(4) "Insurance agent" has the same meaning as the term

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"agent" in s. 626.015.

(5) "Insurer" has the same meaning as in s. 624.03, provided that for purposes of this part, the term is limited to an insurer, or an affiliate of the insurer, authorized to issue collateral protection insurance on mortgaged real property in this state.

(6) "Investor" means a person or an entity, or an affiliate thereof, holding a beneficial interest in loans secured by real property.

(7) "Lapse" means the date on which a mortgagor has failed to comply with a mortgage agreement's requirements to maintain valid and sufficient insurance upon mortgaged real property.

(8) "Lender" means a person or an entity, or an affiliate thereof, making loans secured by an interest in real property.

(9) "Loss ratio" means the ratio of incurred losses to earned premium.

(10) "Master collateral protection insurance policy" means a group policy issued to a lender or servicer which provides coverage for all loans in the lender's or servicer's loan portfolio as needed.

(11) "Mortgage agreement" means the written document setting forth an obligation or a liability of any kind secured by a lien on real property and due from, owing by, or incurred by a mortgagor to a lender on account of a mortgage loan, which document includes the security agreement, the deed of trust, other documents of similar effect, and any other document incorporated by reference.

(12) "Mortgage loan" has the same meaning as in s. 494.001(25)(a).

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(13) "Mortgagee" means a person who holds mortgaged real property as security for repayment of a mortgage agreement.

(14) "Mortgagor" means a person who is obligated on a mortgage loan pursuant to a mortgage agreement.

(15) "Real estate owned property" means property owned or held by a lender or servicer as a result of a foreclosure under the related mortgage agreement or acceptance of a deed in lieu of foreclosure.

(16) "Replacement cost value" means the estimated cost to replace covered property at the time of loss or damage without deduction for depreciation. Replacement cost value is not market value but is the cost to replace covered property to its pre-loss condition.

(17) "Servicer" means a person or an entity, or an affiliate thereof, contractually obligated to service one or more mortgage loans for a lender or an investor. The term includes an entity involved in subservicing arrangements.

Section 5. Section 627.9904, Florida Statutes, is created to read:

627.9904 Term of insurance policy.—

(1) Collateral protection insurance must become effective no earlier than the date of lapse of insurance upon mortgaged real property subject to the terms of a mortgage agreement or any state or federal law requiring the same.

(2) Individual collateral protection insurance must terminate on the earliest of the following dates:

(a) The date on which insurance acceptable under the mortgage agreement becomes effective, subject to the mortgagor providing sufficient evidence of such acceptable insurance.

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(b) The date on which the applicable real property no longer serves as collateral for a mortgage loan pursuant to a mortgage agreement.

(c) Such other date as specified by the individual policy or certificate of insurance.

(d) Such other date as specified by the lender or servicer.

(e) The termination date of the policy.

(3) An insurance charge may not be made to a mortgagor for collateral protection insurance before the effective date of the collateral protection insurance or for a term longer than the scheduled term of the collateral protection insurance.

Section 6. Section 627.9905, Florida Statutes, is created to read:

627.9905 Calculation of coverage and payment of premiums.—

(1) Any collateral protection insurance coverage, and the subsequent calculation of premium, should be based upon the replacement cost value of the property, which is determined as:

(a) If known to the lender or servicer, the last known coverage amount, which is the dwelling coverage amount set forth in the most recent evidence of insurance coverage provided by the mortgagee. The insurer shall inquire of the insured at least once as to the last known coverage amount. If the insurer is unable to obtain the last known coverage amount from the insured or in another manner, the insurer may proceed according to paragraph (b) or paragraph (c), as applicable.

(b) If the last known coverage amount is unknown, the replacement cost of the property serving as collateral, as calculated by the insurer, unless the use of replacement cost for this purpose is prohibited by other state or federal law.

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(c) If the last known coverage amount is unknown and the replacement cost is not available or its use is prohibited by other state or federal law, the unpaid principal balance of the mortgage loan.

(2) In the event of a covered loss, any replacement cost coverage provided by an insurer in excess of the unpaid principal balance of the mortgage loan must be paid to the mortgagor.

(3) An insurer may not write collateral protection insurance for which the premium rate differs from that determined by the schedules of the insurer on file with the office as of the effective date of any such policy.

Section 7. Section 627.9906, Florida Statutes, is created to read:

627.9906 Prohibited practices.—

(1) An insurer or insurance agent may not issue collateral protection insurance on mortgaged property that the insurer or insurance agent, or an affiliate thereof, owns, performs the servicing for, or owns the servicing right to.

(2) An insurer or insurance agent may not compensate, including through the payment of commissions to, a lender, an insurer, an investor, or a servicer on collateral protection property insurance policies issued by the insurer.

(3) An insurer or insurance agent may not share collateral protection insurance premium or risk with the lender, investor, or servicer that obtained the collateral protection insurance.

(4) An insurer or insurance agent may not offer contingent commissions, profit sharing, or other payments dependent upon profitability or loss ratios to any person affiliated with a

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servicer or the insurer in connection with collateral protection insurance.

(5) An insurer may not provide free or below-cost outsourced services to lenders, investors, or servicers or outsource its own functions to lenders, insurance agents, investors, or servicers on an above-cost basis.

(6) An insurer or insurance agent may not make any payments, including, but not limited to, the payment of expenses to a lender, an insurer, an investor, or a servicer, for the purpose of securing collateral protection insurance business or related outsourced services.

Section 8. Section 627.9907, Florida Statutes, is created to read:

627.9907 Noncircumvention.—This part may not be construed to authorize an insurance agent or insurer solely underwriting collateral protection insurance to circumvent the requirements of this part. Any requirement, limitation, or exclusion provided in this part applies to an insurer or insurance agent involved in collateral protection insurance.

Section 9. Section 627.9908, Florida Statutes, is created to read:

627.9908 Evidence of coverage.—Collateral protection insurance must be set forth in an individual policy or certificate of insurance. A copy of the individual policy, certificate of insurance, or other evidence of insurance coverage must be mailed, first-class mailed, or delivered in person to the last known address of the mortgagor, or delivered in accordance with s. 668.50. Notwithstanding any other information required by general law or by rule, the individual

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policy or certificate of insurance coverage must include all of the following information:

(1) The address and identification of the insured property.

(2) The coverage amount, or amounts if multiple coverages are provided.

(3) The effective date of the coverage.

(4) The term of coverage.

(5) The premium charge for the coverage.

(6) Contact information for filing a claim.

(7) A complete description of the coverage provided.

Section 10. Section 627.9909, Florida Statutes, is created to read:

627.9909 Filing, approval, and withdrawal of forms and rates.—

(1) Except as otherwise provided in this part, all policy forms and certificates of insurance to be delivered or issued for delivery in this state are subject to the applicable provisions of s. 627.410, and the schedules of premium rates pertaining thereto are subject to the applicable provisions of s. 627.062.

(2) With respect to any analysis of rates in accordance with s. 627.062(1), the analysis must also include a determination as to whether expenses included by the insurer in the rate are appropriate.

(3) Notwithstanding s. 627.0645, insurers subject to this part shall refile collateral protection property insurance rates at least once every 4 years.

(4) All insurers writing collateral protection insurance shall have separate rates for collateral protection insurance

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and voluntary insurance obtained by a mortgage servicer on real estate owned property.

(5) Upon the introduction of a new collateral protection insurance program, the insurer shall reference its experience in existing programs in the associated filings. This part does not limit an insurer's discretion, as actuarially appropriate, to distinguish different terms, conditions, exclusions, eligibility criteria, or other unique or different characteristics. Moreover, an insurer may, where actuarially acceptable, rely upon models or, in the case of flood filings where applicable experience is not credible, on National Flood Insurance Program data.

(6) By April 1 of each year, each insurer with at least \$100,000 in direct written premium for collateral protection insurance in this state during the prior calendar year shall report to the office the following information for the prior calendar year:

(a) Actual loss ratio.

(b) Earned premium.

(c) Any aggregate schedule rating debit or credit to earned premium.

(d) Itemized expenses.

(e) Paid losses.

(f) Loss reserves, including case reserves and reserves for incurred but not reported losses.

The report must be separately produced for each collateral protection insurance program and presented on both an individual-jurisdiction and countrywide basis.

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291 (7) Except in the case of collateral protection insurance
 292 covering the peril of flood, to which this subsection does not
 293 apply, if an insurer experiences an annual loss ratio of less
 294 than 35 percent in any collateral protection insurance program
 295 for 2 consecutive years, it must submit a rate filing, either
 296 adjusting its rates or supporting their continuance, to the
 297 office no more than 90 days after the submission of the data
 298 required in paragraph (6) (f).

299 (8) Except as specifically set forth in this section, rate
 300 and form filing requirements are subject to the Florida
 301 Insurance Code.

302 Section 11. Section 627.9911, Florida Statutes, is created
 303 to read:

304 627.9911 Enforcement; proceedings; penalties.—The office
 305 has all rights and powers to enforce the provisions of this part
 306 as provided by s. 624.307. All proceedings must be conducted in
 307 accordance with chapter 120. Any penalty must be assessed in
 308 accordance with s. 624.4211.

309 Section 12. Section 627.9912, Florida Statutes, is created
 310 to read:

311 627.9912 Rulemaking.—The commission may adopt rules to
 312 administer this part.

313 Section 13. Section 627.9913, Florida Statutes, is created
 314 to read:

315 627.9913 Severability.—If any provision of this part or its
 316 application to any person or circumstance is held invalid, the
 317 invalidity does not affect other provisions or applications of
 318 this part which can be given effect without the invalid
 319 provision or application, and to this end the provisions of this

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320 part are severable.

321 Section 14. This act shall take effect July 1, 2023.



March 21, 2023

Chair Boyd,

I am writing to respectfully request an absence excusal from the Committee on Banking and Insurance scheduled for Wednesday, March 22nd, at 11 AM. Senator Hutson will courteously be presenting SB 410: Collateral Protection Insurance on my behalf. Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ileana Garcia", written in black ink.

Senator Ileana Garcia
District 36



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Children, Families, and Elder Affairs, *Chair*
Appropriations Committee on Health and
Human Services, *Vice Chair*
Appropriations Committee on Agriculture, Environment,
and General Government
Education Postsecondary
Ethics and Elections
Fiscal Policy
Health Policy
Rules

SENATOR ILEANA GARCIA

36th District

February 13, 2023

Senator Jim Boyd, Chair
Committee on Banking and Insurance
510 Knott Building
Tallahassee FL 32399

Dear Chair Boyd:

Senate Bill 410, relating to collateral protection insurance, has been referred to your committee. I would appreciate it if you would consider placing the bill on an upcoming agenda at your convenience.

Thank You,

Ileana Garcia
State Senator

cc: James Knudson
Amaura Canty

REPLY TO:

- ☐ 2828 Coral Way, Suite 208, Miami, Florida 33145 (305) 442-6841
- ☐ 322 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5036

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

COMMITTEE: Banking and Insurance
ITEM: SB 410
FINAL ACTION: Favorable
MEETING DATE: Wednesday, March 22, 2023
TIME: 11:00 a.m.—1:30 p.m.
PLACE: 412 Knott Building

FINAL VOTE		SENATORS	3/22/2023 Motion to vote "YEA" after Roll Call					
			Burgess					
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Broxson						
VA		Burgess						
X		Burton						
X		Hutson						
		Ingoglia						
X		Mayfield						
X		Powell						
X		Thompson						
X		Torres						
X		Trumbull						
X		DiCeglie, VICE CHAIR						
X		Boyd, CHAIR						
11	0		FAV	-				
Yea	Nay	TOTALS	Yea	Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered

RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call

WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

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 516

INTRODUCER: Banking and Insurance Committee and Senator DiCeglie

SUBJECT: Motor Vehicle Liability Policies

DATE: March 24, 2023

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 516 amends Florida's Financial Responsibility Law regarding the operation of a motor vehicle to permit certain risk retention groups and surplus lines insurers to provide commercial auto insurance coverage. Risk retention groups are authorized by federal law and sell insurance to eligible members and shareholders. Surplus lines insurers sell insurance coverage that is not available from insurers licensed in the state. Risk retention groups, as well as surplus lines insurers, do not submit rate and form filings to state regulators and are not members of state guaranty associations that manage claims if an insurer becomes insolvent.

The risk retention groups and surplus lines insurers authorized by the bill to provide commercial auto insurance coverage must have an "A" or higher rating for financial strength and "VIII" or higher rating for financial size from A.M. Best Company.

The bill has an unknown but likely insignificant negative fiscal impact to the Department of Highway Safety and Motor Vehicles and no impact on local governments.

The bill has an effective date of July 1, 2023.

II. Present Situation:

Florida's Motor Vehicle Financial Responsibility Law

Chapter 324, F.S., sets forth the financial responsibility laws for owners or operators of motor vehicles in Florida, whether they be used for personal or commercial purposes. Generally, a motor vehicle owner or operator is required to insure against losses from liability for bodily injury, death, and property damage by 1) purchasing auto insurance from an insurance carrier authorized by the Office of Insurance Regulation (OIR) to do business in Florida;¹ or 2) obtaining a certificate of self-insurance from the Department of Highway Safety and Motor Vehicles (DHSMV) after demonstrating the ability to cover potential losses arising out of the ownership, maintenance, or use of a motor vehicle.²

The OIR licenses insurance carriers and reviews policy contracts and premium rates of its licensees.³ An insurance carrier may not issue an auto insurance policy in Florida unless the policy includes coverages for both personal injury and property damage.⁴

The DHSMV administers the Financial Responsibility Law by requiring all licensed insurance companies to provide electronic notification of all policies that are issued or cancelled.⁵ Vehicle owners must show proof of personal injury protection and property damage liability coverage to register a vehicle,⁶ and must provide proof of bodily injury liability coverage if they are involved in an accident and charged with a moving violation.⁷ A vehicle owner who fails to maintain continuous coverage may have his or her driver's license and registration suspended.⁸ Required coverages vary based on the use of a motor vehicle.

For individual motorists, the law requires \$10,000 in personal injury protection and \$10,000 for property damage.⁹ If a driver has been convicted of driving under the influence of alcohol, the motorist must maintain liability coverage of \$100,000 for bodily injury to, or death of, one person in any one crash and in the amount of \$300,000 due to bodily injury to, or death of, two or more persons in any one crash and in the amount of \$50,000 because of property damage in any one crash per accident, for three years after the license is reinstated.¹⁰

For leased motor vehicles, the lessor is not liable for the actions of a lessee so long as the lease requires \$100,000/\$300,000 bodily injury liability and \$50,000 property damage liability or not less than \$500,000 combined property damage and bodily injury liability.¹¹ For-hire passenger vehicles like taxicabs and limousines must have bodily injury liability coverage of \$125,000 per person and \$250,000 per occurrence, and \$50,000 property damage coverage.¹²

¹ Section 324.021(8), F.S.

² Sections 324.161 and 324.171, F.S. *Also see* Florida Department of Highway Safety and Motor Vehicles, Self-Insurance, <https://www.flhsmv.gov/insurance/self-insurance/firm/> (last accessed March 8, 2023).

³ Sections 624.404, 627.062, 627.410, and 627.4102, F.S.

⁴ Section 627.7275, F.S.

⁵ Sections 324.0221, 324.252, F.S., and Rules 15A-3.007 and 15A-3.012, F.A.C.

⁶ Sections 324.022, 324.023, F.S., and Rule 15A-3.006, F.A.C.

⁷ Section 324.021, F.S. *Also see*, Florida Highway Safety and Motor Vehicles, *Florida Insurance Requirements*, <https://www.flhsmv.gov/insurance/> (last accessed March 8, 2023).

⁸ Section 324.0221, F.S.

⁹ Sections 324.021(7), 324.022, and 627.736, F.S.

¹⁰ Section 324.023, F.S.

¹¹ Section 324.021(9), F.S.

¹² Sections 324.032, F.S.

Commercial motor vehicles operating on Florida's highways are subject to state and federal regulations related to size and weight limits, safety standards, and registration requirements. Commercial vehicles that weigh 10,001 pounds or more, and engage in interstate commerce or haul hazardous materials, are subject to federal law, where required coverages range from \$750,000 to \$5 million.¹³ Commercial vehicles that weigh 26,001 pounds or more, operate only within Florida, and do not transport hazardous materials are subject to Florida law, where required coverages range from \$50,000 to \$300,000.¹⁴

When the owner or operator of a motor vehicle purchases liability insurance to satisfy the financial responsibility law, the policy must be issued by an insurance company authorized to do business in Florida.¹⁵ When an owner or operator self-insures a vehicle or fleet of vehicles, the owner or operator must obtain a certificate of self-insurance from the DHSMV.¹⁶

Risk Retention Groups

Federal law treats risk retention groups, which may sell insurance only to eligible members, differently than traditional insurance companies. Members of a risk retention group must be engaged in similar businesses or activities that have similar exposures due to the type of business, trade, product, service, premises, or operations.¹⁷

Authorized insurers must be licensed in every state in which they operate and the domicile state serves as the primary regulator. Risk retention groups need to be licensed as a liability insurer in only one state; further, those that were chartered prior to 1985 may operate under the laws of Bermuda or the Cayman Islands.¹⁸ State regulators may require risk retention groups to comply with state laws relating to claim settlement and false or fraudulent acts, pay premium taxes, register with the designated state agent for service of process, and submit to financial exams if such exam has not been completed by the state in which the risk retention group is chartered.¹⁹

States may not require a risk retention group to participate in any insolvency guaranty association.²⁰ However, states may require notice that insurance provided by a risk retention group is not protected by an insolvency guaranty association.²¹ Unlike authorized insurers, risk retention groups do not submit rate and form filings with a state regulator. Instead, risk retention groups apportion risk among their members; thus, rates are based on an actuarial analysis of the membership and policies can be tailored to suit the needs of the membership.²²

Risk retention groups may only provide liability insurance; the law defines liability insurance as coverage for liability for damages to persons or property arising out of any business, trade,

¹³ 49 CFR § 387.9.

¹⁴ Sections 207.002(1), 320.01(25), and 627.7415, F.S.

¹⁵ Section 324.021(8), F.S.

¹⁶ Section 324.171, F.S.

¹⁷ 15 U.S.C. § 3901(a)(4)(F) and s. 627.942(9), F.S.

¹⁸ 15 U.S.C. § 3901(a)(4) and s. 627.942(9), F.S.

¹⁹ 15 U.S.C. § 3902(a)(1).

²⁰ 15 U.S.C. § 3902(a)(2).

²¹ 15 U.S.C. § 3902(a)(1).

²² National Association of Insurance Commissioners, *Risk Retention Groups*, [Risk Retention Groups \(naic.org\)](https://www.naic.org/risk-retention-groups) (last accessed March 8, 2023).

product, professional service, premise, operation, or activity of a state or local government.²³ Liability insurance does not include an employer's liability to its employees; thus, risk retention groups may not issue workers' compensation insurance policies to their members.²⁴

Risk retention groups may operate in Florida if they obtain a certificate of authority as a liability insurer, or are licensed in another state and provide a copy of their business plan and annual financial statement to the OIR and designate the Chief Financial Officer as agent for service of process.²⁵ According to the OIR, 140 risk retention groups are licensed in a state other than Florida and registered to do business in Florida.²⁶

Risk retention groups licensed in Florida pay the same premium taxes as Florida-licensed insurers.²⁷ Risk retention groups registered to operate in Florida but licensed in another state pay the same premium taxes as surplus lines insurers that are allowed to sell lines of insurance that consumers cannot obtain from Florida-licensed insurers.²⁸ All risk retention groups operating in Florida must use agents who are licensed and appointed in Florida.²⁹

The International Risk Management Institute describes "fronting" as the use of a licensed, admitted insurer to issue an insurance policy on behalf of a self-insured organization or captive insurer without transferring any risk.³⁰ The risk of loss under the policy remains with the self-insured entity or captive insurer, but the authorized insurer (and, in the event of insolvency, the guaranty association the insurer belongs to) assumes a credit risk because it would be required to honor the policy if the insured fails to honor the policy. This provides proof of coverage that is needed to satisfy financial responsibility laws.

Under the Florida Insurance Code, a "fronting company" is defined as "an authorized insurer which by reinsurance or otherwise generally transfers more than 50 percent to one unauthorized insurer which does not meet the requirements" to be an accredited or trusteesd reinsurer in Florida.³¹ Section 624.404(4)(a), F.S., provides that "[n]o authorized insurer shall act as a fronting company for any unauthorized insurer which is not an approved reinsurer."

Florida law explicitly prohibits:

²³ 15 U.S.C. 3901(a)(2)(A) and s. 627.942(9)(g), F.S.

²⁴ 15 U.S.C. 3901(a)(2)(B) and s. 627.942(4), F.S.

²⁵ Sections 627.943 and 627.944, F.S.

²⁶ Florida Office of Insurance Regulation, *Active Company Search*, <https://companysearch.myfloridacfo.gov/> (last accessed March 8, 2023).

²⁷ Section 627.943(4), F.S. Pursuant to s. 624.509, F.S., premium taxes (typically 1.75 percent of the premium) are collected by the licensed insurer and paid to the Department of Revenue on or before March 1 of each year.

²⁸ Section 627.944 (3), F.S. Pursuant to s. 626.932, F.S., premium taxes (4.94 percent of the premium) are collected by the licensed insurance agent and paid to the Department of Financial Services on a quarterly basis; premiums are also reported to the Florida Surplus Lines Service Office (FSLSO) which oversees the reporting requirements of eligible surplus lines insurers. The FSLSO website is <https://www.fslso.com/>.

²⁹ Sections 627.943(5) and 627.944(12), F.S.

³⁰ International Risk Management Institute, *Glossary*, <https://www.irmi.com/term/insurance-definitions/fronting> (last accessed March 8, 2023).

³¹ Section 624.404(4)(b), F.S.

- An authorized insurer or licensed motor vehicle service agreement company from acting as a fronting company for any unauthorized insurer or unlicensed motor vehicle service agreement company.³²
- An authorized insurer or licensed home warranty association from acting as a fronting company for any unauthorized insurer or unlicensed home warranty association.³³
- An authorized insurer or licensed service warranty association from acting as a fronting company for any unauthorized insurer or unlicensed service warranty association.³⁴

Surplus Lines Insurance

Surplus lines insurance refers to a category of insurance for which the admitted market is unable or unwilling to provide coverage.³⁵ There are three basic categories of surplus lines risks:

- Specialty risks that have unusual underwriting characteristics or underwriting characteristics that admitted insurers view as undesirable;
- Niche risks for which admitted carriers do not have a filed policy form or rate; and
- Capacity risks that are risks where an insured needs higher coverage limits than those that are available in the admitted market.

Surplus lines insurers are not “authorized” insurers as defined in the Florida Insurance Code,³⁶ which means they do not obtain a certificate of authority from the OIR to transact insurance in Florida.³⁷ Rather, surplus lines insurers are “unauthorized” insurers,³⁸ but may transact surplus lines insurance if they are made “eligible” by the OIR. To be made eligible to transact insurance, a surplus lines insurer must meet the following requirements related to regulatory oversight in other jurisdictions and solvency:³⁹

- The surplus lines insurer is authorized in the state or country of its domicile as to the kind or kinds of insurance proposed to be placed with the insurer.
 - The insurer must have been an authorized insurer for at least the 3 preceding years. The OIR may waive the 3-year requirement if the insurer provides a product or service not readily available to Florida consumers or has operated successfully for a period of at least 1 year and has capital and surplus of not less than \$25 million.
- The surplus lines insurer or an agent requesting to export a policy to the surplus lines insurer must provide the OIR with a duly authenticated copy of the surplus lines insurer’s current annual financial statement, and also must provide any additional information regarding the insurer that the OIR requests.
- The surplus lines insurer must maintain a surplus as to policyholders of at least \$15 million.
 - Alien surplus lines insurers (insurers formed under laws other than those of Florida or any state, district, territory, or commonwealth of the United States) must also maintain in

³² Section 634.241, F.S.

³³ Section 634.326, F.S.

³⁴ Section 634.429, F.S.

³⁵ The admitted market is comprised of insurance companies licensed to transact insurance in Florida. The administration of surplus lines insurance business is managed by the Florida Surplus Lines Service Office. S. 626.921, F.S.

³⁶ Section 624.01, F.S., provides that the Florida Insurance Code is chapters 624-632, 634, 635, 636, 641, 642, 648, and 651, F.S.

³⁷ Section 624.09(1), F.S.

³⁸ Section 624.09(2), F.S.

³⁹ Section 626.918, F.S.

- the United States a trust fund for the protection of policyholders deemed adequate by the OIR of at least \$5.4 million.
- A surplus lines insurer which is a member of an insurance holding company that includes a member which is a Florida domestic insurer may elect to maintain surplus as to policyholders in an amount equal to the requirements of s. 624.408, F.S., and must be in compliance with ch. 625, F.S.
 - The insurer must be of good reputation as to the providing of service to its policyholders and the payment of losses and claims.
 - The officers and directors of the insurer must be competent and trustworthy, meeting the requirements of s. 624.404(3), F.S.

Policies issued by an impaired or insolvent surplus lines insurer are not covered by any of Florida's guaranty associations.

A.M. Best Credit Rating Agency

A.M. Best, founded in 1899, is a credit rating agency and is the largest credit rating agency in the world specializing in the insurance industry. Headquartered in the United States, A.M. Best assesses the creditworthiness of and/or reports on over 16,000 insurance companies worldwide. The company⁴⁰ reports that its ratings are independent and summarize the insurance company's ability to pay claims, debts and other financial obligations in a timely manner.⁴¹

A Best's Credit Rating (BCR) is given by A.M. Best and is based on its opinion regarding an insurer's relative creditworthiness. According to A.M. Best:

The opinion represents a comprehensive analysis consisting of a quantitative and qualitative evaluation of balance sheet strength, operating performance, and business profile or, where appropriate, the specific nature and details of a security... A BCR is developed considering relevant aspects of Best's Rating Methodologies (BRMs).⁴²

A.M. Best assigns each rated insurance company a Financial Strength Rating (FSR). The FSR is an opinion of an insurer's financial strength and ability to meet its on-going insurance policy and contract obligations.⁴³ The lowest FSR ranking is "D" (Poor) – the highest ranking is "A+" (Superior).⁴⁴ A ranking of "A" (Excellent) is the second highest ranking.

A.M. Best assigns each rated insurance company a Financial Size Category (FSC). The FSC is based on adjusted policyholders' surplus in U.S. dollars and is designed to provide an indicator of

⁴⁰ A.M. Best is registered as a Nationally Recognized Statistical Rating Organization (NRSRO) by the Securities & Exchange Commission and as a Credit Rating Provider by the National Association of Insurance Commissioners in the US. *A.M. Best – About Us*, <https://web.ambest.com/about/> (last accessed March 8, 2023).

⁴¹ *Id.*

⁴² *A.M. Best – Guide to Best's Credit Ratings - Summary*, <https://web.ambest.com/ratings-services/guide-to-best-s-credit-ratings> (last accessed March 8, 2023).

⁴³ *A.M. Best – Guide to Best's Credit Ratings*, p. 20, <file:///C:/Users/thomas.tom/OneDrive%20-%20Florida%20Senate/Documents/SB%20516/AM%20Best%20Ratings.pdf> (last accessed March 8, 2023).

⁴⁴ *Id.*

the size of a company in terms of its statutory surplus and related accounts.⁴⁵ The FSC rankings start at “I” for a company with a surplus of less than \$1 million to a ranking of “XV” for a company with a surplus of greater than \$2 billion.⁴⁶ A ranking of “VIII” is for a company with a surplus of \$100,000 up to \$250 million.

III. Effect of Proposed Changes:

The bill amends s. 324.021, F.S., to permit certain risk retention groups and surplus lines insurers to provide commercial auto insurance coverage. The risk retention groups and surplus lines insurers authorized by the bill to provide commercial auto insurance coverage must have an “A” or higher rating for financial strength and “VIII” or higher rating for financial size from A.M. Best Company.

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 may benefit members of risk retention groups who are able to buy their motor vehicle policies through the group at a lower rate and operators of commercial vehicles that are unable to obtain commercial vehicle coverage in the authorized market.

⁴⁵ A.M. Best – Financial Size Category, [https://web.ambest.com/ratings-services/financial-size-category-\(fsc\)](https://web.ambest.com/ratings-services/financial-size-category-(fsc)) (last accessed March 8, 2023).

⁴⁶ *Id.*

C. Government Sector Impact:

The HSMV will have to engage in structural testing to confirm successful file transfers with any risk retention group that directly insures its members in Florida or with any surplus lines insurer that provides automobile insurance coverage for commercial motor vehicles. This is needed to ensure that HSMV receives timely insurance information about policies that are issued or cancelled. This administrative cost would be absorbed within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following section of the Florida Statutes: 324.021.

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 Committee on March 22, 2023:

The committee substitute makes the following changes:

- Provides that a surplus lines insurer as defined in s. 626.914(2), F.S., which is rated “A” or higher by A.M. Best Company may provide automobile insurance coverage for commercial motor vehicles.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/22/2023	.	
	.	
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The Committee on Banking and Insurance (DiCeglie) recommended the following:

Senate Amendment (with title amendment)

Delete line 28
and insert:
group described in subsection (12). In addition, any surplus
lines insurer as defined in s. 626.914(2) which is rated "A" or
higher by A.M. Best Company may provide coverage to meet
financial responsibility requirements for commercial motor
vehicles. The owner, registrant, or



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

12 And the title is amended as follows:

13 Delete lines 4 - 6

14 and insert:

15 the term "motor vehicle liability policy" and defining

16 the term "risk retention group" for purposes of ch.

17 324, F.S.; providing an

By Senator DiCeglie

18-00581-23

2023516__

A bill to be entitled

An act relating to motor vehicle liability policies; amending s. 324.021, F.S.; revising the definition of the term "motor vehicle liability policy" to include certain policies issued by risk retention groups; defining the term "risk retention group"; providing an effective date.

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

Section 1. Subsection (8) of section 324.021, Florida Statutes, is amended, and subsection (12) is added to that section, to read:

324.021 Definitions; minimum insurance required.—The following words and phrases when used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

(8) MOTOR VEHICLE LIABILITY POLICY.—Any owner's or operator's policy of liability insurance furnished as proof of financial responsibility pursuant to s. 324.031, insuring such owner or operator against loss from liability for bodily injury, death, and property damage arising out of the ownership, maintenance, or use of a motor vehicle in not less than the limits described in subsection (7) and conforming to the requirements of s. 324.151, issued by any insurance company authorized to do business in this state or by a risk retention group described in subsection (12). The owner, registrant, or operator of a motor vehicle is exempt from providing such proof

Page 1 of 2

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

18-00581-23

2023516__

of financial responsibility if he or she is a member of the United States Armed Forces and is called to or on active duty outside this state or the United States, or if the owner of the vehicle is the dependent spouse of such active duty member and is also residing with the active duty member at the place of posting of such member, and the vehicle is primarily maintained at such place of posting. The exemption provided by this subsection applies only as long as the member of the armed forces is on such active duty outside this state or the United States and the owner complies with the security requirements of the state of posting or any possession or territory of the United States.

(12) RISK RETENTION GROUP.—A risk retention group operating in accordance with s. 627.943 or s. 627.944 which is rated "A" or higher for financial strength and "VIII" or higher for financial size category by A.M. Best Company and which only provides commercial coverage for its members and shareholders.

Section 2. This act shall take effect July 1, 2023.

Page 2 of 2

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



THE FLORIDA SENATE
SENATOR NICK DICEGLIE
District 18

Kathleen Passidomo
President of the Senate

Dennis Baxley
President Pro Tempore

February 21, 2023

Dear Chair Boyd,

I respectfully request that **SB 516 – Motor Vehicle Liability Policies** be placed on the agenda of the Banking and Insurance Committee at your earliest convenience. If my office can be of any assistance to the committee please do not hesitate to contact me at DiCeglie.Nick@flsenate.gov or (850) 487-5018. Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink that reads "Nick DiCeglie".

Nick DiCeglie

State Senator, District 18

CC: Staff Director: James Knudson
Administrative Assistant: Amaura Canty

Proudly Serving Pinellas County

Transportation Committee, Chair ~ Banking and Insurance Committee, Vice Chair ~
Commerce and Tourism Committee ~ Fiscal Policy Committee ~ Judiciary Committee ~
Rules Committee ~ Joint Legislative Auditing Committee

APPEARANCE RECORD3/22/23

Meeting Date

Banking & Insurance

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting516

Bill Number or Topic

509382

Amendment Barcode (if applicable)

Name

B6 Murphy

Phone

850-893-4155

Address

3195 Shamrock St. S.

Street

Email

bmurphy@faia.comTallahassee

City

State

32309

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 Association of Insurance Agents

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

3/22/23

Meeting Date

516

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 Robert Reyes

Phone 850-509-1802

Address 817 English Ave

Street

Email rreyes@capitolseminar.com

Tall 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:

American Contractors Insurance Group

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 628

INTRODUCER: Banking and Insurance Committee and Senator Grall

SUBJECT: Debt Management Services

DATE: March 24, 2023

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

Debt management services laws regulate the fees credit counseling organizations may charge debtors for debt management services and credit counseling services. Non-profit credit counseling agencies work with debtors' creditors, educate debtors about credit practices, and enroll qualifying debtors in debt management plans tailored to their specific situation and budget.

The bill revises the fee chargeable by a credit counseling agency to a debtor for receiving from the debtor, and subsequently disbursing to a creditor, money or anything of value. The maximum fee will now be up to the lesser of 15 percent of the monthly payment or \$75 monthly; under current law the maximum fee is the greater of 7.5 percent of the monthly payment or \$35 monthly.

This bill will not have a fiscal impact on state and local governments but will have both positive and negative fiscal impacts on the private sector.

The bill provides an effective date of July 1, 2023.

II. Present Situation:

Credit Counseling Organizations

Debtors seeking to manage and reduce their debts often engage credit counseling organizations who provide debt management services and credit counseling services.¹ Non-profit credit counseling agencies assist debtors with managing and reducing their debt by offering free counseling on credit practices, enrolling qualifying debtors in debt management plans, and providing community education to individuals and families on money management skills.²

Floridians are among the many individuals who can be expected to use services from non-profit credit counseling organizations. According to Experian, The average Floridian carried \$84,926 in debt in 2021,³ and the average mortgage was \$208,536.⁴ Credit card debt, student loans, and auto loans accounted for the other main sources of debt for Floridians, with a state average of \$5,620, \$41,300, and \$21,341, respectively.⁵ In 2022, the average Floridian carried \$89,195 in debt, a 5% increase from 2021.⁶

Debt Management Services

Debt management services is defined by Florida statute as services provided for a fee to “effect the adjustment, compromise, or discharge of any unsecured note, account, or other indebtedness of the debtor; or receive from the debtor and disburse to a creditor any money or other item of value.”⁷

Credit counseling agencies and creditors may classify individuals who find it particularly difficult to manage their debt, whether due to their health or other specific situation, as “vulnerable.”⁸ Credit counseling agencies encourage creditors to take, and do take, extra measures to ensure an individual who is vulnerable receives the same services as others.⁹

¹ Consumer Financial Protection Bureau, *What is credit counseling?* <https://www.consumerfinance.gov/ask-cfpb/what-is-credit-counseling-en-1451/> (last visited Mar. 17, 2023).

² See Financial Counseling Association of America, <https://fcaa.org/> (last visited Mar. 17, 2023).

³ Experian, *Average Consumer Debt Levels Increase in 2022*, <https://www.experian.com/blogs/ask-experian/research/consumer-debt-study/> (hereinafter cited as “Experian’s Article on Average Consumer Debt Levels”) (last visited Mar. 17, 2023).

⁴ Horymski, C., *Total Mortgage Debt Increases to \$10.3 Trillion in 2021*, Experian, Jun. 4, 2022, available at: [Total Mortgage Debt Increases to \\$10.3 Trillion in 2021 - Experian](#) (last visited Mar. 17, 2023).

⁵ Horymski, C., *Credit Card Debt in 2021: Balances Slightly Decline*, Experian, Jun. 23, 2022, available at: [Credit Card Debt in 2021: Balances Slightly Decline - Experian](#) (last visited Mar. 17, 2023); Horymski, C., *Student Loan Balances Barely Budge in 2021*, Experian, Aug. 23, 2022, available at: [Student Loan Debt Increases Slightly in 2021 - Experian](#) (last visited Mar. 17, 2023); Horymski, C., *Auto Loan Debt Reaches a Record-High \$1.43 Trillion*, Experian, Jul. 29, 2022, available at: [Auto Loan Debt Reaches a Record-High \\$1.43 Trillion - Experian](#) (last visited Mar. 17, 2023).

⁶ Experian’s Article on Average Consumer Debt Levels.

⁷ Section 817.801(4), F.S.

⁸ See Step Change: Debt Charity, *Dealing with the debts of a vulnerable person*, available at: <https://www.stepchange.org/debt-info/dealing-with-the-debts-of-vulnerable-people.aspx> (last visited Mar. 17, 2023).

⁹ *Id.*

Unlike for-profit debt settlement companies,¹⁰ credit counseling agencies are non-profit organizations whose fees are regulated and vary across jurisdiction.¹¹ According to Cambridge Credit Counseling Corp., many states set maximum rates regulating the initial fee a credit counseling agency may impose on a consumer, and of the states who have set a maximum rate, the rates range between \$25 and \$100.¹² Other states generally also allow credit counseling agencies to charge a monthly fee up to a certain amount which is usually a flat rate or a percentage of the monthly amount paid by the debtor to repay the debt, or both.¹³ The lowest rate cap is \$25 per month and the highest rate cap is \$75 per month.¹⁴

Florida's Limitations on Fees for Debt Management Services

In 2004, the Legislature recognized the importance of easy access to debt management services, while also acknowledging the vulnerability of debtors, by prescribing the maximum fees a person or entity could charge a debtor for debt management services.¹⁵

Specifically, the 2004 legislation made it unlawful for any entity or individual engaging in debt management services or credit counseling services, to charge a debtor:

- A fee greater than \$50 for an initial consultation;¹⁶ and
- A fee greater than \$120 per year for additional consultations or, alternatively, in the case of receiving debt payments from the debtor and disbursing to a creditor any money or other item of value, the greater of 7.5% of the amount paid monthly by the debtor or \$35 per month.¹⁷

No state agency directly regulates credit counseling organizations. Regulation is self-executing by means of private civil actions under part II of ch. 501, including possible action by the Attorney General or local prosecutors.¹⁸ Any person in violation of the debt services statute “commits an unfair or deceptive trade practice.”¹⁹ A violation results in criminal and civil penalties. Namely, a violation is a third-degree felony, and an individual injured by a violation can bring an action for damages, where judgement is entered for actual damages no less than the amount paid by the aggrieved individual to the credit counseling organization.²⁰

¹⁰ Consumer Financial Protection Bureau, *What are Debt Settlement/Debt Relief Services and Should I Use Them?*, Aug. 24, 2022, available at: [What are debt settlement/debt relief services and should I use them? | Consumer Financial Protection Bureau \(consumerfinance.gov\)](https://www.consumerfinance.gov/what-are-debt-settlement-debt-relief-services-and-should-i-use-them/) (last visited Mar. 17, 2023) (defining debt settlement companies as “companies that say they can renegotiate, settle, or in some way change the terms of a person’s debt to a creditor or debt collector, and noting that dealing with debt settlement companies can be risky and often charge expensive fees.)

¹¹ Email from Kelly Mallette, Ronald L. Book, P.A., to Jacqueline Moody, Florida Senate Committee on Banking and Insurance, *State Based Fees*, Mar. 17, 2023 (on file with Senate Committee on Banking and Insurance) (attaching *StateFees20230317.xlsx*).

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Chapter 2004-351, Laws of Florida, created s. 817.802, F.S.

¹⁶ Section 817.802(1), F.S.

¹⁷ *Id.*

¹⁸ Chapter 501, part II, F.S., relating to the protection of consumers from unfair trade practices, and remedies for violations thereof, similar to federal policies relating to consumer protection.

¹⁹ Section 817.806, F.S.

²⁰ *Id.*

Although a 2006 amendment narrowed the scope of debtors protected to those debtors specifically residing in the state of Florida,²¹ the limitation on fees for debt management services has not been increased since its enactment in 2004.

III. Effect of Proposed Changes:

Section 1 changes the fee a person or entity may charge for the debt management services described in s. 817.802(4)(b), F.S., (namely, receiving from the debtor and disbursing to a creditor any money or item of value) up to the lesser of 15 percent of the amount paid monthly by the debtor or \$75 per month, rather than the greater of 7.5 percent of the amount paid or \$35 per month. The following table illustrates the current and proposed fees.

Monthly Payment	Current			SB 628			Result of Current vs. HB 599
	Greater of 7.5% of monthly \$35		Monthly Fee Allowed	Lesser of 15% of monthly \$75		Monthly Fee Allowed	
\$100	\$ 7.50	\$ 35.00	\$ 35.00	\$ 15.00	\$ 75.00	\$ 15.00	Reduction
\$500	\$ 37.50	\$ 35.00	\$ 37.50	\$ 75.00	\$ 75.00	\$ 75.00	Increase
\$1,000	\$ 75.00	\$ 35.00	\$ 75.00	\$ 150.00	\$ 75.00	\$ 75.00	No Change
\$1,500	\$ 112.50	\$ 35.00	\$ 112.50	\$ 225.00	\$ 75.00	\$ 75.00	Reduction

Section 2 provides an effective date of July 1, 2023.

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.

²¹ Chapter 2006-136, Laws of Florida, amended s. 817.802, F.S.

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

None.

B. Private Sector Impact:

Credit counseling organizations and debtors residing in Florida would experience a fiscal impact from this bill. Specifically, the change in fees to the lesser of 15% of the amount paid monthly by the debtor or and \$75 per month would likely result in an increase in some revenue for credit counseling organizations. On the other hand, the increase in the maximum chargeable amount might have a negative fiscal impact on debtors residing in Florida.²² The bill results in increased maximum fees for payment amounts greater than \$233.33 but less than \$1,000.00; maximum fees are reduced for payment amounts less than \$233.33 or greater than \$1,000.00

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 817.802 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 Committee on March 22, 2023:

- Clarifies that the fee a person or entity may charge for the debt management services is “up to” the lesser of 15 percent of the amount paid monthly by the debtor or \$75 per month.

B. Amendments:

None.

²² Florida Office of Financial Regulations, *2023 Agency Legislative Bill Analysis for HB 599*, p. 3, Mar. 3, 2023 (on file with Senate Committee on Banking and Insurance).

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



806972

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/22/2023	.	
	.	
	.	
	.	

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

Senate Amendment

Delete line 21
and insert:
up to the lesser ~~greater~~ of 15 ~~7.5~~ percent of the amount paid
monthly

By Senator Grall

29-00770A-23

2023628__

A bill to be entitled

An act relating to debt management services; amending s. 817.802, F.S.; increasing the maximum fee that may be charged for debt management services; providing an effective date.

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

Section 1. Subsection (1) of section 817.802, Florida Statutes, is amended to read:

817.802 Unlawful fees and costs.—

(1) It is unlawful for any person, while engaging in debt management services or credit counseling services, to charge or accept from a debtor residing in this state, directly or indirectly, a fee or contribution greater than \$50 for the initial setup or initial consultation. Subsequently, the person may not charge or accept a fee or contribution from a debtor residing in this state greater than \$120 per year for additional consultations or, alternatively, if debt management services as defined in s. 817.801(4)(b) are provided, the person may charge the ~~lesser~~ greater of 15 ~~7.5~~ percent of the amount paid monthly by the debtor to the person or \$75 ~~\$35~~ per month.

Section 2. This act shall take effect July 1, 2023.

STATE	STATE NAME	MAX INITIAL FEE	MONTHLY FEE %	MAX FEE PER CREDITOR	MAX MONTHLY FEE	DIVISOR	MIN_MONTHLY_FEE
AA	Armed Forces America	75		\$10.00	50	5.67	0
AB	Alberta	75		\$10.00	50	5.67	0
AE	Armed Forces Europe	75		\$10.00	50	5.67	0
AK	Alaska	100	15		75	5.67	0
AL	Alabama	100	15		75	5.67	0
AP	Armed Forces Pacific	75		\$10.00	50	5.67	0
AR	Arkansas	100		\$10.00	75	5.67	0
AS	American Samoa	75		\$10.00	50	5.67	0
AZ	Arizona	39			50		0
BC	British Columbia	75		\$10.00	50	5.67	0
CA	California	50	7.4		35	12.51	0
CO	Colorado	50		\$10.00	50	5.67	0
CT	Connecticut	100		\$10.00	75	5.67	0
DC	District of Columbia	100	15		75	5.67	0
DE	Delaware	50		\$10.00	50	5.67	0
FL	Florida	50	7.5		50	12.33	35
FM	Federated Micronesia	75		\$10.00	50	5.67	0
GA	Georgia	0	6.95		50	13.39	0
GU	Guam	75		\$10.00	50	5.67	0
HI	Hawaii	100	15		75	5.67	0
IA	Iowa	50	13		75	6.69	0
ID	Idaho	0	15		75	5.67	0
IL	Illinois	50		\$10.00	50	5.67	0
IN	Indiana	50	13		75	6.69	0
KS	Kansas	75		\$5.00	40	5.67	0
KY	Kentucky	75	7.8		75	11.82	30
LA	Louisiana	100	15		75	5.67	0
MA	Massachusetts	100	15		75	5.67	0
MB	Manitoba	75		\$10.00	50	5.67	0
MD	Maryland	50		\$8.00	40	5.67	0
ME	Maine	75		\$10.00	40	5.67	0
MH	Mariana Islands	75		\$10.00	50	5.67	0
MI	Michigan	50	13		75	6.69	0
MN	Minnesota	50	15		50	5.67	0
MO	Missouri	50	7.4		50	12.51	35
MP	Mariana Islands	75		\$10.00	50	5.67	0
MS	Mississippi	75		\$10.00	30	5.67	0

MT	Montana	75	15		50	5.67	0
MX	Mexico City	75		\$10.00	50	5.67	0
NA	Not Available	75		\$10.00	50	5.67	0
NB	New Brunswick	75		\$10.00	50	5.67	0
NC	North Carolina	40	9.05		40	10.05	0
ND	North Dakota	50	13		75	6.69	0
NE	Nebraska	0	15		75	5.67	0
NF	New Foundland	75		\$10.00	50	5.67	0
NH	New Hampshire	0			75		0
NJ	New Jersey	35			60		0
NM	New Mexico	100	15		75	5.67	0
NS	Nova Scotia	75		\$10.00	50	5.67	0
NV	Nevada	50		\$10.00	50	5.67	0
NY	New York	75		\$10.00	75	5.67	0
OH	Ohio	75	7.8		50	11.82	30
OK	Oklahoma	75	15		75	5.67	0
ON	Ontario	75		\$10.00	50	5.67	0
OR	Oregon	50	15		65	5.67	0
PA	Pennsylvania	50		\$10.00	50	5.67	0
PR	Puerto Rico	100		\$8.00	50	5.67	0
QC	Quebec	75		\$10.00	50	5.67	0
RI	Rhode Island	50		\$10.00	50	5.67	0
SC	South Carolina	50		\$10.00	70	5.67	0
SD	South Dakota	100	15		75	5.67	0
SK	Saskatchewan	75		\$10.00	50	5.67	0
TN	Tennessee	50		\$10.00	50	5.67	0
TX	Texas	100		\$11.00	56	5.67	0
UT	Utah	50		\$10.00	50	5.67	0
VA	Virginia	75	13		60	6.69	0
VI	Virgin Islands	50		\$10.00	50	5.67	0
VT	Vermont	50	9.09		75	10	0
WA	Washington	0	15		75	5.67	0
WI	Wisconsin	25	9.05		75	10.05	0
WV	West Virginia	0	7		75	13.29	0
WY	Wyoming	100	15		75	5.67	0
YT	Yukon/Northwest Territories	75		\$10.00	50	5.67	0
ZZ	Other	75		\$10.00	50	5.67	0

From: [Kelly Mallette](#)
To: [Moody, Jacqueline](#)
Subject: State-Based Fees
Date: Friday, March 17, 2023 4:09:59 PM
Attachments: [StateFees20230317.xlsx](#)

Jackie,

See attached which is from Cambridge Credit Counseling Corp and is from their database of state-based fees that are current in their system. Please note the following as well:

- Some of these listings are mathematical upper bounds for states that have “non-standard” terminology.
 - e.g. Most states have monthly fee requirements based on the amount paid to the agency monthly, but some, like Iowa and a few others, have a cap of 15% based on the amount actually distributed to the creditors each month. If you do the math, 13% of the monthly payment will never exceed 15% of the amount distributed, so their law says 15% and our software says 13%. It’s not an error, it’s just that their wording doesn’t match all the other states so we had to do a little math on that 15% to make our software compatible with their statutory language. If you do the math, 13% will always keep us on the right side of the law so that’s what we have listed.
- There are 3 additional rules that don’t fit neatly into columns:
 - ARIZONA (AZ) is calculated as 3 quarters of 1 percent of the individuals indebtedness.
 - NEW HAMPSHIRE (NH) uses 3 tiers based on the repayment term:
 - 10% if paid in full in 10 months or less, (B) 12.5% for between 11 months and 17 months, and (C) 15% for plans of 18 months or more.
 - NEW JERSEY (NJ) is calculated at 1% of the individual's gross monthly income.

I hope this is helpful.

Kelly C. Mallette
Ronald L. Book, P.A.
Office (305) 935-1866
Cell (786) 295-1199

*We’ve Moved, please note our new address:
4000 Hollywood Boulevard
Suite 677S
Hollywood, FL 33021*

The Florida Senate

APPEARANCE RECORD

3/22/23

Meeting Date ,

Banking & Ins.

Committee

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

628-

Bill Number or Topic

Amendment Barcode (if applicable)

Name

RON BOOK

Phone

880-224-3427

Address

104 West Jefferson St

Email

ron@rbookpa.com

Street

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:

Financial Counseling Assoc of
America

☐

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 670

INTRODUCER: Banking and Insurance Committee and Senator Yarborough

SUBJECT: Paid Family Leave Insurance

DATE: March 24, 2023

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 670 specifies standards for transacting paid family leave insurance in Florida. Currently, life insurers are authorized to transact health insurance, disability income insurance, and excess coverage for health maintenance organizations and multiple-employer welfare arrangements. CS/SB 670 authorizes life insurers to transact paid family leave insurance as a policy or as rider to a group disability income policy. CS/SB 670 specifies circumstances under which family leave benefits may be provided; and requires paid family leave insurance policies or riders to include disclosures and coverage requirements, such as benefit periods, waiting periods, benefit amounts, offsets, and the payment of benefits. The bill authorizes the Financial Services Commission to adopt rules to administer this act.

The Family and Medical Leave Act of 1993 (FMLA)¹ allows eligible employees of a covered employer to take employment-protected, unpaid leave, or to substitute appropriate paid leave if the employee has earned or accrued it, for up to a total of 12 workweeks in any 12 months and meets other requirements. An estimated 60 percent of the workforce is covered by the FMLA and only 23 percent of the workforce has access to paid family leave. New Hampshire and Virginia currently offer voluntary family and medical leave benefits through private insurance.

SB 670 is modeled after the National Council on Insurance Legislators (NCOIL) Paid Family Leave Insurance Model Act, which provides a framework for states to create a new line of

¹ Pub. Law 103-3 (Feb. 5, 1993). 29 U.S.C. 2601 et. seq.

insurance in which an authorized insurer licensed to transact life insurance or disability income insurance will also be able to provide coverage for paid family leave.² An employee's access to such coverage could mitigate income loss when the employee needs to take leave without pay to care for family members.

There is no fiscal impact on local governments. SB 670 will have an indeterminate, but likely positive, fiscal impact on state government.

II. Present Situation:

Federal Family and Medical Leave Act of 1993

The Family and Medical Leave Act of 1993 (FMLA)³ allows eligible employees⁴ of a covered employer⁵ to take job-protected, unpaid leave, or to substitute appropriate paid leave if the employee has earned or accrued it, for up to a total of 12 workweeks in any 12 months and meets other requirements.⁶ An eligible employee's FMLA 12 workweek leave entitlement is available for any one, or more, of the following qualifying conditions:

- The birth of the employee's son or daughter, and to care for the newborn child;
- The placement with the employee of a son or daughter for adoption or foster care, and to care for the newly placed child;
- To care for the employee's spouse, son, daughter, or parent with a serious health condition;
- Because of a serious health condition that makes the employee unable to perform one or more of the essential functions of his or her job; and,
- Because of any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a military member on covered active duty status (or has been notified of an impending call or order to covered active duty).⁷

The maximum amount of FMLA leave increases to 26 workweeks during a 12 month period in the case of leave to care for a covered servicemember with a serious injury or illness.

² [Paid family leave model law one of four adopted by NCOIL – Insurance News | InsuranceNewsNet](#) (last visited Mar. 10, 2023).

³ Pub. Law 103-3 (Feb. 5, 1993). 29 U.S.C. 2601 et. seq.

⁴ Generally, an eligible employee means an employee who has been employed for a total of at least 12 months and meets other requirements. 29 C.F.R. s. 825.110.

⁵ An employer means any person engaged in commerce or in an industry or activity affecting commerce who employs 50 or more employees for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year, and includes:

(1) Any person who acts, directly or indirectly, in the interest of an employer to any of the employees of such employer;
(2) Any successor in interest of an employer; and
(3) Any public agency.

The terms, "commerce" and "industry affecting commerce," are defined in accordance with section 501(1) and (3) of the Labor Management Relations Act of 1947 (LMRA) (29 U.S.C. 142(1) and (3)), as set forth in the definitions at 29 C.F.R. s. 825.102. For purposes of the FMLA, employers who meet the 50-employee coverage test are deemed to be engaged in commerce or in an industry or activity affecting commerce. 29 C.F.R. ss. 825.102 and 825.104.

⁶ 29 C.F.R. ss. 825.100 and 825.110.

⁷ 29 C.F.R. s. 825.200.

An employee on FMLA leave is also entitled to have any group health insurance benefits maintained while on leave as if the employee had continued to work instead of taking the leave.⁸

An estimated 60 percent of the workforce is covered by the FMLA⁹ and 23 percent of the workforce has access to paid family leave.¹⁰ Some states provide a paid family leave program utilizing either a social insurance policy design that funds benefits through pooled payroll taxes on employees or employers or using private insurance to fund the programs.¹¹ In addition, the availability of a program may be the result of a mandate while other states provide voluntary programs. States that currently offer family and medical benefits through private insurance are New York (mandatory), New Hampshire (voluntary), and Virginia (voluntary).

Florida Office of Insurance Regulation

The Office of Insurance Regulation¹² (OIR) licenses and regulates the activities of insurers, health maintenance organizations (HMOs), and other risk-bearing entities pursuant to the Florida Insurance Code.¹³ The Agency for Health Care Administration (agency) regulates the quality of care provided by HMOs under part III of ch. 641, F.S., and before receiving a certificate of authority from the OIR, an HMO must receive a Health Care Provider Certificate from the agency.¹⁴

The code provides that certain insurance coverages may come within the definitions of two or more kinds of insurance as defined in part V of ch. 624, F.S.¹⁵ The inclusion of such coverage within one definition may not exclude it from being considered as any other kind of insurance, the definition of which reasonably includes such coverage.¹⁶ Insurance is classified into the following kinds of insurance: life, health, property, casualty, surety, marine, and title.¹⁷

A qualified insurer¹⁸ may transact any one kind or combination of insurance, including life, health, property, casualty, surety, marine, and title.¹⁹ Paid family leave insurance is not currently included among the kinds of insurance authorized in Florida. The code provides that the transaction of life insurance includes the granting of annuity contracts, including, but not limited to, fixed or variable annuity contracts; the granting of endowment benefits, additional benefits in event of death or dismemberment by accident or accidental means, additional benefits in event of the insured's disability; and optional modes of settlement of proceeds of life insurance.²⁰ A life insurer may grant annuities, but shall not be authorized to transact any other kind of insurance

⁸ 29 C.F.R. s. 825.100(b).

⁹ [Paid Leave in the U.S. | KFF](#) (Dec. 17, 2021) (last visited Mar. 16, 2023).

¹⁰ *Id.*

¹¹ Department of Financial Services, *SB 670 Analysis* (Feb. 27, 2023).

¹² Section 20.121(3)(a), F.S.

¹³ Chapters 624-632, 634, 635, 636, 641, 642, 648, and 651, F.S., constitute the "Florida Insurance Code." Section 624.01, F.S.

¹⁴ Section 641.21(1), F.S.

¹⁵ Section 624.601, F.S.

¹⁶ *Id.*

¹⁷ Section 624.6011, F.S.

¹⁸ An authorized insurer is one duly authorized by a subsisting certificate of authority issued by the OIR to transact insurance in Florida. Section 624.09(1), F.S.,

¹⁹ Sections 624.406(1), and 624.6011, F.S.

²⁰ Section 624.602(1), F.S.

except health insurance, disability income insurance, excess coverage for health maintenance organizations, or excess insurance, specific and aggregate, for self-insurers of a plan of health insurance and multiple-employer welfare arrangements.²¹ A “life insurer” or “life insurance company” is an insurer engaged in the business of issuing life insurance contracts, including contracts of combined life and health and accident insurance.²²

Rule 69O-154.106(6), F.A.C., defines “disability income protection insurance” as a policy of health insurance identified in the outline of coverage, as to scope of coverage, if limited (e.g., accident only or sickness only), which provides for periodic payments, weekly or monthly, for a specified period during the continuance of disability resulting from sickness or injury. The OIR has approved paid family leave insurance products as part of a policy or as riders to disability income benefits.²³

National Council of Insurance Legislators Model Act

The National Council of Insurance Legislators (NCOIL) is an organization comprised principally of legislators serving on state insurance and financial institutions committees around the United States.²⁴ The NCOIL writes insurance model laws in insurance, works to both preserve the state jurisdiction over insurance and to serve as an educational forum for public policy makers and interested parties. On November 19, 2022, the NCOIL adopted the Paid Family Leave Insurance Model Act.²⁵ The purpose of the act is to create a new line of insurance, known as paid family leave insurance, under which any insurer licensed to transact life insurance or disability income insurance business in this state may be authorized to issue policies covering such risk.²⁶

III. Effect of Proposed Changes:

Section 1. Amends s. 624.406, F.S., to include paid family leave as a kind of insurance a qualified life insurer may be authorized to transact.

Section 2 .Creates s. 624.6086, F.S., which defines the term, “paid family leave insurance,” as insurance issued to an employer that is related to a benefit program provided to an employee to pay for a percentage or portion of the employee’s income loss due to the any of the following conditions:

- The birth or adoption of a child by the employee;
- Placement of a child with the employee for foster care;
- Care of the employee’s family member who has a serious medical health condition; or
- Circumstances arising out of the fact that the employee’s family member who is a servicemember on active duty or has been notified of an impending call or order to duty.

Subsection (2) authorizes family leave insurance to be written as an amendment or a rider to a group disability income policy, included in a group disability income policy, or written as a

²¹ Section 624.406, F.S.

²² Section 624.602(2), F.S.

²³ Office of Insurance Regulation, *SB 670 Bill Analysis* (Feb. 14, 2023).

²⁴ [History & Purpose - NCOIL](#) (last visited Mar. 1, 2023).

²⁵ [NCOIL-PFL-Model-Adopted-Nov.-2022.pdf \(secureserver.net\)](#) (last visited Mar. 5, 2023).

²⁶ *Id.*

separate group insurance policy purchased by the employer. Subsection (3) provides that the terms “child,” “family leave,” and “family member” have the same meanings as provided in s. 627.445(3), F.S.

Section 3. Creates s. 627.445, F.S., relating to paid family leave insurance requirements. The section creates definitions, family leave benefits and reasons, policy requirements, waiting period requirements, calculation and payment of family leave benefits, and rulemaking authority for the Financial Services Commission.

Subsection (3) defines “Armed Forces of the United States” to include members of the National Guard and the reserves for the purpose of family servicemembers whose call to active duty would be considered for qualification for this insurance benefit. The subsection also defines the following terms: child, family leave, family member, health care provider, parent, and serious health condition.

The bill requires that the policy must provide benefits for any leave taken by an employee from work for the following reasons:

- Participating in providing care, including physical or psychological care, for a family member of the employee made necessary by a serious health condition of the family member;
- Bonding with the employee’s child during the first 12 months after the child’s birth or the first 12 months after the placement of the child for adoption by or foster care with the employee;
- Addressing a qualifying exigency as interpreted under the Family and Medical Leave Act of 1993 arising out of the fact that the spouse, child, or parent of the employee is on active duty or has been notified of an impending call or order to active duty, in the Armed Forces of the United States;
- Caring for a family servicemember injured in the line of duty with the Armed Forces of the United States; or
- Taking other leave to provide care for a family member or other family leave as specified in the policy.

Further, the policy must disclose requirements with regard to each of the covered family leave reasons. The amount of family leave benefits available, including coordinating with other income, must be disclosed in the contract. The length of the benefit period may not be less 2 weeks during a period of 52 consecutive calendar weeks. The policy must specify whether there is an unpaid waiting period, and if so, the terms and conditions.

The bill authorizes limitations, exclusions, or reductions of benefits; however, they must be disclosed in the contract. Family leave benefits must be paid periodically and promptly, except as to a contested period of family leave and subject to any of the specified limitations, exclusions, or reductions.

The rates for policies or riders must be calculated pursuant to s. 627.062, F.S., and rates and forms must be approved by OIR. Section 627.062, F.S., provides that the rates for all classes of insurance to which the provisions of part of ch. 627, F.S., are applicable may not be excessive, inadequate, or unfairly discriminatory.

Section 4. Provides the bill will take effect upon becoming law.

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:

Implementation of the bill will allow some employees eligible to receive family leave insurance benefits to receive compensation they would not have otherwise received while unable to work due to an eligible family leave of their own or a serious health condition of a family member.

SB 670 will allow life insurers to expand existing income replacement benefits products offered to employers to include paid family leave benefits.

C. Government Sector Impact:

The OIR has indicated that the costs associated with the implementation of the bill can be accomplished using existing resources.²⁷

The state may experience an indeterminate, positive impact due to increased premium tax revenues to the extent the demand for the policies grows.²⁸

²⁷ Office of Insurance Regulation, *SB 670 Analysis* (Feb. 14, 2023).

²⁸ Premium taxes are imposed on insurance premiums paid by insurance companies. Sections 624.509, F.S.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 624.406 of the Florida Statutes.
This bill creates sections 624.6086 and 627.445 and of the Florida Statutes.

IX. Additional Information:

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

CS by Banking and Insurance on March 22, 2023:

The CS:

- Requires the Office of Insurance Regulation to review forms as well rates of a paid family leave insurance rider or policy.
- Eliminates provision creating paid family leave insurance as a kind of insurance under s. 624.624.6011, F.S.
- Provides technical changes.

B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/22/2023	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (1) of section 624.406, Florida
Statutes, is amended to read:

624.406 Combinations of insuring powers, one insurer.—An
insurer which otherwise qualifies therefor may be authorized to
transact any one kind or combination of kinds of insurance as
defined in part V except:



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(1) A life insurer may also grant annuities, but shall not be authorized to transact any other kind of insurance except health insurance, disability income insurance, paid family leave insurance, excess coverage for health maintenance organizations, or excess insurance, specific and aggregate, for self-insurers of a plan of health insurance and multiple-employer welfare arrangements.

Section 2. Section 624.6086, Florida Statutes, is created to read:

624.6086 "Paid family leave insurance" defined.—

(1) "Paid family leave insurance" is insurance issued to an employer which is related to a benefit program provided to an employee to pay for a percentage or portion of the employee's income loss due to:

(a) The birth of a child or the adoption of a child by the employee;

(b) Placement of a child with the employee for foster care;

(c) Care of the employee's family member who has a serious health condition; or

(d) Circumstances arising out of the fact that the employee's family member who is a servicemember is on active duty or has been notified of an impending call or order to active duty.

(2) Paid family leave insurance may be issued to and purchased by an employer as an amendment or a rider to a group disability income policy, included in a group disability income policy, or issued as a separate group insurance policy.

(3) As used in this section, the terms "child," "family leave," and "family member" have the same meanings as provided



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in s. 627.445(1).

Section 3. Section 627.445, Florida Statutes, is created to read:

627.445 Paid family leave insurance.—

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

(a) "Armed Forces of the United States" means an officer or enlisted member of the Army, Navy, Air Force, Marine Corps, Space Force, or Coast Guard of the United States, the Florida National Guard, and the United States Reserve Forces.

(b) "Child" means a person who is:

1. Under 18 years of age, or 18 years of age or older and incapable of self-care because of a mental or physical disability; and

2. A biological, adopted, or foster son or daughter; a stepson or stepdaughter; a legal ward; or a son or daughter of a person to whom the employee stands in loco parentis.

(c) "Family leave" means any leave taken by an employee from work for any of the circumstances specified in subsection (2).

(d) "Family member" includes a child, spouse, or parent, or other person defined as a family member of the employee in the policy.

(e) "Health care provider" means any hospital licensed under chapter 395 and any health care institution licensed under chapter 400 or chapter 429 or an individual licensed under chapter 458, chapter 459, chapter 460, chapter 461, chapter 464, or chapter 466.

(f) "Parent" means a biological, foster, or adoptive parent; a stepparent; a legal guardian; or other person who



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stood in loco parentis to the employee when the employee was a child.

(g) "Serious health condition" means an illness, an injury, an impairment, or a physical or mental condition, including, but not limited to, pregnancy complications that threaten the life of the mother or unborn child; transplantation preparation and recovery from surgery related to organ or tissue donation, which involves inpatient care in a hospital, hospice, or residential health care facility; continuing treatment; or continuing supervision by a health care provider. Continuing supervision by a health care provider includes a period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective and where the family member need not be receiving active treatment by a health care provider.

(2) COVERED FAMILY LEAVE BENEFITS.—Family leave insurance benefits provided in a paid family leave insurance policy may be provided for any leave taken by an employee from work for any of the following circumstances:

(a) Participation in providing care, including physical or psychological care, for a family member made necessary by a serious health condition of the family member;

(b) Bonding with the employee's child during the first 12 months after the child's birth or the first 12 months after the placement of the child for adoption by or foster care with the employee;

(c) Addressing a qualifying exigency as interpreted under the Family and Medical Leave Act of 1993, 29 U.S.C. s. 2612(a)(1)(E) and 29 C.F.R. s. 825.126(a)(1)-(8), arising out of the fact that the spouse, child, or parent of the employee is on



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active duty or has been notified of an impending call or order
to active duty in the Armed Forces of the United States;

(d) Caring for a family member injured in the line of duty
with the Armed Forces of the United States; or

(e) Caring for a family member or other leave as specified
in the policy.

(3) REQUIRED POLICY SPECIFICITY.—The policy must specify:

(a) Details and requirements with regard to each of the
covered circumstances specified in subsection (2).

(b) The length of family leave benefits available for each
covered circumstance, which may not be less than 2 weeks during
a period of 52 consecutive calendar weeks.

(c) Whether there is an uncovered waiting period, and if
so, the terms and conditions of the uncovered waiting period,
which may include, but are not limited to, whether:

1. The period runs over a consecutive calendar day period;

2. The period is counted toward the annual allotment of
covered family leave benefits or is in addition to the annual
allotment of covered family leave benefits;

3. The period must be met only once per benefit year or
must be met for each separate claim for benefits; and

4. The employee may work or receive paid time off or other
compensation during the period.

(d) The amount of benefits that will be paid for covered
circumstances provided in subsection (2).

(e) The definition of the wages or other income upon which
the amount of benefits will be issued.

(f) How such wages or other income will be calculated.

(g) If the family leave benefits are subject to offsets for



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wages or other income received or for which the insured may be eligible, all such wages or other income that may be set off and the circumstances under which it may be offset.

(h) The frequency of payments due for covered benefits.

(4) For purposes of this section, 52 consecutive calendar weeks may be calculated by:

(a) A calendar year;

(b) Any fixed period starting on a particular date, such as the effective or anniversary date of the policy;

(c) The employee's hiring date or anniversary of hiring date;

(d) The period measured forward from the employee's first day of family leave;

(e) A rolling period measured by looking back from the employee's first day of family leave; or

(f) Any other method specified in the policy.

(5) PERMISSIBLE LIMITATIONS, EXCLUSIONS, OR REDUCTIONS.— Eligibility for family leave benefits under this section may be limited, excluded, or reduced, but any limitation, exclusion, or reduction must be specified in the policy and not conflict with the Florida Insurance Code. Permissible limitations, exclusions, or reductions may be made for the following:

(a) For any period wherein the required notice and medical certification as prescribed in the policy has not been provided;

(b) For any leave related to a serious health condition or other harm to a family member brought about by a willful act by the employee;

(c) For any period during which the employee performed work for remuneration or profit;



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(d) For any period for which the employee is eligible to receive remuneration or maintenance from her or his employer, or from a fund to which the employer has contributed;

(e) For any period during which the employee is eligible to receive benefits under any other statutory program or employer-sponsored program, including, but not limited to, unemployment insurance benefits, workers' compensation benefits, or any paid time off or employer's paid leave policy;

(f) For any period commencing before the employee becomes eligible for family leave benefits under the policy;

(g) For periods where more than one person seeks family leave for the same family member under the same policy, unless the policy specifies otherwise; or

(h) For other reasons specified in the policy.

(6) PAYMENT OF FAMILY LEAVE BENEFITS.—Family leave benefits provided under a policy that complies with this section must be paid periodically and promptly, as specified in the policy, except as to a contested period of family leave and subject to any of the limitations, exclusions, or reductions permitted under subsection (5).

(7) INSURANCE POLICY.—

(a) Rates for policies or riders providing paid family leave insurance benefits must be calculated in accordance with the rate standards provided in s. 627.062.

(b) Forms for policies or riders providing paid family leave insurance benefits are subject to review by the office under s. 627.410.

(c) A policy issued under this section must be issued as provided in s. 624.6086(2).



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185 (8) RULEMAKING.—The commission may adopt rules to
186 administer this section.

187 Section 6. This act shall take effect upon becoming a law.

188
189 ===== T I T L E A M E N D M E N T =====
190 And the title is amended as follows:

191 Delete everything before the enacting clause
192 and insert:

193 A bill to be entitled
194 An act relating to paid family leave insurance;
195 amending s. 624.406, F.S.; authorizing life insurers
196 to transact paid family leave insurance; creating s.
197 624.6086, F.S.; defining terms; creating s. 627.445,
198 F.S.; defining terms; specifying circumstances under
199 which family leave benefits may be provided under a
200 paid family leave insurance policy; requiring that
201 paid family leave insurance policies specify details
202 and requirements with regard to covered circumstances;
203 specifying requirements for policies relating to
204 benefit periods, waiting periods, benefit amounts and
205 certain offsets, and the payment of benefits;
206 providing that eligibility for family leave benefits
207 may be limited, excluded, or reduced but must be
208 specified in the policy; specifying permissible
209 limitations, exclusions, and reductions; providing
210 applicable provisions for calculating rates;
211 specifying the means by which a policy must offer
212 family leave benefits; authorizing the Financial
213 Services Commission to adopt rules; providing an



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214

effective date.

By Senator Yarborough

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1 A bill to be entitled
 2 An act relating to paid family leave insurance;
 3 providing a short title; amending s. 624.406, F.S.;
 4 authorizing life insurers to transact paid family
 5 leave insurance; amending s. 624.6011, F.S.; revising
 6 the definition of the term "kinds of insurance" to
 7 include paid family leave insurance; creating s.
 8 624.6086, F.S.; defining terms; creating s. 627.445,
 9 F.S.; providing a short title; providing legislative
 10 findings and intent; defining terms; specifying
 11 circumstances under which family leave benefits may be
 12 provided; requiring paid family leave insurance
 13 policies to specify details and requirements with
 14 regard to covered family leave reasons; specifying
 15 requirements for policies relating to benefit periods,
 16 waiting periods, benefit amounts and certain offsets,
 17 and the payment of benefits; providing that
 18 eligibility for family leave benefits may be limited,
 19 excluded, or reduced but must be specified in the
 20 policy; specifying permissible limitations,
 21 exclusions, and reductions; providing applicable
 22 provisions for calculating rates; specifying the means
 23 by which a policy may offer family leave benefits;
 24 authorizing the Financial Services Commission to adopt
 25 rules; providing an effective date.

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

29 Section 1. This act may be cited as the "Florida Paid

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

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30 Family Leave Insurance Act."
 31 Section 2. Subsection (1) of section 624.406, Florida
 32 Statutes, is amended to read:
 33 624.406 Combinations of insuring powers, one insurer.—An
 34 insurer which otherwise qualifies therefor may be authorized to
 35 transact any one kind or combination of kinds of insurance as
 36 defined in part V except:
 37 (1) A life insurer may also grant annuities, but shall not
 38 be authorized to transact any other kind of insurance except
 39 health insurance, disability income insurance, paid family leave
 40 insurance, excess coverage for health maintenance organizations,
 41 or excess insurance, specific and aggregate, for self-insurers
 42 of a plan of health insurance and multiple-employer welfare
 43 arrangements.
 44 Section 3. Subsection (8) is added to section 624.6011,
 45 Florida Statutes, to read:
 46 624.6011 "Kinds of insurance" defined.—Insurance shall be
 47 classified into the following "kinds of insurance":
 48 (8) Paid family leave.
 49 Section 4. Section 624.6086, Florida Statutes, is created
 50 to read:
 51 624.6086 "Paid family leave insurance" defined.—
 52 (1) "Paid family leave insurance" is insurance issued to an
 53 employer which is related to a benefit program provided to an
 54 employee to pay for a percentage or portion of the employee's
 55 income loss due to:
 56 (a) The birth of a child or adoption of a child by the
 57 employee;
 58 (b) Placement of a child with the employee for foster care;

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(c) Care of the employee's family member who has a serious health condition; or

(d) Circumstances arising out of the fact that the employee's family member who is a servicemember is on active duty or has been notified of an impending call or order to active duty.

(2) Family leave insurance may be written as an amendment or a rider to a group disability income policy, included in a group disability income policy, or written as a separate group insurance policy purchased by an employer.

(3) As used in this section, the terms "child," "family leave," and "family member" have the same meanings as provided in s. 627.445(3).

Section 5. Section 627.445, Florida Statutes, is created to read:

627.445 Paid family leave insurance.—

(1) SHORT TITLE.—This section may be cited as the "Paid Family Leave Income Replacement Benefits Act."

(2) LEGISLATIVE FINDINGS AND INTENT.—The Legislature intends to provide the workers of this family-friendly state with access to paid family leave insurance to encourage an entrepreneurial atmosphere, to encourage economic growth, and to promote a healthy business climate. Many workers need to take time off work for family reasons, including bonding with a new child or caring for an ill family member. Increasingly, employers in this state want to make paid leave benefits available to workers who need time off for these reasons. Employers recognize workers will be healthier and more productive when able to take care of family responsibilities

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without a complete loss of income, and employers believe that offering paid family leave benefits to their employees will improve recruitment opportunities and reduce turnover in the workplace. Disability insurers currently offer income replacement benefits to workers who need time off from work because of their own disabling medical condition. Disability insurers have extensive experience, claims staff, systems, and expertise that can be used to provide fully insured paid family leave benefits for employees, either through employer-sponsored group insurance policies or voluntarily purchased employee policies. It is in the best interests of this state's workers and employers to permit disability insurers to expand their fully insured benefits in this state to include paid family leave benefits.

(3) DEFINITIONS.—As used in this section, the term:

(a) "Armed Forces of the United States" includes members of the National Guard and the reserves.

(b) "Child" means a person who is:

1. Under 18 years of age, or 18 years of age or older and incapable of self-care because of a mental or physical disability; and

2. A biological, adopted, or foster son or daughter; a stepson or stepdaughter; a legal ward; or a son or daughter of a person to whom the employee stands in loco parentis.

(c) "Family leave" is any leave taken by an employee from work for any of the reasons specified in subsection (4).

(d) "Family member" includes a child, spouse, or parent, or other person defined as a family member in the policy.

(e) "Health care provider" means any physician, hospital,

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or other institution, organization, or person that furnishes health care services and is licensed or otherwise authorized to practice in this state.

(f) "Parent" means a biological, foster, or adoptive parent; a stepparent; a legal guardian; or other person who stood in loco parentis to the employee when the employee was a child.

(g) "Serious health condition" means an illness, injury, impairment, or physical or mental condition, including transplantation preparation and recovery from surgery related to organ or tissue donation, which involves inpatient care in a hospital, hospice, or residential health care facility; continuing treatment; or continuing supervision by a health care provider as defined in the policy. Continuing supervision by a health care provider includes a period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective and where the family member need not be receiving active treatment by a health care provider.

(4) FAMILY LEAVE BENEFITS.—Family leave benefits may be provided for any leave taken by an employee from work to:

(a) Participate in providing care, including physical or psychological care, for a family member of the employee made necessary by a serious health condition of the family member;

(b) Bond with the employee's child during the first 12 months after the child's birth or the first 12 months after the placement of the child for adoption by or foster care with the employee;

(c) Address a qualifying exigency as interpreted under the Family and Medical Leave Act of 1993, 29 U.S.C. s. 2612(a)(1)(E)

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and 29 C.F.R. s. 825.126(a)(1)-(8), arising out of the fact that the spouse, child, or parent of the employee is on active duty or has been notified of an impending call or order to active duty, in the Armed Forces of the United States;

(d) Care for a family servicemember injured in the line of duty; or

(e) Take other leave to provide care for a family member or other family leave as specified in the policy.

(5) EXPLANATION OF FAMILY LEAVE REASONS.—The policy must specify details and requirements with regard to each of the covered family leave reasons.

(6) BENEFIT PERIOD.—The policy must specify the length of family leave benefits available for each covered family leave reason, which may not be less than 2 weeks during a period of 52 consecutive calendar weeks. For purposes of this subsection, 52 consecutive calendar weeks may be calculated by:

(a) A calendar year;

(b) Any fixed period starting on a particular date, such as the effective or anniversary date;

(c) The period measured forward from the employee's first day of family leave;

(d) A rolling period measured by looking back from the employee's first day of family leave; or

(e) Any other method specified in the policy.

(7) WAITING PERIOD.—The policy must specify whether there is an unpaid waiting period, and if so, the terms and conditions of the unpaid waiting period, which may include, but are not limited to, whether:

(a) The waiting period runs over a consecutive calendar day

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175 period;

176 (b) The waiting period is counted toward the annual
 177 allotment of family leave benefits or is in addition to the
 178 annual allotment of family leave benefits;

179 (c) The waiting period must be met only once per benefit
 180 year or must be met for each separate claim for benefits; and

181 (d) The employee may work or receive paid time off or other
 182 compensation by the employer during the waiting period.

183 (8) AMOUNT OF FAMILY LEAVE BENEFITS; OTHER INCOME.—

184 (a) The policy must specify:

185 1. The amount of benefits that will be paid for covered
 186 family reasons;

187 2. The definition of the wages or other income upon which
 188 the amount of family leave benefits will be issued; and

189 3. How such wages or other income will be calculated.

190 (b) If the family leave benefits are subject to offsets for
 191 wages or other income received or for which the insured may be
 192 eligible, the policy must specify all such wages or other income
 193 that may be set off and the circumstances under which it may be
 194 offset.

195 (9) PERMISSIBLE LIMITATIONS, EXCLUSIONS, OR REDUCTIONS.—
 196 Eligibility for family leave benefits under this section may be
 197 limited, excluded, or reduced, but any limitation, exclusion, or
 198 reduction must be specified in the policy. Permissible
 199 limitations, exclusions, or reductions may include, but are not
 200 limited to, any of the following reasons:

201 (a) For any period of family leave wherein the required
 202 notice and medical certification as prescribed in the policy has
 203 not been provided;

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204 (b) For any family leave related to a serious health
 205 condition or other harm to a family member brought about by the
 206 willful intention of the employee;

207 (c) For any period of family leave during which the
 208 employee performed work for remuneration or profit;

209 (d) For any period of family leave for which the employee
 210 is eligible to receive from his or her employer, or from a fund
 211 to which the employer has contributed, remuneration or
 212 maintenance;

213 (e) For any period of family leave in which the employee is
 214 eligible to receive benefits under any other statutory program
 215 or employer-sponsored program, including, but not limited to,
 216 unemployment insurance benefits, workers' compensation benefits,
 217 statutory disability benefits, statutory paid leave benefits, or
 218 any paid time off or employer's paid leave policy;

219 (f) For any period of family leave commencing before the
 220 employee becomes eligible for family leave benefits under the
 221 policy; or

222 (g) For periods of family leave where more than one person
 223 seeks family leave for the same family member.

224 (10) PAYMENT OF FAMILY LEAVE BENEFITS.—Family leave
 225 benefits provided under this section must be paid periodically
 226 and promptly, except as to a contested period of family leave
 227 and subject to any of the limitations, exclusions, or reductions
 228 under subsection (9).

229 (11) INSURANCE POLICY.—

230 (a) Rates for policies or riders providing paid family
 231 leave benefits must be calculated pursuant to s. 627.062.

232 (b) A policy issued pursuant to this section may offer

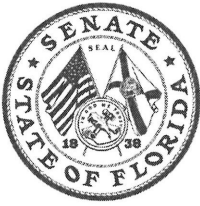
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233 coverage for paid family leave benefits or may offer paid family
234 leave benefits as a rider to a policy of disability income
235 insurance.

236 (12) RULEMAKING.—The commission may adopt rules to
237 administer this section.

238 Section 6. This act shall take effect upon becoming a law.



The Florida Senate

Committee Agenda Request

To: Senator Jim Boyd, Chair
Committee on Banking and Insurance

Subject: Committee Agenda Request

Date: February 20, 2023

I respectfully request that **SB670**, relating to Paid Family Leave Insurance, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

A handwritten signature in cursive script that reads "Clay Yarborough".

Senator Clay Yarborough
Florida Senate, District 4



2022 LEGISLATIVE SESSION

AGENCY: Office of Insurance Regulation

BILL INFORMATION

BILL NUMBER:	SB 670
BILL TITLE:	Paid Family Leave Insurance
BILL SPONSOR(S):	Sen. Clay Yarborough
EFFECTIVE DATE:	Upon becoming a law

COMMITTEES OF REFERENCE

#	COMMITTEE
1	Banking and Insurance
2	Appropriations Committee on Agriculture, Environment, and General Government
3	Fiscal Policy

CURRENT COMMITTEE

--

PREVIOUS LEGISLATION

BILL NUMBER	BILL NUMBER	SPONSOR	SPONSOR	YEAR	YEAR	LAST ACTION	LAST ACTION
N/A							

SIMILAR BILLS

BILL NUMBER	SPONSOR
N/A	

IDENTICAL BILLS

BILL NUMBER	SPONSOR
HB 721	Rep. Linda Chaney

BILL ANALYSIS INFORMATION

DATE OF ANALYSIS:	2/14/2023
LEAD AGENCY ANALYST:	Christopher Struk
ADDITIONAL ANALYSTS:	Leean Chojnowski, Bryan Peters, Rebecca Smid
LEGAL ANALYST:	Kama Monroe

FISCAL ANALYST:

POLICY ANALYSIS**1. EXECUTIVE SUMMARY**

The bill allows life insurers to offer paid family leave insurance policies to employers.

2. SUBSTANTIVE BILL ANALYSIS**1. PRESENT SITUATION:**

A few companies have had policies approved that contain family leave insurance benefits as part of the policy or as a rider.

2. EFFECT OF THE BILL:

The bill allows life insurers to offer paid family leave insurance as an amendment or a rider to a group disability policy, include it in a group disability income policy, or write it as a separate group insurance policy purchased by an employer. The bill also defines the terms "Armed Forces of the United States," "child," "family leave," "family member," "health care provider," "parent," and "serious health condition."

Paid family leave insurance is defined as insurance issued to an employer which is related to a benefit program provided to an employee to pay for a percentage or portion of the employee's income loss due to:

- The birth of a child or adoption of a child by an employee.
- Placement of a child with the employee for foster care.
- Care of the employee's family member who has a serious health condition.
- Circumstances arising out of the fact that the employee's family member who is a servicemember is on active duty or has been notified of an impending call or order to active duty.

The policy is required to specify details and requirements with regard to each of the family leave reasons covered by the policy and the terms, conditions, and length of any unpaid waiting period. The policy is also required to specify the length of family leave benefits available for each covered family leave reason and the amount of benefits and how the benefits will be calculated. The minimum length of benefits is required to be at least two weeks during a 52 week period.

Any limitations, exclusions, or benefit reductions must also be specified in the policy.

3. DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? Yes

If yes, explain:	Section 5 of the bill gives the Financial Services Commission rule-making authority. The Office of Insurance Regulation (OIR) will need to contact the NAIC to update their applications to reflect the new line of business for Florida. Once the NAIC's forms are updated, we will need to adopt the new forms by rule. OIR will also need to amend its form and rate review checklists and procedures to allow for this new type of coverage.
Is the change consistent with the agency's core mission?	N/A

Rule(s) impacted (provide references to F.A.C., etc.):	
--	--

4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

Proponents and summary of position:	
Opponents and summary of position:	

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? No

If yes, provide a description:	
Date Due:	
Bill Section Number(s):	

6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL? No

Board:	
Board Purpose:	
Who Appoints:	
Changes:	
Bill Section Number(s):	

FISCAL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? No

Revenues:	
Expenditures:	
Does the legislation increase local taxes or fees? If yes, explain.	No
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	

2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT? No

Revenues:	
Expenditures:	
Does the legislation contain a State Government appropriation?	No

If yes, was this appropriated last year?	
--	--

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR? No

Revenues:	
Expenditures:	
Other:	

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES? No

If yes, explain impact.	
Bill Section Number:	

TECHNOLOGY IMPACT

1. DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)? Yes

If yes, describe the anticipated impact to the agency including any fiscal impact.	Family leave coverage will need to be added as a new line of business to OIR's systems. This can be done using existing resources.
--	--

FEDERAL IMPACT

1. DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? No

If yes, describe the anticipated impact including any fiscal impact.	
--	--

ADDITIONAL COMMENTS

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	
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The Florida Senate
APPEARANCE RECORD

3/22/23
Meeting Date

SB 670
Bill Number or Topic

Banking & Insurance
Committee

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

Name Nancy Lawther, Ph.D (Florida PTA) Phone 407 855-7604

Address 1747 Orlando Central Pkwy Email legislator@florida
Orlando FL 32809 pta.org
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.

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representing:

☒ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
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Florida PTA

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

3/22/23

Meeting Date

BEI

Committee

S. 670

Bill Number or Topic

Amendment Barcode (if applicable)

Name

CURTIS LEONARD

Phone

850 274 1422

Address

105 S. MONROE ST. Ste 206

Street

Email

curtleonard@acli.com

TALL.

City

FL

State

32317

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:

Acli

AMERICAN COUNCIL OF LIFE INSURERS

☐

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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 1158

INTRODUCER: Banking and Insurance Committee and Senator DiCeglie

SUBJECT: Department of Financial Services

DATE: March 24, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Thomas	Knudson	BI	Fav/CS
2.			AEG	
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1158 revises provisions of multiple programs within the Department of Financial Services (DFS) to:

- Amend provisions regarding investigations and prosecutions within the regulatory authority of the DFS;
- Add the State College System to the State Deferred Compensation Program;
- Revise provisions relating to the Workers' Compensation Three Member Panel; ratify the DFS rule relating to the Florida Workers' Compensation Health Care Provider Reimbursement Manual;
- Establish guidelines for board member requirements where the Chief Financial Officer (CFO) has sole appointment authority;
- Provide that insurers pay for mediation of motor vehicle mediation claims;
- Create a Direct Support Organization to facilitate and promote firefighter safety;
- Revise financial requirements for warranty associations;
- Revise the role of reinsurance intermediaries to an appointment instead of a license; and
- Revise provisions relating to bail bond agents and agencies; remove authority for temporary bail bond agents.

The bill has an insignificant impact on state government revenues and expenditures and no impact on local government. It has indeterminate impacts on the private sector.

Provides that, except as otherwise provided, the bill becomes effective upon becoming a law.

II. Present Situation:

Powers and Duties of the Department of Financial Services

The organizational structure of the Department of Financial Services (DFS) is set forth in s. 20.121, F.S. The DFS is statutorily responsible for:

- Carrying out the state's accounting and auditing functions, including preparing the state's Comprehensive Annual Financial Report; monitoring state contracts; and making payment for state expenditures.
- Implementing state fire prevention and control measures, including the investigation of arson and other suspicious fires; training and certification of firefighter candidates; and regulation of explosive storage and use.
- Operating the state's risk management program and securing insurance and reinsurance for covered state liabilities.
- Managing the state Treasury and directing safekeeping and the investment of all state funds.
- Managing the deferred compensation program for state employees.
- Investigating fraud, including insurance fraud, public assistance fraud, and false claims against the state.
- Regulating cemeteries and funeral homes.
- Licensing and oversight of insurance agents and agencies.
- Ensuring that Florida employers provide workers' compensation coverage for their employees in a cost effective manner.
- Assisting consumers in the resolution of issues pertaining to insurance and funeral services.
- Collecting and returning unclaimed property belonging to Florida residents.¹

The DFS is composed of the following divisions:

- 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.²

¹ Florida Department of Financial Services, *Statement of Agency Organization and Operation*, <https://www.myfloridacfo.com/required/agency-org> (last accessed March 16, 2023).

² Florida Department of Financial Services, *Divisions and Offices* <https://www.myfloridacfo.com/> (last accessed March 16, 2023).

The Division of Investigative and Forensic Services (DIFS) functions as a criminal justice agency for purposes of ss. 943.045-943.08, F.S., and is authorized to conduct investigations within or outside of Florida, as necessary. The DIFS includes the following bureaus and office:

- The Bureau of Forensic Services;
- The Bureau of Fire, Arson, and Explosives Investigations;
- The Office of Fiscal Integrity, which shall have a separate budget;
- The Bureau of Insurance Fraud; and
- The Bureau of Workers' Compensation Fraud.

Subsection 20.121(6), F.S., establishes the Strategic Markets Research and Assessments Unit and charges the Chief Financial Officer (CFO), or designee, with reporting quarterly to the Cabinet, President of the Senate, and Speaker of the House of Representatives on the status of the state's financial services markets. The report must include a summary of the issues, trends, and threats that broadly impact the condition of the financial services industries and institutions. The CFO is also responsible for submitting findings and recommendations regarding regulatory and policy changes with the report.

Financial Literacy

The DFS has developed multiple financial literacy programs and resources.³ Your Money Matters is the DFS financial literacy website dedicated to providing the resources and information needed for wise money management. The website provides information, resources and programs to learn more about credit and debt, saving and spending, small business ownership, and other financial matters. Consumers may sign up for Consumer Alerts on important issues such as insurance, current fraud, scams, and disaster alerts.

Road-to-Independence Program

The Road-to-Independence Program (Program), created by the Legislature in 2002⁴, recognizes that some young adults who have lived in foster care need additional support and resources for a period of time after reaching 18 years of age. Young adults who choose to participate in the program receive the skills, education, and support necessary to become self-sufficient and leave foster care with a lifelong connection to a supportive adult through the Program. The Program's aftercare services includes financial literacy skills training under s. 39.6035(1)(c), F.S.

In 2022, sections 1003.41 and 1003.4282, Florida Statutes, were amended to require a half-credit of financial literacy with established curriculum standards and prescribed content which must be completed in order to qualify for a high school diploma.⁵ This curriculum is robust and provides necessary financial literacy skills for success in adulthood regardless of the child's guardianship standard. The DFS program may be considered a duplicative requirement for a foster care child in the transition program to complete a second curriculum in financial literacy that doesn't have the established standards of the newly created legislation. The DFS initiative may be seen as

³ *Your Money Matters*, [Your Money Matters](#) (last accessed March 16, 2023).

⁴ Chapter 2002-19, L.O.F.

⁵ Chapter 2022-17, L.O.F.

requiring duplicative and unnecessary work for community-based care providers to verify completion of a second financial literacy program for youth to qualify for Post-Secondary Education Services and Support or Extended Foster Care when there is already such a program required in the schools. The DFS reports it expends around \$28,000 annually to administer the program.

Florida Deferred Compensation Program

Section 112.215, F.S., requires the CFO to create a deferred compensation plan (plan) for employees of state agencies, the State University System, the State Board of Administration, and other special district employers (subject to employer election). The plan allows state employees to defer a portion of their income and place it in an investment account. The employee does not pay taxes on the deferred amount or any investment gains until the employee withdraws the money.⁶

The Deferred Compensation Advisory Council (Council) provides assistance and recommendations to the CFO relating to the provisions of the plan, the insurance or investment options to be offered under the plan, and any other contracts or appointments deemed necessary. The Council is composed of seven members.

- One member appointed by the Speaker of the House of Representatives and the President of the Senate jointly who is an employee of the legislative branch.
- One member appointed by the Chief Justice of the Supreme Court who is an employee of the judicial branch.
- One member appointed by the chair of the Public Employees Relations Commission who is a nonexempt public employee.
- One member appointed by the Chancellor of the State University System who is an employee of the university system.
- One member appointed by the CFO who is an employee of the CFO.
- One member appointed by the Governor who is an employee of the executive branch.
- One member appointed by the Executive Director of the State Board of Administration who is an employee of the State Board of Administration.

Payment of Vendor Invoices by the State

Section 215.422, F.S., governs payments by state agencies or the judicial branch to vendors. An invoice submitted to a state agency or the judicial branch must be:

- Recorded in the financial systems of the state;
- Approved for payment by the agency or the judicial branch; and
- Filed with the CFO no later than 20 days after receipt of the invoice, unless there is a dispute or some other reason not to pay.⁷

⁶ See <https://www.myfloridacfo.com/DeferredComp/> (last accessed March 16, 2023).

⁷ Section 215.422(1), F.S.

In most cases, the DFS must approve payment of an invoice no later than 10 days after the agency files the approved invoice.⁸ If a warrant in payment of an invoice is not issued within 40 days after receipt of the invoice and receipt, inspection, and approval of the goods and services, the agency or judicial branch must pay to the vendor interest at the statutory interest rate.⁹

Tangible Personal Property Owned by Local Governments

Chapter 274, F.S., governs tangible personal property owned by local governments. The CFO is charged with establishing by rule the requirements for the recording and periodic review of such property for inventory purposes. Tangible personal property includes all goods of value capable of manual possession and whose chief value is intrinsic to the article itself.¹⁰ “Governmental unit” means the governing board, commission or authority of a county or taxing district of the state or the sheriff of the county.¹¹

Workers’ Compensation

Workers’ Compensation Maximum Reimbursement Allowances

The Division of Workers’ Compensation within the DFS provides regulatory oversight of Florida’s workers’ compensation system, which includes the enforcement of coverage requirements,¹² administration of workers’ compensation health care delivery system,¹³ data collection,¹⁴ and assisting injured workers, employers, insurers, and providers in fulfilling their responsibilities under ch. 440, F.S.¹⁵ Whether an employer is required to have workers’ compensation insurance depends upon the employer’s industry and the number of employees. Employers may secure coverage by purchasing a workers’ compensation insurance policy or qualifying as a self-insurer.¹⁶ Individuals who elect an exemption are not considered “employees,” for premium calculation purposes, and are not eligible to receive workers’ compensation benefits if they suffer a workplace injury. Florida’s workers’ compensation law provides for medically necessary treatment and care of injured employees, including medications. The law provides reimbursement formulas and methodologies to compensate providers of health services, subject to maximum reimbursement allowances (MRAs).

A three-member panel (panel), consisting of the CFO or the CFO’s designee and two Governor’s appointees, sets the MRAs.¹⁷ 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 care;¹⁸ the cost impact to employers for providing reimbursement that ensures that injured workers have access to

⁸ Section 215.422(2), F.S.

⁹ Section 215.422(3)(b), F.S.

¹⁰ Section 192.001(11)(d), F.S.

¹¹ Section 274.01(1), F.S.

¹² Section 440.107(3), F.S.

¹³ Section 440.13, F.S.

¹⁴ Section 440.185 and 440.593, F.S.

¹⁵ Section 440.191, F.S.

¹⁶ Section 440.38, F.S.

¹⁷ Section 440.13(12)(a), F.S.

¹⁸ Section 440.13(12)(d)1., F.S.

necessary medical care;¹⁹ and the financial impact of the MRAs on healthcare providers and facilities; 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.²⁰

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,²¹ while reimbursement for surgical procedures is limited to 140 percent of Medicare.²² The hospital manual sets maximum reimbursement for outpatient scheduled surgeries at 60 percent of usual and customary charges,²³ while other outpatient services are limited to 75 percent of usual and customary charges.²⁴ Reimbursement of inpatient hospital care is limited based on a schedule of per diem rates approved by the panel.²⁵ The ambulatory surgical centers manual limits reimbursement to 60 percent of usual and customary charge 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.²⁶ 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.²⁷ Fees may not exceed the schedules adopted under ch. 440, F.S., and DFS rule.²⁸

Rulemaking Authority and Legislative Ratification

A rule is an “agency statement of general applicability that implements, interprets, or prescribes law or policy.”²⁹ 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.³⁰ An agency may not engage in rulemaking unless it has a legislative grant of authority to do so.³¹ 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.³²

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.³³ The notice of the proposed rule must include:

- An explanation of the purpose and effect;

¹⁹ Section 440.13(12)(d)2., F.S.

²⁰ Section 440.13(12)(d)3., F.S.

²¹ Section 440.13(12)(b)4., F.S.

²² Section 440.13(12)(b)5., F.S.

²³ Section 440.13(12)(b)3., F.S.

²⁴ Section 440.13(12)(a), F.S.

²⁵ Section 440.13(12)(a), F.S.

²⁶ Section 440.13(12)(c), F.S.

²⁷ *Id.*

²⁸ Section 440.13(13)(b), F.S. The DFS also has broad rulemaking authority under s. 440.591, F.S.

²⁹ Section 120.52(16), F.S.

³⁰ Section 120.52(17), F.S.

³¹ See ss. 120.52(8) and 120.536, F.S.

³² 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).

³³ See ss. 120.54(3)(a)1., F.S.

- 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.³⁴

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.³⁵

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.³⁶

A SERC must include estimates of:

- 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 by people, entities, and governmental agencies for compliance; and
- An analysis of the proposed rule's impact on small businesses, counties, and cities.³⁷

The SERC must also include an economic analysis on the likelihood that the proposed rule will have an adverse impact in excess of one million dollars within the first five years of implementation on:

- Economic growth, private-sector job creation or employment, or private-sector investment;
- Business competitiveness,³⁸ productivity, or innovation; or
- Regulatory costs, including any transactional costs.³⁹

If the economic analysis results in an adverse impact or regulatory costs in excess of one million dollars within five years after implementation of the rule, then the Legislature must ratify the rule in order for it to take effect.⁴⁰

The Legislature previously ratified Rule 69L-7.020, Florida Administrative Code, which incorporates by reference the 2016 Edition of the Florida Workers' Compensation Health Care Provider Manual, providing for reimbursement of healthcare providers under the increased MRAs approved by the panel.⁴¹ The DFS has subsequently adopted amended versions of the

³⁴ *Id.*

³⁵ See ss. 120.54(3)(a)1., and 120.541(1)(a), F.S.

³⁶ Section 120.541(1)(a), F.S.

³⁷ 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.

³⁸ Business competitiveness includes the ability of those doing business in Florida to compete with those doing business in other states or domestic markets.

³⁹ Section 120.541(2)(a), F.S.

⁴⁰ 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.

⁴¹ Chapter 2019-139, L.O.F.

rule, incorporating by reference the manual. The NCCI estimates that the manual will increase workers' compensation system costs by 0.2 percent (eight million dollars).⁴² 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 eight million dollars over the next five years.⁴³

Because the SERC for these rules exceeds one million dollars within five years of adoption, legislative ratification is required for these rules to become effective, pursuant to s. 120.541(3), F.S.

Health Care Ministry

A health care sharing ministry is an alternative to health insurance through which people of similar ethical or religious beliefs assist each other in paying for health care. Some health care sharing ministries act as a clearinghouse to allow one or more members to directly pay the medical expenses of another member. Other health care sharing ministries receive funds from members and use those funds to pay authorized medical expenses when members request payment. The first health care sharing ministry was established in 1981.⁴⁴

The Florida Insurance Code exempts such a ministry, referred to as a “nonprofit religious organization,”⁴⁵ from the code’s provisions governing health insurers if the ministry meets several criteria set forth in the code. Since 2008, Florida law has expressly exempted health care sharing ministries that meet statutory criteria from being regulated as insurers. Specifically, a health care sharing ministry qualifies as a “nonprofit religious organization” that is exempt from the requirements of Florida’s insurance code if it:

- Qualifies under federal law as tax-exempt;
- Limits its participants to members who share a common set of ethical or religious beliefs;
- Acts as an organizational clearinghouse for information between participants who have financial, physical, or medical needs and participants who have the ability to pay for the benefit of those participants who have financial, physical, or medical needs;
- Provides for the financial or medical needs of a participant through payments directly from one participant to another participant; and
- Suggests amounts that participants may voluntarily give with no assumption of risk or promise to pay among the participants or between the participants.⁴⁶

Though the code exempts qualified ministries from its requirements of insurers, it nonetheless regulates these ministries in a limited sense. Particularly, the code requires each ministry to give prospective participants notice that it is not an insurer and that it is not subject to regulation under the insurance code.⁴⁷ Moreover, the code expressly states that it “does not prevent” an

⁴² National Council on Compensation Insurance, Inc., *Analysis of Florida Medical Fee Schedule Changes Proposed to be Effective July 1, 2021* (Nov. 16, 2020) (on file with the Senate Committee on Banking and Insurance).

⁴³ Florida Department of Financial Services, *Statement of Estimated Regulatory Costs Rule 69L-7.020, F.A.C.* (Nov. 2021) (on file with the Senate Committee on Banking and Insurance).

⁴⁴ See Benjamin Boyd, *Health Care Sharing Ministries: Scam or Solution*, 26 J.L. & Health 219, 229 (2013).

⁴⁵ The more descriptive and widely used term “health care sharing ministry” will continue to be used generally throughout this analysis for continuity and to avoid confusion.

⁴⁶ See s. 624.1265(1), F.S.

⁴⁷ Section 624.1265(3), F.S.

organization from limiting the financial or medical needs that may be eligible for payment or from canceling the membership of a participant when such participant indicates his or her unwillingness to participate by failing to meet the conditions of membership for a period in excess of 60 days.⁴⁸

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.⁴⁹ The powers and duties of the CFO and the 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, viatical settlement brokers, customer representatives, service representatives, and agencies.⁵⁰ Further, the 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 the DFS is required.⁵¹ The powers and duties of the Financial Service Commission and the Office of Insurance Regulation (OIR)⁵² specified in part I apply only with respect to service companies, insurance administrators, and viatical settlement providers and contracts.⁵³ 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.⁵⁴ 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 the 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's Bureau of Insurance Fraud within the DFS or other law enforcement agencies as appropriate.⁵⁵

Insurance Field Representatives and Operations

For purposes of part I of ch. 626, F.S.,⁵⁶ “association” is defined to include the Florida Association of Insurance Agents (FAIA), the National Association of Insurance and Financial Advisors (NAIFA), the Florida Association of Health Underwriters (FAHU), the Latin American

⁴⁸ Section 624.1265(2), F.S.

⁴⁹ 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), insurance adjusters (part VI), insurance administrators (part VII), and viatical settlements (part X).

⁵⁰ Section 626.016(1), F.S.

⁵¹ Section 626.016(3), F.S.

⁵² 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 CFO, 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.

⁵³ Section 626.016(2), F.S.

⁵⁴ Sections 626.016(3), F.S.

⁵⁵ Sections 624.307, 624.317, and 624.321, F.S.

⁵⁶ Referred to as the “Licensing Procedures Law.” Section 626.011, F.S.

Association of Insurance Agencies (LAAIA), the Florida Association of Public Insurance Adjusters (FAPIA), the Florida Bail Agents Association (FBAA), or the Professional Bail Agents of the United States (PBUS).⁵⁷

Fingerprints for Background Checks

The Florida Insurance Code authorizes the 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.⁵⁸

Applicants and licensees submit fingerprints to the Florida Department of Law Enforcement (FDLE), which forwards the fingerprints to the Federal Bureau of Investigations (FBI) for a federal background check.⁵⁹ 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 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.⁶⁰

Federal law authorizes the exchange of CHRI with officials of state and local governmental agencies for licensing and employment purposes.⁶¹ 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 the applicant's fingerprints will be submitted to the FBI or submitted for a national criminal records background check.

Insurance Agency Closure

Section 626.173, F.S., provides for the closure of an insurance agency and related responsibilities of the insurance agency 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 the DFS by the submission of completed form prescribed by the 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 ss. 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

⁵⁷ Section 626.015(5), F.S.

⁵⁸ Section 626.201, F.S.

⁵⁹ Section 624.34, F.S.

⁶⁰ 28 C.F.R. s. 20.1

⁶¹ Pub. L. 92-544.

- 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; and
 - 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., the 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 a 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, the DFS may also suspend or revoke the license of a licensee fined pursuant to this section. The section provides factors for the DFS to consider when determining the appropriateness of the penalty.

Penalties Against Licensees; Rulemaking Authority

Section 626.207, F.S., provides for the disqualification of applicants and licensees, penalties against licensees, rulemaking authority for the DFS. The DFS must adopt rules that establish specific penalties against licensees for violations of the licensure laws under the DFS. The purpose of any revocation or suspension is to provide a sufficient penalty to deter future violations of the Florida Insurance Code and must be based on the type of conduct and the probability that likelihood to commit further illegal conduct. The length of a suspension may be adjusted based on aggravating or mitigating factors.

Insurance Adjuster Licensure Examination

An adjuster is an individual employed by an insurer to evaluate losses and settle policyholder claims.⁶² An adjuster may be licensed as either an "all-lines adjuster" or a "public adjuster."⁶³ 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."⁶⁴ 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.⁶⁵

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

⁶² Insurance Information Institute. *III Glossary* (defining "adjuster"), <https://www.iii.org/resource-center/iii-glossary/A> (last accessed March 17, 2023).

⁶³ Section 626.864, F.S.

⁶⁴ Sections 626.015 and 626.8548, F.S.

⁶⁵ Section 626.854(1), F.S.

specified professional designations.⁶⁶ 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 the DFS testing for the all-lines adjuster license.⁶⁷

Continuing Education Requirements

Pursuant to s. 626.2815, F.S., individuals licensed to engage in the sale of insurance or adjustment of insurance claims in Florida are required to fulfill certain continuing education requirements. Currently, licensees, except title insurance agents, are required to complete a four-hour update course every two years, specific to the license they hold.⁶⁸ Unless otherwise provided, licensees must also complete 20 hours of elective continuing education courses every two years.⁶⁹ If a licensee has been licensed for six years or more, this requirement drops to 16 hours.⁷⁰ For a licensee licensed 25 years or more, and is a chartered life underwriter, is a chartered property and casualty underwriter, or has a Bachelor of Science degree in risk management or insurance with evidence of 18 or more semester hours in insurance-related courses, the elective continuing education course requirement is six hours every two years.⁷¹ For those individuals holding a license as a customer representative, and not a licensed life or health agent, the elective continuing education course requirement is also six hours every two years.⁷² An individual subject to ch. 648, F.S., relating to bail bond agents, is required to complete a four-hour update course and a minimum of ten hours of elective continuing education courses every two years.⁷³

If continuing education requirements are not met, the DFS has the authority to immediately terminate or refuse to renew the appointment of an agent or adjuster, following notification from the DFS, unless an extension or waiver has been granted.⁷⁴

Limited Licenses and Registration

The DFS is charged with issuing a license to a qualified applicant as an agent authorized to transact a limited class of business in any of the following categories of limited lines insurance:

- Motor vehicle physical damage and mechanical breakdown insurance.
- Industrial fire insurance or burglary insurance.
- Travel insurance.
- Motor vehicle rental insurance.
- Credit insurance.
- Crop hail and multiple-peril crop insurance.
- In-transit and storage personal property insurance.
- Portable electronics insurance.

⁶⁶ Section 626.221, F.S.

⁶⁷ Section 626.221(2)(j), F.S.

⁶⁸ Section 626.2815(3), F.S.

⁶⁹ Section 626.2815(3)(a), F.S.

⁷⁰ Section 626.2815(3)(b), F.S.

⁷¹ Section 626.2815(3)(c), F.S.

⁷² Section 626.2815(3)(d), F.S.

⁷³ Section 626.2815(3)(e), F.S.

⁷⁴ Section 626.2815(9), F.S.

Grounds for Refusal, Suspension, or Revocation

Section 626.611, F.S., provides grounds for the mandatory denial of an application for, suspension, revocation, or refusal to renew or continue the license or appointment of any applicant, agent, title agency, adjuster, customer representative, service representative, or managing general agent. One of these grounds is for having been found guilty of or having pleaded guilty or nolo contendere to a felony or a crime punishable by imprisonment of 1 year or more under the law of another state, country, or territory.

Section 626.621, F.S., provides grounds for the discretionary denial of an application for, suspension, revocation, or refusal to renew or continue the license or appointment of any applicant, agent, title agency, adjuster, customer representative, service representative, or managing general agent. These grounds do not include a finding that the applicant, licensee, or appointee had a resident license cancelled in another state.

Reinsurance Intermediary - Fees

Section 626.7492, F.S., referred to as the Reinsurance Intermediary Act, provides for the licensure of reinsurance intermediaries. A “reinsurance intermediary” is defined to include a reinsurance intermediary broker or a reinsurance intermediary manager.⁷⁵ A “reinsurance intermediary broker” is defined to include “any person, other than an officer or employee of the ceding insurer, who solicits, negotiates, or places reinsurance cessions or retrocessions on behalf of a ceding insurer without the authority or power to bind reinsurance on behalf of the ceding insurer.”⁷⁶ A “reinsurance intermediary manager” is defined as “any person who has authority to bind, or manages all or part of, the assumed reinsurance business of a reinsurer, including the management of a separate division, department, or underwriting office, and acts as an agent for the reinsurer whether known as a reinsurance intermediary manager, manager, or other similar term.”⁷⁷ The following persons are excluded from the definition of “reinsurance intermediary manager” with respect to the reinsurer:

- An employee of the reinsurer;
- A manager of the United States branch of an alien reinsurer;
- An underwriting manager which, pursuant to contract, manages all the reinsurance operations of the reinsurer, is under common control with the reinsurer, subject to the holding company act, and whose compensation is not based on the volume of premiums written⁷⁸
- The manager of a group, association, pool, or organization of insurers which engage in joint underwriting or joint reinsurance and who are subject to examination by the insurance regulatory authority of the state in which the manager’s principal business office is located.⁷⁹

The fee for a reinsurer intermediary application and license fee is \$50.⁷⁹ A reinsurance intermediary is subject to examination by the DFS. The DFS shall have access to all books, bank accounts, and records of the reinsurance intermediary in a form usable to the DFS.⁸⁰ A

⁷⁵ Section 626.7492(2)(e), F.S.

⁷⁶ Section 626.7492(2)(f), F.S.

⁷⁷ Section 626.7492(2)(g), F.S.

⁷⁸ Section 626.7492(2)(g)1.-4., F.S.

⁷⁹ Section 624.501(25)(a), F.S.

⁸⁰ Section 626.7492(10)(a), F.S.

reinsurance intermediary found by the DFS, or an insurer or reinsurer found by the office, to be in violation of any provision of the licensure law must:

- For each separate violation pay a penalty in an amount not to exceed \$5,000;
- Be subject to revocation or suspension of its license; and
- If a violation was committed by the reinsurance intermediary, the reinsurance intermediary must make restitution to the insurer, reinsurer, rehabilitator, or liquidator of the insurer or reinsurer for the net losses incurred by the insurer or reinsurer attributable to the violation.⁸¹

Appointment Requirements for Agents, Adjusters, and Customer Representatives

Section 626.112(1)(a), F.S., states that a person may not be, act as, or advertise or hold himself or herself out to be an insurance agent, insurance adjuster, or customer representative unless he or she is currently licensed by the DFS and appointed by an appropriate appointing entity or person to represent an insurer. Section 626.371(1), F.S., requires all initial appointments be submitted to the DFS no later than 45 days after the date of appointment. Where it appears to the DFS that a formerly or currently licensed person has been, or is, actively engaged as an appointee without being appointed as required, the DFS still may issue an appointment submitted upon finding that such failure was an inadvertent error on the part of the insurer. The DFS may condition such approval on the payment of all fees and taxes that would have been due, had the person been properly appointed.

Title Insurance Agents and Agencies

Title insurance insures property owners against claims related to the ownership of an insured property, liability for back taxes, and liens or other encumbrances.

Section 626.844, F.S., authorizes the DFS to suspend or revoke the license or appointment of any title insurance agent or agency, and it may suspend or revoke the eligibility to hold a license or appointment of any such title insurance agent or agency, upon certain specified grounds. However, an order may not suspend such license or appointment for more than one year.⁸²

Section 626.8473, F.S., provides all funds received by a title insurance agent considered trust funds received in a fiduciary capacity by the title insurance agent and such funds are the property of the person or persons entitled thereto.

Insurance Adjusters

Part VI, ch. 626, F.S., regulates insurance adjusters, which includes public adjusters, independent adjusters, and company employee adjusters. A “public adjuster” is any person, other than a licensed attorney, who, for compensation, prepares, completes, or files an insurance claim form for an insured or third-party claimant in negotiating or settling an insurance claim on behalf of an insured or third party.⁸³ An “independent adjuster” is any person who is self-employed or employed by an independent adjusting firm and who works for an insurer to ascertain and determine the amount of an insurance claim, loss, or damage, or to settle an insurance claim

⁸¹ Section 626.7492(11)(a), F.S.

⁸² Section 626.8443(1), F.S.

⁸³ Section 626.854(1), F.S.

under an insurance contract. A “company employee adjuster” is any person employed in-house by an insurer who ascertains and determines the amount of an insurance claim, loss, or damage, or settles an insurance claim under an insurance contract.

Public adjusters are licensed by the DFS and are required to meet pre-licensing requirements, which include submitting an application, paying required fees, complying with requirements as to knowledge, experience, or instruction, and submitting fingerprints. A policyholder who has sustained an insured loss may hire a public adjuster. The public adjuster will inspect the loss site, analyze the damages, assemble claim support data, review the insured’s coverage, determine current replacement costs, and confer with the insurer’s representatives to adjust the claim. Public adjuster fees are capped at ten to 20 percent of the insurance claim payments.⁸⁴

Anti-Fraud Reward Program

The Anti-Fraud Reward Program allows the DFS to award up to \$25,000 to individuals who provide information leading to the arrest and conviction of persons convicted of certain enumerated crimes investigated by the Division of Insurance Fraud.⁸⁵ The awards are funded from the Insurance Regulatory Trust Fund.⁸⁶

Navigators

Part XIII, F.S., provides for the registration of navigators with the DFS. The purpose of registration is to authorize an individual to facilitate the selection of a qualified health plan (QHP) through an Exchange⁸⁷ by providing fair, accurate, and impartial information regarding QHPs and the availability of tax credits and cost sharing reductions, and to prohibit specified activities or conduct.⁸⁸ To be registered, an individual must certify that he or she has completed all training for a navigator required by the federal government or the Exchange and must submit fingerprints for a criminal background check.⁸⁹

Medical Malpractice Risk Apportionment

Section 627.351(4), F.S., requires the OIR to adopt a joint underwriting plan and creates the Joint Underwriting Association (Association). The Association operates subject to the supervision and approval of a board of governors (Board). The Board consists of representatives of five of the insurers participating in the Joint Underwriting Association, an attorney named by The Florida Bar, a physician named by the Florida Medical Association, a dentist named by the Florida Dental Association, and a hospital representative named by the Florida Hospital Association. The CFO selects the representatives of the five insurers. One insurer representative must be chosen from recommendations of the American Insurance Association; one from recommendations of the Property Casualty Insurers Association of America; one from recommendations of the

⁸⁴ Section 626.854 (10), F.S.

⁸⁵ Section 626.9892, F.S.; the applicable crimes arise from violations of ss. 440.105, 624.15, 626.9541, 626.989, 790.164, 790.165, 790.166, 806.01, 806.031, 806.10, 806.111, 817.233, and 817.234, F.S.

⁸⁶ *Id.*

⁸⁷ Exchanges are created under the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152.

⁸⁸ Section 626.9952(2), F.S.

⁸⁹ Section 626.9953, F.S.

Florida Insurance Council. Two insurer representatives must be selected to represent insurers that are not affiliated with those associations.⁹⁰

Disclosures to Policyholders

Section 627.4215(1), F.S., requires a health insurer to make the following information available on its website:

- Federal and state requirements for coverage of behavioral health care services.
- Contact information for the Division of Consumer Services of the DFS, including a hyperlink in order for consumers to submit inquiries or complaints relating to health insurer products or services regulated by the DFS or the OIR.

A health insurer is required to provide a notice directly to insureds that includes a description of the federal and state requirements for coverage of behavioral health care services. The notice must include the website address and statewide toll-free telephone number of the Division of Consumer Services of the DFS for receiving complaints.⁹¹

Notice of Property Insurance Claim

Section 627.70132, F.S., currently requires insureds to notify an insurer of a claim or reopened claim,⁹² within 1 year after the date of loss.⁹³ Notice of a supplemental claim⁹⁴ must be given to the insurer within 18 months after the date of loss or such claim is barred.

DFS Property Insurance Mediation Program

Section 627.7015, F.S., provides for a property insurance mediation program through the DFS. It is available for claims under personal lines and commercial residential policies before commencing the appraisal process or before commencing litigation.⁹⁵ An insurer must notify the policyholder of the right to participate in mediation at the time of the claim.⁹⁶ Mediation is nonbinding. However, if a written settlement is reached, the policyholder has 3 business days within which the policyholder may rescind the settlement unless the policyholder has cashed or deposited any check or draft disbursed to the policyholder for the disputed matters as a result of the conference. If a settlement agreement is reached and is not rescinded, it is binding and acts as a release of all specific claims that were presented in that mediation conference.⁹⁷

⁹⁰ Section 627.351(4)(c), F.S.

⁹¹ Section 627.4215, F.S.

⁹² Section 627.70132(1)(a), F.S., defines “reopened claim” as a claim that an insurer has previously closed, but that has been reopened upon an insured’s request for additional costs for loss or damage previously disclosed to the insurer.

⁹³ Section 627.702(3), F.S., provides that the date of loss for claims resulting from specified and other weather-related events, such as hurricanes and tornadoes, is the date that the hurricane made landfall or the other weather-related event is verified by the National Oceanic and Atmospheric Administration.

⁹⁴ Section 627.70132(1)(b), F.S., defines “supplemental claim” as a claim for additional loss or damage from the same peril which the insured has previously adjusted or for which costs have been incurred while completing repairs or replacement pursuant to an open claim for which timely notice was previously provided to the insurer.

⁹⁵ Section 627.7015(1), F.S.

⁹⁶ Section 627.7015(2), F.S.

⁹⁷ Section 627.7015(6), F.S.

Alternative Procedure for the Resolution of Disputed Sinkhole Insurance Claims

Sections 627.707-627.7074, F.S., create requirements for the investigation of sinkhole claims and a neutral evaluation program to help resolve sinkhole claims. Section 627.707, F.S., requires an insurer, upon receipt of a sinkhole claim, to inspect the policyholder's premises to determine if there is structural damage that may be the result of sinkhole activity. If the insurer confirms that structural damage exists but is unable to identify the cause or discovers that such damage is consistent with sinkhole loss, the insurer shall engage a professional engineer or a professional geologist to conduct testing⁹⁸ to determine the cause of the loss if sinkhole loss is covered under the policy.⁹⁹ If the insurer determines that there is no sinkhole loss, the insurer may deny the claim.¹⁰⁰

Neutral evaluation is available to either party if a sinkhole report has been issued.¹⁰¹ Neutral evaluation must determine causation, all methods of stabilization and repair both above and below ground, and the costs of stabilization and all repairs.¹⁰² Following the receipt of the sinkhole report or the denial of a claim for a sinkhole loss, the insurer notifies the policyholder of the right to participate in the neutral evaluation program.¹⁰³

Neutral evaluation is nonbinding, but mandatory if requested by either the insurer or the insured.¹⁰⁴ A request for neutral evaluation is filed with the DFS. The request for neutral evaluation must state the reason for the request and must include an explanation of all the issues in dispute at the time of the request.¹⁰⁵ The neutral evaluator receives information from the parties and may have access to the structure. The neutral evaluator evaluates the claim and prepares a report describing whether a sinkhole loss occurred and, if necessary, the costs of repairs or stabilization.¹⁰⁶ The report is admissible in subsequent court proceedings.¹⁰⁷ Section 627.7074(6), F.S., requires the insurer to pay reasonable costs associated with the neutral evaluation.

Residential Condominium Loss Assessments

Loss assessment coverage is insurance coverage for condominium unit owners that provides protection for situations where the owner of a condominium unit, as the owner of shared property, is held financially responsible for:

- Deductibles owed when a claim is made under a condominium association's property insurance policy;
- Damage that occurs to the condominium building or the common areas of a condominium property; or

⁹⁸ Section 627.7072, F.S., contains testing standards in sinkhole claims.

⁹⁹ Section 627.707(2), F.S.

¹⁰⁰ Section 627.707(4)(a), F.S.

¹⁰¹ Section 627.7073, F.S., requires that a report be issued if testing required under s. 627.707-7074, F.S., is performed.

¹⁰² Section 627.7074(2), F.S.

¹⁰³ Section 627.7074(3), F.S.

¹⁰⁴ Section 627.7074(4), F.S.

¹⁰⁵ Section 627.7074, F.S. The statute also requires the Department of Financial Services to maintain a list of neutral evaluators and provides for disqualification of neutral evaluators in specified circumstances.

¹⁰⁶ Sections 627.7074(5), (12), F.S.

¹⁰⁷ Section 627.7074(13), F.S.

- Injuries that occur in the common areas of a condominium property.¹⁰⁸

Florida law requires that property insurance policies held by condominium unit owners include a minimum property loss assessment coverage of \$2,000 for all assessments made as a result of the same direct loss to the condominium property.¹⁰⁹ The law further establishes that the maximum amount of any unit owner's coverage that can be assessed for any loss is an amount equal to the unit owner's loss assessment coverage limit in effect one day before the date of an occurrence, but it does not specify exactly what occurrence is referenced.¹¹⁰ A condominium unit owner's insurance policy must state that the coverage afforded by the policy is excess coverage over the amount recoverable under any policy covering the same property.¹¹¹

Mediation of Automobile Insurance Claims

The DFS administers a mediation program for automobile insurance claims.¹¹² The claimant or the insurer may demand mediation of a claim in an amount of \$10,000 or less arising out of the ownership, operation, use, or maintenance of a motor vehicle. A request for mediation must be filed with the DFS on an approved form.¹¹³ Costs of the mediation are borne equally by both parties unless the mediator determines that one party has not mediated in good faith.¹¹⁴ The DFS approves mediators used in the program.¹¹⁵ To qualify as a mediator for the property or automobile mediation programs, a person must possess an active certification as a Florida Supreme Court certified circuit court mediator or be an approved DFS mediator as of July 1, 2014, and have conducted at least one mediation on behalf of the DFS within 4 years immediately preceding that date.¹¹⁶

Insurer Insolvency – Rehabilitation and Liquidation

Rehabilitation and Liquidation

Chapter 631, F.S., provides direction for the handling of insurers that have become insolvent. Part I of the Chapter provides specifically for the rehabilitation and liquidation of insolvent insurers. Receivership is a judicial proceeding in which the DFS is placed in control of the insurer for the purpose of rehabilitating or liquidating the insurer. The DFS may seek to be appointed receiver¹¹⁷ through a delinquency proceeding in court for the purpose of rehabilitating an impaired insurer or, if appropriate, liquidating the insolvent company. The primary goal of rehabilitation is to restore the financial solvency of the insurer¹¹⁸ while the primary goal of

¹⁰⁸ The Balance, *Loss Assessment Explained for Condo Insurance*, [loss-assessment-explained-for-condo-insurance](#) (last accessed March 9, 2023).

¹⁰⁹ Section 627.714(1), F.S.

¹¹⁰ Section 627.714(2), F.S.

¹¹¹ Section 627.714(4), F.S.

¹¹² Section 626.745, F.S.

¹¹³ Section 627.745(1)(b), F.S.

¹¹⁴ Section 627.745(1)(f), F.S.

¹¹⁵ Section 627.745(3)(a), F.S.

¹¹⁶ Section 627.745(3)(b), F.S.

¹¹⁷ The DFS Division of Rehabilitation and Liquidation acts as receiver when the DFS is appointed. *See* <http://www.myfloridacfo.com/Division/Receiver/> (last accessed March 9, 2023).

¹¹⁸ *See* [guide-to-the-receivership-process](#) (last accessed March 9, 2023).

liquidation is to secure and maximize the assets of the insolvent company for the benefit of its policyholders.¹¹⁹ Section 631.141, F.S., provides for the conduct of delinquency proceedings.

Section 631.252(1), F.S., requires policies of the insolvent insurer be canceled upon the earliest of:

- (a) The date of entry of the liquidation or, if the court so provides in its order, the expiration of 30 days from the date of entry of the liquidation order;
- (b) The normal expiration of the policy or contract coverage;
- (c) The replacement of the coverage by the insured, or the replacement of the policy or contract of coverage, with a policy or contract acceptable to the insured by the receiver with another insurer; or
- (d) The termination of the coverage by the insured.

Other than for certain life or health insurance coverages, claims made during the 30-day period under paragraph (1)(a) are handled as if the claim was made prior to the date of the insurer's liquidation.¹²⁰ The 30-day coverage period may not be extended.¹²¹

Guaranty of Payment

A guaranty association generally is a nonprofit corporation created by law directed to protect policyholders from financial losses and delays in claim payment and settlement due to the insolvency of an insurance company. Section 631.55, F.S., provides for the creation of the Florida Insurance Guaranty Association, Inc. (FIGA). When a property and casualty insurance company becomes insolvent, FIGA is required by law to assume the claims of the insurer and pay the claims of the company's policyholders.¹²² All insurers licensed to sell property and casualty insurance in the state are required to participate in the FIGA as a condition of transacting business in Florida. The FIGA operates under a board of directors as a nonprofit corporation. The board consists of five to nine members appointed by the DFS to serve 4-year terms.¹²³

Section 631.715, F.S., provides for the creation of the Florida Life and Health Insurance Guaranty Association (FLHIGA). All insurers licensed to sell direct life insurance policies, health insurance policies, annuity contracts, and supplemental contracts with or without life contingencies in the state are required to participate in the FLHIGA as a condition of transacting business in Florida. The FLHIGA operates under a board of directors as a nonprofit corporation. The board consists of nine to eleven members appointed by member insurers.¹²⁴

Section 631.815, F.S., provides for the creation of the Florida Health Maintenance Organization Consumer Assistance Plan (FHMOCAP). All health maintenance organizations possessing a valid certificate of authority in the state are required to participate in the FHMOCAP as a condition of transacting business in Florida. The FHMOCAP operates under a board of directors

¹¹⁹ See [liquidation summary](#) (last accessed March 9, 2023).

¹²⁰ Section 631.252(2), F.S.

¹²¹ Section 631.252(3), F.S.

¹²² Section 631.57, F.S.

¹²³ Section 631.56(1), F.S.

¹²⁴ Section 631.716(1), F.S.

as a nonprofit corporation. The board consists of five to nine members appointed by the DFS to serve 4-year terms.¹²⁵

Section 631.911, F.S., provides the creation of the Florida Workers' Compensation Insurance Guaranty Association, Incorporated (FWCIGA). All insurers authorized to provide workers' compensation insurance in the state are required to participate in the FWCIGA as a condition of transacting business in Florida. The FWCIGA operates under a board of directors as a nonprofit corporation. The board consists of eleven nine members appointed to serve 4-year terms.¹²⁶

State Fire Marshal

The CFO is designated under Florida law as the State Fire Marshal.¹²⁷ This law provides that "it is the intent of the Legislature that the State Fire Marshal shall have the responsibility to minimize the loss of life and property in this state due to fire."¹²⁸ The State Fire Marshal, by rule, adopts the Florida Fire Prevention Code (fire code), which contains all firesafety laws and rules that pertain to the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities, and the enforcement of such firesafety laws and rules.¹²⁹

Direct-Support Organizations

Citizen support organizations (CSOs) and direct-support organizations (DSOs) are statutorily-created private entities that are generally required to be non-profit corporations and are authorized to carry out specific tasks in support of public entities or public causes. The purpose and functions of a CSO or DSO are prescribed by its enacting statute and, for most, by a written contract with the agency the CSO or DSO was created to support.

Section 20.058, F.S., establishes the rules and procedures that a CSO or DSO must follow to remain in compliance. By August 1 of each year, a CSO or DSO must submit the following information to the agency it was created, approved, or is administered by:

- The name, mailing address, phone number, and website of the organization;
- The statutory authority or executive order pursuant to which the organization was created;
- A brief description of the mission of, and results obtained by, the organization;
- A brief description of the plans of the organization for the next three fiscal years;
- A copy of the organization's code of ethics; and
- A copy of the organization's most recent tax exemption form.¹³⁰

Each agency receiving such information from a CSO or DSO must make it available to the public through the agency's website. By August 15 of each year, each agency must submit a report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability with the information

¹²⁵ Section 631.816(1), F.S.

¹²⁶ Section 631.912(1), F.S.

¹²⁷ Section 633.104(1).

¹²⁸ Section 633.104(2).

¹²⁹ Section 633.208(1); ch. 69A-60, F.A.C.

¹³⁰ Section 20.058(1)(a)-(f), F.S.

provided and must include a recommendation to continue, terminate, or modify the agency's association with each CSO or DSO in the report. Furthermore, any contract between an agency and a CSO or DSO must be contingent upon the timely submission and posting of the information listed above. The contract must also provide for the cessation of operations and the reversion of state funds held by the CSO or DSO in the event that the statute authorizing the creation of the CSO or DSO is repealed, the contract is terminated, or the organization is dissolved. If an organization fails to submit the required information for two consecutive years, the agency head must terminate any contract between the agency and the CSO or DSO.¹³¹

Additionally, each CSO or DSO with annual expenditures in excess of \$100,000, created or authorized pursuant to law, and created, approved, or administered by a state agency, must provide for an annual financial audit of its accounts and records to be conducted by an independent certified public accountant. The audit must be submitted within nine months after the end of the fiscal year to the Auditor General and to the state agency responsible for the creation, administration, or approval of the CSO or DSO.¹³²

Laws creating or authorizing a CSO or DSO repeal on October 1 of the fifth year after enactment, unless reviewed and saved from repeal by the Legislature.¹³³

Warranty Associations

Chapter 634, F.S., provides for the regulation of warranty associations. There are three parts to the chapter; Part I for motor vehicle service agreement companies; Part II for home warranty associations; and Part III for service warranty associations.

Motor Vehicle Service Agreement Companies

A motor vehicle service agreement includes any agreement indemnifying the agreement holder against loss caused by failure of any mechanical or other component of the covered motor vehicle that does not operate as originally intended.¹³⁴ It does not include or prohibit the giving, free of charge, of the usual performance guarantees by manufacturers or dealers in connection with the sale of a motor vehicle.¹³⁵ The regulation is administered by the OIR.¹³⁶

Home Warranty Associations

A home warranty association is any business other than an authorized insurer that issues home warranties.¹³⁷ A home warranty includes any agreement whereby a business indemnifies the warranty holder against the cost of repair or replacement of any structural component or appliance of a home, necessitated by wear and tear or an inherent defect of any such structural component or appliance.¹³⁸ It does not include or prohibit the giving, at no charge, of usual

¹³¹ Section 20.058(2)-(4), F.S.

¹³² Section 215.981(1), F.S.

¹³³ Section 20.058(5), F.S.

¹³⁴ Section 634.011(8), F.S.

¹³⁵ *Id.*

¹³⁶ Section 634.021, F.S.

¹³⁷ Section 634.301(3), F.S.

¹³⁸ Section 634.301(2), F.S.

performance guarantees by either the builder of a home or the manufacturer or seller.¹³⁹ The regulation is administered by the OIR.¹⁴⁰

Service Warranty Associations

A service warranty association is any business other than an authorized insurer that issues service warranties.¹⁴¹ A service warranty includes, in return for the payment of a segregated charge by the consumer, any warranty, guaranty, or maintenance service contract equal to or greater than 1 year in length; an agreement for a specific duration to perform the repair, replacement, or maintenance of a consumer product; for indemnification for repair, replacement, or maintenance, for failure due to a defect in materials or workmanship, normal wear and tear, power surge, or accidental damage from handling.¹⁴² The regulation of the association and the warranties is administered by the OIR; the regulation of the sales representatives is by the DFS.¹⁴³

Bail Bonds

A bail bond is a guarantee by a third-party that a defendant in a criminal case will appear in court at all scheduled proceedings. A bail bond agent posts a surety bond to secure the defendant's release from custody; the defendant provides money or other collateral to secure the bail bond and forfeits the premium (10 percent of the amount of bail set by the court) if he or she fails to appear in court or comply with other conditions of the bond. Bail bond agents must be licensed by the DFS and appointed by insurance carriers to execute bail bonds. If a defendant fails to appear in court, the bail bond agent may apprehend and detain the defendant until the defendant is surrendered to the authorities.¹⁴⁴

Bail bond agents may execute or sign bonds, handle collateral receipts, deliver bonds to appropriate authorities, or operate an agency or branch agency at a separate location from the supervising bail bond agent, managing general agent, or insurer that employs the bail bond agent.¹⁴⁵

Licensure as a Bail Bond Agent

The DFS issues a temporary license that is effective for 18 months and permits a licensee to work under the direct supervision of a licensed and appointed bail bond agent; a limited surety license that allows a bail bond agent to execute bail bonds; and a professional bail bond agent that allows the agent to obtain collateral from a criminal defendant in return for the execution of a bail bond with the court.

To become a temporary bail bond agent, an applicant must have completed a 120-hour basic certification course during the four years prior to application and have an offer of employment

¹³⁹ *Id.*

¹⁴⁰ Section 634.302, F.S.

¹⁴¹ Section 634.401(14), F.S.

¹⁴² Section 634.401(13), F.S.

¹⁴³ Section 634.402, F.S.

¹⁴⁴ Sections 648.24 and 624.26, F.S. *Also see* Department of Financial Services, Division of Consumer Services, *Bail Bonds Overview*, [Bail Bonds Overview \(myfloridacfo.com\)](https://myfloridacfo.com) (last accessed February 28, 2023).

¹⁴⁵ Section 648.355, F.S.

from a supervising bail bond agent. A temporary bail bond agent must be accompanied by a supervising bail bond agent when apprehending, arresting, or surrendering defendants to the authorities. After one year of work under a temporary license (which must include at least 1,540 hours of paid employment under the supervision of a supervising bail bond agent), the temporary licensee may apply for a regular bail bond agent's license and take the required licensing examination.¹⁴⁶

After completing the one-year apprenticeship, a temporary licensee who passes a licensing exam and criminal background check may become a:

- Bail bond agent (also known as limited surety agent) who may execute or countersign bail bonds in connection with judicial proceedings; or
- Professional Bail Bond Agent, who may pledge U.S. currency, postal money orders, or cashier's check as security for a bail bond in connection with a judicial proceeding and receives or is promised money or things of value in return.¹⁴⁷

All applicants for bail bond licenses must submit fingerprints for a national criminal background check and pay an application fee. Bail bond agents may not have been convicted of a felony, must be age 18 or older, and must be eligible to work in the United States. A bail bond agent must be appointed by a licensed insurer and the insurer must report the appointment to the DFS. A bail bond agent may not charge a premium other than the rate that has been approved by the OIR, and must retain records related to any bail bonds the agent has executed or countersigned for at least three years after the liability of the surety has been terminated. Additionally, bail bond agents must register with the sheriff and the clerk of the circuit court in the county where the bail bond agent resides. Bail bond agents may not solicit clients at a jail, prison, or courthouse, and may not pay fees for referrals from any person working in the law enforcement community.¹⁴⁸

Ownership of a Bail Bond Agency

The owner of a bail bond agency must be a licensed and appointed bail bond agent.¹⁴⁹ The owner or operator of a bail bond agency must designate a primary bail bond agent who is responsible for the overall operation and management of a bail bond agency location and file the name and license number of the primary bail bond agent and the address of the bail bond agency with the DFS. A primary bail bond agent may supervise only one location, is responsible for hiring employees and may not employ or contract with any person who has been found guilty of a felony.¹⁵⁰

Continuing Education

Bail bond agents must complete at least 14 hours of continuing education every two years.¹⁵¹ Schools that offer continuing education must be approved and certified by the DFS, and must

¹⁴⁶ *Id.* and Rule 69B-221.051, F.A.C.

¹⁴⁷ Section 648.25, F.S.

¹⁴⁸ Sections 648.355, 648.33, 648.34, 648.35, 648.36, 648.382, 648.42, and 648.44, F.S.

¹⁴⁹ Section 648.285, F.S.

¹⁵⁰ Sections 648.25(6) and 648.387, F.S.

¹⁵¹ Section 648.385, F.S.

offer a minimum of three classroom-instruction continuing education classes per calendar year. Continuing education classes must consist of at least two hours of approved coursework and be taught by a supervising instructor who is approved by the DFS.¹⁵²

Forfeiture of a Bail Bond

When a defendant in a criminal case who has been released on bond fails to appear in court on the required date and at the required time, the court declares any bonds or money deposited as bail forfeited.¹⁵³ If a defendant surrenders or is apprehended and surrendered to the authorities within two years of forfeiture, the court rescinds forfeiture of a bond, based on the following schedule:

- Within 90 days of forfeiture, the court rescinds up to 100 percent of the bond;
- Within 180 days of forfeiture, the court rescinds up to 95 percent of the bond;
- Within 270 days of forfeiture, the court rescinds up to 90 percent of the bond;
- Within one year of forfeiture, the court rescinds up to 85 percent of the bond; and
- Within two years of forfeiture, the court rescinds up to 50 percent of the bond.¹⁵⁴

Florida Disposition of Unclaimed Property Act

As part of the DFS' statutory responsibilities, the DFS is to collect and return unclaimed property belonging to Florida residents.¹⁵⁵ Chapter 717, F.S., is entitled the Florida Disposition of Unclaimed Property Act, over which the DFS is responsible to administer. Unclaimed property is any funds or other property, tangible or intangible, that has remained unclaimed by the owner for a certain number of years. Unclaimed property may include savings and checking accounts, money orders, travelers' checks, uncashed payroll or cashiers' checks, stocks, bonds, other securities, insurance policy payments, refunds, security and utility deposits, and contents of safe deposit boxes.¹⁵⁶ Until claimed, unclaimed money is deposited into the state school fund to be used for public education.

Pursuant to s. 717.124, F.S. a claimant representative must be a Florida-licensed attorney, a licensed Florida-certified public accountant (CPA), or a private investigator licensed under ch. 493, F.S. A claimant representative must register with the DFS on a form designated by the DFS and provide certain documentation (including tax identification number, identification, electronic funds transfer information, business address, and employees and agents) and credentials as to their status as an attorney, CPA, or private investigator.¹⁵⁷ In order to move forward in obtaining unclaimed property on a potential client's behalf, the representative must first obtain that client's authorization.

¹⁵² Section 648.386, F.S.

¹⁵³ Section 903.26, F.S.

¹⁵⁴ Section 903.28, F.S.

¹⁵⁵ Florida Department of Financial Services, *Statement of Agency Organization and Operation*, <https://www.myfloridacfo.com/sitepages/required/agencyorg.aspx> (last visited March 26, 2021).

¹⁵⁶ Sections 717.104-717.116, F.S.

¹⁵⁷ Section 717.1400, F.S.

III. Effect of Proposed Changes:

Powers and Duties of the Department of Financial Services

Section 1 amends s. 20.121, F.S., to clarify that the powers and duties of the Division of Investigative and Forensic Services relating to investigations include the authority to initiate investigations if it has reason to believe that any criminal law of Florida or the United States has or may have been violated. The bill repeals subsection (6) which establishes the Strategic Markets Research and Assessments Unit and charges the CFO, or designee, with reporting quarterly on the status of the state's financial services markets.

Financial Literacy

Section 2 amends s. 39.6035, F.S., to delete a requirement for the Department of Children and Families and the community-based care lead agency to provide financial literacy curriculum information from the DFS to youth transitioning from foster care.

Florida Deferred Compensation Program

Section 3 amends s. 112.215, F.S., to redefine the term "employee" as "government employee" and revise eligibility for plans of deferred compensation to include employees of municipalities, special districts, water management districts, and the Florida College System. Revises membership of the Deferred Compensation Advisory Council to include an employee of the Florida College System appointed by the Chancellor of the Florida College System.

Payment of Vendor Invoices by the State

Section 4 amends s. 215.422, F.S., to conform healthcare and vendor payments to the state's prompt payment law. Changes to 40 days (instead of 35 days) the timeframe by which certain payments are to be reimbursed.

Tangible Personal Property Owned by Local Governments

Section 5 amends s. 274.01, F.S., to revise the definition of the term "governmental unit" for purposes of ch. 274, F.S., to include a county agency, a municipality, and a special district.

Road-to-Independence Program

Section 6 amends s. 409.1451, F.S., to conform to the change made by section 2 of the bill relating to financial literacy training.

Workers' Compensation

Section 7 amends s. 440.13, F.S., to:

- Provide that if there is disagreement in the opinions of health care providers, the judge of compensation claims may, rather than shall, order the injured employee to be evaluated by an expert medical advisor.

- Remove determination of statewide schedules of maximum reimbursement allowances for medically necessary treatment, care, and attendance provided by physicians, work-hardening programs, pain programs, and durable medical equipment from the three-member panel.
- Provide that a hospital or ambulatory surgical center will be reimbursed the agreed-upon contract price or the maximum reimbursement allowance in the appropriate schedule.
- Remove obsolete implementing language and obsolete language relating to practice parameters.
- Provide that by July 1 of each year, the DFS must notify carriers and self-insurers of the physician and nonhospital services schedule of maximum reimbursement allowances. The notice must include publication of the schedule on the division's website. The schedule is not subject to approval by the three-member panel and does not include reimbursement for prescription medication.

Section 8 amends s. 440.38, F.S., to provide that any form used by the DFS to show proof of Workers' Compensation coverage must contain:

- The governing class code or codes;
- Payroll information; and
- The total number of employees covered by the workers' compensation insurance policy.

Section 9 amends s. 440.385, F.S., to provide that the CFO may appoint directors to the Florida Self-Insurers Guaranty Association from recommendations of members of the association or from other persons with experience in self-insurance. Provides that the CFO may remove a director for misconduct, malfeasance, misfeasance, or neglect of duty. Provides that directors are subject to the code of ethics under part III of ch. 112, F.S.

Section 82 ratifies Rule 69L-7.020, Florida Administrative Code, relating to the Florida Workers' Compensation Health Care Provider Reimbursement Manual, allowing the rule to go into effect. The bill meets the condition for effectiveness imposed by s. 120.541(3), F.S. The bill expressly limits ratification to the effectiveness of the rule. The bill provides that it will not be codified in the Florida Statutes but only noted in the historical comments to each rule by the Department of State.

Health Care Ministry

Section 10 amends s. 624.1265, F.S., to provide that a nonprofit religious organization may not market or sell health plans by agents licensed by the DFS.

Division of Insurance Agents and Agencies

Section 11 amends s. 624.501, F.S., to delete the application filing and license fee for reinsurance intermediaries.

Section 12 amends s. 626.015, F.S., to revise the definition of the term "association" for purposes of part I of ch. 626, F.S. Reference to the "Florida Association of Health Underwriters" is changed to the "National Association of Benefits and Insurance Professionals Florida Chapter."

Section 13 amends s. 626.171, F.S., to delete the authority of designated examination centers to take fingerprints of applicants for a license as an agent, customer representative, adjuster, service representative, or reinsurance intermediary.

Section 14 amends s. 626.173, F.S., to provide that an insurance agency closure notice requirement provision does not apply to title insurance, life insurance, or annuity contracts.

Section 15 amends s. 626.207, F.S., to authorize the DFS to adopt rules establishing specific penalties against licensees for violations of:

- Section. 626.112(7) or (9), F.S., regarding trade names of insurance agencies and adjusting firms;
- Section 626.6115, F.S., regarding compulsory refusal, suspension or revocation of insurance agency licensure;
- Section 626.6215, F.S., regarding discretionary refusal, suspension, or revocation of insurance agency licensure;
- Section 626.7451, F.S., regarding managing general agent contract provisions;
- Section 626.8695, F.S., regarding designation of primary adjusters at each business location;
- Section 626.8697, F.S., regarding mandatory refusal, suspension, or revocation of an adjusting firm license; and
- Section 626.8698, F.S., regarding disciplinary guidelines for public adjusters and public adjuster apprentices.

Section 16 amends s. 626.221, F.S., to add that a certification from Professional in Claims (PIC) from 2021 Training, LLC exempts an applicant for license as an all-lines adjuster from an examination requirement.

Section 17 amends s. 626.2815, F.S., to provide that any course related to commercial and residential property coverages, claim adjusting practices, and any other adjuster elective courses approved by the DFS qualify as elective continuing education for certain insurance representatives.

Section 18 amends s. 626.321, F.S., to delete requirements prohibiting limited lines agents from holding a license as an agent for any other or additional kind or class of insurance coverage. Creates a limited license for preneed funeral agreement insurance coverage.

Section 19 amends 626.611, F.S., to add having been found guilty of or having pleaded guilty or nolo contendere to a misdemeanor directly related to the financial services business as grounds for compulsory disciplinary actions taken by the DFS against insurance representatives.

Section 20 amends s. 626.621, F.S., to add having had the cancellation of the applicant's, licensee's, or appointee's resident license in a state other than Florida as grounds for discretionary disciplinary actions taken by the DFS against insurance representatives.

Section 21 amends s. 626.7492, F.S., to revise the definitions of the terms "producer" and "reinsurance intermediary manager" in order to change the Reinsurance Intermediary Manager and Reinsurance Intermediary Broker licenses to an appointment.

Section 22 amends s. 626.752, F.S., to require the DFS to suspend the insurer's ability to appoint licensees if the insurer fails to pay the exchange of business fee.

Section 23 amends s. 626.785, F.S., to authorize a funeral director, a direct disposer, or an employee of a funeral establishment that holds a preneed license to obtain a limited license to sell only policies of life insurance covering the expense of a prearrangement for funeral services or merchandise.

Sections 24 and 25 amend ss. 626.793 and 626.837, F.S., to require the DFS to suspend the authority of an insurer or employer to appoint licensees if the insurer or employer does not pay the fees and taxes due within 21 days after notice by the DFS.

Title Insurance Agents and Agencies

Section 26 amends s. 626.8411, F.S., to provide that the notice requirements of s. 626.173(1)(c), relating to notifying policyholders of the agency closure do not apply to title insurance agents or title insurance agencies.

Section 27 amends s. 626.8437, F.S., to add grounds for compulsory disciplinary actions taken by the DFS against a title insurance agent or agency to include misappropriation, conversion, or improper withholding of funds received in a fiduciary capacity and held as part of an escrow agreement, real estate sales contract, or as provided on a settlement statement in a real estate transaction and revocation or cancellation of a licensee's resident license in a jurisdiction other than Florida.

Section 28 amends s. 626.844, F.S., to add grounds for discretionary disciplinary actions taken by the DFS against a title insurance agent or agency for having been the subject of a violation of any federal or state securities or commodities law; or having a licensee's resident license in a jurisdiction other than Florida revoked or cancelled.

Section 29 amends s. 626.8473, F.S., to transfer the duties as an escrow agent from the title agent to the title agency.

Section 30 amends s. 626.854, F.S., to provide that the applicability of the prohibition of taking a thing of value for certain prohibited acts applies to a licensed "and appointed" public insurance adjuster.

Section 31 amends s. 626.874, F.S., to provide that a catastrophe or emergency adjuster must adjust claims, losses, or damages under policies or contracts of insurance issued by an authorized insurer or by a licensed independent adjusting firm contracted with an authorized insurer.

Anti-Fraud Reward Program

Section 32 amends s. 626.9892, F.S., to add violations for which the DFS may pay rewards under the Anti-Fraud Reward Program; removes the requirement for a conviction in order to receive a reward under the Reward Program

Navigators

Section 33 amends s. 626.9957, F.S., to provide for the expiration of a health coverage navigator's registration if the navigator fails to maintain an active, valid navigator's registration status with the Federal Government or an exchange.

Medical Malpractice Risk Apportionment

Section 34 amends s. 627.351, F.S., to provide that the CFO may select the representatives of the Joint Underwriting Association from persons with experience in medical malpractice insurance; provide that the CFO may remove a member for misconduct, malfeasance, misfeasance, or neglect of duty; and provide that members are subject to the code of ethics under part III of ch. 112, F.S.

Disclosures to Policyholders

Section 35 amends s. 627.4215, F.S., to provide that the disclosure requirement to policyholders applies only to health insurers that offer mental health benefits.

Notice of Property Insurance Claim

Section 36 amends s. 627.70132, F.S., to provide that the time restrictions on providing notice of property insurance claims do not apply to residential condominium unit owner loss assessment claims.

DFS Property Insurance Mediation Program

Section 37 amends s. 627.7015, F.S., to provide that a disputed property insurance claim is not eligible for mediation until an insurer has made a claim determination or elected to repair pursuant to s. 627.70131, F.S. The bill provides that fees for a rescheduled mediation conference can be assessed by the DFS and authorizes the DFS to suspend an insurer's authority to appoint licensees if the insurer does not timely pay the required fees.

Alternative Procedure for the Resolution of Disputed Sinkhole Insurance Claims

Section 38 amends s. 627.7074, F.S., to allow the DFS to designate an administrator to carry out the alternative procedure for resolution of disputed sinkhole insurance claims.

Residential Condominium Loss Assessments

Section 39 amends s. 627.714, F.S., to provide that, for policies issued after January 1, 2024, a loss assessment claim is deemed to have occurred on the date of the notice of loss assessment sent by a unit owner's condominium association.

Mediation of Automobile Insurance Claims

Section 40 amends s. 627.745, F.S., to revise the requirements and procedures for the mediation of personal injury claims under a motor vehicle insurance policy; require the costs of mediation to be reasonable and paid by the insurer; provide for consequences of failure to appear; require the DFS to adopt rules; and authorize the DFS to designate an administrator.

Insurer Insolvency – Rehabilitation and Liquidation

Section 41 amends s. 631.141, F.S., to authorize the DFS in receivership proceedings to use the property of the estate of the insolvent insurer to transfer the insurer's book of business to a solvent assuming insurer or insurers and to share records of the insolvent insurer with the prospective assuming insurer.

Section 42 amends s. 631.252, F.S., to provide that policies of the insolvent insurer do not have to be cancelled if there is a carrier that is willing to take on policies of an insolvent company.

Sections 43 - 46 amend ss. 631.56, 631.716, 631.816, and 631.912, F.S., to revise membership eligibility requirements for the Florida Insurance Guaranty Association, the Florida Life and Health Insurance Guaranty Association, the Florida Health Maintenance Organization Consumer Assistance Plan, and the Florida Workers' Compensation Insurance Guaranty Association, Incorporated. These sections provide that the CFO may remove a member for misconduct, malfeasance, misfeasance, or neglect of duty; and provide that members are subject to the code of ethics under part III of ch. 112, F.S. The bill specifies that board members of the Florida Life and Health Insurance Guaranty Association serve 4-year term and may be reappointed, which is current law for board members of the other associations and plans affected by these sections.

State Fire Marshal

Section 47 creates s. 633.1423, F.S., to create a direct support organization for the State Fire Marshal to be known as the "State Fire Marshal Safety and Training Force," whose purpose is to support the safety and training of firefighters and to recognize exemplary service. The section provides for a board of directors; provides requirements for the use of property, annual budgets and reports, an annual audit, and the division's receipt of proceeds; and authorizes moneys received to be held in a depository account.

Warranty Associations

Section 48 amends s. 634.181, F.S., to add grounds for compulsory disciplinary actions against motor vehicle service agreement salespersons; provide for the immediate temporarily suspension of a license if the licensee is charged with certain felonies; and authorize the DFS to adopt rules.

Section 49 amends s. 634.318, F.S., to authorize the DFS to issue a license to a nonresident applicant if the applicant is licensed as a sales representative for home warranty associations and insurers in the applicant's home state.

Section 50 amends s. 634.320, F.S., to add grounds for discretionary disciplinary actions taken against a home warranty association sales representative for having been the subject of a violation of any federal or state securities or commodities law; provide for the immediate temporarily suspension of a license if the licensee is charged with certain felonies; and authorize the DFS to adopt rules.

Section 51 amends s. 634.321, F.S., to add grounds for discretionary disciplinary actions against a home warranty association sales representative; require a sales representative to report any action taken against the sales representative relating to the business of insurance; and authorize the DFS to adopt rules.

Section 52 amends s. 634.419, F.S., to provide that specified home solicitation sale requirements, ss. 501.021-501.055, F.S., do not apply to persons or entities licensed and appointed, or their affiliates, which solicit the sale of a service warranty or related service or product in connection with a prearranged appointment at the request of the consumer.

Section 53 amends s. 634.422, F.S., to revise grounds for compulsory disciplinary actions by the DFS against service warranty association sales representatives; require the DFS to immediately temporarily suspend a license or appointment under certain circumstances; prohibit a person from transacting insurance business after such suspension; and authorize the DFS to adopt rules.

Section 54 amends s. 634.423, F.S., to add grounds for discretionary disciplinary actions taken against a service warranty association sales representative for having been the subject of a violation of any federal or state securities or commodities law; provide for the immediate temporarily suspension of a license if the licensee is charged with certain felonies; and authorize the DFS to adopt rules.

Bail Bonds

Section 55 amends and reorders s. 648.25, F.S., to provide a definition of “Appointment”; provides that a “Temporary bail bond agent” means a person licensed before January 1, 2024; provides that a temporary bail bond agent license expires 18 months after issuance and is no longer valid on or after June 30, 2025.

Section 56 amends s. 648.26, F.S., to provide that DFS has the authority to disclose the nature of a complaint to a licensee if the investigating officer deems such disclosure necessary to conduct the investigation. Additionally, the bill permits the DFS to update the complainant about the status and outcome of a complaint, and to share information with law enforcement and regulatory agencies, as needed.

Section 57 amends s. 648.27, F.S., to delete a provision relating to the continuance of a temporary bail bond agent license.

Section 58 amends s. 648.285, F.S., to provide that bail bond agencies be licensed rather than registered; a person may not control or manage a bail bond agency unless the person has been engaged as a bail bond agent for the preceding 24 months; a bail bond agency that holds a

current valid registration will have its registration automatically converted to a license on July 1, 2024.

Section 59 amends s. 648.30, F.S., to provide that a bail bond agent may not sell a bail bond issued by an insurer for which the agent and the agent's bail bond agency do not hold a current appointment. The bill prohibits the performance of any of the functions of a bail bond agency without a bail bond agency license.

Section 60 amends s. 648.31, F.S., to conform to changes made by the bill and to provide there is no fee for the issuance of any appointment to a bail bond agency.

Section 61 amends s. 648.34, F.S., to conform to changes made by the bill and to revise qualifications for a bail bond agent license to require, within 2 years immediately before applying for the license, the completion of a basic criminal justice certification course which consists of at least 120 hours of classroom instruction with a passing grade of at least 80 percent and has successfully completed a correspondence course for bail bond agents approved by the DFS.

Section 62 amends s. 648.355, F.S., to delete provisions relating to temporary bail bond agents and preserve the rights of persons who currently hold the temporary bail bond agent license; effective July 1, 2023, such persons would be eligible to take the bail bond agent's licensure exam and apply for licensure as a bail bond agent or professional bail bond agent. A temporary bail bond agent license that expires, or is terminated or suspended or revoked, would not be renewed or reinstated.

Section 63 amends s. 648.382, F.S., to provide that, effective July 1, 2025, each insurer or managing general agent appointing a bail bond agency in this state must file the appointment with the DFS; an appointed entity must hold a valid bail bond agency's license. The bill requires the appointing entity to certify that it obtained a sworn attestation of compliance from the appointed agency.

Section 64 amends s. 648.386, F.S., to add the words "classroom instruction" to the continuing education requirements, to ensure that bail bond agents are taking the required hours of continuing education in the presence of a supervising instructor. Instruction must be provided in real time, but the bill states that students may attend continuing education classes through video, webcast, or other virtual means.

Section 65 amends s. 648.387, F.S., to rename primary bail bond agents as bail bond agents in charge; requires the bail bond agency to designate another bail bond agent in charge within 10 days of a vacancy.

Section 66 creates s. 648.3875, F.S., to provide requirements for applying for designation as a bail bond agent in charge.

Sections 67, 69, 70, 71, 73, and 75, amend ss. 648.39, 648.42, 648.44, 648.441, 648.50, and 843.021, F.S., to make conforming and technical changes relating to bail bonds.

Section 68 repeals s. 648.41, F.S., relating to the termination of appointment of temporary bail bond agents.

Section 72 amends s. 648.46(3), F.S., to provide that the subsection does not prevent the DFS or the OIR from disclosing the complaint or such information as it deems necessary to conduct the investigation or to update the complainant.

Section 76 amends s. 903.28, F.S., relating to the conditions for remission of forfeiture to provide that within 2 years after the date of forfeiture, if the state is unwilling to seek extradition of the defendant after a request by the surety agent or the surety company, and provided the agent or company consents to pay all costs incurred in returning the defendant to the jurisdiction of the court up to the penal amount of the bond, the court shall direct remission of 100 percent of the forfeiture.

Florida Disposition of Unclaimed Property Act

Section 74 amends s. 717.135, F.S., within the Florida Disposition of Unclaimed Property Act, relating to recovery agreements and purchase agreements for claims filed by a claimant's representative to provide that the section does not prohibit lawful nonagreement, noncontractual, or advertising communications between or among the parties.

Conforming Provisions

Sections 77 - 81 amend ss. 28.2221, 119.071, 631.152, 631.398, and 903.09, F.S., to make conforming and technical changes.

Rule Ratification

Section 82 ratifies, effective July 1, 2023, Rule 69L-7.020, Florida Administrative Code, relating to the Florida Workers' Compensation Health Care Provider Reimbursement Manual, allowing the rule to go into effect. The bill meets the condition for effectiveness imposed by s. 120.541(3), F.S. The bill expressly limits ratification to the effectiveness of the rule. The bill provides that it will not be codified in the Florida Statutes but only noted in the historical comments to each rule by the Department of State.

Section 83 provides that except as otherwise expressed in the bill, the bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill eliminates certain fees that may reduce revenues an indeterminate, but likely insignificant amount.

B. Private Sector Impact:

The rule ratification of the Florida Workers' Compensation Health Care Provider Manual is estimated to increase workers' compensation system costs by 0.2 percent (eight million dollars). The bill requires warranty associations to have a reserve of \$100 million, instead of \$10 million. The bill requires motor vehicle insurers bear the entire cost of mediation. It makes various other changes that have an indeterminate, negative fiscal impact.

C. Government Sector Impact:

The bill makes numerous changes that will require systems and process changes in the DFS and other agencies.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.121, 39.6035, 112.215, 215.422, 274.01, 409.1451, 440.13, 440.38, 440.385, 624.1265, 624.501, 626.015, 626.171, 626.173, 626.207, 626.221, 626.2815, 626.321, 626.611, 626.621, 626.7492, 626.752, 626.785, 626.793, 626.837, 626.8411, 626.8437, 626.844, 626.8473, 626.854, 626.874, 626.9892, 626.9957, 627.351, 627.4215, 627.70132, 627.7015, 627.7074, 627.714, 627.745, 631.141, 631.252, 631.56, 631.716, 631.816, 631.912, 634.181, 634.191, 634.320, 634.321, 634.419, 634.422, 634.423, 648.25, 648.26, 648.27, 648.285, 648.30, 648.31, 648.34, 648.355,

648.382, 648.386, 648.387, 648.39, 648.42, 648.44, 648.441, 648.46, 648.50, 717.135, 843.021, 903.28, 28.2221, 119.071, 631.152, 631.398, and 903.09.

This bill creates the following sections of the Florida Statutes: 633.1423 and 648.3875.

This bill repeals the following section of the Florida Statutes: 648.41.

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 Committee on March 22, 2023:

The committee substitute makes the following changes:

- Provides that in Workers' Compensation cases, if there is disagreement in the opinions of health care providers, the judge of compensation claims may, rather than shall, order the injured employee to be evaluated by an expert medical advisor.
- Provides that any form used by the DFS to show proof of Workers' Compensation coverage must contain:
 - The governing class code or codes;
 - Payroll information; and
 - The total number of employees covered by the workers' compensation insurance policy.
- Removes provisions from the bill limiting members of various appointed entities to terms of no more than 8 consecutive years.
- Removes section 25 of the bill defining the term "real estate closing transaction" for title agents.
- Removes the requirement for a conviction in order to receive a reward under the Anti-Fraud Reward Program.
- Allows the DFS to designate an administrator to carry out the alternative procedure for resolution of disputed sinkhole insurance claims.
- Adds a Sunset repeal date to the State Fire Marshall Direct Support Organization created in the bill.
- Removes provisions authorizing the DFS to issue a home warranty sales representative license or a service warranty sales representative license to a nonresident applicant if the applicant is licensed as such in the applicant's home state.
- Removes provisions relating to a service warranty association's outstanding debt obligation.
- Removes the proposed revision to the definition of the term "manufacturer" for service warranty associations.
- Provides there is no fee for the issuance of any appointment to a bail bond agency.
- Provides that the provisions restricting recovery agreements and purchase agreements for claims filed by a claimant's representative do not prohibit lawful nonagreement, noncontractual, or advertising communications between or among the parties.
- Revises remission of forfeiture provisions.
- Revises wording in several sections of the bill for greater clarity.

B. Amendments:

None.

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



176642

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
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The Committee on Banking and Insurance (DiCeglie) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (e) of subsection (2) and subsection
(6) of section 20.121, Florida Statutes, are amended to read:

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

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



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(e) The Division of Investigative and Forensic Services, which shall function as a criminal justice agency for purposes of ss. 943.045-943.08. The division may initiate and conduct investigations into any matter under the jurisdiction of the Chief Financial Officer and Fire Marshal within or outside of this state as it deems necessary. If, during an investigation, the division has reason to believe that any criminal law of this state or the United States has or may have been violated, it shall refer any records tending to show such violation to state ~~or federal~~ law enforcement and, if applicable, federal ~~or~~ prosecutorial agencies and shall provide investigative assistance to those agencies as appropriate ~~required~~. The division shall include the following bureaus and office:

1. The Bureau of Forensic Services;
2. The Bureau of Fire, Arson, and Explosives Investigations;
3. The Office of Fiscal Integrity, which shall have a separate budget;
4. The Bureau of Insurance Fraud; and
5. The Bureau of Workers' Compensation Fraud.

~~(6) STRATEGIC MARKETS RESEARCH AND ASSESSMENT UNIT. The Strategic Markets Research and Assessment Unit is established within the Department of Financial Services. The Chief Financial Officer or his or her designee shall report on September 1, 2008, and quarterly thereafter, to the Cabinet, the President of the Senate, and the Speaker of the House of Representatives on the status of the state's financial services markets. At a minimum, the report must include a summary of issues, trends, and threats that broadly impact the condition of the financial~~



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~~services industries, along with the effect of such conditions on financial institutions, the securities industries, other financial entities, and the credit market. The Chief Financial Officer shall also provide findings and recommendations regarding regulatory and policy changes to the Cabinet, the President of the Senate, and the Speaker of the House of Representatives.~~

Section 2. Paragraph (c) of subsection (1) of section 39.6035, Florida Statutes, is amended to read:

39.6035 Transition plan.—

(1) During the year after a child reaches 16 years of age, the department and the community-based care lead agency, in collaboration with the caregiver and any other individual whom the child would like to include, shall assist the child in developing a transition plan. The required transition plan is in addition to standard case management requirements. The transition plan must address specific options for the child to use in obtaining services, including housing, health insurance, education, financial literacy, a driver license, and workforce support and employment services. The plan must also include tasks to establish and maintain naturally occurring mentoring relationships and other personal support services. The transition plan may be as detailed as the child chooses. This plan must be updated as needed before the child reaches 18 years of age and after the child reaches 18 years of age if he or she is receiving funding under s. 409.1451(2). In developing and updating the transition plan, the department and the community-based care lead agency shall:

~~(c) Provide information for the financial literacy~~



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~~curriculum for youth offered by the Department of Financial Services.~~

Section 3. Subsections (2) and (4), paragraph (a) of subsection (8), and subsection (12) of section 112.215, Florida Statutes, are amended to read:

112.215 Government employees; deferred compensation program.—

(2) For the purposes of this section, the term “government employee” means any person employed, whether appointed, elected, or under contract, by providing services for the state or any governmental unit of the state, including, but not limited to, any state agency; any ~~or~~ county, municipality, or other political subdivision of the state; any special district or water management district, as the terms are defined in s. 189.012 municipality; any state university or Florida College System institution, as the terms are defined in s. 1000.21(6) and (3), respectively ~~board of trustees; or any constitutional county officer under s. 1(d), Art. VIII of the State Constitution for which compensation or statutory fees are paid.~~

(4) (a) The Chief Financial Officer, with the approval of the State Board of Administration, shall establish a state ~~such~~ plan or plans of deferred compensation for government ~~state~~ employees ~~and may include persons employed by a state university as defined in s. 1000.21, a special district as defined in s. 189.012, or a water management district as defined in s. 189.012,~~ including all such investment vehicles or products incident thereto, as may be available through, or offered by, qualified companies or persons, and may approve one or more such plans for implementation ~~by and on behalf of the state and its~~



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~~agencies and employees.~~

(b) If the Chief Financial Officer deems it advisable, he or she shall have the power, with the approval of the State Board of Administration, to create a trust or other special funds for the segregation of funds or assets resulting from compensation deferred at the request of government employees participating in ~~of the state plan or its agencies and~~ for the administration of such program.

(c) The Chief Financial Officer, with the approval of the State Board of Administration, may delegate responsibility for administration of the state plan to a person the Chief Financial Officer determines to be qualified, compensate such person, and, directly or through such person or pursuant to a collective bargaining agreement, contract with a private corporation or institution to provide such services as may be part of any such plan or as may be deemed necessary or proper by the Chief Financial Officer or such person, including, but not limited to, providing consolidated billing, individual and collective recordkeeping and accountings, asset purchase, control, and safekeeping, and direct disbursement of funds to employees or other beneficiaries. The Chief Financial Officer may authorize a person, private corporation, or institution to make direct disbursement of funds under the state plan to an employee or other beneficiary.

(d) In accordance with such approved plan, and upon contract or agreement with an eligible government employee, deferrals of compensation may be accomplished by payroll deductions made by the appropriate officer or officers of the state, with such funds being thereafter held and administered in



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accordance with the plan.

(e) The administrative costs of the deferred compensation plan must be wholly or partially self-funded. Fees for such self-funding of the plan shall be paid by investment providers and may be recouped from their respective plan participants. Such fees shall be deposited in the Deferred Compensation Trust Fund.

(8)(a) There is created a Deferred Compensation Advisory Council composed of eight ~~seven~~ members.

1. One member shall be appointed by the Speaker of the House of Representatives and the President of the Senate jointly and shall be an employee of the legislative branch.

2. One member shall be appointed by the Chief Justice of the Supreme Court and shall be an employee of the judicial branch.

3. One member shall be appointed by the chair of the Public Employees Relations Commission and shall be a nonexempt public employee.

4. The remaining five ~~four~~ members shall be employed by the executive branch and shall be appointed as follows:

a. One member shall be appointed by the Chancellor of the State University System and shall be an employee of the university system.

b. One member shall be appointed by the Chief Financial Officer and shall be an employee of the Chief Financial Officer.

c. One member shall be appointed by the Governor and shall be an employee of the executive branch.

d. One member shall be appointed by the Executive Director of the State Board of Administration and shall be an employee of



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the State Board of Administration.

e. One member shall be appointed by the Chancellor of the Florida College System and shall be an employee of the Florida College System.

(12) The Chief Financial Officer may adopt any rule necessary to administer and implement this act with respect to the state deferred compensation plan or plans ~~for state employees and persons employed by a state university as defined in s. 1000.21, a special district as defined in s. 189.012, or a water management district as defined in s. 189.012.~~

Section 4. Subsection (13) of section 215.422, Florida Statutes, is amended to read:

215.422 Payments, warrants, and invoices; processing time limits; dispute resolution; agency or judicial branch compliance.—

(13) Notwithstanding the provisions of subsections (3) and (12), in order to alleviate any hardship that may be caused to a health care provider as a result of delay in receiving reimbursement for services, any payment or payments for hospital, medical, or other health care services which are to be reimbursed by a state agency or the judicial branch, either directly or indirectly, shall be made to the health care provider not more than 40 ~~35~~ days from the date eligibility for payment of such claim is determined. If payment is not issued to a health care provider within 40 ~~35~~ days after the date eligibility for payment of the claim is determined, the state agency or the judicial branch shall pay the health care provider interest at a rate of 1 percent per month calculated on a calendar day basis on the unpaid balance from the expiration of



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such 40-day ~~35-day~~ period until such time as payment is made to the health care provider, unless a waiver in whole has been granted by the Department of Financial Services pursuant to subsection (1) or subsection (2).

Section 5. Subsection (1) of section 274.01, Florida Statutes, is amended to read:

274.01 Definitions.—The following words as used in this act have the meanings set forth in the below subsections, unless a different meaning is required by the context:

(1) "Governmental unit" means the governing board, commission, or authority of a county, a county agency, a municipality, a special district as defined in s. 189.012 or taxing district of the state, or the sheriff of the county.

Section 6. Paragraph (b) of subsection (3) of section 409.1451, Florida Statutes, is amended to read:

409.1451 The Road-to-Independence Program.—

(3) AFTERCARE SERVICES.—

(b) Aftercare services include, but are not limited to, the following:

1. Mentoring and tutoring.
2. Mental health services and substance abuse counseling.
3. Life skills classes, including credit management and preventive health activities.
4. Parenting classes.
5. Job and career skills training.
6. Counselor consultations.
7. Temporary financial assistance for necessities, including, but not limited to, education supplies, transportation expenses, security deposits for rent and



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utilities, furnishings, household goods, and other basic living expenses.

8. Temporary financial assistance to address emergency situations, including, but not limited to, automobile repairs or large medical expenses.

~~9. Financial literacy skills training under s. 39.6035(1)(c).~~

The specific services to be provided under this paragraph shall be determined by an assessment of the young adult and may be provided by the community-based care provider or through referrals in the community.

Section 7. Paragraph (c) of subsection (9) and subsections (12) and (14) of section 440.13, Florida Statutes, are amended to read:

440.13 Medical services and supplies; penalty for violations; limitations.—

(9) EXPERT MEDICAL ADVISORS.—

(c) If there is disagreement in the opinions of the health care providers, if two health care providers disagree on medical evidence supporting the employee's complaints or the need for additional medical treatment, or if two health care providers disagree that the employee is able to return to work, the department may, and the judge of compensation claims may ~~shall~~, upon his or her own motion or within 15 days after receipt of a written request by either the injured employee, the employer, or the carrier, order the injured employee to be evaluated by an expert medical advisor. The injured employee and the employer or carrier may agree on the health care provider to serve as an



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expert medical advisor. If the parties do not agree, the judge of compensation claims shall select an expert medical advisor from the department's list of certified expert medical advisors. If a certified medical advisor within the relevant medical specialty is unavailable, the judge of compensation claims shall appoint any otherwise qualified health care provider to serve as an expert medical advisor without obtaining the department's certification. The opinion of the expert medical advisor is presumed to be correct unless there is clear and convincing evidence to the contrary as determined by the judge of compensation claims. The expert medical advisor appointed to conduct the evaluation shall have free and complete access to the medical records of the employee. An employee who fails to report to and cooperate with such evaluation forfeits entitlement to compensation during the period of failure to report or cooperate.

(12) CREATION OF THREE-MEMBER PANEL; GUIDES OF MAXIMUM REIMBURSEMENT ALLOWANCES.—

(a) A three-member panel is created, consisting of the Chief Financial Officer, or the Chief Financial Officer's designee, and two members to be appointed by the Governor, subject to confirmation by the Senate, one member who, on account of present or previous vocation, employment, or affiliation, shall be classified as a representative of employers, the other member who, on account of previous vocation, employment, or affiliation, shall be classified as a representative of employees. The panel shall determine statewide schedules of maximum reimbursement allowances for medically necessary treatment, care, and attendance provided by



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272 ~~physicians, hospitals and, ambulatory surgical centers, work-~~
273 ~~hardening programs, pain programs, and durable medical~~
274 ~~equipment.~~ The maximum reimbursement allowances for inpatient
275 hospital care shall be based on a schedule of per diem rates, to
276 be approved by the three-member panel no later than March 1,
277 1994, to be used in conjunction with a precertification manual
278 as determined by the department, including maximum hours in
279 which an outpatient may remain in observation status, which
280 shall not exceed 23 hours. All compensable charges for hospital
281 outpatient care shall be reimbursed at 75 percent of usual and
282 customary charges, except as otherwise provided by this
283 subsection. Annually, the three-member panel shall adopt
284 schedules of maximum reimbursement allowances for ~~physicians,~~
285 hospital inpatient care, hospital outpatient care, and
286 ambulatory surgical centers, ~~work-hardening programs, and pain~~
287 ~~programs.~~ A ~~An individual physician, hospital or an, ambulatory~~
288 ~~surgical center, pain program, or work-hardening program~~ shall
289 be reimbursed either the agreed-upon contract price or the
290 maximum reimbursement allowance in the appropriate schedule.

291 ~~(b) It is the intent of the Legislature to increase the~~
292 ~~schedule of maximum reimbursement allowances for selected~~
293 ~~physicians effective January 1, 2004, and to pay for the~~
294 ~~increases through reductions in payments to hospitals. Revisions~~
295 ~~developed pursuant to this subsection are limited to the~~
296 ~~following:~~

297 ~~1.~~ Payments for outpatient physical, occupational, and
298 speech therapy provided by hospitals shall be ~~reduced to~~ the
299 schedule of maximum reimbursement allowances for these services
300 which applies to nonhospital providers.



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(c)~~2~~. Payments for scheduled outpatient nonemergency radiological and clinical laboratory services that are not provided in conjunction with a surgical procedure shall be ~~reduced to~~ the schedule of maximum reimbursement allowances for these services which applies to nonhospital providers.

(d)~~3~~. Outpatient reimbursement for scheduled surgeries shall be ~~reduced from 75 percent of charges to~~ 60 percent of charges.

(e)1. By July 1 of each year, the department shall notify carriers and self-insurers of the physician and nonhospital services schedule of maximum reimbursement allowances. The notice must include publication of this schedule of maximum reimbursement allowances on the division's website. This schedule is not subject to approval by the three-member panel and does not include reimbursement for prescription medication.

2. Subparagraph 1. shall take effect January 1, following the July 1, 2024, notice of the physician and nonhospital services schedule of maximum reimbursement allowances which the department provides to carriers and self-insurers.

(f)~~4~~. Maximum reimbursement for a physician licensed under chapter 458 or chapter 459 shall be ~~increased to~~ 110 percent of the reimbursement allowed by Medicare, using appropriate codes and modifiers ~~or the medical reimbursement level adopted by the three-member panel as of January 1, 2003, whichever is greater.~~

(g)~~5~~. Maximum reimbursement for surgical procedures shall be ~~increased to~~ 140 percent of the reimbursement allowed by Medicare ~~or the medical reimbursement level adopted by the three-member panel as of January 1, 2003, whichever is greater.~~

(h)~~(e)~~ As to reimbursement for a prescription medication,



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the reimbursement amount for a prescription shall be the average wholesale price plus \$4.18 for the dispensing fee. For repackaged or relabeled prescription medications dispensed by a dispensing practitioner as provided in s. 465.0276, the fee schedule for reimbursement shall be 112.5 percent of the average wholesale price, plus \$8.00 for the dispensing fee. For purposes of this subsection, the average wholesale price shall be calculated by multiplying the number of units dispensed times the per-unit average wholesale price set by the original manufacturer of the underlying drug dispensed by the practitioner, based upon the published manufacturer's average wholesale price published in the Medi-Span Master Drug Database as of the date of dispensing. All pharmaceutical claims submitted for repackaged or relabeled prescription medications must include the National Drug Code of the original manufacturer. Fees for pharmaceuticals and pharmaceutical services shall be reimbursable at the applicable fee schedule amount except where the employer or carrier, or a service company, third party administrator, or any entity acting on behalf of the employer or carrier directly contracts with the provider seeking reimbursement for a lower amount.

(i)~~(d)~~ Reimbursement for all fees and other charges for such treatment, care, and attendance, including treatment, care, and attendance provided by any hospital or other health care provider, ambulatory surgical center, work-hardening program, or pain program, must not exceed the amounts provided by the uniform schedule of maximum reimbursement allowances as determined by the panel or as otherwise provided in this section. This subsection also applies to independent medical



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examinations performed by health care providers under this chapter. In determining the uniform schedule, the panel shall first approve the data which it finds representative of prevailing charges in the state for similar treatment, care, and attendance of injured persons. Each health care provider, health care facility, ambulatory surgical center, work-hardening program, or pain program receiving workers' compensation payments shall maintain records verifying their usual charges. In establishing the uniform schedule of maximum reimbursement allowances, the panel must consider:

1. The levels of reimbursement for similar treatment, care, and attendance made by other health care programs or third-party providers;

2. The impact upon cost to employers for providing a level of reimbursement for treatment, care, and attendance which will ensure the availability of treatment, care, and attendance required by injured workers; and

3. The financial impact of the reimbursement allowances upon health care providers and health care facilities, including trauma centers as defined in s. 395.4001, and its effect upon their ability to make available to injured workers such medically necessary remedial treatment, care, and attendance. The uniform schedule of maximum reimbursement allowances must be reasonable, must promote health care cost containment and efficiency with respect to the workers' compensation health care delivery system, and must be sufficient to ensure availability of such medically necessary remedial treatment, care, and attendance to injured workers; ~~and~~

~~4. The most recent average maximum allowable rate of~~



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~~increase for hospitals determined by the Health Care Board under chapter 408.~~

(j)~~(e)~~ In addition to establishing the uniform schedule of maximum reimbursement allowances, the panel shall:

1. Take testimony, receive records, and collect data to evaluate the adequacy of the workers' compensation fee schedule, nationally recognized fee schedules and alternative methods of reimbursement to health care providers and health care facilities for inpatient and outpatient treatment and care.

2. Survey health care providers and health care facilities to determine the availability and accessibility of workers' compensation health care delivery systems for injured workers.

3. Survey carriers to determine the estimated impact on carrier costs and workers' compensation premium rates by implementing changes to the carrier reimbursement schedule or implementing alternative reimbursement methods.

4. Submit recommendations on or before January 15, 2017, and biennially thereafter, to the President of the Senate and the Speaker of the House of Representatives on methods to improve the workers' compensation health care delivery system.

The department, as requested, shall provide data to the panel, including, but not limited to, utilization trends in the workers' compensation health care delivery system. The department shall provide the panel with an annual report regarding the resolution of medical reimbursement disputes and any actions pursuant to subsection (8). The department shall provide administrative support and service to the panel to the extent requested by the panel. For prescription medication



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purchased under the requirements of this subsection, a dispensing practitioner shall not possess such medication unless payment has been made by the practitioner, the practitioner's professional practice, or the practitioner's practice management company or employer to the supplying manufacturer, wholesaler, distributor, or drug repackager within 60 days of the dispensing practitioner taking possession of that medication.

~~(14) PRACTICE PARAMETERS.—The practice parameters and protocols mandated under this chapter shall be the practice parameters and protocols adopted by the United States Agency for Healthcare Research and Quality in effect on January 1, 2003.~~

Section 8. Subsection (8) is added to section 440.38, Florida Statutes, to read:

440.38 Security for compensation; insurance carriers and self-insurers.—

(8) Any form used by the department to evidence an employer's workers' compensation coverage under paragraph (1)(a) must contain all of the following:

(a) The governing class code or codes.

(b) Payroll information.

(c) The total number of employees covered by the workers' compensation insurance policy.

Section 9. Effective January 1, 2024, subsection (2) of section 440.385, Florida Statutes, is amended to read:

440.385 Florida Self-Insurers Guaranty Association, Incorporated.—

(2) BOARD OF DIRECTORS.—The board of directors of the association shall consist of nine persons and shall be organized as established in the plan of operation. Each director must ~~All~~



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~~board members shall~~ be experienced in self-insurance in this state. Each director shall serve for a 4-year term and may be reappointed. Appointments after January 1, 2002, shall be made by the department upon recommendation of members of the association or other persons with experience in self-insurance as determined by the Chief Financial Officer. Any vacancy on the board shall be filled for the remaining period of the term in the same manner as appointments other than initial appointments are made. Each director shall be reimbursed for expenses incurred in carrying out the duties of the board on behalf of the association.

(a) The Chief Financial Officer may remove a director from office for misconduct, malfeasance, misfeasance, or neglect of duty. Any vacancy so created shall be filled as provided in this subsection.

(b) Directors are subject to the code of ethics under part III of chapter 112, including, but not limited to, the code of ethics and public disclosure and reporting of financial interests, pursuant to s. 112.3145. For purposes of applying part III of chapter 112 to activities of members of the board of directors, those persons are considered public officers and the association is considered their agency. Notwithstanding s. 112.3143(2), a director may not vote on any measure that he or she knows would inure to his or her special private gain or loss; that he or she knows would inure to the special private gain or loss of any principal by which he or she is retained, other than an agency as defined in s. 112.312; or that he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer. Before the



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vote is taken, such director shall publicly state to the board the nature of his or her interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.

(c) Notwithstanding s. 112.3148, s. 112.3149, or any other law, an employee of the association or a director may not knowingly accept, directly or indirectly, any gift or expenditure from a person or an entity, or an employee or a representative of such person or entity, which has a contractual relationship with the association or which is under consideration for a contract.

(d) A director who fails to comply with paragraph (b) or paragraph (c) is subject to the penalties provided under ss. 112.317 and 112.3173.

Section 10. Subsection (1) of section 624.1265, Florida Statutes, is amended to read:

624.1265 Nonprofit religious organization exemption; authority; notice.—

(1) A nonprofit religious organization is not subject to the requirements of the Florida Insurance Code if the nonprofit religious organization:

(a) Qualifies under Title 26, s. 501 of the Internal Revenue Code of 1986, as amended;

(b) Limits its participants to those members who share a common set of ethical or religious beliefs;

(c) Acts as a facilitator among participants who have



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financial, physical, or medical needs to assist those with
financial, physical, or medical needs in accordance with
criteria established by the nonprofit religious organization;

(d) Provides for the financial or medical needs of a
participant through contributions from other participants, or
through payments directly from one participant to another
participant;

(e) Provides amounts that participants may contribute, with
no assumption of risk and no promise to pay:

1. Among the participants; or

2. By the nonprofit religious organization to the
participants;

(f) Provides a monthly accounting to the participants of
the total dollar amount of qualified needs actually shared in
the previous month in accordance with criteria established by
the nonprofit religious organization; ~~and~~

(g) Conducts an annual audit that is performed by an
independent certified public accounting firm in accordance with
generally accepted accounting principles and that is made
available to the public by providing a copy upon request or by
posting on the nonprofit religious organization's website; and

(h) Does not market or sell health plans by agents licensed
by the department under chapter 626.

Section 11. Subsection (25) of section 624.501, Florida
Statutes, is amended to read:

624.501 Filing, license, appointment, and miscellaneous
fees.—The department, commission, or office, as appropriate,
shall collect in advance, and persons so served shall pay to it
in advance, fees, licenses, and miscellaneous charges as



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follows:

(25) Reinsurance intermediary:

~~(a) Application filing and license fee \$50.00~~

~~(b)~~ Original appointment and biennial renewal or
continuation thereof, appointment fee \$60.00

Section 12. Subsection (5) of section 626.015, Florida
Statutes, is amended to read:

626.015 Definitions.—As used in this part:

(5) "Association" includes the Florida Association of
Insurance Agents (FAIA), the National Association of Insurance
and Financial Advisors (NAIFA), the National Association of
Benefits and Insurance Professionals Florida Chapter (NABIP
Florida) ~~Florida Association of Health Underwriters (FAHU)~~, the
Latin American Association of Insurance Agencies (LAAIA), the
Florida Association of Public Insurance Adjusters (FAPIA), the
Florida Bail Agents Association (FBAA), or the Professional Bail
Agents of the United States (PBUS).

Section 13. Subsection (4) of section 626.171, Florida
Statutes, is amended to read:

626.171 Application for license as an agent, customer
representative, adjuster, service representative, or reinsurance
intermediary.—

(4) An applicant for a license issued by the department
under this chapter must submit a set of the individual
applicant's fingerprints, or, if the applicant is not an
individual, a set of the fingerprints of the sole proprietor,
majority owner, partners, officers, and directors, to the
department and must pay the fingerprint processing fee set forth
in s. 624.501. Fingerprints must be processed in accordance with



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s. 624.34 and used to investigate the applicant's qualifications pursuant to s. 626.201. The fingerprints must be taken by a law enforcement agency, ~~designated examination center,~~ or other department-approved entity. ~~The department shall require all designated examination centers to have fingerprinting equipment and to take fingerprints from any applicant or prospective applicant who pays the applicable fee.~~ The department may not approve an application for licensure as an agent, customer service representative, adjuster, service representative, or reinsurance intermediary if fingerprints have not been submitted.

Section 14. Paragraph (c) of subsection (1) of section 626.173, Florida Statutes, is amended to read:

626.173 Insurance agency closure; cancellation of licenses.—

(1) If a licensed insurance agency permanently ceases the transacting of insurance or ceases the transacting of insurance for more than 30 days, the agent in charge, the director of the agency, or other officer listed on the original application for licensure must, within 35 days after the agency first ceases the transacting of insurance, do all of the following:

(c) Notify all policyholders currently insured by a policy written, produced, or serviced by the agency of the agency's cessation of operations; the date on which operations ceased; and the identity of the agency or agent to which the agency's current book of business has been transferred or, if no transfer has occurred, a statement directing the policyholder to contact the insurance company for assistance in locating a licensed agent to service the policy. This paragraph does not apply to



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title insurance, life insurance, or annuity contracts.

Section 15. Subsection (8) of section 626.207, Florida Statutes, is amended to read:

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

(8) The department shall adopt rules establishing specific penalties against licensees in accordance with ss. 626.641 and 626.651 for violations of s. 626.112(7) or (9), s. 626.611, s. 626.6115, s. 626.621, s. 626.6215, s. 626.7451, s. 626.8437, s. 626.844, s. 626.8695, s. 626.8697, s. 626.8698, s. 626.935, s. 634.181, s. 634.191, s. 634.320, s. 634.321, s. 634.422, s. 634.423, s. 642.041, or s. 642.043. The purpose of the revocation or suspension is to provide a sufficient penalty to deter future violations of the Florida Insurance Code. The imposition of a revocation or the length of suspension shall be based on the type of conduct and the probability that the propensity to commit further illegal conduct has been overcome at the time of eligibility for relicensure. The length of suspension may be adjusted based on aggravating or mitigating factors, established by rule and consistent with this purpose.

Section 16. Paragraph (j) of subsection (2) of section 626.221, Florida Statutes, is amended to read:

626.221 Examination requirement; exemptions.—

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

(j) An applicant for license as an all-lines adjuster who has the designation of Accredited Claims Adjuster (ACA) from a regionally accredited postsecondary institution in this state; Certified All Lines Adjuster (CALA) from Kaplan Financial



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Education; Associate in Claims (AIC) from the Insurance Institute of America; Professional Claims Adjuster (PCA) from the Professional Career Institute; Professional Property Insurance Adjuster (PPIA) from the HurriClaim Training Academy; Certified Adjuster (CA) from ALL LINES Training; Certified Claims Adjuster (CCA) from AE21 Incorporated; Claims Adjuster Certified Professional (CACP) from WebCE, Inc.; Accredited Insurance Claims Specialist (AICS) from Encore Claim Services; Professional in Claims (PIC) from 2021 Training, LLC; or Universal Claims Certification (UCC) from Claims and Litigation Management Alliance (CLM) whose curriculum has been approved by the department and which includes comprehensive analysis of basic property and casualty lines of insurance and testing at least equal to that of standard department testing for the all-lines adjuster license. The department shall adopt rules establishing standards for the approval of curriculum.

Section 17. Paragraphs (c) and (f) of subsection (3) of section 626.2815, Florida Statutes, are amended to read:

626.2815 Continuing education requirements.—

(3) Each licensee except a title insurance agent must complete a 4-hour update course every 2 years which is specific to the license held by the licensee. The course must be developed and offered by providers and approved by the department. The content of the course must address all lines of insurance for which examination and licensure are required and include the following subject areas: insurance law updates, ethics for insurance professionals, disciplinary trends and case studies, industry trends, premium discounts, determining suitability of products and services, and other similar



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insurance-related topics the department determines are relevant to legally and ethically carrying out the responsibilities of the license granted. A licensee who holds multiple insurance licenses must complete an update course that is specific to at least one of the licenses held. Except as otherwise specified, any remaining required hours of continuing education are elective and may consist of any continuing education course approved by the department under this section.

(c) A licensee who has been licensed for 25 years or more and is a CLU or a CPCU or has a Bachelor of Science degree or higher in risk management or insurance with evidence of 18 or more semester hours in insurance-related courses must also complete a minimum of 6 hours of elective continuing education courses every 2 years.

(f) Elective continuing education courses for public adjusters may must be any course related to commercial and residential property coverages, claim adjusting practices, and any other adjuster elective courses ~~specifically designed for public adjusters and~~ approved by the department. Notwithstanding this subsection, public adjusters for workers' compensation insurance or health insurance are not required to take continuing education courses pursuant to this section.

Section 18. Paragraphs (a), (b), and (e) of subsection (1) of section 626.321, Florida Statutes, are amended, and paragraph (i) is added to that subsection, to read:

626.321 Limited licenses and registration.—

(1) The department shall issue to a qualified applicant a license as agent authorized to transact a limited class of business in any of the following categories of limited lines



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insurance:

(a) *Motor vehicle physical damage and mechanical breakdown insurance.*—License covering insurance against only the loss of or damage to a motor vehicle that is designed for use upon a highway, including trailers and semitrailers designed for use with such vehicles. Such license also covers insurance against the failure of an original or replacement part to perform any function for which it was designed. ~~A licensee under this paragraph may not hold a license as an agent for any other or additional kind or class of insurance coverage except a limited license for credit insurance as provided in paragraph (c).~~ Effective October 1, 2012, all licensees holding such limited license and appointment may renew the license and appointment, but no new or additional licenses may be issued pursuant to this paragraph, and a licensee whose limited license under this paragraph has been terminated, suspended, or revoked may not have such license reinstated.

(b) *Industrial fire insurance or burglary insurance.*—License covering only industrial fire insurance or burglary insurance. ~~A licensee under this paragraph may not hold a license as an agent for any other or additional kind or class of insurance coverage except for life insurance and health insurance.~~ Effective July 1, 2019, all licensees holding such limited license and appointment may renew the license and appointment, but no new or additional licenses may be issued pursuant to this paragraph, and a licensee whose limited license under this paragraph has been terminated, suspended, or revoked may not have such license reinstated.

(c) *Credit insurance.*—License covering credit life, credit



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disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed automobile protection (GAP) insurance, and any other form of insurance offered in connection with an extension of credit which is limited to partially or wholly extinguishing a credit obligation that the department determines should be designated a form of limited line credit insurance. Effective October 1, 2012, all valid licenses held by persons for any of the lines of insurance listed in this paragraph shall be converted to a credit insurance license. ~~Licenseses who wish to obtain a new license reflecting such change must request a duplicate license and pay a \$5 fee as specified in s.~~
~~624.501(15).~~ The license may be issued only to an individual employed by a life or health insurer as an officer or other salaried or commissioned representative, to an individual employed by or associated with a lending or financial institution or creditor, or to a lending or financial institution or creditor, and may authorize the sale of such insurance only with respect to borrowers or debtors of such lending or financing institution or creditor. However, only the individual or entity whose tax identification number is used in receiving or is credited with receiving the commission from the sale of such insurance shall be the licensed agent of the insurer. ~~No individual while so licensed shall hold a license as an agent as to any other or additional kind or class of life or health insurance coverage.~~

(i) Preneed funeral agreement insurance.—Limited license for insurance covering only prearranged funeral, cremation, or cemetery agreements, or any combination thereof, funded by



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insurance and offered in connection with an establishment that holds a preneed license pursuant to s. 497.452. Such license may be issued without examination only to an individual who has filed with the department an application for a license in a form and manner prescribed by the department, who currently holds a valid preneed sales agent license pursuant to s. 497.466, who paid the applicable fees for a license as prescribed in s. 624.501, who has been appointed under s. 626.112, and who paid the prescribed appointment fee under s. 624.501.

Section 19. Paragraph (n) of subsection (1) of section 626.611, Florida Statutes, is amended to read:

626.611 Grounds for compulsory refusal, suspension, or revocation of agent's, title agency's, adjuster's, customer representative's, service representative's, or managing general agent's license or appointment.—

(1) The department shall deny an application for, suspend, revoke, or refuse to renew or continue the license or appointment of any applicant, agent, title agency, adjuster, customer representative, service representative, or managing general agent, and it shall suspend or revoke the eligibility to hold a license or appointment of any such person, if it finds that as to the applicant, licensee, or appointee any one or more of the following applicable grounds exist:

(n) Having been found guilty of or having pleaded guilty or nolo contendere to a misdemeanor directly related to the financial services business, any felony, or any a crime punishable by imprisonment of 1 year or more under the law of the United States of America or of any state thereof or under the law of any other country, without regard to whether a



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judgment of conviction has been entered by the court having jurisdiction of such cases.

Section 20. Subsection (18) is added to section 626.621, Florida Statutes, to read:

626.621 Grounds for discretionary refusal, suspension, or revocation of agent's, adjuster's, customer representative's, service representative's, or managing general agent's license or appointment.—The department may, in its discretion, deny an application for, suspend, revoke, or refuse to renew or continue the license or appointment of any applicant, agent, adjuster, customer representative, service representative, or managing general agent, and it may suspend or revoke the eligibility to hold a license or appointment of any such person, if it finds that as to the applicant, licensee, or appointee any one or more of the following applicable grounds exist under circumstances for which such denial, suspension, revocation, or refusal is not mandatory under s. 626.611:

(18) Cancellation of the applicant's, licensee's, or appointee's resident license in a state other than Florida.

Section 21. Paragraphs (d) and (g) of subsection (2) and paragraphs (a), (b), and (e) through (j) of subsection (3) of section 626.7492, Florida Statutes, are amended to read:

626.7492 Reinsurance intermediaries.—

(2) DEFINITIONS.—As used in this section:

(d) "Producer" means a licensed ~~an~~ agent, broker, or insurance agency that is appointed as a reinsurance intermediary ~~licensed~~ pursuant to the applicable provision of the Florida Insurance Code.

(g) "Reinsurance intermediary manager" means any person who



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has authority to bind, or manages all or part of, the assumed reinsurance business of a reinsurer, including the management of a separate division, department, or underwriting office, and acts as a representative ~~an agent~~ for the reinsurer whether known as a reinsurance intermediary manager, manager, or other similar term. Notwithstanding the above, none of the following persons is a reinsurance intermediary manager with respect to the reinsurer for the purposes of this section:

1. An employee of the reinsurer;
2. A manager of the United States branch of an alien reinsurer;
3. An underwriting manager which, pursuant to contract, manages all the reinsurance operations of the reinsurer, is under common control with the reinsurer, subject to the holding company act, and whose compensation is not based on the volume of premiums written.
4. The manager of a group, association, pool, or organization of insurers which engage in joint underwriting or joint reinsurance and who are subject to examination by the insurance regulatory authority of the state in which the manager's principal business office is located.

(3) LICENSURE.—

(a) No person shall act as a reinsurance intermediary broker in this state if the reinsurance intermediary broker maintains an office either directly or as a member or employee of a firm or association, or an officer, director, or employee of a corporation:

1. In this state, unless the reinsurance intermediary broker is a licensed producer in this state; or



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2. In another state, unless the reinsurance intermediary broker is a licensed producer in this state or in another state having a law substantially similar to this section or the reinsurance intermediary broker is licensed in this state as an insurance agency and appointed as a ~~nonresident~~ reinsurance intermediary.

(b) No person shall act as a reinsurance intermediary manager:

1. For a reinsurer domiciled in this state, unless the reinsurance intermediary manager is a licensed producer in this state;

2. In this state, if the reinsurance intermediary manager maintains an office either directly or as a member or employee of a firm or association, or an officer, director, or employee of a corporation in this state, unless the reinsurance intermediary manager is a licensed producer in this state;

3. In another state for a nondomestic insurer, unless the reinsurance intermediary manager is a licensed producer in this state or another state having a law substantially similar to this section, or the person is licensed in this state as a producer ~~nonresident reinsurance intermediary~~.

(e) If the applicant for a reinsurance intermediary appointment ~~license~~ is a nonresident, the applicant, as a condition precedent to receiving or holding an appointment ~~a license~~, must designate the Chief Financial Officer as agent for service of process in the manner, and with the same legal effect, provided for by this section for designation of service of process upon unauthorized insurers. Such applicant shall also furnish the department with the name and address of a resident



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of this state upon whom notices or orders of the department or process affecting the nonresident reinsurance intermediary may be served. The licensee shall promptly notify the department in writing of each change in its designated agent for service of process, and the change shall not become effective until acknowledged by the department.

~~(f) The department may refuse to issue a reinsurance intermediary license if, in its judgment, the applicant, anyone named on the application, or any member, principal, officer, or director of the applicant, has demonstrated a lack of fitness and trustworthiness, or that any controlling person of the applicant is not fit or trustworthy to act as a reinsurance intermediary, or that any of the foregoing has given cause for revocation or suspension of the license, or has failed to comply with any prerequisite for the issuance of the license.~~

~~(g)~~ Reinsurance intermediaries shall be licensed, appointed, renewed, continued, reinstated, or terminated as prescribed in this chapter for insurance representatives in general, ~~except that they shall be exempt from the photo, education, and examination provisions.~~ License, Appointment, and other fees shall be those prescribed in s. 624.501.

~~(g)(h)~~ The grounds and procedures for refusal of an ~~a~~ license ~~or~~ appointment or suspension or revocation of a license or appointment issued to a reinsurance intermediary under this section are as set forth in ss. 626.611-626.691 for insurance representatives in general.

~~(h)(i)~~ An attorney licensed in this state, when acting in a professional capacity, is exempt from this subsection.

~~(i)(j)~~ The department may develop necessary rules to carry



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out this section.

Section 22. Subsection (5) of section 626.752, Florida Statutes, is amended to read:

626.752 Exchange of business.—

(5) Within 15 days after the last day of each month, any insurer accepting business under this section shall report to the department the name, address, telephone number, and social security number of each agent from which the insurer received more than four personal lines risks during the calendar year, except for risks being removed from the Citizens Property Insurance Corporation and placed with that insurer by a brokering agent. Once the insurer has reported pursuant to this subsection an agent's name to the department, additional reports on the same agent shall not be required. However, the fee set forth in s. 624.501 must be paid for the agent by the insurer for each year until the insurer notifies the department that the insurer is no longer accepting business from the agent pursuant to this section. The insurer may require that the agent reimburse the insurer for the fee. If the insurer or employer does not pay the fees and taxes due pursuant to this subsection within 21 days after notice by the department, the department must suspend the insurer's or employer's authority to appoint licensees until all outstanding fees and taxes have been paid.

Section 23. Subsection (3) of section 626.785, Florida Statutes, is amended to read:

626.785 Qualifications for license.—

(3) Notwithstanding any other provisions of this chapter, a funeral director, a direct disposer, or an employee of a funeral establishment that holds a preneed license pursuant to s.



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497.452 may obtain an agent's license or a limited license to sell only policies of life insurance covering the expense of a prearrangement for funeral services or merchandise so as to provide funds at the time the services and merchandise are needed. The face amount of insurance covered by any such policy shall not exceed \$21,000, plus an annual percentage increase based on the Annual Consumer Price Index compiled by the United States Department of Labor, beginning with the Annual Consumer Price Index announced by the United States Department of Labor for 2016.

Section 24. Subsection (4) of section 626.793, Florida Statutes, is amended to read:

626.793 Excess or rejected business.—

(4) Within 15 days after the last day of each month, any insurer accepting business under this section shall report to the department the name, address, telephone number, and social security number of each agent from which the insurer received more than four risks during the calendar year. Once the insurer has reported an agent's name to the department pursuant to this subsection, additional reports on the same agent shall not be required. However, the fee set forth in s. 624.501 must be paid for the agent by the insurer for each year until the insurer notifies the department that the insurer is no longer accepting business from the agent pursuant to this section. The insurer may require that the agent reimburse the insurer for the fee. If the insurer or employer does not pay the fees and taxes due pursuant to this subsection within 21 days after notice by the department, the department must suspend the insurer's or employer's authority to appoint licensees until all outstanding



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fees and taxes have been paid.

Section 25. Subsection (5) of section 626.837, Florida Statutes, is amended to read:

626.837 Excess or rejected business.—

(5) Within 15 days after the last day of each month, any insurer accepting business under this section shall report to the department the name, address, telephone number, and social security number of each agent from which the insurer received more than four risks during the calendar year. Once the insurer has reported pursuant to this subsection an agent's name to the department, additional reports on the same agent shall not be required. However, the fee set forth in s. 624.501 must be paid for the agent by the insurer for each year until the insurer notifies the department that the insurer is no longer accepting business from the agent pursuant to this section. The insurer may require that the agent reimburse the insurer for the fee. If the insurer or employer does not pay the fees and taxes due pursuant to this subsection within 21 days after notice by the department, the department must suspend the insurer's or employer's authority to appoint licensees until all outstanding fees and taxes have been paid.

Section 26. Paragraph (e) is added to subsection (2) of section 626.8411, Florida Statutes, to read:

626.8411 Application of Florida Insurance Code provisions to title insurance agents or agencies.—

(2) The following provisions of part I do not apply to title insurance agents or title insurance agencies:

(e) Section 626.173(1)(c), relating to notifying policyholders of the agency closure.



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Section 27. Present subsections (8) through (11) of section 626.8437, Florida Statutes, are redesignated as subsections (9) through (12), respectively, and a new subsection (8) and subsection (13) are added to that section, to read:

626.8437 Grounds for denial, suspension, revocation, or refusal to renew license or appointment.—The department shall deny, suspend, revoke, or refuse to renew or continue the license or appointment of any title insurance agent or agency, and it shall suspend or revoke the eligibility to hold a license or appointment of such person, if it finds that as to the applicant, licensee, appointee, or any principal thereof, any one or more of the following grounds exist:

(8) Misappropriation, conversion, or improper withholding of funds not legally entitled thereto and which are received in a fiduciary capacity and held as part of an escrow agreement, real estate sales contract, or as provided on a settlement statement in a real estate transaction.

(13) Revocation or cancellation of a licensee's resident license in a jurisdiction other than this state.

Section 28. Subsections (7) and (8) are added to section 626.844, Florida Statutes, to read:

626.844 Grounds for discretionary refusal, suspension, or revocation of license or appointment.—The department may, in its discretion, deny, suspend, revoke, or refuse to renew or continue the license or appointment of any title insurance agent or agency, and it may suspend or revoke the eligibility to hold a license or appointment of any such title insurance agent or agency if it finds that as to the applicant or licensee or appointee, or any principal thereof, any one or more of the



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following grounds exist under circumstances for which such denial, suspension, revocation, or refusal is not mandatory under s. 626.8437:

(7) Having been the subject of, or having had a license, permit, appointment, registration, or other authority to conduct business subject to, any decision, finding, injunction, suspension, prohibition, revocation, denial, judgment, final agency action, or administrative order by any court of competent jurisdiction, administrative law proceeding, state agency, federal agency, national securities, commodities, or option exchange, or national securities, commodities, or option association involving a violation of any federal or state securities or commodities law or any rule or regulation adopted thereunder, or a violation of any rule or regulation of any national securities, commodities, or options exchange or national securities, commodities, or options association.

(8) Revocation or cancellation of a licensee's resident license in a jurisdiction other than this state.

Section 29. Section 626.8473, Florida Statutes, is amended to read:

626.8473 Escrow; trust fund.—

(1) A title insurance agency agent ~~agent~~ may engage in business as an escrow agent as to funds received from others to be subsequently disbursed ~~by the title insurance agent~~ in connection with real estate closing transactions involving the issuance of title ~~insurance binders~~, commitments, policies of title insurance, or guarantees of title, provided that a licensed and appointed title insurance agency agent ~~agent~~ complies with the requirements of s. 626.8419 ~~s. 626.8417~~, including such



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requirements added after the initial licensure of the agency
~~agent~~.

(2) All funds received by a title insurance agency ~~agent~~ as described in subsection (1) shall be trust funds received in a fiduciary capacity by the title insurance agency ~~agent~~ and shall be the property of the person or persons entitled thereto.

(3) All funds received by a title insurance agency ~~agent~~ to be held in trust shall be immediately placed in a financial institution that is located within this state and is a member of the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund. These funds shall be invested in an escrow account in accordance with the investment requirements and standards established for deposits and investments of state funds in s. 17.57, where the funds shall be kept until disbursement thereof is properly authorized.

(4) Funds required to be maintained in escrow trust accounts pursuant to this section shall not be subject to any debts of the title insurance agency ~~agent~~ and shall be used only in accordance with the terms of the individual, escrow, settlement, or closing instructions under which the funds were accepted.

(5) The title insurance agency ~~agents~~ shall maintain separate records of all receipts and disbursements of escrow, settlement, or closing funds.

(6) In the event that the department promulgates rules necessary to implement the requirements of this section pursuant to s. 624.308, the department shall consider reasonable standards necessary for the protection of funds held in trust, including, but not limited to, standards for accounting of



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funds, standards for receipt and disbursement of funds, and protection for the person or persons to whom the funds are to be disbursed.

(7) A title insurance agency agent, or any officer, director, or employee thereof, or any person associated therewith as an independent contractor for bookkeeping or similar purposes, who converts or misappropriates funds received or held in escrow or in trust by such title insurance agency agent, or any person who knowingly receives or conspires to receive such funds, commits:

(a) If the funds converted or misappropriated are \$300 or less, a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) If the funds converted or misappropriated are more than \$300, but less than \$20,000, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) If the funds converted or misappropriated are \$20,000 or more, but less than \$100,000, a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) If the funds converted or misappropriated are \$100,000 or more, a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(8) An attorney shall deposit and maintain all funds received in connection with transactions in which the attorney is serving as a title or real estate settlement agent into a separate trust account that is maintained exclusively for funds received in connection with such transactions and permit the account to be audited by its title insurers, unless maintaining funds in the separate account for a particular client would



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violate applicable rules of The Florida Bar.

Section 30. Subsection (19) of section 626.854, Florida Statutes, is amended to read:

626.854 "Public adjuster" defined; prohibitions.—The Legislature finds that it is necessary for the protection of the public to regulate public insurance adjusters and to prevent the unauthorized practice of law.

(19) Except as otherwise provided in this chapter, no person, except an attorney at law or a licensed and appointed public adjuster, may for money, commission, or any other thing of value, directly or indirectly:

(a) Prepare, complete, or file an insurance claim for an insured or a third-party claimant;

(b) Act on behalf of or aid an insured or a third-party claimant in negotiating for or effecting the settlement of a claim for loss or damage covered by an insurance contract;

(c) Offer to initiate or negotiate a claim on behalf of an insured;

(d) Advertise services that require a license as a public adjuster; or

(e) Solicit, investigate, or adjust a claim on behalf of a public adjuster, an insured, or a third-party claimant.

Section 31. Section 626.874, Florida Statutes, is amended to read:

626.874 Catastrophe or emergency adjusters.—

(1) In the event of a catastrophe or emergency, the department may issue a license, for the purposes and under the conditions and for the period of emergency as it shall determine, to persons who are residents or nonresidents of this



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state, who are at least 18 years of age, who are United States citizens or legal aliens who possess work authorization from the United States Bureau of Citizenship and Immigration Services, and who are not licensed adjusters under this part but who have been designated and certified to it as qualified to act as adjusters by an authorized insurer to adjust claims, losses, or damages under policies or contracts of insurance issued by such insurers, or by a licensed ~~the primary adjuster of an~~ independent adjusting firm contracted with an authorized insurer to adjust claims on behalf of the insurer. The fee for the license is as provided in s. 624.501(12)(c).

(2) If any person not a licensed adjuster who has been permitted to adjust such losses, claims, or damages under the conditions and circumstances set forth in subsection (1), engages in any of the misconduct described in or contemplated by chapter 626 ~~ss. 626.611 and 626.621~~, the department, without notice and hearing, shall be authorized to issue its order denying such person the privileges granted under this section; and thereafter it shall be unlawful for any such person to adjust any such losses, claims, or damages in this state.

Section 32. Subsection (2) of section 626.9892, Florida Statutes, is amended to read:

626.9892 Anti-Fraud Reward Program; reporting of insurance fraud.—

(2) The department may pay rewards of up to \$25,000 to persons providing information leading to the arrest ~~and conviction~~ of persons committing crimes investigated by the department arising from violations of s. 400.9935, s. 440.105, s. 624.15, s. 626.112, s. 626.8473, s. 626.8738, s. 626.9541, s.



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626.989, s. 790.164, s. 790.165, s. 790.166, s. 806.01, s. 806.031, s. 806.10, s. 806.111, s. 812.014, s. 817.034, s. 817.233, ~~or~~ s. 817.234, s. 817.236, s. 817.2361, s. 817.505, s. 817.568, s. 831.01, s. 895.03, s. 895.04, or s. 896.101.

Section 33. Present subsections (7) through (12) of section 626.9957, Florida Statutes, are redesignated as subsections (8) through (13), respectively, and a new subsection (7) is added to that section, to read:

626.9957 Conduct prohibited; denial, revocation, termination, expiration, or suspension of registration.—

(7) If a navigator registered under this part fails to maintain an active, valid navigator's registration status with the Federal Government or an exchange, the navigator's registration issued under this part shall expire by operation of law. A navigator with an expired registration may not be granted subsequent registration until the navigator qualifies as a first-time applicant.

Section 34. Paragraph (c) of subsection (4) of section 627.351, Florida Statutes, is amended to read:

627.351 Insurance risk apportionment plans.—

(4) MEDICAL MALPRACTICE RISK APPORTIONMENT.—

(c) The Joint Underwriting Association shall operate subject to the supervision and approval of a board of governors consisting of representatives of five of the insurers participating in the Joint Underwriting Association, an attorney named by The Florida Bar, a physician named by the Florida Medical Association, a dentist named by the Florida Dental Association, and a hospital representative named by the Florida Hospital Association. The Chief Financial Officer shall select



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the representatives of the five insurers or other persons with
experience in medical malpractice insurance as determined by the
Chief Financial Officer. One insurer representative shall be
selected from recommendations of the American Insurance
Association. One insurer representative shall be selected from
recommendations of the Property Casualty Insurers Association of
America. One insurer representative shall be selected from
recommendations of the Florida Insurance Council. Two insurer
representatives shall be selected to represent insurers that are
not affiliated with these associations. Vacancies on the board
shall be filled for the remaining period of the term in the same
manner as the initial appointments. During the first meeting of
the board after June 30 of each year, the board shall choose one
of its members to serve as chair of the board and another member
to serve as vice chair of the board. There is no liability on
the part of, and no cause of action shall arise against, any
member insurer, self-insurer, or its agents or employees, the
Joint Underwriting Association or its agents or employees,
members of the board of governors, or the office or its
representatives for any action taken by them in the performance
of their powers and duties under this subsection.

1. The Chief Financial Officer may remove a board member
from office for misconduct, malfeasance, misfeasance, or neglect
of duty. Any vacancy so created shall be filled as provided in
this paragraph.

2. Board members are subject to the code of ethics under
part III of chapter 112, including, but not limited to, the code
of ethics and public disclosure and reporting of financial
interests, pursuant to s. 112.3145. For purposes of applying



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part III of chapter 112 to activities of members of the board of governors, those persons are considered public officers and the Joint Underwriting Association is considered their agency. Notwithstanding s. 112.3143(2), a board member may not vote on any measure that he or she knows would inure to his or her special private gain or loss; that he or she knows would inure to the special private gain or loss of any principal by which he or she is retained, other than an agency as defined in s. 112.312; or that he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer. Before the vote is taken, such board member shall publicly state to the board the nature of his or her interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.

3. Notwithstanding s. 112.3148, s. 112.3149, or any other law, a board member may not knowingly accept, directly or indirectly, any gift or expenditure from a person or entity, or an employee or representative of such person or entity, which has a contractual relationship with the Joint Underwriting Association or which is under consideration for a contract.

4. A board member who fails to comply with subparagraph 2. or subparagraph 3. is subject to the penalties provided under ss. 112.317 and 112.3173.

Section 35. Section 627.4215, Florida Statutes, is amended to read:



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627.4215 Disclosures to policyholders; coverage of behavioral health care services.—

(1) A health insurer that offers behavioral health insurance coverages required by federal or state law shall make all of the following information available on its website:

(a) The federal and state requirements for coverage of behavioral health care services.

(b) Contact information for the Division of Consumer Services of the department, including a hyperlink, for consumers to submit inquiries or complaints relating to health insurer products or services regulated by the department or the office.

(2) On an annual basis, a health insurer that offers behavioral health insurance coverage required by federal or state law shall provide a direct notice to insureds with behavioral health insurance coverages required by federal or state law which must include a description of the federal and state requirements for coverage of behavioral health care services. Such notice must also include the website address and statewide toll-free telephone number of the Division of Consumer Services of the department for receiving and logging complaints.

Section 36. Subsection (5) is added to section 627.70132, Florida Statutes, to read:

627.70132 Notice of property insurance claim.—

(5) This section does not apply to loss assessment claims made under s. 627.714.

Section 37. Subsections (2) and (3) of section 627.7015, Florida Statutes, are amended to read:

627.7015 Alternative procedure for resolution of disputed property insurance claims.—



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(2) At the time of issuance and renewal of a policy or at the time a first-party claim within the scope of this section is filed by the policyholder, the insurer shall notify the policyholder of its right to participate in the mediation program under this section. A claim is not eligible for mediation until an insurer has made a claim determination or elected to repair pursuant to s. 627.70131. The department shall prepare a consumer information pamphlet for distribution to persons participating in mediation.

(3) The costs of mediation must be reasonable, and the insurer must bear all of the cost of conducting mediation conferences, except as otherwise provided in this section. If a policyholder fails to appear at the conference, the conference must be rescheduled upon the policyholder's payment of the costs of a rescheduled conference. If the insurer fails to appear at the conference, the insurer must pay the policyholder's actual cash expenses incurred in attending the conference if the insurer's failure to attend was not due to a good cause acceptable to the department. An insurer will be deemed to have failed to appear if the insurer's representative lacks authority to settle the full value of the claim. The insurer shall incur an additional fee for a rescheduled conference necessitated by the insurer's failure to appear at a scheduled conference. The fees assessed by the department ~~administrator~~ must include a charge necessary to defray the expenses of the department related to its duties under this section and must be deposited in the Insurance Regulatory Trust Fund. The department may suspend the insurer's authority to appoint licensees if the insurer does not timely pay the required fees.



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Section 38. Subsection (18) is added to section 627.7074, Florida Statutes, to read:

627.7074 Alternative procedure for resolution of disputed sinkhole insurance claims.—

(18) The department may designate, by means of a written contract or agreement, an entity or a person to serve as administrator to carry out any of the provisions of this section.

Section 39. Subsection (1) of section 627.714, Florida Statutes, is amended to read:

627.714 Residential condominium unit owner coverage; loss assessment coverage required.—

(1) For policies issued or renewed on or after July 1, 2010, coverage under a unit owner's residential property policy must include at least \$2,000 in property loss assessment coverage for all assessments made as a result of the same direct loss to the property, regardless of the number of assessments, owned by all members of the association collectively if such loss is of the type of loss covered by the unit owner's residential property insurance policy, to which a deductible of no more than \$250 per direct property loss applies. If a deductible was or will be applied to other property loss sustained by the unit owner resulting from the same direct loss to the property, no deductible applies to the loss assessment coverage. For policies issued after January 1, 2024, a loss assessment claim is deemed to have occurred on the date of the notice of loss assessment sent by a unit owner's condominium association.

Section 40. Section 627.745, Florida Statutes, is amended



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to read:

627.745 Mediation of claims.—

(1)(a) In any claim filed with an insurer for personal injury in an amount of \$10,000 or less or any claim for property damage in any amount, arising out of the ownership, operation, use, or maintenance of a motor vehicle, either party may demand mediation of the claim prior to the institution of litigation.

(b) The costs of mediation must be reasonable, and the insurer must bear all of the cost of conducting mediation conferences, except as otherwise provided in this section. If a policyholder fails to appear at the conference, the conference must be rescheduled upon the policyholder's payment of the costs of a rescheduled conference. If the insurer fails to appear at the conference, the insurer must pay the policyholder's actual cash expenses incurred in attending the conference if the insurer's failure to attend was not due to a good cause acceptable to the department. An insurer is deemed to have failed to appear if the insurer's representative lacks authority to settle the full value of the claim. The insurer shall incur an additional fee, paid to the mediator, for a rescheduled conference necessitated by the insurer's failure to appear at a scheduled conference. The fees assessed by the department or administrator must include a charge necessary to defray the expenses of the department related to its duties under this section and must be deposited in the Insurance Regulatory Trust Fund. The department or administrator may request that the department suspend the insurer's authority to appoint licensees if the insurer does not timely pay the per-mediation-event administrative fee.



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~~(b) A request for mediation shall be filed with the department on a form approved by the department. The request for mediation shall state the reason for the request for mediation and the issues in dispute which are to be mediated. The filing of a request for mediation tolls the applicable time requirements for filing suit for a period of 60 days following the conclusion of the mediation process or the time prescribed in s. 95.11, whichever is later.~~

~~(c) The insurance policy must specify in detail the terms and conditions for mediation of a first party claim.~~

~~(d) The mediation shall be conducted as an informal process in which formal rules of evidence and procedure need not be observed. Any party participating in a mediation must have the authority to make a binding decision. All parties must mediate in good faith.~~

~~(e) The department shall randomly select mediators. Each party may once reject the mediator selected, either originally or after the opposing side has exercised its option to reject a mediator.~~

~~(f) Costs of mediation shall be borne equally by both parties unless the mediator determines that one party has not mediated in good faith.~~

~~(g) Only one mediation may be requested for each claim, unless all parties agree to further mediation.~~

~~(2) Upon receipt of a request for mediation, the department shall refer the request to a mediator. The mediator shall notify the applicant and all interested parties, as identified by the applicant, and any other parties the mediator believes may have an interest in the mediation, of the date, time, and place of~~



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~~the mediation conference. The conference may be held by
telephone, if feasible. The mediation conference shall be held
within 45 days after the request for mediation.~~

(2) (a) ~~(3) (a)~~ The department shall approve mediators to
conduct mediations pursuant to this section. All mediators must
file an application under oath for approval as a mediator.

(b) To qualify for approval as a mediator, an individual
must meet one of the following qualifications:

1. Possess an active certification as a Florida Supreme
Court certified circuit court mediator. A Florida Supreme Court
certified circuit court mediator in a lapsed, suspended,
sanctioned, or decertified status is not eligible to participate
in the mediation program.

2. Be an approved department mediator as of July 1, 2014,
and have conducted at least one mediation on behalf of the
department within 4 years immediately preceding that date.

(3) ~~(4)~~ The department shall deny an application, or suspend
or revoke its approval, of a mediator to serve in such capacity
if the department finds that one or more of the following
grounds exist:

(a) Lack of one or more of the qualifications specified in
this section for approval.

(b) Material misstatement, misrepresentation, or fraud in
obtaining or attempting to obtain the approval.

(c) Demonstrated lack of fitness or trustworthiness to act
as a mediator.

(d) Fraudulent or dishonest practices in the conduct of
mediation or in the conduct of business in the financial
services industry.



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(e) Violation of any provision of this code or of a lawful order or rule of the department, violation of the Florida Rules for Certified and Court-Appointed Mediators, or aiding, instructing, or encouraging another party in committing such a violation.

The department may adopt rules to administer this subsection.

(4) The department shall adopt by rule a motor vehicle claims insurance mediation program to be administered by the department or its designee. The department may also adopt special rules that are applicable in cases of an emergency within the state. The rules shall be modeled after practices and procedures set forth in mediation rules of procedure adopted by the Supreme Court. The rules must include:

(a) Reasonable requirements for processing and scheduling of requests for mediation.

(b) Provisions governing who may attend mediation conferences.

(c) Selection of mediators.

(d) Criteria for the conduct of mediation conferences.

(e) Right to legal counsel.

~~(5) The department must adopt rules of procedure for claims mediation, taking into consideration a system which:~~

~~(a) Is fair.~~

~~(b) Promotes settlement.~~

~~(c) Avoids delay.~~

~~(d) Is nonadversarial.~~

~~(e) Uses a framework for modern mediating technique.~~

(f) Controls of costs and expenses of mediation.



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(5) The department may designate an entity or person to serve as an administrator to carry out any of the provisions of this section and may take this action by means of a written contract or agreement.

(6) Disclosures and information divulged in the mediation process are not admissible in any subsequent action or proceeding relating to the claim or to the cause of action giving rise to the claim. A person demanding mediation under this section may not demand or request mediation after a suit is filed relating to the same facts already mediated.

Section 41. Present subsections (7) through (12) of section 631.141, Florida Statutes, are redesignated as subsections (8) through (13), respectively, and a new subsection (7) is added to that section, to read:

631.141 Conduct of delinquency proceeding; domestic and alien insurers.—

(7) In order to preserve as much as possible the right and interest of the policyholders whose insurance policies or similar contracts are affected by the receivership proceedings, the department as a domiciliary receiver may:

(a) Use the property of the estate of the insurer to transfer the insurer's book of business, policies, or similar contracts of coverage, in whole or in part, to a solvent assuming insurer or insurers.

(b) Notwithstanding s. 631.195, share records of the insurer with the prospective solvent assuming insurer or insurers, but only to the extent necessary to undertake due diligence for a transfer contemplated under this section.

Section 42. Subsections (1) and (3) of section 631.252,



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Florida Statutes, are amended to read:

631.252 Continuation of coverage.—

(1) Unless another insurer, with approval of the receivership court, assumes or otherwise provides coverage for the policies of the insolvent insurer, all insurance policies or similar contracts of coverage, other than coverages defined in s. 631.713 or health maintenance organization coverage under part IV, issued by the insurer shall be canceled upon the earlier ~~earliest to occur~~ of the following:

(a) The date of entry of the liquidation or, if the court so provides in its order, the expiration of 30 days from the date of entry of the liquidation order;

(b) The normal expiration of the policy or contract coverage;

(c) The replacement of the coverage by the insured, or the replacement of the policy or contract of coverage, with a policy or contract acceptable to the insured by the receiver with another insurer; ~~or~~

(d) The date proposed by the receiver and approved by the receivership court to cancel coverage; or

(e) ~~(d)~~ The termination of the coverage by the insured.

(3) The 30-day coverage continuation period provided in paragraph (1)(a) and s. 631.57(1)(a)1. may not be extended unless the Chief Financial Officer ~~office~~ determines, based on a reasonable belief, that market conditions are such that policies of residential property insurance coverage cannot be placed with an authorized insurer within 30 days and that an additional 15 days is needed to place such coverage. ~~and~~ Failure of actual notice to the policyholder of the insolvency of the insurer, of



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commencement of a delinquency proceeding, or of expiration of the extension period does not affect such expiration.

Section 43. Subsection (1) of section 631.56, Florida Statutes, is amended, and subsections (5) through (8) are added to that section, to read:

631.56 Board of directors.—

(1) The board of directors of the association shall consist of not less than five or more than nine persons serving terms as established in the plan of operation. Three members of the board must be representatives from domestic insurers and appointed by the Chief Financial Officer. The department shall approve and appoint to the board persons recommended by the member insurers or other persons with experience in property and casualty insurance or motor vehicle insurance as determined by the Chief Financial Officer. ~~In the event the department finds that any recommended person does not meet the qualifications for service on the board, the department shall request the member insurers to recommend another person.~~ Each member shall serve for a 4-year term and may be reappointed. Vacancies on the board shall be filled for the remaining period of the term in the same manner as initial appointments.

(5) The Chief Financial Officer may remove a board member from office for misconduct, malfeasance, misfeasance, or neglect of duty. Any vacancy so created shall be filled as provided in subsection (1).

(6) Board members are subject to the code of ethics under part III of chapter 112, including, but not limited to, the code of ethics and public disclosure and reporting of financial interests, pursuant to s. 112.3145. For purposes of applying



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part III of chapter 112 to activities of members of the board of directors, those persons are considered public officers and the association is considered their agency. Notwithstanding s. 112.3143(2), a board member may not vote on any measure that he or she knows would inure to his or her special private gain or loss; that he or she knows would inure to the special private gain or loss of any principal by which he or she is retained, other than an agency as defined in s. 112.312; or that he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer. Before the vote is taken, such member shall publicly state to the board the nature of his or her interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.

(7) Notwithstanding s. 112.3148, s. 112.3149, or any other law, a board member may not knowingly accept, directly or indirectly, any gift or expenditure from a person or entity, or an employee or representative of such person or entity, which has a contractual relationship with the association or which is under consideration for a contract.

(8) A board member who fails to comply with subsection (6) or subsection (7) is subject to the penalties provided under ss. 112.317 and 112.3173.

Section 44. Paragraph (a) of subsection (1) of section 631.716, Florida Statutes, is amended, and subsections (4) through (7) are added to that section, to read:



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631.716 Board of directors.—

(1) (a) The board of directors of the association shall have at least 9, but no more than 11, members. The members shall consist ~~be comprised~~ of member insurers serving terms as established in the plan of operation and 1 Florida Health Maintenance Organization Consumer Assistance Plan director confirmed pursuant to paragraph (b), or other persons with experience in life and annuity or accident and health insurance as determined by the Chief Financial Officer. At all times, at least 1 ~~member of the board~~ member must be a domestic insurer as defined in s. 624.06(1). The ~~members of the board~~ members who are member insurers shall be elected by member insurers, subject to the approval of the department. Each board member shall serve for a 4-year term and may be reappointed.

(4) The Chief Financial Officer may remove a board member from office for misconduct, malfeasance, misfeasance, or neglect of duty. Any vacancy so created shall be filled as provided in subsection (1).

(5) Board members are subject to the code of ethics under part III of chapter 112, including, but not limited to, the code of ethics and public disclosure and reporting of financial interests, pursuant to s. 112.3145. For purposes of applying part III of chapter 112 to activities of members of the board of directors, those persons are considered public officers and the association is considered their agency. Notwithstanding s. 112.3143(2), a board member may not vote on any measure that he or she knows would inure to his or her special private gain or loss; that he or she knows would inure to the special private gain or loss of any principal by which he or she is retained,



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other than an agency as defined in s. 112.312; or that he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer. Before the vote is taken, such member shall publicly state to the board the nature of his or her interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.

(6) Notwithstanding s. 112.3148, s. 112.3149, or any other law, a board member may not knowingly accept, directly or indirectly, any gift or expenditure from a person or entity, or an employee or representative of such person or entity, which has a contractual relationship with the association or which is under consideration for a contract.

(7) A board member who fails to comply with subsection (5) or subsection (6) is subject to the penalties provided under ss. 112.317 and 112.3173.

Section 45. Subsection (1) of section 631.816, Florida Statutes, is amended, and subsections (8) through (11) are added to that section, to read:

631.816 Board of directors.—

(1) The board of directors of the plan shall consist of not less than five or more than nine persons serving terms as established in the plan of operation. The department shall approve and appoint to the board persons recommended by the member HMOs or other persons with experience in health insurance as determined by the Chief Financial Officer. ~~In the event the~~



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~~department finds that any recommended person does not meet the~~
~~qualifications for service on the board, the department shall~~
~~request the member HMOs to recommend another person.~~ Each member
shall serve for a 4-year term and may be reappointed, except
that terms may be staggered as defined in the plan of operation.
Vacancies on the board shall be filled for the remaining period
of the term in the same manner as initial appointments. In
determining voting rights, each HMO is entitled to vote on the
basis of cumulative weighted voting based on the net written
premium for non-Medicare and non-Medicaid policies.

(8) The Chief Financial Officer may remove a board member
from office for misconduct, malfeasance, misfeasance, or neglect
of duty. Any vacancy so created shall be filled as provided in
subsection (1).

(9) Board members are subject to the code of ethics under
part III of chapter 112, including, but not limited to, the code
of ethics and public disclosure and reporting of financial
interests, pursuant to s. 112.3145. For purposes of applying
part III of chapter 112 to activities of members of the board of
directors, those persons are considered public officers and the
plan is considered their agency. Notwithstanding s. 112.3143(2),
a board member may not vote on any measure that he or she knows
would inure to his or her special private gain or loss; that he
or she knows would inure to the special private gain or loss of
any principal by which he or she is retained, other than an
agency as defined in s. 112.312; or that he or she knows would
inure to the special private gain or loss of a relative or
business associate of the public officer. Before the vote is
taken, such member shall publicly state to the board the nature



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of his or her interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.

(10) Notwithstanding s. 112.3148, s. 112.3149, or any other law, a board member may not knowingly accept, directly or indirectly, any gift or expenditure from a person or entity, or an employee or representative of such person or entity, which has a contractual relationship with the plan or which is under consideration for a contract.

(11) A board member who fails to comply with subsection (9) or subsection (10) is subject to the penalties provided under ss. 112.317 and 112.3173.

Section 46. Subsection (1) of section 631.912, Florida Statutes, is amended, and subsections (4), (5), and (6) are added to that section, to read:

631.912 Board of directors.—

(1) The board of directors of the corporation shall consist of 11 persons, 1 of whom is the insurance consumer advocate appointed under s. 627.0613 or designee and 1 of whom is designated by the Chief Financial Officer. The department shall appoint to the board 6 persons selected by private carriers from among the 20 workers' compensation insurers with the largest amount of direct written premium as determined by the department, and 2 persons selected by the self-insurance funds or other persons with experience in workers' compensation insurance as determined by the Chief Financial Officer. The



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Governor shall appoint one person who has commercial insurance experience. At least two of the private carriers shall be foreign carriers authorized to do business in this state. The board shall elect a chairperson from among its members. The Chief Financial Officer may remove any board member for cause. Each board member shall be appointed to serve a 4-year term and may be reappointed. A vacancy on the board shall be filled for the remaining period of the term in the same manner by which the original appointment was made.

(4) Board members are subject to the code of ethics under part III of chapter 112, including, but not limited to, the code of ethics and public disclosure and reporting of financial interests, pursuant to s. 112.3145. For purposes of applying part III of chapter 112 to activities of members of the board of directors, those persons are considered public officers and the corporation is considered their agency. Notwithstanding s. 112.3143(2), a board member may not vote on any measure that he or she knows would inure to his or her special private gain or loss; that he or she knows would inure to the special private gain or loss of any principal by which he or she is retained, other than an agency as defined in s. 112.312; or that he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer. Before the vote is taken, such member shall publicly state to the board the nature of his or her interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the



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memorandum in the minutes.

(5) Notwithstanding s. 112.3148, s. 112.3149, or any other law, a board member may not knowingly accept, directly or indirectly, any gift or expenditure from a person or entity, or an employee or representative of such person or entity, which has a contractual relationship with the corporation or which is under consideration for a contract.

(6) A board member who fails to comply with subsection (4) or subsection (5) is subject to the penalties provided under ss. 112.317 and 112.3173.

Section 47. Section 633.1423, Florida Statutes, is created to read:

633.1423 State Fire Marshal direct-support organization.—

(1) DEFINITION.—As used in this section, the term “organization” means the direct-support organization established under this section.

(2) ORGANIZATION ESTABLISHED.—The division may establish a direct-support organization, to be known as the “State Fire Marshal Safety and Training Force,” whose sole purpose is to support the safety and training of firefighters and to recognize exemplary service. The organization must:

(a) Be a not-for-profit corporation incorporated under chapter 617 and approved by the Department of State.

(b) Be organized and operated to raise funds; request and receive grants, gifts, and bequests of money; conduct programs and activities; acquire, receive, hold, invest, and administer, in its own name, securities, funds, or property; and make grants and expenditures to or for the direct or indirect benefit of the division. Grants and expenditures may include the cost of



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education or training of firefighters, or the recognition of
exemplary service of firefighters.

(c) Be determined by the division to operate in a manner
that is:

1. Consistent with the goals of the division and laws
relating to the safety and training of firefighters.

2. In the best interest of the state.

3. In accordance with the adopted goals and mission of the
division.

(d) Use all of its grants and expenditures solely for the
purpose of educating, training, and recognizing firefighters,
and not for advertising using the likeness or name of any
elected official nor for the purpose of lobbying as defined in
s. 11.045(1).

(e) Be subject to an annual financial audit in accordance
with s. 215.981.

(3) CONTRACT.—The organization shall operate under written
contract with the division. The contract must provide for:

(a) Certification by the division that the organization is
complying with the terms of the contract and in a manner
consistent with the goals and purposes of the department and in
the best interest of the state. Such certification must be made
annually and reported in the official minutes of a meeting of
the organization.

(b) The reversion of moneys and property held by the
organization for firefighter safety, training, and recognition
to the division if the organization is no longer approved to
operate by the division or if the organization ceases to exist,
or to the state if the division ceases to exist.



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(4) BOARD OF DIRECTORS.—The organization shall be governed by a board of directors. The State Fire Marshal, or his or her designee, shall appoint a president of the board. The board of directors shall be appointed by the president of the board.

(5) USE OF PROPERTY.—The division may authorize, without charge, appropriate use of fixed property and facilities of the division by the organization, subject to this subsection.

(a) The department may prescribe any condition with which the organization must comply in order to use the division's property or facilities.

(b) The department may not authorize the use of the division's property or facilities if the organization does not provide equal membership and employment opportunities to all persons regardless of race, religion, sex, age, or national origin.

(c) The department shall adopt rules prescribing the procedures by which the organization is governed and any conditions with which the organization must comply to use the division's property or facilities.

(6) DEPOSITORY ACCOUNT.—Any moneys received by the organization may be held in a separate depository account in the name of the organization and subject to the contract with the division.

(7) ANNUAL BUDGETS AND REPORTS.—The organization shall submit to the division its annual budget and financial reports, its federal Internal Revenue Service Application for Recognition of Exemption Form 1023, and its federal Internal Revenue Service Return of Organization Exempt from Income Tax Form 990.

(8) ANNUAL AUDIT.—The organization shall provide for an



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annual financial audit in accordance with s. 215.981.

(9) DIVISION'S RECEIPT OF PROCEEDS.—Proceeds received by the division from the organization shall be deposited into the Insurance Regulatory Trust Fund.

(10) REPEAL.—This section is repealed October 1, 2028, unless reviewed and saved from repeal by the Legislature.

Section 48. Section 634.181, Florida Statutes, is amended to read:

634.181 Grounds for compulsory refusal, suspension, or revocation of license or appointment of salespersons.—

(1) The department shall deny, suspend, revoke, or refuse to renew or continue the license or appointment of any such salesperson if it finds that as to the salesperson any one or more of the following applicable grounds exist:

(a)~~(1)~~ Material misstatement, misrepresentation, or fraud in obtaining or attempting to obtain the license or appointment.

(b)~~(2)~~ If the license or appointment is willfully used, or to be used, to circumvent any of the requirements or prohibitions of this part, any applicable provision of the Florida Insurance Code, or rule of the department or commission.

(c)~~(3)~~ Willful misrepresentation of any service agreement or willful deception with regard to any agreement, done either in person or by any form of dissemination of information or advertising.

(d)~~(4)~~ If in the adjustment of claims arising out of service agreements, she or he has materially misrepresented to a service agreement holder or other interested party the terms and coverage of a service agreement with intent and for the purpose of effecting settlement of the claim on less favorable terms



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than those provided in and contemplated by the service agreement.

(e)~~(5)~~ For demonstrated lack of fitness or trustworthiness to engage in the service agreement business.

(f)~~(6)~~ For demonstrated lack of adequate knowledge and technical competence to engage in the transactions authorized by the license or appointment.

(g)~~(7)~~ Fraudulent or dishonest practices in the conduct of business under the license or appointment.

(h)~~(8)~~ Misappropriation, conversion, or unlawful withholding of moneys belonging to a service agreement company, insurer, or service agreement holder or to others and received in the conduct of business under the license or appointment.

(i)~~(9)~~ For unlawfully rebating, or attempt thereat, or for unlawfully dividing or offering to divide her or his commission with another.

(j)~~(10)~~ Willful failure to comply with, or willful violation of any proper order of the department or office, or willful violation of any provision of this part, or of any applicable provision of the insurance code, or applicable rule of the department or commission.

(k)~~(11)~~ Having been found guilty of, or having pleaded guilty or nolo contendere to, a felony or a crime punishable by imprisonment of 1 year or more under the law of the United States of America or any state thereof or under the law of any other country which involves moral turpitude, without regard to whether a judgment of conviction has been entered by the court having jurisdiction of the cases.

(l)~~(12)~~ Failure to refund unearned pro rata commission to



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the agreement holder or the service agreement company, if the service agreement company is making a full unearned pro rata refund to the agreement holder.

(m) Having been the subject of, or having had a license, permit, appointment, registration, or other authority to conduct business subject to, any decision, finding, injunction, suspension, prohibition, revocation, denial, judgment, final agency action, or administrative order by any court of competent jurisdiction, administrative law proceeding, state agency, federal agency, national securities, commodities, or options exchange, or national securities, commodities, or options association involving a violation of any federal or state securities or commodities law or any rule or regulation adopted thereunder, or a violation of any rule or regulation of any national securities, commodities, or options exchange or national securities, commodities, or options association.

(2) When a licensee is charged with a felony enumerated in s. 626.207(2), the department shall, immediately upon receipt of information on or indictment for the felony, temporarily suspend a license or appointment issued under this chapter. Such suspension shall continue if the licensee is found guilty of, or pleads guilty or nolo contendere to, the crime, regardless of whether a judgment or conviction is entered, during a pending appeal. A person may not transact insurance business after suspension of his or her license or appointment.

(3) The department may adopt rules to administer this section.

Section 49. Section 634.191, Florida Statutes, is amended to read:



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634.191 Grounds for discretionary refusal, suspension, or revocation of license or appointment of salespersons.—

(1) The department may, in its discretion, deny, suspend, revoke, or refuse to renew or continue the license or appointment of any salesperson if it finds that as to the salesperson any one or more of the following applicable grounds exist under circumstances for which such denial, suspension, revocation, or refusal is not mandatory under s. 634.181:

(a)~~(1)~~ For any cause for which granting of the license or appointment could have been refused had it then existed and been known to the department.

(b)~~(2)~~ Violation of any provision of this part or of any other law applicable to the business of service agreements in the course of dealings under the license or appointment.

(c)~~(3)~~ Violation of ~~Has violated~~ any lawful order or rule of the department or commission.

(d)~~(4)~~ Failure or refusal, upon demand, to pay over to any company or insurer the salesperson represents or has represented any money coming into her or his hands belonging to the company or insurer.

(e)~~(5)~~ If, in the conduct of business under the license or appointment, the salesperson has engaged in unfair methods of competition or in unfair or deceptive acts or practices, as such methods, acts, or practices are or may be defined under this part, or has otherwise shown herself or himself to be a source of injury or loss to the public or detrimental to the public interest.

(f)~~(6)~~ Failure to report to the department within 30 days the final disposition of an administrative action taken against



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a salesperson by a governmental agency or other regulatory agency in this state or any other state or jurisdiction relating to the business of insurance, the sale of securities, or an activity involving fraud, dishonesty, trustworthiness, or breach of a fiduciary duty. The salesperson must submit a copy of the order, consent to order, or other relevant legal documents to the department ~~Having been found guilty of, or having pleaded guilty or nolo contendere to, a felony or a crime punishable by imprisonment of 1 year or more under the law of the United States of America or any state thereof or under the law of any other country, without regard to whether a judgment of conviction has been entered by the court having jurisdiction of the cases.~~

(2) The department may adopt rules to administer this section.

Section 50. Section 634.320, Florida Statutes, is amended to read:

634.320 Grounds for compulsory refusal, suspension, or revocation of license or appointment of sales representatives.—

(1) The department shall deny, suspend, revoke, or refuse to renew or continue the license or appointment of any sales representative if it is found that any one or more of the following grounds applicable to the sales representative exist:

(a)~~(1)~~ Material misstatement, misrepresentation, or fraud in obtaining or attempting to obtain a license or appointment.

(b)~~(2)~~ The license or appointment is willfully used, or to be used, to circumvent any of the requirements or prohibitions of this part.

(c)~~(3)~~ Willful misrepresentation of any warranty contract



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or willful deception with regard to any such contract, done either in person or by any form of dissemination of information or advertising.

(d)~~(4)~~ In the adjustment of claims arising out of warranties, material misrepresentation to a warranty holder or other interested party of the terms and coverage of a contract, with the intent and for the purpose of effecting settlement of such claim on less favorable terms than those provided in and contemplated by the contract.

(e)~~(5)~~ Demonstrated lack of fitness or trustworthiness to engage in the business of home warranty.

(f)~~(6)~~ Demonstrated lack of adequate knowledge and technical competence to engage in the transactions authorized by the license or appointment.

(g)~~(7)~~ Fraudulent or dishonest practices in the conduct of business under the license or appointment.

(h)~~(8)~~ Misappropriation, conversion, or unlawful withholding of moneys belonging to an association, insurer, or warranty holder, or to others, and received in the conduct of business under the license or appointment.

(i)~~(9)~~ Unlawfully rebating, or attempting to unlawfully rebate, or unlawfully dividing, or offering to divide, her or his commission with another.

(j)~~(10)~~ Willful failure to comply with, or willful violation of, any proper order or rule of the department or commission or willful violation of any provision of this part.

(k)~~(11)~~ Being found guilty of or pleading guilty or nolo contendere to a felony or a crime punishable by imprisonment of 1 year or more under the law of the United States of America or



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any state thereof or under the law of any other country
~~involving moral turpitude~~, without regard to whether judgment of
conviction has been entered by the court.

(1) Having been the subject of, or having had a license,
permit, appointment, registration, or other authority to conduct
business subject to, any decision, finding, injunction,
suspension, prohibition, revocation, denial, judgment, final
agency action, or administrative order by any court of competent
jurisdiction, administrative law proceeding, state agency,
federal agency, national securities, commodities, or options
exchange, or national securities, commodities, or options
association involving a violation of any federal or state
securities or commodities law or any rule or regulation adopted
thereunder, or a violation of any rule or regulation of any
national securities, commodities, or options exchange or
national securities, commodities, or options association.

(2) When a licensee is charged with a felony enumerated in
s. 626.207(2), the department shall, immediately upon receipt of
information on or indictment for the felony, temporarily suspend
a license or appointment issued under this chapter. Such
suspension shall continue if the licensee is found guilty of, or
pleads guilty or nolo contendere to, the crime, regardless of
whether a judgment or conviction is entered, during a pending
appeal. A person may not transact insurance business after
suspension of his or her license or appointment.

(3) The department may adopt rules to administer this
section.

Section 51. Section 634.321, Florida Statutes, is amended
to read:



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634.321 Grounds for discretionary refusal, suspension, or revocation of license or appointment of sales representatives.—

(1) The department may, in its discretion, deny, suspend, revoke, or refuse to renew or continue the license or appointment of any sales representative if it is found that any one or more of the following grounds applicable to the sales representative exist under circumstances for which such denial, suspension, revocation, or refusal is not mandatory under s. 634.320:

(a)~~(1)~~ Any cause for which granting of the license or appointment could have been refused had it then existed and been known to the department.

(b)~~(2)~~ Violation of any provision of this part, or of any other law applicable to the business of warranties, in the course of dealings under the license or appointment.

(c)~~(3)~~ Violation of any lawful order or rule of the department or commission.

(d)~~(4)~~ Failure or refusal to pay over, upon demand, to any home warranty association or insurer the sales representative represents or has represented any money coming into her or his hands which belongs to the association or insurer.

(e)~~(5)~~ In the conduct of business under the license or appointment, engaging in unfair methods of competition or in unfair or deceptive acts or practices, as such methods, acts, or practices are or may be defined under this part, or otherwise showing herself or himself to be a source of injury or loss to the public or detriment to the public interest.

(f)~~(6)~~ Failure to report to the department within 30 days the final disposition of an administrative action taken against



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a sales representative by a governmental agency or other
regulatory agency in this state or any other state or
jurisdiction relating to the business of insurance, the sale of
securities, or an activity involving fraud, dishonesty,
trustworthiness, or breach of a fiduciary duty. The sales
representative must submit a copy of the order, consent to
order, or other relevant legal documents to the department ~~Being~~
~~found guilty of or pleading guilty or nolo contendere to a~~
~~felony or a crime punishable by imprisonment of 1 year or more~~
~~under the law of the United States of America or any state~~
~~thereof or under the law of any other country, without regard to~~
~~whether a judgment of conviction has been entered by the court.~~

(2) The department may adopt rules to administer this
section.

Section 52. Section 634.419, Florida Statutes, is amended
to read:

634.419 License and appointment required.—No person or
entity shall solicit, negotiate, advertise, or effectuate
service warranty contracts in this state unless such person or
entity is licensed and appointed as a sales representative.
Sales representatives shall be responsible for the actions of
persons under their supervision. However, a service warranty
association licensed as such under this part shall not be
required to be licensed and appointed as a sales representative
to solicit, negotiate, advertise, or effectuate its products.
Sections 501.021-501.055 do not apply to persons or entities
licensed and appointed under this section, or their affiliates,
which solicit the sale of a service warranty or related service
or product in connection with a prearranged appointment at the



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request of the consumer.

Section 53. Section 634.422, Florida Statutes, is amended to read:

634.422 Grounds for compulsory refusal, suspension, or revocation of license or appointment of sales representatives.—

(1) The department shall deny, suspend, revoke, or refuse to renew or continue the license or appointment of any sales representative if it is found that any one or more of the following grounds applicable to the sales representative exist:

(a)~~(1)~~ Material misstatement, misrepresentation, or fraud in obtaining or attempting to obtain a license or appointment.

(b)~~(2)~~ The license or appointment is willfully used, or to be used, to circumvent any of the requirements or prohibitions of this part.

(c)~~(3)~~ Willful misrepresentation of any service warranty contract or willful deception with regard to any such contract, done either in person or by any form of dissemination of information or advertising.

(d)~~(4)~~ In the adjustment of claims arising out of warranties, material misrepresentation to a service warranty holder or other interested party of the terms and coverage of a contract with the intent and for the purpose of effecting settlement of the claim on less favorable terms than those provided in and contemplated by the contract.

(e)~~(5)~~ Demonstrated lack of fitness or trustworthiness to engage in the business of service warranty.

(f)~~(6)~~ Demonstrated lack of adequate knowledge and technical competence to engage in the transactions authorized by the license or appointment.



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(g)~~(7)~~ Fraudulent or dishonest practices in the conduct of business under the license or appointment.

(h)~~(8)~~ Misappropriation, conversion, or unlawful withholding of moneys belonging to an association, insurer, or warranty holder, or to others, and received in the conduct of business under the license or appointment.

(i)~~(9)~~ Unlawfully rebating, or attempting to unlawfully rebate, or unlawfully dividing, or offering to divide, her or his commission with another.

(j)~~(10)~~ Willful failure to comply with, or willful violation of, any proper order or rule of the department or commission, or willful violation of any provision of this part.

(k)~~(11)~~ Being found guilty of or pleading nolo contendere to a felony or a crime punishable by imprisonment of 1 year or more under the law of the United States of America or any state thereof or under the law of any other country ~~involving moral turpitude~~, without regard to whether judgment of conviction has been entered by the court having jurisdiction of the case.

(l) Having been the subject of, or having had a license, permit, appointment, registration, or other authority to conduct business subject to, any decision, finding, injunction, suspension, prohibition, revocation, denial, judgment, final agency action, or administrative order by any court of competent jurisdiction, administrative law proceeding, state agency, federal agency, national securities, commodities, or options exchange, or national securities, commodities, or options association involving a violation of any federal or state securities or commodities law or any rule or regulation adopted thereunder, or a violation of any rule or regulation of any



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national securities, commodities, or options exchange or
national securities, commodities, or options association.

(2) When a licensee is charged with a felony enumerated in
s. 626.207(2), the department shall, immediately upon receipt of
information on or indictment for the felony, temporarily suspend
a license or appointment issued under this chapter. Such
suspension shall continue if the licensee is found guilty of, or
pleads guilty or nolo contendere to, the crime, regardless of
whether a judgment or conviction is entered, during a pending
appeal. A person may not transact insurance business after
suspension of his or her license or appointment.

(3) The department may adopt rules to administer this
section.

Section 54. Section 634.423, Florida Statutes, is amended
to read:

634.423 Grounds for discretionary refusal, suspension, or
revocation of license or appointment of sales representatives.—

(1) The department may deny, suspend, revoke, or refuse to
renew or continue the license or appointment of any sales
representative if it is found that any one or more of the
following grounds applicable to the sales representative exist
under circumstances for which such denial, suspension,
revocation, or refusal is not mandatory under s. 634.422:

(a)~~(1)~~ Any cause for which granting of the license or
appointment could have been refused had it then existed and been
known to the department.

(b)~~(2)~~ Violation of any provision of this part, or of any
other law applicable to the business of service warranties, in
the course of dealings under the license or appointment.



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(c)~~(3)~~ Violation of any lawful order or rule of the department or commission.

(d)~~(4)~~ Failure or refusal to pay over, upon demand, to any service warranty association or insurer the sales representative represents or has represented any money coming into her or his hands which belongs to the association or insurer.

(e)~~(5)~~ In the conduct of business under the license or appointment, engaging in unfair methods of competition or in unfair or deceptive acts or practices, as such methods, acts, or practices are or may be defined under this part, or otherwise showing herself or himself to be a source of injury or loss to the public or detriment to the public interest.

(f)~~(6)~~ Failure to report to the department within 30 days the final disposition of an administrative action taken against a sales representative by a governmental agency or other regulatory agency in this state or any other state or jurisdiction relating to the business of insurance, the sale of securities, or an activity involving fraud, dishonesty, trustworthiness, or breach of a fiduciary duty. The sales representative must submit a copy of the order, consent to order, or other relevant legal documents to the department ~~Being found guilty of or pleading guilty or nolo contendere to a felony or a crime punishable by imprisonment of 1 year or more under the law of the United States of America or any state thereof or under the law of any other country, without regard to whether judgment of conviction has been entered by the court having jurisdiction of such case.~~

(2) The department may adopt rules to administer this section.



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Section 55. Section 648.25, Florida Statutes, is reordered and amended to read:

648.25 Definitions.—As used in this chapter, the term:

(1) "Appointment" means the authority given by an insurer or the managing general agent of an insurer through the department to a licensee to transact insurance or adjust claims on behalf of the insurer or managing general agent.

(2)~~(1)~~ "Bail bond agency" means:

(a) The building where a licensee maintains an office and where all records required by ss. 648.34 and 648.36 are maintained; or

(b) An entity that:

1. Charges a fee or premium to release an accused defendant or detainee from jail; or

2. Engages in or employs others to engage in any activity that may be performed only by a licensed and appointed bail bond agent.

(3)~~(2)~~ "Bail bond agent" means a limited surety agent or a professional bail bond agent as hereafter defined.

(7)~~(3)~~ "Managing general agent" means any individual, partnership, association, or corporation appointed or employed by an insurer to supervise or manage the bail bond business written in this state by limited surety agents appointed by the insurer.

(5)~~(4)~~ "Insurer" means any domestic, foreign, or alien surety company which has been authorized to transact surety business in this state.

(6)~~(5)~~ "Limited surety agent" means any individual appointed by an insurer by power of attorney to execute or



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countersign bail bonds in connection with judicial proceedings who receives or is promised money or other things of value therefor.

~~(4)(6)~~ "Primary Bail bond agent in charge" means a licensed bail bond agent who is responsible for the overall operation and management of a bail bond agency location and whose responsibilities include hiring and supervising all individuals within that location. A bail bond agent may be designated as the primary bail bond agent in charge for only one bail bond agency location.

~~(8)(7)~~ "Professional bail bond agent" means any person who pledges United States currency, United States postal money orders, or cashier's checks as security for a bail bond in connection with a judicial proceeding and receives or is promised therefor money or other things of value.

~~(9)(8)~~ "Temporary bail bond agent" means a person licensed before January 1, 2024, who is employed by a bail bond agent or agency, insurer, or managing general agent, and such licensee has the same authority as a licensed bail bond agent, including presenting defendants in court; apprehending, arresting, and surrendering defendants to the proper authorities, while accompanied by a supervising bail bond agent or an agent from the same agency; and keeping defendants under necessary surveillance. However, a temporary licensee may not execute or sign bonds, handle collateral receipts, or deliver bonds to appropriate authorities. A temporary licensee may not operate an agency or branch agency separate from the location of the supervising bail bond agent, managing general agent, or insurer by whom the licensee is employed. This does not affect the right



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of a bail bond agent or insurer to hire counsel or to obtain the assistance of law enforcement officers. A temporary bail bond agent license expires 18 months after issuance and is no longer valid on or after June 30, 2025.

Section 56. Subsection (3) of section 648.26, Florida Statutes, is amended to read:

648.26 Department of Financial Services; administration.—

(3) The papers, documents, reports, or any other investigatory records of the department are confidential and exempt from ~~the provisions of~~ s. 119.07(1) until such investigation is completed or ceases to be active. For the purpose of this section, an investigation is considered active ~~“active”~~ while the investigation is being conducted by the department with a reasonable, good faith belief that it may lead to the filing of administrative, civil, or criminal proceedings. An investigation does not cease to be active if the department is proceeding with reasonable dispatch and there is good faith belief that action may be initiated by the department or other administrative or law enforcement agency. This subsection does not prevent the department or office from disclosing the content of a complaint or such information as it deems necessary to conduct the investigation, to update the complainant as to the status and outcome of the complaint, or to share such information with any law enforcement agency or other regulatory body.

Section 57. Subsection (5) of section 648.27, Florida Statutes, is amended to read:

648.27 Licenses and appointments; general.—

(5) ~~(a)~~ The license of a bail bond agent shall continue in



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force, without further examination unless deemed necessary by the department, until suspended, revoked, or otherwise terminated.

~~(b) The license of a temporary bail bond agent shall continue in force until suspended, revoked, or otherwise terminated.~~

Section 58. Section 648.285, Florida Statutes, is amended to read:

648.285 Bond agency; ownership requirements; applications for bail bond agency licenses.—

(1) A person may not own, control, manage, or otherwise have a pecuniary interest in a bail bond agency unless such individual is a licensed pursuant to s. 648.27, and appointed through the department, and actively engaged as a bail bond agent for at least the preceding 24 months. Any agency that is not in compliance with this subsection is ~~shall be~~ subject to the issuance of an immediate final order of suspension of its license and all operations until the agency achieves compliance.

(2) Effective January 1, 2024, the department may issue a bail bond agency license to any person only after such person files a written application with the department and qualifies for such license.

(3) An application for a bail bond agency license must be signed by an individual required to be listed in the application under paragraph (a). A bail bond agency license may permit a third party to complete, submit, and sign an application on the bail bond agency's behalf; however, the bail bond agency is responsible for ensuring that the information on the application is true and correct, and the bail bond agency is accountable for



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any misstatements or misrepresentations. The application for a
bail bond agency license must include:

(a) The name and license number of each owner, partner,
officer, director, president, senior vice president, secretary,
treasurer, and limited liability company member who directs or
participates in the management or control of the bail bond
agency, whether through ownership of voting securities, by
contract, by ownership of any agency bank account, or otherwise.

(b) The residence address of each person required to be
listed in the application under paragraph (a).

(c) The name, principal business street address, and valid
e-mail address of the bail bond agency and the name, address,
and e-mail address of the agency's registered agent or person or
company authorized to accept service on behalf of the bail bond
agency.

(d) The physical address of each branch bail bond agency,
including its name, e-mail address, and telephone number, and
the date that the branch location began transacting bail bond
business.

(e) The name of the full-time bail bond agent in charge of
the agency office, including branch locations, and his or her
corresponding location.

(f) Such additional information as the department requires
by rule to ascertain the trustworthiness and competence of
persons required to be listed on the application and to
ascertain that such persons meet the requirements of this code.
However, the department may not require that credit or character
reports be submitted for persons required to be listed on the
application.



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(4) The department must issue a license to each agency upon approval of the application, and each agency location must display the license prominently in a manner that makes it clearly visible to any customer or potential customer who enters the agency location.

(5) A bail bond agency that holds a current and valid registration number with the department shall have its registration automatically converted to a license on July 1, 2024.

(6) Section 112.011 does not apply to bail bond agencies or to applicants for licensure as owners of bail bond agencies.

(7)~~(2)~~ If the owner of a bail bond agency dies or becomes mentally incapacitated, a personal representative or legal guardian may be issued a temporary permit to manage the affairs of the bail bond agency. Such person must appoint or maintain the appointment of a ~~primary~~ bail bond agent in charge, as provided in s. 648.387, and may not engage in any activities as a licensed bail bond agent but must comply with s. 648.387 during the administration of the estate or guardianship. A temporary permit is valid for a maximum of 24 months.

(8)~~(3)~~ Application for a temporary permit must be made by the personal representative or legal guardian upon statements and affidavits filed with the department on forms prescribed and furnished by it. The applicant must meet the qualifications for licensure as a bail bond agent, except for the residency, examination, education, and experience requirements.

Section 59. Subsection (1) of section 648.30, Florida Statutes, is amended to read:

648.30 Licensure and appointment required; prohibited acts;



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penalties.—

(1)(a) A person or entity may not act in the capacity of a bail bond agent or ~~temporary~~ bail bond agency agent or perform any of the functions, duties, or powers prescribed for bail bond agents or ~~temporary~~ bail bond agencies agents under this chapter unless that person or entity is qualified, licensed, and appointed as provided in this chapter and employed by a bail bond agency.

(b) A bail bond agent may not sell a bail bond issued by an insurer for which the agent and the agent's bail bond agency do not hold a current appointment.

(c) Except as otherwise provided in this part, a person or entity, other than a bail bond agency or an employee of a bail bond agency, may not perform any of the functions of a bail bond agency without a bail bond agency license.

Section 60. Section 648.31, Florida Statutes, is amended to read:

648.31 Appointment taxes and fees.—The department shall collect in advance all appointment taxes and fees for the issuance of any appointment to a bail bond agent ~~or temporary bail bond agent~~, as provided in s. 624.501. There is no fee for the issuance of any appointment to a bail bond agency.

Section 61. Subsection (2) of section 648.34, Florida Statutes, is amended to read:

648.34 Bail bond agents; qualifications.—

(2) To qualify as a bail bond agent, it must affirmatively appear at the time of application and throughout the period of licensure that the applicant ~~has complied with the provisions of s. 648.355 and has obtained a temporary license pursuant to such~~



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~~section and:~~

(a) ~~The applicant~~ Is a natural person who has reached the age of 18 years and holds a high school diploma or its equivalent.

(b) ~~The applicant~~ Is a United States citizen or legal alien who possesses work authorization from the United States Bureau of Citizenship and Immigration Services and is a resident of this state. An individual who is a resident of this state shall be deemed to meet the residence requirement of this paragraph, notwithstanding the existence, at the time of application for license, of a license in the applicant's name on the records of another state as a resident licensee of such other state, if the applicant furnishes a letter of clearance satisfactory to the department that his or her resident licenses have been canceled or changed to a nonresident basis and that he or she is in good standing.

(c) Will maintain his or her ~~The place of business of the applicant will be located~~ in this state and in the county where the applicant will maintain his or her records and be actively engaged in the bail bond business and work with a licensed ~~maintain an~~ agency accessible to the public which is open for reasonable business hours.

(d) ~~The applicant~~ Is vouched for and recommended upon sworn statements filed with the department by at least three reputable citizens who are residents of the same counties in which the applicant proposes to engage in the bail bond business.

(e) ~~The applicant~~ Is a person of high character and approved integrity and has not been convicted of or pleaded guilty or no contest to a felony, a crime involving moral



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turpitude, or a crime punishable by imprisonment of 1 year or more under the law of any state, territory, or country, whether or not a judgment or conviction has been entered.

(f) Within 2 years immediately before applying for the license, has successfully completed a basic certification course in the criminal justice system which consists of at least 120 hours of classroom instruction with a passing grade of 80 percent or higher and has successfully completed a correspondence course for bail bond agents approved by the department.

(g) ~~(f)~~ The applicant Has passed any required examination.
Section 62. Section 648.355, Florida Statutes, is amended to read:

648.355 ~~Temporary limited license as~~ Limited surety agents and ~~agent or~~ professional bail bond agents ~~agent~~; qualifications pending examination.—

~~(1) The department may, in its discretion, issue a temporary license as a limited surety agent or professional bail bond agent, subject to the following conditions:~~

~~(a) The applicant is a natural person at least 18 years of age and holds a high school diploma or its equivalent.~~

~~(b) The applicant is a United States citizen or legal alien who possesses work authorization from the United States Bureau of Citizenship and Immigration Services and is a resident of this state. An individual who is a resident of this state shall be deemed to meet the residence requirement of this paragraph, notwithstanding the existence, at the time of application for temporary license, of a license in the individual's name on the records of another state as a resident licensee of such other~~



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~~state, if the applicant furnishes a letter of clearance satisfactory to the department that the individual's resident licenses have been canceled or changed to a nonresident basis and that the individual is in good standing.~~

~~(c) The applicant is a person of high character and approved integrity and has never been convicted of or pleaded guilty or no contest to a felony, a crime involving moral turpitude, or a crime punishable by imprisonment of 1 year or more under the law of any state, territory, or country, whether or not a judgment or conviction is entered.~~

~~(d) Within 4 years prior to the date of application for a temporary license, the applicant has successfully completed a basic certification course in the criminal justice system, consisting of not less than 120 hours of classroom instruction with a passing grade of 80 percent or higher and has successfully completed a correspondence course for bail bond agents approved by the department.~~

~~(e) The applicant must be employed full time at the time of licensure, and at all times throughout the existence of the temporary license, by only one licensed and appointed supervising bail bond agent, who supervises the work of the applicant and is responsible for the licensee's conduct in the bail bond business. The applicant must be appointed by the same insurers as the supervising bail bond agent. The supervising bail bond agent shall certify monthly to the department under oath, on a form prescribed by the department, the names and hours worked each week of all temporary bail bond agents. Filing a false certification is grounds for the immediate suspension of the license and imposition of a \$5,000 administrative fine. The~~



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~~department may adopt rules that establish standards for the
employment requirements.~~

~~(f) The application must be accompanied by an affidavit
verifying proposed employment and a report as to the applicant's
integrity and moral character on a form prescribed by the
department and executed by the proposed employer.~~

~~(g) The applicant must file with the department statements
by at least three reputable citizens who are residents of the
same counties in which the applicant proposes to engage as a
temporary licensee.~~

~~(h) The applicant's employer is responsible for the bail
bonding acts of any licensee under this section.~~

~~(2) All applicable license fees, as prescribed in s.
624.501, must be paid before issuance of the temporary license.~~

~~(3) The temporary license shall be effective for 18 months,
subject to earlier termination at the request of the employer or
if suspended or revoked by the department.~~

~~(4) The applicant shall furnish, with the application for
temporary license, a complete set of the applicant's
fingerprints in accordance with s. 626.171(4) and a recent
credential-sized, fullface photograph of the applicant. The
department may ~~shall~~ not issue a temporary license under this
section until the department has received a report from the
Department of Law Enforcement and the Federal Bureau of
Investigation relative to the existence or nonexistence of a
criminal history report based on the applicant's fingerprints.~~

~~(2)(5) The department may collect a fee necessary to cover
the cost of a character and credit report made by an established
and reputable independent reporting service. The fee shall be~~



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deposited to the credit of the Insurance Regulatory Trust Fund.

(3)(6) Effective July 1, 2023, any individual licensed by the department as a temporary bail bond agent may take the required bail bond agent's licensure examination, may file an application for a bail bond agent's license if otherwise qualified for licensure, and may take the required bail bond agent's licensure examination ~~After licensure as a temporary licensee for at least 12 months, such licensee may file an application for and become eligible for a regular bail bond agent's license based on the licensee's experience in the bail bond business and education pursuant to paragraph (1)(d) and, if otherwise qualified, take the required bail bond agent's licensure examination. The applicant and supervising bail bond agent must each file an affidavit under oath, on a form prescribed by the department, verifying the required employment of the temporary agent before issuance of the license.~~

~~(7) In no event shall a temporary licensee licensed under this section perform any of the functions for which a bail bond agent's license is required after expiration of the temporary license without having passed the written examination as for a regular bail bond agent's license.~~

~~(8)(a) A temporary licensee has the same authority as a licensed bail bond agent, including presenting defendants in court; apprehending, arresting, and surrendering defendants to the proper authorities; and keeping defendants under necessary surveillance. However, a temporary licensee must be accompanied by a supervising bail bond agent or an agent from the same agency when apprehending, arresting, or surrendering defendants to authorities.~~



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~~(b) A temporary licensee may not execute or sign bonds, handle collateral receipts, deliver bonds to appropriate authorities, or operate an agency or branch agency separate from the location of the supervising bail bond agent, managing general agent, or insurer by whom the licensee is employed.~~

(4)(9) Effective July 1, 2023, the department may not issue a temporary bail bond agent's license. An individual currently licensed as a temporary bail bond agent may continue to be licensed in accordance with this chapter. A temporary bail bond agent's license may not be reinstated if the license expires or is terminated, suspended, or revoked ~~The department shall not issue a temporary bail bond agent's license to any individual who has held such a temporary license in this state within 2 years after the expiration of such temporary bail bond agent's license.~~

Section 63. Subsections (1) through (4) of section 648.382, Florida Statutes, are amended to read:

648.382 Appointment of bail bond agents and bail bond agencies ~~temporary bail bond agents~~; effective date of appointment.—

(1)(a) Each insurer or appointing a bail bond agent and ~~each insurer, managing general agent, or bail bond agent~~ appointing a ~~temporary~~ bail bond agent or bail bond agency in this state must file the appointment with the department and, at the same time, pay the applicable appointment fees and taxes. A person appointed under this section must hold a valid bail bond agent's or ~~temporary~~ bail bond agency's ~~agent's~~ license.

(b) Effective July 1, 2025, each insurer or managing general agent appointing a bail bond agency in this state must



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file the appointment with the department. An entity appointed under this section must hold a valid bail bond agency's license.

(2) Before ~~Prior to~~ any appointment, an appropriate officer or official of the appointing insurer ~~in the case of a bail bond agent or an insurer, managing general agent, or bail bond agent in the case of a temporary bail bond agent~~ must submit:

(a) A certified statement or affidavit to the department stating what investigation has been made concerning the proposed appointee and the proposed appointee's background and the appointing person's opinion to the best of his or her knowledge and belief as to the moral character and reputation of the proposed appointee. In lieu of such certified statement or affidavit, by authorizing the effectuation of an appointment for a licensee, the appointing entity certifies to the department that such investigation has been made and that the results of the investigation and the appointing person's opinion is that the proposed appointee is a person of good moral character and reputation and is fit to engage in the bail bond business;

(b) An affidavit under oath on a form prescribed by the department, signed by the proposed appointee, stating that premiums are not owed to any insurer and that the appointee will discharge all outstanding forfeitures and judgments on bonds previously written. If the appointee does not satisfy or discharge such forfeitures or judgments, the former insurer shall file a notice, with supporting documents, with the appointing insurer, the former agent or agency, and the department, stating under oath that the licensee has failed to timely satisfy forfeitures and judgments on bonds written and that the insurer has satisfied the forfeiture or judgment from



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its own funds. Upon receipt of such notification and supporting documents, the appointing insurer shall immediately cancel the licensee's appointment. The licensee may be reappointed only upon certification by the former insurer that all forfeitures and judgments on bonds written by the licensee have been discharged. The appointing insurer or former agent or agency may, within 10 days, file a petition with the department seeking relief from this paragraph. Filing of the petition stays the duty of the appointing insurer to cancel the appointment until the department grants or denies the petition; ~~and~~

(c) Any other information that the department reasonably requires concerning the proposed appointee; and

(d) Effective January 1, 2025, a certification that the appointing entity obtained from each appointee the following sworn statement:

Pursuant to section 648.382(2)(b), Florida Statutes, I do solemnly swear that I owe no premium to any insurer and that I will discharge all outstanding forfeitures and judgments on bonds that have been previously written. I acknowledge that failure to do this will result in my active appointments being canceled.

An appointed bail bond agency must have the attestation under this paragraph signed by its owner.

(3) By authorizing the effectuation of an appointment for a licensee, the appointing insurer certifies to the department that the insurer will be bound by the acts of the bail bond agent or bail bond agency acting within the scope of the agent's



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~~or agency's his or her appointment, and, in the case of a temporary bail bond agent, the appointing insurer, managing general agent, or bail bond agent, as the case may be, must certify to the department that he or she will supervise the temporary bail bond agent's activities.~~

(4) Each appointing insurer or, ~~managing general agent, or bail bond agent~~ must advise the department in writing within 5 days after receiving notice or learning that an appointee has been arrested for, pled guilty or nolo contendere to, or been found guilty of, a felony or other offense punishable by imprisonment of 1 year or more under the law of any jurisdiction, whether judgment was entered or withheld by the court.

Section 64. Present subsections (1) through (4) of section 648.386, Florida Statutes, are redesignated as subsections (2) through (5), respectively, a new subsection (1) is added to that section, and present subsection (2) of that section is amended, to read:

648.386 Qualifications for prelicensing and continuing education schools and instructors.—

(1) DEFINITION OF "CLASSROOM INSTRUCTION".—As used in this section, the term "classroom instruction" means a course designed to be presented to a group of students by a live instructor using lecture, video, webcast, or virtual or other audio-video presentation.

(3)(2) SCHOOLS AND CURRICULUM FOR CONTINUING EDUCATION SCHOOLS.—In order to be considered for approval and certification as an approved limited surety agent and professional bail bond agent continuing education school, such



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entity must:

(a) Provide a minimum of three classroom-instruction continuing education classes per calendar year.

(b) Submit a course curriculum to the department for approval.

(c) Offer continuing education classes that comprise ~~which are comprised of~~ a minimum of 2 hours of approved classroom-instruction coursework and are taught by an approved supervising instructor or guest lecturer approved by the entity or the supervising instructor.

Section 65. Section 648.387, Florida Statutes, is amended to read:

648.387 ~~Primary~~ Bail bond agent in charge ~~agents~~; duties.—

(1) The owner or operator of a bail bond agency shall designate a ~~primary~~ bail bond agent in charge for each location, and shall file with the department the name and license number of the person and the address of the location on a form approved by the department. The designation of the ~~primary~~ bail bond agent in charge may be changed if the department is notified immediately. Failure to notify the department within 10 working days after such change is grounds for disciplinary action pursuant to s. 648.45.

(2) The ~~primary~~ bail bond agent in charge is responsible for the overall operation and management of a bail bond agency location, whose responsibilities may include, without limitations, hiring and supervising of all individuals within the location, whether they deal with the public in the solicitation or negotiation of bail bond contracts or in the collection or accounting of moneys. A person may be designated



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as ~~the primary~~ bail bond agent in charge for only one agency and
location.

(3) The department may suspend or revoke the license of the
owner, bail bond agent in charge ~~operator~~, and ~~primary~~ bail bond
agency agent if ~~the~~ a bail bond agency employs, contracts with,
or uses the services of a person who has had a license denied or
whose license is currently suspended or revoked. However, a
person who has been denied a license for failure to pass a
required examination may be employed to perform clerical or
administrative functions for which licensure is not required.

(4) An owner, a bail bond agent in charge ~~operator~~, or a
bail bond agency primary agent may not employ, contract with, or
use the services of any person in a bail bond agency who has
been charged with, found guilty of, or pled guilty or nolo
contendere to a felony or a crime punishable by imprisonment of
1 year or more under the law of any jurisdiction, without regard
to whether judgment was entered or withheld by the court.

(5) A bail bond agency location may not conduct surety
business unless a ~~primary~~ bail bond agent in charge is
designated by, and provides services to, the bail bond agency at
all times. If the bail bond agent in charge designated with the
department ends his or her affiliation with the bail bond agency
for any reason, and the bail bond agency fails to designate
another bail bond agent in charge within the 10-day period under
subsection (1) and such failure continues for 90 days, the bail
bond agency license automatically expires on the 91st day after
the date the designated bail bond agent in charge ended his or
her affiliation with the agency ~~The failure to designate a~~
~~primary agent on a form prescribed by the department, within 10~~



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~~working days after an agency's inception or a change of primary agent, is a violation of this chapter, punishable as provided in s. 648.45.~~

Section 66. Section 648.3875, Florida Statutes, is created to read:

648.3875 Bail bond agent in charge; qualifications.—

(1) An application for designation as a bail bond agent in charge must be submitted on forms prescribed by the department. The application must include the applicant's full name and the applicant's license number issued pursuant to s. 648.27.

(2) To qualify as a bail bond agent in charge, it must affirmatively appear that, at the time of application and throughout the period of licensure, the applicant has complied with s. 648.285 and that the applicant has been licensed as a bail bond agent for the 24 months immediately preceding the appointment as the bail bond agent in charge.

Section 67. Section 648.39, Florida Statutes, is amended to read:

648.39 Termination of appointment of managing general agents, bail bond agents, and ~~temporary~~ bail bond agencies ~~agents.—~~

(1) An insurer that ~~who~~ terminates the appointment of a managing general agent, bail bond agent, or ~~temporary~~ bail bond agency agent shall, within 10 days after such termination, file written notice thereof with the department together with a statement that it has given or mailed notice to the terminated agent or agency. Such notice filed with the department must state the reasons, if any, for such termination. Information so furnished to the department is confidential and exempt from ~~the~~



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~~provisions of s. 119.07(1).~~

(2) Each insurer shall, within 5 days after terminating the appointment of any managing general agent, bail bond agent, or ~~temporary~~ bail bond agency agent, give written notice thereof to each clerk of the circuit court and sheriff with whom such person is registered.

(3) An insurer that terminates the appointment of a managing general agent or, bail bond agent, ~~or temporary bail bond agent~~ may authorize such person to continue to attempt the arrest and surrender of a defendant for whom a surety bond had been written by the bail bond agent before ~~prior to~~ termination and to seek discharge of forfeitures and judgments as provided in chapter 903.

Section 68. Section 648.41, Florida Statutes, is repealed.

Section 69. Section 648.42, Florida Statutes, is amended to read:

648.42 Registration of bail bond agents.—A bail bond agent may not become a surety on an undertaking unless he or she has registered in the office of the sheriff and with the clerk of the circuit court in the county in which the bail bond agent resides. The bail bond agent may register in a like manner in any other county, and any bail bond agent shall file a certified copy of his or her appointment by power of attorney from each insurer which he or she represents as a bail bond agent with each of such officers. Registration and filing of a certified copy of renewed power of attorney shall be performed by April 1 of each odd-numbered year. The clerk of the circuit court and the sheriff may ~~shall~~ not permit the registration of a bail bond agent unless such bail bond agent is currently licensed by the



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~~department and appointed by an insurer the department. Nothing in this section shall prevent the registration of a temporary licensee at the jail for the purposes of enabling the licensee to perform the duties under such license as set forth in this chapter.~~

Section 70. Subsections (1) and (2) and paragraphs (c) and (d) of subsection (8) of section 648.44, Florida Statutes, are amended to read:

648.44 Prohibitions; penalty.—

(1) A bail bond agent or ~~temporary~~ bail bond agency agent may not:

(a) Suggest or advise the employment of, or name for employment, any particular attorney or attorneys to represent his or her principal.

(b) Directly or indirectly solicit business in or on the property or grounds of a jail, prison, or other place where prisoners are confined or in or on the property or grounds of any court. The term "solicitation" includes the distribution of business cards, print advertising, or other written or oral information directed to prisoners or potential indemnitors, unless a request is initiated by the prisoner or a potential indemnitor. Permissible print advertising in the jail is strictly limited to a listing in a telephone directory and the posting of the bail bond agent's or agency's name, address, e-mail address, web address, and telephone number in a designated location within the jail.

(c) Initiate in-person or telephone solicitation after 9:00 p.m. or before 8:00 a.m., ~~in the case of domestic violence cases,~~ at the residence of the detainee or the detainee's



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family. Any solicitation ~~not prohibited by this chapter~~ must comply with the telephone solicitation requirements in ss. 501.059(2) and (4), 501.613, and 501.616(6).

(d) Wear or display any identification other than the department issued or approved license or approved department identification, which includes a citation of the licensee's arrest powers, in or on the property or grounds of a jail, prison, or other place where prisoners are confined or in or on the property or grounds of any court.

(e) Pay a fee or rebate or give or promise anything of value to a jailer, police officer, peace officer, or committing trial court judge or any other person who has power to arrest or to hold in custody or to any public official or public employee in order to secure a settlement, compromise, remission, or reduction of the amount of any bail bond or estreatment thereof.

(f) Pay a fee or rebate or give anything of value to an attorney in a bail bond matter, except in defense of any action on a bond.

(g) Pay a fee or rebate or give or promise anything of value to the principal or anyone in his or her behalf.

(h) Participate in the capacity of an attorney at a trial or hearing of one on whose bond he or she is surety.

(i) Loiter in or about a jail, courthouse, or where prisoners are confined.

(j) Accept anything of value from a principal for providing a bail bond except the premium and transfer fee authorized by the office, except that the bail bond agent or bail bond agency may accept collateral security or other indemnity from the principal or another person in accordance with ~~the provisions of~~



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s. 648.442, together with documentary stamp taxes, if applicable. No fees, expenses, or charges of any kind shall be permitted to be deducted from the collateral held or any return premium due, except as authorized by this chapter or rule of the department or commission. A bail bond agent or bail bond agency may, upon written agreement with another party, receive a fee or compensation for returning to custody an individual who has fled the jurisdiction of the court or caused the forfeiture of a bond.

(k) Write more than one power of attorney per charge on a bond, except in the case of a cosurety, unless the power of attorney prohibits a cosurety.

(l) Execute a bond in this state on his or her own behalf.

(m) Execute a bond in this state if a judgment has been entered on a bond executed by the bail bond agent or the bail bond agency is a named party on the judgment, which has remained unpaid for 35 days, unless the full amount of the judgment is deposited with the clerk in accordance with s. 903.27(5).

(n) Make a statement or representation to a court, unless such statement or representation is under oath. Such statement or representation may not be false, misleading, or deceptive.

(o) Attempt to collect, through threat or coercion, amounts due for the payment of any indebtedness related to the issuance of a bail bond in violation of s. 559.72.

(p) Conduct bail bond business with any person, other than the defendant, on the grounds of the jail or courthouse for the purpose of executing a bond.

(2) The following persons or classes may ~~shall~~ not be bail bond agents, ~~temporary bail bond agents~~, or employees of a bail



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bond agent or a bail bond agency business and may ~~shall~~ not directly or indirectly receive any benefits from the execution of any bail bond:

(a) Jailers or persons employed in any jail.

(b) Police officers or employees of any police department or law enforcement agency.

(c) Committing trial court judges, employees of a court, or employees of the clerk of any court.

(d) Sheriffs and deputy sheriffs or employees of any sheriff's department.

(e) Attorneys.

(f) Persons having the power to arrest or persons who have authority over or control of federal, state, county, or municipal prisoners.

(8)

(c) Any law enforcement agency, state attorney's office, court clerk, or insurer that is aware that a bail bond agent ~~or temporary bail bond agent~~ has been convicted of or who has pleaded guilty or no contest to a crime as described in paragraph (a) shall notify the department of this fact.

(d) Upon the filing of an information or indictment against a bail bond agent ~~or temporary bail bond agent~~, the state attorney or clerk of the circuit court shall immediately furnish the department a certified copy of the information or indictment.

Section 71. Subsection (1) of section 648.441, Florida Statutes, is amended to read:

648.441 Furnishing supplies to unlicensed bail bond agent prohibited; civil liability and penalty.—



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(1) An insurer, managing general agent, bail bond agent, or ~~temporary~~ bail bond agency agent appointed under this chapter may not furnish to any person any blank forms, applications, stationery, business card, or other supplies to be used in soliciting, negotiating, or effecting bail bonds until such person has received from the department a license to act as a bail bond agent and is appointed by the insurer. This section does not prohibit an unlicensed employee, under the direct supervision and control of a licensed and appointed bail bond agent, from possessing or executing in the bail bond agency, any forms, except for powers of attorney, bond forms, and collateral receipts, while acting within the scope of his or her employment.

Section 72. Subsection (3) of section 648.46, Florida Statutes, is amended to read:

648.46 Procedure for disciplinary action against licensees.—

(3) The complaint and all information obtained pursuant to the investigation of the department are confidential and exempt from the provisions of s. 119.07(1) until such investigation is completed or ceases to be active. For the purpose of this section, an investigation is considered "active" while the investigation is being conducted by the department with a reasonable, good faith belief that it may lead to the filing of administrative, civil, or criminal proceedings. An investigation does not cease to be active if the department is proceeding with reasonable dispatch and there is good faith belief that action may be initiated by the department or other administrative or law enforcement agency. This subsection does not prevent the



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department or office from disclosing the complaint or such information as it deems necessary to conduct the investigation, to update the complainant as to the status and outcome of the complaint, or to share such information with any law enforcement agency or other regulatory body.

Section 73. Section 648.50, Florida Statutes, is amended to read:

648.50 Effect of suspension, revocation upon associated licenses and licensees.—

(1) Upon the suspension, revocation, or refusal to renew or continue any license or appointment or the eligibility to hold a license or appointment of a bail bond agent or ~~temporary~~ bail bond agency agent, the department shall at the same time likewise suspend or revoke all other licenses or appointments and the eligibility to hold any other such licenses or appointments which may be held by the licensee under the Florida Insurance Code.

(2) In case of the suspension or revocation of the license or appointment, or the eligibility to hold a license or appointment, of any bail bond agent, the license, appointment, or eligibility of any and all bail bond agents who are members of a bail bond agency, whether incorporated or unincorporated, ~~and any and all temporary bail bond agents employed by such bail bond agency,~~ who knowingly are parties to the act which formed the ground for the suspension or revocation may likewise be suspended or revoked.

(3) A ~~No~~ person whose license as a bail bond agent ~~or temporary bail bond agent~~ has been revoked or suspended may not ~~shall~~ be employed by any bail bond agent, have any ownership



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interest in any business involving bail bonds, or have any financial interest of any type in any bail bond business during the period of revocation or suspension.

Section 74. Subsections (4) and (6) of section 717.135, Florida Statutes, are amended to read:

717.135 Recovery agreements and purchase agreements for claims filed by a claimant's representative; fees and costs.—

(4) A claimant's representative must use the Unclaimed Property Recovery Agreement or the Unclaimed Property Purchase Agreement as the exclusive means of entering into an agreement or a contract ~~engaging~~ with a claimant or seller to file a claim with the department.

(6) A claimant's representative may not use or distribute any other agreement of any type, conveyed by any method, form, ~~or other media~~ with respect to the claimant or seller which relates, directly or indirectly, to unclaimed property accounts held by the department or the Chief Financial Officer other than the agreements authorized by this section. Any engagement, authorization, recovery, or fee agreement that is not authorized by this section is void. A claimant's representative is subject to administrative and civil enforcement under s. 717.1322 if he or she uses an agreement that is not authorized by this section. This subsection does not prohibit lawful nonagreement, noncontractual, or advertising communications between or among the parties.

Section 75. Paragraph (a) of subsection (4) of section 843.021, Florida Statutes, is amended to read:

843.021 Unlawful possession of a concealed handcuff key.—

(4) (a) It is a defense to a charge of violating this



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section that the person in custody and in possession of a concealed handcuff key is:

1. A federal, state, or local law enforcement officer, including a reserve or auxiliary officer, a licensed security officer, or a private investigator as defined in s. 493.6101; or

2. A professional bail bond agent, ~~temporary bail bond agent, runner,~~ or limited surety agent as defined in s. 648.25.

Section 76. Section 903.28, Florida Statutes, is amended to read:

903.28 Remission of forfeiture; conditions.—

(1) On application within 2 years from forfeiture, the court shall order remission of the forfeiture if it determines that there was no breach of the bond.

(2) If the defendant surrenders or is apprehended or deceased within 90 days after forfeiture, the court, on motion at a hearing upon notice having been given to the clerk of the circuit court and the state attorney as required in subsection (9) ~~(8)~~, shall direct remission of ~~up to, but not more than,~~ 100 percent of a forfeiture if the surety apprehended and surrendered the defendant or if the apprehension or surrender of the defendant was substantially procured or caused by the surety; ~~or the surety has substantially attempted to procure or cause the apprehension or surrender of the defendant; or the defendant is deceased, and the delay has not thwarted the proper prosecution of the defendant.~~ In addition, remission shall be granted when the surety did not substantially participate or attempt to participate in the apprehension or surrender of the defendant when the costs of returning the defendant to the jurisdiction of the court, as provided in s. 903.21(3), have



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been deducted from the remission ~~and when the delay has not~~
~~thwarted the proper prosecution of the defendant.~~

(3) If the defendant surrenders or is apprehended or
deceased within 180 days after forfeiture, the court, on motion
at a hearing upon notice having been given to the clerk of the
circuit court and the state attorney as required in subsection
(9) ~~(8)~~, shall direct remission of ~~up to, but not more than,~~ 95
percent of a forfeiture if the surety apprehended and
surrendered the defendant or if the apprehension or surrender of
the defendant was substantially procured or caused by the
surety; ~~or~~ the surety has substantially attempted to procure or
cause the apprehension or surrender of the defendant; or the
defendant is deceased, ~~and the delay has not thwarted the proper~~
~~prosecution of the defendant.~~ In addition, remission shall be
granted when the surety did not substantially participate or
attempt to participate in the apprehension or surrender of the
defendant when the costs of returning the defendant to the
jurisdiction of the court, as provided in s. 903.21(3), have
been deducted from the remission ~~and when the delay has not~~
~~thwarted the proper prosecution of the defendant.~~

(4) If the defendant surrenders or is apprehended or
deceased within 270 days after forfeiture, the court, on motion
at a hearing upon notice having been given to the clerk of the
circuit court and the state attorney as required in subsection
(9) ~~(8)~~, shall direct remission of ~~up to, but not more than,~~ 90
percent of a forfeiture if the surety apprehended and
surrendered the defendant or if the apprehension or surrender of
the defendant was substantially procured or caused by the
surety; ~~or~~ the surety has substantially attempted to procure or



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cause the apprehension or surrender of the defendant; or the defendant is deceased, ~~and the delay has not thwarted the proper prosecution of the defendant.~~ In addition, remission shall be granted when the surety did not substantially participate or attempt to participate in the apprehension or surrender of the defendant when the costs of returning the defendant to the jurisdiction of the court, as provided in s. 903.21(3), have been deducted from the remission ~~and when the delay has not thwarted the proper prosecution of the defendant.~~

(5) If the defendant surrenders or is apprehended or deceased within 1 year after forfeiture, the court, on motion at a hearing upon notice having been given to the clerk of the circuit court and the state attorney as required in subsection (9) ~~(8)~~, shall direct remission of ~~up to, but not more than,~~ 85 percent of a forfeiture if the surety apprehended and surrendered the defendant or if the apprehension or surrender of the defendant was substantially procured or caused by the surety; ~~or~~ the surety has substantially attempted to procure or cause the apprehension or surrender of the defendant; or the defendant is deceased, ~~and the delay has not thwarted the proper prosecution of the defendant.~~ In addition, remission shall be granted when the surety did not substantially participate or attempt to participate in the apprehension or surrender of the defendant when the costs of returning the defendant to the jurisdiction of the court, as provided in s. 903.21(3), have been deducted from the remission ~~and when the delay has not thwarted the proper prosecution of the defendant.~~

(6) If the defendant surrenders or is apprehended or deceased within 2 years after forfeiture, the court, on motion



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at a hearing upon notice having been given to the clerk of the circuit court and the state attorney as required in subsection (9) ~~(8)~~, shall direct remission of ~~up to, but not more than,~~ 50 percent of a forfeiture if the surety apprehended and surrendered the defendant or if the apprehension or surrender of the defendant was substantially procured or caused by the surety; ~~or the surety has substantially attempted to procure or cause the apprehension or surrender of the defendant; or the defendant is deceased, and the delay has not thwarted the proper prosecution of the defendant.~~ In addition, remission shall be granted when the surety did not substantially participate or attempt to participate in the apprehension or surrender of the defendant when the costs of returning the defendant to the jurisdiction of the court, as provided in s. 903.21(3), have been deducted from the remission ~~and when the delay has not thwarted the proper prosecution of the defendant.~~

(7) Within 2 years after the date of forfeiture, if the state is unwilling to seek extradition of the defendant from any jail or prison after a request by the surety agent or the surety company, and contingent upon the surety agent or surety company consenting to pay all costs incurred by an official in returning the defendant to the jurisdiction of the court, as provided in s. 903.21(3), up to the penal amount of the bond, the court shall direct remission of 100 percent of the forfeiture.

(8) The remission of a forfeiture may not be ordered for any reason other than as specified herein.

~~(9)~~ (8) An application for remission must be accompanied by affidavits setting forth the facts on which it is founded; however, the surety must establish by further documentation or



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other evidence any claimed attempt at procuring or causing the apprehension or surrender of the defendant before the court may order remission based upon an attempt to procure or cause such apprehension or surrender. The clerk of the circuit court and the state attorney must be given 20 days' notice before a hearing on an application and be furnished copies of all papers, applications, and affidavits. Remission shall be granted on the condition of payment of costs as provided in s. 903.21(3), unless the ground for remission is that there was no breach of the bond.

(10)~~(9)~~ The clerk of the circuit court may enter into a contract with a private attorney or into an interagency agreement with a governmental agency to represent the clerk of the court in an action for the remission of a forfeiture under this section.

(11)~~(10)~~ The clerk of the circuit court is the real party in interest for all appeals arising from an action for the remission of a forfeiture under this section.

Section 77. Paragraph (b) of subsection (6) of section 28.2221, Florida Statutes, is amended to read:

28.2221 Electronic access to official records.—

(6)

(b)1. For the purpose of conducting a title search, as defined in s. 627.7711(4), of the Official Records, as described in s. 28.222(2), and upon presentation of photo identification and affirmation by sworn affidavit consistent with s. 92.50 to the county recorder, information restricted from public display, inspection, or copying under paragraph (5)(a) pursuant to a request for removal made under s. 119.071(4)(d) may be disclosed



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to:

a. A title insurer authorized pursuant to s. 624.401 and its affiliates as defined in s. 624.10;

b. A title insurance agent or title insurance agency as those terms are defined in s. 626.841 ~~s. 626.841(1) and (2)~~, respectively; or

c. An attorney duly admitted to practice law in this state and in good standing with The Florida Bar.

2. The photo identification and affirmation by sworn affidavit may be delivered in person, by mail, or by electronic transmission to the county recorder.

3. The affiant requestor must attest to his or her authority and the authorized purpose to access exempt information pursuant to this section for the property specified within the sworn affidavit.

4. The affiant requestor must identify the Official Records book and page number, instrument number, or the clerk's file number for each document requested within the sworn affidavit and must include a description of the lawful purpose and identify the individual or property that is the subject of the search within the sworn affidavit.

5. Affidavits submitted by a title insurer, title insurance agent, or title insurance agency must include the Florida Company Code or the license number, as applicable, and an attestation to the affiant requestor's authorization to transact business in this state. Affidavits submitted by an attorney authorized under this section must include the affiant requestor's Florida Bar number and a statement that the affiant requestor has an agency agreement with a title insurer directly



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or through his or her law firm.

6. The county recorder must record such affidavit in the Official Records, as described in s. 28.222(2), but may not place the image or copy of the affidavit on a publicly available Internet website for general public display.

7. Upon providing a document disclosing redacted information to an affiant requestor under this section, the county recorder must provide a copy of the affidavit requesting disclosure of the redacted information to each affected party at the address listed on the document or on the request for removal made by the affected party under s. 119.071. The county recorder must prepare a certificate of mailing to be affixed to the affidavit and must receive the statutory service charges as prescribed by s. 28.24 from the affiant requestor.

8. Any party making a false attestation under this section is subject to the penalty of perjury under s. 837.012.

Section 78. Paragraph (d) of subsection (4) of section 119.071, Florida Statutes, is amended to read:

119.071 General exemptions from inspection or copying of public records.—

(4) AGENCY PERSONNEL INFORMATION.—

(d)1. For purposes of this paragraph, the term:

a. "Home addresses" means the dwelling location at which an individual resides and includes the physical address, mailing address, street address, parcel identification number, plot identification number, legal property description, neighborhood name and lot number, GPS coordinates, and any other descriptive property information that may reveal the home address.

b. "Telephone numbers" includes home telephone numbers,



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personal cellular telephone numbers, personal pager telephone numbers, and telephone numbers associated with personal communications devices.

2.a. The home addresses, telephone numbers, dates of birth, and photographs of active or former sworn law enforcement personnel or of active or former civilian personnel employed by a law enforcement agency, including correctional and correctional probation officers, personnel of the Department of Children and Families whose duties include the investigation of abuse, neglect, exploitation, fraud, theft, or other criminal activities, personnel of the Department of Health whose duties are to support the investigation of child abuse or neglect, and personnel of the Department of Revenue or local governments whose responsibilities include revenue collection and enforcement or child support enforcement; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

b. The home addresses, telephone numbers, dates of birth, and photographs of current or former nonsworn investigative personnel of the Department of Financial Services whose duties include the investigation of fraud, theft, workers' compensation coverage requirements and compliance, other related criminal activities, or state regulatory requirement violations; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such



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personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

c. The home addresses, telephone numbers, dates of birth, and photographs of current or former nonsworn investigative personnel of the Office of Financial Regulation's Bureau of Financial Investigations whose duties include the investigation of fraud, theft, other related criminal activities, or state regulatory requirement violations; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

d. The home addresses, telephone numbers, dates of birth, and photographs of current or former firefighters certified in compliance with s. 633.408; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such firefighters; and the names and locations of schools and day care facilities attended by the children of such firefighters are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

e. The home addresses, dates of birth, and telephone numbers of current or former justices of the Supreme Court, district court of appeal judges, circuit court judges, and county court judges; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former justices and judges; and the



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names and locations of schools and day care facilities attended by the children of current or former justices and judges are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

f. The home addresses, telephone numbers, dates of birth, and photographs of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; and the names and locations of schools and day care facilities attended by the children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

g. The home addresses, dates of birth, and telephone numbers of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers; and the names and locations of schools and day care facilities attended by the children of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative



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Hearings, and child support enforcement hearing officers are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

h. The home addresses, telephone numbers, dates of birth, and photographs of current or former human resource, labor relations, or employee relations directors, assistant directors, managers, or assistant managers of any local government agency or water management district whose duties include hiring and firing employees, labor contract negotiation, administration, or other personnel-related duties; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

i. The home addresses, telephone numbers, dates of birth, and photographs of current or former code enforcement officers; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

j. The home addresses, telephone numbers, places of employment, dates of birth, and photographs of current or former guardians ad litem, as defined in s. 39.820; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such persons; and the names and locations of schools and day care facilities attended



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by the children of such persons are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

k. The home addresses, telephone numbers, dates of birth, and photographs of current or former juvenile probation officers, juvenile probation supervisors, detention superintendents, assistant detention superintendents, juvenile justice detention officers I and II, juvenile justice detention officer supervisors, juvenile justice residential officers, juvenile justice residential officer supervisors I and II, juvenile justice counselors, juvenile justice counselor supervisors, human services counselor administrators, senior human services counselor administrators, rehabilitation therapists, and social services counselors of the Department of Juvenile Justice; the names, home addresses, telephone numbers, dates of birth, and places of employment of spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

l. The home addresses, telephone numbers, dates of birth, and photographs of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel; and the names and locations of schools and day care facilities attended by the children of



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current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

m. The home addresses, telephone numbers, dates of birth, and photographs of current or former investigators or inspectors of the Department of Business and Professional Regulation; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such current or former investigators and inspectors; and the names and locations of schools and day care facilities attended by the children of such current or former investigators and inspectors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

n. The home addresses, telephone numbers, and dates of birth of county tax collectors; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such tax collectors; and the names and locations of schools and day care facilities attended by the children of such tax collectors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

o. The home addresses, telephone numbers, dates of birth, and photographs of current or former personnel of the Department of Health whose duties include, or result in, the determination or adjudication of eligibility for social security disability benefits, the investigation or prosecution of complaints filed against health care practitioners, or the inspection of health care practitioners or health care facilities licensed by the Department of Health; the names, home addresses, telephone



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numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

p. The home addresses, telephone numbers, dates of birth, and photographs of current or former impaired practitioner consultants who are retained by an agency or current or former employees of an impaired practitioner consultant whose duties result in a determination of a person's skill and safety to practice a licensed profession; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such consultants or their employees; and the names and locations of schools and day care facilities attended by the children of such consultants or employees are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

q. The home addresses, telephone numbers, dates of birth, and photographs of current or former emergency medical technicians or paramedics certified under chapter 401; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such emergency medical technicians or paramedics; and the names and locations of schools and day care facilities attended by the children of such emergency medical technicians or paramedics are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

r. The home addresses, telephone numbers, dates of birth, and photographs of current or former personnel employed in an



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agency's office of inspector general or internal audit department whose duties include auditing or investigating waste, fraud, abuse, theft, exploitation, or other activities that could lead to criminal prosecution or administrative discipline; the names, home addresses, telephone numbers, dates of birth, and places of employment of spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

s. The home addresses, telephone numbers, dates of birth, and photographs of current or former directors, managers, supervisors, nurses, and clinical employees of an addiction treatment facility; the home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this sub-subparagraph, the term "addiction treatment facility" means a county government, or agency thereof, that is licensed pursuant to s. 397.401 and provides substance abuse prevention, intervention, or clinical treatment, including any licensed service component described in s. 397.311(26).

t. The home addresses, telephone numbers, dates of birth, and photographs of current or former directors, managers, supervisors, and clinical employees of a child advocacy center that meets the standards of s. 39.3035(2) and fulfills the screening requirement of s. 39.3035(3), and the members of a



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Child Protection Team as described in s. 39.303 whose duties include supporting the investigation of child abuse or sexual abuse, child abandonment, child neglect, and child exploitation or to provide services as part of a multidisciplinary case review team; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel and members; and the names and locations of schools and day care facilities attended by the children of such personnel and members are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

u. The home addresses, telephone numbers, places of employment, dates of birth, and photographs of current or former staff and domestic violence advocates, as defined in s. 90.5036(1)(b), of domestic violence centers certified by the Department of Children and Families under chapter 39; the names, home addresses, telephone numbers, places of employment, dates of birth, and photographs of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

3. An agency that is the custodian of the information specified in subparagraph 2. and that is not the employer of the officer, employee, justice, judge, or other person specified in subparagraph 2. must maintain the exempt status of that information only if the officer, employee, justice, judge, other person, or employing agency of the designated employee submits a written and notarized request for maintenance of the exemption to the custodial agency. The request must state under oath the



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statutory basis for the individual's exemption request and confirm the individual's status as a party eligible for exempt status.

4.a. A county property appraiser, as defined in s. 192.001(3), or a county tax collector, as defined in s. 192.001(4), who receives a written and notarized request for maintenance of the exemption pursuant to subparagraph 3. must comply by removing the name of the individual with exempt status and the instrument number or Official Records book and page number identifying the property with the exempt status from all publicly available records maintained by the property appraiser or tax collector. For written requests received on or before July 1, 2021, a county property appraiser or county tax collector must comply with this sub-subparagraph by October 1, 2021. A county property appraiser or county tax collector may not remove the street address, legal description, or other information identifying real property within the agency's records so long as a name or personal information otherwise exempt from inspection and copying pursuant to this section are not associated with the property or otherwise displayed in the public records of the agency.

b. Any information restricted from public display, inspection, or copying under sub-subparagraph a. must be provided to the individual whose information was removed.

5. An officer, an employee, a justice, a judge, or other person specified in subparagraph 2. may submit a written request for the release of his or her exempt information to the custodial agency. The written request must be notarized and must specify the information to be released and the party authorized



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to receive the information. Upon receipt of the written request, the custodial agency must release the specified information to the party authorized to receive such information.

6. The exemptions in this paragraph apply to information held by an agency before, on, or after the effective date of the exemption.

7. Information made exempt under this paragraph may be disclosed pursuant to s. 28.2221 to a title insurer authorized pursuant to s. 624.401 and its affiliates as defined in s. 624.10; a title insurance agent or title insurance agency as those terms are defined in s. 626.841 ~~s. 626.841(1) or (2), respectively~~; or an attorney duly admitted to practice law in this state and in good standing with The Florida Bar.

8. The exempt status of a home address contained in the Official Records is maintained only during the period when a protected party resides at the dwelling location. Upon conveyance of real property after October 1, 2021, and when such real property no longer constitutes a protected party's home address as defined in sub-subparagraph 1.a., the protected party must submit a written request to release the removed information to the county recorder. The written request to release the removed information must be notarized, must confirm that a protected party's request for release is pursuant to a conveyance of his or her dwelling location, and must specify the Official Records book and page, instrument number, or clerk's file number for each document containing the information to be released.

9. Upon the death of a protected party as verified by a certified copy of a death certificate or court order, any party



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can request the county recorder to release a protected decedent's removed information unless there is a related request on file with the county recorder for continued removal of the decedent's information or unless such removal is otherwise prohibited by statute or by court order. The written request to release the removed information upon the death of a protected party must attach the certified copy of a death certificate or court order and must be notarized, must confirm the request for release is due to the death of a protected party, and must specify the Official Records book and page number, instrument number, or clerk's file number for each document containing the information to be released. A fee may not be charged for the release of any document pursuant to such request.

10. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 79. Subsection (4) of section 631.152, Florida Statutes, is amended to read:

631.152 Conduct of delinquency proceeding; foreign insurers.—

(4) Section 631.141(10)(b) ~~631.141(9)(b)~~ applies to ancillary delinquency proceedings opened for the purpose of obtaining records necessary to adjudicate the covered claims of Florida policyholders.

Section 80. Paragraph (b) of subsection (3) of section 631.398, Florida Statutes, is amended to read:

631.398 Prevention of insolvencies.—To aid in the detection and prevention of insurer insolvencies or impairments:



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(3)

(b) For an insolvency involving a domestic property insurer, the department shall:

1. Begin an analysis of the history and causes of the insolvency once the department is appointed by the court as receiver.

2. Submit an initial report analyzing the history and causes of the insolvency to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the office. The initial report must be submitted no later than 4 months after the department is appointed as receiver. The initial report shall be updated at least annually until the submission of the final report. The report may not be used as evidence in any proceeding brought by the department or others to recover assets on behalf of the receivership estate as part of its duties under s. 631.141(9) ~~s. 631.141(8)~~. The submission of a report under this subparagraph shall not be considered a waiver of any evidentiary privilege the department may assert under state or federal law.

3. Provide a special report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the office, within 10 days upon identifying any condition or practice that may lead to insolvency in the property insurance marketplace.

4. Submit a final report analyzing the history and causes of the insolvency and the review of the Office of Insurance Regulation's regulatory oversight of the insurer to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the office within 30 days of the



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conclusion of the insolvency proceeding.

5. Review the Office of Insurance Regulation's regulatory oversight of the insurer.

Section 81. Subsection (2) of section 903.09, Florida Statutes, is amended to read:

903.09 Justification of sureties.—

(2) A bond agent, as defined in s. 648.25 ~~s. 648.25(2)~~, shall justify her or his suretyship by attaching a copy of the power of attorney issued by the company to the bond or by attaching to the bond United States currency, a United States postal money order, or a cashier's check in the amount of the bond; but the United States currency, United States postal money order, or cashier's check cannot be used to secure more than one bond. Nothing herein shall prohibit two or more qualified sureties from each posting any portion of a bond amount, and being liable for only that amount, so long as the total posted by all cosureties is equal to the amount of bond required.

Section 82. (1) The following rule is ratified for the sole and exclusive purpose of satisfying any condition on the effectiveness imposed under s. 120.541(3), Florida Statutes: Rule 69L-7.020, Florida Administrative Code, titled "Florida Workers' Compensation Health Care Provider Reimbursement Manual" as filed for adoption with the Department of State pursuant to the certification package dated October 22, 2021.

(2) This section serves no other purpose and may not be codified in the Florida Statutes. After this section becomes law, its enactment and effective dates shall be noted in the Florida Administrative Code, the Florida Administrative Register, or both, as appropriate. This section does not alter



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rulemaking additions delegated by prior law, does not constitute
legislative preemption of or exception to any provision of law
governing adoption or enforcement of the rule cited, and is
intended to preserve the status of any cited rule as a rule
under chapter 120, Florida Statutes. This section does not cure
any rulemaking defect or preempt any challenge based on a lack
of authority or a violation of the legal requirements governing
the adoption of any rule cited.

(3) This section takes effect July 1, 2023.

Section 83. Except as otherwise expressly provided in this
act, this act shall take effect upon becoming a law.

===== T I T L E A M E N D M E N T =====
And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to the Department of Financial
Services; amending s. 20.121, F.S.; revising powers
and duties of the department's Division of
Investigative and Forensic Services; deleting the
department's Strategic Markets Research and Assessment
Unit; amending s. 39.6035, F.S.; deleting a
requirement for the Department of Children and
Families and the community-based care lead agency to
provide certain financial literacy curriculum
information to certain youth; amending s. 112.215,
F.S.; redefining the term "employee" as "government
employee" and revising the definition of the term;



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3578 revising eligibility for plans of deferred
3579 compensation established by the Chief Financial
3580 Officer; revising the membership of the Deferred
3581 Compensation Advisory Council; making technical
3582 changes; amending s. 215.422, F.S.; revising the
3583 timeframe by which certain payments to health care
3584 providers for services to be reimbursed by a state
3585 agency or the judicial branch must be made; amending
3586 s. 274.01, F.S.; revising the definition of the term
3587 "governmental unit" for purposes of ch. 274, F.S.;
3588 amending s. 409.1451, F.S.; conforming a provision to
3589 changes made by the act; amending s. 440.13, F.S.;
3590 authorizing, rather than requiring, a judge of
3591 compensation claims to order an injured employee's
3592 evaluation by an expert medical advisor under certain
3593 circumstances; revising the schedules of maximum
3594 reimbursement allowances determined by the three-
3595 member panel under the Workers' Compensation Law;
3596 revising reimbursement requirements for certain
3597 providers; requiring the department to annually notify
3598 carriers and self-insurers of certain schedules;
3599 requiring the publication of a schedule in a certain
3600 manner; providing construction; revising factors the
3601 panel must consider in establishing the uniform
3602 schedule of maximum reimbursement allowances; deleting
3603 certain standards for practice parameters; amending s.
3604 440.38, F.S.; specifying requirements for forms used
3605 by the department to evidence certain workers'
3606 compensation coverage of an employer; amending s.



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3607 440.385, F.S.; revising eligibility requirements for
3608 the board of directors of the Florida Self-Insurers
3609 Guaranty Association, Incorporated; authorizing the
3610 Chief Financial Officer to remove a director under
3611 certain circumstances; specifying requirements for,
3612 and restrictions on, directors; prohibiting directors
3613 and employees of the association from knowingly
3614 accepting certain gifts or expenditures; providing
3615 penalties; amending s. 624.1265, F.S.; revising
3616 conditions for a nonprofit religious organization to
3617 be exempt from requirements of the Florida Insurance
3618 Code; amending s. 624.501, F.S.; deleting an
3619 application filing and license fee for reinsurance
3620 intermediaries; amending s. 626.015, F.S.; revising
3621 the definition of the term "association" for purposes
3622 of part I of ch. 626, F.S.; amending s. 626.171, F.S.;
3623 deleting the authority of designated examination
3624 centers to take fingerprints of applicants for a
3625 license as an agent, customer representative,
3626 adjuster, service representative, or reinsurance
3627 intermediary; amending s. 626.173, F.S.; providing
3628 that a certain notice requirement for certain licensed
3629 insurance agencies ceasing the transacting of
3630 insurance does not apply to certain kinds of
3631 insurance; amending s. 626.207, F.S.; revising
3632 violations for which the department must adopt rules
3633 establishing specific penalties; amending s. 626.221,
3634 F.S.; adding a certification that exempts an applicant
3635 for license as an all-lines adjuster from an



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3636 examination requirement; amending s. 626.2815, F.S.;

3637 revising continuing education requirements for certain

3638 insurance representatives; amending s. 626.321, F.S.;

3639 deleting certain requirements for, and restrictions

3640 on, licensees of specified limited licenses; adding a

3641 limited license for transacting preneed funeral

3642 agreement insurance; specifying conditions for issuing

3643 such license without an examination; amending s.

3644 626.611, F.S.; revising specified grounds for

3645 compulsory disciplinary actions taken by the

3646 department against insurance representatives; amending

3647 s. 626.621, F.S.; adding grounds for discretionary

3648 disciplinary actions taken by the department against

3649 insurance representatives; amending s. 626.7492, F.S.;

3650 revising definitions of the terms "producer" and

3651 "reinsurance intermediary manager"; revising licensure

3652 requirements for reinsurance intermediary brokers and

3653 reinsurance intermediary managers; deleting the

3654 authority of the department to refuse to issue a

3655 reinsurance intermediary license under certain

3656 circumstances; amending s. 626.752, F.S.; requiring

3657 the department to suspend the authority of an insurer

3658 or employer to appoint licensees under certain

3659 circumstances relating to the exchange of insurance

3660 business; amending s. 626.785, F.S.; authorizing

3661 certain persons to obtain a limited license to sell

3662 only policies of life insurance covering the expense

3663 of a prearrangement for funeral services or

3664 merchandise; amending ss. 626.793 and 626.837, F.S.;



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3665 requiring the department to suspend the authority of
3666 an insurer or employer to appoint licensees under
3667 certain circumstances relating to the acceptance of
3668 excess or rejected insurance business; amending s.
3669 626.8411, F.S.; providing that certain notice
3670 requirements do not apply to title insurance agents or
3671 title insurance agencies; amending s. 626.8437, F.S.;
3672 adding grounds for compulsory disciplinary actions
3673 taken by the department against a title insurance
3674 agent or agency; amending s. 626.844, F.S.; adding
3675 grounds for discretionary disciplinary actions taken
3676 by the department against a title insurance agent or
3677 agency; amending s. 626.8473, F.S.; revising
3678 requirements for engaging in the business as an escrow
3679 agent in connection with real estate closing
3680 transactions; amending s. 626.854, F.S.; revising
3681 applicability of a prohibited act relating to public
3682 insurance adjusters; amending s. 626.874, F.S.;
3683 revising eligibility requirements for the department's
3684 issuance of licenses to catastrophe or emergency
3685 adjusters; revising grounds on which the department
3686 may deny such license; amending s. 626.9892, F.S.;
3687 revising a condition and adding violations for which
3688 the department may pay rewards under the Anti-Fraud
3689 Reward Program; amending s. 626.9957, F.S.; providing
3690 for the expiration of a health coverage navigator's
3691 registration under certain circumstances; specifying a
3692 restriction on expired registrations; amending s.
3693 627.351, F.S.; revising requirements for membership of



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3694 the Florida Medical Malpractice Joint Underwriting
3695 Association; specifying a requirement for filling
3696 vacancies; authorizing the Chief Financial Officer to
3697 remove board members under certain circumstances;
3698 providing requirements for, and restrictions on, board
3699 members; providing penalties; amending s. 627.4215,
3700 F.S.; revising the applicability of disclosure
3701 requirements for health insurers relating to
3702 behavioral health insurance coverage; amending s.
3703 627.70132, F.S.; providing that certain time
3704 restrictions on providing notice of property insurance
3705 claims do not apply to residential condominium unit
3706 owner loss assessment claims; amending s. 627.7015,
3707 F.S.; providing that a disputed property insurance
3708 claim is not eligible for mediation until certain
3709 conditions are met; providing that fees for a
3710 rescheduled mediation conference be assessed by the
3711 department rather than the administrator; authorizing
3712 the department to suspend an insurer's authority to
3713 appoint licensees under certain circumstances;
3714 amending s. 627.7074, F.S.; authorizing the department
3715 to designate, by written contract or agreement, an
3716 entity or a person to administer the alternative
3717 dispute resolution process for sinkhole insurance
3718 claims; amending s. 627.714, F.S.; specifying when a
3719 loss assessment claim under a residential condominium
3720 unit owner's property policy is deemed to occur;
3721 amending s. 627.745, F.S.; revising requirements and
3722 procedures for the mediation of personal injury claims



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3723 under a motor vehicle insurance policy; requiring the
3724 department to adopt specified rules relating to a
3725 motor vehicle claims insurance mediation program;
3726 authorizing the department to designate a person or
3727 entity to serve as administrator; amending s. 631.141,
3728 F.S.; authorizing the department in receivership
3729 proceedings to take certain actions as a domiciliary
3730 receiver; amending s. 631.252, F.S.; revising
3731 conditions under which policies and contracts of
3732 insolvent insurers are canceled; amending ss. 631.56,
3733 631.716, 631.816, and 631.912, F.S.; revising
3734 membership eligibility requirements for the Florida
3735 Insurance Guaranty Association, the Florida Life and
3736 Health Insurance Guaranty Association, the Florida
3737 Health Maintenance Organization Consumer Assistance
3738 Plan, and the Florida Workers' Compensation Insurance
3739 Guaranty Association, Incorporated, respectively;
3740 authorizing the Chief Financial Officer to remove a
3741 board member under certain circumstances; specifying
3742 requirements for, on restrictions on, board members;
3743 providing penalties; creating s. 633.1423, F.S.;
3744 defining the term "organization"; authorizing the
3745 Division of State Fire Marshal to establish a direct-
3746 support organization; specifying the purpose of and
3747 requirements for the organization; specifying
3748 requirements for the organization's written contract
3749 and board of directors; providing requirements for the
3750 use of property, annual budgets and reports, an annual
3751 audit, and the division's receipt of proceeds;



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3752 authorizing moneys received to be held in a depository
3753 account; providing for future repeal; amending s.
3754 634.181, F.S.; adding grounds for compulsory
3755 disciplinary actions by the department against motor
3756 vehicle service agreement salespersons; requiring the
3757 department to immediately temporarily suspend a
3758 license or appointment under certain circumstances;
3759 prohibiting a person from transacting insurance
3760 business after such suspension; authorizing the
3761 department to adopt rules; amending s. 634.191, F.S.;
3762 revising grounds for discretionary disciplinary
3763 actions by the department against motor vehicle
3764 service agreement salespersons; requiring salespersons
3765 to submit certain documents to the department;
3766 authorizing the department to adopt rules; amending s.
3767 634.320, F.S.; revising grounds for compulsory
3768 disciplinary actions by the department against home
3769 warranty association sales representatives; requiring
3770 the department to immediately temporarily suspend a
3771 license or appointment under certain circumstances;
3772 prohibiting a person from transacting insurance
3773 business after such suspension; authorizing the
3774 department to adopt rules; amending s. 634.321, F.S.;
3775 revising grounds for discretionary disciplinary
3776 actions by the department against home warranty
3777 association sales representatives; authorizing the
3778 department to adopt rules; amending s. 634.419, F.S.;
3779 providing that specified home solicitation sale
3780 requirements do not apply to certain persons relating



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3781 to the solicitation of service warranty or related
3782 service or product sales; amending s. 634.422, F.S.;
3783 revising grounds for compulsory disciplinary actions
3784 by the department against service warranty association
3785 sales representatives; requiring the department to
3786 immediately temporarily suspend a license or
3787 appointment under certain circumstances; prohibiting a
3788 person from transacting insurance business after such
3789 suspension; authorizing the department to adopt rules;
3790 amending s. 634.423, F.S.; revising grounds for
3791 discretionary disciplinary actions by the department
3792 against service warranty association sales
3793 representatives; authorizing the department to adopt
3794 rules; reordering and amending s. 648.25, F.S.;
3795 defining and redefining terms; amending s. 648.26,
3796 F.S.; authorizing certain actions by the department or
3797 the Office of Insurance Regulation relating to certain
3798 confidential records relating to bail bond agents;
3799 amending s. 648.27, F.S.; deleting a provision
3800 relating to the continuance of a temporary bail bond
3801 agent license; amending s. 648.285, F.S.; revising
3802 requirements, conditions, and procedures for a bail
3803 bond agency license; providing applicability;
3804 conforming a provision to changes made by the act;
3805 amending s. 648.30, F.S.; revising requirements and
3806 conditions for the licensure and appointment as a bail
3807 bond agent or bail bond agency; conforming a provision
3808 to changes made by the act; amending s. 648.31, F.S.;
3809 specifying that there is no fee for the issuance of



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3810 any appointment to a bail bond agency; conforming a
3811 provision to changes made by the act; amending s.
3812 648.34, F.S.; revising qualifications for a bail bond
3813 agent license; conforming a provision to changes made
3814 by the act; amending s. 648.355, F.S.; deleting
3815 provisions relating to temporary licenses as a limited
3816 surety agent or professional bail bond agent;
3817 specifying requirements for an individual licensed as
3818 a temporary bail bond agent to qualify for bail bond
3819 agent license; prohibiting the department from issuing
3820 a temporary bail bond agent license beginning on a
3821 specified date; providing construction relating to
3822 existing temporary licenses; amending s. 648.382,
3823 F.S.; revising requirements for the appointment of
3824 bail bond agents or bail bond agencies; conforming a
3825 provision to changes made by the act; amending s.
3826 648.386, F.S.; defining the term "classroom
3827 instruction"; revising requirements for approval and
3828 certification as an approved limited surety agent and
3829 professional bail bond agent continuing education
3830 school; amending s. 648.387, F.S.; renaming primary
3831 bail bond agents as bail bond agents in charge;
3832 revising the department's disciplinary authority;
3833 revising prohibited actions and the applicability of
3834 such prohibitions; providing for the automatic
3835 expiration of a bail bond agency's license under
3836 certain circumstances; creating s. 648.3875, F.S.;
3837 providing requirements for applying for designation as
3838 a bail bond agent in charge; amending s. 648.39, F.S.;



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3839 revising applicability of provisions relating to
3840 termination of appointments of certain agents and
3841 agencies; repealing s. 648.41, F.S., relating to
3842 termination of appointment of temporary bail bond
3843 agents; amending s. 648.42, F.S.; conforming a
3844 provision to changes made by the act; making a
3845 technical change; amending s. 648.44, F.S.; revising
3846 applicability of prohibited acts; revising and
3847 specifying prohibited acts of bail bond agents and
3848 bail bond agencies; conforming provisions to changes
3849 made by the act; amending s. 648.441, F.S.; revising
3850 applicability of a prohibition against furnishing
3851 supplies to an unlicensed bail bond agent; amending s.
3852 648.46, F.S.; authorizing certain actions by the
3853 department or the office relating to certain
3854 confidential records relating to bail bond agents;
3855 amending s. 648.50, F.S.; revising applicability of
3856 provisions relating to disciplinary actions taken by
3857 the department; conforming provisions to changes made
3858 by the act; amending s. 717.135, F.S.; revising a
3859 requirement for, and a prohibition on, claimants'
3860 representatives relating to unclaimed property
3861 recovery agreements and purchase agreements; providing
3862 construction; amending s. 843.021, F.S.; revising a
3863 defense to an unlawful possession of a concealed
3864 handcuff key; amending s. 903.28, F.S.; providing for
3865 remission of bond forfeiture under specified
3866 timeframes when a defendant is deceased; revising the
3867 amounts of bond forfeitures for which a court must



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3868 order remission under certain circumstances; revising
3869 the circumstances under which forfeitures must be
3870 remitted; requiring a court, under certain
3871 circumstances, to direct remission of forfeiture if
3872 the state is unwilling to seek extradition of the
3873 defendant; amending ss. 28.2221, 119.071, 631.152,
3874 631.398, and 903.09, F.S.; conforming cross-
3875 references; ratifying a specified rule of the Florida
3876 Administrative Code relating to the Florida Workers'
3877 Compensation Health Care Provider Reimbursement
3878 Manual; providing construction; providing effective
3879 dates.

By Senator DiCeglie

18-00548B-23

20231158__

1 A bill to be entitled
 2 An act relating to the Department of Financial
 3 Services; amending s. 20.121, F.S.; revising powers
 4 and duties of the department's Division of
 5 Investigative and Forensic Services; deleting the
 6 department's Strategic Markets Research and Assessment
 7 Unit; amending s. 39.6035, F.S.; deleting a
 8 requirement for the Department of Children and
 9 Families and the community-based care lead agency to
 10 provide certain financial literacy curriculum
 11 information to certain youth; amending s. 112.215,
 12 F.S.; redefining the term "employee" as "government
 13 employee" and revising the definition of the term;
 14 revising eligibility for plans of deferred
 15 compensation established by the Chief Financial
 16 Officer; revising the membership of the Deferred
 17 Compensation Advisory Council; making technical
 18 changes; amending s. 215.422, F.S.; revising the
 19 timeframe by which certain payments to health care
 20 providers for services to be reimbursed by a state
 21 agency or the judicial branch must be made; amending
 22 s. 274.01, F.S.; revising the definition of the term
 23 "governmental unit" for purposes of ch. 274, F.S.;
 24 amending s. 409.1451, F.S.; conforming a provision to
 25 changes made by the act; amending s. 440.13, F.S.;
 26 revising the schedules of maximum reimbursement
 27 allowances determined by the three-member panel under
 28 the Workers' Compensation Law; revising reimbursement
 29 requirements for certain providers; requiring the

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30 department to annually notify carriers and self-
 31 insurers of certain schedules; requiring the
 32 publication of a schedule in a certain manner;
 33 providing construction; revising factors the panel
 34 must consider in establishing the uniform schedule of
 35 maximum reimbursement allowances; deleting certain
 36 standards for practice parameters; amending s.
 37 440.385, F.S.; revising eligibility requirements for
 38 the board of directors of the Florida Self-Insurers
 39 Guaranty Association, Incorporated; authorizing the
 40 Chief Financial Officer to remove a director under
 41 certain circumstances; specifying requirements for,
 42 and restrictions on, directors; prohibiting directors
 43 and employees of the association from knowingly
 44 accepting certain gifts or expenditures; providing
 45 penalties; amending s. 624.1265, F.S.; revising
 46 conditions for a nonprofit religious organization to
 47 be exempt from requirements of the Florida Insurance
 48 Code; amending s. 624.501, F.S.; deleting an
 49 application filing and license fee for reinsurance
 50 intermediaries; amending s. 626.015, F.S.; revising
 51 the definition of the term "association" for purposes
 52 of part I of ch. 626, F.S.; amending s. 626.171, F.S.;
 53 deleting the authority of designated examination
 54 centers to take fingerprints of applicants for a
 55 license as an agent, customer representative,
 56 adjuster, service representative, or reinsurance
 57 intermediary; amending s. 626.173, F.S.; providing
 58 that a certain notice requirement for certain licensed

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59 insurance agencies ceasing the transacting of
 60 insurance does not apply to certain kinds of
 61 insurance; amending s. 626.207, F.S.; revising
 62 violations for which the department must adopt rules
 63 establishing specific penalties; amending s. 626.221,
 64 F.S.; adding a certification that exempts an applicant
 65 for license as an all-lines adjuster from an
 66 examination requirement; amending s. 626.2815, F.S.;
 67 revising continuing education requirements for certain
 68 insurance representatives; amending s. 626.321, F.S.;
 69 deleting certain requirements for, and restrictions
 70 on, licensees of specified limited licenses; adding a
 71 limited license for transacting preneed funeral
 72 agreement insurance; specifying conditions for issuing
 73 such license without an examination; amending s.
 74 626.611, F.S.; revising specified grounds for
 75 compulsory disciplinary actions taken by the
 76 department against insurance representatives; amending
 77 s. 626.621, F.S.; adding grounds for discretionary
 78 disciplinary actions taken by the department against
 79 insurance representatives; amending s. 626.7492, F.S.;
 80 revising definitions of the terms "producer" and
 81 "reinsurance intermediary manager"; revising licensure
 82 requirements for reinsurance intermediary brokers and
 83 reinsurance intermediary managers; deleting the
 84 authority of the department to refuse to issue a
 85 reinsurance intermediary license under certain
 86 circumstances; amending s. 626.752, F.S.; requiring
 87 the department to suspend the authority of an insurer

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88 or employer to appoint licensees under certain
 89 circumstances relating to the exchange of insurance
 90 business; amending s. 626.785, F.S.; authorizing
 91 certain persons to obtain a limited license to sell
 92 only policies of life insurance covering the expense
 93 of a prearrangement for funeral services or
 94 merchandise; amending ss. 626.793 and 626.837, F.S.;
 95 requiring the department to suspend the authority of
 96 an insurer or employer to appoint licensees under
 97 certain circumstances relating to the acceptance of
 98 excess or rejected insurance business; reordering and
 99 amending s. 626.841, F.S.; defining the term "real
 100 estate closing transaction" for purposes of part V of
 101 ch. 626, F.S.; amending s. 626.8411, F.S.; providing
 102 that certain notice requirements do not apply to title
 103 insurance agents or title insurance agencies; amending
 104 s. 626.8437, F.S.; adding grounds for compulsory
 105 disciplinary actions taken by the department against a
 106 title insurance agent or agency; amending s. 626.844,
 107 F.S.; adding grounds for discretionary disciplinary
 108 actions taken by the department against a title
 109 insurance agent or agency; amending s. 626.8473, F.S.;
 110 revising requirements for engaging in the business as
 111 an escrow agent in connection with real estate closing
 112 transactions; amending s. 626.854, F.S.; revising
 113 applicability of a prohibited act relating to public
 114 insurance adjusters; amending s. 626.874, F.S.;
 115 revising eligibility requirements for the department's
 116 issuance of licenses to catastrophe or emergency

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117 adjusters; revising grounds on which the department
 118 may deny such license; amending s. 626.9892, F.S.;
 119 adding violations for which the department may pay
 120 rewards under the Anti-Fraud Reward Program; amending
 121 s. 626.9957, F.S.; providing for the expiration of a
 122 health coverage navigator's registration under certain
 123 circumstances; specifying a restriction on expired
 124 registrations; amending s. 627.351, F.S.; revising
 125 requirements for membership and terms of members of
 126 the Florida Medical Malpractice Joint Underwriting
 127 Association; authorizing the Chief Financial Officer
 128 to remove board members under certain circumstances;
 129 providing requirements for, and restrictions on, board
 130 members; providing penalties; amending s. 627.4215,
 131 F.S.; revising the applicability of disclosure
 132 requirements for health insurers relating to
 133 behavioral health insurance coverage; amending s.
 134 627.70132, F.S.; providing that certain time
 135 restrictions on providing notice of property insurance
 136 claims do not apply to residential condominium unit
 137 owner loss assessment claims; amending s. 627.7015,
 138 F.S.; providing that a disputed property insurance
 139 claim is not eligible for mediation until certain
 140 conditions are met; providing that fees for a
 141 rescheduled mediation conference be assessed by the
 142 department rather than the administrator; authorizing
 143 the department to suspend an insurer's authority to
 144 appoint licensees under certain circumstances;
 145 amending s. 627.714, F.S.; specifying when a loss

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146 assessment claim under a residential condominium unit
 147 owner's property policy is deemed to occur; amending
 148 s. 627.745, F.S.; revising requirements and procedures
 149 for the mediation of personal injury claims under a
 150 motor vehicle insurance policy; requiring the
 151 department to adopt specified rules relating to a
 152 motor vehicle claims insurance mediation program;
 153 authorizing the department to designate a person or
 154 entity to serve as administrator; amending s. 631.141,
 155 F.S.; authorizing the department in receivership
 156 proceedings to take certain actions as a domiciliary
 157 receiver; amending s. 631.252, F.S.; revising
 158 conditions under which policies and contracts of
 159 insolvent insurers are canceled; amending ss. 631.56,
 160 631.716, 631.816, and 631.912, F.S.; revising
 161 membership eligibility requirements for the Florida
 162 Insurance Guaranty Association, the Florida Life and
 163 Health Insurance Guaranty Association, the Florida
 164 Health Maintenance Organization Consumer Assistance
 165 Plan, and the Florida Workers' Compensation Insurance
 166 Guaranty Association, Incorporated, respectively;
 167 specifying a limit on the terms of service;
 168 authorizing the Chief Financial Officer to remove a
 169 board member under certain circumstances; specifying
 170 requirements for, on restrictions on, board members;
 171 providing penalties; creating s. 633.1423, F.S.;
 172 defining the term "organization"; authorizing the
 173 Division of State Fire Marshal to establish a direct-
 174 support organization; specifying the purpose of and

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175 requirements for the organization; specifying
 176 requirements for the organization's written contract
 177 and board of directors; providing requirements for the
 178 use of property, annual budgets and reports, an annual
 179 audit, and the division's receipt of proceeds;
 180 authorizing moneys received to be held in a depository
 181 account; amending s. 634.181, F.S.; adding grounds for
 182 compulsory disciplinary actions by the department
 183 against motor vehicle service agreement salespersons;
 184 requiring the department to immediately temporarily
 185 suspend a license or appointment under certain
 186 circumstances; prohibiting a person from transacting
 187 insurance business after such suspension; authorizing
 188 the department to adopt rules; amending s. 634.191,
 189 F.S.; revising grounds for discretionary disciplinary
 190 actions by the department against motor vehicle
 191 service agreement salespersons; requiring salespersons
 192 to submit certain documents to the department;
 193 authorizing the department to adopt rules; amending s.
 194 634.318, F.S.; specifying requirements and procedures
 195 for the licensure of nonresident sales representatives
 196 for home warranty associations; amending s. 634.320,
 197 F.S.; revising grounds for compulsory disciplinary
 198 actions by the department against home warranty
 199 association sales representatives; requiring the
 200 department to immediately temporarily suspend a
 201 license or appointment under certain circumstances;
 202 prohibiting a person from transacting insurance
 203 business after such suspension; authorizing the

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204 department to adopt rules; amending s. 634.321, F.S.;
 205 revising grounds for discretionary disciplinary
 206 actions by the department against home warranty
 207 association sales representatives; authorizing the
 208 department to adopt rules; amending s. 634.401, F.S.;
 209 revising the definition of the term "manufacturer" for
 210 purposes of part III of chapter 634, F.S.; amending s.
 211 634.406, F.S.; deleting a debt obligation rating
 212 requirement for certain service warranty associations
 213 or parent corporations; amending s. 634.419, F.S.;
 214 providing that specified home solicitation sale
 215 requirements do not apply to certain persons relating
 216 to the solicitation of service warranty or related
 217 service or product sales; amending s. 634.420, F.S.;
 218 specifying requirements and procedures for the
 219 licensure of nonresident sales representatives for
 220 service warranty associations; amending s. 634.422,
 221 F.S.; revising grounds for compulsory disciplinary
 222 actions by the department against service warranty
 223 association sales representatives; requiring the
 224 department to immediately temporarily suspend a
 225 license or appointment under certain circumstances;
 226 prohibiting a person from transacting insurance
 227 business after such suspension; authorizing the
 228 department to adopt rules; amending s. 634.423, F.S.;
 229 revising grounds for discretionary disciplinary
 230 actions by the department against service warranty
 231 association sales representatives; authorizing the
 232 department to adopt rules; reordering and amending s.

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233 648.25, F.S.; defining and redefining terms; amending
 234 s. 648.26, F.S.; authorizing certain actions by the
 235 department or the Office of Insurance Regulation
 236 relating to certain confidential records relating to
 237 bail bond agents; amending s. 648.27, F.S.; deleting a
 238 provision relating to the continuance of a temporary
 239 bail bond agent license; amending s. 648.285, F.S.;
 240 revising requirements, conditions, and procedures for
 241 a bail bond agency license; providing applicability;
 242 conforming a provision to changes made by the act;
 243 amending s. 648.30, F.S.; revising requirements and
 244 conditions for the licensure and appointment as a bail
 245 bond agent or bail bond agency; conforming a provision
 246 to changes made by the act; amending s. 648.31, F.S.;
 247 conforming a provision to changes made by the act;
 248 amending s. 648.34, F.S.; revising qualifications for
 249 a bail bond agent license; conforming a provision to
 250 changes made by the act; amending s. 648.355, F.S.;
 251 deleting provisions relating to temporary licenses as
 252 a limited surety agent or professional bail bond
 253 agent; specifying requirements for an individual
 254 licensed as a temporary bail bond agent to qualify for
 255 bail bond agent license; prohibiting the department
 256 from issuing a temporary bail bond agent license
 257 beginning on a specified date; providing construction
 258 relating to existing temporary licenses; amending s.
 259 648.382, F.S.; revising requirements for the
 260 appointment of bail bond agents or bail bond agencies;
 261 conforming a provision to changes made by the act;

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262 amending s. 648.386, F.S.; defining the term
 263 "classroom instruction"; revising requirements for
 264 approval and certification as an approved limited
 265 surety agent and professional bail bond agent
 266 continuing education school; amending s. 648.387,
 267 F.S.; renaming primary bail bond agents as bail bond
 268 agents in charge; revising the department's
 269 disciplinary authority; revising prohibited actions
 270 and the applicability of such prohibitions; providing
 271 for the automatic expiration of a bail bond agency's
 272 license under certain circumstances; creating s.
 273 648.3875, F.S.; providing requirements for applying
 274 for designation as a bail bond agent in charge;
 275 amending s. 648.39, F.S.; revising applicability of
 276 provisions relating to termination of appointments of
 277 certain agents and agencies; repealing s. 648.41,
 278 F.S., relating to termination of appointment of
 279 temporary bail bond agents; amending s. 648.42, F.S.;
 280 conforming a provision to changes made by the act;
 281 making a technical change; amending s. 648.44, F.S.;
 282 revising applicability of prohibited acts; revising
 283 and specifying prohibited acts of bail bond agents and
 284 bail bond agencies; conforming provisions to changes
 285 made by the act; amending s. 648.441, F.S.; revising
 286 applicability of a prohibition against furnishing
 287 supplies to an unlicensed bail bond agent; amending s.
 288 648.46, F.S.; authorizing certain actions by the
 289 department or the office relating to certain
 290 confidential records relating to bail bond agents;

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291 amending s. 648.50, F.S.; revising applicability of
 292 provisions relating to disciplinary actions taken by
 293 the department; conforming provisions to changes made
 294 by the act; amending s. 843.021, F.S.; revising a
 295 defense to an unlawful possession of a concealed
 296 handcuff key; amending ss. 28.2221, 119.071, 631.152,
 297 631.398, and 903.09, F.S.; conforming cross-
 298 references; ratifying a specified rule of the Florida
 299 Administrative Code relating to the Florida Workers'
 300 Compensation Health Care Provider Reimbursement
 301 Manual; providing construction; providing effective
 302 dates.

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

306 Section 1. Paragraph (e) of subsection (2) and subsection
 307 (6) of section 20.121, Florida Statutes, are amended to read:
 308 20.121 Department of Financial Services.—There is created a
 309 Department of Financial Services.

310 (2) DIVISIONS.—The Department of Financial Services shall
 311 consist of the following divisions and office:

312 (e) The Division of Investigative and Forensic Services,
 313 which shall function as a criminal justice agency for purposes
 314 of ss. 943.045-943.08. The division may initiate and conduct
 315 investigations into any matter under the jurisdiction of the
 316 Chief Financial Officer and Fire Marshal within or outside of
 317 this state as it deems necessary. If, during an investigation,
 318 the division has reason to believe that any criminal law of this
 319 state or the United States has or may have been violated, it

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320 shall refer any records tending to show such violation to state
 321 ~~or federal~~ law enforcement and, if applicable, ~~federal~~ ~~or~~
 322 prosecutorial agencies and shall provide investigative
 323 assistance to those agencies as appropriate ~~required~~. The
 324 division shall include the following bureaus and office:
 325 1. The Bureau of Forensic Services;
 326 2. The Bureau of Fire, Arson, and Explosives
 327 Investigations;
 328 3. The Office of Fiscal Integrity, which shall have a
 329 separate budget;
 330 4. The Bureau of Insurance Fraud; and
 331 5. The Bureau of Workers' Compensation Fraud.
 332 ~~(6) STRATEGIC MARKETS RESEARCH AND ASSESSMENT UNIT.—The~~
 333 ~~Strategic Markets Research and Assessment Unit is established~~
 334 ~~within the Department of Financial Services. The Chief Financial~~
 335 ~~Officer or his or her designee shall report on September 1,~~
 336 ~~2008, and quarterly thereafter, to the Cabinet, the President of~~
 337 ~~the Senate, and the Speaker of the House of Representatives on~~
 338 ~~the status of the state's financial services markets. At a~~
 339 ~~minimum, the report must include a summary of issues, trends,~~
 340 ~~and threats that broadly impact the condition of the financial~~
 341 ~~services industries, along with the effect of such conditions on~~
 342 ~~financial institutions, the securities industries, other~~
 343 ~~financial entities, and the credit market. The Chief Financial~~
 344 ~~Officer shall also provide findings and recommendations~~
 345 ~~regarding regulatory and policy changes to the Cabinet, the~~
 346 ~~President of the Senate, and the Speaker of the House of~~
 347 ~~Representatives.~~

348 Section 2. Paragraph (c) of subsection (1) of section

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39.6035, Florida Statutes, is amended to read:

39.6035 Transition plan.—

(1) During the year after a child reaches 16 years of age, the department and the community-based care lead agency, in collaboration with the caregiver and any other individual whom the child would like to include, shall assist the child in developing a transition plan. The required transition plan is in addition to standard case management requirements. The transition plan must address specific options for the child to use in obtaining services, including housing, health insurance, education, financial literacy, a driver license, and workforce support and employment services. The plan must also include tasks to establish and maintain naturally occurring mentoring relationships and other personal support services. The transition plan may be as detailed as the child chooses. This plan must be updated as needed before the child reaches 18 years of age and after the child reaches 18 years of age if he or she is receiving funding under s. 409.1451(2). In developing and updating the transition plan, the department and the community-based care lead agency shall:

~~(e) Provide information for the financial literacy curriculum for youth offered by the Department of Financial Services.~~

Section 3. Subsections (2) and (4), paragraph (a) of subsection (8), and subsection (12) of section 112.215, Florida Statutes, are amended to read:

112.215 Government employees; deferred compensation program.—

(2) For the purposes of this section, the term "government

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employee" means any person employed, whether appointed, elected, or under contract, ~~by providing services for the state or any governmental unit of the state, including, but not limited to,~~ any state agency; ~~any ex~~ county, municipality, or other political subdivision of the state; any special district or water management district, as the terms are defined in s. 189.012 municipality; any state university or Florida College System institution, as the terms are defined in s. 1000.21(6) and (3), respectively ~~board of trustees~~; or any constitutional county officer under s. 1(d), Art. VIII of the State Constitution for which compensation or statutory fees are paid.

(4) (a) The Chief Financial Officer, with the approval of the State Board of Administration, shall establish a state ~~such~~ plan or plans of deferred compensation for government state employees ~~and may include persons employed by a state university as defined in s. 1000.21, a special district as defined in s. 189.012, or a water management district as defined in s. 189.012~~, including all such investment vehicles or products incident thereto, as may be available through, or offered by, qualified companies or persons, and may approve one or more such plans for implementation ~~by and on behalf of the state and its agencies and employees.~~

(b) If the Chief Financial Officer deems it advisable, he or she shall have the power, with the approval of the State Board of Administration, to create a trust or other special funds for the segregation of funds or assets resulting from compensation deferred at the request of government employees participating in ~~of the state plan or its agencies~~ and for the administration of such program.

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407 (c) The Chief Financial Officer, with the approval of the
 408 State Board of Administration, may delegate responsibility for
 409 administration of the state plan to a person the Chief Financial
 410 Officer determines to be qualified, compensate such person, and,
 411 directly or through such person or pursuant to a collective
 412 bargaining agreement, contract with a private corporation or
 413 institution to provide such services as may be part of any such
 414 plan or as may be deemed necessary or proper by the Chief
 415 Financial Officer or such person, including, but not limited to,
 416 providing consolidated billing, individual and collective
 417 recordkeeping and accountings, asset purchase, control, and
 418 safekeeping, and direct disbursement of funds to employees or
 419 other beneficiaries. The Chief Financial Officer may authorize a
 420 person, private corporation, or institution to make direct
 421 disbursement of funds under the state plan to an employee or
 422 other beneficiary.

423 (d) In accordance with such approved plan, and upon
 424 contract or agreement with an eligible government employee,
 425 deferrals of compensation may be accomplished by payroll
 426 deductions made by the appropriate officer or officers of the
 427 state, with such funds being thereafter held and administered in
 428 accordance with the plan.

429 (e) The administrative costs of the deferred compensation
 430 plan must be wholly or partially self-funded. Fees for such
 431 self-funding of the plan shall be paid by investment providers
 432 and may be recouped from their respective plan participants.
 433 Such fees shall be deposited in the Deferred Compensation Trust
 434 Fund.

435 (8) (a) There is created a Deferred Compensation Advisory

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436 Council composed of eight ~~seven~~ members.

437 1. One member shall be appointed by the Speaker of the
 438 House of Representatives and the President of the Senate jointly
 439 and shall be an employee of the legislative branch.

440 2. One member shall be appointed by the Chief Justice of
 441 the Supreme Court and shall be an employee of the judicial
 442 branch.

443 3. One member shall be appointed by the chair of the Public
 444 Employees Relations Commission and shall be a nonexempt public
 445 employee.

446 4. The remaining five ~~four~~ members shall be employed by the
 447 executive branch and shall be appointed as follows:

448 a. One member shall be appointed by the Chancellor of the
 449 State University System and shall be an employee of the
 450 university system.

451 b. One member shall be appointed by the Chief Financial
 452 Officer and shall be an employee of the Chief Financial Officer.

453 c. One member shall be appointed by the Governor and shall
 454 be an employee of the executive branch.

455 d. One member shall be appointed by the Executive Director
 456 of the State Board of Administration and shall be an employee of
 457 the State Board of Administration.

458 e. One member shall be appointed by the Chancellor of the
 459 Florida College System and shall be an employee of the Florida
 460 College System.

461 (12) The Chief Financial Officer may adopt any rule
 462 necessary to administer and implement this act with respect to
 463 the state deferred compensation plan or plans for ~~state~~
 464 ~~employees and persons employed by a state university as defined~~

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465 ~~in s. 1000.21, a special district as defined in s. 189.012, or a~~
 466 ~~water management district as defined in s. 189.012.~~

467 Section 4. Subsection (13) of section 215.422, Florida
 468 Statutes, is amended to read:

469 215.422 Payments, warrants, and invoices; processing time
 470 limits; dispute resolution; agency or judicial branch
 471 compliance.—

472 (13) Notwithstanding the provisions of subsections (3) and
 473 (12), in order to alleviate any hardship that may be caused to a
 474 health care provider as a result of delay in receiving
 475 reimbursement for services, any payment or payments for
 476 hospital, medical, or other health care services which are to be
 477 reimbursed by a state agency or the judicial branch, either
 478 directly or indirectly, shall be made to the health care
 479 provider not more than 40 ~~35~~ days from the date eligibility for
 480 payment of such claim is determined. If payment is not issued to
 481 a health care provider within 40 ~~35~~ days after the date
 482 eligibility for payment of the claim is determined, the state
 483 agency or the judicial branch shall pay the health care provider
 484 interest at a rate of 1 percent per month calculated on a
 485 calendar day basis on the unpaid balance from the expiration of
 486 such 40-day ~~35-day~~ period until such time as payment is made to
 487 the health care provider, unless a waiver in whole has been
 488 granted by the Department of Financial Services pursuant to
 489 subsection (1) or subsection (2).

490 Section 5. Subsection (1) of section 274.01, Florida
 491 Statutes, is amended to read:

492 274.01 Definitions.—The following words as used in this act
 493 have the meanings set forth in the below subsections, unless a

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494 different meaning is required by the context:

495 (1) "Governmental unit" means the governing board,
 496 commission, or authority of a county, a county agency, a
 497 municipality, a special district as defined in s. 189.012 or
 498 taxing district of the state, or the sheriff of the county.

499 Section 6. Paragraph (b) of subsection (3) of section
 500 409.1451, Florida Statutes, is amended to read:

501 409.1451 The Road-to-Independence Program.—

502 (3) AFTERCARE SERVICES.—

503 (b) Aftercare services include, but are not limited to, the
 504 following:

505 1. Mentoring and tutoring.
 506 2. Mental health services and substance abuse counseling.
 507 3. Life skills classes, including credit management and
 508 preventive health activities.

509 4. Parenting classes.

510 5. Job and career skills training.

511 6. Counselor consultations.

512 7. Temporary financial assistance for necessities,
 513 including, but not limited to, education supplies,
 514 transportation expenses, security deposits for rent and
 515 utilities, furnishings, household goods, and other basic living
 516 expenses.

517 8. Temporary financial assistance to address emergency
 518 situations, including, but not limited to, automobile repairs or
 519 large medical expenses.

520 ~~9. Financial literacy skills training under s.~~

521 ~~39.6035(1)(c).~~

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The specific services to be provided under this paragraph shall be determined by an assessment of the young adult and may be provided by the community-based care provider or through referrals in the community.

Section 7. Subsections (12) and (14) of section 440.13, Florida Statutes, are amended to read:

440.13 Medical services and supplies; penalty for violations; limitations.—

(12) CREATION OF THREE-MEMBER PANEL; GUIDES OF MAXIMUM REIMBURSEMENT ALLOWANCES.—

(a) A three-member panel is created, consisting of the Chief Financial Officer, or the Chief Financial Officer's designee, and two members to be appointed by the Governor, subject to confirmation by the Senate, one member who, on account of present or previous vocation, employment, or affiliation, shall be classified as a representative of employers, the other member who, on account of previous vocation, employment, or affiliation, shall be classified as a representative of employees. The panel shall determine statewide schedules of maximum reimbursement allowances for medically necessary treatment, care, and attendance provided by ~~physicians, hospitals and, ambulatory surgical centers, work-hardening programs, pain programs, and durable medical equipment.~~ The maximum reimbursement allowances for inpatient hospital care shall be based on a schedule of per diem rates, to be approved by the three-member panel no later than March 1, 1994, to be used in conjunction with a precertification manual as determined by the department, including maximum hours in which an outpatient may remain in observation status, which

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shall not exceed 23 hours. All compensable charges for hospital outpatient care shall be reimbursed at 75 percent of usual and customary charges, except as otherwise provided by this subsection. Annually, the three-member panel shall adopt schedules of maximum reimbursement allowances for ~~physicians,~~ hospital inpatient care, hospital outpatient care, and ambulatory surgical centers, ~~work-hardening programs, and pain programs.~~ A ~~An individual physician,~~ hospital or, ambulatory surgical center, ~~pain program, or work-hardening program~~ shall be reimbursed:

1. either The agreed-upon contract price; or

2. If there is no agreed-upon contract price, the lesser of the provider's billed charge or the maximum reimbursement allowance in the appropriate schedule.

(b) ~~It is the intent of the Legislature to increase the schedule of maximum reimbursement allowances for selected physicians effective January 1, 2004, and to pay for the increases through reductions in payments to hospitals. Revisions developed pursuant to this subsection are limited to the following:~~

~~1.~~ Payments for outpatient physical, occupational, and speech therapy provided by hospitals shall be ~~reduced to~~ the schedule of maximum reimbursement allowances for these services which applies to nonhospital providers.

~~(c) 2.~~ Payments for scheduled outpatient nonemergency radiological and clinical laboratory services that are not provided in conjunction with a surgical procedure shall be ~~reduced to~~ the schedule of maximum reimbursement allowances for these services which applies to nonhospital providers.

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581 (d)3- Outpatient reimbursement for scheduled surgeries
 582 shall be ~~reduced from 75 percent of charges to 60 percent of~~
 583 ~~charges.~~
 584 (e)1. By July 1 of each year, the department shall notify
 585 carriers and self-insurers of the physician and nonhospital
 586 services schedule of maximum reimbursement allowances. The
 587 notice must include publication of this schedule of maximum
 588 reimbursement allowances on the division's website. This
 589 schedule is not subject to approval by the three-member panel
 590 and does not include reimbursement for prescription medication.
 591 2. Subparagraph 1. shall take effect January 1, following
 592 the July 1, 2024, notice of the physician and nonhospital
 593 services schedule of maximum reimbursement allowances which the
 594 department provides to carriers and self-insurers.
 595 (f)4- Maximum reimbursement for a physician licensed under
 596 chapter 458 or chapter 459 shall be ~~increased to~~ 110 percent of
 597 the reimbursement allowed by Medicare, using appropriate codes
 598 and modifiers ~~or the medical reimbursement level adopted by the~~
 599 ~~three-member panel as of January 1, 2003, whichever is greater.~~
 600 (g)5- Maximum reimbursement for surgical procedures shall
 601 be ~~increased to~~ 140 percent of the reimbursement allowed by
 602 Medicare ~~or the medical reimbursement level adopted by the~~
 603 ~~three-member panel as of January 1, 2003, whichever is greater.~~
 604 (h)(e) As to reimbursement for a prescription medication,
 605 the reimbursement amount for a prescription shall be the average
 606 wholesale price plus \$4.18 for the dispensing fee. For
 607 repackaged or relabeled prescription medications dispensed by a
 608 dispensing practitioner as provided in s. 465.0276, the fee
 609 schedule for reimbursement shall be 112.5 percent of the average

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610 wholesale price, plus \$8.00 for the dispensing fee. For purposes
 611 of this subsection, the average wholesale price shall be
 612 calculated by multiplying the number of units dispensed times
 613 the per-unit average wholesale price set by the original
 614 manufacturer of the underlying drug dispensed by the
 615 practitioner, based upon the published manufacturer's average
 616 wholesale price published in the Medi-Span Master Drug Database
 617 as of the date of dispensing. All pharmaceutical claims
 618 submitted for repackaged or relabeled prescription medications
 619 must include the National Drug Code of the original
 620 manufacturer. Fees for pharmaceuticals and pharmaceutical
 621 services shall be reimbursable at the applicable fee schedule
 622 amount except where the employer or carrier, or a service
 623 company, third party administrator, or any entity acting on
 624 behalf of the employer or carrier directly contracts with the
 625 provider seeking reimbursement for a lower amount.
 626 (i)(d) Reimbursement for all fees and other charges for
 627 such treatment, care, and attendance, including treatment, care,
 628 and attendance provided by any hospital or other health care
 629 provider, ambulatory surgical center, work-hardening program, or
 630 pain program, must not exceed the amounts provided by the
 631 uniform schedule of maximum reimbursement allowances as
 632 determined by the panel or as otherwise provided in this
 633 section. This subsection also applies to independent medical
 634 examinations performed by health care providers under this
 635 chapter. In determining the uniform schedule, the panel shall
 636 first approve the data which it finds representative of
 637 prevailing charges in the state for similar treatment, care, and
 638 attendance of injured persons. Each health care provider, health

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care facility, ambulatory surgical center, work-hardening program, or pain program receiving workers' compensation payments shall maintain records verifying their usual charges. In establishing the uniform schedule of maximum reimbursement allowances, the panel must consider:

1. The levels of reimbursement for similar treatment, care, and attendance made by other health care programs or third-party providers;

2. The impact upon cost to employers for providing a level of reimbursement for treatment, care, and attendance which will ensure the availability of treatment, care, and attendance required by injured workers; and

3. The financial impact of the reimbursement allowances upon health care providers and health care facilities, including trauma centers as defined in s. 395.4001, and its effect upon their ability to make available to injured workers such medically necessary remedial treatment, care, and attendance. The uniform schedule of maximum reimbursement allowances must be reasonable, must promote health care cost containment and efficiency with respect to the workers' compensation health care delivery system, and must be sufficient to ensure availability of such medically necessary remedial treatment, care, and attendance to injured workers; ~~and~~

~~4. The most recent average maximum allowable rate of increase for hospitals determined by the Health Care Board under chapter 408.~~

(j) ~~(e)~~ In addition to establishing the uniform schedule of maximum reimbursement allowances, the panel shall:

1. Take testimony, receive records, and collect data to

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evaluate the adequacy of the workers' compensation fee schedule, nationally recognized fee schedules and alternative methods of reimbursement to health care providers and health care facilities for inpatient and outpatient treatment and care.

2. Survey health care providers and health care facilities to determine the availability and accessibility of workers' compensation health care delivery systems for injured workers.

3. Survey carriers to determine the estimated impact on carrier costs and workers' compensation premium rates by implementing changes to the carrier reimbursement schedule or implementing alternative reimbursement methods.

4. Submit recommendations on or before January 15, 2017, and biennially thereafter, to the President of the Senate and the Speaker of the House of Representatives on methods to improve the workers' compensation health care delivery system.

The department, as requested, shall provide data to the panel, including, but not limited to, utilization trends in the workers' compensation health care delivery system. The department shall provide the panel with an annual report regarding the resolution of medical reimbursement disputes and any actions pursuant to subsection (8). The department shall provide administrative support and service to the panel to the extent requested by the panel. For prescription medication purchased under the requirements of this subsection, a dispensing practitioner shall not possess such medication unless payment has been made by the practitioner, the practitioner's professional practice, or the practitioner's practice management company or employer to the supplying manufacturer, wholesaler,

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distributor, or drug repackager within 60 days of the dispensing practitioner taking possession of that medication.

~~(14) PRACTICE PARAMETERS.—The practice parameters and protocols mandated under this chapter shall be the practice parameters and protocols adopted by the United States Agency for Healthcare Research and Quality in effect on January 1, 2003.~~

Section 8. Effective January 1, 2024, subsection (2) of section 440.385, Florida Statutes, is amended to read:

440.385 Florida Self-Insurers Guaranty Association, Incorporated.—

(2) BOARD OF DIRECTORS.—The board of directors of the association shall consist of nine persons and shall be organized as established in the plan of operation. Each director must All ~~board members shall~~ be experienced in self-insurance in this state. Each director shall serve for a 4-year term and may be reappointed; however, a director may not serve for more than 8 consecutive years. Appointments after January 1, 2002, shall be made by the department upon recommendation of members of the association or other persons with experience in self-insurance as determined by the Chief Financial Officer. Any vacancy on the board shall be filled for the remaining period of the term in the same manner as appointments other than initial appointments are made. Each director shall be reimbursed for expenses incurred in carrying out the duties of the board on behalf of the association.

(a) The Chief Financial Officer may remove a director from office for misconduct, malfeasance, misfeasance, or neglect of duty. Any vacancy so created shall be filled as provided in this subsection.

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(b) Directors are subject to the code of ethics under part III of chapter 112, including, but not limited to, the code of ethics and public disclosure and reporting of financial interests, pursuant to s. 112.3145. For purposes of applying part III of chapter 112 to activities of members of the board of directors, those persons are considered public officers and the association is considered their agency. Notwithstanding s. 112.3143(2), a director may not vote on any measure that he or she knows would inure to his or her special private gain or loss; that he or she knows would inure to the special private gain or loss of any principal by which he or she is retained, other than an agency as defined in s. 112.312; or that he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer. Before the vote is taken, such director shall publicly state to the board the nature of his or her interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.

(c) Notwithstanding s. 112.3148, s. 112.3149, or any other law, an employee of the association or a director may not knowingly accept, directly or indirectly, any gift or expenditure from a person or entity, or an employee or representative of such person or entity, which has a contractual relationship with the association or which is under consideration for a contract.

(d) A director who fails to comply with paragraph (b) or

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755 paragraph (c) is subject to the penalties provided under ss.
 756 112.317 and 112.3173.

757 Section 9. Subsection (1) of section 624.1265, Florida
 758 Statutes, is amended to read:

759 624.1265 Nonprofit religious organization exemption;
 760 authority; notice.—

761 (1) A nonprofit religious organization is not subject to
 762 the requirements of the Florida Insurance Code if the nonprofit
 763 religious organization:

764 (a) Qualifies under Title 26, s. 501 of the Internal
 765 Revenue Code of 1986, as amended;

766 (b) Limits its participants to those members who share a
 767 common set of ethical or religious beliefs;

768 (c) Acts as a facilitator among participants who have
 769 financial, physical, or medical needs to assist those with
 770 financial, physical, or medical needs in accordance with
 771 criteria established by the nonprofit religious organization;

772 (d) Provides for the financial or medical needs of a
 773 participant through contributions from other participants, or
 774 through payments directly from one participant to another
 775 participant;

776 (e) Provides amounts that participants may contribute, with
 777 no assumption of risk and no promise to pay:

778 1. Among the participants; or

779 2. By the nonprofit religious organization to the
 780 participants;

781 (f) Provides a monthly accounting to the participants of
 782 the total dollar amount of qualified needs actually shared in
 783 the previous month in accordance with criteria established by

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784 the nonprofit religious organization; ~~and~~

785 (g) Conducts an annual audit that is performed by an
 786 independent certified public accounting firm in accordance with
 787 generally accepted accounting principles and that is made
 788 available to the public by providing a copy upon request or by
 789 posting on the nonprofit religious organization's website; and

790 (h) Does not market or sell health plans by agents licensed
 791 by the department under chapter 626.

792 Section 10. Subsection (25) of section 624.501, Florida
 793 Statutes, is amended to read:

794 624.501 Filing, license, appointment, and miscellaneous
 795 fees.—The department, commission, or office, as appropriate,
 796 shall collect in advance, and persons so served shall pay to it
 797 in advance, fees, licenses, and miscellaneous charges as
 798 follows:

799 (25) Reinsurance intermediary:

800 ~~(a) Application filing and license fee \$50.00~~

801 ~~(b) Original appointment and biennial renewal or~~
 802 continuation thereof, appointment fee \$60.00

803 Section 11. Subsection (5) of section 626.015, Florida
 804 Statutes, is amended to read:

805 626.015 Definitions.—As used in this part:

806 (5) "Association" includes the Florida Association of
 807 Insurance Agents (FAIA), the National Association of Insurance
 808 and Financial Advisors (NAIFA), the National Association of
 809 Benefits and Insurance Professionals Florida Chapter (NABIP
 810 Florida) ~~Florida Association of Health Underwriters (FAHU)~~, the
 811 Latin American Association of Insurance Agencies (LAAIA), the
 812 Florida Association of Public Insurance Adjusters (FAPIA), the

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813 Florida Bail Agents Association (FBAA), or the Professional Bail
814 Agents of the United States (PBUS).

815 Section 12. Subsection (4) of section 626.171, Florida
816 Statutes, is amended to read:

817 626.171 Application for license as an agent, customer
818 representative, adjuster, service representative, or reinsurance
819 intermediary.—

820 (4) An applicant for a license issued by the department
821 under this chapter must submit a set of the individual
822 applicant's fingerprints, or, if the applicant is not an
823 individual, a set of the fingerprints of the sole proprietor,
824 majority owner, partners, officers, and directors, to the
825 department and must pay the fingerprint processing fee set forth
826 in s. 624.501. Fingerprints must be processed in accordance with
827 s. 624.34 and used to investigate the applicant's qualifications
828 pursuant to s. 626.201. The fingerprints must be taken by a law
829 enforcement agency, ~~designated examination center~~, or other
830 department-approved entity. ~~The department shall require all~~
831 ~~designated examination centers to have fingerprinting equipment~~
832 ~~and to take fingerprints from any applicant or prospective~~
833 ~~applicant who pays the applicable fee.~~ The department may not
834 approve an application for licensure as an agent, customer
835 service representative, adjuster, service representative, or
836 reinsurance intermediary if fingerprints have not been
837 submitted.

838 Section 13. Paragraph (c) of subsection (1) of section
839 626.173, Florida Statutes, is amended to read:

840 626.173 Insurance agency closure; cancellation of
841 licenses.—

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842 (1) If a licensed insurance agency permanently ceases the
843 transacting of insurance or ceases the transacting of insurance
844 for more than 30 days, the agent in charge, the director of the
845 agency, or other officer listed on the original application for
846 licensure must, within 35 days after the agency first ceases the
847 transacting of insurance, do all of the following:

848 (c) Notify all policyholders currently insured by a policy
849 written, produced, or serviced by the agency of the agency's
850 cessation of operations; the date on which operations ceased;
851 and the identity of the agency or agent to which the agency's
852 current book of business has been transferred or, if no transfer
853 has occurred, a statement directing the policyholder to contact
854 the insurance company for assistance in locating a licensed
855 agent to service the policy. This paragraph does not apply to
856 title insurance, life insurance, or annuity contracts.

857 Section 14. Subsection (8) of section 626.207, Florida
858 Statutes, is amended to read:

859 626.207 Disqualification of applicants and licensees;
860 penalties against licensees; rulemaking authority.—

861 (8) The department shall adopt rules establishing specific
862 penalties against licensees in accordance with ss. 626.641 and
863 626.651 for violations of s. 626.112(7) or (9), s. 626.611, s.
864 626.6115, s. 626.621, s. 626.6215, s. 626.7451, s. 626.8437, s.
865 626.844, s. 626.8695, s. 626.8697, s. 626.8698, s. 626.935, s.
866 634.181, s. 634.191, s. 634.320, s. 634.321, s. 634.422, s.
867 634.423, s. 642.041, or s. 642.043. The purpose of the
868 revocation or suspension is to provide a sufficient penalty to
869 deter future violations of the Florida Insurance Code. The
870 imposition of a revocation or the length of suspension shall be

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871 based on the type of conduct and the probability that the
 872 propensity to commit further illegal conduct has been overcome
 873 at the time of eligibility for relicensure. The length of
 874 suspension may be adjusted based on aggravating or mitigating
 875 factors, established by rule and consistent with this purpose.

876 Section 15. Paragraph (j) of subsection (2) of section
 877 626.221, Florida Statutes, is amended to read:

878 626.221 Examination requirement; exemptions.—

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

881 (j) An applicant for license as an all-lines adjuster who
 882 has the designation of Accredited Claims Adjuster (ACA) from a
 883 regionally accredited postsecondary institution in this state;
 884 Certified All Lines Adjuster (CALA) from Kaplan Financial
 885 Education; Associate in Claims (AIC) from the Insurance
 886 Institute of America; Professional Claims Adjuster (PCA) from
 887 the Professional Career Institute; Professional Property
 888 Insurance Adjuster (PPIA) from the HurriClaim Training Academy;
 889 Certified Adjuster (CA) from ALL LINES Training; Certified
 890 Claims Adjuster (CCA) from AE21 Incorporated; Claims Adjuster
 891 Certified Professional (CACP) from WebCE, Inc.; Accredited
 892 Insurance Claims Specialist (AICS) from Encore Claim Services;
 893 Professional in Claims (PIC) from 2021 Training, LLC; or
 894 Universal Claims Certification (UCC) from Claims and Litigation
 895 Management Alliance (CLM) whose curriculum has been approved by
 896 the department and which includes comprehensive analysis of
 897 basic property and casualty lines of insurance and testing at
 898 least equal to that of standard department testing for the all-
 899 lines adjuster license. The department shall adopt rules

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900 establishing standards for the approval of curriculum.

901 Section 16. Paragraphs (c) and (f) of subsection (3) of
 902 section 626.2815, Florida Statutes, are amended to read:

903 626.2815 Continuing education requirements.—

904 (3) Each licensee except a title insurance agent must
 905 complete a 4-hour update course every 2 years which is specific
 906 to the license held by the licensee. The course must be
 907 developed and offered by providers and approved by the
 908 department. The content of the course must address all lines of
 909 insurance for which examination and licensure are required and
 910 include the following subject areas: insurance law updates,
 911 ethics for insurance professionals, disciplinary trends and case
 912 studies, industry trends, premium discounts, determining
 913 suitability of products and services, and other similar
 914 insurance-related topics the department determines are relevant
 915 to legally and ethically carrying out the responsibilities of
 916 the license granted. A licensee who holds multiple insurance
 917 licenses must complete an update course that is specific to at
 918 least one of the licenses held. Except as otherwise specified,
 919 any remaining required hours of continuing education are
 920 elective and may consist of any continuing education course
 921 approved by the department under this section.

922 (c) A licensee who has been licensed for 25 years or more
 923 and is a CLU or a CPCU or has a Bachelor of Science degree or
 924 higher in risk management or insurance with evidence of 18 or
 925 more semester hours in insurance-related courses must also
 926 complete a minimum of 6 hours of elective continuing education
 927 courses every 2 years.

928 (f) Elective continuing education courses for public

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adjusters ~~may must~~ be any course related to commercial and residential property coverages, claim adjusting practices, and any other adjuster elective courses specifically designed for public adjusters and approved by the department. Notwithstanding this subsection, public adjusters for workers' compensation insurance or health insurance are not required to take continuing education courses pursuant to this section.

Section 17. Paragraphs (a), (b), and (e) of subsection (1) of section 626.321, Florida Statutes, are amended, and paragraph (i) is added to that subsection, to read:

626.321 Limited licenses and registration.—

(1) The department shall issue to a qualified applicant a license as agent authorized to transact a limited class of business in any of the following categories of limited lines insurance:

(a) *Motor vehicle physical damage and mechanical breakdown insurance.*—License covering insurance against only the loss of or damage to a motor vehicle that is designed for use upon a highway, including trailers and semitrailers designed for use with such vehicles. Such license also covers insurance against the failure of an original or replacement part to perform any function for which it was designed. ~~A licensee under this paragraph may not hold a license as an agent for any other or additional kind or class of insurance coverage except a limited license for credit insurance as provided in paragraph (c).~~ Effective October 1, 2012, all licensees holding such limited license and appointment may renew the license and appointment, but no new or additional licenses may be issued pursuant to this paragraph, and a licensee whose limited license under this

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paragraph has been terminated, suspended, or revoked may not have such license reinstated.

(b) *Industrial fire insurance or burglary insurance.*—License covering only industrial fire insurance or burglary insurance. ~~A licensee under this paragraph may not hold a license as an agent for any other or additional kind or class of insurance coverage except for life insurance and health insurance.~~ Effective July 1, 2019, all licensees holding such limited license and appointment may renew the license and appointment, but no new or additional licenses may be issued pursuant to this paragraph, and a licensee whose limited license under this paragraph has been terminated, suspended, or revoked may not have such license reinstated.

(e) *Credit insurance.*—License covering credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed automobile protection (GAP) insurance, and any other form of insurance offered in connection with an extension of credit which is limited to partially or wholly extinguishing a credit obligation that the department determines should be designated a form of limited line credit insurance. Effective October 1, 2012, all valid licenses held by persons for any of the lines of insurance listed in this paragraph shall be converted to a credit insurance license. ~~Licensees who wish to obtain a new license reflecting such change must request a duplicate license and pay a \$5 fee as specified in s. 624.501(15).~~ The license may be issued only to an individual employed by a life or health insurer as an officer or other salaried or commissioned representative, to an individual

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employed by or associated with a lending or financial institution or creditor, or to a lending or financial institution or creditor, and may authorize the sale of such insurance only with respect to borrowers or debtors of such lending or financing institution or creditor. However, only the individual or entity whose tax identification number is used in receiving or is credited with receiving the commission from the sale of such insurance shall be the licensed agent of the insurer. ~~No individual while so licensed shall hold a license as an agent as to any other or additional kind or class of life or health insurance coverage.~~

(i) Preneed funeral agreement insurance.—Limited license for insurance covering only prearranged funeral, cremation, or cemetery agreements, or any combination thereof, funded by insurance and offered in connection with an establishment that holds a preneed license pursuant to s. 497.452. Such license may be issued without examination only to an individual who has filed with the department an application for a license in a form and manner prescribed by the department, who currently holds a valid preneed sales agent license pursuant to s. 497.466, who paid the applicable fees for a license as prescribed in s. 624.501, who has been appointed under s. 626.112, and who paid the prescribed appointment fee under s. 624.501.

Section 18. Paragraph (n) of subsection (1) of section 626.611, Florida Statutes, is amended to read:

626.611 Grounds for compulsory refusal, suspension, or revocation of agent's, title agency's, adjuster's, customer representative's, service representative's, or managing general agent's license or appointment.—

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(1) The department shall deny an application for, suspend, revoke, or refuse to renew or continue the license or appointment of any applicant, agent, title agency, adjuster, customer representative, service representative, or managing general agent, and it shall suspend or revoke the eligibility to hold a license or appointment of any such person, if it finds that as to the applicant, licensee, or appointee any one or more of the following applicable grounds exist:

(n) Having been found guilty of or having pleaded guilty or nolo contendere to a misdemeanor directly related to the financial services business, any felony, or any a crime punishable by imprisonment of 1 year or more under the law of the United States of America or of any state thereof or under the law of any other country, without regard to whether a judgment of conviction has been entered by the court having jurisdiction of such cases.

Section 19. Subsection (18) is added to section 626.621, Florida Statutes, to read:

626.621 Grounds for discretionary refusal, suspension, or revocation of agent's, adjuster's, customer representative's, service representative's, or managing general agent's license or appointment.—The department may, in its discretion, deny an application for, suspend, revoke, or refuse to renew or continue the license or appointment of any applicant, agent, adjuster, customer representative, service representative, or managing general agent, and it may suspend or revoke the eligibility to hold a license or appointment of any such person, if it finds that as to the applicant, licensee, or appointee any one or more of the following applicable grounds exist under circumstances

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for which such denial, suspension, revocation, or refusal is not mandatory under s. 626.611:

(18) Cancellation of the applicant's, licensee's, or appointee's resident license in a state other than Florida.

Section 20. Paragraphs (d) and (g) of subsection (2) and paragraphs (a), (b), and (e) through (j) of subsection (3) of section 626.7492, Florida Statutes, are amended to read:

626.7492 Reinsurance intermediaries.—

(2) DEFINITIONS.—As used in this section:

(d) "Producer" means a licensed ~~an~~ agent, broker, or insurance agency that is appointed as a reinsurance intermediary licensed pursuant to the applicable provision of the Florida Insurance Code.

(g) "Reinsurance intermediary manager" means any person who has authority to bind, or manages all or part of, the assumed reinsurance business of a reinsurer, including the management of a separate division, department, or underwriting office, and acts as a representative ~~an agent~~ for the reinsurer whether known as a reinsurance intermediary manager, manager, or other similar term. Notwithstanding the above, none of the following persons is a reinsurance intermediary manager with respect to the reinsurer for the purposes of this section:

1. An employee of the reinsurer;

2. A manager of the United States branch of an alien reinsurer;

3. An underwriting manager which, pursuant to contract, manages all the reinsurance operations of the reinsurer, is under common control with the reinsurer, subject to the holding company act, and whose compensation is not based on the volume

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of premiums written.

4. The manager of a group, association, pool, or organization of insurers which engage in joint underwriting or joint reinsurance and who are subject to examination by the insurance regulatory authority of the state in which the manager's principal business office is located.

(3) LICENSURE.—

(a) No person shall act as a reinsurance intermediary broker in this state if the reinsurance intermediary broker maintains an office either directly or as a member or employee of a firm or association, or an officer, director, or employee of a corporation:

1. In this state, unless the reinsurance intermediary broker is a licensed producer in this state; or

2. In another state, unless the reinsurance intermediary broker is a licensed producer in this state or in another state having a law substantially similar to this section or the reinsurance intermediary broker is licensed in this state as an insurance agency and appointed as a ~~nonresident~~ reinsurance intermediary.

(b) No person shall act as a reinsurance intermediary manager:

1. For a reinsurer domiciled in this state, unless the reinsurance intermediary manager is a licensed producer in this state;

2. In this state, if the reinsurance intermediary manager maintains an office either directly or as a member or employee of a firm or association, or an officer, director, or employee of a corporation in this state, unless the reinsurance

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intermediary manager is a licensed producer in this state;

3. In another state for a nondomestic insurer, unless the reinsurance intermediary manager is a licensed producer in this state or another state having a law substantially similar to this section, or the person is licensed in this state as a producer ~~nonresident reinsurance intermediary~~.

(e) If the applicant for a reinsurance intermediary appointment license is a nonresident, the applicant, as a condition precedent to receiving or holding an appointment a license, must designate the Chief Financial Officer as agent for service of process in the manner, and with the same legal effect, provided for by this section for designation of service of process upon unauthorized insurers. Such applicant shall also furnish the department with the name and address of a resident of this state upon whom notices or orders of the department or process affecting the nonresident reinsurance intermediary may be served. The licensee shall promptly notify the department in writing of each change in its designated agent for service of process, and the change shall not become effective until acknowledged by the department.

(f) ~~The department may refuse to issue a reinsurance intermediary license if, in its judgment, the applicant, anyone named on the application, or any member, principal, officer, or director of the applicant, has demonstrated a lack of fitness and trustworthiness, or that any controlling person of the applicant is not fit or trustworthy to act as a reinsurance intermediary, or that any of the foregoing has given cause for revocation or suspension of the license, or has failed to comply with any prerequisite for the issuance of the license.~~

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~~(g)~~ Reinsurance intermediaries shall be ~~licensed~~, appointed, renewed, continued, reinstated, or terminated as prescribed in this chapter for insurance representatives in general, ~~except that they shall be exempt from the photo, education, and examination provisions.~~ License, Appointment, and other fees shall be those prescribed in s. 624.501.

~~(g)~~ ~~(h)~~ The grounds and procedures for refusal of an a license or appointment or suspension or revocation of a license or appointment issued to a reinsurance intermediary under this section are as set forth in ss. 626.611-626.691 for insurance representatives in general.

~~(h)~~ ~~(i)~~ An attorney licensed in this state, when acting in a professional capacity, is exempt from this subsection.

~~(i)~~ ~~(j)~~ The department may develop necessary rules to carry out this section.

Section 21. Subsection (5) of section 626.752, Florida Statutes, is amended to read:

626.752 Exchange of business.—

(5) Within 15 days after the last day of each month, any insurer accepting business under this section shall report to the department the name, address, telephone number, and social security number of each agent from which the insurer received more than four personal lines risks during the calendar year, except for risks being removed from the Citizens Property Insurance Corporation and placed with that insurer by a brokering agent. Once the insurer has reported pursuant to this subsection an agent's name to the department, additional reports on the same agent shall not be required. However, the fee set forth in s. 624.501 must be paid for the agent by the insurer

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for each year until the insurer notifies the department that the insurer is no longer accepting business from the agent pursuant to this section. The insurer may require that the agent reimburse the insurer for the fee. If the insurer or employer does not pay the fees and taxes due pursuant to this subsection within 21 days after notice by the department, the department must suspend the insurer's or employer's authority to appoint licensees until all outstanding fees and taxes have been paid.

Section 22. Subsection (3) of section 626.785, Florida Statutes, is amended to read:

626.785 Qualifications for license.—

(3) Notwithstanding any other provisions of this chapter, a funeral director, a direct disposer, or an employee of a funeral establishment that holds a preneed license pursuant to s. 497.452 may obtain an agent's license or a limited license to sell only policies of life insurance covering the expense of a prearrangement for funeral services or merchandise so as to provide funds at the time the services and merchandise are needed. The face amount of insurance covered by any such policy shall not exceed \$21,000, plus an annual percentage increase based on the Annual Consumer Price Index compiled by the United States Department of Labor, beginning with the Annual Consumer Price Index announced by the United States Department of Labor for 2016.

Section 23. Subsection (4) of section 626.793, Florida Statutes, is amended to read:

626.793 Excess or rejected business.—

(4) Within 15 days after the last day of each month, any insurer accepting business under this section shall report to

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the department the name, address, telephone number, and social security number of each agent from which the insurer received more than four risks during the calendar year. Once the insurer has reported an agent's name to the department pursuant to this subsection, additional reports on the same agent shall not be required. However, the fee set forth in s. 624.501 must be paid for the agent by the insurer for each year until the insurer notifies the department that the insurer is no longer accepting business from the agent pursuant to this section. The insurer may require that the agent reimburse the insurer for the fee. If the insurer or employer does not pay the fees and taxes due pursuant to this subsection within 21 days after notice by the department, the department must suspend the insurer's or employer's authority to appoint licensees until all outstanding fees and taxes have been paid.

Section 24. Subsection (5) of section 626.837, Florida Statutes, is amended to read:

626.837 Excess or rejected business.—

(5) Within 15 days after the last day of each month, any insurer accepting business under this section shall report to the department the name, address, telephone number, and social security number of each agent from which the insurer received more than four risks during the calendar year. Once the insurer has reported pursuant to this subsection an agent's name to the department, additional reports on the same agent shall not be required. However, the fee set forth in s. 624.501 must be paid for the agent by the insurer for each year until the insurer notifies the department that the insurer is no longer accepting business from the agent pursuant to this section. The insurer

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may require that the agent reimburse the insurer for the fee. If the insurer or employer does not pay the fees and taxes due pursuant to this subsection within 21 days after notice by the department, the department must suspend the insurer's or employer's authority to appoint licensees until all outstanding fees and taxes have been paid.

Section 25. Section 626.841, Florida Statutes, is reordered and amended to read:

626.841 Definitions.—As used in this part, the term:

(1) "Real estate closing transaction" means services performed by a title insurance agent or title insurance agency, or by an attorney agent in the agent's or agency's capacity as such, including, but not limited to, preparing documents necessary to close the transaction, conducting the closing, or handling the disbursing of funds related to the closing in a real estate closing transaction.

(3)(1) "Title insurance agent" means a person appointed in writing by a title insurer to issue and countersign commitments or policies of title insurance in its behalf.

(2) "Title insurance agency" means an insurance agency under which title insurance agents and other employees determine insurability in accordance with underwriting rules and standards prescribed by the title insurer represented by the agency, and issue and countersign commitments, endorsements, or policies of title insurance, on behalf of the appointing title insurer. The term does not include a title insurer.

Section 26. Paragraph (e) is added to subsection (2) of section 626.8411, Florida Statutes, to read:

626.8411 Application of Florida Insurance Code provisions

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to title insurance agents or agencies.—

(2) The following provisions of part I do not apply to title insurance agents or title insurance agencies:

(e) Section 626.173(1)(c), relating to notifying policyholders of the agency closure.

Section 27. Present subsections (8) through (11) of section 626.8437, Florida Statutes, are redesignated as subsections (9) through (12), respectively, and a new subsection (8) and subsection (13) are added to that section, to read:

626.8437 Grounds for denial, suspension, revocation, or refusal to renew license or appointment.—The department shall deny, suspend, revoke, or refuse to renew or continue the license or appointment of any title insurance agent or agency, and it shall suspend or revoke the eligibility to hold a license or appointment of such person, if it finds that as to the applicant, licensee, appointee, or any principal thereof, any one or more of the following grounds exist:

(8) Misappropriation, conversion, or unlawful withholding of funds received in a fiduciary capacity and held as part of an escrow agreement, real estate sales contract, or as provided on a settlement statement in a real estate transaction.

(13) Revocation or cancellation of a licensee's resident license in a jurisdiction other than this state.

Section 28. Subsections (7) and (8) are added to section 626.844, Florida Statutes, to read:

626.844 Grounds for discretionary refusal, suspension, or revocation of license or appointment.—The department may, in its discretion, deny, suspend, revoke, or refuse to renew or continue the license or appointment of any title insurance agent

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or agency, and it may suspend or revoke the eligibility to hold a license or appointment of any such title insurance agent or agency if it finds that as to the applicant or licensee or appointee, or any principal thereof, any one or more of the following grounds exist under circumstances for which such denial, suspension, revocation, or refusal is not mandatory under s. 626.8437:

(7) Having been the subject of, or having had a license, permit, appointment, registration, or other authority to conduct business subject to, any decision, finding, injunction, suspension, prohibition, revocation, denial, judgment, final agency action, or administrative order by any court of competent jurisdiction, administrative law proceeding, state agency, federal agency, national securities, commodities, or option exchange, or national securities, commodities, or option association involving a violation of any federal or state securities or commodities law or any rule or regulation adopted thereunder, or a violation of any rule or regulation of any national securities, commodities, or options exchange or national securities, commodities, or options association.

(8) Revocation or cancellation of a licensee's resident license in a jurisdiction other than this state.

Section 29. Section 626.8473, Florida Statutes, is amended to read:

626.8473 Escrow; trust fund.—

(1) A title insurance agency agent may engage in business as an escrow agent as to funds received from others to be subsequently disbursed ~~by the title insurance agent~~ in connection with real estate closing transactions ~~involving the~~

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~~issuance of title insurance binders, commitments, policies of title insurance, or guarantees of title~~, provided that a licensed and appointed title insurance agency agent complies with the requirements of s. 626.8419 ~~s. 626.8417~~, including such requirements added after the initial licensure of the agency agent.

(2) All funds received by a title insurance agency agent as described in subsection (1) shall be trust funds received in a fiduciary capacity by the title insurance agency agent and shall be the property of the person or persons entitled thereto.

(3) All funds received by a title insurance agency agent to be held in trust shall be immediately placed in a financial institution that is located within this state and is a member of the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund. ~~These funds shall be invested in an escrow account in accordance with the investment requirements and standards established for deposits and investments of state funds in s. 17.57,~~ where the funds shall be kept until disbursement thereof is properly authorized.

(4) Funds required to be maintained in escrow trust accounts pursuant to this section shall not be subject to any debts of the title insurance agency agent and shall be used only in accordance with the terms of the individual, escrow, settlement, or closing instructions under which the funds were accepted.

(5) The title insurance agency agents shall maintain separate records of all receipts and disbursements of escrow, settlement, or closing funds.

(6) In the event that the department promulgates rules

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1335 necessary to implement the requirements of this section pursuant
 1336 to s. 624.308, the department shall consider reasonable
 1337 standards necessary for the protection of funds held in trust,
 1338 including, but not limited to, standards for accounting of
 1339 funds, standards for receipt and disbursement of funds, and
 1340 protection for the person or persons to whom the funds are to be
 1341 disbursed.

1342 (7) A title insurance agency agent, or any officer,
 1343 director, or employee thereof, or any person associated
 1344 therewith as an independent contractor for bookkeeping or
 1345 similar purposes, who converts or misappropriates funds received
 1346 or held in escrow or in trust by such title insurance agency
 1347 ~~agent~~, or any person who knowingly receives or conspires to
 1348 receive such funds, commits:

1349 (a) If the funds converted or misappropriated are \$300 or
 1350 less, a misdemeanor of the first degree, punishable as provided
 1351 in s. 775.082 or s. 775.083.

1352 (b) If the funds converted or misappropriated are more than
 1353 \$300, but less than \$20,000, a felony of the third degree,
 1354 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

1355 (c) If the funds converted or misappropriated are \$20,000
 1356 or more, but less than \$100,000, a felony of the second degree,
 1357 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

1358 (d) If the funds converted or misappropriated are \$100,000
 1359 or more, a felony of the first degree, punishable as provided in
 1360 s. 775.082, s. 775.083, or s. 775.084.

1361 (8) An attorney shall deposit and maintain all funds
 1362 received in connection with transactions in which the attorney
 1363 is serving as a title or real estate settlement agent into a

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1364 separate trust account that is maintained exclusively for funds
 1365 received in connection with such transactions and permit the
 1366 account to be audited by its title insurers, unless maintaining
 1367 funds in the separate account for a particular client would
 1368 violate applicable rules of The Florida Bar.

1369 Section 30. Subsection (19) of section 626.854, Florida
 1370 Statutes, is amended to read:

1371 626.854 "Public adjuster" defined; prohibitions.—The
 1372 Legislature finds that it is necessary for the protection of the
 1373 public to regulate public insurance adjusters and to prevent the
 1374 unauthorized practice of law.

1375 (19) Except as otherwise provided in this chapter, no
 1376 person, except an attorney at law or a licensed and appointed
 1377 public adjuster, may for money, commission, or any other thing
 1378 of value, directly or indirectly:

1379 (a) Prepare, complete, or file an insurance claim for an
 1380 insured or a third-party claimant;

1381 (b) Act on behalf of or aid an insured or a third-party
 1382 claimant in negotiating for or effecting the settlement of a
 1383 claim for loss or damage covered by an insurance contract;

1384 (c) Offer to initiate or negotiate a claim on behalf of an
 1385 insured;

1386 (d) Advertise services that require a license as a public
 1387 adjuster; or

1388 (e) Solicit, investigate, or adjust a claim on behalf of a
 1389 public adjuster, an insured, or a third-party claimant.

1390 Section 31. Section 626.874, Florida Statutes, is amended
 1391 to read:

1392 626.874 Catastrophe or emergency adjusters.—

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1393 (1) In the event of a catastrophe or emergency, the
 1394 department may issue a license, for the purposes and under the
 1395 conditions and for the period of emergency as it shall
 1396 determine, to persons who are residents or nonresidents of this
 1397 state, who are at least 18 years of age, who are United States
 1398 citizens or legal aliens who possess work authorization from the
 1399 United States Bureau of Citizenship and Immigration Services,
 1400 and who are not licensed adjusters under this part but who have
 1401 been designated and certified to it as qualified to act as
 1402 adjusters by an authorized insurer to adjust claims, losses, or
 1403 damages under policies or contracts of insurance issued by such
 1404 insurers, or by a licensed ~~the primary adjuster of an~~
 1405 independent adjusting firm contracted with an authorized insurer
 1406 to adjust claims on behalf of the insurer. The fee for the
 1407 license is as provided in s. 624.501(12)(c).

1408 (2) If any person not a licensed adjuster who has been
 1409 permitted to adjust such losses, claims, or damages under the
 1410 conditions and circumstances set forth in subsection (1),
 1411 engages in any of the misconduct described in or contemplated by
 1412 chapter 626 ss. 626.611 and 626.621, the department, without
 1413 notice and hearing, shall be authorized to issue its order
 1414 denying such person the privileges granted under this section;
 1415 and thereafter it shall be unlawful for any such person to
 1416 adjust any such losses, claims, or damages in this state.

1417 Section 32. Subsection (2) of section 626.9892, Florida
 1418 Statutes, is amended to read:

1419 626.9892 Anti-Fraud Reward Program; reporting of insurance
 1420 fraud.-

1421 (2) The department may pay rewards of up to \$25,000 to

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1422 persons providing information leading to the arrest and
 1423 conviction of persons committing crimes investigated by the
 1424 department arising from violations of s. 400.9935, s. 440.105,
 1425 s. 624.15, s. 626.112, s. 626.8473, s. 626.8738, s. 626.9541, s.
 1426 626.989, s. 790.164, s. 790.165, s. 790.166, s. 806.01, s.
 1427 806.031, s. 806.10, s. 806.111, s. 812.014, s. 817.034, s.
 1428 817.233, ~~or~~ s. 817.234, s. 817.236, s. 817.2361, s. 817.505, s.
 1429 817.568, s. 831.01, s. 895.03, s. 895.04, or s. 896.101.

1430 Section 33. Present subsections (7) through (12) of section
 1431 626.9957, Florida Statutes, are redesignated as subsections (8)
 1432 through (13), respectively, and a new subsection (7) is added to
 1433 that section, to read:

1434 626.9957 Conduct prohibited; denial, revocation,
 1435 termination, expiration, or suspension of registration.-

1436 (7) If a navigator registered under this part fails to
 1437 maintain an active, valid navigator's registration status with
 1438 the Federal Government or an exchange, the navigator's
 1439 registration issued under this part shall expire by operation of
 1440 law. A navigator with an expired registration may not be granted
 1441 subsequent registration until the navigator qualifies as a
 1442 first-time applicant.

1443 Section 34. Paragraph (c) of subsection (4) of section
 1444 627.351, Florida Statutes, is amended to read:

1445 627.351 Insurance risk apportionment plans.-

1446 (4) MEDICAL MALPRACTICE RISK APPORTIONMENT.-

1447 (c) The Joint Underwriting Association shall operate
 1448 subject to the supervision and approval of a board of governors
 1449 consisting of representatives of five of the insurers
 1450 participating in the Joint Underwriting Association, an attorney

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1451 named by The Florida Bar, a physician named by the Florida
 1452 Medical Association, a dentist named by the Florida Dental
 1453 Association, and a hospital representative named by the Florida
 1454 Hospital Association. The Chief Financial Officer shall select
 1455 the representatives of the five insurers or other persons with
 1456 experience in medical malpractice insurance as determined by the
 1457 Chief Financial Officer. One insurer representative shall be
 1458 selected from recommendations of the American Insurance
 1459 Association. One insurer representative shall be selected from
 1460 recommendations of the Property Casualty Insurers Association of
 1461 America. One insurer representative shall be selected from
 1462 recommendations of the Florida Insurance Council. Two insurer
 1463 representatives shall be selected to represent insurers that are
 1464 not affiliated with these associations. Each board member shall
 1465 serve for a 4-year term and may be reappointed, but no member
 1466 shall serve more than 8 consecutive years. Vacancies on the
 1467 board shall be filled for the remaining period of the term in
 1468 the same manner as the initial appointments. During the first
 1469 meeting of the board after June 30 of each year, the board shall
 1470 choose one of its members to serve as chair of the board and
 1471 another member to serve as vice chair of the board. There is no
 1472 liability on the part of, and no cause of action shall arise
 1473 against, any member insurer, self-insurer, or its agents or
 1474 employees, the Joint Underwriting Association or its agents or
 1475 employees, members of the board of governors, or the office or
 1476 its representatives for any action taken by them in the
 1477 performance of their powers and duties under this subsection.
 1478 1. The Chief Financial Officer may remove a board member
 1479 from office for misconduct, malfeasance, misfeasance, or neglect

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1480 of duty. Any vacancy so created shall be filled as provided in
 1481 this paragraph.
 1482 2. Board members are subject to the code of ethics under
 1483 part III of chapter 112, including, but not limited to, the code
 1484 of ethics and public disclosure and reporting of financial
 1485 interests, pursuant to s. 112.3145. For purposes of applying
 1486 part III of chapter 112 to activities of members of the board of
 1487 governors, those persons are considered public officers and the
 1488 Joint Underwriting Association is considered their agency.
 1489 Notwithstanding s. 112.3143(2), a board member may not vote on
 1490 any measure that he or she knows would inure to his or her
 1491 special private gain or loss; that he or she knows would inure
 1492 to the special private gain or loss of any principal by which he
 1493 or she is retained, other than an agency as defined in s.
 1494 112.312; or that he or she knows would inure to the special
 1495 private gain or loss of a relative or business associate of the
 1496 public officer. Before the vote is taken, such board member
 1497 shall publicly state to the board the nature of his or her
 1498 interest in the matter from which he or she is abstaining from
 1499 voting and, within 15 days after the vote occurs, disclose the
 1500 nature of his or her interest as a public record in a memorandum
 1501 filed with the person responsible for recording the minutes of
 1502 the meeting, who shall incorporate the memorandum in the
 1503 minutes.
 1504 3. Notwithstanding s. 112.3148, s. 112.3149, or any other
 1505 law, a board member may not knowingly accept, directly or
 1506 indirectly, any gift or expenditure from a person or entity, or
 1507 an employee or representative of such person or entity, which
 1508 has a contractual relationship with the Joint Underwriting

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Association or which is under consideration for a contract.

4. A board member who fails to comply with subparagraph 2. or subparagraph 3. is subject to the penalties provided under ss. 112.317 and 112.3173.

Section 35. Section 627.4215, Florida Statutes, is amended to read:

627.4215 Disclosures to policyholders; coverage of behavioral health care services.—

(1) A health insurer that offers behavioral health insurance coverages required by federal and state law shall make all of the following information available on its website:

(a) The federal and state requirements for coverage of behavioral health care services.

(b) Contact information for the Division of Consumer Services of the department, including a hyperlink, for consumers to submit inquiries or complaints relating to health insurer products or services regulated by the department or the office.

(2) On an annual basis, a health insurer that offers behavioral health insurance coverage required by federal and state law shall provide a direct notice to insureds with behavioral health insurance coverages required by federal or state law which must include a description of the federal and state requirements for coverage of behavioral health care services. Such notice must also include the website address and statewide toll-free telephone number of the Division of Consumer Services of the department for receiving and logging complaints.

Section 36. Subsection (5) is added to section 627.70132, Florida Statutes, to read:

627.70132 Notice of property insurance claim.—

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(5) This section does not apply to loss assessment claims made under s. 627.714.

Section 37. Subsections (2) and (3) of section 627.7015, Florida Statutes, are amended to read:

627.7015 Alternative procedure for resolution of disputed property insurance claims.—

(2) At the time of issuance and renewal of a policy or at the time a first-party claim within the scope of this section is filed by the policyholder, the insurer shall notify the policyholder of its right to participate in the mediation program under this section. A claim is not eligible for mediation until an insurer has made a claim determination or elected to repair pursuant to s. 627.70131. The department shall prepare a consumer information pamphlet for distribution to persons participating in mediation.

(3) The costs of mediation must be reasonable, and the insurer must bear all of the cost of conducting mediation conferences, except as otherwise provided in this section. If a policyholder fails to appear at the conference, the conference must be rescheduled upon the policyholder's payment of the costs of a rescheduled conference. If the insurer fails to appear at the conference, the insurer must pay the policyholder's actual cash expenses incurred in attending the conference if the insurer's failure to attend was not due to a good cause acceptable to the department. An insurer will be deemed to have failed to appear if the insurer's representative lacks authority to settle the full value of the claim. The insurer shall incur an additional fee for a rescheduled conference necessitated by the insurer's failure to appear at a scheduled conference. The

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fees assessed by the ~~department administrator~~ must include a charge necessary to defray the expenses of the department related to its duties under this section and must be deposited in the Insurance Regulatory Trust Fund. The department may suspend the insurer's authority to appoint licensees if the insurer does not timely pay the required fees.

Section 38. Subsection (1) of section 627.714, Florida Statutes, is amended to read:

627.714 Residential condominium unit owner coverage; loss assessment coverage required.—

(1) For policies issued or renewed on or after July 1, 2010, coverage under a unit owner's residential property policy must include at least \$2,000 in property loss assessment coverage for all assessments made as a result of the same direct loss to the property, regardless of the number of assessments, owned by all members of the association collectively if such loss is of the type of loss covered by the unit owner's residential property insurance policy, to which a deductible of no more than \$250 per direct property loss applies. If a deductible was or will be applied to other property loss sustained by the unit owner resulting from the same direct loss to the property, no deductible applies to the loss assessment coverage. For policies issued after January 1, 2024, a loss assessment claim is deemed to have occurred on the date of the notice of loss assessment sent by a unit owner's condominium association.

Section 39. Section 627.745, Florida Statutes, is amended to read:

627.745 Mediation of claims.—

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(1) (a) In any claim filed with an insurer for personal injury in an amount of \$10,000 or less or any claim for property damage in any amount, arising out of the ownership, operation, use, or maintenance of a motor vehicle, either party may demand mediation of the claim prior to the institution of litigation.

(b) The costs of mediation must be reasonable, and the insurer must bear all of the cost of conducting mediation conferences, except as otherwise provided in this section. If a policyholder fails to appear at the conference, the conference must be rescheduled upon the policyholder's payment of the costs of a rescheduled conference. If the insurer fails to appear at the conference, the insurer must pay the policyholder's actual cash expenses incurred in attending the conference if the insurer's failure to attend was not due to a good cause acceptable to the department. An insurer is deemed to have failed to appear if the insurer's representative lacks authority to settle the full value of the claim. The insurer shall incur an additional fee, paid to the mediator, for a rescheduled conference necessitated by the insurer's failure to appear at a scheduled conference. The fees assessed by the department or administrator must include a charge necessary to defray the expenses of the department related to its duties under this section and must be deposited in the Insurance Regulatory Trust Fund. The department or administrator may request that the department suspend the insurer's authority to appoint licensees if the insurer does not timely pay the per-mediation-event administrative fee.

~~(b) A request for mediation shall be filed with the department on a form approved by the department. The request for~~

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mediation shall state the reason for the request for mediation and the issues in dispute which are to be mediated. The filing of a request for mediation tolls the applicable time requirements for filing suit for a period of 60 days following the conclusion of the mediation process or the time prescribed in s. 95.11, whichever is later.

(c) The insurance policy must specify in detail the terms and conditions for mediation of a first-party claim.

(d) The mediation shall be conducted as an informal process in which formal rules of evidence and procedure need not be observed. Any party participating in a mediation must have the authority to make a binding decision. All parties must mediate in good faith.

(e) The department shall randomly select mediators. Each party may once reject the mediator selected, either originally or after the opposing side has exercised its option to reject a mediator.

(f) Costs of mediation shall be borne equally by both parties unless the mediator determines that one party has not mediated in good faith.

(g) Only one mediation may be requested for each claim, unless all parties agree to further mediation.

(2) Upon receipt of a request for mediation, the department shall refer the request to a mediator. The mediator shall notify the applicant and all interested parties, as identified by the applicant, and any other parties the mediator believes may have an interest in the mediation, of the date, time, and place of the mediation conference. The conference may be held by telephone, if feasible. The mediation conference shall be held

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within 45 days after the request for mediation.

(2) (a) (3) (a) The department shall approve mediators to conduct mediations pursuant to this section. All mediators must file an application under oath for approval as a mediator.

(b) To qualify for approval as a mediator, an individual must meet one of the following qualifications:

1. Possess an active certification as a Florida Supreme Court certified circuit court mediator. A Florida Supreme Court certified circuit court mediator in a lapsed, suspended, sanctioned, or decertified status is not eligible to participate in the mediation program.

2. Be an approved department mediator as of July 1, 2014, and have conducted at least one mediation on behalf of the department within 4 years immediately preceding that date.

(3) (4) The department shall deny an application, or suspend or revoke its approval, of a mediator to serve in such capacity if the department finds that one or more of the following grounds exist:

(a) Lack of one or more of the qualifications specified in this section for approval.

(b) Material misstatement, misrepresentation, or fraud in obtaining or attempting to obtain the approval.

(c) Demonstrated lack of fitness or trustworthiness to act as a mediator.

(d) Fraudulent or dishonest practices in the conduct of mediation or in the conduct of business in the financial services industry.

(e) Violation of any provision of this code or of a lawful order or rule of the department, violation of the Florida Rules

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for Certified and Court-Appointed Mediators, or aiding, instructing, or encouraging another party in committing such a violation.

The department may adopt rules to administer this subsection.

(4) The department shall adopt by rule a motor vehicle claims insurance mediation program to be administered by the department or its designee. The department may also adopt special rules that are applicable in cases of an emergency within the state. The rules shall be modeled after practices and procedures set forth in mediation rules of procedure adopted by the Supreme Court. The rules must include:

(a) Reasonable requirements for processing and scheduling of requests for mediation.

(b) Provisions governing who may attend mediation conferences.

(c) Selection of mediators.

(d) Criteria for the conduct of mediation conferences.

(e) Right to legal counsel.

~~(5) The department must adopt rules of procedure for claims mediation, taking into consideration a system which:~~

~~(a) Is fair.~~

~~(b) Promotes settlement.~~

~~(c) Avoids delay.~~

~~(d) Is nonadversarial.~~

~~(e) Uses a framework for modern mediating technique.~~

(f) Controls of costs and expenses of mediation.

(5) The department may designate an entity or person to serve as an administrator to carry out any of the provisions of

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this section and may take this action by means of a written contract or agreement.

(6) Disclosures and information divulged in the mediation process are not admissible in any subsequent action or proceeding relating to the claim or to the cause of action giving rise to the claim. A person demanding mediation under this section may not demand or request mediation after a suit is filed relating to the same facts already mediated.

Section 40. Present subsections (7) through (12) of section 631.141, Florida Statutes, are redesignated as subsections (8) through (13), respectively, and a new subsection (7) is added to that section, to read:

631.141 Conduct of delinquency proceeding; domestic and alien insurers.—

(7) In order to preserve as much as possible the right and interest of the policyholders whose insurance policies or similar contracts are affected by the receivership proceedings, the department as a domiciliary receiver may:

(a) Use the property of the estate of the insurer to transfer the insurer's book of business, policies, or similar contracts of coverage, in whole or in part, to a solvent assuming insurer or insurers.

(b) Notwithstanding s. 631.195, share records of the insurer with the prospective solvent assuming insurer or insurers, but only to the extent necessary to undertake due diligence for a transfer contemplated under this section.

Section 41. Subsections (1) and (3) of section 631.252, Florida Statutes, are amended to read:

631.252 Continuation of coverage.—

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1741 (1) Unless another insurer, with approval of the
 1742 receivership court, assumes or otherwise provides coverage for
 1743 the policies of the insolvent insurer, all insurance policies or
 1744 similar contracts of coverage, other than coverages defined in
 1745 s. 631.713 or health maintenance organization coverage under
 1746 part IV, issued by the insurer shall be canceled upon the
 1747 earlier earliest to occur of the following:

1748 (a) The date of entry of the liquidation or, if the court
 1749 so provides in its order, the expiration of 30 days from the
 1750 date of entry of the liquidation order;

1751 (b) The normal expiration of the policy or contract
 1752 coverage;

1753 (c) The replacement of the coverage by the insured, or the
 1754 replacement of the policy or contract of coverage, with a policy
 1755 or contract acceptable to the insured by the receiver with
 1756 another insurer; ~~or~~

1757 (d) The date proposed by the receiver and approved by the
 1758 receivership court to cancel coverage; or

1759 (e) ~~(d)~~ The termination of the coverage by the insured.

1760 (3) The 30-day coverage continuation period provided in
 1761 paragraph (1) (a) and s. 631.57(1) (a) 1. may not be extended
 1762 unless the Chief Financial Officer ~~office~~ determines, based on a
 1763 reasonable belief, that market conditions are such that policies
 1764 of residential property insurance coverage cannot be placed with
 1765 an authorized insurer within 30 days and that an additional 15
 1766 days is needed to place such coverage, ~~and~~ Failure of actual
 1767 notice to the policyholder of the insolvency of the insurer, of
 1768 commencement of a delinquency proceeding, or of expiration of
 1769 the extension period does not affect such expiration.

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1770 Section 42. Subsection (1) of section 631.56, Florida
 1771 Statutes, is amended, and subsections (5) through (8) are added
 1772 to that section, to read:

1773 631.56 Board of directors.—

1774 (1) The board of directors of the association shall consist
 1775 of not less than five or more than nine persons serving terms as
 1776 established in the plan of operation. The department shall
 1777 approve and appoint to the board persons recommended by the
 1778 member insurers or other persons with experience in property and
 1779 casualty insurance or motor vehicle insurance as determined by
 1780 the Chief Financial Officer. Of those persons recommended by the
 1781 member insurers and appointed by the department, a majority
 1782 shall be from domestic insurers. In the event the department
 1783 finds that any recommended person does not meet the
 1784 qualifications for service on the board, the department shall
 1785 request the member insurers to recommend another person. Each
 1786 member shall serve for a 4-year term and may be reappointed, but
 1787 no member shall serve more than 8 consecutive years. Vacancies
 1788 on the board shall be filled for the remaining period of the
 1789 term in the same manner as initial appointments.

1790 (5) The Chief Financial Officer may remove a board member
 1791 from office for misconduct, malfeasance, misfeasance, or neglect
 1792 of duty. Any vacancy so created shall be filled as provided in
 1793 subsection (1).

1794 (6) Board members are subject to the code of ethics under
 1795 part III of chapter 112, including, but not limited to, the code
 1796 of ethics and public disclosure and reporting of financial
 1797 interests, pursuant to s. 112.3145. For purposes of applying
 1798 part III of chapter 112 to activities of members of the board of

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1799 directors, those persons are considered public officers and the
 1800 association is considered their agency. Notwithstanding s.
 1801 112.3143(2), a board member may not vote on any measure that he
 1802 or she knows would inure to his or her special private gain or
 1803 loss; that he or she knows would inure to the special private
 1804 gain or loss of any principal by which he or she is retained,
 1805 other than an agency as defined in s. 112.312; or that he or she
 1806 knows would inure to the special private gain or loss of a
 1807 relative or business associate of the public officer. Before the
 1808 vote is taken, such member shall publicly state to the board the
 1809 nature of his or her interest in the matter from which he or she
 1810 is abstaining from voting and, within 15 days after the vote
 1811 occurs, disclose the nature of his or her interest as a public
 1812 record in a memorandum filed with the person responsible for
 1813 recording the minutes of the meeting, who shall incorporate the
 1814 memorandum in the minutes.

1815 (7) Notwithstanding s. 112.3148, s. 112.3149, or any other
 1816 law, a board member may not knowingly accept, directly or
 1817 indirectly, any gift or expenditure from a person or entity, or
 1818 an employee or representative of such person or entity, which
 1819 has a contractual relationship with the association or which is
 1820 under consideration for a contract.

1821 (8) A board member who fails to comply with subsection (6)
 1822 or subsection (7) is subject to the penalties provided under ss.
 1823 112.317 and 112.3173.

1824 Section 43. Paragraph (a) of subsection (1) of section
 1825 631.716, Florida Statutes, is amended, and subsections (4)
 1826 through (7) are added to that section, to read:

1827 631.716 Board of directors.—

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1828 (1) (a) The board of directors of the association shall have
 1829 at least 9, but no more than 11, members. The members shall
 1830 ~~consist~~ be comprised of member insurers serving terms as
 1831 established in the plan of operation and 1 Florida Health
 1832 Maintenance Organization Consumer Assistance Plan director
 1833 confirmed pursuant to paragraph (b), or other persons with
 1834 experience in life and annuity or accident and health insurance
 1835 as determined by the Chief Financial Officer. At all times, at
 1836 least 1 ~~member of the board member~~ must be a domestic insurer as
 1837 defined in s. 624.06(1). The ~~members of the board members~~ who
 1838 are member insurers shall be elected by member insurers, subject
 1839 to the approval of the department. Each board member shall serve
 1840 for a 4-year term and may be reappointed, but no member shall
 1841 serve more than 8 consecutive years.

1842 (4) The Chief Financial Officer may remove a board member
 1843 from office for misconduct, malfeasance, misfeasance, or neglect
 1844 of duty. Any vacancy so created shall be filled as provided in
 1845 subsection (1).

1846 (5) Board members are subject to the code of ethics under
 1847 part III of chapter 112, including, but not limited to, the code
 1848 of ethics and public disclosure and reporting of financial
 1849 interests, pursuant to s. 112.3145. For purposes of applying
 1850 part III of chapter 112 to activities of members of the board of
 1851 directors, those persons are considered public officers and the
 1852 association is considered their agency. Notwithstanding s.
 1853 112.3143(2), a board member may not vote on any measure that he
 1854 or she knows would inure to his or her special private gain or
 1855 loss; that he or she knows would inure to the special private
 1856 gain or loss of any principal by which he or she is retained,

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other than an agency as defined in s. 112.312; or that he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer. Before the vote is taken, such member shall publicly state to the board the nature of his or her interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.

(6) Notwithstanding s. 112.3148, s. 112.3149, or any other law, a board member may not knowingly accept, directly or indirectly, any gift or expenditure from a person or entity, or an employee or representative of such person or entity, which has a contractual relationship with the association or which is under consideration for a contract.

(7) A board member who fails to comply with subsection (5) or subsection (6) is subject to the penalties provided under ss. 112.317 and 112.3173.

Section 44. Subsection (1) of section 631.816, Florida Statutes, is amended, and subsections (8) through (11) are added to that section, to read:

631.816 Board of directors.—

(1) The board of directors of the plan shall consist of not less than five or more than nine persons serving terms as established in the plan of operation. The department shall approve and appoint to the board persons recommended by the member HMOs or other persons with experience in health insurance as determined by the Chief Financial Officer. In the event the

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~~department finds that any recommended person does not meet the qualifications for service on the board, the department shall request the member HMOs to recommend another person.~~ Each member shall serve for a 4-year term and may be reappointed, except that terms may be staggered as defined in the plan of operation. No member shall serve more than 8 consecutive years. Vacancies on the board shall be filled for the remaining period of the term in the same manner as initial appointments. In determining voting rights, each HMO is entitled to vote on the basis of cumulative weighted voting based on the net written premium for non-Medicare and non-Medicaid policies.

(8) The Chief Financial Officer may remove a board member from office for misconduct, malfeasance, misfeasance, or neglect of duty. Any vacancy so created shall be filled as provided in subsection (1).

(9) Board members are subject to the code of ethics under part III of chapter 112, including, but not limited to, the code of ethics and public disclosure and reporting of financial interests, pursuant to s. 112.3145. For purposes of applying part III of chapter 112 to activities of members of the board of directors, those persons are considered public officers and the plan is considered their agency. Notwithstanding s. 112.3143(2), a board member may not vote on any measure that he or she knows would inure to his or her special private gain or loss; that he or she knows would inure to the special private gain or loss of any principal by which he or she is retained, other than an agency as defined in s. 112.312; or that he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer. Before the vote is

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taken, such member shall publicly state to the board the nature of his or her interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.

(10) Notwithstanding s. 112.3148, s. 112.3149, or any other law, a board member may not knowingly accept, directly or indirectly, any gift or expenditure from a person or entity, or an employee or representative of such person or entity, which has a contractual relationship with the plan or which is under consideration for a contract.

(11) A board member who fails to comply with subsection (9) or subsection (10) is subject to the penalties provided under ss. 112.317 and 112.3173.

Section 45. Subsection (1) of section 631.912, Florida Statutes, is amended, and subsections (4), (5), and (6) are added to that section, to read:

631.912 Board of directors.—

(1) The board of directors of the corporation shall consist of 11 persons, 1 of whom is the insurance consumer advocate appointed under s. 627.0613 or designee and 1 of whom is designated by the Chief Financial Officer. The department shall appoint to the board 6 persons selected by private carriers from among the 20 workers' compensation insurers with the largest amount of direct written premium as determined by the department, and 2 persons selected by the self-insurance funds or other persons with experience in workers' compensation

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insurance as determined by the Chief Financial Officer. The Governor shall appoint one person who has commercial insurance experience. At least two of the private carriers shall be foreign carriers authorized to do business in this state. The board shall elect a chairperson from among its members. The Chief Financial Officer may remove any board member for cause. Each board member shall be appointed to serve a 4-year term and may be reappointed, but no member shall serve more than 8 consecutive years. A vacancy on the board shall be filled for the remaining period of the term in the same manner by which the original appointment was made.

(4) Board members are subject to the code of ethics under part III of chapter 112, including, but not limited to, the code of ethics and public disclosure and reporting of financial interests, pursuant to s. 112.3145. For purposes of applying part III of chapter 112 to activities of members of the board of directors, those persons are considered public officers and the corporation is considered their agency. Notwithstanding s. 112.3143(2), a board member may not vote on any measure that he or she knows would inure to his or her special private gain or loss; that he or she knows would inure to the special private gain or loss of any principal by which he or she is retained, other than an agency as defined in s. 112.312; or that he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer. Before the vote is taken, such member shall publicly state to the board the nature of his or her interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public

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record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.

(5) Notwithstanding s. 112.3148, s. 112.3149, or any other law, a board member may not knowingly accept, directly or indirectly, any gift or expenditure from a person or entity, or an employee or representative of such person or entity, which has a contractual relationship with the corporation or which is under consideration for a contract.

(6) A board member who fails to comply with subsection (4) or subsection (5) is subject to the penalties provided under ss. 112.317 and 112.3173.

Section 46. Section 633.1423, Florida Statutes, is created to read:

633.1423 State Fire Marshal direct-support organization.—

(1) DEFINITION.—As used in this section, the term “organization” means the direct-support organization established under this section.

(2) ORGANIZATION ESTABLISHED.—The division may establish a direct-support organization, to be known as the “State Fire Marshal Safety and Training Force,” whose sole purpose is to support the safety and training of firefighters and to recognize exemplary service. The organization must:

(a) Be a not-for-profit corporation incorporated under chapter 617 and approved by the Department of State.

(b) Be organized and operated to raise funds; request and receive grants, gifts, and bequests of money; conduct programs and activities; acquire, receive, hold, invest, and administer, in its own name, securities, funds, or property; and make grants

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and expenditures to or for the direct or indirect benefit of the division. Grants and expenditures may include the cost of education or training of firefighters, or the recognition of exemplary service of firefighters.

(c) Be determined by the division to operate in a manner that is:

1. Consistent with the goals of the division and laws relating to the safety and training of firefighters.

2. In the best interest of the state.

3. In accordance with the adopted goals and mission of the division.

(d) Use all of its grants and expenditures solely for the purpose of educating, training, and recognizing firefighters, and not for advertising using the likeness or name of any elected official nor for the purpose of lobbying as defined in s. 11.045(1).

(e) Be subject to an annual financial audit in accordance with s. 215.981.

(3) CONTRACT.—The organization shall operate under written contract with the division. The contract must provide for:

(a) Certification by the division that the organization is complying with the terms of the contract and in a manner consistent with the goals and purposes of the department and in the best interest of the state. Such certification must be made annually and reported in the official minutes of a meeting of the organization.

(b) The reversion of moneys and property held by the organization for firefighter safety, training, and recognition to the division if the organization is no longer approved to

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operate by the division or if the organization ceases to exist,
or to the state if the division ceases to exist.

(4) BOARD OF DIRECTORS.—The organization shall be governed
by a board of directors. The State Fire Marshal, or his or her
designee, shall appoint a president of the board. The board of
directors shall be appointed by the president of the board.

(5) USE OF PROPERTY.—The division may authorize, without
charge, appropriate use of fixed property and facilities of the
division by the organization, subject to this subsection.

(a) The department may prescribe any condition with which
the organization must comply in order to use the division's
property or facilities.

(b) The department may not authorize the use of the
division's property or facilities if the organization does not
provide equal membership and employment opportunities to all
persons regardless of race, religion, sex, age, or national
origin.

(c) The department shall adopt rules prescribing the
procedures by which the organization is governed and any
conditions with which the organization must comply to use the
division's property or facilities.

(6) DEPOSITORY ACCOUNT.—Any moneys received by the
organization may be held in a separate depository account in the
name of the organization and subject to the contract with the
division.

(7) ANNUAL BUDGETS AND REPORTS.—The organization shall
submit to the division its annual budget and financial reports,
its federal Internal Revenue Service Application for Recognition
of Exemption Form 1023, and its federal Internal Revenue Service

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Return of Organization Exempt from Income Tax Form 990.

(8) ANNUAL AUDIT.—The organization shall provide for an
annual financial audit in accordance with s. 215.981.

(9) DIVISION'S RECEIPT OF PROCEEDS.—Proceeds received by
the division from the organization shall be deposited into the
Insurance Regulatory Trust Fund.

Section 47. Section 634.181, Florida Statutes, is amended
to read:

634.181 Grounds for compulsory refusal, suspension, or
revocation of license or appointment of salespersons.—

(1) The department shall deny, suspend, revoke, or refuse
to renew or continue the license or appointment of any such
salesperson if it finds that as to the salesperson any one or
more of the following applicable grounds exist:

(a) ~~(1)~~ Material misstatement, misrepresentation, or fraud
in obtaining or attempting to obtain the license or appointment.

(b) ~~(2)~~ If the license or appointment is willfully used, or
to be used, to circumvent any of the requirements or
prohibitions of this part, any applicable provision of the
Florida Insurance Code, or rule of the department or commission.

(c) ~~(3)~~ Willful misrepresentation of any service agreement
or willful deception with regard to any agreement, done either
in person or by any form of dissemination of information or
advertising.

(d) ~~(4)~~ If in the adjustment of claims arising out of
service agreements, she or he has materially misrepresented to a
service agreement holder or other interested party the terms and
coverage of a service agreement with intent and for the purpose
of effecting settlement of the claim on less favorable terms

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than those provided in and contemplated by the service agreement.

~~(e)(5)~~ For demonstrated lack of fitness or trustworthiness to engage in the service agreement business.

~~(f)(6)~~ For demonstrated lack of adequate knowledge and technical competence to engage in the transactions authorized by the license or appointment.

~~(g)(7)~~ Fraudulent or dishonest practices in the conduct of business under the license or appointment.

~~(h)(8)~~ Misappropriation, conversion, or unlawful withholding of moneys belonging to a service agreement company, insurer, or service agreement holder or to others and received in the conduct of business under the license or appointment.

~~(i)(9)~~ For unlawfully rebating, or attempt thereat, or for unlawfully dividing or offering to divide her or his commission with another.

~~(j)(10)~~ Willful failure to comply with, or willful violation of any proper order of the department or office, or willful violation of any provision of this part, or of any applicable provision of the insurance code, or applicable rule of the department or commission.

~~(k)(11)~~ Having been found guilty of, or having pleaded guilty or nolo contendere to, a felony or a crime punishable by imprisonment of 1 year or more under the law of the United States of America or any state thereof or under the law of any other country which involves moral turpitude, without regard to whether a judgment of conviction has been entered by the court having jurisdiction of the cases.

~~(l)(12)~~ Failure to refund unearned pro rata commission to

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the agreement holder or the service agreement company, if the service agreement company is making a full unearned pro rata refund to the agreement holder.

(m) Having been the subject of, or having had a license, permit, appointment, registration, or other authority to conduct business subject to, any decision, finding, injunction, suspension, prohibition, revocation, denial, judgment, final agency action, or administrative order by any court of competent jurisdiction, administrative law proceeding, state agency, federal agency, national securities, commodities, or options exchange, or national securities, commodities, or options association involving a violation of any federal or state securities or commodities law or any rule or regulation adopted thereunder, or a violation of any rule or regulation of any national securities, commodities, or options exchange or national securities, commodities, or options association.

(2) When a licensee is charged with a felony enumerated in s. 626.207(2), the department shall, immediately upon receipt of information on or indictment for the felony, temporarily suspend a license or appointment issued under this chapter. Such suspension shall continue if the licensee is found guilty of, or pleads guilty or nolo contendere to, the crime, regardless of whether a judgment or conviction is entered, during a pending appeal. A person may not transact insurance business after suspension of his or her license or appointment.

(3) The department may adopt rules to administer this section.

Section 48. Section 634.191, Florida Statutes, is amended to read:

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634.191 Grounds for discretionary refusal, suspension, or revocation of license or appointment of salespersons.—

(1) The department may, in its discretion, deny, suspend, revoke, or refuse to renew or continue the license or appointment of any salesperson if it finds that as to the salesperson any one or more of the following applicable grounds exist under circumstances for which such denial, suspension, revocation, or refusal is not mandatory under s. 634.181:

(a) ~~(1)~~ For any cause for which granting of the license or appointment could have been refused had it then existed and been known to the department.

(b) ~~(2)~~ Violation of any provision of this part or of any other law applicable to the business of service agreements in the course of dealings under the license or appointment.

(c) ~~(3)~~ Violation of ~~Has violated~~ any lawful order or rule of the department or commission.

(d) ~~(4)~~ Failure or refusal, upon demand, to pay over to any company or insurer the salesperson represents or has represented any money coming into her or his hands belonging to the company or insurer.

(e) ~~(5)~~ If, in the conduct of business under the license or appointment, the salesperson has engaged in unfair methods of competition or in unfair or deceptive acts or practices, as such methods, acts, or practices are or may be defined under this part, or has otherwise shown herself or himself to be a source of injury or loss to the public or detrimental to the public interest.

(f) ~~(6)~~ Failure to report to the department within 30 days the final disposition of an administrative action taken against

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a salesperson by a governmental agency or other regulatory agency in this state or any other state or jurisdiction relating to the business of insurance, the sale of securities, or an activity involving fraud, dishonesty, trustworthiness, or breach of a fiduciary duty. The salesperson must submit a copy of the order, consent to order, or other relevant legal documents to the department ~~Having been found guilty of, or having pleaded guilty or nolo contendere to, a felony or a crime punishable by imprisonment of 1 year or more under the law of the United States of America or any state thereof or under the law of any other country, without regard to whether a judgment of conviction has been entered by the court having jurisdiction of the cases.~~

(2) The department may adopt rules to administer this section.

Section 49. Section 634.318, Florida Statutes, is amended to read:

634.318 License and appointment of sales representatives.—

(1) Sales representatives for home warranty associations and insurers shall be licensed, appointed, renewed, continued, reinstated, or terminated in the same manner as prescribed in chapter 626 for insurance representatives in general, except they shall be exempt from the fingerprinting, photo identification card, education, and examination provisions. License, appointment, and other fees shall be those as prescribed in s. 624.501. No employee or sales representative of a home warranty association or insurer may directly or indirectly solicit or negotiate insurance contracts, or hold herself or himself out in any manner to be an insurance agent,

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unless so qualified, licensed, and appointed therefor under the insurance code. A home warranty association is not required to be licensed as a sales representative to solicit, sell, issue, or otherwise transact the home warranty agreements issued by the home warranty association.

(2) The department may issue a license to a nonresident applicant if the applicant is licensed as a sales representative for home warranty associations and insurers in the applicant's home state. The department shall verify the nonresident applicant's licensing status, if available, through the Producer Database maintained by the National Association of Insurance Commissioners, its affiliates, or subsidiaries. A nonresident sales representative for home warranty associations and insurers shall at all times while licensed in this state maintain the sales representative's home state license as a sales representative for home warranty associations and insurers. A nonresident sales representative for home warranty and insurers shall notify the department of any lapse, suspension, or revocation of the sales representative's home state license within 5 days after the lapse, suspension, or revocation. The nonresident license shall expire by operation of law on day 31 if the licensee does not have a valid home state license for a period of 30 days.

(3) Upon becoming a resident of this state, an individual who holds a Florida nonresident sales representative for home warranty associations and insurers license may, for a period not to exceed 90 days, continue to transact in this state under the nonresident license. Such individual must apply for resident licensure and must become licensed as a resident sales

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representative for home warranty associations and insurers within 90 days after becoming a resident of this state.

Section 50. Section 634.320, Florida Statutes, is amended to read:

634.320 Grounds for compulsory refusal, suspension, or revocation of license or appointment of sales representatives.—

(1) The department shall deny, suspend, revoke, or refuse to renew or continue the license or appointment of any sales representative if it is found that any one or more of the following grounds applicable to the sales representative exist:

(a) ~~(1)~~ Material misstatement, misrepresentation, or fraud in obtaining or attempting to obtain a license or appointment.

(b) ~~(2)~~ The license or appointment is willfully used, or to be used, to circumvent any of the requirements or prohibitions of this part.

(c) ~~(3)~~ Willful misrepresentation of any warranty contract or willful deception with regard to any such contract, done either in person or by any form of dissemination of information or advertising.

(d) ~~(4)~~ In the adjustment of claims arising out of warranties, material misrepresentation to a warranty holder or other interested party of the terms and coverage of a contract, with the intent and for the purpose of effecting settlement of such claim on less favorable terms than those provided in and contemplated by the contract.

(e) ~~(5)~~ Demonstrated lack of fitness or trustworthiness to engage in the business of home warranty.

(f) ~~(6)~~ Demonstrated lack of adequate knowledge and technical competence to engage in the transactions authorized by

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2263 the license or appointment.

2264 (g)(7) Fraudulent or dishonest practices in the conduct of

2265 business under the license or appointment.

2266 (h)(8) Misappropriation, conversion, or unlawful

2267 withholding of moneys belonging to an association, insurer, or

2268 warranty holder, or to others, and received in the conduct of

2269 business under the license or appointment.

2270 (i)(9) Unlawfully rebating, or attempting to unlawfully

2271 rebate, or unlawfully dividing, or offering to divide, her or

2272 his commission with another.

2273 (j)(10) Willful failure to comply with, or willful

2274 violation of, any proper order or rule of the department or

2275 commission or willful violation of any provision of this part.

2276 (k)(11) Being found guilty of or pleading guilty or nolo

2277 contendere to a felony or a crime punishable by imprisonment of

2278 1 year or more under the law of the United States of America or

2279 any state thereof or under the law of any other country

2280 ~~involving moral turpitude~~, without regard to whether judgment of

2281 conviction has been entered by the court.

2282 (l) Having been the subject of, or having had a license,

2283 permit, appointment, registration, or other authority to conduct

2284 business subject to, any decision, finding, injunction,

2285 suspension, prohibition, revocation, denial, judgment, final

2286 agency action, or administrative order by any court of competent

2287 jurisdiction, administrative law proceeding, state agency,

2288 federal agency, national securities, commodities, or options

2289 exchange, or national securities, commodities, or options

2290 association involving a violation of any federal or state

2291 securities or commodities law or any rule or regulation adopted

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2292 thereunder, or a violation of any rule or regulation of any

2293 national securities, commodities, or options exchange or

2294 national securities, commodities, or options association.

2295 (2) When a licensee is charged with a felony enumerated in

2296 s. 626.207(2), the department shall, immediately upon receipt of

2297 information on or indictment for the felony, temporarily suspend

2298 a license or appointment issued under this chapter. Such

2299 suspension shall continue if the licensee is found guilty of, or

2300 pleads guilty or nolo contendere to, the crime, regardless of

2301 whether a judgment or conviction is entered, during a pending

2302 appeal. A person may not transact insurance business after

2303 suspension of his or her license or appointment.

2304 (3) The department may adopt rules to administer this

2305 section.

2306 Section 51. Section 634.321, Florida Statutes, is amended

2307 to read:

2308 634.321 Grounds for discretionary refusal, suspension, or

2309 revocation of license or appointment of sales representatives.—

2310 (1) The department may, in its discretion, deny, suspend,

2311 revoke, or refuse to renew or continue the license or

2312 appointment of any sales representative if it is found that any

2313 one or more of the following grounds applicable to the sales

2314 representative exist under circumstances for which such denial,

2315 suspension, revocation, or refusal is not mandatory under s.

2316 634.320:

2317 (a)(1) Any cause for which granting of the license or

2318 appointment could have been refused had it then existed and been

2319 known to the department.

2320 (b)(2) Violation of any provision of this part, or of any

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2321 other law applicable to the business of warranties, in the
 2322 course of dealings under the license or appointment.
 2323 ~~(c)(3)~~ Violation of any lawful order or rule of the
 2324 department or commission.
 2325 ~~(d)(4)~~ Failure or refusal to pay over, upon demand, to any
 2326 home warranty association or insurer the sales representative
 2327 represents or has represented any money coming into her or his
 2328 hands which belongs to the association or insurer.
 2329 ~~(e)(5)~~ In the conduct of business under the license or
 2330 appointment, engaging in unfair methods of competition or in
 2331 unfair or deceptive acts or practices, as such methods, acts, or
 2332 practices are or may be defined under this part, or otherwise
 2333 showing herself or himself to be a source of injury or loss to
 2334 the public or detriment to the public interest.
 2335 ~~(f)(6)~~ Failure to report to the department within 30 days
 2336 the final disposition of an administrative action taken against
 2337 a sales representative by a governmental agency or other
 2338 regulatory agency in this state or any other state or
 2339 jurisdiction relating to the business of insurance, the sale of
 2340 securities, or an activity involving fraud, dishonesty,
 2341 trustworthiness, or breach of a fiduciary duty. The sales
 2342 representative must submit a copy of the order, consent to
 2343 order, or other relevant legal documents to the department ~~Being~~
 2344 ~~found guilty of or pleading guilty or nolo contendere to a~~
 2345 ~~felony or a crime punishable by imprisonment of 1 year or more~~
 2346 ~~under the law of the United States of America or any state~~
 2347 ~~thereof or under the law of any other country, without regard to~~
 2348 ~~whether a judgment of conviction has been entered by the court.~~
 2349 (2) The department may adopt rules to administer this

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2350 section.
 2351 Section 52. Paragraphs (d), (e), and (f) of subsection (17)
 2352 of section 634.401, Florida Statutes, are amended to read:
 2353 634.401 Definitions.—As used in this part, the term:
 2354 (17) "Manufacturer" means any entity or its affiliate
 2355 which:
 2356 ~~(d) Maintains outstanding debt obligations, if any, rated~~
 2357 ~~in the top four rating categories by a recognized rating~~
 2358 ~~service;~~
 2359 ~~(d)(e)~~ Has and maintains at all times, a minimum net worth
 2360 of at least \$100 ~~\$10~~ million as evidenced by certified financial
 2361 statements prepared by an independent certified public
 2362 accountant in accordance with generally accepted accounting
 2363 principles; and
 2364 ~~(e)(f)~~ Is authorized to do business in this state.
 2365 Section 53. Paragraph (a) of subsection (7) of section
 2366 634.406, Florida Statutes, is amended to read:
 2367 634.406 Financial requirements.—
 2368 (7) An association licensed under this part and holding no
 2369 other license under part I or part II of this chapter is not
 2370 required to establish an unearned premium reserve or maintain
 2371 contractual liability insurance and may allow its premiums to
 2372 exceed the ratio to net assets limitation of this section if the
 2373 association complies with the following:
 2374 (a) The association or, if the association is a direct or
 2375 indirect wholly owned subsidiary of a parent corporation, its
 2376 parent corporation has, and maintains at all times, a minimum
 2377 net worth of at least \$100 million and provides the office with
 2378 the following:

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1. A copy of the association's annual audited financial statements or the audited consolidated financial statements of the association's parent corporation, prepared by an independent certified public accountant in accordance with generally accepted accounting principles, which clearly demonstrate the net worth of the association or its parent corporation to be \$100 million and a quarterly written certification to the office that such entity continues to maintain the net worth required under this paragraph.

2. The association's, or its parent corporation's, Form 10-K, Form 10-Q, or Form 20-F as filed with the United States Securities and Exchange Commission or such other documents required to be filed with a recognized stock exchange, which shall be provided on a quarterly and annual basis within 10 days after the last date each such report must be filed with the Securities and Exchange Commission, the National Association of Security Dealers Automated Quotation system, or other recognized stock exchange.

Failure to timely file the documents required under this paragraph may, at the discretion of the office, subject the association to suspension or revocation of its license under this part. ~~An association or parent corporation demonstrating compliance with subparagraphs 1. and 2. must maintain outstanding debt obligations, if any, rated in the top four rating categories by a recognized rating service.~~

Section 54. Section 634.419, Florida Statutes, is amended to read:

634.419 License and appointment required.—No person or

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entity shall solicit, negotiate, advertise, or effectuate service warranty contracts in this state unless such person or entity is licensed and appointed as a sales representative. Sales representatives shall be responsible for the actions of persons under their supervision. However, a service warranty association licensed as such under this part shall not be required to be licensed and appointed as a sales representative to solicit, negotiate, advertise, or effectuate its products. Sections 501.021-501.055 do not apply to persons or entities licensed and appointed under this section, or their affiliates, which solicit the sale of a service warranty or related service or product in connection with a prearranged appointment at the request of the consumer.

Section 55. Section 634.420, Florida Statutes, is amended to read:

634.420 License and appointment of sales representatives.—

(1) Sales representatives for service warranty associations or insurers shall be licensed, appointed, renewed, continued, reinstated, or terminated in accordance with procedures as prescribed in chapter 626 for insurance representatives in general. However, they shall be exempt from all other provisions of chapter 626, including fingerprinting, photo identification, education, and examination. License, appointment, and other fees shall be those prescribed in s. 624.501. A licensed and appointed sales representative shall be directly responsible and accountable for all acts of the licensed sales representative's employees or other representatives. Each service warranty association or insurer shall, on forms prescribed by the department, within 30 days after termination of the appointment,

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2437 notify the department of such termination. No employee or sales
 2438 representative of a service warranty association or insurer may
 2439 directly or indirectly solicit or negotiate insurance contracts,
 2440 or hold herself or himself out in any manner to be an insurance
 2441 agent, unless so qualified, licensed, and appointed therefor
 2442 under the insurance code.

2443 (2) The department may issue a license to a nonresident
 2444 applicant if the applicant is licensed as a sales representative
 2445 for service warranty associations and insurers in the
 2446 applicant's home state. The department shall verify the
 2447 nonresident applicant's licensing status, if available, through
 2448 the Producer Database maintained by the National Association of
 2449 Insurance Commissioners, its affiliates, or subsidiaries. A
 2450 nonresident sales representative for service warranty
 2451 associations and insurers shall at all times while licensed in
 2452 this state maintain the sales representative's home state
 2453 license as a sales representative for service warranty
 2454 associations and insurers. A nonresident sales representative
 2455 for service warranty associations and insurers shall notify the
 2456 department of any lapse, suspension, or revocation of the sales
 2457 representative's home state license within 5 days after the
 2458 lapse, suspension, or revocation. The nonresident license shall
 2459 expire by operation of law on day 31 if the licensee does not
 2460 have a valid home state license for a period of 30 days.

2461 (3) Upon becoming a resident of this state, an individual
 2462 who holds a Florida nonresident sales representative for service
 2463 warranty associations and insurers license may, for a period not
 2464 to exceed 90 days, continue to transact in this state under the
 2465 nonresident license. Such individual must apply for resident

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2466 licensure and must become licensed as a resident sales
 2467 representative for service warranty associations and insurers
 2468 within 90 days after becoming a resident of this state.

2469 Section 56. Section 634.422, Florida Statutes, is amended
 2470 to read:

2471 634.422 Grounds for compulsory refusal, suspension, or
 2472 revocation of license or appointment of sales representatives.—

2473 (1) The department shall deny, suspend, revoke, or refuse
 2474 to renew or continue the license or appointment of any sales
 2475 representative if it is found that any one or more of the
 2476 following grounds applicable to the sales representative exist:

2477 (a) (1) Material misstatement, misrepresentation, or fraud
 2478 in obtaining or attempting to obtain a license or appointment.

2479 (b) (2) The license or appointment is willfully used, or to
 2480 be used, to circumvent any of the requirements or prohibitions
 2481 of this part.

2482 (c) (3) Willful misrepresentation of any service warranty
 2483 contract or willful deception with regard to any such contract,
 2484 done either in person or by any form of dissemination of
 2485 information or advertising.

2486 (d) (4) In the adjustment of claims arising out of
 2487 warranties, material misrepresentation to a service warranty
 2488 holder or other interested party of the terms and coverage of a
 2489 contract with the intent and for the purpose of effecting
 2490 settlement of the claim on less favorable terms than those
 2491 provided in and contemplated by the contract.

2492 (e) (5) Demonstrated lack of fitness or trustworthiness to
 2493 engage in the business of service warranty.

2494 (f) (6) Demonstrated lack of adequate knowledge and

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technical competence to engage in the transactions authorized by the license or appointment.

(g) ~~(7)~~ Fraudulent or dishonest practices in the conduct of business under the license or appointment.

(h) ~~(8)~~ Misappropriation, conversion, or unlawful withholding of moneys belonging to an association, insurer, or warranty holder, or to others, and received in the conduct of business under the license or appointment.

(i) ~~(9)~~ Unlawfully rebating, or attempting to unlawfully rebate, or unlawfully dividing, or offering to divide, her or his commission with another.

(j) ~~(10)~~ Willful failure to comply with, or willful violation of, any proper order or rule of the department or commission, or willful violation of any provision of this part.

(k) ~~(11)~~ Being found guilty of or pleading nolo contendere to a felony or a crime punishable by imprisonment of 1 year or more under the law of the United States of America or any state thereof or under the law of any other country involving moral turpitude, without regard to whether judgment of conviction has been entered by the court having jurisdiction of the case.

(l) Having been the subject of, or having had a license, permit, appointment, registration, or other authority to conduct business subject to, any decision, finding, injunction, suspension, prohibition, revocation, denial, judgment, final agency action, or administrative order by any court of competent jurisdiction, administrative law proceeding, state agency, federal agency, national securities, commodities, or options exchange, or national securities, commodities, or options association involving a violation of any federal or state

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securities or commodities law or any rule or regulation adopted thereunder, or a violation of any rule or regulation of any national securities, commodities, or options exchange or national securities, commodities, or options association.

(2) When a licensee is charged with a felony enumerated in s. 626.207(2), the department shall, immediately upon receipt of information on or indictment for the felony, temporarily suspend a license or appointment issued under this chapter. Such suspension shall continue if the licensee is found guilty of, or pleads guilty or nolo contendere to, the crime, regardless of whether a judgment or conviction is entered, during a pending appeal. A person may not transact insurance business after suspension of his or her license or appointment.

(3) The department may adopt rules to administer this section.

Section 57. Section 634.423, Florida Statutes, is amended to read:

634.423 Grounds for discretionary refusal, suspension, or revocation of license or appointment of sales representatives.—

(1) The department may deny, suspend, revoke, or refuse to renew or continue the license or appointment of any sales representative if it is found that any one or more of the following grounds applicable to the sales representative exist under circumstances for which such denial, suspension, revocation, or refusal is not mandatory under s. 634.422:

(a) ~~(1)~~ Any cause for which granting of the license or appointment could have been refused had it then existed and been known to the department.

(b) ~~(2)~~ Violation of any provision of this part, or of any

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2553 other law applicable to the business of service warranties, in
 2554 the course of dealings under the license or appointment.
 2555 ~~(c)(3)~~ Violation of any lawful order or rule of the
 2556 department or commission.
 2557 ~~(d)(4)~~ Failure or refusal to pay over, upon demand, to any
 2558 service warranty association or insurer the sales representative
 2559 represents or has represented any money coming into her or his
 2560 hands which belongs to the association or insurer.
 2561 ~~(e)(5)~~ In the conduct of business under the license or
 2562 appointment, engaging in unfair methods of competition or in
 2563 unfair or deceptive acts or practices, as such methods, acts, or
 2564 practices are or may be defined under this part, or otherwise
 2565 showing herself or himself to be a source of injury or loss to
 2566 the public or detriment to the public interest.
 2567 ~~(f)(6)~~ Failure to report to the department within 30 days
 2568 the final disposition of an administrative action taken against
 2569 a sales representative by a governmental agency or other
 2570 regulatory agency in this state or any other state or
 2571 jurisdiction relating to the business of insurance, the sale of
 2572 securities, or an activity involving fraud, dishonesty,
 2573 trustworthiness, or breach of a fiduciary duty. The sales
 2574 representative must submit a copy of the order, consent to
 2575 order, or other relevant legal documents to the department ~~Being~~
 2576 ~~found guilty of or pleading guilty or nolo contendere to a~~
 2577 ~~felony or a crime punishable by imprisonment of 1 year or more~~
 2578 ~~under the law of the United States of America or any state~~
 2579 ~~thereof or under the law of any other country, without regard to~~
 2580 ~~whether judgment of conviction has been entered by the court~~
 2581 ~~having jurisdiction of such case.~~

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2582 (2) The department may adopt rules to administer this
 2583 section.
 2584 Section 58. Section 648.25, Florida Statutes, is reordered
 2585 and amended to read:
 2586 648.25 Definitions.—As used in this chapter, the term:
 2587 (1) "Appointment" means the authority given by an insurer
 2588 or the managing general agent of an insurer through the
 2589 department to a licensee to transact insurance or adjust claims
 2590 on behalf of the insurer or managing general agent.
 2591 (2)(1) "Bail bond agency" means:
 2592 (a) The building where a licensee maintains an office and
 2593 where all records required by ss. 648.34 and 648.36 are
 2594 maintained; or
 2595 (b) An entity that:
 2596 1. Charges a fee or premium to release an accused defendant
 2597 or detainee from jail; or
 2598 2. Engages in or employs others to engage in any activity
 2599 that may be performed only by a licensed and appointed bail bond
 2600 agent.
 2601 ~~(3)(2)~~ "Bail bond agent" means a limited surety agent or a
 2602 professional bail bond agent as hereafter defined.
 2603 ~~(7)(3)~~ "Managing general agent" means any individual,
 2604 partnership, association, or corporation appointed or employed
 2605 by an insurer to supervise or manage the bail bond business
 2606 written in this state by limited surety agents appointed by the
 2607 insurer.
 2608 ~~(5)(4)~~ "Insurer" means any domestic, foreign, or alien
 2609 surety company which has been authorized to transact surety
 2610 business in this state.

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~~(6)(5)~~ "Limited surety agent" means any individual appointed by an insurer by power of attorney to execute or countersign bail bonds in connection with judicial proceedings who receives or is promised money or other things of value therefor.

~~(4)(6)~~ "Primary Bail bond agent in charge" means a licensed bail bond agent who is responsible for the overall operation and management of a bail bond agency location and whose responsibilities include hiring and supervising all individuals within that location. A bail bond agent may be designated as the primary bail bond agent in charge for only one bail bond agency location.

~~(8)(7)~~ "Professional bail bond agent" means any person who pledges United States currency, United States postal money orders, or cashier's checks as security for a bail bond in connection with a judicial proceeding and receives or is promised therefor money or other things of value.

~~(9)(8)~~ "Temporary bail bond agent" means a person licensed before January 1, 2024, who is employed by a bail bond agent or agency, insurer, or managing general agent, and such licensee has the same authority as a licensed bail bond agent, including presenting defendants in court; apprehending, arresting, and surrendering defendants to the proper authorities, while accompanied by a supervising bail bond agent or an agent from the same agency; and keeping defendants under necessary surveillance. However, a temporary licensee may not execute or sign bonds, handle collateral receipts, or deliver bonds to appropriate authorities. A temporary licensee may not operate an agency or branch agency separate from the location of the

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supervising bail bond agent, managing general agent, or insurer by whom the licensee is employed. This does not affect the right of a bail bond agent or insurer to hire counsel or to obtain the assistance of law enforcement officers. A temporary bail bond agent license expires 18 months after issuance and is no longer valid on or after June 30, 2025.

Section 59. Subsection (3) of section 648.26, Florida Statutes, is amended to read:

648.26 Department of Financial Services; administration.—

(3) The papers, documents, reports, or any other investigatory records of the department are confidential and exempt from ~~the provisions of~~ s. 119.07(1) until such investigation is completed or ceases to be active. For the purpose of this section, an investigation is considered active ~~"active"~~ while the investigation is being conducted by the department with a reasonable, good faith belief that it may lead to the filing of administrative, civil, or criminal proceedings. An investigation does not cease to be active if the department is proceeding with reasonable dispatch and there is good faith belief that action may be initiated by the department or other administrative or law enforcement agency. This subsection does not prevent the department or office from disclosing the content of a complaint or such information as it deems necessary to conduct the investigation, to update the complainant as to the status and outcome of the complaint, or to share such information with any law enforcement agency or other regulatory body.

Section 60. Subsection (5) of section 648.27, Florida Statutes, is amended to read:

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2669 648.27 Licenses and appointments; general.—

2670 (5)(a) The license of a bail bond agent shall continue in
2671 force, without further examination unless deemed necessary by
2672 the department, until suspended, revoked, or otherwise
2673 terminated.

2674 ~~(b) The license of a temporary bail bond agent shall~~
2675 ~~continue in force until suspended, revoked, or otherwise~~
2676 ~~terminated.~~

2677 Section 61. Section 648.285, Florida Statutes, is amended
2678 to read:

2679 648.285 Bond agency; ownership requirements; applications
2680 for bail bond agency licenses.—

2681 (1) A person may not own, control, manage, or otherwise
2682 have a pecuniary interest in a bail bond agency unless such
2683 individual is a licensed pursuant to s. 648.27, ~~and~~ appointed
2684 through the department, and actively engaged as a bail bond
2685 agent for at least the preceding 24 months. Any agency that is
2686 not in compliance with this subsection ~~is shall be~~ subject to
2687 the issuance of an immediate final order of suspension of its
2688 license and all operations until the agency achieves compliance.

2689 (2) Effective January 1, 2024, the department may issue a
2690 bail bond agency license to any person only after such person
2691 files a written application with the department and qualifies
2692 for such license.

2693 (3) An application for a bail bond agency license must be
2694 signed by an individual required to be listed in the application
2695 under paragraph (a). A bail bond agency license may permit a
2696 third party to complete, submit, and sign an application on the
2697 bail bond agency's behalf; however, the bail bond agency is

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2698 responsible for ensuring that the information on the application
2699 is true and correct, and the bail bond agency is accountable for
2700 any misstatements or misrepresentations. The application for a
2701 bail bond agency license must include:

2702 (a) The name and license number of each owner, partner,
2703 officer, director, president, senior vice president, secretary,
2704 treasurer, and limited liability company member who directs or
2705 participates in the management or control of the bail bond
2706 agency, whether through ownership of voting securities, by
2707 contract, by ownership of any agency bank account, or otherwise.

2708 (b) The residence address of each person required to be
2709 listed in the application under paragraph (a).

2710 (c) The name, principal business street address, and valid
2711 e-mail address of the bail bond agency and the name, address,
2712 and e-mail address of the agency's registered agent or person or
2713 company authorized to accept service on behalf of the bail bond
2714 agency.

2715 (d) The physical address of each branch bail bond agency,
2716 including its name, e-mail address, and telephone number, and
2717 the date that the branch location began transacting bail bond
2718 business.

2719 (e) The name of the full-time bail bond agent in charge of
2720 the agency office, including branch locations, and his or her
2721 corresponding location.

2722 (f) Such additional information as the department requires
2723 by rule to ascertain the trustworthiness and competence of
2724 persons required to be listed on the application and to
2725 ascertain that such persons meet the requirements of this code.
2726 However, the department may not require that credit or character

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reports be submitted for persons required to be listed on the application.

(4) The department must issue a license to each agency upon approval of the application, and each agency location must display the license prominently in a manner that makes it clearly visible to any customer or potential customer who enters the agency location.

(5) A bail bond agency that holds a current and valid registration number with the department shall have its registration automatically converted to a license on July 1, 2024.

(6) Section 112.011 does not apply to bail bond agencies or to applicants for licensure as owners of bail bond agencies.

(7)(2) If the owner of a bail bond agency dies or becomes mentally incapacitated, a personal representative or legal guardian may be issued a temporary permit to manage the affairs of the bail bond agency. Such person must appoint or maintain the appointment of a ~~primary~~ bail bond agent in charge, as provided in s. 648.387, and may not engage in any activities as a licensed bail bond agent but must comply with s. 648.387 during the administration of the estate or guardianship. A temporary permit is valid for a maximum of 24 months.

(8)(3) Application for a temporary permit must be made by the personal representative or legal guardian upon statements and affidavits filed with the department on forms prescribed and furnished by it. The applicant must meet the qualifications for licensure as a bail bond agent, except for the residency, examination, education, and experience requirements.

Section 62. Subsection (1) of section 648.30, Florida

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Statutes, is amended to read:

648.30 Licensure and appointment required; prohibited acts; penalties.—

(1) (a) A person ~~or entity~~ may not act in the capacity of a bail bond agent or ~~temporary~~ bail bond ~~agency agent~~ or perform any of the functions, duties, or powers prescribed for bail bond agents or ~~temporary~~ bail bond ~~agencies agents~~ under this chapter unless that person ~~or entity~~ is qualified, licensed, and appointed as provided in this chapter and employed by a bail bond agency.

(b) A bail bond agent may not sell a bail bond issued by an insurer for which the agent and the agent's bail bond agency do not hold a current appointment.

(c) Except as otherwise provided in this part, a person or entity, other than a bail bond agency or an employee of a bail bond agency, may not perform any of the functions of a bail bond agency without a bail bond agency license.

Section 63. Section 648.31, Florida Statutes, is amended to read:

648.31 Appointment taxes and fees.—The department shall collect in advance all appointment taxes and fees for the issuance of any appointment to a bail bond agent or temporary bail bond ~~agency agent~~, as provided in s. 624.501.

Section 64. Subsection (2) of section 648.34, Florida Statutes, is amended to read:

648.34 Bail bond agents; qualifications.—

(2) To qualify as a bail bond agent, it must affirmatively appear at the time of application and throughout the period of licensure that the applicant ~~has complied with the provisions of~~

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~~s. 648.355 and has obtained a temporary license pursuant to such section and:~~

(a) ~~The applicant~~ Is a natural person who has reached the age of 18 years and holds a high school diploma or its equivalent.

(b) ~~The applicant~~ Is a United States citizen or legal alien who possesses work authorization from the United States Bureau of Citizenship and Immigration Services and is a resident of this state. An individual who is a resident of this state shall be deemed to meet the residence requirement of this paragraph, notwithstanding the existence, at the time of application for license, of a license in the applicant's name on the records of another state as a resident licensee of such other state, if the applicant furnishes a letter of clearance satisfactory to the department that his or her resident licenses have been canceled or changed to a nonresident basis and that he or she is in good standing.

(c) Will maintain his or her ~~The place of business of the applicant will be located~~ in this state and in the county where the applicant will maintain his or her records and be actively engaged in the bail bond business and work with a licensed ~~maintain an~~ agency accessible to the public which is open for reasonable business hours.

(d) ~~The applicant~~ Is vouched for and recommended upon sworn statements filed with the department by at least three reputable citizens who are residents of the same counties in which the applicant proposes to engage in the bail bond business.

(e) ~~The applicant~~ Is a person of high character and approved integrity and has not been convicted of or pleaded

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guilty or no contest to a felony, a crime involving moral turpitude, or a crime punishable by imprisonment of 1 year or more under the law of any state, territory, or country, whether or not a judgment or conviction has been entered.

(f) Within 2 years immediately before applying for the license, has successfully completed a basic certification course in the criminal justice system which consists of at least 120 hours of classroom instruction with a passing grade of 80 percent or higher and has successfully completed a correspondence course for bail bond agents approved by the department.

(g) (f) ~~The applicant~~ Has passed any required examination. Section 65. Section 648.355, Florida Statutes, is amended to read:

648.355 Temporary limited license as Limited surety agents and agent or professional bail bond agents agent; qualifications pending examination.-

(1) The department may, in its discretion, issue a temporary license as a limited surety agent or professional bail bond agent, subject to the following conditions:

~~(a) The applicant is a natural person at least 18 years of age and holds a high school diploma or its equivalent.~~

~~(b) The applicant is a United States citizen or legal alien who possesses work authorization from the United States Bureau of Citizenship and Immigration Services and is a resident of this state. An individual who is a resident of this state shall be deemed to meet the residence requirement of this paragraph, notwithstanding the existence, at the time of application for temporary license, of a license in the individual's name on the~~

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records of another state as a resident licensee of such other state, if the applicant furnishes a letter of clearance satisfactory to the department that the individual's resident licenses have been canceled or changed to a nonresident basis and that the individual is in good standing.

(e) The applicant is a person of high character and approved integrity and has never been convicted of or pleaded guilty or no contest to a felony, a crime involving moral turpitude, or a crime punishable by imprisonment of 1 year or more under the law of any state, territory, or country, whether or not a judgment or conviction is entered.

(d) Within 4 years prior to the date of application for a temporary license, the applicant has successfully completed a basic certification course in the criminal justice system, consisting of not less than 120 hours of classroom instruction with a passing grade of 80 percent or higher and has successfully completed a correspondence course for bail bond agents approved by the department.

(e) The applicant must be employed full time at the time of licensure, and at all times throughout the existence of the temporary license, by only one licensed and appointed supervising bail bond agent, who supervises the work of the applicant and is responsible for the licensee's conduct in the bail bond business. The applicant must be appointed by the same insurers as the supervising bail bond agent. The supervising bail bond agent shall certify monthly to the department under oath, on a form prescribed by the department, the names and hours worked each week of all temporary bail bond agents. Filing a false certification is grounds for the immediate suspension of

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the license and imposition of a \$5,000 administrative fine. The department may adopt rules that establish standards for the employment requirements.

(f) The application must be accompanied by an affidavit verifying proposed employment and a report as to the applicant's integrity and moral character on a form prescribed by the department and executed by the proposed employer.

(g) The applicant must file with the department statements by at least three reputable citizens who are residents of the same counties in which the applicant proposes to engage as a temporary licensee.

(h) The applicant's employer is responsible for the bail bonding acts of any licensee under this section.

(2) All applicable license fees, as prescribed in s. 624.501, must be paid before issuance of the temporary license.

(3) The temporary license shall be effective for 18 months, subject to earlier termination at the request of the employer or if suspended or revoked by the department.

(4) The applicant shall furnish, with the application for temporary license, a complete set of the applicant's fingerprints in accordance with s. 626.171(4) and a recent credential-sized, fullface photograph of the applicant. The department may ~~shall~~ not issue a temporary license under this section until the department has received a report from the Department of Law Enforcement and the Federal Bureau of Investigation relative to the existence or nonexistence of a criminal history report based on the applicant's fingerprints.

(2) ~~(5)~~ The department may collect a fee necessary to cover the cost of a character and credit report made by an established

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and reputable independent reporting service. The fee shall be deposited to the credit of the Insurance Regulatory Trust Fund.

(3)(6) Effective July 1, 2023, any individual licensed by the department as a temporary bail bond agent may take the required bail bond agent's licensure examination, may file an application for a bail bond agent's license if otherwise qualified for licensure, and may take the required bail bond agent's licensure examination After licensure as a temporary licensee for at least 12 months, such licensee may file an application for and become eligible for a regular bail bond agent's license based on the licensee's experience in the bail bond business and education pursuant to paragraph (1)(d) and, if otherwise qualified, take the required bail bond agent's licensure examination. The applicant and supervising bail bond agent must each file an affidavit under oath, on a form prescribed by the department, verifying the required employment of the temporary agent before issuance of the license.

~~(7) In no event shall a temporary licensee licensed under this section perform any of the functions for which a bail bond agent's license is required after expiration of the temporary license without having passed the written examination as for a regular bail bond agent's license.~~

~~(8) (a) A temporary licensee has the same authority as a licensed bail bond agent, including presenting defendants in court, apprehending, arresting, and surrendering defendants to the proper authorities, and keeping defendants under necessary surveillance. However, a temporary licensee must be accompanied by a supervising bail bond agent or an agent from the same agency when apprehending, arresting, or surrendering defendants~~

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~~to authorities.~~

~~(b) A temporary licensee may not execute or sign bonds, handle collateral receipts, deliver bonds to appropriate authorities, or operate an agency or branch agency separate from the location of the supervising bail bond agent, managing general agent, or insurer by whom the licensee is employed.~~

(4)(9) Effective July 1, 2023, the department may not issue a temporary bail bond agent's license. An individual currently licensed as a temporary bail bond agent may continue to be licensed in accordance with this chapter. A temporary bail bond agent's license may not be reinstated if the license expires or is terminated, suspended, or revoked The department shall not issue a temporary bail bond agent's license to any individual who has held such a temporary license in this state within 2 years after the expiration of such temporary bail bond agent's license.

Section 66. Subsections (1) through (4) of section 648.382, Florida Statutes, are amended to read:

648.382 Appointment of bail bond agents and bail bond agencies ~~temporary bail bond agents~~; effective date of appointment.—

(1) ~~(a)~~ Each insurer ~~or appointing a bail bond agent and each insurer,~~ managing general agent, ~~or bail bond agent~~ appointing a ~~temporary~~ bail bond agent or bail bond agency in this state must file the appointment with the department and, at the same time, pay the applicable appointment fees and taxes. A person appointed under this section must hold a valid bail bond agent's or ~~temporary~~ bail bond agency's ~~agent's~~ license.

(b) Effective July 1, 2025, each insurer or managing

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general agent appointing a bail bond agency in this state must file the appointment with the department and, at the same time, pay the applicable appointment fees and taxes. An entity appointed under this section must hold a valid bail bond agency's license.

(2) ~~Before~~ Prior to any appointment, an appropriate officer or official of the appointing insurer ~~in the case of a bail bond agent or an insurer, managing general agent, or bail bond agent in the case of a temporary bail bond agent~~ must submit:

(a) A certified statement or affidavit to the department stating what investigation has been made concerning the proposed appointee and the proposed appointee's background and the appointing person's opinion to the best of his or her knowledge and belief as to the moral character and reputation of the proposed appointee. In lieu of such certified statement or affidavit, by authorizing the effectuation of an appointment for a licensee, the appointing entity certifies to the department that such investigation has been made and that the results of the investigation and the appointing person's opinion is that the proposed appointee is a person of good moral character and reputation and is fit to engage in the bail bond business;

(b) An affidavit under oath on a form prescribed by the department, signed by the proposed appointee, stating that premiums are not owed to any insurer and that the appointee will discharge all outstanding forfeitures and judgments on bonds previously written. If the appointee does not satisfy or discharge such forfeitures or judgments, the former insurer shall file a notice, with supporting documents, with the appointing insurer, the former agent or agency, and the

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department, stating under oath that the licensee has failed to timely satisfy forfeitures and judgments on bonds written and that the insurer has satisfied the forfeiture or judgment from its own funds. Upon receipt of such notification and supporting documents, the appointing insurer shall immediately cancel the licensee's appointment. The licensee may be reappointed only upon certification by the former insurer that all forfeitures and judgments on bonds written by the licensee have been discharged. The appointing insurer or former agent or agency may, within 10 days, file a petition with the department seeking relief from this paragraph. Filing of the petition stays the duty of the appointing insurer to cancel the appointment until the department grants or denies the petition; ~~and~~

(c) Any other information that the department reasonably requires concerning the proposed appointee; and

(d) Effective January 1, 2025, a certification that the appointing entity obtained from each appointee the following sworn statement:

Pursuant to section 648.382(2)(b), Florida Statutes, I do solemnly swear that I owe no premium to any insurer and that I will discharge all outstanding forfeitures and judgments on bonds that have been previously written. I acknowledge that failure to do this will result in my active appointments being canceled.

An appointed bail bond agency must have the attestation under this paragraph signed by its owner.

(3) By authorizing the effectuation of an appointment for a

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licensee, the appointing insurer certifies to the department that the insurer will be bound by the acts of the bail bond agent or bail bond agency acting within the scope of the agent's or agency's ~~his or her~~ appointment, and, ~~in the case of a temporary bail bond agent, the appointing insurer, managing general agent, or bail bond agent, as the case may be, must certify to the department that he or she will supervise the temporary bail bond agent's activities.~~

(4) Each appointing insurer ~~or, managing general agent, or bail bond agent~~ must advise the department in writing within 5 days after receiving notice or learning that an appointee has been arrested for, pled guilty or nolo contendere to, or been found guilty of, a felony or other offense punishable by imprisonment of 1 year or more under the law of any jurisdiction, whether judgment was entered or withheld by the court.

Section 67. Present subsections (1) through (4) of section 648.386, Florida Statutes, are redesignated as subsections (2) through (5), respectively, a new subsection (1) is added to that section, and present subsection (2) of that section is amended, to read:

648.386 Qualifications for prelicensing and continuing education schools and instructors.—

(1) DEFINITION OF "CLASSROOM INSTRUCTION".—As used in this section, the term "classroom instruction" means a course designed to be presented to a group of students by a live instructor using lecture, video, webcast, or virtual or other audio-video presentation.

(3)(2) SCHOOLS AND CURRICULUM FOR CONTINUING EDUCATION

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SCHOOLS.—In order to be considered for approval and certification as an approved limited surety agent and professional bail bond agent continuing education school, such entity must:

(a) Provide a minimum of three classroom-instruction continuing education classes per calendar year.

(b) Submit a course curriculum to the department for approval.

(c) Offer continuing education classes that comprise ~~which are comprised of~~ a minimum of 2 hours of approved classroom-instruction coursework and are taught by an approved supervising instructor or guest lecturer approved by the entity or the supervising instructor.

Section 68. Section 648.387, Florida Statutes, is amended to read:

648.387 Primary Bail bond agent in charge ~~agents~~; duties.—

(1) The owner or operator of a bail bond agency shall designate a primary bail bond agent in charge for each location, and shall file with the department the name and license number of the person and the address of the location on a form approved by the department. The designation of the primary bail bond agent in charge may be changed if the department is notified immediately. Failure to notify the department within 10 working days after such change is grounds for disciplinary action pursuant to s. 648.45.

(2) The ~~primary~~ bail bond agent in charge is responsible for the overall operation and management of a bail bond agency location, whose responsibilities may include, without limitations, hiring and supervising of all individuals within

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the location, whether they deal with the public in the solicitation or negotiation of bail bond contracts or in the collection or accounting of moneys. A person may be designated as the primary bail bond agent in charge for only one agency and location.

(3) The department may suspend or revoke the license of the owner, bail bond agent in charge operator, and primary bail bond agency agent if the a bail bond agency employs, contracts with, or uses the services of a person who has had a license denied or whose license is currently suspended or revoked. However, a person who has been denied a license for failure to pass a required examination may be employed to perform clerical or administrative functions for which licensure is not required.

(4) An owner, a bail bond agent in charge operator, or a bail bond agency primary agent may not employ, contract with, or use the services of any person in a bail bond agency who has been charged with, found guilty of, or pled guilty or nolo contendere to a felony or a crime punishable by imprisonment of 1 year or more under the law of any jurisdiction, without regard to whether judgment was entered or withheld by the court.

(5) A bail bond agency location may not conduct surety business unless a primary bail bond agent in charge is designated by, and provides services to, the bail bond agency at all times. If the bail bond agent in charge designated with the department ends his or her affiliation with the bail bond agency for any reason, and the bail bond agency fails to designate another bail bond agent in charge within the 10-day period under subsection (1) and such failure continues for 90 days, the bail bond agency license automatically expires on the 91st day after

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the date the designated bail bond agent in charge ended his or her affiliation with the agency ~~The failure to designate a primary agent on a form prescribed by the department, within 10 working days after an agency's inception or a change of primary agent, is a violation of this chapter, punishable as provided in s. 648.45.~~

Section 69. Section 648.3875, Florida Statutes, is created to read:

648.3875 Bail bond agent in charge; qualifications.-

(1) An application for designation as a bail bond agent in charge must be submitted on forms prescribed by the department. The application must include the applicant's full name and the number and date of issuance of the applicant's license issued pursuant to s. 648.27.

(2) To qualify as a bail bond agent in charge, it must affirmatively appear that, at the time of application and throughout the period of licensure, the applicant has complied with s. 648.285 and that the applicant has been licensed as a bail bond agent for the 24 months immediately preceding the appointment as the bail bond agent in charge.

Section 70. Section 648.39, Florida Statutes, is amended to read:

648.39 Termination of appointment of managing general agents, bail bond agents, and ~~temporary~~ bail bond agencies agents.-

(1) An insurer that ~~who~~ terminates the appointment of a managing general agent, bail bond agent, or ~~temporary~~ bail bond agency agent shall, within 10 days after such termination, file written notice thereof with the department together with a

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statement that it has given or mailed notice to the terminated agent or agency. Such notice filed with the department must state the reasons, if any, for such termination. Information so furnished to the department is confidential and exempt from ~~the provisions of~~ s. 119.07(1).

(2) Each insurer shall, within 5 days after terminating the appointment of any managing general agent, bail bond agent, or ~~temporary~~ bail bond agency agent, give written notice thereof to each clerk of the circuit court and sheriff with whom such person is registered.

(3) An insurer that terminates the appointment of a managing general agent, bail bond agent, or ~~temporary~~ bail bond agency agent may authorize such person to continue to attempt the arrest and surrender of a defendant for whom a surety bond had been written by the bail bond agent or bail bond agency before ~~prior to~~ termination and to seek discharge of forfeitures and judgments as provided in chapter 903.

Section 71. Section 648.41, Florida Statutes, is repealed.

Section 72. Section 648.42, Florida Statutes, is amended to read:

648.42 Registration of bail bond agents.—A bail bond agent may not become a surety on an undertaking unless he or she has registered in the office of the sheriff and with the clerk of the circuit court in the county in which the bail bond agent resides. The bail bond agent may register in a like manner in any other county, and any bail bond agent shall file a certified copy of his or her appointment by power of attorney from each insurer which he or she represents as a bail bond agent with each of such officers. Registration and filing of a certified

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copy of renewed power of attorney shall be performed by April 1 of each odd-numbered year. The clerk of the circuit court and the sheriff ~~may shall~~ not permit the registration of a bail bond agent unless such bail bond agent is currently licensed by the department and appointed by an insurer ~~the department~~. ~~Nothing in this section shall prevent the registration of a temporary licensee at the jail for the purposes of enabling the licensee to perform the duties under such license as set forth in this chapter.~~

Section 73. Subsections (1) and (2) and paragraphs (c) and (d) of subsection (8) of section 648.44, Florida Statutes, are amended to read:

648.44 Prohibitions; penalty.—

(1) A bail bond agent or ~~temporary~~ bail bond agency agent may not:

(a) Suggest or advise the employment of, or name for employment, any particular attorney or attorneys to represent his or her principal.

(b) Directly or indirectly solicit business in or on the property or grounds of a jail, prison, or other place where prisoners are confined or in or on the property or grounds of any court. The term "solicitation" includes the distribution of business cards, print advertising, or other written or oral information directed to prisoners or potential indemnitors, unless a request is initiated by the prisoner or a potential indemnitor. Permissible print advertising in the jail is strictly limited to a listing in a telephone directory and the posting of the bail bond agent's or agency's name, address, e-mail address, web address, and telephone number in a designated

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location within the jail.

(c) Initiate in-person or telephone solicitation after 9:00 p.m. or before 8:00 a.m., ~~in the case of domestic violence cases,~~ at the residence of the detainee or the detainee's family. Any solicitation ~~not prohibited by this chapter~~ must comply with the telephone solicitation requirements in ss. 501.059(2) and (4), 501.613, and 501.616(6).

(d) Wear or display any identification other than the department issued or approved license or approved department identification, which includes a citation of the licensee's arrest powers, in or on the property or grounds of a jail, prison, or other place where prisoners are confined or in or on the property or grounds of any court.

(e) Pay a fee or rebate or give or promise anything of value to a jailer, police officer, peace officer, or committing trial court judge or any other person who has power to arrest or to hold in custody or to any public official or public employee in order to secure a settlement, compromise, remission, or reduction of the amount of any bail bond or estreatment thereof.

(f) Pay a fee or rebate or give anything of value to an attorney in a bail bond matter, except in defense of any action on a bond.

(g) Pay a fee or rebate or give or promise anything of value to the principal or anyone in his or her behalf.

(h) Participate in the capacity of an attorney at a trial or hearing of one on whose bond he or she is surety.

(i) Loiter in or about a jail, courthouse, or where prisoners are confined.

(j) Accept anything of value from a principal for providing

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a bail bond except the premium and transfer fee authorized by the office, except that the bail bond agent or bail bond agency may accept collateral security or other indemnity from the principal or another person in accordance with ~~the provisions of~~ s. 648.442, together with documentary stamp taxes, if applicable. No fees, expenses, or charges of any kind shall be permitted to be deducted from the collateral held or any return premium due, except as authorized by this chapter or rule of the department or commission. A bail bond agent or bail bond agency may, upon written agreement with another party, receive a fee or compensation for returning to custody an individual who has fled the jurisdiction of the court or caused the forfeiture of a bond.

(k) Write more than one power of attorney per charge on a bond, except in the case of a cosurety, unless the power of attorney prohibits a cosurety.

(l) Execute a bond in this state on his or her own behalf.

(m) Execute a bond in this state if a judgment has been entered on a bond executed by the bail bond agent or bail bond agency, which has remained unpaid for 35 days, unless the full amount of the judgment is deposited with the clerk in accordance with s. 903.27(5).

(n) Make a statement or representation to a court, unless such statement or representation is under oath. Such statement or representation may not be false, misleading, or deceptive.

(o) Attempt to collect, through threat or coercion, amounts due for the payment of any indebtedness related to the issuance of a bail bond in violation of s. 559.72.

(p) Conduct bail bond business with any person, other than

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the defendant, on the grounds of the jail or courthouse for the purpose of executing a bond.

(2) The following persons or classes ~~may shall~~ not be bail bond agents, ~~temporary bail bond agents~~, or employees of a bail bond agent or a bail bond agency business and ~~may shall~~ not directly or indirectly receive any benefits from the execution of any bail bond:

(a) Jailers or persons employed in any jail.

(b) Police officers or employees of any police department or law enforcement agency.

(c) Committing trial court judges, employees of a court, or employees of the clerk of any court.

(d) Sheriffs and deputy sheriffs or employees of any sheriff's department.

(e) Attorneys.

(f) Persons having the power to arrest or persons who have authority over or control of federal, state, county, or municipal prisoners.

(8)

(c) Any law enforcement agency, state attorney's office, court clerk, or insurer that is aware that a bail bond agent ~~or temporary bail bond agent~~ has been convicted of or who has pleaded guilty or no contest to a crime as described in paragraph (a) shall notify the department of this fact.

(d) Upon the filing of an information or indictment against a bail bond agent ~~or temporary bail bond agent~~, the state attorney or clerk of the circuit court shall immediately furnish the department a certified copy of the information or indictment.

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Section 74. Subsection (1) of section 648.441, Florida Statutes, is amended to read:

648.441 Furnishing supplies to unlicensed bail bond agent prohibited; civil liability and penalty.—

(1) An insurer, managing general agent, bail bond agent, or ~~temporary bail bond agency agent~~ appointed under this chapter may not furnish to any person any blank forms, applications, stationery, business card, or other supplies to be used in soliciting, negotiating, or effecting bail bonds until such person has received from the department a license to act as a bail bond agent and is appointed by the insurer. This section does not prohibit an unlicensed employee, under the direct supervision and control of a licensed and appointed bail bond agent, from possessing or executing in the bail bond agency, any forms, except for powers of attorney, bond forms, and collateral receipts, while acting within the scope of his or her employment.

Section 75. Subsection (3) of section 648.46, Florida Statutes, is amended to read:

648.46 Procedure for disciplinary action against licensees.—

(3) The complaint and all information obtained pursuant to the investigation of the department are confidential and exempt from the provisions of s. 119.07(1) until such investigation is completed or ceases to be active. For the purpose of this section, an investigation is considered "active" while the investigation is being conducted by the department with a reasonable, good faith belief that it may lead to the filing of administrative, civil, or criminal proceedings. An investigation

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does not cease to be active if the department is proceeding with reasonable dispatch and there is good faith belief that action may be initiated by the department or other administrative or law enforcement agency. This subsection does not prevent the department or office from disclosing the complaint or such information as it deems necessary to conduct the investigation, to update the complainant as to the status and outcome of the complaint, or to share such information with any law enforcement agency or other regulatory body.

Section 76. Section 648.50, Florida Statutes, is amended to read:

648.50 Effect of suspension, revocation upon associated licenses and licensees.—

(1) Upon the suspension, revocation, or refusal to renew or continue any license or appointment or the eligibility to hold a license or appointment of a bail bond agent or ~~temporary~~ bail bond agency agent, the department shall at the same time likewise suspend or revoke all other licenses or appointments and the eligibility to hold any other such licenses or appointments which may be held by the licensee under the Florida Insurance Code.

(2) In case of the suspension or revocation of the license or appointment, or the eligibility to hold a license or appointment, of any bail bond agent, the license, appointment, or eligibility of any and all bail bond agents who are members of a bail bond agency, whether incorporated or unincorporated, ~~and any and all temporary bail bond agents employed by such bail bond agency,~~ who knowingly are parties to the act which formed the ground for the suspension or revocation may likewise be

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suspended or revoked.

(3) ~~A~~ No person whose license as a bail bond agent ~~or temporary bail bond agent~~ has been revoked or suspended may not ~~shall~~ be employed by any bail bond agent, have any ownership interest in any business involving bail bonds, or have any financial interest of any type in any bail bond business during the period of revocation or suspension.

Section 77. Paragraph (a) of subsection (4) of section 843.021, Florida Statutes, is amended to read:

843.021 Unlawful possession of a concealed handcuff key.—

(4)(a) It is a defense to a charge of violating this section that the person in custody and in possession of a concealed handcuff key is:

1. A federal, state, or local law enforcement officer, including a reserve or auxiliary officer, a licensed security officer, or a private investigator as defined in s. 493.6101; or

2. A professional bail bond agent, ~~temporary bail bond agent, runner,~~ or limited surety agent as defined in s. 648.25.

Section 78. Paragraph (b) of subsection (6) of section 28.2221, Florida Statutes, is amended to read:

28.2221 Electronic access to official records.—

(6)

(b)1. For the purpose of conducting a title search, as defined in s. 627.7711(4), of the Official Records, as described in s. 28.222(2), and upon presentation of photo identification and affirmation by sworn affidavit consistent with s. 92.50 to the county recorder, information restricted from public display, inspection, or copying under paragraph (5)(a) pursuant to a request for removal made under s. 119.071(4)(d) may be disclosed

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to:

a. A title insurer authorized pursuant to s. 624.401 and its affiliates as defined in s. 624.10;

b. A title insurance agent or title insurance agency as these terms are defined in s. 626.841 ~~s. 626.841(1) and (2), respectively;~~ or

c. An attorney duly admitted to practice law in this state and in good standing with The Florida Bar.

2. The photo identification and affirmation by sworn affidavit may be delivered in person, by mail, or by electronic transmission to the county recorder.

3. The affiant requestor must attest to his or her authority and the authorized purpose to access exempt information pursuant to this section for the property specified within the sworn affidavit.

4. The affiant requestor must identify the Official Records book and page number, instrument number, or the clerk's file number for each document requested within the sworn affidavit and must include a description of the lawful purpose and identify the individual or property that is the subject of the search within the sworn affidavit.

5. Affidavits submitted by a title insurer, title insurance agent, or title insurance agency must include the Florida Company Code or the license number, as applicable, and an attestation to the affiant requestor's authorization to transact business in this state. Affidavits submitted by an attorney authorized under this section must include the affiant requestor's Florida Bar number and a statement that the affiant requestor has an agency agreement with a title insurer directly

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or through his or her law firm.

6. The county recorder must record such affidavit in the Official Records, as described in s. 28.222(2), but may not place the image or copy of the affidavit on a publicly available Internet website for general public display.

7. Upon providing a document disclosing redacted information to an affiant requestor under this section, the county recorder must provide a copy of the affidavit requesting disclosure of the redacted information to each affected party at the address listed on the document or on the request for removal made by the affected party under s. 119.071. The county recorder must prepare a certificate of mailing to be affixed to the affidavit and must receive the statutory service charges as prescribed by s. 28.24 from the affiant requestor.

8. Any party making a false attestation under this section is subject to the penalty of perjury under s. 837.012.

Section 79. Paragraph (d) of subsection (4) of section 119.071, Florida Statutes, is amended to read:

119.071 General exemptions from inspection or copying of public records.—

(4) AGENCY PERSONNEL INFORMATION.—

(d)1. For purposes of this paragraph, the term:

a. "Home addresses" means the dwelling location at which an individual resides and includes the physical address, mailing address, street address, parcel identification number, plot identification number, legal property description, neighborhood name and lot number, GPS coordinates, and any other descriptive property information that may reveal the home address.

b. "Telephone numbers" includes home telephone numbers,

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3423 personal cellular telephone numbers, personal pager telephone
3424 numbers, and telephone numbers associated with personal
3425 communications devices.

3426 2.a. The home addresses, telephone numbers, dates of birth,
3427 and photographs of active or former sworn law enforcement
3428 personnel or of active or former civilian personnel employed by
3429 a law enforcement agency, including correctional and
3430 correctional probation officers, personnel of the Department of
3431 Children and Families whose duties include the investigation of
3432 abuse, neglect, exploitation, fraud, theft, or other criminal
3433 activities, personnel of the Department of Health whose duties
3434 are to support the investigation of child abuse or neglect, and
3435 personnel of the Department of Revenue or local governments
3436 whose responsibilities include revenue collection and
3437 enforcement or child support enforcement; the names, home
3438 addresses, telephone numbers, photographs, dates of birth, and
3439 places of employment of the spouses and children of such
3440 personnel; and the names and locations of schools and day care
3441 facilities attended by the children of such personnel are exempt
3442 from s. 119.07(1) and s. 24(a), Art. I of the State
3443 Constitution.

3444 b. The home addresses, telephone numbers, dates of birth,
3445 and photographs of current or former nonsworn investigative
3446 personnel of the Department of Financial Services whose duties
3447 include the investigation of fraud, theft, workers' compensation
3448 coverage requirements and compliance, other related criminal
3449 activities, or state regulatory requirement violations; the
3450 names, home addresses, telephone numbers, dates of birth, and
3451 places of employment of the spouses and children of such

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3452 personnel; and the names and locations of schools and day care
3453 facilities attended by the children of such personnel are exempt
3454 from s. 119.07(1) and s. 24(a), Art. I of the State
3455 Constitution.

3456 c. The home addresses, telephone numbers, dates of birth,
3457 and photographs of current or former nonsworn investigative
3458 personnel of the Office of Financial Regulation's Bureau of
3459 Financial Investigations whose duties include the investigation
3460 of fraud, theft, other related criminal activities, or state
3461 regulatory requirement violations; the names, home addresses,
3462 telephone numbers, dates of birth, and places of employment of
3463 the spouses and children of such personnel; and the names and
3464 locations of schools and day care facilities attended by the
3465 children of such personnel are exempt from s. 119.07(1) and s.
3466 24(a), Art. I of the State Constitution.

3467 d. The home addresses, telephone numbers, dates of birth,
3468 and photographs of current or former firefighters certified in
3469 compliance with s. 633.408; the names, home addresses, telephone
3470 numbers, photographs, dates of birth, and places of employment
3471 of the spouses and children of such firefighters; and the names
3472 and locations of schools and day care facilities attended by the
3473 children of such firefighters are exempt from s. 119.07(1) and
3474 s. 24(a), Art. I of the State Constitution.

3475 e. The home addresses, dates of birth, and telephone
3476 numbers of current or former justices of the Supreme Court,
3477 district court of appeal judges, circuit court judges, and
3478 county court judges; the names, home addresses, telephone
3479 numbers, dates of birth, and places of employment of the spouses
3480 and children of current or former justices and judges; and the

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3481 names and locations of schools and day care facilities attended
 3482 by the children of current or former justices and judges are
 3483 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 3484 Constitution.

3485 f. The home addresses, telephone numbers, dates of birth,
 3486 and photographs of current or former state attorneys, assistant
 3487 state attorneys, statewide prosecutors, or assistant statewide
 3488 prosecutors; the names, home addresses, telephone numbers,
 3489 photographs, dates of birth, and places of employment of the
 3490 spouses and children of current or former state attorneys,
 3491 assistant state attorneys, statewide prosecutors, or assistant
 3492 statewide prosecutors; and the names and locations of schools
 3493 and day care facilities attended by the children of current or
 3494 former state attorneys, assistant state attorneys, statewide
 3495 prosecutors, or assistant statewide prosecutors are exempt from
 3496 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

3497 g. The home addresses, dates of birth, and telephone
 3498 numbers of general magistrates, special magistrates, judges of
 3499 compensation claims, administrative law judges of the Division
 3500 of Administrative Hearings, and child support enforcement
 3501 hearing officers; the names, home addresses, telephone numbers,
 3502 dates of birth, and places of employment of the spouses and
 3503 children of general magistrates, special magistrates, judges of
 3504 compensation claims, administrative law judges of the Division
 3505 of Administrative Hearings, and child support enforcement
 3506 hearing officers; and the names and locations of schools and day
 3507 care facilities attended by the children of general magistrates,
 3508 special magistrates, judges of compensation claims,
 3509 administrative law judges of the Division of Administrative

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3510 Hearings, and child support enforcement hearing officers are
 3511 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 3512 Constitution.

3513 h. The home addresses, telephone numbers, dates of birth,
 3514 and photographs of current or former human resource, labor
 3515 relations, or employee relations directors, assistant directors,
 3516 managers, or assistant managers of any local government agency
 3517 or water management district whose duties include hiring and
 3518 firing employees, labor contract negotiation, administration, or
 3519 other personnel-related duties; the names, home addresses,
 3520 telephone numbers, dates of birth, and places of employment of
 3521 the spouses and children of such personnel; and the names and
 3522 locations of schools and day care facilities attended by the
 3523 children of such personnel are exempt from s. 119.07(1) and s.
 3524 24(a), Art. I of the State Constitution.

3525 i. The home addresses, telephone numbers, dates of birth,
 3526 and photographs of current or former code enforcement officers;
 3527 the names, home addresses, telephone numbers, dates of birth,
 3528 and places of employment of the spouses and children of such
 3529 personnel; and the names and locations of schools and day care
 3530 facilities attended by the children of such personnel are exempt
 3531 from s. 119.07(1) and s. 24(a), Art. I of the State
 3532 Constitution.

3533 j. The home addresses, telephone numbers, places of
 3534 employment, dates of birth, and photographs of current or former
 3535 guardians ad litem, as defined in s. 39.820; the names, home
 3536 addresses, telephone numbers, dates of birth, and places of
 3537 employment of the spouses and children of such persons; and the
 3538 names and locations of schools and day care facilities attended

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3539 by the children of such persons are exempt from s. 119.07(1) and
 3540 s. 24(a), Art. I of the State Constitution.

3541 k. The home addresses, telephone numbers, dates of birth,
 3542 and photographs of current or former juvenile probation
 3543 officers, juvenile probation supervisors, detention
 3544 superintendents, assistant detention superintendents, juvenile
 3545 justice detention officers I and II, juvenile justice detention
 3546 officer supervisors, juvenile justice residential officers,
 3547 juvenile justice residential officer supervisors I and II,
 3548 juvenile justice counselors, juvenile justice counselor
 3549 supervisors, human services counselor administrators, senior
 3550 human services counselor administrators, rehabilitation
 3551 therapists, and social services counselors of the Department of
 3552 Juvenile Justice; the names, home addresses, telephone numbers,
 3553 dates of birth, and places of employment of spouses and children
 3554 of such personnel; and the names and locations of schools and
 3555 day care facilities attended by the children of such personnel
 3556 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 3557 Constitution.

3558 l. The home addresses, telephone numbers, dates of birth,
 3559 and photographs of current or former public defenders, assistant
 3560 public defenders, criminal conflict and civil regional counsel,
 3561 and assistant criminal conflict and civil regional counsel; the
 3562 names, home addresses, telephone numbers, dates of birth, and
 3563 places of employment of the spouses and children of current or
 3564 former public defenders, assistant public defenders, criminal
 3565 conflict and civil regional counsel, and assistant criminal
 3566 conflict and civil regional counsel; and the names and locations
 3567 of schools and day care facilities attended by the children of

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3568 current or former public defenders, assistant public defenders,
 3569 criminal conflict and civil regional counsel, and assistant
 3570 criminal conflict and civil regional counsel are exempt from s.
 3571 119.07(1) and s. 24(a), Art. I of the State Constitution.

3572 m. The home addresses, telephone numbers, dates of birth,
 3573 and photographs of current or former investigators or inspectors
 3574 of the Department of Business and Professional Regulation; the
 3575 names, home addresses, telephone numbers, dates of birth, and
 3576 places of employment of the spouses and children of such current
 3577 or former investigators and inspectors; and the names and
 3578 locations of schools and day care facilities attended by the
 3579 children of such current or former investigators and inspectors
 3580 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 3581 Constitution.

3582 n. The home addresses, telephone numbers, and dates of
 3583 birth of county tax collectors; the names, home addresses,
 3584 telephone numbers, dates of birth, and places of employment of
 3585 the spouses and children of such tax collectors; and the names
 3586 and locations of schools and day care facilities attended by the
 3587 children of such tax collectors are exempt from s. 119.07(1) and
 3588 s. 24(a), Art. I of the State Constitution.

3589 o. The home addresses, telephone numbers, dates of birth,
 3590 and photographs of current or former personnel of the Department
 3591 of Health whose duties include, or result in, the determination
 3592 or adjudication of eligibility for social security disability
 3593 benefits, the investigation or prosecution of complaints filed
 3594 against health care practitioners, or the inspection of health
 3595 care practitioners or health care facilities licensed by the
 3596 Department of Health; the names, home addresses, telephone

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3597 numbers, dates of birth, and places of employment of the spouses
 3598 and children of such personnel; and the names and locations of
 3599 schools and day care facilities attended by the children of such
 3600 personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of
 3601 the State Constitution.

3602 p. The home addresses, telephone numbers, dates of birth,
 3603 and photographs of current or former impaired practitioner
 3604 consultants who are retained by an agency or current or former
 3605 employees of an impaired practitioner consultant whose duties
 3606 result in a determination of a person's skill and safety to
 3607 practice a licensed profession; the names, home addresses,
 3608 telephone numbers, dates of birth, and places of employment of
 3609 the spouses and children of such consultants or their employees;
 3610 and the names and locations of schools and day care facilities
 3611 attended by the children of such consultants or employees are
 3612 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 3613 Constitution.

3614 q. The home addresses, telephone numbers, dates of birth,
 3615 and photographs of current or former emergency medical
 3616 technicians or paramedics certified under chapter 401; the
 3617 names, home addresses, telephone numbers, dates of birth, and
 3618 places of employment of the spouses and children of such
 3619 emergency medical technicians or paramedics; and the names and
 3620 locations of schools and day care facilities attended by the
 3621 children of such emergency medical technicians or paramedics are
 3622 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 3623 Constitution.

3624 r. The home addresses, telephone numbers, dates of birth,
 3625 and photographs of current or former personnel employed in an

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3626 agency's office of inspector general or internal audit
 3627 department whose duties include auditing or investigating waste,
 3628 fraud, abuse, theft, exploitation, or other activities that
 3629 could lead to criminal prosecution or administrative discipline;
 3630 the names, home addresses, telephone numbers, dates of birth,
 3631 and places of employment of spouses and children of such
 3632 personnel; and the names and locations of schools and day care
 3633 facilities attended by the children of such personnel are exempt
 3634 from s. 119.07(1) and s. 24(a), Art. I of the State
 3635 Constitution.

3636 s. The home addresses, telephone numbers, dates of birth,
 3637 and photographs of current or former directors, managers,
 3638 supervisors, nurses, and clinical employees of an addiction
 3639 treatment facility; the home addresses, telephone numbers,
 3640 photographs, dates of birth, and places of employment of the
 3641 spouses and children of such personnel; and the names and
 3642 locations of schools and day care facilities attended by the
 3643 children of such personnel are exempt from s. 119.07(1) and s.
 3644 24(a), Art. I of the State Constitution. For purposes of this
 3645 sub-subparagraph, the term "addiction treatment facility" means
 3646 a county government, or agency thereof, that is licensed
 3647 pursuant to s. 397.401 and provides substance abuse prevention,
 3648 intervention, or clinical treatment, including any licensed
 3649 service component described in s. 397.311(26).

3650 t. The home addresses, telephone numbers, dates of birth,
 3651 and photographs of current or former directors, managers,
 3652 supervisors, and clinical employees of a child advocacy center
 3653 that meets the standards of s. 39.3035(2) and fulfills the
 3654 screening requirement of s. 39.3035(3), and the members of a

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3655 Child Protection Team as described in s. 39.303 whose duties
 3656 include supporting the investigation of child abuse or sexual
 3657 abuse, child abandonment, child neglect, and child exploitation
 3658 or to provide services as part of a multidisciplinary case
 3659 review team; the names, home addresses, telephone numbers,
 3660 photographs, dates of birth, and places of employment of the
 3661 spouses and children of such personnel and members; and the
 3662 names and locations of schools and day care facilities attended
 3663 by the children of such personnel and members are exempt from s.
 3664 119.07(1) and s. 24(a), Art. I of the State Constitution.

3665 u. The home addresses, telephone numbers, places of
 3666 employment, dates of birth, and photographs of current or former
 3667 staff and domestic violence advocates, as defined in s.
 3668 90.5036(1)(b), of domestic violence centers certified by the
 3669 Department of Children and Families under chapter 39; the names,
 3670 home addresses, telephone numbers, places of employment, dates
 3671 of birth, and photographs of the spouses and children of such
 3672 personnel; and the names and locations of schools and day care
 3673 facilities attended by the children of such personnel are exempt
 3674 from s. 119.07(1) and s. 24(a), Art. I of the State
 3675 Constitution.

3676 3. An agency that is the custodian of the information
 3677 specified in subparagraph 2. and that is not the employer of the
 3678 officer, employee, justice, judge, or other person specified in
 3679 subparagraph 2. must maintain the exempt status of that
 3680 information only if the officer, employee, justice, judge, other
 3681 person, or employing agency of the designated employee submits a
 3682 written and notarized request for maintenance of the exemption
 3683 to the custodial agency. The request must state under oath the

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3684 statutory basis for the individual's exemption request and
 3685 confirm the individual's status as a party eligible for exempt
 3686 status.

3687 4.a. A county property appraiser, as defined in s.
 3688 192.001(3), or a county tax collector, as defined in s.
 3689 192.001(4), who receives a written and notarized request for
 3690 maintenance of the exemption pursuant to subparagraph 3. must
 3691 comply by removing the name of the individual with exempt status
 3692 and the instrument number or Official Records book and page
 3693 number identifying the property with the exempt status from all
 3694 publicly available records maintained by the property appraiser
 3695 or tax collector. For written requests received on or before
 3696 July 1, 2021, a county property appraiser or county tax
 3697 collector must comply with this sub-subparagraph by October 1,
 3698 2021. A county property appraiser or county tax collector may
 3699 not remove the street address, legal description, or other
 3700 information identifying real property within the agency's
 3701 records so long as a name or personal information otherwise
 3702 exempt from inspection and copying pursuant to this section are
 3703 not associated with the property or otherwise displayed in the
 3704 public records of the agency.

3705 b. Any information restricted from public display,
 3706 inspection, or copying under sub-subparagraph a. must be
 3707 provided to the individual whose information was removed.

3708 5. An officer, an employee, a justice, a judge, or other
 3709 person specified in subparagraph 2. may submit a written request
 3710 for the release of his or her exempt information to the
 3711 custodial agency. The written request must be notarized and must
 3712 specify the information to be released and the party authorized

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to receive the information. Upon receipt of the written request, the custodial agency must release the specified information to the party authorized to receive such information.

6. The exemptions in this paragraph apply to information held by an agency before, on, or after the effective date of the exemption.

7. Information made exempt under this paragraph may be disclosed pursuant to s. 28.2221 to a title insurer authorized pursuant to s. 624.401 and its affiliates as defined in s. 624.10; a title insurance agent or title insurance agency as these terms are defined in s. 626.841 ~~s. 626.841(1) or (2)~~, respectively; or an attorney duly admitted to practice law in this state and in good standing with The Florida Bar.

8. The exempt status of a home address contained in the Official Records is maintained only during the period when a protected party resides at the dwelling location. Upon conveyance of real property after October 1, 2021, and when such real property no longer constitutes a protected party's home address as defined in sub-subparagraph 1.a., the protected party must submit a written request to release the removed information to the county recorder. The written request to release the removed information must be notarized, must confirm that a protected party's request for release is pursuant to a conveyance of his or her dwelling location, and must specify the Official Records book and page, instrument number, or clerk's file number for each document containing the information to be released.

9. Upon the death of a protected party as verified by a certified copy of a death certificate or court order, any party

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can request the county recorder to release a protected decedent's removed information unless there is a related request on file with the county recorder for continued removal of the decedent's information or unless such removal is otherwise prohibited by statute or by court order. The written request to release the removed information upon the death of a protected party must attach the certified copy of a death certificate or court order and must be notarized, must confirm the request for release is due to the death of a protected party, and must specify the Official Records book and page number, instrument number, or clerk's file number for each document containing the information to be released. A fee may not be charged for the release of any document pursuant to such request.

10. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 80. Subsection (4) of section 631.152, Florida Statutes, is amended to read:

631.152 Conduct of delinquency proceeding; foreign insurers.—

(4) Section 631.141(10)(b) ~~631.141(9)(b)~~ applies to ancillary delinquency proceedings opened for the purpose of obtaining records necessary to adjudicate the covered claims of Florida policyholders.

Section 81. Paragraph (b) of subsection (3) of section 631.398, Florida Statutes, is amended to read:

631.398 Prevention of insolvencies.—To aid in the detection and prevention of insurer insolvencies or impairments:

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3771 (3)

3772 (b) For an insolvency involving a domestic property

3773 insurer, the department shall:

3774 1. Begin an analysis of the history and causes of the

3775 insolvency once the department is appointed by the court as

3776 receiver.

3777 2. Submit an initial report analyzing the history and

3778 causes of the insolvency to the Governor, the President of the

3779 Senate, the Speaker of the House of Representatives, and the

3780 office. The initial report must be submitted no later than 4

3781 months after the department is appointed as receiver. The

3782 initial report shall be updated at least annually until the

3783 submission of the final report. The report may not be used as

3784 evidence in any proceeding brought by the department or others

3785 to recover assets on behalf of the receivership estate as part

3786 of its duties under s. 631.141(9) ~~s. 631.141(8)~~. The submission

3787 of a report under this subparagraph shall not be considered a

3788 waiver of any evidentiary privilege the department may assert

3789 under state or federal law.

3790 3. Provide a special report to the Governor, the President

3791 of the Senate, the Speaker of the House of Representatives, and

3792 the office, within 10 days upon identifying any condition or

3793 practice that may lead to insolvency in the property insurance

3794 marketplace.

3795 4. Submit a final report analyzing the history and causes

3796 of the insolvency and the review of the Office of Insurance

3797 Regulation's regulatory oversight of the insurer to the

3798 Governor, the President of the Senate, the Speaker of the House

3799 of Representatives, and the office within 30 days of the

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3800 conclusion of the insolvency proceeding.

3801 5. Review the Office of Insurance Regulation's regulatory

3802 oversight of the insurer.

3803 Section 82. Subsection (2) of section 903.09, Florida

3804 Statutes, is amended to read:

3805 903.09 Justification of sureties.—

3806 (2) A bond agent, as defined in s. 648.25 ~~s. 648.25(2)~~,

3807 shall justify her or his suretyship by attaching a copy of the

3808 power of attorney issued by the company to the bond or by

3809 attaching to the bond United States currency, a United States

3810 postal money order, or a cashier's check in the amount of the

3811 bond; but the United States currency, United States postal money

3812 order, or cashier's check cannot be used to secure more than one

3813 bond. Nothing herein shall prohibit two or more qualified

3814 sureties from each posting any portion of a bond amount, and

3815 being liable for only that amount, so long as the total posted

3816 by all cosureties is equal to the amount of bond required.

3817 Section 83. (1) The following rule is ratified for the sole

3818 and exclusive purpose of satisfying any condition on the

3819 effectiveness imposed under s. 120.541(3), Florida Statutes:

3820 Rule 69L-7.020, Florida Administrative Code, titled "Florida

3821 Workers' Compensation Health Care Provider Reimbursement Manual"

3822 as filed for adoption with the Department of State pursuant to

3823 the certification package dated October 22, 2021.

3824 (2) This section serves no other purpose and may not be

3825 codified in the Florida Statutes. After this section becomes

3826 law, its enactment and effective dates shall be noted in the

3827 Florida Administrative Code, the Florida Administrative

3828 Register, or both, as appropriate. This section does not alter

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3829 rulemaking additions delegated by prior law, does not constitute
3830 legislative preemption of or exception to any provision of law
3831 governing adoption or enforcement of the rule cited, and is
3832 intended to preserve the status of any cited rule as a rule
3833 under chapter 120, Florida Statutes. This section does not cure
3834 any rulemaking defect or preempt any challenge based on a lack
3835 of authority or a violation of the legal requirements governing
3836 the adoption of any rule cited.

3837 (3) This section takes effect July 1, 2023.

3838 Section 84. Except as otherwise expressly provided in this
3839 act, this act shall take effect upon becoming a law.



Department of Financial Services
Office of the General Counsel

DEPARTMENT OF FINANCIAL SERVICES
STATEMENT OF ESTIMATED REGULATORY COSTS

RULE: 69L-7.020, F.A.C.

A. Based on the economic analysis presented below, answer whether the rule directly or indirectly:

(1) Is likely to have an adverse impact on any of the following in excess of \$1 million in the aggregate within 5 years after implementation* of the rule?

Economic growth: Yes _____ No X

Private-sector job creation or employment: Yes _____ No X

Private-sector investment: Yes _____ No X

The rule will most likely have a neutral effect on economic growth, private-sector job creation or employment, and private-sector investment. The rule will increase total workers' compensation costs by an estimated \$8 million and be reflected in higher workers' compensation rates paid by employers; however, those monies will be in the form of higher reimbursements to health care providers. In addition, the increase in workers' compensation rates due to higher reimbursements to health care providers may be offset by more influential factors affecting workers' compensation rates such as a decline in overall claim frequency and severity and higher payroll, which increases the overall workers' compensation premium base.

(2) Is likely to have an adverse impact on any of the following in excess of \$1 million in the aggregate within 5 years after the implementation* of the rule?

Business competitiveness (including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets):

Yes _____ No X

Productivity: Yes _____ No X

Innovation: Yes _____ No X

* This includes adverse impacts and regulatory costs estimated to occur within 5 years after the effective date of the rule. However, if any provision of the rule is not fully implemented upon the effective date of the rule, the adverse impacts and regulatory costs associated with such provision must be adjusted to include any additional adverse impacts and regulatory costs estimated to occur within 5 years after implementation of the provision. (Section 120.541(5), F.S.)

The rule will most likely have a neutral effect on productivity and innovation. The rule will increase total workers' compensation costs by an estimated \$8 million and be reflected in higher workers' compensation rates paid by employers; however, those monies will be in the form of higher reimbursements to health care providers. Health care providers may leverage the increase in revenue to improve medical technology and resources to treat workers' compensation patients.

(3) Is likely to increase regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate within 5 years after the implementation* of the rule?

Yes ☒ No ☐

Economic analysis completed for questions (1) – (3):

The National Council on Compensation Insurance (NCCI) has conducted an actuarial analysis of the impact the proposed revision to the Florida Workers' Compensation Health Care Provider Reimbursement Manual would have on workers' compensation rates in Florida (attached). The NCCI estimates that the change in maximum reimbursement allowances would result in an overall Florida Workers' Compensation system cost increase of 0.2% (+\$8M).

B. Provide both:

(1) A good faith estimate of the number of individuals and entities likely to be required to comply with the rule.

Any health care provider electing to provide medical treatment under Florida's workers' compensation system will be subject to the new maximum reimbursement allowances. According to the most recent report by the Florida Department of health, there are 82,939 physicians with active licenses in Florida, who are eligible to treat workers' compensation patients. In addition, 929 workers' compensation claim administrators (444 insurers, 387 self-insurers, and 98 third party administrators) in Florida, as of January 5, 2021, will be affected by the rule changes for the purposes of issuing proper reimbursements. Therefore, the estimated total of the number of individuals and entities likely to be required to comply with the rule is approximately 83,868.

(2) A general description of the types of individuals likely to be affected by the rule.

It is anticipated that this rule will impact workers' compensation health care providers, carriers, self-insurers, third party administrators, and bill review companies.

C. Provide a good faith estimate of:

(1) The cost to the Department to implement and enforce the rule.

☒ None. To be done with the current workload and existing staff.

☐ Minimal (provide a brief explanation below).

☐ Other (provide an explanation for the estimate and methodology used).

(2) The cost to any other state and local government entity to implement and enforce the rule.

☒ None. The rule will only affect the Department.

☐ Minimal (provide a brief explanation below).

☐ Other (provide an explanation for the estimate and methodology used).

(3) Any anticipated effect on state or local revenues.

☒ None

☐ Minimal (provide a brief explanation below).

☐ Other (provide an explanation for the estimate and methodology used).

D. Provide a good faith estimate of the transactional costs likely to be incurred by individuals and entities (including local government entities) required to comply with the requirements of the rule. "Transactional costs" include filing fees, the cost of obtaining a license, the cost of equipment required to be installed or used, procedures required to be employed in complying with the rule, additional operating costs incurred, the cost of monitoring or reporting, and any other costs necessary to comply with the rule.

☐ None. The rule will only affect the Department.

☒ Minimal (provide a brief explanation below).

☐ Other (provide an explanation for the estimate and methodology used).

The transactional costs should be minimal as carriers, health care providers, third-party administrators, and medical bill review companies would update their existing billing systems with the new maximum reimbursement allowances.

E. Provide an analysis of the impact on small business and small counties and small cities:

(1) "Small business" is defined by section 288.703, F.S., as an independently owned and operated business concern that employs 200 or fewer permanent full-time employees and that, together with its affiliates, have a net worth of not more than \$5 million or any firm based in this state which has a Small Business Administration 8(a) certification. As to sole proprietorships, the \$5 million net worth requirement shall include both personal and business investments.

Analysis of impact on small business:

To the extent that small business are required to comply with workers' compensation coverage requirements, the cost impact identified in the NCCI actuarial analysis would be absorbed and paid through higher workers' compensation insurance rates.

The amount of workers' compensation premium paid by an employer is dependent on the employer's payroll, its classification code rates, and other risk adjustment factors. Below are premium calculations for 3 types of businesses based upon their respective level of risk.

Employer 1 employs office and administrative staff and is assigned class code 8810. Employer 2 is a "traditional" restaurant that provides wait service and is assigned class code 9082. Employer

3 is a roofing company and is assigned class code 5551. Each employer employs 10 workers. According to the Occupational Employment and Wages data, published by the U.S. Department of Labor, Bureau of Labor Statistics, for May 2019, the average salary for an office worker in Florida is \$38,130.00; \$26,650.00 for a restaurant worker, and \$37,140.00 for a roofer.

69L-7.020, F.A.C. - Florida Workers' Compensation Health Care Provider Reimbursement Manual						
Example Employer	Payroll	Class Code	Rate per \$100 in payroll	Premium = (payroll/100) * (rate)	Rate per \$100 w/ 0.2% rate increase	New Premium with 0.2% rate increase
Small Business 1	\$381,300.00	8810	0.17	\$648.21	0.17034	\$649.51
Small Business 2	\$266,500.00	9082	1.80	\$4,797.00	1.8036	\$4,806.59
Small Business 3	\$371,400.00	5551	14.78	\$54,892.92	14.80956	\$55,002.71
Small Business Totals	\$1,019,200.00			\$60,338.13		\$60,458.81

Small Business (SB) 1 has a \$1.30 increase in its annual premium. SB 2 has a \$9.59 increase in its annual premium. SB 3 has an \$109.79 increase in its annual premium.

(2) A "small city" is defined by section 120.52, F.S., as any municipality that has an unincarcerated population of 10,000 or less according to the most recent decennial census. A "small county" is defined by section 120.52, F.S., as any county that has an unincarcerated population of 75,000 or less according to the most recent decennial census.

Analysis of impact on small counties and small cities:

To the extent that small cities and counties are required to comply with workers' compensation coverage requirements, the cost impact identified in the NCCI actuarial analysis would be absorbed and paid through higher workers' compensation insurance rates.

The amount of workers' compensation premium paid by an employer is dependent on the employer's payroll, its classification code rates, and other risk adjustment factors. Below is a premium calculation for a small city. The payroll and class code data in this analysis is from an actual self-insured small city. This data is reported to the Division of Workers' Compensation for trust fund assessment purposes.

69L-7.020, F.A.C. - Florida Workers' Compensation Health Care Provider Reimbursement Manual					
Small City Payroll	Class Code	Rate per \$100 in payroll	Premium = (payroll/100) * (rate)	Rate per \$100 w/ 0.2% rate increase	New Premium with 0.2% rate increase
\$533,144.00	5509	10.17	\$54,220.74	10.19034	\$54,329.19
\$225,874.00	7520	3.58	\$8,086.29	3.58716	\$8,102.46
\$74,033.00	7580	2.47	\$1,828.62	2.47494	\$1,832.27
\$211,265.00	7704	5.19	\$10,964.65	5.20038	\$10,986.58
\$37,897.00	8720	1.66	\$629.09	1.66332	\$630.35
\$497,267.00	8810	0.17	\$845.35	0.17034	\$847.04
\$93,682.00	8831	1.82	\$1,705.01	1.82364	\$1,708.42
\$18,257.00	9102	4.13	\$754.01	4.13826	\$755.52
\$83,305.00	9410	2.61	\$2,174.26	2.61522	\$2,178.61
\$1,774,724.00			\$81,208.03		\$81,370.45

The small city has an estimated increase of \$162.42 in its annual premium.

F. Provide any additional information that the Department determines may be useful.

_____ None.

Additional Information:

The costs attributable to the amendments to the rule are due to the change in reimbursement rates contained in the manual incorporated by the rule. Those rates are set by a Three-Member Panel pursuant to section 440.13(12)(a), Florida Statutes. The Three-Member Panel approved the maximum reimbursement allowances on December 17, 2020.

G. State whether any lower cost regulatory alternatives were submitted.

Yes _____ No X_____

If yes, provide a description of each and a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the proposed rule.

_____ A regulatory alternative was received from _____.

_____ Adopted in its entirety.

_____ Rejected. Describe what alternative was rejected and provide a statement of the reasons for rejecting that alternative.



ANALYSIS OF FLORIDA MEDICAL FEE SCHEDULE CHANGES PROPOSED TO BE EFFECTIVE JULY 1, 2021

NCCI estimates that the proposed changes to the maximum reimbursement allowances (MRAs) in the Health Care Provider Reimbursement Manual (HCPRM), 2016 edition, would result in an estimated impact of +0.2% (+\$8M¹) on overall workers compensation system costs in Florida.

SUMMARY OF PROPOSED CHANGES

The Florida Division of Workers' Compensation (DWC) has proposed updates to the MRAs in the HCPRM, 2016 edition. The 2016 edition of the HCPRM, which became effective July 1, 2017, is based on 2016 Medicare Conversion Factor and Resource Based Relative Value Scale (RBRVS) geographic-specific reimbursement levels.

The DWC proposes to update the MRAs in the HCPRM to be based on the 2020 Medicare Conversion Factor and RBRVS geographic-specific reimbursement levels. Note that the MRAs in the current and proposed HCPRMs are limited to no less than the MRAs published in the 2003 HCPRM.

In addition to physician services, the proposed changes would also impact MRAs for the following hospital outpatient services contained in the Florida Workers' Compensation Reimbursement Manual for Hospitals:

- All scheduled, non-emergency clinical laboratory and radiology services
- Outpatient physical, occupational, and speech therapy services

ACTUARIAL ANALYSIS

NCCI's methodology to evaluate the impact of proposed medical fee schedule changes includes three major steps:

1. Calculate the percentage change in maximum reimbursements
 - Compare the current and proposed maximum reimbursements by procedure code and determine the percentage change by procedure code.
 - Calculate the weighted-average percentage change in maximum reimbursements for the fee schedule using observed payments by procedure code as weights.
2. Determine the share of costs that are subject to the fee schedule
 - The share is based on a combination of fields, such as procedure code, provider type, and place of service, as reported in the Florida DWC medical data, to categorize payments that are subject to the fee schedule.

¹ Overall system costs are based on 2019 net written premium for insurance companies including an estimate of self-insured premium as provided by the Florida Division of Workers' Compensation. The estimated dollar impact is the percent impact(s) displayed multiplied by \$4,193M. This figure does not include the policyholder retained portion of deductible policies, or adjustments for subsequent changes in premium levels. The use of premium as the basis for the dollar impact assumes that expenses and other premium adjustments will be affected proportionally to the change in benefit costs.



ANALYSIS OF FLORIDA MEDICAL FEE SCHEDULE CHANGES PROPOSED TO BE EFFECTIVE JULY 1, 2021

- The share is calculated as the greater of the percent of observed payments with a maximum allowable reimbursement (MAR) or 75%. NCCI assumes no change for the share of costs not subject to the fee schedule.
3. Estimate the price level change as a result of the revised fee schedule
- NCCI research by David Colón and Paul Hendrick, “The Impact of Fee Schedule Updates on Physician Payments” (2018), suggests that approximately 80% of the change in maximum reimbursements for physician fee schedules is realized on payments impacted by the change. For non-physician fee schedule changes, a price realization factor of 80% is assumed.

In this analysis, NCCI relies primarily on two data sources:

- Detailed medical data provided by the Florida DWC with dates of service between January 1, 2019 and December 31, 2019.
- The share of benefit costs attributed to medical benefits is based on NCCI’s Financial Call data for Florida from Policy Years 2017 and 2018 projected to the effective date of the benefit changes.

Physician Fee Schedule

In Florida, payments for physician services represent 28.6% of total medical costs. The overall change in maximums for physician services is a weighted average of the percentage change in MRA by procedure code (Proposed MRA/Current MRA). The weights are based on Service Year 2019 observed payments by procedure code and geographic locality for Florida, as reported in the Florida DWC detailed medical data. The overall weighted-average percentage change in maximums for physician services is estimated to be +1.1%. The estimated impact by category is shown in the following table.

Physician Practice Category	Share of Physician Costs	Percentage Change in MRA
Anesthesia	2.1%	0.0%
Surgery	15.0%	+1.2%
Radiology	11.0%	+2.1%
Pathology & Laboratory	0.5%	-0.1%
Evaluation & Management	28.1%	+1.9%
Medicine	27.3%	+0.5%
Other HCPCS*	0.1%	-1.7%
Physician Payments with no specific MRA	15.9%	-
Total Physician Costs	100.0%	+1.1%

*Healthcare Common Procedure Coding System

A price realization factor of 80% was applied. The impact on physician payments after applying the price realization factor is estimated to be +0.9% (= +1.1% x 0.80).



ANALYSIS OF FLORIDA MEDICAL FEE SCHEDULE CHANGES PROPOSED TO BE EFFECTIVE JULY 1, 2021

The +0.9% impact is then multiplied by the percentage of medical costs attributed to physician payments in Florida (28.6%) to arrive at an estimated impact of +0.3% on medical costs. This is then multiplied by the percentage of overall benefit costs attributed to medical benefits in Florida (67%) to arrive at an estimated impact of +0.2% on overall workers compensation costs.

Hospital Outpatient Fee Schedule

The changes to the HCPRM also impact certain hospital outpatient services. In Florida, payments for hospital outpatient services represent 18.3% of medical costs and hospital outpatient services subject to the HCPRM MRAs represent 3.3% of total hospital outpatient costs. The impact on hospital outpatient services, which is calculated in an analogous manner to the physician fee schedule change, is estimated to be a negligible² increase on medical costs and overall workers compensation system costs in Florida.

SUMMARY OF ESTIMATED IMPACTS

The estimated impacts from the medical fee schedule change in Florida, proposed to be effective July 1, 2021, are summarized in the following table:

Type of Service	(A) Estimated Impact on Type of Service	(B) Share of Medical Costs	(C) = (A) x (B) Estimated Impact on Medical Costs
Physician	+0.9%	28.6%	+0.3%
Hospital Outpatient	Negligible Increase	18.3%	Negligible Increase
Combined Estimated Impact on Medical Costs (D) = Total of (C)			+0.3%
Medical Costs as a Share of Overall Costs (E)			67%
Combined Estimated Impact on Overall Costs (F) = (D) x (E)			+0.2%

THIS DOCUMENT AND ANY ANALYSIS, ASSUMPTIONS, AND PROJECTIONS CONTAINED HEREIN PROVIDE AN ESTIMATE OF THE POTENTIAL PROSPECTIVE COST IMPACT(S) OF PROPOSED/ENACTED SYSTEM CHANGE(S) AND IS PROVIDED SOLELY AS A REFERENCE TOOL TO BE USED FOR INFORMATIONAL PURPOSES ONLY. THIS DOCUMENT SHALL NOT BE CONSTRUED OR INTERPRETED AS PERTAINING TO THE NECESSITY FOR OR A REQUEST FOR A LOSS COST/RATE INCREASE OR DECREASE, THE DETERMINATION OF LOSS COSTS/RATES, OR LOSS COSTS/RATES TO BE REQUESTED. THE ANALYSIS CONTAINED HEREIN EVALUATES THE DESCRIBED CHANGES IN ISOLATION UNLESS OTHERWISE INDICATED; ANY OTHER CHANGES NOT INCLUDED IN THIS ANALYSIS THAT ARE ULTIMATELY ENACTED MAY RESULT IN A DIFFERENT ESTIMATED IMPACT. I, DAN CLAYMAN, FCAS, MAAA, AM A MANAGER AND ASSOCIATE ACTUARY FOR THE NATIONAL COUNCIL ON COMPENSATION INSURANCE, INC. AND THE ACTUARY RESPONSIBLE FOR THE PREPARATION OF THIS DOCUMENT. THIS DOCUMENT IS PROVIDED "AS IS" ON THE DATE SET FORTH HEREIN AND INCLUDES INFORMATION AND EVENTS AVAILABLE AT THE TIME OF PUBLICATION ONLY. NCCI'S FINAL ESTIMATED IMPACT MAY DIFFER FROM WHAT IS PROVIDED IN THIS ANALYSIS IF ADDITIONAL INFORMATION BECOMES AVAILABLE OR IF DATA NECESSARY TO ANALYZE PROVISIONS THAT WERE NOT EXPLICITLY QUANTIFIED PREVIOUSLY BECOMES AVAILABLE.

² Negligible is defined in this document to be an impact smaller in magnitude than +/-0.1%.

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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1158
Bill Number or Topic

Amendment Barcode (if applicable)

Meeting Date

3/22
Banking & Insurance
Committee

Name AUSTIN STOWERS Phone 850 413 5939

Address 200 E Gaines 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:

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compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

CFO JIMMY PATRONIS

☐ I am not a lobbyist, but received
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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.flcourts.gov/2020-2022-Joint-Rules.pdf)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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8/3/22/23

Meeting Date

1158

Bill Number or Topic

Banking & Insurance

Committee

Amendment Barcode (if applicable)

Name

Heather Bernier

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☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

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☒

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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 1398

INTRODUCER: Banking and Insurance Committee and Senator DiCeglie

SUBJECT: Consumer Protection

DATE: March 24, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Moody	Knudson	BI	Fav/CS
2.			AEG	
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1398 provides the following amendments that address public adjusters, annuity investments, mortgage loan regulations, and other issues related to consumer protections. The bill:

Adjusters

- Provides that adjusting firms must comply with the requirements that an insurance agency must comply with regarding firm names;
- Restricts a public adjuster's compensation to 10 percent of the difference between the initial insurance claim payment offer and the final insurance claim payment.
- Further restricts public adjuster compensation to no more than \$1,000 when an insurer pays or agrees to pay the policy limit within 14 days after the date of the reported loss.
- Allows the insured or claimant to cancel a contract with a public adjuster that was entered into based on events that are the subject to a state of emergency for up to 30 days after the event or 10 days after the date on which the contract is executed, whichever is longer;
- Specifies that an insured may cancel a public adjuster's contract without penalty or obligation if a written estimate is not received within 60 days, and requires the contract to provide notice of such right;
- Prohibits a public adjuster from contracting with anyone other than the named insured without written consent is obtained from the insured;

- Requires public adjusters to pay third party fees unless the named insured's consent to contract is obtained;
- Clarifies that the exemption which allows attorneys to participate in the adjustment of any claim without an adjuster's license does not apply to certain staff of an attorney or a law firm;
- Requires an independent or public adjuster to post their license in the principal place of business or have it in the public adjuster's actual possession in certain circumstances;
- Specifies certain records that independent adjusters and public adjusters must retain certain records for 5 years and requires that such records must be available for inspection by the Department of Financial Services ("Department") at all times;
- Amends public adjuster contract requirements to include certain contact details and compensation, amends the font type with respect to certain provisions in the contract and proof-of-loss statement, and requires initials of the insured to be on each page that does not contain the insured's signature;
- Provides that a public adjuster must provide the insured with an unaltered copy of the contract at the time of execution and a copy provided to the insurer within 10 days, and prohibits a public adjuster from providing services until such copies are remitted, amends the contacts details required to be included in an affidavit that satisfies this requirement in certain circumstances;
- Requires the public adjuster to provide to and obtain a signed separate disclosure statement from the insured with specified information;
- Provides that a public adjuster contract which does not comply with s. 626.8796, F.S., regarding public adjuster contracts, is invalid and unenforceable;
- Authorizes the Department to have rulemaking authority to implement s. 626.8796, F.S.; and
- Amends the definition of "public adjuster."

Annuity Investments

- Amends s. 627.4554, F.S., to adopt, with minimal exceptions, the National Association of Insurance Commissioners (NAIC) Suitability in Annuity Transactions Model Regulation (2020);
- Broadens the scope of the section to apply to any sale or recommendation of an annuity;
- Amends the duties of insurers and agents to require the agent to act in the consumer's best interest which includes satisfying obligations regarding care, disclosure, conflict of interest, and recordkeeping;
- Specifies transactions for which an agent does not have an obligation to a consumer;
- Revises an insurer's obligation to establish a supervision system to provide additional consumer protections;
- Prohibits insurers from dissuading, or attempting to dissuade, a consumer from providing truthful information, filing complaints, or cooperating with a complaint investigation;
- Provides that any sale in compliance with comparable standards satisfies the requirements of the section, and provides that this provision does not limit an insurer's care obligation; and
- Provides for training requirements for agents who engage in the sale of annuities;

Other Insurance Provisions

- Amends the timeframe for which a licensee must notify the Department after the change of name or other specified contact details to 5 days;
- Provides that it is an unfair method of trade for an agent to fail to disclose a third party that receives certain remuneration for specified marketing practices for policy of health insurance;
- Shortens the timeframe in which the hurricane deductible on an insurance policy can be applied to a claim, amends the definition of “hurricane” and defines the term “hurricane deductible;” and
- Reduces the underwriting timeframe on property insurance from 90 days to 60 days.

Mortgage Loan Regulations

- Expands the options of where a mortgage lender may transact business;
- Specifies that a remote location must be operated under the full charge, control, and supervision of the licensee;
- Provides when a licensee may allow loan originators to work from a remote location; and
- Amends the definition of “branch office” and defines the term “remote location.”

Conduct of Money Services Businesses

- Specifies that a licensee may not cash corporate checks where the aggregate face amount of all corporate checks cashed for each payee exceeds 200 percent of the payee’s workers’ compensation policy coverage amount during the same policy coverage period; and
- Provides that a person who violates this provisions commits a felony of the third degree.

Crowd-funding Campaigns

- Requires organizers of crowd-funding campaigns related to a disasters to assemble and provide accounting of all donations received and expended by the campaign;
- Requires the crowd-funding platform to publish all received accountings; and
- Defines several terms, including “crowd-funding campaign,” “crowd-funding platform,” “disaster,” and “organizer.”

Distributed Energy Generation Platform

- Adds three disclosures related to the sale or lease of a distributed energy generation system which must be separate from the agreement between the seller or lessor and buyer and lessee; and
- Requires that a customer contact center phone number for the Department of Business and Professional Regulation be included in the sale or lease agreement.

Motor Vehicle Service Agreements

- Provides that service agreements that maintains a contractual liability insurance policy in lieu of maintaining unearned premium reserve may have a policy with certain terms.

Warranty Associations

- Revises the definition of the term “manufacturer” for purposes of part III of ch. 634, F.S., to exclude a business that maintains outstanding debt obligations, if any, rated in the top four rating categories by a recognized rating service, and makes conforming changes to s. 634.406, F.S.

Fiscal Impact

See Section V. Fiscal Impact Statement.

Effective Date

The bill, except as otherwise provided, is effective July 1, 2023.

II. Present Situation:

Insurance

In January 2003, the Financial Services Commission (“Commission”) was created within the Department.¹ The Commission is composed of the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture.² The Commission consists of the Office of Insurance Regulation (OIR) and the Office of Financial Regulation (OFR).³

The OIR is responsible for the regulation of activities related to insurers and other risk bearing entities, including, amongst other things, licensing, rates, policy forms market conduct, claims, issuance of certificates of authority.⁴ A person may not act, advertise, or hold himself or herself out as an insurance agent,⁵ insurance adjuster,⁶ or customer representative unless he or she is

¹ Section 20.121(3), F.S.

² *Id.*

³ Section 20.121(3)(a), F.S.

⁴ Section 20.121(3)(a), F.S.

⁵ Section 626.015(3), F.S., defines “agent” as a general lines agent, life agent, health agent, or title agent, or all such agents, as indicated by context. The term “agent” includes an insurance producer or producer, but does not include a customer representative, limited customer representative, or service representative. Section 626.015(6), F.S., defines “customer representative” as an individual appointed by a general lines agent or agency to assist that agent or agency in transacting the business of insurance from the office of the agent or agency. Section 626.015(13), F.S., defines “limited customer representative” as a customer representative appointed by a general lines agent or agency to assist that agent or agency in transacting only the business of private passenger motor vehicle insurance from the office of that agent or agency. Section 626.015(19), F.S., defines “service representative” as an individual employed by an insurer or managing general agent for the purpose of assisting a general lines agent in negotiating and effecting insurance contracts when accompanied by a licensed general lines agent.

⁶ Section 626.015(2), F.S., defines “adjuster” as a public adjuster as defined in s. 626.854, F.S., or an all-lines adjuster as defined in s. 626.8548, F.S. which defines the term as 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. The term also includes any person who, for money, commission, and any other thing of value, directly or indirectly solicits claims on behalf of a public adjuster, but does not include a paid spokesperson used as part of a written or an electronic

licensed by the Department and appointed by an appropriate appointing entity or person.⁷ To obtain a license, such individuals must comply with certain requirements, including submit an application which contains specified information such as the applicant's name, address, and other contact information.⁸ A licensee has an obligation to notify the Department, in writing, within 30 days after a change of name, residence address, principal business street, address, mailing address, contract telephone numbers, including a business telephone number, or e-mail address.⁹ A licensee who failure to notify the Department of such change within the 30 days is subject to a fine not to exceed \$250 for a first offence and a fine of at least \$500 or suspension or revocation of certain licenses for a subsequent offense.¹⁰

Public Adjusters

A public adjuster is any person, except a duly licensed attorney at law as exempted under s. 626.860, F.S., who, for money, commission, or any other things of value, directly or indirectly prepares, completes, or files an insurance claim for an insured¹¹ or third-party claimant, or who, for money, commission, or any other thing of value, acts on behalf of, or aids an insured or third-party claimant in negotiating for or effecting the settlement of a claim or claims for loss or damage covered by an insurance contract, or who, advertises for employment as an adjuster of such claims.¹² The term also includes any person who, for money, commission, or any other thing of value, directly or indirectly solicits, investigates, or adjusts such claims on behalf of the public adjuster, as insured, or a third-party claimant.¹³ The term excludes several categories of persons who do not fall within the definition, such as licensed health care providers or employees thereof who prepares or files health insurance claim forms on behalf of a patient.¹⁴

Prohibited acts

Section 626.854, F.S., prohibits public adjusters from engaging in certain conduct, including giving legal advice or acting on behalf of any person negotiating or settling certain claims.¹⁵ An attorney who is licensed to practice law in Florida and in good standing with The Florida Bar is not required to hold a separate license under ch. 626, F.S., to adjust or participate in the adjustment of any claim, loss, or damage arising under policies or insurance contracts.¹⁶

Public adjusters are also prohibited from directly or indirectly soliciting an insured or claimant except for during specified times.¹⁷ A public adjuster or any other person who circulates or disseminates any advertisement, announcement, or statement containing any assertion,

advertisement or a person who photographs or inventories damaged property or business personal property if such person does not otherwise adjust, investigate, or negotiate for or attempt to effect the settlement of a claim.

⁷ Section 626.112(1)(a), F.S.

⁸ Section 626.171, F.S.

⁹ Section 626.551, F.S.

¹⁰ *Id.*

¹¹ Section 626.854(4), F.S., defines "insured," for purposes of this section, as only the policyholder and any beneficiaries named or similarly identified in the policy.

¹² Section 626.854(1), F.S.

¹³ *Id.*

¹⁴ Section 626.854(2)(a), F.S.

¹⁵ Section 626.854(3), F.S.

¹⁶ Section 626.860, F.S.

¹⁷ Section 626.854(5), F.S.

representation, or statement about the business of insurance that is untrue, deceptive, or misleading commits an unfair and deceptive insurance trade practice, and Florida law sets out specific statements which are considered deceptive or misleading.¹⁸

Contracts and Disclosures

All contracts for public adjuster services and proof-of-loss statements must be in writing and include a disclosure relating to injuring, defrauding, or deceiving an insurer or insured and committing a crime if proof of loss or estimate of claims is based on false, incomplete, or misleading information.¹⁹ A public adjuster contract for a property and casualty claim must contain certain information, such as the full name and certain contact details of the public adjuster and insured.²⁰ Such contract must state the percentage of compensation for the public adjuster's services, type of claim, and signatures of the public adjuster and named insureds.²¹ An unaltered copy of the executed contract must be provided to the insurer within 30 days after the execution. Public adjusting firms that adjust claims primarily for commercial entities that meet certain requirements is deemed to comply with these provisions if the public adjusting firm remits to the insurer a signed affidavit that contains specified information relating to:

- The name and contact details of the public adjuster, public adjuster apprentice, and insured;
- The name of the public adjusting firm;
- An attestation that the compensation will not exceed the limits provided by law; and
- The type of claim.²²

An insured or claimant may cancel a contract with a public adjuster without penalty within 10 days after the date on which the contract is executed.²³ The reason for providing the 10 day period is to allow the consumer to have time to make an informed decision in the wake of a storm.²⁴ A public adjuster's contract must contain the following statement in minimum 18-point bold type which states:

“You, the insured, may cancel this contract for any reason without penalty or obligation to you within 10 days after the date of this contract by providing notice to (name of public adjuster), submitted in writing and sent by certified mail, return receipt requested, or other form of mailing that provides proof thereof, at the address specified in the contract.”²⁵

A public adjuster is required to provide to the insured or claimant a written estimate of the loss to assist in any claim for insurance proceeds within 60 days after the date of the contract.²⁶

¹⁸ Section 626.854(7), F.S. Section 626.9541, F.S., provides for unfair methods of competition and unfair or deceptive acts or practices.

¹⁹ Section 626.8796(1), F.S.; section 626.8797, F.S.

²⁰ Section 626.8796(2), F.S.

²¹ *Id.*

²² Section 626.8796(2), F.S.

²³ Section 626.854(10), F.S.

²⁴ The Department of Financial Services, *2023 Legislative Bill Analysis for SB 1398*, p. 3, Mar. 16, 2023 (hereinafter cited as “DFS 2023 Agency Analysis for SB 1398”) (on file with Senate Committee on Banking and Insurance).

²⁵ Section 626.854(6), F.S.

²⁶ Section 626.854(14), F.S.

Charges, Fees, and Gifts

Florida law prohibits a public adjuster from charging a fee unless a written contract is entered into prior to the payment of the claim, and restricts certain fees and charges of a public adjuster who enter into contracts with an insured or claimant.²⁷ For instance, a public adjuster's compensation may not exceed twenty percent of the amount of insurance claim payments or settlements for claims that are not based on an emergency, and ten percent based on events that are based on an emergency.²⁸ A public adjuster may not give or offer to give a client or prospective client a loan or advance, or give or offer to give any merchandise worth more than \$25 to any individual for the purpose of advertising or inducing such individual to enter into a contract.²⁹

Office and Records

Independent or public adjusters must maintain a place of business in Florida which is accessible to the public but may be a home office.³⁰ Such adjusters must keep the "usual and customary records" relating to the transactions covered under the license. Records related to a specific claim must be retained in the adjuster's place of business for not less than 5 years after completion of the adjustment.³¹ An adjuster is not prohibited from returning or delivering certain documents to the insurer or insured.³²

Annuity Investments

The purpose of s. 627.4554, F.S., annuity³³ investments, is to set out requirements for which insurers³⁴ must comply when making recommendations³⁵ to consumers regarding annuity products, and to establish a system for supervising such recommendations to ensure that consumers' insurance needs and financial objectives are met at the time of the transaction.³⁶ The section applies to any recommendation made by an insurer or agent³⁷ to a consumer to purchase,

²⁷ Section 626.854(10), F.S.

²⁸ Section 626.854(10)(b), F.S.

²⁹ Section 626.854(8) and (9), F.S.

³⁰ Section 626.875(1), F.S.

³¹ Section 626.875(2), F.S.

³² *Id.*

³³ Section 627.4554, F.S., defines "annuity" as an insurance product under state law which is individually solicited, whether classified as an individual or group annuity.

³⁴ The term "insurer" has the same meaning as provided in s. 624.03, F.S. Section 627.4554(3)(d), F.S.

³⁵ Section 627.4554(3)(e), F.S., defines "recommendation" as advice provided by an insurer or its agent to a consumer which would result in the purchase, exchange, or replacement of an annuity in accordance with that advice. Section 627.4554(3)(f), F.S., defines "replacement" as a transaction in which a new policy or contract is to be purchased and it is known or should be known to the proposing insurer or its agent that by reason of such transaction an existing policy or contract will be: 1. Lapsed, forfeited, surrendered or partially surrendered, assigned to the replacing insurer, or otherwise terminated; 2. Converted to reduced paid-up insurance, continued as extended term insurance, or otherwise reduced in value due to the use of nonforfeiture benefits or other policy values; 3. Amended so as to effect a reduction in benefits or the term for which coverage would otherwise remain in force or for which benefits would be paid; 4. Reissued with a reduction in cash value; or 5. Used in a financed purchase.

³⁶ Section 627.4554(1), F.S.

³⁷ The term "agent" has the same meaning as provided in s. 626.015, F.S. Section 627.4554(3)(a), F.S.

exchange, or replace an annuity which results in the consumer purchasing, exchanging, or replacing the recommended product.³⁸ The section, however, does not apply to the following:

- Direct-response solicitation where there is no recommendation based on information collected from the consumer;
- Contracts used to fund:
 - An employee pension or welfare benefit plan that is covered by the federal Employee Retirement and Income Security Act;
 - Certain plans of the Internal Revenue Code, if established or maintained by an employer;³⁹
 - A government or church plan,⁴⁰ a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax-exempt organization;⁴¹
 - A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor;
 - Settlements or assumptions of liabilities associated with personal injury litigation or a dispute or claim-resolution process; or
 - Formal prepaid funeral contracts.⁴²

When making a recommendation to purchase or exchange an annuity product which results in an insurance transaction or series of insurance transactions, the insurer or agent must have a reasonable basis to believe, based on the consumer's suitability information,⁴³ that the recommendation is suitable for the consumer and a reasonable basis to believe all of the following:

- The consumer has been reasonably informed of various features of the annuity;⁴⁴
- The consumer would benefit from certain features of the annuity;⁴⁵
- The particular annuity as a whole, underlying subaccounts to which funds are allocated, riders or similar enhancements are suitable; and, in respect of exchange or replacement, the transaction as a whole is suitable for the consumer based on his or her suitability information;
- An exchange or replacement is suitable after considering whether the consumer:
 - Will incur a surrender charge, be subject to a new surrender period, lose existing benefits, be subject to increased fees;
 - Would benefit from product enhancements and improvements; and

³⁸ Section 627.4554(2), F.S.

³⁹ Section 627.4554(4)(b)2., F.S., specifies the plans that are exempt from this section includes s. 401(a), s. 401(k), s. 403(b), s. 408(k), or s. 408(p) of the Internal Revenue Code.

⁴⁰ Section 414, I.R.C.

⁴¹ Section 457, I.R.C.

⁴² Section 627.4554(4), F.S.

⁴³ Section 627.4554(3)(g), F.S., defines "suitability information" as information related to the consumer which is reasonably appropriate to determine the suitability of a recommendation made to the consumer, including the following: 1. Age; 2. Annual income; 3. Financial situation and needs, including the financial resources used for funding the annuity; 4. Financial experience; 5. Financial objective; 6. Intended use of the annuity; 7. Financial time horizon; 8. Existing assets, including investment and life insurance holdings; 9. Liquidity needs; 10. Liquid net worth; 11. Risk tolerance; and 12. Tax status.

⁴⁴ Section 627.4554(5)(a)1., F.S. provides examples such as the potential surrender period and charge, potential tax liability, mortality and expense fees, investment advisory fees, potential charges for and features of riders, limitations on interest returns, insurance and investment components, and market risk.

⁴⁵ Section 627.4554(5)(a)2., F.S., provides examples such as tax-deferred growth, annuitization, or the death or living benefit.

- Has had another annuity exchange or replacement within the preceding 36 months.⁴⁶

Before executing a transaction for an annuity resulting from a recommendation, an insurer or its agent must make reasonable efforts to obtain the consumer's suitability information.⁴⁷ The information must be collected on a specified form that must be signed by the applicant and agent.⁴⁸ Such form must be in at least 12-point type and be readily understandable by the agent and consumer.⁴⁹ A true and correct copy of the executed form must be provided to the insurer by the responsible party within 10 days after execution of the form, and must be provided to the consumer no later than the date of delivery of the contract.⁵⁰

An insurer may not issue a recommended annuity to a consumer unless the insurer has reasonable basis to believe the annuity is suitable based on the consumer's suitability information.⁵¹ An insurer's issuance of an annuity must be reasonable based on all of the circumstances known at the time of the issuance, but an insurer does not have an obligation to a consumer under certain provisions of the section if:

- A recommendation has not been made;
- A recommendation was made and is later found to be based on materially inaccurate information provided by the consumer;
- A consumer refuses to provide relevant suitability information and the annuity transaction is not recommended; or
- A consumer decides to enter into an annuity transaction that is not based on a recommendation of an insurer or its agent.⁵²

At the time of the sale, the agent and the agent's representative must:

- Make a record of any recommendation to the consumer;
- Obtain the consumer's signed statement documenting his or her refusal to provide suitability information, if applicable; and
- Obtain the consumer's signed statement acknowledging that an annuity transaction is not recommended, if applicable.

Before executing an exchange or a replacement of an annuity contract resulting from a recommendation, the agent must provide the consumer with a specified form which compares the difference between the existing annuity contract and the annuity contract being recommended to determine the suitability and benefits to the consumer.⁵³ Such form needs to be signed by the agent and the insured, and must be to the insurer within 10 days after execution of the form and to the consumer no later than the date of delivery of the contract.⁵⁴

⁴⁶ Section 627.4554(5)(a), F.S.

⁴⁷ Section 627.4554(5)(b), F.S.

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ Section 627.4554(5)(c), F.S.

⁵² Section 627.4554(5)(d), F.S.

⁵³ Section 627.4554(5)(f), F.S.

⁵⁴ *Id.*

An insurer must establish a supervision system that is reasonably designed to ensure the insurer and agent's compliance with s. 627.4554, F.S., and must include, but is not limited to:

- Maintaining reasonable procedures to inform its agents of the requirements under Florida law and incorporating them into training manuals;
- Establishing standards for agent product training;
- Providing product-specific training and training materials that explain all material features of its annuity products to its agents;
- Maintaining procedures for the review of each recommendation before issuance of an annuity to ensure there is reasonable basis for determining that the recommendation is suitable, such as review procedures;
- Maintaining reasonable procedures to detect recommendations that are not suitable, such as confirmation of consumer suitability information, systematic customer surveys, and customer interviews; and
- Annually providing a report to senior managers which details a review, along with appropriate testing to determine the effectiveness of the supervision system, the exceptions found, and any corrective action taken or recommended.⁵⁵

An insurer is not required to include in its supervision system agent recommendations to consumers of products other than annuities offered by the insurer.⁵⁶ An insurer may contract with a third-party to perform any function required with respect to the supervisory system,⁵⁷ but the insurer must include the supervision of such function as part of the procedures required to be conducted as part of the system which include, but are not limited to:

- Monitoring and, as appropriate, conducting audits to ensure that the contracted function is properly performed; and
- Annually obtaining a certification from a senior manager who has responsibility for the contracted function that the manager has a reasonable basis for representing that the function is being properly performed.⁵⁸

An insurer is responsible for taking appropriate corrective action and may be subject to penalties notwithstanding any contract for the performance of a function by a third-party and regardless of the insurer's compliance with these provisions in this paragraph regarding contracting with third-parties to perform functions.⁵⁹

An insurer may not dissuade, or attempt to dissuade, a consumer from:

- Truthfully responding to an insurer's request for confirmation of suitability information;
- Filing a complaint; or
- Cooperating with the investigation of a complaint.⁶⁰

Sales made in compliance with Financial Industry Regulatory Authority (FINRA) or a succeeding agency (~~FINRA~~) requirements relating to the suitability and supervision of annuity

⁵⁵ Section 627.4554(5)(g)1., F.S.

⁵⁶ Section 627.4554(5)(g)2., F.S.

⁵⁷ Section 627.4554(5)(g)3., F.S.

⁵⁸ Section 627.4554(5)(g)3., F.S.

⁵⁹ Section 627.4554(5)(g)3.b., F.S.

⁶⁰ Section 627.4554(h), F.S.

transactions satisfy the requirements of s. 627.4554, F.S. This applies to FINRA broker-dealer sales of variable annuities and fixed annuities if the suitability and supervision is similar to those applied to variable annuity sales.⁶¹ These provisions do not limit the Department's or OIR's ability to investigate or take any enforcement actions against insurers or agents.⁶² For this paragraph to apply, the insurer must:

- Monitor the FINRA member broker-dealer using information collected in the normal course of an insurer's business; and
- Provide to the FINRA member broker-dealer information and reports that are reasonably appropriate to assist the FINRA member broker-dealer in maintaining its supervision system.⁶³

Insurers and agents are required to maintain or be able to make available to the Department or OIR records of the information collected from the consumer with respect to an annuity insurance transaction, and other information relied upon in making the recommendation, for 5 years after the insurance transaction is completed.⁶⁴ An insurer may retain records on behalf of its agent.⁶⁵ Records may be maintained in various specified forms or by any process that accurately produces the actual document.⁶⁶

An insurer is responsible for compliance with s. 627.4554, F.S., and, if violated because of action or inaction by the insurer or its agent that causes harm to the consumer, the OIR may order the insurer to take reasonably appropriate corrective action and may impose appropriate sanctions and penalties.⁶⁷ The Department may order:

- An agent to take reasonably appropriate corrective action for a consumer harmed by a violation, including monetary restitution of penalties or fees incurred by the consumer and impose appropriate penalties and sanctions;
- A managing general agency or insurance agency that employs or contracts with an agent to sell or solicit the sale of annuities to consumers to take reasonably appropriate corrective action for a consumer harmed by a violation.⁶⁸

The Department must order an agent to pay restitution to a consumer who has been deprived of money by the agent's misappropriation, conversion, or unlawful withholding of money belonging to the consumer, and the amount may not exceed the amount misappropriated, converted, or unlawfully withheld.⁶⁹ This provision does not limit the consumer's right to seek other remedies. To the extent that corrective action for the consumer is taken promptly after a violation is discovered, any applicable penalty under the Florida Insurance Code for a violation must be reduced or eliminated, as appropriate, according to a schedule adopted by the Department or OIR.⁷⁰

⁶¹ Section 627.4554(i), F.S.

⁶² *Id.*

⁶³ *Id.*

⁶⁴ Section 627.4554(6), F.S.

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ Section 627.4554(7)(a), F.S.

⁶⁸ Section 627.4554(7)(a)1. and 2., F.S.

⁶⁹ Section 627.4554(7)(c), F.S.

⁷⁰ Section 627.4554(7)(d), F.S.

In 2003, the National Association of Insurance Commissioners (NAIC) created the Suitability in Annuity Transactions Model Regulations in 2003 which were revised with updated standards in 2020 (“NAIC Model Regulation”).⁷¹ According to the NAIC, there are 27 states that have adopted the either the 2003 or 2020 version of the NAIC Model Regulation as of 2022.⁷² The NAIC Model Regulation requires agents to act in the best interest of consumers when making recommendations regarding annuities, and requires insurers to establish and maintain a system to supervise procedures to ensure compliance with the regulation.⁷³ It also contains, amongst other things, duties for which insurers and agents must comply, training requirements, recordkeeping, and compliance mitigation provisions.⁷⁴

Insurance Agency Firm Name

An insurance agency’s⁷⁵ firm name must comply with certain provisions under Florida law.⁷⁶ The Department may disapprove the use of any true or fictitious name, except the bona fide natural name of an individual, by an insurance agency for any of the following reasons:

- The name interferes with or is too similar to a name already in use by another agency or insurer;
- The use of the name may mislead the public;
- The name states or implies that the agency is an insurer, motor club, hospital service plan, state or federal agency, charitable organization, or entity that primarily provides advice and counsel rather than sells or solicits insurance, or is entitled to engage in insurance activities not permitted under the license held or applied for by the licensee. This provision does not prohibit the use of the terms “state” or “states,” and use of such terms does not imply that the agency is a state agency.
- The name contains the term “Medicare” or “Medicareid.” An insurance agency whose name contains such terms and is licensed as of July 1, 2021 may continue to use that name until June 30, 2023 as long as the license remains valid. Insurance agencies whose names contain such terms will automatically expire on July 1, 2023, unless the terms are removed from the name before that date.⁷⁷

Notice of Cancellation for Certain Policies

Insurers must inform the first-named policyholder for coverage of property, casualty (except for mortgage guaranty), surety, or marine insurance (except for certain motor vehicle insurance) with 45 days’ advance written notice of cancellation or termination with when otherwise

⁷¹ Zimmermann, S., *NAI Annuity Suitability Training Requirements*, Annuity.Org, Feb. 20, 2023, available at: [NAIC Annuity Suitability Training Requirements](#) (last visited Mar. 19, 2023).

⁷² Silvestrini, E., *Annuity Regulations*, Annuity.Org, Feb. 20, 2023, available at: [Annuity Regulations | State & Federal Government Involvement](#) (last visited Mar. 19, 2023).

⁷³ The NAIC, *Suitability in Annuity Transactions Model Regulation*, Spring 2020, available at: [MDL-275 \(naic.org\)](#) (last visited Mar. 19, 2023).

⁷⁴ *Id.*

⁷⁵ Section 626.015(10), F.S., defines “insurance agency” as a business location at which an individual, firm, partnership, corporation, association, or other entity, other than an employee of the individual, firm, partnership, corporation, association, or other entity other than an insurer as defined by s. 624.03, F.S., or an adjuster, engages in any activity or employs individuals to engage in any activity which by law may be performed only by a licensed insurance agent.

⁷⁶ Section 626.602, F.S.

⁷⁷ *Id.*

specified in certain provisions.⁷⁸ When cancellation is due to failure to pay a premium, at least 10 days' written notice of cancellation and the reason for the cancellation must be provided to the insured.⁷⁹ When cancellation or termination occurs during the first 90 days and is not a result of nonpayment of premium, at least 20 days' written notice and the reason for cancellation or termination must be given to the insured except where there has been a material misstatement, misrepresentation, or failure to comply with the underwriting requirements.⁸⁰ After 90 days, no such policy may be cancelled by the insurer unless there has been a material misstatement, a failure to pay the premium, a failure to comply with underwriting requirement within a specified time, or a substantial change in the risk covered by the policy or when cancellation is given for a class of insureds.⁸¹

With respect to personal lines or commercial residential property insurance policies, such as any homeowner, mobile home owner, farm owner, condominium association, condominium unit owner, apartment building, the insurer must give the first-named insured written notice at least 120 days before the effective date of the nonrenewal, cancellation, or termination.⁸² Such insurers must receive 10 days' advance notice of cancellation for a failure to pay a premium, or 20 days' notice for a reason other than nonpayment if cancellation occurs within the first 90 days of coverage.⁸³ An insurer may not cancel the policy after it has been in effect for 90 days unless there has been a material misstatement, nonpayment, a failure to comply within underwriting within a specified time, a substantial change in the risk covered by the policy or unless the cancellation is for as class of insureds.⁸⁴

Unfair Methods of Competition and Unfair or Deceptive Acts

The Unfair Insurance Trade Practices Act⁸⁵ provides that no person may engage in any unfair method of competition or an unfair or deceptive act or practice in relation to the business of insurance.⁸⁶ Section 626.9541, F.S., sets out several acts or practices that constitute unfair methods of competition and unfair or deceptive acts, such as:

- Misrepresentations and false advertising of insurance policies;
- False information and advertising;
- Defamation;
- Boycott, Coercion, and intimidation;
- False statements and entries;
- Unfair discrimination;
- Unlawful rebates; and
- Unfair claim settlement practices.

⁷⁸ Section 627.4133(1)(a), F.S.

⁷⁹ Section 627.4133(1)(b)1., F.S.

⁸⁰ Section 627.4133(1)(b)2., F.S.

⁸¹ *Id.*

⁸² Section 627.4133(2)(b), F.S.

⁸³ Section 627.4133(2)(b)1. and 2., F.S.

⁸⁴ Section 627.4133(2)(b)3., F.S.

⁸⁵ Section 626.951(2), F.S.

⁸⁶ Section 626.9521(1), F.S.

Misrepresentations and false advertising of insurance policies means knowingly making, issuing, circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, statement, sales presentation, omission, comparison, or property and casualty certificate of insurance altered after being issued, which, for instance, misrepresents the benefits, advantages, conditions, or terms of any insurance policy or is misleading, or is a misrepresentation, as to the financial condition of any person or as to the legal reserve system upon which any life insurer operates.⁸⁷

Except for specified penalties to the contrary and subject to any other applicable penalties, a person who violates any the Unfair Insurance Trade Practices Act may be fined an amount not greater than \$5,000 for each nonwillful violation and not greater than \$40,000 for each willful violation.⁸⁸ An insurer may not be fined more than an aggregate amount of \$20,000 for all nonwillful violations, or \$200,000 for all willful violations, arising out of the same action.⁸⁹

Hurricane Deductibles

Residential coverage includes both personal lines residential coverage⁹⁰ and commercial lines residential coverage,⁹¹ and includes policies that provide coverage for particular perils such as windstorm⁹² and hurricane.⁹³ “Hurricane coverage” is the loss or damage caused by the peril of windstorm during a hurricane, which includes damage to the interior of a building or to property inside a building caused by rain, snow, sleet, hail, sand, or dust if the direct force of a windstorm first damages the building, causing an opening through which rain, snow, sleet, hail, sand, or dust enters and causes damage.⁹⁴ The term “hurricane,” as used in this paragraph, is a storm system that has been declared to be a hurricane by the National Hurricane Center of the National Weather Service. The duration of the hurricane includes the time period, in Florida:

- Beginning at the time a hurricane watch or hurricane warning is issued for any part of Florida by the National Hurricane Center of the National Weather Service;
- Continuing for the time period during which the hurricane conditions exist anywhere in Florida; and
- Ending 72 hours following the termination of the last hurricane watch or hurricane warning issued for any part of Florida by the National Hurricane Center of the National Weather Service.⁹⁵

⁸⁷ Section 626.9541(1)(a), F.S.

⁸⁸ Section 626.9621(2), F.S.

⁸⁹ *Id.*

⁹⁰ Types of personal lines residential coverage include homeowner, mobile home owner, dwelling, tenant, condominium unit owner, or cooperative unit owner. Section 627.4025(1), F.S.

⁹¹ Types of commercial lines residential coverage includes condominium association, cooperative association, apartment building, and similar policies, including policies covering the common elements of a homeowners association. Section 627.4025(1), F.S.

⁹² Section 627.4025(2)(b), F.S., defines “windstorm,” for purposes of defining the term “hurricane coverage,” means wind, wind gusts, hail, rain, tornadoes, or cyclones caused by or resulting from a hurricane which results in direct physical loss or damage to property.

⁹³ Section 627.4025(1), F.S.

⁹⁴ Section 627.4025(2)(a), F.S.

⁹⁵ Section 627.4025(2)(c), F.S.

According to the Insurance Services Office, there has been \$159.1 billion in insured losses caused by hurricanes between 1993 and 2013.⁹⁶ In 1992, after Hurricane Andrew hit South Florida, hurricane deductibles were introduced to deal with the major losses caused by the major storms.⁹⁷ Florida law does not define “hurricane deductible,” but according to the NAIC, a deductible is the amount of loss for which the policyholder is responsible to pay before any loss is covered by the insurer.⁹⁸ Hurricane deductibles may be a fixed amount but usually are a percentage of the insured’s home value.⁹⁹ Hurricane deductibles are usually higher than other peril deductibles because of the catastrophic damage caused by hurricanes,¹⁰⁰ and typically range from between 1% to 10% of the home value.¹⁰¹ Laws in nineteen states, including Florida, and the District of Columbia contain to some form of hurricane or storm deductible.¹⁰²

Motor Vehicle Service Agreements

A person may not transact, administer, market, or attempt any of these activities with respect to a service agreement¹⁰³ business in Florida without a license.¹⁰⁴ To qualify for and maintain a license, a service agreement company (“company”) must comply with applicable Florida laws (including the Florida Insurance Code), rules and charter powers, and comply with specified requirements, including, in part:

- Being a solvent corporation;
- Furnishing the OIR with evidence that the management of the company is competent and trustworthy, and can successfully and lawfully manage its affairs;
- Making a deposit required under s. 634.052, F.S.;
- Maintaining the requires reserves and the required ratio of liquid assets to the required reserves;
- Having and maintaining net assets of \$500,000; and
- Establishing and maintaining an unearned premium reserve that meets certain requirements, including:

⁹⁶ The NAIC, *Hurricane Deductibles*, May 11, 2022, available at: [Hurricane Deductibles \(naic.org\)](https://www.naic.org/hurricane-deductibles) (hereinafter cited as “NAIC Hurricane Deductible”) (last visited Mar. 19, 2023).

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ The NAIC Hurricane Deductible.

¹⁰⁰ The DFS Agency Analysis for SB 1398 at p. 3; The NAIC Hurricane Deductible.

¹⁰¹ The NAIC Hurricane Deductible.

¹⁰² *Id.*; Howard, P., and Gimbel, J., *Hurricane Deductibles in 2023: Your State-by-State Guide*, Policygenius, Dec. 30, 2022, available at: [Hurricane Deductibles in 2023: Your State-By-State Guide - Policygenius](https://www.policygenius.com/hurricane-deductibles-in-2023-your-state-by-state-guide-policygenius) (last visited Mar. 19, 2023) (summarizing the laws on hurricane deductibles in 19 states).

¹⁰³ Section 634.011(8), F.S., defines “motor vehicle service agreement” or “service agreement” as a contract or agreement indemnifying the service agreement holder for the motor vehicle listed on the service agreement and arising out of the ownership, operation, and use of the motor vehicle against loss caused by failure of any mechanical or other component part, or any mechanical or other component part that does not function as it was originally intended; however, nothing in this part shall prohibit or affect the giving, free of charge, of the usual performance guarantees by manufacturers or dealers in connection with the sale of motor vehicles. Transactions exempt under s. 624.125, F.S., are expressly excluded from this definition and are exempt from the provisions of this part. The term “motor vehicle service agreement” includes any contract or agreement that provides: (a) for the coverage or protection and which is issued or provided in conjunction with an additive produce applied to the motor vehicle that is the subject of such contract or agreement; (b) For payment of vehicle protection expenses as defined in s. 634.011(8)(b)1.a., F.S.

¹⁰⁴ Section 634.031(1), F.S.

- The unearned premium reserve consists of unencumbered assets equal to a minimum of 50 percent of the unearned gross written premium of each service agreement and must amortize this reserve pro rata over the duration of the service agreement;
- A company utilizing the 50-percent reserve must not allow its ratio of gross written premium to net assets to exceed 10 to 1; and
- The company must deposit with the DFS securities of the type eligible for deposit by insurers under s. 625.52, F.S., equal to 15 percent of the unearned premium reserve; or
- Does not establish and maintain an unearned premium reserve if the company secures and maintains contractual liability insurance in accordance with the following:
 - Coverage of 100 percent of the claim exposure is obtained from an insurer approved by the office which meets certain criteria;
 - The contractual liability insurance policy binds its issuer to pay or cause to be paid to the service agreement holder all legitimate claims and cancellation refunds if the company does not meet its contractual obligations;
 - If the issuer of the contractual liability policy is fulfilling the service agreements covered by contractual liability policy and the holder cancel the service agreement, the issuer must make a full refund of the unearned premium to the consumer in certain circumstances;
 - The policy's cancellation, termination, or nonrenewal is subject to 90 days written notice by the insurer to the OIR; and
 - The company must provide the OIR with the claims statistics.¹⁰⁵

Mortgage Loan Regulations

The OFR is responsible for the regulation of banks, credit unions, other financial institutions, finance companies, and securities.¹⁰⁶ The OFR has a Division of Consumer Finance which is responsible for the administration and enforcement of ch. 494, F.S.¹⁰⁷ that licenses and regulates the individuals and businesses in the mortgage business, including loan originators,¹⁰⁸ mortgage brokers,¹⁰⁹ and mortgage lenders.¹¹⁰ A person who acts in any of these capacities must be licensed.¹¹¹

¹⁰⁵ Section 634.041, F.S.

¹⁰⁶ Section 20.121(3)(a)2., F.S.

¹⁰⁷ Section 494.0011(1), F.S.

¹⁰⁸ Section 494.001(18), F.S., defines "loan originator" as an individual who, directly or indirectly, solicits or offers to solicit a mortgage loan, accepts, or offers to accept an application for a mortgage loan, negotiates or offers to negotiate the terms or conditions of a new or existing mortgage loan on behalf of a borrower or lender, or negotiates or offers to negotiate the sale of an existing mortgage loan to a noninstitutional investor for compensation or gain.

¹⁰⁹ Section 494.001(23), F.S. defines "mortgage broker" as a person conducting loan originator activities through one or more licensed loan originators employed by the mortgage broker or as independent contractors to the mortgage broker.

¹¹⁰ Section 494.001(24), F.S., defines "mortgage lender" as a person making a mortgage loan or servicing mortgage loan for others, or, for compensation or gain, directly or indirectly, selling or offering to sell a mortgage loan to a noninstitutional investor. A mortgage lender may act as a mortgage broker. Section 494.0073, F.S.

¹¹¹ Sections 494.00312, 494.00321, and 494.00611, F.S.

A mortgage broker and mortgage lender who makes loans in Florida must transact business from a principal place of business.¹¹² Mortgage brokers and mortgage lenders may separately license branch offices.¹¹³ A “branch office” is a location, other than a mortgage broker’s or mortgage lender’s principal place of business:

- The address of which appears on business cards, stationary, or advertising used by the licensee in connection with business conducted under ch. 494, F.S.;
- At which the licensee’s name, advertising or promotional materials, or signage suggests that mortgage loans are originated, negotiated, funded, or services; or
- At which mortgage loans are originated, negotiated, funded, or services by a licensee.¹¹⁴

The OFR must issue a branch office after determining that the mortgage broker or mortgage lender has submitted a completed branch office application form, which must contain specified information, and an initial nonrefundable fee of \$225.¹¹⁵ Branch office licenses must be renewed at the same time as mortgage broker or mortgage lender licenses.¹¹⁶ Each branch office must be operated by the “full charge, control, and supervision” of a principal loan originator and branch manager.¹¹⁷ Operating a branch office without the required license, designated principal loan originator, or branch manager is grounds for disciplinary action.¹¹⁸

Licensees are required to maintain books, accounts, records and documents necessary to determine compliance with ch. 494, F.S., at their principal place of business,¹¹⁹ but the OFR may authorize a licensee to maintain such records at an alternative location.¹²⁰

Conduct of Money Services Businesses

Ch. 560, F.S., sets out provisions on the conduct of money services businesses (MSB), specifying, in part:

- A licensee may transact MSB only under the legal name under which the person is licensed;
- The payment instrument must be endorsed using the legal name under which the licensee is licensed in certain circumstances;
- A licensee may not accept or cash a payment instrument from a person who is not the original payee with limited exception; and
- A licensee must report all suspicious activity to the OIR.¹²¹

Pursuant to s. 560.310, F.S., the OIR must require a licensee to submit certain information to the check cashing database or electronic log, before entering into each check cashing transaction for

¹¹² Sections 494.0039 and 494.0067(1), F.S. Section 494.001(31), F.S., defines “principal place of business” as a mortgage’s broker’s or mortgage lender’s primary business office, the street address, or physical location that is designated on the application for licensure or any amendment to such application.

¹¹³ Sections 494.0036(1) and 494.0066(1), F.S.

¹¹⁴ Section 494.001(3), F.S.

¹¹⁵ Sections 494.0036(2) and 494.0066(2), F.S.

¹¹⁶ Section 494.0036(3) and 494.0066(3), F.S.

¹¹⁷ Sections 494.0035 and 494.00665, F.S.

¹¹⁸ Section 494.00255(1)(q) and (r), F.S.

¹¹⁹ Section 494.0016(1), F.S.

¹²⁰ Section 494.0016(2), F.S.

¹²¹ Section 560.309, F.S.

each payment instrument being cashed.¹²² A person who knowingly violates this section commits a felony of the third degree.¹²³

Crowdfunding Campaigns

Crowdfunding is a recent method used to raise funds online from a large number of people who are interested in a crowdfunding campaign.¹²⁴ Campaigns may support a wide range of ideas and ventures, and usually share information about the project, cause, or idea to decide whether to invest in the campaign based on the “collective wisdom of the crowd.”¹²⁵ Some of the top crowdfunding sites include GoFundMe, StartEngine, Indiegogo, and SeedInvest Technology.¹²⁶

Florida statutes have limited provisions related to crowdfunding campaigns that relate to intrastate crowdfunding for securities transactions.¹²⁷ There are no other provisions that address crowdfunding explicitly, but crowdfunding campaigns must comply with all other relevant laws, such as the Florida Deceptive and Unfair Trade Practices Act (FDUTPA).¹²⁸ For instance, it is unlawful to engage in any unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce.¹²⁹ There are also provisions on unlawful acts and practices by social media platforms which, if applicable, a crowdfunding campaign organizer would need to comply.¹³⁰

The state attorney in which a violation occurs or affects, or the Department of Legal Affairs if a violation occurs or affects more than one judicial circuit,¹³¹ has authority to conduct investigations if certain conditions are met.¹³² Such authority may seek specified remedies, such as a declaratory judgment or an action to enjoin,¹³³ and a violator may be liable for a civil penalty of not more than \$10,000.¹³⁴ Further, an aggrieved party may bring an individual cause of action in certain circumstances and seek actual damages, plus attorney fees and court costs.¹³⁵

¹²² Section 560.310(2)(d), F.S.

¹²³ Section 560.111(6), F.S. A third degree felony is punishable by up to five years imprisonment and up to a \$5,000 fine. Sections 775.082, 775.083, and 775.084, F.S.

¹²⁴ The Securities and Exchange Commission, *24D Securities Pub. & Priv. Offerings Appendix C13 (2d ed.)*, Nov. 2022, available at: [Appendix C13. SEC Crowdfunding Rule | Secondary Sources | National | Westlaw Edge](#) (last visited Mar. 18, 2023).

¹²⁵ *Id.*

¹²⁶ Kearn, M., *Crowdfunding Platforms*, Investopedia, Dec. 28, 2022, available at: [The 6 Best Crowdfunding Platforms of 2023 \(investopedia.com\)](#) (last visited Mar. 18, 2023).

¹²⁷ Section 517.0611, F.S.

¹²⁸ Sections 501.201, F.S. to 501.213, F.S.

¹²⁹ Section 501.204(1), F.S. “Trade or commerce” is defined as the advertising, soliciting, providing, offering, or distributing, whether by sale, rental, or otherwise, of any good or service, or any property, whether tangible or intangible, or any other article, commodity, or thing of value, wherever situated. The terms includes the conduct of any trade or commerce, however denominated, including any nonprofit or not-for-profit person or activity. Section 501.203(8), F.S. “Thing of value” may include, without limitation, any moneys, donation, membership, credential, certificate, prize, award, benefit, license, interest, professional opportunity, or chance of winning. Section 501.203(9), F.S.

¹³⁰ Section 501.2041, F.S.

¹³¹ Section 501.203(2), F.S.

¹³² Section 501.206, F.S.

¹³³ Section 501.207(1), F.S.

¹³⁴ Section 501.2075, F.S.

¹³⁵ Section 501.211(1), F.S.

Distributed Energy Generation Systems

A distributed energy generation system (DEGS), such as a solar panel or a wind-turbine,¹³⁶ is a device or system that is used to generate or store electricity, that has an electric delivery capacity, individually or in connection with other similar devices or systems, of greater than one kilowatt or one kilowatt-hour; and that is used primarily for on-site consumption.¹³⁷ According to the United States Environmental Protection Agency (EPA), the use of DEGS has increased for several reasons, for instance because they have become cost-effective.¹³⁸ There are benefits to using DEGS, such as reducing the amount of electricity generated which can reduce the environmental impact, but it can also have negative impacts, such as a system that involves combustion.¹³⁹ Most solar installations on residences are installed on a roof, and DEGS may be best suited for new roofs as they can last up to 25 years or longer.¹⁴⁰

In 2017, the Florida Legislature adopted laws related to the retail installment sales of DEGS in Part II of ch. 520, F.S.¹⁴¹ The part applies to agreements¹⁴² to sell or lease a DEGS and is supplemental to the provisions on retail installment contracts contained in Part III, F.S.,¹⁴³ and any sale of a DEGS must comply with applicable safety standards under chs. 489 and 553, F.S.¹⁴⁴ A written statement, separate from the agreement, must be acknowledged by the buyer or lessee, and must meet certain minimum requirements and must contain specified information, including, in part:

- The name and certain contact details of the buyer, the person responsible for installing the DEGS, and the DEGS's maintenance providers;
- A statement indicating whether the DEGS is being purchased or leased;
- The total cost to be paid by the buyer or lease;
- A payment schedule;
- Each state or federal tax incentive or rebate relied upon by the seller;
- A description of any roof warranties;
- A disclosure notifying the lessee whether the seller will insure a leased DEGS against damage or loss; and
- A prescribed statement about the buyer's or lessee's responsibility to obtain insurance.¹⁴⁵

¹³⁶ United States Environmental Protection Agency, *Distributed Generation of Electricity and its Environmental Impacts*, available at: [Distributed Generation of Electricity and its Environmental Impacts | US EPA](#) (last visited Mar. 18, 2023) (hereinafter cited as "EPA Website").

¹³⁷ Section 520.20(3), F.S.

¹³⁸ EPA Website.

¹³⁹ *Id.*

¹⁴⁰ The DFS 2023 Agency Analysis for SB 1398 at p. 3.

¹⁴¹ Ch. 2017-118, L.o.F.

¹⁴² Section 520.20(1), F.S. defines "agreement" as a contract executed between a buyer or lessee and a seller that leases or sells a DEGS. For purposes of this part, the term includes retail installment contracts. Section 520.20(2), F.S., defines "buyer" as a person that enters into an agreement to buy a DEGS from a seller. Section 520.20(6), F.S., defines "seller" as a person who regularly engaged in, and whose business substantially consists of, selling or leasing goods, including DEGS, to buyers or lessees. A seller that is also an installer must be licensed under ch. 489, F.S. Section 520.20(5), F.S., defines "retail installment contract" as an agreement executed in this state between a buyer and a seller in which the title to, or a lien upon, a DEGS is retained or taken by the seller from the buyer as security, in whole or in part, for the buyer's obligations to make specified payments over time.

¹⁴³ Section 520.21, F.S.

¹⁴⁴ Section 520.22, F.S.

¹⁴⁵ Section 520.23, F.S.

This requirement to produce a written statement may be satisfied by the electronic delivery of a document that contains the requirement information provided that the intended recipient acknowledges its receipt.¹⁴⁶ A seller who willfully violates the Part II commits a noncriminal violation punishable by a fine.¹⁴⁷ The owner may recover against certain person specified charges under the agreement, attorney fees and costs.¹⁴⁸

Warranty Associations

Chapter 634, F.S., provides for the regulation of warranty associations. There are three parts to the chapter; Part I for motor vehicle service agreement companies; Part II for home warranty associations; and Part III for service warranty associations.

Service Warranty Associations

A service warranty association is any business other than an authorized insurer that issues service warranties.¹⁴⁹ A service warranty includes, in return for the payment of a segregated charge by the consumer, any warranty, guaranty, or maintenance service contract equal to or greater than 1 year in length; an agreement for a specific duration to perform the repair, replacement, or maintenance of a consumer product; for indemnification for repair, replacement, or maintenance, for failure due to a defect in materials or workmanship, normal wear and tear, power surge, or accidental damage from handling.¹⁵⁰ The regulation of the association and the warranties is administered by the OIR; the regulation of the sales representatives is by the DFS.¹⁵¹

III. Effect of Proposed Changes:

Public Adjusters

Section 9 amends the definition of public adjuster to apply to any person who acts as a public adjuster regardless of how that person described or presents his or her services. When entering into a contract after July 1, 2023, a public adjuster is prohibited from contracting with anyone other than the named insured unless the insured gives written consent after he or she enters into a contract for public adjusting services. If a public adjuster contracts with a third party to assist in settling the claim before obtaining written consent from the insured, the public adjuster is responsible for the third-party's fees.

Public Adjuster Compensation

No later than 14 days from the date of the reported loss, if the insurer either pays or commits in writing to pay the policy limit to the insured, the public adjuster must:

- Inform the insured that the loss recovery amount might not be increased by the insurer;

¹⁴⁶ *Id.*

¹⁴⁷ Section 520.25(1), F.S.

¹⁴⁸ Section 520.25(2), F.S.

¹⁴⁹ Section 634.401(14), F.S.

¹⁵⁰ Section 634.401(13), F.S.

¹⁵¹ Section 634.402, F.S.

- Not receive a commission based on a percentage of the total amount timely paid or committed policy limits; and
- Be entitled only up to \$1,000 from the insured for the time spent and expenses incurred on the claim by the public adjuster, until the claim is paid or the insured receives a written commitment to pay from the insurer.

Except as otherwise provided, if the public adjuster enters into a contract after the insured or claimant is unsuccessful at negotiating a payment and the public adjuster is successful in obtaining a higher insurance claim payment, the public adjuster must receive a commission totaling ten percent of the difference between the initial insurance claim payment offer made to the insured and the final insurance claim payment.

Right of Rescission

When an insured or claimant enters into a contract with a public adjuster as a result of an emergency, an insured or claimant may cancel the contract without penalty or obligation within 30 days after the date of the event, or 10 days after the date on which the contract is executed, whichever is longer. This provision is intended to give time to consumers who may not have technology, power or other resources that may be appropriate or necessary for decision making and communication with an insurer.¹⁵²

The bill also provides the insured with the authority to cancel the contract without penalty within 45 days if the insured is not provided with the written estimate within the timeframe, subject to the cancellation notice requirement. The insured may rescind a public adjuster services contract if the public adjuster has not provided the insurer with a written estimate within 60 days after executing the contract.

Sections 12 and 13 provides the fraud statement that must be contained in the contract and proof-of-loss statement must be in a minimum 18-point bold type before the space in the contract reserved for the insured's signature.

Public Adjuster Contracts

Section 12 of the bill also provides that all contracts for public adjuster services must be in at least 12-point font, titled "Public Adjuster Contract." The provision on public adjuster contracts relating to property and casualty claims to include the public adjuster's and insured's phone number and e-mail addresses, and requires these details for the affidavit remitted by public adjusting firms in eligible circumstances. The bill also specifies that the statement regarding compensation must be in a minimum of 18-point bold type before the space reserved for the insured's signature. The bill provides that the insured is required to initial each page that does not have his or her signature. Further, the bill specifies that the unaltered copy of the contract must be remitted to the insured at the time of execution and to the insurer within 3 days after execution. The bill provides that the public adjuster may not provide services until the insured and the insurer have been provided with the unaltered copies of the executed contract.

¹⁵² The DFS Agency Analysis for SB 1398 at p. 6.

The notice that must be included in the contract, regarding an insured's right to cancel the contract without penalty within 10 days after the date of the contract, must be immediately before the space reserved for the signature of the insured or claimant in the contract. Further, the bill amends the content of the notice to include the following additional language:

“If this contract was entered into based on events that are the subject of a declaration of a state of emergency by the Governor, you may cancel this contract for any reason without penalty or obligation to you within 30 days after the date of the event or 10 days after the date on which the contract is executed, whichever is longer. You may also cancel the contract without penalty or obligation to you if I, as your public adjuster, fail to provide you and your insurer a copy of a written estimate within 60 days of the execution of the contract in accordance with s. 626.854(14)(b), Florida Statutes.”

Prior to executing the contract, the public adjuster must provide the insured with a separate disclosure document on a form adopted by the Department regarding the claim process and must include information on:

- The types of adjusters who may be involved in the claim process;
- The public adjuster is not a representative or employee of the insurer;
- The insured is not required to hire a public adjuster, but has a right to do so;
- An insured has a right to initiate direct communications with the insured's attorney, the insurer, the company adjuster, the insurer's attorney, or any person regarding the settlement of the insured's claim;
- The public adjuster's salary, fee, commission, or other consideration to be paid is the insured's responsibility;
- The public adjuster is required to provide the insured an unaltered copy of the executed contract at the time of execution;
- If the contract was entered into based on events of an emergency, the insured has a right to rescind the contract within 30 days after the date of the event, or 10 days after the date on which the contract is executed, whichever is longer; and

The public adjuster must provide an unaltered copy of the executed disclosure document at the time of execution. A contract that does not comply with these disclosure requirements is invalid and unenforceable.

Rulemaking

The Department may adopt rules to implement the s. 626.8796, F.S., including rules to adopt forms required under the section.

Exemption from Public Adjuster Licensure

Section 10 amends s. 626.860, F.S., exempting attorneys from needing a license under ch. 626, F.S., to adjust claims is amended to clarify that the exemption does not apply to the employees, interns, volunteers, or contractors of any attorney or law firm.

Display of Adjuster License

Section 11 requires an independent or public adjuster to display their license in a conspicuous place in the license holder's principal place of business, but carry the license in his or her actual possession if the licensee is conducting business away from place of business and cannot post the license.

Adjuster Records Retention

The bill requires the records of specific claims that are required to be retained must be made available for inspection by the Department at all times, and the bill specifies the documents which must be maintained for not less than 5 years, including:

- Name, address, telephone number, and e-mail address of the insured, and the name of the attorney representing the insured, if applicable;
- The date, location, and amount of the loss;
- An unaltered copy of the executed disclosure document required and public adjuster contract;
- A copy of the estimate of damages provided to the insurer;
- The name of the insurer, the name of the insurer's claims representative, and the amount, expiration date, and number of each policy under which the loss is covered;
- An itemized statement of recoveries by the insured from the sources known to the adjuster;
- An itemized statement of the compensation received by the public adjuster from any source; and
- A register of all money received, deposited, disbursed, and withdrawn in connection with a transaction with the insured, including fees, transfers, and disbursements in connection with the loss.

Annuities

Section 17 largely adopts the NAIC Model Regulation with some modifications to synthesize the provisions with current law. The bill renames the title of s. 627.4554, F.S., to "Suitability in Annuity Transactions," and makes the section effective January 1, 2024. The bill amends the purpose of s. 627.4554(1), F.S., which, unlike current law, requires agents¹⁵³ to act in the best interest of the consumer when making a recommendation¹⁵⁴ about an annuity. The purpose also requires insurers to establish and maintain a supervisory system to ensure that the insurance needs and financial objectives of the consumer are effectively, rather than appropriately, addressed at the time of the transaction. The scope of the section is also amended to apply to any sale or recommendation of an annuity but is no longer limited to apply to transactions which result in the purchase, exchange or replacement recommended. The bill modifies the exemptions provision under current law to state that the exemptions do not apply to s. 627.4554, F.S., "unless otherwise specifically included."

¹⁵³ The definition of "agent" is modified to mean a person or entity required to be licensed under the laws of Florida to sell, solicit, or negotiate insurance, including annuities. For purposes of this section, the terms include an insurer where no agent is involved.

¹⁵⁴ The bill amends the definition of "recommendation" to mean advice provided by an agent to an individual consumer which was intended to result or does result in a purchase, an exchange, or a replacement of an annuity in accordance with that advice. The term does not include general communication to the public, generalized customer services, assistance or administrative support, general educational information and tools, prospectuses, or other product and sales material.

The bill replaces, or amends as specified below, the duties of insurers and agents under current law to incorporate the best interest standards contained in the NAIC Model Regulation. When making a recommendation of an annuity, an agent must act in the best interest of the consumer under the circumstances known at the time the recommendation is made, without placing the insurer or agent's financial interest ahead of the consumers' interests. The bill provides that an agent has acted in the best interest of the consumer if the agent has satisfied the following obligations regarding care, disclosure, conflicts of interest, and documentation:

- In making a recommendation, the agent must exercise reasonable diligence, care, and skill ("care obligation") to:
 - Know the customer's financial situation, insurance needs, and financial objectives;
 - Understand the available options after making a reasonable inquiry into options available to the agent;
 - Have a reasonable basis to believe the recommended option effectively addresses the consumer's financial situation, insurance needs, and financial objectives over the life of the product, in light of the consumer's profile information;¹⁵⁵ and
 - Communicate the reason or reasons for the recommendation.
- The requirements of the care obligation include:
 - Making reasonable efforts to obtain consumer profile information from the consumer before the recommendation of an annuity;
 - Requiring an agent to consider the types of products the agent is authorized and licensed to recommend or sell which address the consumer's financial situation, insurance needs, and financial objectives. An insurer or agent are not required to analyze or consider products outside the authority and license of the agent or other possible alternative products or strategies available in the market at the time of the recommendation. Agents must be held to standards applicable to agents with similar authority and license; and
 - Having a reasonable basis to believe the consumer would benefit from certain features of the annuity, such as annuitization, death or living benefit, or other insurance-related features.
- The care obligation does not create a fiduciary duty or relationship and only establishes a regulatory duty.
- Consumer profile information, characteristics of the insurer and product costs, rates, benefits, and features are those factors generally relevant in making a determination whether an annuity effectively addresses the consumer's financial situation, insurance needs, and financial objectives but the level of importance of each factor under the care obligation may vary depending on the factors and circumstances of a particular case. However, each factor may not be considered in isolation.
- The requirements of the care obligation apply to the particular annuity as a whole and the underlying subaccounts to which funds are allocated at the time of purchase or exchange of an annuity, and riders and similar product enhancements, if any.
- The care obligation does not require that the annuity with the lowest one-time occurrence compensation structure or multiple occurrence compensation structure must necessarily be recommended.

¹⁵⁵ The bill deletes the definition of "suitability information" and replaces it with the definition of "consumer profile information."

- The agent does not have ongoing monitoring obligations under the care obligation, although such obligation may be separately owed under the terms of a fiduciary, consulting, investment, advising, or financial planning agreement between the consumer and agent.
- In a case of an exchange or replacement of an annuity, the agent must consider the whole transaction, which includes considering whether:
 - The consumer will incur a surrender charge, be subject to a new surrender period, lose existing benefits, be subject to increased fees;
 - Would benefit from product enhancements and improvements; and
 - Has had another annuity exchange or replacement within the preceding 60 months.
- An agent is not required to obtain any license other than an agent license with the appropriate line of authority to sell, solicit, or negotiate insurance in this state, including, but not limited to, any securities license, in order to fulfill the duties and obligations contained in this section; provided, the agent does not give advice or provide services that are otherwise subject to securities laws or engage in any other activity requiring other professional licenses.
- Before the recommendation or sale of an annuity, the agent must prominently disclose to the consumer on a form substantially similar to the NAIC Model Regulation Appendix A, titled **INSURANCE AGENT (PRODUCER) DISCLOSURE FOR ANNUITIES**, including:
 - A description of the scope and terms of the relationship with the consumer and the role of the agent in the transaction.
 - An affirmative statement on whether the agent is licensed and authorized to sell the certain products, including certain types of annuities, life insurance, mutual funds, stocks and bonds, or certificates of deposits.
 - An affirmative statement describing the insurers for which the agent is authorized, contracted, or appointed, or otherwise able to sell insurance products, using the following descriptions specified descriptions regarding the number of insurers and, if two or more, whether the agent is primarily contracted with one insurer.
 - A description of the sources and types of cash compensation¹⁵⁶ and noncash compensation¹⁵⁷ to be received by the agent, including certain information about the type of compensation received for the sale of a recommended annuity; and
 - A notice of the consumer's right to request additional information regarding cash compensation.
- Upon request of the consumer or the consumer's designated representative, the agent must disclose:
 - A reasonable estimate of the amount, stated as a range of amounts or percentages, of cash compensation to be received by the agent.
 - Whether the cash compensation is a one-time or multiple occurrence amount; if a multiple occurrence amount then the disclosure must contain certain information.
- Before or at the time of the recommendation or sale of an annuity, the agent must have a reasonable basis to believe the consumer has been informed, rather than the consumer being reasonably informed under current law, of various features of the annuity, and additional

¹⁵⁶ The bill defines "cash compensation" as any discount, concession, fee, service fee, commission, sales charge, loan, override, or cash benefit received by an agent from an insurer, intermediary, or directly from the consumer in connection with the recommendation or sale of an annuity.

¹⁵⁷ The bill defines "noncash compensation" as any form of compensation that is not cash compensation, including, but not limited to, health insurance, office rent, office support, and retirement benefits.

features have been added to the specified list, including any annual fees, other options of the annuity, and potential changes in nonguaranteed elements¹⁵⁸ of the annuity.

- The agent must identify and avoid, or reasonably manage and disclose, material conflicts of interest, including material conflicts of interest related to an ownership interest.
- An agent must at the time of the recommendation or sale:
 - Make a written record of any recommendation and the basis for the recommendation;
 - Obtain a consumer signed statement on a form substantially similar to NAIC Model Regulation Appendix B, titled CONSUMER REFUSAL TO PROVIDE INFORMATION:
 - A customer's refusal to provide the consumer profile information, if any; or
 - A customer's understanding of the ramifications of not providing his or her consumer profile information or providing insufficient consumer profile information.
 - Obtain a customer signed on a form substantially similar to NAIC Model Regulation Appendix C, titled Consumer Decision to Purchase an Annuity NOT Based on a Recommendation, acknowledging the annuity transaction is not recommended, if applicable.
- Any requirement applicable to an agent under this subsection must apply to every agent who has exercised material control or influence in the making of a recommendation and has received direct compensation as a result of the recommendation or sale, regardless of whether the agent has had direct contact with the consumer. Certain activities, such as providing or delivering marketing or educational materials, are specified as not constituting material control or influence.
- The first sentence of s. 627.4554(5)(d), F.S., relating to the requirement that an insurer's issuance of an annuity being reasonable in all of the circumstances, is relocated to a separate subparagraph, and clarifies that an insurer does have a care obligation with respect to specified transactions
- An insurer is prohibited from recommending an annuity to a consumer unless there is reasonable basis to believe that it would effectively address the particular consumer's financial situation, insurance needs, and financial objectives based on the consumer's profile information.
- An insurer must establish and maintain, not only establish as provided under current law, a supervision system that is reasonably designed to ensure the insurer and agent's compliance with s. 627.4554, F.S., and must include, but is not limited to, the insurer must:
 - Establish and maintain, not only maintain as provided under current law, reasonable procedures to inform its agents of the requirements of the section and incorporating them into training manuals;
 - Establish and maintain, not only establish as provided under current law, standards for agent product training, and establish and maintain reasonable procedures to require its agent to comply with the training requirements;
 - Provide product-specific training and training materials that explain all material features of its annuity products to its agents;

¹⁵⁸ The bill defines the term "nonguaranteed elements" as the premiums; credited interest rates, including any bonus; benefits; values; dividends; noninterest based credits; charges; or elements of formulas used to determine any of these, that are subject to company discretion and are not guaranteed at issue. An element is considered nonguaranteed if any of the underlying nonguaranteed elements are used in its calculation.

- Establish and maintain, not only maintain as provided under current law, procedures for the review of each recommendation before issuance of an annuity to ensure there is reasonable basis to determine the recommended annuity would effectively address the particular consumer's financial situation, insurance needs, and financial objectives, rather than for determining that the recommendation is suitable;
- Establish and maintain, not only maintain as provided under current law, reasonable procedures to detect recommendations that are not in compliance with paragraphs (a), (b), (d), and (e), rather than detecting recommendations that are not suitable. Two examples of procedures are added to the list in current law which are: agent interviews and agent statements or attestations;
- Annually providing a report to senior managers which details a review, along with appropriate testing to determine the effectiveness of the supervision system, the exceptions found, and any corrective action taken or recommended;
- Establish and maintain reasonable procedures to assess, prior to the issuance or delivery of the annuity, whether an agent has provided the consumer with required information, which is not a requirement under current law;
- Establish and maintain reasonable procedures to identify and address suspicious consumer refusals to provide consumer profile information, which is not a requirement under current law;
- Establish and maintain reasonable procedures to identify and eliminate any sales contests, sales quotas, and other noncash compensation that are based on the sales of specific annuities within a limited period of time. The requirements under this provision do not prohibit the receipt of health insurance, office rents, office support and other employee benefits by employees as long as they are not based on the volume of sales of a specific annuity within a limited period of time;
- The bill amends the list of requirements that do not need to be included in an insurer's supervision system to add consideration of or comparison to options available to the agents or compensation relating to those options other than annuities or other products offered by the insurer.
- The bill provides that an insurer may contract for the maintenance of procedures relating to the supervisory system.
- An insurer's supervision system must include supervision of any contractual performances.
- The annual certificate from a senior manager must state that the manager has a reasonable basis to represent and does represent, rather than just representing as provided under current law, that the function is being properly performed.
- The provision prohibiting an agent from dissuading or attempting to dissuade a consumer from certain acts to apply to insurers as well.
- The provision relating to sales made in compliance with FINRA standards satisfying the compliance of s. 627.4554, F.S., is amended to apply to recommendations and sales and to satisfy the requirements of s. 627.4554, F.S., if the transactions are made in compliance with any comparable standards,¹⁵⁹ not only FINRA. The provision is amended to apply to all

¹⁵⁹ The bill defines "comparable standards" as (a) With respect to broker-dealers and registered representatives of broker-dealers, applicable Securities and Exchange Commission and FINRA rules pertaining to best interest obligations and supervision of rules pertaining to best interest obligations and supervision of annuity recommendations and sales including, but not limited to, Regulation Best Interest, 17 C.F.R. s. 240.15101, and any amendments or successor regulations thereto; (b) With respect to investment advisers registered under federal or state securities laws or investment adviser representatives by contract or under the Investment Advisers Act 1940 or applicable state securities laws, including, but not limited to, Form

financial professionals,¹⁶⁰ not only FINRA broker-dealer. The bill provides that this provision does not limit the insurer's obligation to have a reasonable basis to believe the annuity would effectively address the particular consumer's financial situation, insurance needs, and financial objectives, but the bill provides that the insurer may base its analysis on information received from either the financial professional or the entity supervising the financial professional. The rest of the paragraph is amended to conform to this change. For this paragraph to apply, an insurer must monitor relevant conduct of the financial professional or an entity responsible for supervising the financial professional; and provide to the entity responsible for supervising the financial professional, information and reports that are reasonably appropriate to assist such entity in maintaining its supervision system.

The bill adds s. 627.4554(6), F.S., regarding agent training, which provides as follows:

- An agent must not solicit the sale of an annuity product unless the agent has adequate knowledge of the product to recommend the annuity and the agent is in compliance with the insurer's standards for product training. An agent may rely on insurer-provided product-specific training standards and materials to comply the training requirements.
- An agent who engages in the sale of annuity products must complete a one-time 4-hour training course which is not part of the agent's continuing education requirement in s. 626.2815, F.S. but, if the course provider receives approval from the Department, the course is eligible for continuing education credit pursuant to s. 626.2815, F.S.
- Agents who hold a life insurance line of authority and who desire to sell annuities must complete the training requirements within 6 months. Individuals who obtain a life insurance line of authority after the effective date of this act may not engage in the sale of annuities until the annuity training course has been completed.
- The minimum length of training required is 4 hours.
- The required training must include information on the following topics:
 - The types of annuities and various classifications of annuities;
 - Identification of the parties to the annuity;
 - How product-specific annuity contract features affect consumers;
 - The application of income taxation of qualified and nonqualified annuities;
 - The primary uses of annuities; and
 - The appropriate standard of conduct, sales practices, replacement, and disclosure requirements.
- Providers of courses intended to comply with this subsection must cover all of these topics and must not present any marketing information or provide training on sales techniques or provide specific information about a particular insurer's products. Additional topics may be offered in conjunction with and in addition to the required outline.
- An agent who has completed an annuity training course prior to the effective date of this act must, within 6 months after the effective date, complete either:

ADV and interpretations; and (c) With respect to plan fiduciaries or fiduciaries, the duties, obligations, prohibitions and all other requirements attendant to such status under the Employee Retirement Income Security Act of 1974 of the Internal Revenue Code and any amendments or successor statutes thereto.

¹⁶⁰ The bill defines "financial professional" as an agent that is regulated and acting as: (a) A broker-dealer registered under federal or state securities laws or a registered representative of a broker-dealer; (b) An investment adviser registered under federal or state securities laws or an investment adviser representative associated with the federal or state registered investment adviser; or (c) A plan fiduciary under s. 3(21) of the Employee Retirement Income Security Act of 1974 or fiduciary under s. 4975(e)(3) of the Internal Revenue Code or any amendments or successor statutes thereto.

- A new 4-hour training course; or
 - An additional one one training course on appropriate sales practices, replacement, and disclosure requirements under this subsection.
- Annuity training courses may be conducted and completed by classroom or self-study methods.
- Providers of annuity training must issue certificates of completion.
- The satisfaction of the training requirements of another state that are substantially similar to the provisions of this subsection must be deemed to satisfy the training requirements of this subsection in Florida.
- The satisfaction of the training requirements of any course or courses with components substantially similar to the provisions of this subsection must be deemed to satisfy the training requirements of the subsection in Florida.
- An insurer must verify that an agent has completed the annuity training course before allowing the agent to sell an annuity product for that insurer.

Change of Contact Details

Section 7 of the bill amends the required timeframe from 30 days, to 5 days, for which a licensee must notify the Department after a change of name, residence address, principal business street address, mailing address, contact telephone numbers, or email address.

Insurance Agency Firm Name

Section 8 of the bill expands the provisions that authorize the Department to disapprove insurance agency firm names to include authority to disapprove adjusting firm names. Further, names that state or imply an insurance agency or adjusting firm settles claims may also be disapproved. Finally, the bill repeals the provision authorizing the Department to disapprove names that contain the terms “Medicare” or “Medicaid” on July 1, 2023, as the grace period allowed for insurance agencies who were already using the terms in their firm names as of July 1, 2021 expires on June 30, 2023.

Notice of Cancellation of Certain Policies

Section 16 provides that when the policy providing coverage for property, casualty, except for guaranty, surety, or marine insurance, other than motor vehicle insurance, is cancelled or terminated within the first 60 days that the policy is in force for reasons other than failure to pay, the insured must provide at least 20 days’ written notice of cancellation or termination with an explanation for the reason except in specified circumstances. After such policies have been in effect for 60 days, instead of 90 days under current law, no policy may be cancelled by the insurer except when there has been a material misstatement, a nonpayment of premium, a failure to comply with underwriting requirements by the insurer within 90 days of the effective date of coverage, a substantial change of risk covered by the policy, or when cancellation is for a class of insured.

The same provisions relating to personal lines or commercial residential property insurance policies are also amended to: (1) require 20 days’ written notice for cancellation within 60 days from the date the policy is in force, and (2) prohibit the policy from being cancelled after 60 days for such reasons. The bill amends current law to provide that an insurer may not cancel or

terminate a contract after a policy or contract has been in effect for more than 60 days, rather than 90 days, based on credit information available in public records.

These amendments will allow an insurer adequate time to complete underwriting and the consumer will be subject to lesser accumulation of any increased premium, and free up additional funds for the policyholder to purchase new insurance coverage within the 20-day cancellation notice, if applicable.¹⁶¹

Unfair Methods of Competition and Unfair or Deceptive Acts

Section 14 adds another ground for misrepresentations and false advertising of insurance policies to include making, issuing, circulating, or causing to be made, issued, or circulated any estimate, statement, or other specified document that fails to disclose a third party that receives royalties, referral fees, or other remuneration for sponsorship, marketing, or use of third-party branding for a policy of health insurance.¹⁶²

Hurricane Deductibles

Section 15 amends the definition of “hurricane” to shorten the duration in which a hurricane deductible may be applied to a claim by modifying the start time of a hurricane to begin at the time of a hurricane warning and not when a hurricane watch or warning is issued. The bill removes from the definition “continuing for the time period during which the hurricane conditions exist anywhere in Florida,” and changes the end of a hurricane to mean 24, rather than 72, hours after the last hurricane watch or warning is issued for any part of Florida.

The bill defines “hurricane deductible” as the deductible applicable to loss caused by a hurricane.

Motor Vehicle Service Agreements

Section 18 of the bill provides that a service agreement company that maintains a contractual liability insurance policy in lieu of maintaining unearned premium reserve may have a policy that either pays 100 percent of claims as they are incurred or 100 percent of claims in the event of the failure of the service agreement company to pay claims when due.

Mortgage Loan Regulations

Section 1 of the bill amends the definition of branch office to include “a remote location,” and defines the term “remote location” to mean a location other than a principal place of business or a branch office, at which a loan originator or a licensee may conduct business. The bill provides that a licensee may allow loan originators to work from remote locations if:

- The licensee has written policies and procedures for supervision of loan originators working from remote locations.

¹⁶¹ The DFS Agency Analysis for SB 1398 at p. 8.

¹⁶² Section 624.603, F.S., defines “health insurance,” also known as “disability insurance,” is insurance of human beings against bodily injury, disablement, or death by accident or accidental means, or the expense thereof, or against disablement or expense resulting from sickness, and every insurance appertaining thereto. Health insurance does not include workers’ compensation coverage, except as provided in s. 624.406(4), F.S.

- Access to company platforms and customer information is in accordance with the licensee's comprehensive written information security plan.
- An in-person customer interaction does not occur at a loan originator's residence unless such residence is a licensed location.
- Physical records are not maintained at a remote location.
- Customer interactions and conversations about consumers will be in compliance with federal and state information security requirements, including applicable provisions under the Gramm-Leach-Bliley Act and the Safeguards Rule established by the Federal Trade Commission, set forth at 16 C.F.R. part 314, F.S., as such requirements may be amended from time to time.
- A loan originator working at a remote location accesses the company's secure systems, including a cloud-based system, directly from any out-of-office device such as a laptop, phone, desktop computer, or tablet, through a virtual private network or comparable system that ensures secure connectivity and that requires passwords or other forms of authentication to access.
- The licensee ensures that appropriate security updates, patches, or other alterations to the security of all devices used at remote locations are installed and maintained.
- The licensee is able to remotely look or erase company-related contents of any device or otherwise remotely limit all access to a company's secure systems.
- The registry's record of a loan originators who works from a remote location designates the principal place of business as a loan originator's registered location, or the loan originator has elected a licensed branch office as a registered location.

Section 2 expands Florida law to authorize mortgage lenders to transact business from a branch location and remote location, in addition to the principal place of business provided for under current law. In addition to a principal place of business and branch office, a remote location must also operate under the full charge, control, and supervision of the licensee.

Conduct of Money Services Businesses

Section 6 of the bill provides that a licensee may not cash corporate checks where the aggregate face amount of all corporate checks cashed for each payee exceeds 200 percent of the payee's workers' compensation policy coverage amount during the same dates as the workers' compensation policy coverage period. A person who knowingly and willfully violates this provision commits a felony of the third degree under s. 560.111(6), F.S.

Crowdfunding

Section 3 of the bill establishes s. 501.2042, F.S., which provides for unlawful acts and practices by online crowdfunding campaigns, as an online fundraising initiative that is intended to receive monetary donations from donors and is created by an organizer in the interest of a beneficiary. An organizer, who arranges an online crowdfunding campaign for a disaster,¹⁶³ must produce to the crowdfunding platform an accounting for all the donations received and all donations

¹⁶³ "Disaster" means any natural, technological, or civil emergency that occurs in this state and that causes damage of sufficient severity and magnitude to result in a declaration of a state of emergency by a county, the Governor, or the President of the United States.

expended by the campaign. A crowdfunding platform is an entity doing business in Florida which provides an online medium for the creation and facilitation of a crowdfunding campaign. An Organizer means a person who:

- Resides or is domiciled in this state;
- Has an account on a crowdfunding platform and has created a crowdfunding campaign either as a beneficiary or on behalf of a beneficiary, regardless of whether the beneficiary or the crowdfunding campaign has received donations.

A crowdfunding platform must publish the accountings received on its website. An organizer or crowdfunding platform that fails to comply with these provisions violates FDUTPA.

Distributed Energy Generation System

Section 4 of the bill adds an additional disclosure requirement that must be included in an agreement to sell or lease a DEGS, including:

- The customer contact center phone number for the Department of Business and Professional Regulation. The purpose of this is to provide consumers with available resources to assist with any issues or questions related to the installation of the DEGS¹⁶⁴;
- A statement in substantially the following form:
“You should consider the age and remaining life of your roof prior to installing a distributed energy generation system. Replacement of your roof may require re-installment of the distributed energy generation system;” and
- A statement in substantially the following form:
“Placing a distributed energy generation system on your roof may impact your future insurance premiums. You are responsible for contacting your insurance carrier, prior to entering into a purchase or lease agreement, to confirm whether your current policy or coverage will need to be modified upon installing the distributed energy generation system onto your dwelling.”

For an electronic delivery of a document containing the required disclosures to satisfy the requirement that written statement be acknowledged, the bill provides that it must be sent within 24 hours after execution of the written statement.

Warranty Associations

Section 19 amends s. 634.401, F.S., to revise the definition of the term “manufacturer” for purposes of part III of ch. 634, F.S., to exclude a business that maintains outstanding debt obligations, if any, rated in the top four rating categories by a recognized rating service.

Section 20 amends s. 634.406, F.S., to conform to the change made by section 19 of the bill.

Section 21 provides, except as otherwise provided, the bill is effective July 1, 2023.

¹⁶⁴ The DFS Agency Analysis for SB 1398 at p. 5.

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:

Public adjusters' compensation may be reduced due to the provisions in the bill.¹⁶⁵ The ability to utilize to contractual liability insurance policy that will service policies when a service agreement company fails to do so should reduce the costs of the policy.¹⁶⁶

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

¹⁶⁵ The DFS Agency Analysis for SB 1398 at p. 12.

¹⁶⁶ *Id.*

VIII. Statutes Affected:

This bill substantially amends sections 494.001, 494.0067, 520.23, 560.111, 560.309, 626.551, 626.602, 626.854, 626.860, 626.865, 626.875, 626.8796, 626.8797, 626.9541, 627.4025, 627.4133, 627.4554, 634.041, 634.401, 634.406 of the Florida Statutes.

This bill creates sections 501.2042 and 626.8751 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 Committee on March 22, 2023:

- Clarifies the definition of “branch location” to mean a location other than specified locations, including a remote location;
- Provides that a person who violates s. 560.309, F.S., relating to cashing corporate checks that exceed certain amounts of workers’ compensation policy coverage amounts, commits a third degree felony punishable by up to 5 years imprisonment, \$5,000 fine, or enhanced penalties under habitual offender provisions;
- Prohibits a licensee from cashing corporate checks where the aggregate face amount for each payee exceeds 200% of the payee’s workers’ compensation policy coverage amount during the policy coverage period;
- Amends the revocation period for which an insured or claimant may cancel a public adjuster’s contract without penalty during a state of emergency in certain circumstances from “within 30 days after the date on which the contract is executed,” to “within 30 days after the date of the event, or 10 days after the date on which the contract is executed, whichever is longer,” and makes conforming changes to the notice that must be given to insureds;
- Authorizes an insured to cancel a contract with a public adjuster with no additional penalties if an estimate is not provided within 60 days, rather than 45 days provided in the bill, after executing the contract; and makes conforming changes to: (a) the notice that must be given to insureds on this issue and (b) provisions required in public adjuster’s contracts;
- Clarifies that, in circumstances when a public adjuster must not receive a commission, it is based on the amount “timely paid or committed policy limits,” rather than “paid by the insurer to resolve the claim” that is provided in bill;
- Provides public adjusters are entitled to \$1,000, instead of “reasonable compensation” from the insured when an insurer either pays or commits to pay the policy limit within 14 days from the date of the reported loss;
- Removes section 9 relating to public adjuster’s errors and omissions insurance;
- Requires the settlement of claims to be made by “payment,” rather than “check,” and specifies that the first payment must be made “solely” to the public adjuster;
- Amends the time within which an unaltered copy of the public adjuster’s executed contract must be provided to the insurer from 3 days in the bill (30 days in current law) to 10 days after execution of the contract;

- Amends the disclosure a public adjuster must provide to an insured to explain that an insured has 60 days, rather than 30 days provided in the bill, after executing a contract resulting from a state of emergency to rescind it;
- Amends the new provision under FDUPTA, relating to misrepresentations and false advertising of insurance, for failure to disclose that a third party receives certain remuneration for sponsorship, marketing, or branding for a “policy of health insurance,” rather than “health insurance contract”;
- Amends the title of s. 627.4554, F.S., from “Annuity Investments” to “Suitability in Annuity Transactions”;
- Clarifies that the provision requiring an agent to exercise reasonable diligence, care, and skill in making recommendations does “not” require, rather than “does” require, the agent to have ongoing monitoring obligations;
- With respect to an insurer’s supervision system, clarifies that the annual certification obtained from a senior manager “does represent,” rather than “does not represent,” that the function is being properly performed;
- Deletes from the agent training provisions the requirements:
 - To register as a continuing education provider and to comply with the rules and guidelines provided in s. 626.2815, F.S.;
 - That the office approve the specified training courses;
 - For classroom or self-study methods, and the issuance of certificates of completion, to be in accordance with s. 626.2815, F.S.;
 - For compliance with reporting requirements;
- Deletes the provision that authorizes an insurer to satisfy the requirement to verify training compliance in certain ways, such as by obtaining certificates from certain databases;
- Amends ss. 634.401 to revise the definition of the term “manufacturer” relating to the regulation of service warranty associations to exclude a business that maintains outstanding debt obligations, if any, rated in the top four rating categories by a recognized rating service, and makes conforming changes in s. 634.406, F.S.;
- Amends the effective date to, except as otherwise provided, July 1, 2023;
- Makes conforming changes by changing “suitability information” to “consumer profile information” (which is newly defined to replace “suitability information” in the bill); and
- Makes technical amendments.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/22/2023	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Present subsections (35) through (38) of section 494.001, Florida Statutes, are redesignated as subsections (36) through (39), respectively, a new subsection (35) is added to that section, and subsection (3) of that section is amended, to read:

494.001 Definitions.—As used in this chapter, the term:



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(3) "Branch office" means a location, other than a mortgage broker's or mortgage lender's principal place of business or remote location:

(a) The address of which appears on business cards, stationery, or advertising used by the licensee in connection with business conducted under this chapter;

(b) At which the licensee's name, advertising or promotional materials, or signage suggests that mortgage loans are originated, negotiated, funded, or serviced; or

(c) At which mortgage loans are originated, negotiated, funded, or serviced by a licensee.

(35) "Remote location" means a location, other than a principal place of business or a branch office, at which a loan originator of a licensee may conduct business. A licensee may allow loan originators to work from remote locations if:

(a) The licensee has written policies and procedures for supervision of loan originators working from remote locations.

(b) Access to company platforms and customer information is in accordance with the licensee's comprehensive written information security plan.

(c) An in-person customer interaction does not occur at a loan originator's residence unless such residence is a licensed location.

(d) Physical records are not maintained at a remote location.

(e) Customer interactions and conversations about consumers will be in compliance with federal and state information security requirements, including applicable provisions under the Gramm-Leach-Bliley Act and the Safeguards Rule established by



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the Federal Trade Commission, set forth at 16 C.F.R. part 314,
as such requirements may be amended from time to time.

(f) A loan originator working at a remote location accesses the company's secure systems, including a cloud-based system, directly from any out-of-office device such as a laptop, phone, desktop computer, or tablet, through a virtual private network or comparable system that ensures secure connectivity and that requires passwords or other forms of authentication to access.

(g) The licensee ensures that appropriate security updates, patches, or other alterations to the security of all devices used at remote locations are installed and maintained.

(h) The licensee is able to remotely lock or erase company-related contents of any device or otherwise remotely limit all access to a company's secure systems.

(i) The registry's record of a loan originator who works from a remote location designates the principal place of business as the loan originator's registered location, or the loan originator has elected a licensed branch office as a registered location.

Section 2. Subsection (1) of section 494.0067, Florida Statutes, is amended to read:

494.0067 Requirements of mortgage lenders.—

(1) A mortgage lender that makes mortgage loans on real estate in this state shall transact business from a principal place of business, branch office, or remote location. Each principal place of business, ~~and each branch office, and remote location~~ shall be operated under the full charge, control, and supervision of the licensee pursuant to this part.

Section 3. Section 501.2042, Florida Statutes, is created



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to read:

501.2042 Unlawful acts and practices by online crowd-funding campaigns.—

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

(a) "Crowd-funding campaign" means an online fundraising initiative that is intended to receive monetary donations from donors and is created by an organizer in the interest of a beneficiary.

(b) "Crowd-funding platform" means an entity doing business in this state which provides an online medium for the creation and facilitation of a crowd-funding campaign.

(c) "Disaster" means any natural, technological, or civil emergency that occurs in this state and that causes damage of sufficient severity and magnitude to result in a declaration of a state of emergency by a county, the Governor, or the President of the United States.

(d) "Organizer" means a person who:

1. Resides or is domiciled in this state; and

2. Has an account on a crowd-funding platform and has created a crowd-funding campaign either as a beneficiary or on behalf of a beneficiary, regardless of whether the beneficiary or the crowd-funding campaign has received donations.

(2) When an organizer arranges a crowd-funding campaign related to a disaster, the organizer must produce to the crowd-funding platform a complete and accurate accounting of all donations received and expended by the crowd-funding campaign. The crowd-funding platform must publish all received accountings on its website.

Section 4. Section 520.23, Florida Statutes, is amended to



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read:

520.23 Disclosures required.—Each agreement governing the sale or lease of a distributed energy generation system shall, at a minimum, include a written statement printed in at least 12-point type that is separate from the agreement, is separately acknowledged by the buyer or lessee, and includes the following information and disclosures, if applicable:

(1) The name, address, telephone number, and e-mail address of the buyer or lessee.

(2) The name, address, telephone number, e-mail address, and valid state contractor license number of the person responsible for installing the distributed energy generation system.

(3) The name, address, telephone number, e-mail address, and valid state contractor license number of the distributed energy generation system maintenance provider, if different from the person responsible for installing the distributed energy generation system.

(4) The customer contact center phone number for the Department of Business and Professional Regulation.

(5)~~(4)~~ A written statement indicating whether the distributed energy generation system is being purchased or leased.

(a) If the distributed energy generation system will be leased, the written statement must include a disclosure in substantially the following form: "You are entering into an agreement to lease a distributed energy generation system. You will lease (not own) the system installed on your property."

(b) If the distributed energy generation system will be



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127 purchased, the written statement must include a disclosure in
128 substantially the following form: "You are entering into an
129 agreement to purchase a distributed energy generation system.
130 You will own (not lease) the system installed on your property."

131 (6)~~(5)~~ The total cost to be paid by the buyer or lessee,
132 including any interest, installation fees, document preparation
133 fees, service fees, or other fees.

134 (7)~~(6)~~ A payment schedule, including any amounts owed at
135 contract signing, at the commencement of installation, at the
136 completion of installation, and any final payments. If the
137 distributed energy generation system is being leased, the
138 written statement must include the frequency and amount of each
139 payment due under the lease and the total estimated lease
140 payments over the term of the lease.

141 (8)~~(7)~~ Each state or federal tax incentive or rebate, if
142 any, relied upon by the seller in determining the price of the
143 distributed energy generation system.

144 (9)~~(8)~~ A description of the assumptions used to calculate
145 any savings estimates provided to the buyer or lessee, and if
146 such estimates are provided, a statement in substantially the
147 following form: "It is important to understand that future
148 electric utility rates are estimates only. Your future electric
149 utility rates may vary."

150 (10)~~(9)~~ A description of any one-time or recurring fees,
151 including, but not limited to, estimated system removal fees,
152 maintenance fees, Internet connection fees, and automated
153 clearinghouse fees. If late fees may apply, the description must
154 describe the circumstances triggering such late fees.

155 (11)~~(10)~~ A statement notifying the buyer whether the



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distributed energy generation system is being financed and, if so, a statement in substantially the following form: "If your system is financed, carefully read any agreements and/or disclosure forms provided by your lender. This statement does not contain the terms of your financing agreement. If you have any questions about your financing agreement, contact your finance provider before signing a contract."

(12)~~(11)~~ A statement notifying the buyer whether the seller is assisting in arranging financing of the distributed energy generation system and, if so, a statement in substantially the following form: "If your system is financed, carefully read any agreements and/or disclosure forms provided by your lender. This statement does not contain the terms of your financing agreement. If you have any questions about your financing agreement, contact your finance provider before signing a contract."

(13)~~(12)~~ A provision notifying the buyer or lessee of the right to rescind the agreement for a period of at least 3 business days after the agreement is signed. This subsection does not apply to a contract to sell or lease a distributed energy generation system in a solar community in which the entire community has been marketed as a solar community and all of the homes in the community are intended to have a distributed energy generation system, or a solar community in which the developer has incorporated solar technology for purposes of meeting the Florida Building Code in s. 553.73.

(14)~~(13)~~ A description of the distributed energy generation system design assumptions, including the make and model of the major components, system size, estimated first-year energy



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production, and estimated annual energy production decreases, including the overall percentage degradation over the estimated life of the distributed energy generation system, and the status of utility compensation for excess energy generated by the system at the time of contract signing. A seller who provides a warranty or guarantee of the energy production output of the distributed energy generation system may provide a description of such warranty or guarantee in lieu of a description of the system design and components.

(15)~~(14)~~ A description of any performance or production guarantees.

(16)~~(15)~~ A description of the ownership and transferability of any tax credits, rebates, incentives, or renewable energy certificates associated with the distributed energy generation system, including a disclosure as to whether the seller will assign or sell any associated renewable energy certificates to a third party.

(17)~~(16)~~ A statement in substantially the following form: "You are responsible for property taxes on property you own. Consult a tax professional to understand any tax liability or eligibility for any tax credits that may result from the purchase of your distributed energy generation system."

(18)~~(17)~~ The approximate start and completion dates for the installation of the distributed energy generation system.

(19)~~(18)~~ A disclosure as to whether maintenance and repairs of the distributed energy generation system are included in the purchase price.

(20)~~(19)~~ A disclosure as to whether any warranty or maintenance obligations related to the distributed energy



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generation system may be sold or transferred by the seller to a third party and, if so, a statement in substantially the following form: "Your contract may be assigned, sold, or transferred without your consent to a third party who will be bound to all the terms of the contract. If a transfer occurs, you will be notified if this will change the address or phone number to use for system maintenance or repair requests."

(21)~~(20)~~ If the distributed energy generation system will be purchased, a disclosure notifying the buyer of the requirements for interconnecting the system to the utility system.

(22)~~(21)~~ A disclosure notifying the buyer or lessee of the party responsible for obtaining interconnection approval.

(23)~~(22)~~ A description of any roof warranties.

(24) A statement in substantially the following form: "You should consider the age and remaining life of your roof prior to installing a distributed energy generation system. Replacement of your roof may require reinstallment of the distributed energy generation system."

(25)~~(23)~~ A disclosure notifying the lessee whether the seller will insure a leased distributed energy generation system against damage or loss and, if applicable, the circumstances under which the seller will not insure the system against damage or loss.

(26)~~(24)~~ A statement, ~~if applicable,~~ in substantially the following form: "You are responsible for obtaining insurance policies or coverage for any loss of or damage to the system. Consult an insurance professional to understand how to protect against the risk of loss or damage to the system."



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(27) A statement in substantially the following form:
"Placing a distributed energy generation system on your roof may
impact your future insurance premiums. You are responsible for
contacting your insurance carrier, prior to entering into a
purchase or lease agreement, to confirm whether your current
policy or coverage will need to be modified upon installing the
distributed energy generation system onto your dwelling."

(28)~~(25)~~ A disclosure notifying the buyer or lessee whether
the seller or lessor will place a lien on the buyer's or
lessee's home or other property as a result of entering into a
purchase or lease agreement for the distributed energy
generation system.

(29)~~(26)~~ A disclosure notifying the buyer or lessee whether
the seller or lessor will file a fixture filing or a State of
Florida Uniform Commercial Code Financing Statement Form (UCC-1)
on the distributed energy generation system.

(30)~~(27)~~ A disclosure identifying whether the agreement
contains any restrictions on the buyer's or lessee's ability to
modify or transfer ownership of a distributed energy generation
system, including whether any modification or transfer is
subject to review or approval by a third party.

(31)~~(28)~~ A disclosure as to whether the lease agreement may
be transferred to a purchaser upon sale of the home or real
property to which the system is affixed, and any conditions for
such transfer.

(32)~~(29)~~ A blank section that allows the seller to provide
additional relevant disclosures or explain disclosures made
elsewhere in the disclosure form.



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The requirement to provide a written statement under this section may be satisfied by the electronic delivery of a document within 24 hours after execution of the written statement containing the required statement if the intended recipient of the electronic document affirmatively acknowledges its receipt. An electronic document satisfies the font and other formatting standards required for the written statement if the format and the relative size of characters of the electronic document are reasonably similar to those required in the written document or if the information is otherwise displayed in a reasonably conspicuous manner.

Section 5. Subsection (6) of section 560.111, Florida Statutes, is amended to read:

560.111 Prohibited acts.—

(6) A person who knowingly and willfully violates s. 560.309(11) or s. 560.310(2)(d) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 6. Subsection (11) is added to section 560.309, Florida Statutes, to read:

560.309 Conduct of business.—

(11) A licensee may not cash corporate checks where the aggregate face amount of all corporate checks cashed for each payee exceeds 200 percent of the payee's workers' compensation policy coverage amount during the same dates as the workers' compensation policy coverage period.

Section 7. Section 626.551, Florida Statutes, is amended to read:

626.551 Notice of change of address, name.—A licensee must



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notify the department, in writing, within 5 ~~30~~ days after a change of name, residence address, principal business street address, mailing address, contact telephone numbers, including a business telephone number, or e-mail address. A licensee who has moved his or her principal place of residence and principal place of business from this state shall have his or her license and all appointments immediately terminated by the department. Failure to notify the department within the required time shall result in a fine not to exceed \$250 for the first offense and a fine of at least \$500 or suspension or revocation of the license pursuant to s. 626.611, s. 626.6115, s. 626.621, or s. 626.6215 for a subsequent offense. The department may adopt rules to administer and enforce this section.

Section 8. Section 626.602, Florida Statutes, is amended to read:

626.602 Insurance agency and adjusting firm names; disapproval.—The department may disapprove the use of any true or fictitious name, other than the bona fide natural name of an individual, by any insurance agency or adjusting firm on any of the following grounds:

(1) The name interferes with or is too similar to a name already filed and in use by another agency, adjusting firm, or insurer.

(2) The use of the name may mislead the public in any respect.

(3) The name states or implies that the agency or adjusting firm is an insurer, motor club, hospital service plan, state or federal agency, charitable organization, or entity that primarily provides advice and counsel rather than sells or



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solicits insurance, settles claims, or is entitled to engage in insurance activities not permitted under licenses held or applied for. This provision does not prohibit the use of the word "state" or "states" in the name of the agency. The use of the word "state" or "states" in the name of an agency or adjusting firm does not in and of itself imply that the agency or adjusting firm is a state agency.

(4) The name contains the word "Medicare" or "Medicaid." ~~An insurance agency whose name contains the word "Medicare" or "Medicaid" but which is licensed as of July 1, 2021, may continue to use that name until June 30, 2023, provided that the agency's license remains valid. If the agency's license expires or is suspended or revoked, the agency may not be relicensed using that name. Licenses for agencies with names containing either of these words automatically expire on July 1, 2023, unless these words are removed from the name.~~

Section 9. Section 626.854, Florida Statutes, is amended to read:

626.854 "Public adjuster" defined; prohibitions.—The Legislature finds that it is necessary for the protection of the public to regulate public insurance adjusters and to prevent the unauthorized practice of law.

(1) A "public adjuster" is any person, except a duly licensed attorney at law as exempted under s. 626.860, who, for money, commission, or any other thing of value, directly or indirectly prepares, completes, or files an insurance claim for an insured or third-party claimant, regardless of how that person describes or presents his or her services, or who, for money, commission, or any other thing of value, acts on behalf



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of, or aids an insured or third-party claimant in negotiating for or effecting the settlement of a claim or claims for loss or damage covered by an insurance contract, regardless of how that person describes or presents his or her services, or who advertises for employment as an adjuster of such claims. The term also includes any person who, for money, commission, or any other thing of value, directly or indirectly solicits, investigates, or adjusts such claims on behalf of a public adjuster, an insured, or a third-party claimant. The term does not include a person who photographs or inventories damaged personal property or business personal property or a person performing duties under another professional license, if such person does not otherwise solicit, adjust, investigate, or negotiate for or attempt to effect the settlement of a claim.

(2) This definition does not apply to:

(a) A licensed health care provider or employee thereof who prepares or files a health insurance claim form on behalf of a patient.

(b) A licensed health insurance agent who assists an insured with coverage questions, medical procedure coding issues, balance billing issues, understanding the claims filing process, or filing a claim, as such assistance relates to coverage under a health insurance policy.

(c) A person who files a health claim on behalf of another and does so without compensation.

(3) A public adjuster may not give legal advice or act on behalf of or aid any person in negotiating or settling a claim relating to bodily injury, death, or noneconomic damages.

(4) For purposes of this section, the term "insured"



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includes only the policyholder and any beneficiaries named or similarly identified in the policy.

(5) A public adjuster may not directly or indirectly through any other person or entity solicit an insured or claimant by any means except on Monday through Saturday of each week and only between the hours of 8 a.m. and 8 p.m. on those days.

(6) (a) When entering a contract for adjuster services after July 1, 2023, a public adjuster may not contract with anyone other than the named insured unless the named insured provides written consent, subsequent to entering a contract for public adjusting services.

(b) If a public adjuster contracts with a third party in settling the named insured's claim without first obtaining the insured's written consent, payment of the third party's fees must be made from the public adjuster's fee.

~~(7)~~(6) An insured or claimant may cancel a public adjuster's contract to adjust a claim without penalty or obligation within 10 days after the date on which the contract is executed. If the contract was entered into based on events that are the subject of a declaration of a state of emergency by the Governor, an insured or claimant may cancel the public adjuster's contract to adjust a claim without penalty or obligation within 30 days after the date of the event or 10 days after the date on which the contract is executed, whichever is longer. The public adjuster's contract must contain the following language in minimum 18-point bold type immediately before the space reserved in the contract for the signature of the insured or claimant: "You, the insured, may cancel this



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contract for any reason without penalty or obligation to you within 10 days after the date of this contract. If this contract was entered into based on events that are the subject of a declaration of a state of emergency by the Governor, you may cancel this contract for any reason without penalty or obligation to you within 30 days after the date of the event or 10 days after the date on which the contract is executed, whichever is longer. You may also cancel the contract without penalty or obligation to you if I, as your public adjuster, fail to provide you and your insurer a copy of a written estimate within 60 days of the execution of the contract in accordance with s. 626.854(14)(b), Florida Statutes." The ~~by providing~~ notice of cancellation shall be provided to ...(name of public adjuster)..., submitted in writing and sent by certified mail, return receipt requested, or other form of mailing that provides proof thereof, at the address specified in the contract.

(8)(7) It is an unfair and deceptive insurance trade practice pursuant to s. 626.9541 for a public adjuster or any other person to circulate or disseminate any advertisement, announcement, or statement containing any assertion, representation, or statement with respect to the business of insurance which is untrue, deceptive, or misleading.

(a) The following statements, made in any public adjuster's advertisement or solicitation, are considered deceptive or misleading:

1. A statement or representation that invites an insured policyholder to submit a claim when the policyholder does not have covered damage to insured property.

2. A statement or representation that invites an insured



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policyholder to submit a claim by offering monetary or other valuable inducement.

3. A statement or representation that invites an insured policyholder to submit a claim by stating that there is "no risk" to the policyholder by submitting such claim.

4. A statement or representation, or use of a logo or shield, that implies or could mistakenly be construed to imply that the solicitation was issued or distributed by a governmental agency or is sanctioned or endorsed by a governmental agency.

(b) For purposes of this paragraph, the term "written advertisement" includes only newspapers, magazines, flyers, and bulk mailers. The following disclaimer, which is not required to be printed on standard size business cards, must be added in bold print and capital letters in typeface no smaller than the typeface of the body of the text to all written advertisements by a public adjuster:

"THIS IS A SOLICITATION FOR BUSINESS. IF YOU HAVE HAD A CLAIM FOR AN INSURED PROPERTY LOSS OR DAMAGE AND YOU ARE SATISFIED WITH THE PAYMENT BY YOUR INSURER, YOU MAY DISREGARD THIS ADVERTISEMENT."

~~(9)-(8)~~ A public adjuster, a public adjuster apprentice, or any person or entity acting on behalf of a public adjuster or public adjuster apprentice may not give or offer to give a monetary loan or advance to a client or prospective client.

~~(10)-(9)~~ A public adjuster, public adjuster apprentice, or any individual or entity acting on behalf of a public adjuster



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or public adjuster apprentice may not give or offer to give, directly or indirectly, any article of merchandise having a value in excess of \$25 to any individual for the purpose of advertising or as an inducement to entering into a contract with a public adjuster.

(11) If the insurer, not later than 14 days after the date on which the loss is reported to the insurer, either pays or commits in writing to pay to the insured the policy limit of the insurance policy, the public adjuster shall:

(a) Inform the insured that, due to the insurer's payment or commitment to pay the policy limit, the loss recovery amount might not be increased by the insurer.

(b) Not receive a commission consisting of a percentage of the total amount of the timely paid or committed policy limits.

(c) Be entitled only up to \$1,000 from the insured for any time spent or expenses incurred on the claim by the public adjuster, until the claim is paid or the insured receives a written commitment to pay from the insurer.

(12) Except as provided in paragraphs (11)(b) and (c), if the public adjuster enters into a contract with an insured or claimant after the insured or claimant unsuccessfully negotiates an insurance claim payment and the public adjuster is successful in obtaining a higher insurance claim payment, the public adjuster shall receive a commission consisting of 10 percent of the difference between the initial insurance claim payment offer made to the insured and the final insurance claim payment obtained through the work of the public adjuster after entering into the contract with the insured or claimant.

(13) ~~(a)-(10)-(a)~~ If a public adjuster enters into a contract



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with an insured or claimant to reopen a claim or file a supplemental claim that seeks additional payments for a claim that has been previously paid in part or in full or settled by the insurer, the public adjuster may not charge, agree to, or accept from any source compensation, payment, commission, fee, or any other thing of value based on a previous settlement or previous claim payments by the insurer for the same cause of loss. The charge, compensation, payment, commission, fee, or any other thing of value must be based only on the claim payments or settlements paid to the insured, exclusive of attorney fees and costs, obtained through the work of the public adjuster after entering into the contract with the insured or claimant. Compensation for the reopened or supplemental claim may not exceed 20 percent of the reopened or supplemental claim payment. In no event shall the contracts described in this paragraph exceed the limitations in paragraph (b).

(b) A public adjuster may not charge, agree to, or accept from any source compensation, payment, commission, fee, or any other thing of value in excess of:

1. Ten percent of the amount of insurance claim payments or settlements, exclusive of attorney fees and costs, paid to the insured by the insurer for claims based on events that are the subject of a declaration of a state of emergency by the Governor. This provision applies to claims made during the year after the declaration of emergency. After that year, the limitations in subparagraph 2. apply.

2. Twenty percent of the amount of insurance claim payments or settlements, exclusive of attorney fees and costs, paid to the insured by the insurer for claims that are not based on



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events that are the subject of a declaration of a state of emergency by the Governor.

(c) Insurance claim payments made by the insurer do not include policy deductibles, and public adjuster compensation may not be based on the deductible portion of a claim.

(d) Public adjuster compensation may not be based on amounts attributable to additional living expenses, unless such compensation is affirmatively agreed to in a separate agreement that includes a disclosure in substantially the following form: "I agree to retain and compensate the public adjuster for adjusting my additional living expenses and securing payment from my insurer for amounts attributable to additional living expenses payable under the policy issued on my (home/mobile home/condominium unit)."

(e) Public adjuster rate of compensation may not be increased based solely on the fact that the claim is litigated.

(f) Any maneuver, shift, or device through which the limits on compensation set forth in this subsection are exceeded is a violation of this chapter punishable as provided under s. 626.8698.

(14) (a) ~~(11)~~ Each public adjuster must provide to the claimant or insured a written estimate of the loss to assist in the submission of a proof of loss or any other claim for payment of insurance proceeds within 60 days after the date of the contract. The written estimate must include an itemized, per-unit estimate of the repairs, including itemized information on equipment, materials, labor, and supplies, in accordance with accepted industry standards. The public adjuster shall retain such written estimate for at least 5 years and shall make the



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estimate available to the claimant or insured, the insurer, and the department upon request.

(b) An insured may cancel the contract with no additional penalties or fees charged by the public adjuster if such an estimate is not provided within 60 days after executing the contract, subject to the cancellation notice requirement in this section.

~~(15)(12)~~ A public adjuster, public adjuster apprentice, or any person acting on behalf of a public adjuster or apprentice may not accept referrals of business from any person with whom the public adjuster conducts business if there is any form or manner of agreement to compensate the person, directly or indirectly, for referring business to the public adjuster. A public adjuster may not compensate any person, except for another public adjuster, directly or indirectly, for the principal purpose of referring business to the public adjuster.

~~(16)(13)~~ A company employee adjuster, independent adjuster, attorney, investigator, or other persons acting on behalf of an insurer that needs access to an insured or claimant or to the insured property that is the subject of a claim must provide at least 48 hours' notice to the insured or claimant, public adjuster, or legal representative before scheduling a meeting with the claimant or an onsite inspection of the insured property. The insured or claimant may deny access to the property if the notice has not been provided. The insured or claimant may waive the 48-hour notice.

~~(17)(14)~~ The public adjuster must ensure that prompt notice is given of the claim to the insurer, the public adjuster's contract is provided to the insurer, the property is available



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for inspection of the loss or damage by the insurer, and the insurer is given an opportunity to interview the insured directly about the loss and claim. The insurer must be allowed to obtain necessary information to investigate and respond to the claim.

(a) The insurer may not exclude the public adjuster from its in-person meetings with the insured. The insurer shall meet or communicate with the public adjuster in an effort to reach agreement as to the scope of the covered loss under the insurance policy. The public adjuster shall meet or communicate with the insurer in an effort to reach agreement as to the scope of the covered loss under the insurance policy. This section does not impair the terms and conditions of the insurance policy in effect at the time the claim is filed.

(b) A public adjuster may not restrict or prevent an insurer, company employee adjuster, independent adjuster, attorney, investigator, or other person acting on behalf of the insurer from having reasonable access at reasonable times to any insured or claimant or to the insured property that is the subject of a claim.

(c) A public adjuster may not act or fail to reasonably act in any manner that obstructs or prevents an insurer or insurer's adjuster from timely conducting an inspection of any part of the insured property for which there is a claim for loss or damage. The public adjuster representing the insureds may be present for the insurer's inspection, but if the unavailability of the public adjuster otherwise delays the insurer's timely inspection of the property, the public adjuster or the insureds must allow the insurer to have access to the property without the



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participation or presence of the public adjuster or insureds in order to facilitate the insurer's prompt inspection of the loss or damage.

(18)~~(15)~~ A licensed contractor under part I of chapter 489, or a subcontractor of such licensee, may not advertise, solicit, offer to handle, handle, or perform public adjuster services as provided in subsection (1) unless licensed and compliant as a public adjuster under this chapter. The prohibition against solicitation does not preclude a contractor from suggesting or otherwise recommending to a consumer that the consumer consider contacting his or her insurer to determine if the proposed repair is covered under the consumer's insurance policy, except as it relates to solicitation prohibited in s. 489.147. In addition, the contractor may discuss or explain a bid for construction or repair of covered property with the residential property owner who has suffered loss or damage covered by a property insurance policy, or the insurer of such property, if the contractor is doing so for the usual and customary fees applicable to the work to be performed as stated in the contract between the contractor and the insured.

(19)~~(16)~~ A public adjuster shall not acquire any interest in salvaged property, except with the written consent and permission of the insured through a signed affidavit.

(20)~~(17)~~ A public adjuster, a public adjuster apprentice, or a person acting on behalf of an adjuster or apprentice may not enter into a contract or accept a power of attorney that vests in the public adjuster, the public adjuster apprentice, or the person acting on behalf of the adjuster or apprentice the effective authority to choose the persons or entities that will



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perform repair work in a property insurance claim or provide goods or services that will require the insured or third-party claimant to expend funds in excess of those payable to the public adjuster under the terms of the contract for adjusting services.

(21)~~(18)~~ Subsections (5)-(20) ~~(5)-(17)~~ apply only to residential property insurance policies and condominium unit owner policies as described in s. 718.111(11).

(22)~~(19)~~ Except as otherwise provided in this chapter, no person, except an attorney at law or a licensed public adjuster, may for money, commission, or any other thing of value, directly or indirectly:

(a) Prepare, complete, or file an insurance claim for an insured or a third-party claimant;

(b) Act on behalf of or aid an insured or a third-party claimant in negotiating for or effecting the settlement of a claim for loss or damage covered by an insurance contract;

(c) Offer to initiate or negotiate a claim on behalf of an insured;

(d) Advertise services that require a license as a public adjuster; or

(e) Solicit, investigate, or adjust a claim on behalf of a public adjuster, an insured, or a third-party claimant.

(23)~~(20)~~ The department may take administrative actions and impose fines against any persons performing claims adjusting, soliciting, or any other services described in this section without the licensure required under this section or s. 626.112.

(24)~~(21)~~ A public adjuster, public adjuster apprentice, or public adjusting firm that solicits a claim and does not enter



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into a contract with an insured or a third-party claimant pursuant to paragraph (13) (a) ~~(10) (a)~~ may not charge an insured or a third-party claimant or receive payment by any other source for any type of service related to the insured or third-party claimant's claim.

(25) (a) ~~(22) (a)~~ Any following act by a public adjuster, a public adjuster apprentice, or a person acting on behalf of a public adjuster or public adjuster apprentice is prohibited and shall result in discipline as applicable under this part:

1. Offering to a residential property owner a rebate, gift, gift card, cash, coupon, waiver of any insurance deductible, or any other thing of value in exchange for:

a. Allowing a contractor, a public adjuster, a public adjuster apprentice, or a person acting on behalf of a public adjuster or public adjuster apprentice to conduct an inspection of the residential property owner's roof; or

b. Making an insurance claim for damage to the residential property owner's roof.

2. Offering, delivering, receiving, or accepting any compensation, inducement, or reward for the referral of any services for which property insurance proceeds would be used for roofing repairs or replacement.

(b) Notwithstanding the fine set forth in s. 626.8698, a public adjuster or public adjuster apprentice may be subject to a fine not to exceed \$10,000 per act for a violation of this subsection and a fine not to exceed \$20,000 per act for a violation of this subsection that occurs during a state of emergency declared by executive order or proclamation of the Governor pursuant to s. 252.36.



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(c) A person who engages in an act prohibited by this subsection and who is not a public adjuster or a public adjuster apprentice, or is not otherwise exempt from licensure, is guilty of the unlicensed practice of public adjusting and may be:

1. Subject to all applicable penalties set forth in this part.

2. Notwithstanding subparagraph 1., subject to a fine not to exceed \$10,000 per act for a violation of this subsection and a fine not to exceed \$20,000 per act for a violation of this subsection that occurs during a state of emergency declared by executive order or proclamation of the Governor pursuant to s. 252.36.

Section 10. Section 626.860, Florida Statutes, is amended to read:

626.860 Attorneys at law; exemption.—Attorneys at law duly licensed to practice law in the courts of this state, and in good standing with The Florida Bar, shall not be required to be licensed under ~~the provisions of~~ this code to authorize them to adjust or participate in the adjustment of any claim, loss, or damage arising under policies or contracts of insurance. This exemption does not extend to the employees, interns, volunteers, or contractors of an attorney or of a law firm.

Section 11. Section 626.875, Florida Statutes, is amended to read:

626.875 Office and records.—

(1)(a) Each appointed independent adjuster and licensed public adjuster must maintain a place of business in this state which is accessible to the public and keep therein the usual and customary records pertaining to transactions under the license.



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This provision does not prohibit maintenance of such an office in the home of the licensee.

(b) A license issued under this chapter must at all times be posted in a conspicuous place in the principal place of business of the license holder. If the licensee is conducting business away from the place of business such that the license cannot be posted, the licensee shall have such license in his or her actual possession at the time of carrying on such business.

(2) The records of the adjuster relating to a particular claim or loss shall be so retained in the adjuster's place of business for a period of not less than 5 years after completion of the adjustment and shall be available for inspection by the department at all times. This provision shall not be deemed to prohibit return or delivery to the insurer or insured of documents furnished to or prepared by the adjuster and required by the insurer or insured to be returned or delivered thereto. At a minimum, the following records must be maintained for a period of not less than 5 years:

(a) Name, address, telephone number, and e-mail address of the insured, and the name of the attorney representing the insured, if applicable.

(b) The date, location, and amount of the loss.

(c) An unaltered copy of the executed disclosure document required by s. 626.8796.

(d) An unaltered copy of the executed public adjuster contract required by s. 626.8796.

(e) A copy of the estimate of damages provided to the insurer.

(f) The name of the insurer; the name of the claims



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representative of the insurer; and the amount, expiration date, and number of each policy under which the loss is covered.

(g) An itemized statement of the recoveries by the insured from the sources known to the adjuster.

(h) An itemized statement of all compensation received by the public adjuster from any source in connection with the loss.

(i) A register of all money received, deposited, disbursed, and withdrawn in connection with a transaction with the insured, including fees, transfers, and disbursements in connection with the loss.

Section 12. Section 626.8796, Florida Statutes, is amended to read:

626.8796 Public adjuster contracts; disclosure statement; fraud statement.—

(1) All contracts for public adjuster services must be in writing in at least 12-point type, be titled "Public Adjuster Contract," and prominently display the following statement on the contract in minimum 18-point bold type before the space reserved in the contract for the signature of the insured:

"Pursuant to s. 817.234, Florida Statutes, any person who, with the intent to injure, defraud, or deceive an insurer or insured, prepares, presents, or causes to be presented a proof of loss or estimate of cost or repair of damaged property in support of a claim under an insurance policy knowing that the proof of loss or estimate of claim or repairs contains false, incomplete, or misleading information concerning any fact or thing material to the claim commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, Florida Statutes."



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(2) A public adjuster contract relating to a property and casualty claim must contain the full name, permanent business address, phone number, e-mail address, and license number of the public adjuster; the full name of the public adjusting firm; and the insured's full name, ~~and~~ street address, phone number, and e-mail address, together with a brief description of the loss. The contract must state the percentage of compensation for the public adjuster's services in minimum 18-point bold type before the space reserved in the contract for the signature of the insured; the type of claim, including an emergency claim, nonemergency claim, or supplemental claim; the initials of the named insured on each page that does not contain the insured's signature; the signatures of the public adjuster and all named insureds; and the signature date. If all of the named insureds' signatures are not available, the public adjuster must submit an affidavit signed by the available named insureds attesting that they have authority to enter into the contract and settle all claim issues on behalf of the named insureds. An unaltered copy of the executed contract must be remitted to the insured at the time of execution and to the insurer within 10 ~~30~~ days after execution. A public adjusting firm that adjusts claims primarily for commercial entities with operations in more than one state and that does not directly or indirectly perform adjusting services for insurers or individual homeowners is deemed to comply with the requirements of this subsection if, at the time a proof of loss is submitted, the public adjusting firm remits to the insurer an affidavit signed by the public adjuster or public adjuster apprentice that identifies:

(a) The full name, permanent business address, phone



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number, e-mail address, and license number of the public adjuster or public adjuster apprentice.

(b) The full name of the public adjusting firm.

(c) The insured's full name, ~~and~~ street address, phone number, and e-mail address, together with a brief description of the loss.

(d) An attestation that the compensation for public adjusting services will not exceed the limitations provided by law.

(e) The type of claim, including an emergency claim, nonemergency claim, or supplemental claim.

(3) The public adjuster shall not provide services until both the insured and insurer have been provided with unaltered copies of the executed contract.

(4) The insured may rescind the contract for public adjuster services if the public adjuster has not submitted a written estimate to the insurer within 60 days after executing the contract.

(5) Before the signing of the contract, the public adjuster shall provide the insured with a separate disclosure document to be signed by the insured, on a form adopted by the department, regarding the claim process which accomplishes the following:

(a) Defines the following types of adjusters who may be involved in the claim process: company adjuster, independent adjuster, and public adjuster.

(b) Explains that the public adjuster is not a representative or employee of the insurer.

(c) Explains that the insured is not required to hire a public adjuster, but has a right to do so.



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(d) Explains that an insured has a right to initiate direct communications with the insured's attorney, the insurer, the company adjuster, the insurer's attorney, or any person regarding the settlement of the insured's claim.

(e) Explains that the public adjuster's salary, fee, commission, or other consideration to be paid to a public adjuster is the insured's responsibility.

(f) Explains that the public adjuster is required to provide the insured an unaltered copy of the executed contract at the time of execution.

(g) Explains that if the contract was entered into based on events that are the subject of a declaration of a state of emergency by the Governor, an insured or a claimant may cancel the public adjuster's contract to adjust a claim without penalty or obligation within 30 days after the date of the event or 10 days after the date on which the contract is executed, whichever is longer.

(h) The public adjuster shall provide an unaltered copy of the executed disclosure document to the insured at the time of execution.

(6) A contract that does not comply with this section is invalid and unenforceable.

(7) The department may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this section, including rules to adopt forms required by this section.

Section 13. Section 626.8797, Florida Statutes, is amended to read:

626.8797 Proof of loss; fraud statement.—All proof-of-loss statements must prominently display the following statement in



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minimum 18-point bold type before the space reserved in the contract for the signature of the insured: "Pursuant to s. 817.234, Florida Statutes, any person who, with the intent to injure, defraud, or deceive any insurer or insured, prepares, presents, or causes to be presented a proof of loss or estimate of cost or repair of damaged property in support of a claim under an insurance policy knowing that the proof of loss or estimate of claim or repairs contains any false, incomplete, or misleading information concerning any fact or thing material to the claim commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, Florida Statutes."

Section 14. Paragraph (a) of subsection (1) of section 626.9541, Florida Statutes, is amended to read:

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

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

(a) *Misrepresentations and false advertising of insurance policies.*—Knowingly making, issuing, circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, statement, sales presentation, omission, comparison, or property and casualty certificate of insurance altered after being issued, which:

1. Misrepresents the benefits, advantages, conditions, or terms of any insurance policy.

2. Misrepresents the dividends or share of the surplus to be received on any insurance policy.



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3. Makes any false or misleading statements as to the dividends or share of surplus previously paid on any insurance policy.

4. Is misleading, or is a misrepresentation, as to the financial condition of any person or as to the legal reserve system upon which any life insurer operates.

5. Uses any name or title of any insurance policy or class of insurance policies misrepresenting the true nature thereof.

6. Is a misrepresentation for the purpose of inducing, or tending to induce, the lapse, forfeiture, exchange, conversion, or surrender of any insurance policy.

7. Is a misrepresentation for the purpose of effecting a pledge or assignment of, or effecting a loan against, any insurance policy.

8. Misrepresents any insurance policy as being shares of stock or misrepresents ownership interest in the company.

9. Uses any advertisement that would mislead or otherwise cause a reasonable person to believe mistakenly that the state or the Federal Government is responsible for the insurance sales activities of any person or stands behind any person's credit or that any person, the state, or the Federal Government guarantees any returns on insurance products or is a source of payment of any insurance obligation of or sold by any person.

10. Fails to disclose a third party that receives royalties, referral fees, or other remuneration for sponsorship, marketing, or use of third-party branding for a policy of health insurance as defined in s. 624.603.

Section 15. Paragraph (c) of subsection (2) of section 627.4025, Florida Statutes, is amended, and paragraph (d) is



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added to that subsection, to read:

627.4025 Residential coverage and hurricane coverage defined.—

(2) As used in policies providing residential coverage:

(c) "Hurricane" for purposes of paragraphs (a) and (b) means a storm system that has been declared to be a hurricane by the National Hurricane Center of the National Weather Service. The duration of the hurricane includes the time period, in Florida:

1. Beginning at the time a ~~hurricane watch or~~ hurricane warning is issued for any part of Florida by the National Hurricane Center of the National Weather Service; and

~~2. Continuing for the time period during which the hurricane conditions exist anywhere in Florida; and~~

~~3.~~ Ending 24 ~~72~~ hours following the termination of the last hurricane watch or hurricane warning issued for any part of Florida by the National Hurricane Center of the National Weather Service.

(d) "Hurricane deductible" means the deductible applicable to loss caused by a hurricane.

Section 16. Paragraph (b) of subsection (1) and paragraph (b) of subsection (2) of section 627.4133, Florida Statutes, are amended to read:

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

(1) Except as provided in subsection (2):

(b) An insurer issuing a policy providing coverage for property, casualty, except mortgage guaranty, surety, or marine insurance, other than motor vehicle insurance subject to s.



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627.728 or s. 627.7281, shall give the first-named insured written notice of cancellation or termination other than nonrenewal at least 45 days prior to the effective date of the cancellation or termination, including in the written notice the reason or reasons for the cancellation or termination, except that:

1. When cancellation is for nonpayment of premium, at least 10 days' written notice of cancellation accompanied by the reason therefor shall be given. As used in this subparagraph and s. 440.42(3), the term "nonpayment of premium" means failure of the named insured to discharge when due any of her or his obligations in connection with the payment of premiums on a policy or any installment of such premium, whether the premium is payable directly to the insurer or its agent or indirectly under any premium finance plan or extension of credit, or failure to maintain membership in an organization if such membership is a condition precedent to insurance coverage.

"Nonpayment of premium" also means the failure of a financial institution to honor an insurance applicant's check after delivery to a licensed agent for payment of a premium, even if the agent has previously delivered or transferred the premium to the insurer. If a dishonored check represents the initial premium payment, the contract and all contractual obligations shall be void ab initio unless the nonpayment is cured within the earlier of 5 days after actual notice by certified mail is received by the applicant or 15 days after notice is sent to the applicant by certified mail or registered mail, and if the contract is void, any premium received by the insurer from a third party shall be refunded to that party in full; and



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2. When such cancellation or termination occurs during the first 60 ~~90~~ days during which the insurance is in force and the insurance is canceled or terminated for reasons other than nonpayment of premium, at least 20 days' written notice of cancellation or termination accompanied by the reason therefor shall be given except where there has been a material misstatement or misrepresentation or failure to comply with the underwriting requirements established by the insurer.

After the policy has been in effect for 60 ~~90~~ days, no such policy shall be canceled by the insurer except when there has been a material misstatement, a nonpayment of premium, a failure to comply with underwriting requirements established by the insurer within 60 ~~90~~ days of the date of effectuation of coverage, or a substantial change in the risk covered by the policy or when the cancellation is for all insureds under such policies for a given class of insureds. This subsection does not apply to individually rated risks having a policy term of less than 90 days.

(2) With respect to any personal lines or commercial residential property insurance policy, including, but not limited to, any homeowner, mobile home owner, farmowner, condominium association, condominium unit owner, apartment building, or other policy covering a residential structure or its contents:

(b) The insurer shall give the first-named insured written notice of nonrenewal, cancellation, or termination at least 120 days before the effective date of the nonrenewal, cancellation, or termination. The notice must include the reason for the



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nonrenewal, cancellation, or termination, except that:

1. If cancellation is for nonpayment of premium, at least 10 days' written notice of cancellation accompanied by the reason therefor must be given. As used in this subparagraph, the term "nonpayment of premium" means failure of the named insured to discharge when due her or his obligations for paying the premium on a policy or an installment of such premium, whether the premium is payable directly to the insurer or its agent or indirectly under a premium finance plan or extension of credit, or failure to maintain membership in an organization if such membership is a condition precedent to insurance coverage. The term also means the failure of a financial institution to honor an insurance applicant's check after delivery to a licensed agent for payment of a premium even if the agent has previously delivered or transferred the premium to the insurer. If a dishonored check represents the initial premium payment, the contract and all contractual obligations are void ab initio unless the nonpayment is cured within the earlier of 5 days after actual notice by certified mail is received by the applicant or 15 days after notice is sent to the applicant by certified mail or registered mail. If the contract is void, any premium received by the insurer from a third party must be refunded to that party in full.

2. If cancellation or termination occurs during the first 60 ~~90~~ days the insurance is in force and the insurance is canceled or terminated for reasons other than nonpayment of premium, at least 20 days' written notice of cancellation or termination accompanied by the reason therefor must be given unless there has been a material misstatement or



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misrepresentation or a failure to comply with the underwriting requirements established by the insurer.

3. After the policy has been in effect for 60 ~~90~~ days, the policy may not be canceled by the insurer unless there has been a material misstatement; a nonpayment of premium; a failure to comply, within 60 ~~90~~ days after the date of effectuation of coverage, with underwriting requirements established by the insurer before the date of effectuation of coverage; or a substantial change in the risk covered by the policy or unless the cancellation is for all insureds under such policies for a given class of insureds. This subparagraph does not apply to individually rated risks that have a policy term of less than 90 days.

4. After a policy or contract has been in effect for more than 60 ~~90~~ days, the insurer may not cancel or terminate the policy or contract based on credit information available in public records.

5. A policy that is nonrenewed by Citizens Property Insurance Corporation, pursuant to s. 627.351(6), for a policy that has been assumed by an authorized insurer offering replacement coverage to the policyholder is exempt from the notice requirements of paragraph (a) and this paragraph. In such cases, the corporation must give the named insured written notice of nonrenewal at least 45 days before the effective date of the nonrenewal.

6. Notwithstanding any other provision of law, an insurer may cancel or nonrenew a property insurance policy after at least 45 days' notice if the office finds that the early cancellation of some or all of the insurer's policies is



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necessary to protect the best interests of the public or policyholders and the office approves the insurer's plan for early cancellation or nonrenewal of some or all of its policies. The office may base such finding upon the financial condition of the insurer, lack of adequate reinsurance coverage for hurricane risk, or other relevant factors. The office may condition its finding on the consent of the insurer to be placed under administrative supervision pursuant to s. 624.81 or to the appointment of a receiver under chapter 631.

7. A policy covering both a home and a motor vehicle may be nonrenewed for any reason applicable to the property or motor vehicle insurance after providing 90 days' notice.

Section 17. Effective January 1, 2024, section 627.4554, Florida Statutes, is amended to read:

627.4554 Suitability in annuity transactions ~~investments.~~

(1) PURPOSE.—The purpose of this section is to require agents to act in the best interest of the consumer when making a recommendation of an annuity and to require insurers to establish and maintain a system to supervise so set forth ~~standards and procedures for making recommendations to consumers which result in transactions involving annuity products, and to establish a system for supervising such recommendations in order to ensure~~ that the insurance needs and financial objectives of consumers are effectively ~~appropriately~~ addressed at the time of the transaction.

(2) SCOPE.—This section applies to any sale or recommendation of ~~made to a consumer to purchase, exchange, or replace an annuity by an insurer or its agent, and which results in the purchase, exchange, or replacement recommended.~~



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(3) DEFINITIONS.—As used in this section, the term:

(a) “Agent” means a person or entity required to be licensed under the laws of this state to sell, solicit, or negotiate insurance, including annuities. For purposes of this section, the term includes an insurer when no agent is involved ~~has the same meaning as provided in s. 626.015.~~

(b) “Annuity” means an insurance product under state law which is individually solicited, whether classified as an individual or group annuity.

(c) “Cash compensation” means any discount, concession, fee, service fee, commission, sales charge, loan, override, or cash benefit received by an agent from an insurer or intermediary or directly from the consumer in connection with the recommendation or sale of an annuity.

(d) “Consumer profile information” means information that is reasonably appropriate to determine whether a recommendation addresses the consumer’s financial situation, insurance needs, and financial objectives, including, at a minimum, the following:

1. Age.

2. Annual income.

3. Financial situation and needs, including debts and other obligations.

4. Financial experience.

5. Insurance needs.

6. Financial objectives.

7. Intended use of the annuity.

8. Financial time horizon.

9. Existing assets or financial products, including



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investment, annuity, and insurance holdings.

10. Liquidity needs.

11. Liquid net worth.

12. Risk tolerance, including, but not limited to,
willingness to accept nonguaranteed elements in the annuity.

13. Financial resources used to fund the annuity.

14. Tax status.

(e) ~~(e)~~ "FINRA" means the Financial Industry Regulatory
Authority or a succeeding agency.

(f) ~~(d)~~ "Insurer" has the same meaning as provided in s.
624.03.

(g) "Intermediary" means an entity contracted directly with
an insurer or with another entity contracted with an insurer to
facilitate the sale of the insurer's annuities by agents.

(h) "Material conflict of interest" means a financial
interest of the agent in the sale of an annuity which a
reasonable person would expect to influence the impartiality of
a recommendation. The term does not include cash compensation or
noncash compensation.

(i) "Noncash compensation" means any form of compensation
that is not cash compensation, including, but not limited to,
health insurance, office rent, office support, and retirement
benefits.

(j) "Nonguaranteed elements" means the premiums; credited
interest rates, including any bonus; benefits; values;
dividends; noninterest-based credits; charges; or elements of
formulas used to determine any of these, which are subject to
company discretion and are not guaranteed at issue. An element
is considered nonguaranteed if any of the underlying



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nonguaranteed elements are used in its calculation.

(k) ~~(e)~~ "Recommendation" means advice provided by an insurer
~~or its~~ agent to an individual a consumer which was intended to
result or does result which would result in a the purchase, an
exchange, or a replacement of an annuity in accordance with that
advice. The term does not include general communication to the
public, generalized customer services, assistance or
administrative support, general educational information and
tools, prospectuses, or other product and sales material.

(l) ~~(f)~~ "Replacement" means a transaction in which a new
annuity ~~policy or contract~~ is to be purchased and it is known or
should be known to the proposing insurer ~~or its~~ agent, or to the
proposing insurer whether or not an agent is involved, that by
reason of such transaction an existing annuity or other
insurance policy has been or is to be any of the following ~~or~~
contract will be:

1. Lapsed, forfeited, surrendered or partially surrendered,
assigned to the replacing insurer, or otherwise terminated;

2. Converted to reduced paid-up insurance, continued as
extended term insurance, or otherwise reduced in value due to
the use of nonforfeiture benefits or other policy values;

3. Amended so as to effect a reduction in benefits or the
term for which coverage would otherwise remain in force or for
which benefits would be paid;

4. Reissued with a reduction in cash value; or

5. Used in a financed purchase.

(m) "SEC" means the United States Securities and Exchange
Commission.

~~(g) "Suitability information" means information related to~~



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~~the consumer which is reasonably appropriate to determine the
suitability of a recommendation made to the consumer, including
the following:~~

- ~~1. Age;~~
- ~~2. Annual income;~~
- ~~3. Financial situation and needs, including the financial
resources used for funding the annuity;~~
- ~~4. Financial experience;~~
- ~~5. Financial objectives;~~
- ~~6. Intended use of the annuity;~~
- ~~7. Financial time horizon;~~
- ~~8. Existing assets, including investment and life insurance
holdings;~~
- ~~9. Liquidity needs;~~
- ~~10. Liquid net worth;~~
- ~~11. Risk tolerance; and~~
- ~~12. Tax status.~~

(4) EXEMPTIONS.—Unless otherwise specifically included,
this section does not apply to transactions involving:

(a) Direct-response solicitations where there is no
recommendation based on information collected from the consumer
pursuant to this section;

(b) Contracts used to fund:

1. An employee pension or welfare benefit plan that is
covered by the federal Employee Retirement and Income Security
Act;

2. A plan described by s. 401(a), s. 401(k), s. 403(b), s.
408(k), or s. 408(p) of the Internal Revenue Code, if
established or maintained by an employer;



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3. A government or church plan defined in s. 414 of the Internal Revenue Code, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax-exempt organization under s. 457 of the Internal Revenue Code; or

4. A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor;

(c)5- Settlements or assumptions of liabilities associated with personal injury litigation or a dispute or claim-resolution process; or

(d)6- Formal prepaid funeral contracts.

(5) DUTIES OF INSURERS AND AGENTS.—

(a) An agent, when making a recommendation of an annuity, shall act in the best interest of the consumer under the circumstances known at the time the recommendation is made, without placing the financial interest of the agent or insurer ahead of the consumer's interest. An agent has acted in the best interest of the consumer if the agent has satisfied the following obligations regarding care, disclosure, conflict of interest, and documentation:

1.a. The agent, in making a recommendation, shall exercise reasonable diligence, care, and skill to:

(I) Know the financial situation, insurance needs, and financial objectives of the customer.

(II) Understand the available options after making a reasonable inquiry into options available to the agent.

(III) Have a reasonable basis to believe the recommended option effectively addresses the consumer's financial situation, insurance needs, and financial objectives over the life of the



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product, as evaluated in light of the consumer profile information.

(IV) Communicate the reason or reasons for the recommendation.

b. The requirements of sub-subparagraph a. include:

(I) Making reasonable efforts to obtain consumer profile information from the consumer before the recommendation of an annuity.

(II) Requiring an agent to consider the types of products the agent is authorized and licensed to recommend or sell which address the consumer's financial situation, insurance needs, and financial objectives. This does not require analysis or consideration of any products outside the authority and license of the agent or other possible alternative products or strategies available in the market at the time of the recommendation. Agents shall be held to standards applicable to agents with similar authority and licensure.

(III) Having a reasonable basis to believe the consumer would benefit from certain features of the annuity, such as annuitization, death or living benefit, or other insurance-related features.

c. The requirements of this subsection do not create a fiduciary obligation or relationship and only create a regulatory obligation as provided in this section.

d. The consumer profile information, characteristics of the insurer, and product costs, rates, benefits, and features are those factors generally relevant in making a determination whether an annuity effectively addresses the consumer's financial situation, insurance needs, and financial objectives,



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but the level of importance of each factor under the care obligation of this paragraph may vary depending on the facts and circumstances of a particular case. However, each factor may not be considered in isolation.

e. The requirements under sub-subparagraph a. apply to the particular annuity as a whole and the underlying subaccounts to which funds are allocated at the time of purchase or exchange of an annuity, and riders and similar product enhancements, if any.

f. Sub-subparagraph a. does not require that the annuity with the lowest one-time occurrence compensation structure or multiple occurrence compensation structure shall necessarily be recommended.

g. Sub-subparagraph a. does not require the agent to have ongoing monitoring obligations under the care obligation, although such an obligation may be separately owed under the terms of a fiduciary, consulting, investment, advising, or financial planning agreement between the consumer and the agent.

h. In the case of an exchange or replacement of an annuity, the agent shall consider the whole transaction, which includes taking into consideration whether:

(I) The consumer will incur a surrender charge; be subject to the commencement of a new surrender period; lose existing benefits, such as death, living, or other contractual benefits; or be subject to increased fees, investment advisory fees, or charges for riders and similar product enhancements.

(II) The replacing product would substantially benefit the consumer in comparison to the replaced product over the life of the product.

(III) The consumer has had another annuity exchange or



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replacement and, in particular, an exchange or replacement within the preceding 60 months.

i. This section does not require an agent to obtain any license other than an agent license with the appropriate line of authority to sell, solicit, or negotiate insurance in this state, including, but not limited to, any securities license, in order to fulfill the duties and obligations contained in this section; provided, the agent does not give advice or provide services that are otherwise subject to securities laws or engage in any other activity requiring other professional licenses.

2.a. Before the recommendation or sale of an annuity, the agent shall prominently disclose to the consumer, on a form substantially similar to that posted on the office website as Appendix A, related to an insurance agent disclosure for annuities:

(I) A description of the scope and terms of the relationship with the consumer and the role of the agent in the transaction.

(II) An affirmative statement on whether the agent is licensed and authorized to sell the following products:

(A) Fixed annuities.

(B) Fixed indexed annuities.

(C) Variable annuities.

(D) Life insurance.

(E) Mutual funds.

(F) Stocks and bonds.

(G) Certificates of deposit.

(III) An affirmative statement describing the insurers for which the agent is authorized, contracted, or appointed, or



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otherwise able to sell insurance products, using the following descriptions:

(A) From one insurer;

(B) From two or more insurers; or

(C) From two or more insurers, although primarily contracted with one insurer.

(IV) A description of the sources and types of cash compensation and noncash compensation to be received by the agent, including whether the agent is to be compensated for the sale of a recommended annuity by commission as part of premium or other remuneration received from the insurer, intermediary, or other agent, or by fee as a result of a contract for advice or consulting services.

(V) A notice of the consumer's right to request additional information regarding cash compensation described in subparagraph b.

b. Upon request of the consumer or the consumer's designated representative, the agent shall disclose:

(I) A reasonable estimate of the amount of cash compensation to be received by the agent, which may be stated as a range of amounts or percentages.

(II) Whether the cash compensation is a one-time or multiple occurrence amount; and if a multiple occurrence amount, the frequency and amount of the occurrence, which may be stated as a range of amounts or percentages. ~~When recommending the purchase or exchange of an annuity to a consumer which results in an insurance transaction or series of insurance transactions, the agent, or the insurer where no agent is involved, must have reasonable grounds for believing that the recommendation is~~



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~~suitable for the consumer, based on the consumer's suitability information, and that there is a reasonable basis to believe all of the following:~~

~~c.1. Before or at the time of the recommendation or sale of an annuity, the agent shall have a reasonable basis to believe the consumer has been reasonably informed of various features of the annuity, such as the potential surrender period and surrender charge; potential tax penalty if the consumer sells, exchanges, surrenders, or annuitizes the annuity; mortality and expense fees; any annual fees; investment advisory fees; potential charges for and features of riders or other options of the annuity; limitations on interest returns; potential changes in nonguaranteed elements of the annuity; insurance and investment components; and market risk.~~

~~2. The consumer would benefit from certain features of the annuity, such as tax-deferred growth, annuitization, or the death or living benefit.~~

~~3. An agent shall identify and avoid or reasonably manage and disclose material conflicts of interest, including material conflicts of interest related to an ownership interest.~~

~~4. An agent shall at the time of the recommendation or sale:~~

~~a. Make a written record of any recommendation and the basis for the recommendation, subject to this section.~~

~~b. Obtain a consumer-signed statement on a form substantially similar to that posted on the office website as Appendix B, related to a consumer's refusal to provide information, documenting:~~

~~(I) A customer's refusal to provide the consumer profile~~



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information, if any.

(II) A customer's understanding of the ramifications of not providing his or her consumer profile information or providing insufficient consumer profile information.

c. Obtain a consumer-signed statement on a form substantially similar to that posted on the office website as Appendix C, related to a consumer's decision to purchase an annuity not based on a recommendation, acknowledging the annuity transaction is not recommended if a customer decides to enter into an annuity transaction that is not based on the agent's recommendation.

5. Any requirement applicable to an agent under this subsection applies to every agent who has exercised material control or influence in the making of a recommendation and has received direct compensation as a result of the recommendation or sale, regardless of whether the agent has had any direct contact with the consumer. Activities such as providing or delivering marketing or education materials, product wholesaling or other back office product support, and general supervision of an agent do not, in and of themselves, constitute material control or influence.

~~3. The particular annuity as a whole, the underlying subaccounts to which funds are allocated at the time of purchase or exchange of the annuity, and riders and similar product enhancements, if any, are suitable; and, in the case of an exchange or replacement, the transaction as a whole is suitable for the particular consumer based on his or her suitability information.~~

~~4. In the case of an exchange or replacement of an annuity,~~



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~~the exchange or replacement is suitable after considering whether the consumer:~~

~~a. Will incur a surrender charge; be subject to the commencement of a new surrender period; lose existing benefits, such as death, living, or other contractual benefits; or be subject to increased fees, investment advisory fees, or charges for riders and similar product enhancements;~~

~~b. Would benefit from product enhancements and improvements; and~~

~~c. Has had another annuity exchange or replacement, including an exchange or replacement within the preceding 36 months.~~

~~(b) Before executing a purchase, exchange, or replacement of an annuity resulting from a recommendation, an insurer or its agent must make reasonable efforts to obtain the consumer's suitability information. The information shall be collected on form DFS-H1-1980, which is hereby incorporated by reference, and completed and signed by the applicant and agent. Questions requesting this information must be presented in at least 12-point type and be sufficiently clear so as to be readily understandable by both the agent and the consumer. A true and correct executed copy of the form must be provided by the agent to the insurer, or to the person or entity that has contracted with the insurer to perform this function as authorized by this section, within 10 days after execution of the form, and shall be provided to the consumer no later than the date of delivery of the contract or contracts.~~

~~(c) Except as provided under paragraph (d), an insurer may not issue an annuity recommended to a consumer unless there is a~~



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~~reasonable basis to believe the annuity is suitable based on the consumer's suitability information.~~

~~(b)1.(d) Except as provided under subparagraph 2., An insurer's issuance of an annuity must be reasonable based on all the circumstances actually known to the insurer at the time the annuity is issued. However,~~ an insurer or its agent does not have ~~does not have~~ an obligation to a consumer related to an annuity transaction under subparagraph (a)1. ~~paragraph (a) or paragraph (c)~~ if:

a.1. A recommendation has not been made;

b.2. A recommendation was made and is later found to have been based on materially inaccurate information provided by the consumer;

c.3. A consumer refuses to provide relevant consumer profile suitability information and the annuity transaction is not recommended; or

d.4. A consumer decides to enter into an annuity transaction that is not based on a recommendation of the an ~~insurer or its~~ agent.

2. An insurer's issuance of an annuity subject to subparagraph 1. must be reasonable under all the circumstances actually known to the insurer at the time the annuity is issued.

(c)1. Except as permitted under paragraph (b), an insurer may not issue an annuity recommended to a consumer unless there is a reasonable basis to believe the annuity would effectively address the particular consumer's financial situation, insurance needs, and financial objectives based on the consumer's consumer profile information.

~~(e) At the time of sale, the agent or the agent's~~



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~~representative must:~~

~~1. Make a record of any recommendation made to the consumer pursuant to paragraph (a);~~

~~2. Obtain the consumer's signed statement documenting his or her refusal to provide suitability information, if applicable; and~~

~~3. Obtain the consumer's signed statement acknowledging that an annuity transaction is not recommended if he or she decides to enter into an annuity transaction that is not based on the insurer's or its agent's recommendation, if applicable.~~

~~(f) Before executing a replacement or exchange of an annuity contract resulting from a recommendation, the agent must provide on form DFS-H1-1981, which is hereby incorporated by reference, information that compares the differences between the existing annuity contract and the annuity contract being recommended in order to determine the suitability of the recommendation and its benefit to the consumer. A true and correct executed copy of this form must be provided by the agent to the insurer, or to the person or entity that has contracted with the insurer to perform this function as authorized by this section, within 10 days after execution of the form, and must be provided to the consumer no later than the date of delivery of the contract or contracts.~~

~~2.(g) An insurer shall establish and maintain a supervision system that is reasonably designed to achieve the insurer's and its agent's compliance with this section, including, but not limited to, the following:-~~

~~1. Such system must include, but is not limited to:~~

~~a. The insurer shall establish and maintain Maintaining~~



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reasonable procedures to inform its agents of the requirements of this section and incorporating those requirements into relevant agent training manuals.†

b. The insurer shall establish and maintain ~~Establishing~~ standards for agent product training and shall establish and maintain reasonable procedures to require its agents to comply with the requirements of subsection (6).†

c. The insurer shall provide ~~Providing~~ product-specific training and training materials that explain all material features of its annuity products to its agents.†

d. The insurer shall establish and maintain ~~Maintaining~~ procedures for the review of each recommendation before issuance of an annuity which are designed to ensure that there is a reasonable basis to determine the recommended annuity would effectively address the particular consumer's financial situation, insurance needs, and financial objectives ~~for determining that a recommendation is suitable.~~ Such review procedures may use a screening system for identifying selected transactions for additional review and may be accomplished electronically or through other means, including, but not limited to, physical review. Such electronic or other system may be designed to require additional review only of those transactions identified for additional review using established selection criteria.†

e. The insurer shall establish and maintain ~~Maintaining~~ reasonable procedures to detect recommendations that are not in compliance with paragraphs (a)-(e). This may include, but is not limited to, ~~suitable, such as~~ confirmation of consumer profile ~~suitability~~ information, systematic customer surveys, agent and



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consumer interviews, confirmation letters, agent statements or attestations, and internal monitoring programs. This sub-subparagraph does not prevent an insurer from using sampling procedures or from confirming the consumer profile suitability information after the issuance or delivery of the annuity.~~;~~ and

f. The insurer shall establish and maintain reasonable procedures to assess, prior to or upon issuance or delivery of an annuity, whether an agent has provided to the consumer the information required to be provided under this subsection.

g. The insurer shall establish and maintain reasonable procedures to identify and address suspicious consumer refusals to provide consumer profile information.

h. The insurer shall establish and maintain reasonable procedures to identify and eliminate any sales contests, sales quotas, bonuses, and noncash compensation that are based on the sales of specific annuities within a limited period of time. The requirements of this sub-subparagraph are not intended to prohibit the receipt of health insurance, office rents, office support, retirement benefits, or other employee benefits by employees, as long as those benefits are not based upon the volume of sales of a specific annuity within a limited period of time.

i.f. The insurer shall annually provide ~~providing~~ a written report to senior managers, including the senior manager who is responsible for audit functions, which details a review, along with appropriate testing, which is reasonably designed to determine the effectiveness of the supervision system, the exceptions found, and corrective action taken or recommended, if any.



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1577 3.2. An insurer is not required to include in its
1578 supervision system:

1579 a. Agent recommendations to consumers of products other
1580 than the annuities offered by the insurer; or

1581 b. Consideration of or comparison to options available to
1582 the agent or compensation relating to those options other than
1583 annuities or other products offered by the insurer.

1584 4.3. An insurer may contract for performance of a function,
1585 including maintenance of procedures, required under subparagraph
1586 1.

1587 a. An insurer's supervision system under this subsection
1588 shall include supervision of contractual performance under this
1589 subsection, which includes, but is ~~If an insurer contracts for~~
1590 ~~the performance of a function, the insurer must include the~~
1591 ~~supervision of contractual performance as part of those~~
1592 ~~procedures listed in subparagraph 1. These include, but are not~~
1593 limited to:

1594 (I) Monitoring and, as appropriate, conducting audits to
1595 ensure that the contracted function is properly performed; and

1596 (II) Annually obtaining a certification from a senior
1597 manager who has responsibility for the contracted function that
1598 the manager has a reasonable basis to represent, and does
1599 represent, ~~for representing~~ that the function is being properly
1600 performed.

1601 b. An insurer is responsible for taking appropriate
1602 corrective action and may be subject to sanctions and penalties
1603 pursuant to subsection (8) ~~(7)~~ regardless of whether the insurer
1604 contracts for performance of a function and regardless of the
1605 insurer's compliance with sub-subparagraph a.



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(d) ~~(h)~~ Neither an agent nor an insurer shall ~~may not~~
dissuade, or attempt to dissuade, a consumer from:

1. Truthfully responding to an insurer's request for confirmation of consumer profile ~~suitability~~ information;
2. Filing a complaint; or
3. Cooperating with the investigation of a complaint.

(e) ~~1. (i)~~ Recommendations and sales made in compliance with comparable standards shall ~~FINRA requirements pertaining to the suitability and supervision of annuity transactions~~ satisfy the requirements of this section. This applies to all recommendations and ~~FINRA broker-dealer~~ sales of ~~variable~~ annuities made by financial professionals in compliance with business rules, controls, and procedures that satisfy a comparable standard even if such standard would not otherwise apply to the product or recommendation at issue ~~and fixed annuities if the suitability and supervision is similar to those applied to variable annuity sales.~~ However, this paragraph does not limit the ability of the office or the department to investigate and enforce, ~~including investigate, the provisions of~~ this section.

2. Subparagraph 1. does not limit the insurer's obligation to comply with subparagraph (c)1., although the insurer may base its analysis on information received from either the financial professional or the entity supervising the financial professional.

3. For subparagraph 1. ~~this paragraph~~ to apply, an insurer must:

a. ~~1.~~ Monitor relevant conduct of the financial professional seeking to rely on subparagraph 1. or the entity responsible for



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supervising the financial professional, such as the financial professional's broker-dealer or an investment adviser registered under federal or state securities law, the FINRA member broker-dealer using information collected in the normal course of an insurer's business; and

b.2. Provide to the entity responsible for supervising the financial professional seeking to rely on subparagraph 1., such as the financial professional's broker-dealer or investment adviser registered under federal or state securities laws, FINRA member broker-dealer information and reports that are reasonably appropriate to assist such entity ~~the FINRA member broker-dealer~~ in maintaining its supervision system.

4. For purposes of this paragraph, the term:

a. "Comparable standards" means:

(I) With respect to broker-dealers and registered representatives of broker-dealers, applicable SEC and FINRA rules pertaining to best interest obligations and supervision of annuity recommendations and sales, including, but not limited to, Regulation Best Interest, 17 C.F.R. s. 240.151-1, and any amendments or successor regulations thereto;

(II) With respect to investment advisers registered under federal or state securities laws or investment adviser representatives, the fiduciary duties and all other requirements imposed on such investment advisers or investment adviser representatives by contract or under the Investment Advisers Act of 1940 or applicable state securities laws, including, but not limited to, Form ADV and interpretations; and

(III) With respect to plan fiduciaries or fiduciaries, the duties, obligations, prohibitions, and all other requirements



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attendant to such status under the Employee Retirement Income Security Act of 1974 or the Internal Revenue Code and any amendments or successor statutes thereto.

b. "Financial professional" means an agent that is regulated and acting as:

(I) A broker-dealer registered under federal or state securities laws or a registered representative of a broker-dealer;

(II) An investment adviser registered under federal or state securities laws or an investment adviser representative associated with the federal or state registered investment adviser; or

(III) A plan fiduciary under s. 3(21) of the Employee Retirement Income Security Act of 1974 or fiduciary under s. 4975(e)(3) of the Internal Revenue Code or any amendments or successor statutes thereto.

(6) AGENT TRAINING.—

(a) An agent shall not solicit the sale of an annuity product unless the agent has adequate knowledge of the product to recommend the annuity and the agent is in compliance with the insurer's standards for product training. An agent may rely on insurer-provided, product-specific training standards and materials to comply with this subsection.

(b) 1.a. An agent who engages in the sale of annuity products shall complete a one-time 4-hour training course. This requirement is not part of an agent's continuing education requirement in s. 626.2815; however, if a course provider submits and receives approval from the department, the course is eligible for continuing education credit pursuant to s.



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626.2815.

b. Agents who hold a life insurance line of authority on January 1, 2024, and who desire to sell annuities shall complete the requirements of this subsection by July 1, 2024. Individuals who obtain a life insurance line of authority after January 1, 2024, may not engage in the sale of annuities until the annuity training course required under this subsection has been completed.

2. The minimum length of the training required under this subsection is 4 hours.

3. The training required under this subsection shall include information on the following topics:

a. The types of annuities and various classifications of annuities.

b. Identification of the parties to an annuity.

c. How product-specific annuity contract features affect consumers.

d. The application of income taxation of qualified and nonqualified annuities.

e. The primary uses of annuities.

f. The appropriate standard of conduct, sales practices, replacement, and disclosure requirements.

4. Providers of courses intended to comply with this subsection shall cover all topics listed in the prescribed outline and shall not present any marketing information or provide training on sales techniques or provide specific information about a particular insurer's products. Additional topics may be offered in conjunction with and in addition to the required outline.



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5. An agent who has completed an annuity training course before January 1, 2024, shall, by July 1, 2024, complete either:

a. A new 4-hour training course; or

b. An additional 1-hour training course on appropriate sales practices, replacement, and disclosure requirements under this section.

6. Annuity training courses may be conducted and completed by classroom or self-study methods.

7. Providers of annuity training shall issue certificates of completion.

8. The satisfaction of the training requirements of another state that are substantially similar to the provisions of this subsection shall be deemed to satisfy the training requirements of this subsection in this state.

9. The satisfaction of the training requirements of any course or courses with components substantially similar to the provisions of this subsection shall be deemed to satisfy the training requirements of this subsection in this state.

10. An insurer shall verify that an agent has completed the annuity training course required under this subsection before allowing the agent to sell an annuity product for that insurer.

~~(7)~~(6) RECORDKEEPING.—

(a) Insurers and agents must maintain or be able to make available to the office or department records of the information collected from the consumer and other information used in making the recommendations that were the basis for insurance transactions for 5 years after the insurance transaction is completed by the insurer. An insurer may maintain the documentation on behalf of its agent.



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(b) Records required to be maintained under this subsection may be maintained in paper, photographic, microprocess, magnetic, mechanical, or electronic media, or by any process that accurately reproduces the actual document.

(8) ~~(7)~~ COMPLIANCE MITIGATION; PENALTIES.—

(a) An insurer is responsible for compliance with this section. If a violation occurs because of the action or inaction of the insurer or its agent which results in harm to a consumer, the office may order the insurer to take reasonably appropriate corrective action for the consumer and may impose appropriate penalties and sanctions.

(b) The department may order:

1. An ~~insurance~~ agent to take reasonably appropriate corrective action for a consumer harmed by a violation of this section by the ~~insurance~~ agent, including monetary restitution of penalties or fees incurred by the consumer, and impose appropriate penalties and sanctions.

2. A managing general agency or insurance agency that employs or contracts with an ~~insurance~~ agent to sell or solicit the sale of annuities to consumers to take reasonably appropriate corrective action for a consumer harmed by a violation of this section by the ~~insurance~~ agent.

(c) In addition to any other penalty authorized under chapter 626, the department shall order an insurance agent to pay restitution to a consumer who has been deprived of money by the agent's misappropriation, conversion, or unlawful withholding of moneys belonging to the consumer in the course of a transaction involving annuities. The amount of restitution required to be paid may not exceed the amount misappropriated,



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converted, or unlawfully withheld. This paragraph does not limit or restrict a person's right to seek other remedies as provided by law.

(d) Any applicable penalty under the Florida Insurance Code for a violation of this section shall be reduced or eliminated according to a schedule adopted by the office or the department, as appropriate, if corrective action for the consumer was taken promptly after a violation was discovered.

(e) A violation of this section does not create or imply a private cause of action.

(9)~~(8)~~ PROHIBITED CHARGES.—An annuity contract issued to a senior consumer age 65 or older may not contain a surrender or deferred sales charge for a withdrawal of money from an annuity exceeding 10 percent of the amount withdrawn. The charge shall be reduced so that no surrender or deferred sales charge exists after the end of the 10th policy year or 10 years after the date of each premium payment if multiple premiums are paid, whichever is later. This subsection does not apply to annuities purchased by an accredited investor, as defined in Regulation D as adopted by the United States Securities and Exchange Commission, or to those annuities specified in paragraph (4)(b).

(10)~~(9)~~ RULES.—The department and the commission may adopt rules to administer this section. The department may adopt by rule the forms prescribed in the National Association of Insurance Commissioners Suitability in Annuity Transactions Model Regulation Appendix A - Insurance Agent (Producer) Disclosure for Annuities, Appendix B - Consumer Refusal to Provide Information, and Appendix C - Consumer Decision to Purchase an Annuity Not Based on a Recommendation.



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Section 18. Paragraph (b) of subsection (8) of section 634.041, Florida Statutes, is amended to read:

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

(8)

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

1. Coverage of 100 percent of the claim exposure is obtained from an insurer approved by the office, which holds a certificate of authority under s. 624.401 to do business within this state, or secured through a risk retention group, which is authorized to do business within this state under s. 627.943 or s. 627.944. Such insurer or risk retention group must maintain a surplus as regards policyholders of at least \$15 million.

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

3. If the issuer of the contractual liability policy is



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

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

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

6. A policy issued in compliance with this paragraph may either pay 100 percent of claims as they are incurred, or 100 percent of claims due in the event of the failure of the service agreement company to pay such claims when due.

All funds or premiums remitted to an insurer by a motor vehicle service agreement company under this part shall remain in the care, custody, and control of the insurer and shall be counted as an asset of the insurer; provided, however, this requirement does not apply when the insurer and the motor vehicle service agreement company are affiliated companies and members of an insurance holding company system. If the motor vehicle service agreement company chooses to comply with this paragraph but also maintains a reserve to pay claims, such reserve shall only be considered an asset of the covered motor vehicle service



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agreement company and may not be simultaneously counted as an asset of any other entity.

Section 19. Paragraphs (d), (e), and (f) of subsection (17) of section 634.401, Florida Statutes, are amended to read:

634.401 Definitions.—As used in this part, the term:

(17) “Manufacturer” means any entity or its affiliate which:

~~(d) Maintains outstanding debt obligations, if any, rated in the top four rating categories by a recognized rating service;~~

(d)~~(e)~~ Has and maintains at all times, a minimum net worth of at least \$100 ~~\$10~~ million as evidenced by certified financial statements prepared by an independent certified public accountant in accordance with generally accepted accounting principles; and

(e)~~(f)~~ Is authorized to do business in this state.

Section 20. Paragraph (a) of subsection (7) of section 634.406, Florida Statutes, is amended to read:

634.406 Financial requirements.—

(7) An association licensed under this part and holding no other license under part I or part II of this chapter is not required to establish an unearned premium reserve or maintain contractual liability insurance and may allow its premiums to exceed the ratio to net assets limitation of this section if the association complies with the following:

(a) The association or, if the association is a direct or indirect wholly owned subsidiary of a parent corporation, its parent corporation has, and maintains at all times, a minimum net worth of at least \$100 million and provides the office with



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the following:

1. A copy of the association's annual audited financial statements or the audited consolidated financial statements of the association's parent corporation, prepared by an independent certified public accountant in accordance with generally accepted accounting principles, which clearly demonstrate the net worth of the association or its parent corporation to be \$100 million and a quarterly written certification to the office that such entity continues to maintain the net worth required under this paragraph.

2. The association's, or its parent corporation's, Form 10-K, Form 10-Q, or Form 20-F as filed with the United States Securities and Exchange Commission or such other documents required to be filed with a recognized stock exchange, which shall be provided on a quarterly and annual basis within 10 days after the last date each such report must be filed with the Securities and Exchange Commission, the National Association of Security Dealers Automated Quotation system, or other recognized stock exchange.

Failure to timely file the documents required under this paragraph may, at the discretion of the office, subject the association to suspension or revocation of its license under this part. ~~An association or parent corporation demonstrating compliance with subparagraphs 1. and 2. must maintain outstanding debt obligations, if any, rated in the top four rating categories by a recognized rating service.~~

Section 21. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2023.



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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to consumer protection; amending s.
494.001, F.S.; revising the definition of the term
"branch office"; defining the term "remote location";
authorizing a licensee under ch. 494, F.S., to allow
loan originators to work from remote locations if
specified conditions are met; amending s. 494.0067,
F.S.; specifying that mortgage lenders may transact
business from branch offices and remote locations;
providing a requirement for operating remote
locations; creating s. 501.2042, F.S.; defining terms;
providing requirements for organizers of crowd-funding
campaigns related to disasters and for crowd-funding
platforms; amending s. 520.23, F.S.; revising
disclosure requirements for agreements governing the
sale or lease of a distributed energy generation
system; amending s. 560.111, F.S.; providing a
criminal penalty; amending s. 560.309, F.S.;
prohibiting a licensee under ch. 560, F.S., from
cashing corporate checks for certain payees where the
aggregate face amount exceeds a specified amount;
amending s. 626.551, F.S.; revising the timeframe in
which an insurance representative must notify the
Department of Financial Services of certain changes in



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1954 information; amending s. 626.602, F.S.; providing
1955 applicability of provisions relating to the
1956 disapproval of insurance agency names to adjusting
1957 firm names; revising grounds on which such names may
1958 be disapproved by the department; deleting an obsolete
1959 provision; amending s. 626.854, F.S.; revising the
1960 definition of the term "public adjuster"; prohibiting
1961 public adjusters from contracting with anyone other
1962 than the named insured without the insured's written
1963 consent; specifying a penalty for noncompliance;
1964 specifying timeframes in which an insured or a
1965 claimant may cancel a public adjuster's contract
1966 without penalty or contract under certain
1967 circumstances; revising requirements for public
1968 adjusters' contracts; specifying requirements for
1969 public adjusters if the insurer, within a certain
1970 timeframe, pays or commits in writing to pay to the
1971 insured the policy limit of the policy; specifying
1972 limitations on commissions received by public
1973 adjusters; amending s. 626.860, F.S.; providing that
1974 an attorney's exemption from public adjuster licensure
1975 requirements does not apply to certain persons;
1976 amending s. 626.875, F.S.; revising recordkeeping
1977 requirements for appointed independent adjusters and
1978 licensed public adjusters; amending s. 626.8796, F.S.;
1979 revising requirements for public adjuster contracts;
1980 specifying requirements for and prohibitions on public
1981 adjusters relating to such contracts; providing
1982 construction; authorizing the department to adopt



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1983 rules; amending s. 626.8797, F.S.; revising a fraud
1984 statement requirement in proof-of-loss statements;
1985 amending s. 626.9541, F.S.; adding an unfair or
1986 deceptive insurance act relating to health insurance
1987 policies; amending s. 627.4025, F.S.; revising the
1988 definition of the term "hurricane," and defining the
1989 term "hurricane deductible," as used in policies
1990 providing residential coverage; amending s. 627.4133,
1991 F.S.; revising conditions that apply to a specified
1992 notice requirement for, and a limitation on, the
1993 cancellation or termination of certain insurance
1994 policies; amending s. 627.4554, F.S.; revising
1995 legislative purpose; revising applicability; revising
1996 and defining terms; revising and specifying duties of
1997 insurers and agents relating to the recommendation and
1998 sale of annuity investments; specifying comparable
1999 standards that comply with such requirements;
2000 specifying agent training requirements; providing and
2001 revising construction; authorizing the department to
2002 adopt certain forms by rule; amending s. 634.041,
2003 F.S.; specifying authorized methods of paying claims
2004 for motor vehicle service agreements; amending s.
2005 634.401, F.S.; revising the definition of the term
2006 "manufacturer" for purposes of part III of ch. 634,
2007 F.S.; amending s. 634.406, F.S.; deleting a debt
2008 obligation rating requirement for certain service
2009 warranty associations or parent corporations;
2010 providing effective dates.

By Senator DiCeglie

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1 A bill to be entitled
 2 An act relating to consumer protection; amending s.
 3 494.001, F.S.; revising the definition of the term
 4 "branch office"; defining the term "remote location";
 5 authorizing a licensee under ch. 494, F.S., to allow
 6 loan originators to work from remote locations if
 7 specified conditions are met; amending s. 494.0067,
 8 F.S.; specifying that mortgage lenders may transact
 9 business from branch offices and remote locations;
 10 providing a requirement for operating remote
 11 locations; creating s. 501.2042, F.S.; defining terms;
 12 providing requirements for organizers of crowd-funding
 13 campaigns related to disasters and for crowd-funding
 14 platforms; amending s. 520.23, F.S.; revising
 15 disclosure requirements for agreements governing the
 16 sale or lease of a distributed energy generation
 17 system; amending s. 626.551, F.S.; revising the
 18 timeframe in which an insurance representative must
 19 notify the Department of Financial Services of certain
 20 changes in information; amending s. 626.602, F.S.;
 21 providing applicability of provisions relating to the
 22 disapproval of insurance agency names to adjusting
 23 firm names; revising grounds on which such names may
 24 be disapproved by the department; providing for repeal
 25 of a provision upon becoming obsolete; amending s.
 26 626.854, F.S.; revising the definition of "public
 27 adjuster"; prohibiting public adjusters from
 28 contracting with anyone other than the named insured
 29 without the insured's written consent; specifying a

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30 penalty for noncompliance; specifying timeframes in
 31 which an insured or a claimant may cancel a public
 32 adjuster's contract without penalty or contract under
 33 certain circumstances; revising requirements for
 34 public adjuster's contracts; specifying requirements
 35 for public adjusters if the insurer, within a certain
 36 timeframe, pays or commits in writing to pay to the
 37 insured the policy limit of the policy; specifying the
 38 commission a public adjuster receives under certain
 39 circumstances; amending s. 626.860, F.S.; providing
 40 that an attorney's exemption from public adjuster
 41 licensure requirements do not apply to certain
 42 persons; amending s. 626.865, F.S.; revising
 43 qualifications for a public adjuster's license;
 44 requiring applicants for public adjuster licenses to
 45 file with the department a specified errors and
 46 omissions insurance policy; amending s. 626.875, F.S.;
 47 revising recordkeeping requirements for appointed
 48 independent adjusters and licensed public adjusters;
 49 creating s. 626.8751, F.S.; specifying claims payment
 50 requirements for insurers when a claim is settled
 51 while the insured is represented by a public adjuster;
 52 amending s. 626.8796, F.S.; revising requirements for
 53 public adjuster contracts; specifying requirements for
 54 and prohibitions on public adjusters relating to such
 55 contracts; providing construction; authorizing the
 56 department to adopt rules; amending s. 626.8797, F.S.;
 57 revising a fraud statement requirement in proof-of-
 58 loss statements; amending s. 626.9541, F.S.; adding a

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unfair or deceptive insurance act relating to health insurance contracts; amending s. 627.4025, F.S.; revising the definition of the term "hurricane," and defining the term "hurricane deductible," as used in policies providing residential coverage; amending s. 627.4133, F.S.; revising the timeframe after which certain insurers may not cancel policies except for specified reasons; amending s. 627.4554, F.S.; revising legislative purpose; revising applicability; revising and defining terms; revising and specifying duties of insurers and agents relating to the recommendation and sale of annuity investments; specifying comparable standards that comply with such requirements; specifying agent training requirements; providing and revising construction; amending s. 634.041, F.S.; specifying authorized methods of paying claims for motor vehicle service agreements; providing a directive to the Division of Law Revision; providing an effective date.

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

Section 1. Subsections (35) through (38) of section 494.001, Florida Statutes, are renumbered as subsections (36) through (39), respectively, subsection (3) is amended, and a new subsection (35) is added to that section, to read:

494.001 Definitions.—As used in this chapter, the term:

(3) "Branch office" means a remote location or a location, other than a mortgage broker's or mortgage lender's principal

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place of business:

(a) The address of which appears on business cards, stationery, or advertising used by the licensee in connection with business conducted under this chapter;

(b) At which the licensee's name, advertising or promotional materials, or signage suggests that mortgage loans are originated, negotiated, funded, or serviced; or

(c) At which mortgage loans are originated, negotiated, funded, or serviced by a licensee.

(35) "Remote location" means a location, other than a principal place of business or a branch office, at which a loan originator of a licensee may conduct business. A licensee may allow loan originators to work from remote locations if:

(a) The licensee has written policies and procedures for supervision of loan originators working from remote locations.

(b) Access to company platforms and customer information is in accordance with the licensee's comprehensive written information security plan.

(c) An in-person customer interaction does not occur at a loan originator's residence unless such residence is a licensed location.

(d) Physical records are not maintained at a remote location.

(e) Customer interactions and conversations about consumers will be in compliance with federal and state information security requirements, including applicable provisions under the Gramm-Leach-Bliley Act and the Safeguards Rule established by the Federal Trade Commission, set forth at 16 C.F.R. part 314, as such requirements may be amended from time to time.

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(f) A loan originator working at a remote location accesses the company's secure systems, including a cloud-based system, directly from any out-of-office device such as a laptop, phone, desktop computer, or tablet, through a virtual private network or comparable system that ensures secure connectivity and that requires passwords or other forms of authentication to access.

(g) The licensee ensures that appropriate security updates, patches, or other alterations to the security of all devices used at remote locations are installed and maintained.

(h) The licensee is able to remotely lock or erase company-related contents of any device or otherwise remotely limit all access to a company's secure systems.

(i) The registry's record of a loan originator who works from a remote location designates the principal place of business as the loan originator's registered location, or the loan originator has elected a licensed branch office as a registered location.

Section 2. Subsection (1) of section 494.0067, Florida Statutes, is amended to read:

494.0067 Requirements of mortgage lenders.—

(1) A mortgage lender that makes mortgage loans on real estate in this state shall transact business from a principal place of business, branch office, or remote location. Each principal place of business, ~~and~~ each branch office, and remote location shall be operated under the full charge, control, and supervision of the licensee pursuant to this part.

Section 3. Section 501.2042, Florida Statutes, is created to read:

501.2042 Unlawful acts and practices by online crowd-

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funding campaigns.—

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

(a) "Crowd-funding campaign" means an online fundraising initiative that is intended to receive monetary donations from donors and is created by an organizer in the interest of a beneficiary.

(b) "Crowd-funding platform" means an entity doing business in this state which provides an online medium for the creation and facilitation of a crowd-funding campaign.

(c) "Disaster" means any natural, technological, or civil emergency that occurs in this state and that causes damage of sufficient severity and magnitude to result in a declaration of a state of emergency by a county, the Governor, or the President of the United States.

(d) "Organizer" means a person who:

1. Resides or is domiciled in this state.

2. Has an account on a crowd-funding platform and has created a crowd-funding campaign either as a beneficiary or on behalf of a beneficiary, regardless of whether the beneficiary or the crowd-funding campaign has received donations.

(2) When an organizer arranges a crowd-funding campaign related to a disaster, the organizer must produce to the crowd-funding platform a complete and accurate accounting of all donations received and expended by the crowd-funding campaign. The crowd-funding platform must publish all received accountings on its website.

Section 4. Section 520.23, Florida Statutes, is amended to read:

520.23 Disclosures required.—Each agreement governing the

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175 sale or lease of a distributed energy generation system shall,
176 at a minimum, include a written statement printed in at least
177 12-point type that is separate from the agreement, is separately
178 acknowledged by the buyer or lessee, and includes the following
179 information and disclosures, if applicable:

180 (1) The name, address, telephone number, and e-mail address
181 of the buyer or lessee.

182 (2) The name, address, telephone number, e-mail address,
183 and valid state contractor license number of the person
184 responsible for installing the distributed energy generation
185 system.

186 (3) The name, address, telephone number, e-mail address,
187 and valid state contractor license number of the distributed
188 energy generation system maintenance provider, if different from
189 the person responsible for installing the distributed energy
190 generation system.

191 (4) The customer contact center phone number for the
192 Department of Business and Professional Regulation.

193 (5)~~(4)~~ A written statement indicating whether the
194 distributed energy generation system is being purchased or
195 leased.

196 (a) If the distributed energy generation system will be
197 leased, the written statement must include a disclosure in
198 substantially the following form: "You are entering into an
199 agreement to lease a distributed energy generation system. You
200 will lease (not own) the system installed on your property."

201 (b) If the distributed energy generation system will be
202 purchased, the written statement must include a disclosure in
203 substantially the following form: "You are entering into an

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204 agreement to purchase a distributed energy generation system.
205 You will own (not lease) the system installed on your property."

206 (6)~~(5)~~ The total cost to be paid by the buyer or lessee,
207 including any interest, installation fees, document preparation
208 fees, service fees, or other fees.

209 (7)~~(6)~~ A payment schedule, including any amounts owed at
210 contract signing, at the commencement of installation, at the
211 completion of installation, and any final payments. If the
212 distributed energy generation system is being leased, the
213 written statement must include the frequency and amount of each
214 payment due under the lease and the total estimated lease
215 payments over the term of the lease.

216 (8)~~(7)~~ Each state or federal tax incentive or rebate, if
217 any, relied upon by the seller in determining the price of the
218 distributed energy generation system.

219 (9)~~(8)~~ A description of the assumptions used to calculate
220 any savings estimates provided to the buyer or lessee, and if
221 such estimates are provided, a statement in substantially the
222 following form: "It is important to understand that future
223 electric utility rates are estimates only. Your future electric
224 utility rates may vary."

225 (10)~~(9)~~ A description of any one-time or recurring fees,
226 including, but not limited to, estimated system removal fees,
227 maintenance fees, Internet connection fees, and automated
228 clearinghouse fees. If late fees may apply, the description must
229 describe the circumstances triggering such late fees.

230 (11)~~(10)~~ A statement notifying the buyer whether the
231 distributed energy generation system is being financed and, if
232 so, a statement in substantially the following form: "If your

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system is financed, carefully read any agreements and/or disclosure forms provided by your lender. This statement does not contain the terms of your financing agreement. If you have any questions about your financing agreement, contact your finance provider before signing a contract."

(12)~~(11)~~ A statement notifying the buyer whether the seller is assisting in arranging financing of the distributed energy generation system and, if so, a statement in substantially the following form: "If your system is financed, carefully read any agreements and/or disclosure forms provided by your lender. This statement does not contain the terms of your financing agreement. If you have any questions about your financing agreement, contact your finance provider before signing a contract."

(13)~~(12)~~ A provision notifying the buyer or lessee of the right to rescind the agreement for a period of at least 3 business days after the agreement is signed. This subsection does not apply to a contract to sell or lease a distributed energy generation system in a solar community in which the entire community has been marketed as a solar community and all of the homes in the community are intended to have a distributed energy generation system, or a solar community in which the developer has incorporated solar technology for purposes of meeting the Florida Building Code in s. 553.73.

(14)~~(13)~~ A description of the distributed energy generation system design assumptions, including the make and model of the major components, system size, estimated first-year energy production, and estimated annual energy production decreases, including the overall percentage degradation over the estimated

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life of the distributed energy generation system, and the status of utility compensation for excess energy generated by the system at the time of contract signing. A seller who provides a warranty or guarantee of the energy production output of the distributed energy generation system may provide a description of such warranty or guarantee in lieu of a description of the system design and components.

(15)~~(14)~~ A description of any performance or production guarantees.

(16)~~(15)~~ A description of the ownership and transferability of any tax credits, rebates, incentives, or renewable energy certificates associated with the distributed energy generation system, including a disclosure as to whether the seller will assign or sell any associated renewable energy certificates to a third party.

(17)~~(16)~~ A statement in substantially the following form: "You are responsible for property taxes on property you own. Consult a tax professional to understand any tax liability or eligibility for any tax credits that may result from the purchase of your distributed energy generation system."

(18)~~(17)~~ The approximate start and completion dates for the installation of the distributed energy generation system.

(19)~~(18)~~ A disclosure as to whether maintenance and repairs of the distributed energy generation system are included in the purchase price.

(20)~~(19)~~ A disclosure as to whether any warranty or maintenance obligations related to the distributed energy generation system may be sold or transferred by the seller to a third party and, if so, a statement in substantially the

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291 following form: "Your contract may be assigned, sold, or
 292 transferred without your consent to a third party who will be
 293 bound to all the terms of the contract. If a transfer occurs,
 294 you will be notified if this will change the address or phone
 295 number to use for system maintenance or repair requests."

296 (21)-(20) If the distributed energy generation system will
 297 be purchased, a disclosure notifying the buyer of the
 298 requirements for interconnecting the system to the utility
 299 system.

300 (22)-(21) A disclosure notifying the buyer or lessee of the
 301 party responsible for obtaining interconnection approval.

302 (23)-(22) A description of any roof warranties.

303 (24) A statement in substantially the following form: "You
 304 should consider the age and remaining life of your roof prior to
 305 installing a distributed energy generation system. Replacement
 306 of your roof may require re-installment of the distributed
 307 energy generation system."

308 (25)-(23) A disclosure notifying the lessee whether the
 309 seller will insure a leased distributed energy generation system
 310 against damage or loss and, if applicable, the circumstances
 311 under which the seller will not insure the system against damage
 312 or loss.

313 (26)-(24) A statement, ~~if applicable,~~ in substantially the
 314 following form: "You are responsible for obtaining insurance
 315 policies or coverage for any loss of or damage to the system.
 316 Consult an insurance professional to understand how to protect
 317 against the risk of loss or damage to the system."

318 (27) A statement in substantially the following form:
 319 "Placing a distributed energy generation system on your roof may

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320 impact your future insurance premiums. You are responsible for
 321 contacting your insurance carrier, prior to entering into a
 322 purchase or lease agreement, to confirm whether your current
 323 policy or coverage will need to be modified upon installing the
 324 distributed energy generation system onto your dwelling."

325 (28)-(25) A disclosure notifying the buyer or lessee whether
 326 the seller or lessor will place a lien on the buyer's or
 327 lessee's home or other property as a result of entering into a
 328 purchase or lease agreement for the distributed energy
 329 generation system.

330 (29)-(26) A disclosure notifying the buyer or lessee whether
 331 the seller or lessor will file a fixture filing or a State of
 332 Florida Uniform Commercial Code Financing Statement Form (UCC-1)
 333 on the distributed energy generation system.

334 (30)-(27) A disclosure identifying whether the agreement
 335 contains any restrictions on the buyer's or lessee's ability to
 336 modify or transfer ownership of a distributed energy generation
 337 system, including whether any modification or transfer is
 338 subject to review or approval by a third party.

339 (31)-(28) A disclosure as to whether the lease agreement may
 340 be transferred to a purchaser upon sale of the home or real
 341 property to which the system is affixed, and any conditions for
 342 such transfer.

343 (32)-(29) A blank section that allows the seller to provide
 344 additional relevant disclosures or explain disclosures made
 345 elsewhere in the disclosure form.

346
 347 The requirement to provide a written statement under this
 348 section may be satisfied by the electronic delivery of a

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document within 24 hours after execution of the written
statement containing the required statement if the intended
recipient of the electronic document affirmatively acknowledges
its receipt. An electronic document satisfies the font and other
formatting standards required for the written statement if the
format and the relative size of characters of the electronic
document are reasonably similar to those required in the written
document or if the information is otherwise displayed in a
reasonably conspicuous manner.

Section 5. Section 626.551, Florida Statutes, is amended to
read:

626.551 Notice of change of address, name.—A licensee must
notify the department, in writing, within 5 ~~30~~ days after a
change of name, residence address, principal business street
address, mailing address, contact telephone numbers, including a
business telephone number, or e-mail address. A licensee who has
moved his or her principal place of residence and principal
place of business from this state shall have his or her license
and all appointments immediately terminated by the department.
Failure to notify the department within the required time shall
result in a fine not to exceed \$250 for the first offense and a
fine of at least \$500 or suspension or revocation of the license
pursuant to s. 626.611, s. 626.6115, s. 626.621, or s. 626.6215
for a subsequent offense. The department may adopt rules to
administer and enforce this section.

Section 6. Section 626.602, Florida Statutes, is amended to
read:

626.602 Insurance agency and adjusting firm names;
disapproval.—The department may disapprove the use of any true

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or fictitious name, other than the bona fide natural name of an
individual, by any insurance agency or adjusting firm on any of
the following grounds:

(1) The name interferes with or is too similar to a name
already filed and in use by another agency, adjusting firm, or
insurer.

(2) The use of the name may mislead the public in any
respect.

(3) The name states or implies that the agency or adjusting
firm is an insurer, motor club, hospital service plan, state or
federal agency, charitable organization, or entity that
primarily provides advice and counsel rather than sells or
solicits insurance, settles claims, or is entitled to engage in
insurance activities not permitted under licenses held or
applied for. This provision does not prohibit the use of the
word "state" or "states" in the name of the agency. The use of
the word "state" or "states" in the name of an agency or
adjusting firm does not in and of itself imply that the agency
or adjusting firm is a state agency.

(4) (a) The name contains the word "Medicare" or "Medicaid."

(b) An insurance agency whose name contains the word
"Medicare" or "Medicaid" but which is licensed as of July 1,
2021, may continue to use that name until June 30, 2023,
provided that the agency's license remains valid. If the
agency's license expires or is suspended or revoked, the agency
may not be relicensed using that name. Licenses for agencies
with names containing either of these words automatically expire
on July 1, 2023, unless these words are removed from the name.
This paragraph is repealed July 1, 2023.

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407 Section 7. Section 626.854, Florida Statutes, is amended to
408 read:

409 626.854 "Public adjuster" defined; prohibitions.—The
410 Legislature finds that it is necessary for the protection of the
411 public to regulate public insurance adjusters and to prevent the
412 unauthorized practice of law.

413 (1) A "public adjuster" is any person, except a duly
414 licensed attorney at law as exempted under s. 626.860, who, for
415 money, commission, or any other thing of value, directly or
416 indirectly prepares, completes, or files an insurance claim for
417 an insured or third-party claimant, regardless of how that
418 person describes or presents his or her services, or who, for
419 money, commission, or any other thing of value, acts on behalf
420 of, or aids an insured or third-party claimant in negotiating
421 for or effecting the settlement of a claim or claims for loss or
422 damage covered by an insurance contract, regardless of how that
423 person describes or presents his or her services, or who
424 advertises for employment as an adjuster of such claims. The
425 term also includes any person who, for money, commission, or any
426 other thing of value, directly or indirectly solicits,
427 investigates, or adjusts such claims on behalf of a public
428 adjuster, an insured, or a third-party claimant. The term does
429 not include a person who photographs or inventories damaged
430 personal property or business personal property or a person
431 performing duties under another professional license, if such
432 person does not otherwise solicit, adjust, investigate, or
433 negotiate for or attempt to effect the settlement of a claim.

434 (2) This definition does not apply to:

435 (a) A licensed health care provider or employee thereof who

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436 prepares or files a health insurance claim form on behalf of a
437 patient.

438 (b) A licensed health insurance agent who assists an
439 insured with coverage questions, medical procedure coding
440 issues, balance billing issues, understanding the claims filing
441 process, or filing a claim, as such assistance relates to
442 coverage under a health insurance policy.

443 (c) A person who files a health claim on behalf of another
444 and does so without compensation.

445 (3) A public adjuster may not give legal advice or act on
446 behalf of or aid any person in negotiating or settling a claim
447 relating to bodily injury, death, or noneconomic damages.

448 (4) For purposes of this section, the term "insured"
449 includes only the policyholder and any beneficiaries named or
450 similarly identified in the policy.

451 (5) A public adjuster may not directly or indirectly
452 through any other person or entity solicit an insured or
453 claimant by any means except on Monday through Saturday of each
454 week and only between the hours of 8 a.m. and 8 p.m. on those
455 days.

456 (6) (a) When entering a contract for adjuster services after
457 July 1, 2023, a public adjuster is prohibited from contracting
458 with anyone other than the named insured unless the named
459 insured provides written consent, subsequent to entering a
460 contract for public adjusting services.

461 (b) In the event a public adjuster contracts with a third
462 party in settling the named insured's claim, without first
463 obtaining the insured's written consent, payment of the third
464 party's fees shall be made from the public adjuster's fee.

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465 ~~(7)(6)~~ An insured or claimant may cancel a public
 466 adjuster's contract to adjust a claim without penalty or
 467 obligation within 10 days after the date on which the contract
 468 is executed. If the contract was entered into based on events
 469 that are the subject of a declaration of a state of emergency by
 470 the Governor, an insured or claimant may cancel the public
 471 adjuster's contract to adjust a claim without penalty or
 472 obligation within 30 days after the date on which the contract
 473 is executed. The public adjuster's contract must contain the
 474 following language in minimum 18-point bold type immediately
 475 before the space reserved in the contract for the signature of
 476 the insured or claimant: "You, the insured, may cancel this
 477 contract for any reason without penalty or obligation to you
 478 within 10 days after the date of this contract. If this contract
 479 was entered into based on events that are the subject of a
 480 declaration of a state of emergency by the Governor, you may
 481 cancel this contract for any reason without penalty or
 482 obligation to you within 30 days after the date of this
 483 contract. You may also cancel the contract without penalty or
 484 obligation to you if I, as your public adjuster, fail to provide
 485 you and your insurer a copy of a written estimate within 45 days
 486 of the execution of the contract in accordance with s.
 487 626.854(14)(b), Florida Statutes." ~~The by providing notice of~~
 488 ~~cancellation shall be provided to~~ ... (name of public
 489 adjuster) ..., submitted in writing and sent by certified mail,
 490 return receipt requested, or other form of mailing that provides
 491 proof thereof, at the address specified in the contract.
 492 ~~(8)(7)~~ It is an unfair and deceptive insurance trade
 493 practice pursuant to s. 626.9541 for a public adjuster or any

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494 other person to circulate or disseminate any advertisement,
 495 announcement, or statement containing any assertion,
 496 representation, or statement with respect to the business of
 497 insurance which is untrue, deceptive, or misleading.
 498 (a) The following statements, made in any public adjuster's
 499 advertisement or solicitation, are considered deceptive or
 500 misleading:
 501 1. A statement or representation that invites an insured
 502 policyholder to submit a claim when the policyholder does not
 503 have covered damage to insured property.
 504 2. A statement or representation that invites an insured
 505 policyholder to submit a claim by offering monetary or other
 506 valuable inducement.
 507 3. A statement or representation that invites an insured
 508 policyholder to submit a claim by stating that there is "no
 509 risk" to the policyholder by submitting such claim.
 510 4. A statement or representation, or use of a logo or
 511 shield, that implies or could mistakenly be construed to imply
 512 that the solicitation was issued or distributed by a
 513 governmental agency or is sanctioned or endorsed by a
 514 governmental agency.
 515 (b) For purposes of this paragraph, the term "written
 516 advertisement" includes only newspapers, magazines, flyers, and
 517 bulk mailers. The following disclaimer, which is not required to
 518 be printed on standard size business cards, must be added in
 519 bold print and capital letters in typeface no smaller than the
 520 typeface of the body of the text to all written advertisements
 521 by a public adjuster:
 522

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523 "THIS IS A SOLICITATION FOR BUSINESS. IF YOU HAVE HAD
 524 A CLAIM FOR AN INSURED PROPERTY LOSS OR DAMAGE AND YOU
 525 ARE SATISFIED WITH THE PAYMENT BY YOUR INSURER, YOU
 526 MAY DISREGARD THIS ADVERTISEMENT."

527
 528 (9)~~(8)~~ A public adjuster, a public adjuster apprentice, or
 529 any person or entity acting on behalf of a public adjuster or
 530 public adjuster apprentice may not give or offer to give a
 531 monetary loan or advance to a client or prospective client.
 532 (10)~~(9)~~ A public adjuster, public adjuster apprentice, or
 533 any individual or entity acting on behalf of a public adjuster
 534 or public adjuster apprentice may not give or offer to give,
 535 directly or indirectly, any article of merchandise having a
 536 value in excess of \$25 to any individual for the purpose of
 537 advertising or as an inducement to entering into a contract with
 538 a public adjuster.

539 (11) If the insurer, not later than 14 days after the date
 540 on which the loss is reported to the insurer, either pays or
 541 commits in writing to pay to the insured the policy limit of the
 542 insurance policy, the public adjuster shall:

543 (a) Inform the insured that, due to the insurer's payment
 544 or commitment to pay the policy limit, the loss recovery amount
 545 might not be increased by the insurer.

546 (b) Not receive a commission consisting of a percentage of
 547 the total amount paid by an insurer to resolve the claim.

548 (c) Be entitled only to reasonable compensation from the
 549 insured for the time spent and expenses incurred on the claim by
 550 the public adjuster, until the claim is paid or the insured
 551 receives a written commitment to pay from the insurer.

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552 (12) If the public adjuster enters into a contract with an
 553 insured or claimant after the insured or claimant unsuccessfully
 554 negotiates an insurance claim payment and the public adjuster is
 555 successful in obtaining a higher insurance claim payment, the
 556 public adjuster shall receive a commission consisting of 10
 557 percent of the difference between the initial insurance claim
 558 payment offer made to the insured and the final insurance claim
 559 payment obtained through the work of the public adjuster after
 560 entering into the contract with the insured or claimant.

561 (13)~~(10)~~ (a) If a public adjuster enters into a contract
 562 with an insured or claimant to reopen a claim or file a
 563 supplemental claim that seeks additional payments for a claim
 564 that has been previously paid in part or in full or settled by
 565 the insurer, the public adjuster may not charge, agree to, or
 566 accept from any source compensation, payment, commission, fee,
 567 or any other thing of value based on a previous settlement or
 568 previous claim payments by the insurer for the same cause of
 569 loss. The charge, compensation, payment, commission, fee, or any
 570 other thing of value must be based only on the claim payments or
 571 settlements paid to the insured, exclusive of attorney fees and
 572 costs, obtained through the work of the public adjuster after
 573 entering into the contract with the insured or claimant.
 574 Compensation for the reopened or supplemental claim may not
 575 exceed 20 percent of the reopened or supplemental claim payment.
 576 In no event shall the contracts described in this paragraph
 577 exceed the limitations in paragraph (b).

578 (b) A public adjuster may not charge, agree to, or accept
 579 from any source compensation, payment, commission, fee, or any
 580 other thing of value in excess of:

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1. Ten percent of the amount of insurance claim payments or settlements, exclusive of attorney fees and costs, paid to the insured by the insurer for claims based on events that are the subject of a declaration of a state of emergency by the Governor. This provision applies to claims made during the year after the declaration of emergency. After that year, the limitations in subparagraph 2. apply.

2. Twenty percent of the amount of insurance claim payments or settlements, exclusive of attorney fees and costs, paid to the insured by the insurer for claims that are not based on events that are the subject of a declaration of a state of emergency by the Governor.

(c) Insurance claim payments made by the insurer do not include policy deductibles, and public adjuster compensation may not be based on the deductible portion of a claim.

(d) Public adjuster compensation may not be based on amounts attributable to additional living expenses, unless such compensation is affirmatively agreed to in a separate agreement that includes a disclosure in substantially the following form: "I agree to retain and compensate the public adjuster for adjusting my additional living expenses and securing payment from my insurer for amounts attributable to additional living expenses payable under the policy issued on my (home/mobile home/condominium unit)."

(e) Public adjuster rate of compensation may not be increased based solely on the fact that the claim is litigated.

(f) Any maneuver, shift, or device through which the limits on compensation set forth in this subsection are exceeded is a violation of this chapter punishable as provided under s.

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626.8698.

(14) (a) (11) Each public adjuster must provide to the claimant or insured a written estimate of the loss to assist in the submission of a proof of loss or any other claim for payment of insurance proceeds within 60 days after the date of the contract. The written estimate must include an itemized, per-unit estimate of the repairs, including itemized information on equipment, materials, labor, and supplies, in accordance with accepted industry standards. The public adjuster shall retain such written estimate for at least 5 years and shall make the estimate available to the claimant or insured, the insurer, and the department upon request.

(b) An insured may cancel the contract with no additional penalties or fees charged by the public adjuster if such an estimate is not provided within 45 days, subject to the cancellation notice requirement in this section.

(15) (12) A public adjuster, public adjuster apprentice, or any person acting on behalf of a public adjuster or apprentice may not accept referrals of business from any person with whom the public adjuster conducts business if there is any form or manner of agreement to compensate the person, directly or indirectly, for referring business to the public adjuster. A public adjuster may not compensate any person, except for another public adjuster, directly or indirectly, for the principal purpose of referring business to the public adjuster.

(16) (13) A company employee adjuster, independent adjuster, attorney, investigator, or other persons acting on behalf of an insurer that needs access to an insured or claimant or to the insured property that is the subject of a claim must provide at

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least 48 hours' notice to the insured or claimant, public adjuster, or legal representative before scheduling a meeting with the claimant or an onsite inspection of the insured property. The insured or claimant may deny access to the property if the notice has not been provided. The insured or claimant may waive the 48-hour notice.

(17)~~(14)~~ The public adjuster must ensure that prompt notice is given of the claim to the insurer, the public adjuster's contract is provided to the insurer, the property is available for inspection of the loss or damage by the insurer, and the insurer is given an opportunity to interview the insured directly about the loss and claim. The insurer must be allowed to obtain necessary information to investigate and respond to the claim.

(a) The insurer may not exclude the public adjuster from its in-person meetings with the insured. The insurer shall meet or communicate with the public adjuster in an effort to reach agreement as to the scope of the covered loss under the insurance policy. The public adjuster shall meet or communicate with the insurer in an effort to reach agreement as to the scope of the covered loss under the insurance policy. This section does not impair the terms and conditions of the insurance policy in effect at the time the claim is filed.

(b) A public adjuster may not restrict or prevent an insurer, company employee adjuster, independent adjuster, attorney, investigator, or other person acting on behalf of the insurer from having reasonable access at reasonable times to any insured or claimant or to the insured property that is the subject of a claim.

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(c) A public adjuster may not act or fail to reasonably act in any manner that obstructs or prevents an insurer or insurer's adjuster from timely conducting an inspection of any part of the insured property for which there is a claim for loss or damage. The public adjuster representing the insureds may be present for the insurer's inspection, but if the unavailability of the public adjuster otherwise delays the insurer's timely inspection of the property, the public adjuster or the insureds must allow the insurer to have access to the property without the participation or presence of the public adjuster or insureds in order to facilitate the insurer's prompt inspection of the loss or damage.

(18)~~(15)~~ A licensed contractor under part I of chapter 489, or a subcontractor of such licensee, may not advertise, solicit, offer to handle, handle, or perform public adjuster services as provided in subsection (1) unless licensed and compliant as a public adjuster under this chapter. The prohibition against solicitation does not preclude a contractor from suggesting or otherwise recommending to a consumer that the consumer consider contacting his or her insurer to determine if the proposed repair is covered under the consumer's insurance policy, except as it relates to solicitation prohibited in s. 489.147. In addition, the contractor may discuss or explain a bid for construction or repair of covered property with the residential property owner who has suffered loss or damage covered by a property insurance policy, or the insurer of such property, if the contractor is doing so for the usual and customary fees applicable to the work to be performed as stated in the contract between the contractor and the insured.

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- 697 (19)~~(16)~~ A public adjuster shall not acquire any interest
 698 in salvaged property, except with the written consent and
 699 permission of the insured through a signed affidavit.
- 700 (20)~~(17)~~ A public adjuster, a public adjuster apprentice,
 701 or a person acting on behalf of an adjuster or apprentice may
 702 not enter into a contract or accept a power of attorney that
 703 vests in the public adjuster, the public adjuster apprentice, or
 704 the person acting on behalf of the adjuster or apprentice the
 705 effective authority to choose the persons or entities that will
 706 perform repair work in a property insurance claim or provide
 707 goods or services that will require the insured or third-party
 708 claimant to expend funds in excess of those payable to the
 709 public adjuster under the terms of the contract for adjusting
 710 services.
- 711 (21)~~(18)~~ Subsections (5)-(20) ~~(5)-(17)~~ apply only to
 712 residential property insurance policies and condominium unit
 713 owner policies as described in s. 718.111(11).
- 714 (22)~~(19)~~ Except as otherwise provided in this chapter, no
 715 person, except an attorney at law or a licensed public adjuster,
 716 may for money, commission, or any other thing of value, directly
 717 or indirectly:
- 718 (a) Prepare, complete, or file an insurance claim for an
 719 insured or a third-party claimant;
- 720 (b) Act on behalf of or aid an insured or a third-party
 721 claimant in negotiating for or effecting the settlement of a
 722 claim for loss or damage covered by an insurance contract;
- 723 (c) Offer to initiate or negotiate a claim on behalf of an
 724 insured;
- 725 (d) Advertise services that require a license as a public

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- 726 adjuster; or
- 727 (e) Solicit, investigate, or adjust a claim on behalf of a
 728 public adjuster, an insured, or a third-party claimant.
- 729 (23)~~(20)~~ The department may take administrative actions and
 730 impose fines against any persons performing claims adjusting,
 731 soliciting, or any other services described in this section
 732 without the licensure required under this section or s. 626.112.
- 733 (24)~~(21)~~ A public adjuster, public adjuster apprentice, or
 734 public adjusting firm that solicits a claim and does not enter
 735 into a contract with an insured or a third-party claimant
 736 pursuant to paragraph (13) (a) ~~(10) (a)~~ may not charge an insured
 737 or a third-party claimant or receive payment by any other source
 738 for any type of service related to the insured or third-party
 739 claimant's claim.
- 740 (25)~~(22)~~ (a) Any following act by a public adjuster, a
 741 public adjuster apprentice, or a person acting on behalf of a
 742 public adjuster or public adjuster apprentice is prohibited and
 743 shall result in discipline as applicable under this part:
- 744 1. Offering to a residential property owner a rebate, gift,
 745 gift card, cash, coupon, waiver of any insurance deductible, or
 746 any other thing of value in exchange for:
- 747 a. Allowing a contractor, a public adjuster, a public
 748 adjuster apprentice, or a person acting on behalf of a public
 749 adjuster or public adjuster apprentice to conduct an inspection
 750 of the residential property owner's roof; or
- 751 b. Making an insurance claim for damage to the residential
 752 property owner's roof.
- 753 2. Offering, delivering, receiving, or accepting any
 754 compensation, inducement, or reward for the referral of any

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services for which property insurance proceeds would be used for roofing repairs or replacement.

(b) Notwithstanding the fine set forth in s. 626.8698, a public adjuster or public adjuster apprentice may be subject to a fine not to exceed \$10,000 per act for a violation of this subsection and a fine not to exceed \$20,000 per act for a violation of this subsection that occurs during a state of emergency declared by executive order or proclamation of the Governor pursuant to s. 252.36.

(c) A person who engages in an act prohibited by this subsection and who is not a public adjuster or a public adjuster apprentice, or is not otherwise exempt from licensure, is guilty of the unlicensed practice of public adjusting and may be:

1. Subject to all applicable penalties set forth in this part.

2. Notwithstanding subparagraph 1., subject to a fine not to exceed \$10,000 per act for a violation of this subsection and a fine not to exceed \$20,000 per act for a violation of this subsection that occurs during a state of emergency declared by executive order or proclamation of the Governor pursuant to s. 252.36.

Section 8. Section 626.860, Florida Statutes, is amended to read:

626.860 Attorneys at law; exemption.—Attorneys at law duly licensed to practice law in the courts of this state, and in good standing with The Florida Bar, shall not be required to be licensed under ~~the provisions of~~ this code to authorize them to adjust or participate in the adjustment of any claim, loss, or damage arising under policies or contracts of insurance. This

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exemption does not extend to the employees, interns, volunteers, or contractors of an attorney or of a law firm.

Section 9. Section 626.865, Florida Statutes, is amended to read:

626.865 Public adjuster's qualifications;~~r~~ bond; errors and omissions insurance.—

(1) The department shall issue a license to an applicant for a public adjuster's license upon determining that the applicant has paid the applicable fees specified in s. 624.501 and possesses the following qualifications:

(a) Is a natural person at least 18 years of age.

(b) Is a United States citizen or legal alien who possesses work authorization from the United States Bureau of Citizenship and Immigration Services.

(c) Is trustworthy and has such business reputation as would reasonably assure that the applicant will conduct his or her business as insurance adjuster fairly and in good faith and without detriment to the public.

(d) Has not been found guilty of or has not pleaded guilty or nolo contendere to any crime involving theft or dishonesty, regardless of adjudication, within the last 10 years.

(e) ~~(d)~~ Has had sufficient experience, training, or instruction concerning the adjusting of damages or losses under insurance contracts, other than life and annuity contracts, is sufficiently informed as to the terms and effects of the provisions of those types of insurance contracts, and possesses adequate knowledge of the laws of this state relating to such contracts as to enable and qualify him or her to engage in the business of insurance adjuster fairly and without injury to the

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public or any member thereof with whom the applicant may have business as a public adjuster.

~~(f)(e)~~ Has been licensed and appointed in this state as a nonresident public adjuster on a continual basis for the previous 6 months, or has been licensed as an all-lines adjuster, and has been appointed on a continual basis for the previous 6 months as a public adjuster apprentice under s. 626.8561, as an independent adjuster under s. 626.855, or as a company employee adjuster under s. 626.856.

(2) At the time of application for license as a public adjuster, the applicant shall file with the department a bond executed and issued by a surety insurer authorized to transact such business in this state, in the amount of \$50,000, conditioned for the faithful performance of his or her duties as a public adjuster under the license for which the applicant has applied, and thereafter maintain the bond unimpaired throughout the existence of the license.

(a) The bond must be in favor of the department and must specifically authorize recovery by the department of the damages sustained in case the licensee is guilty of fraud or unfair practices in connection with his or her business as public adjuster.

(b) The bond must remain in effect for 1 year after the expiration or termination of the license.

(c) The aggregate liability of the surety for all such damages may not exceed the amount of the bond. The bond may not be terminated unless at least 30 days' written notice is given to the licensee and filed with the department.

(3) At the time of application for license as a public

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adjuster, the applicant must file with the department a current certificate of an errors and omissions policy executed by and issued by an admitted insurer authorized to issue errors and omissions policies in this state, which shall be in the minimum amount of \$500,000 per occurrence.

~~(4)(3)~~ The department may not issue a license as a public adjuster to any individual who has not passed the examination for a public adjuster's license. Any individual who is applying for reinstatement of a license after completion of a period of suspension and any individual who is applying for a new license after termination, cancellation, revocation, or expiration of a prior license as a public adjuster must pass the examination required for licensure as a public adjuster after approval of the application for reinstatement or for a new license regardless of whether the applicant passed an examination prior to issuance of the license that was suspended, terminated, canceled, revoked, or expired.

Section 10. Section 626.875, Florida Statutes, is amended to read:

626.875 Office and records.—

(1) ~~(a)~~ Each appointed independent adjuster and licensed public adjuster must maintain a place of business in this state which is accessible to the public and keep therein the usual and customary records pertaining to transactions under the license. This provision does not prohibit maintenance of such an office in the home of the licensee.

(b) A license issued under this chapter must at all times be posted in a conspicuous place in the principal place of business of the license holder. If the licensee is conducting

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871 business away from the place of business such that the license
 872 cannot be posted, the licensee shall have such license in his or
 873 her actual possession at the time of carrying on such business.

874 (2) The records of the adjuster relating to a particular
 875 claim or loss shall be so retained in the adjuster's place of
 876 business for a period of not less than 5 years after completion
 877 of the adjustment and shall be available for inspection by the
 878 department at all times. This provision shall not be deemed to
 879 prohibit return or delivery to the insurer or insured of
 880 documents furnished to or prepared by the adjuster and required
 881 by the insurer or insured to be returned or delivered thereto.
 882 At a minimum, the following records must be maintained for a
 883 period of not less than 5 years:

884 (a) Name, address, telephone number, and e-mail address of
 885 the insured, and the name of the attorney representing the
 886 insured, if applicable.

887 (b) The date, location, and amount of the loss.

888 (c) An unaltered copy of the executed disclosure document
 889 required by s. 626.8796.

890 (d) An unaltered copy of the executed public adjuster
 891 contract required by s. 626.8796.

892 (e) A copy of the estimate of damages provided to the
 893 insurer.

894 (f) The name of the insurer; the name of the claims
 895 representative of the insurer; and the amount, expiration date,
 896 and number of each policy under which the loss is covered.

897 (g) An itemized statement of the recoveries by the insured
 898 from the sources known to the adjuster.

899 (h) An itemized statement of all compensation received by

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900 the public adjuster from any source, in connection with the
 901 loss.

902 (i) A register of all money received, deposited, disbursed,
 903 and withdrawn in connection with a transaction with the insured,
 904 including fees, transfers, and disbursements in connection with
 905 the loss.

906 Section 11. Section 626.8751, Florida Statutes, is created
 907 to read:

908 626.8751 Payment of claim.—When a claim is settled while
 909 the insured is represented by a public adjuster, the insurer
 910 shall issue the payment in check form. A total of two checks
 911 shall be issued. The first check shall be made payable to the
 912 public adjuster as payee, but not in excess of the amount of the
 913 public adjuster's fee, as indicated in the executed public
 914 adjuster contract signed by the insured and submitted to the
 915 insurer. The second check must reflect the balance of the
 916 proceeds and be payable to the insured as the payee in the form
 917 of a separate check.

918 Section 12. Section 626.8796, Florida Statutes, is amended
 919 to read:

920 626.8796 Public adjuster contracts; disclosure statement;
 921 fraud statement.—

922 (1) All contracts for public adjuster services must be in
 923 writing in at least 12-point font, titled "Public Adjuster
 924 Contract" and prominently display the following statement on the
 925 contract in minimum 18-point bold type before the space reserved
 926 for in the contract for the signature of the insured: "Pursuant
 927 to s. 817.234, Florida Statutes, any person who, with the intent
 928 to injure, defraud, or deceive an insurer or insured, prepares,

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presents, or causes to be presented a proof of loss or estimate of cost or repair of damaged property in support of a claim under an insurance policy knowing that the proof of loss or estimate of claim or repairs contains false, incomplete, or misleading information concerning any fact or thing material to the claim commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, Florida Statutes."

(2) A public adjuster contract relating to a property and casualty claim must contain the full name, permanent business address, phone number, e-mail address, and license number of the public adjuster; the full name of the public adjusting firm; and the insured's full name, ~~and~~ street address, phone number, and e-mail address, together with a brief description of the loss. The contract must state the percentage of compensation for the public adjuster's services in minimum 18-point bold type before the space reserved for in the contract for the signature of the insured; the type of claim, including an emergency claim, nonemergency claim, or supplemental claim; the initials of the named insured on each page that does not contain the insured's signature; the signatures of the public adjuster and all named insureds; and the signature date. If all of the named insureds' signatures are not available, the public adjuster must submit an affidavit signed by the available named insureds attesting that they have authority to enter into the contract and settle all claim issues on behalf of the named insureds. An unaltered copy of the executed contract must be remitted to the insured at the time of execution and to the insurer within 3 ~~30~~ days after execution. A public adjusting firm that adjusts claims primarily

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for commercial entities with operations in more than one state and that does not directly or indirectly perform adjusting services for insurers or individual homeowners is deemed to comply with the requirements of this subsection if, at the time a proof of loss is submitted, the public adjusting firm remits to the insurer an affidavit signed by the public adjuster or public adjuster apprentice that identifies:

(a) The full name, permanent business address, phone number, e-mail address, and license number of the public adjuster or public adjuster apprentice.

(b) The full name of the public adjusting firm.

(c) The insured's full name, ~~and~~ street address, phone number, and e-mail address, together with a brief description of the loss.

(d) An attestation that the compensation for public adjusting services will not exceed the limitations provided by law.

(e) The type of claim, including an emergency claim, nonemergency claim, or supplemental claim.

(3) The public adjuster shall not provide services until both the insured and insurer have been provided with unaltered copies of the executed contract.

(4) The insured may rescind the contract for public adjuster services if the public adjuster has not submitted a written estimate to the insurer within 45 days after executing the contract.

(5) Before the signing of the contract, the public adjuster shall provide the insured with a separate disclosure document to be signed by the insured, on a form adopted by the department,

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regarding the claim process that accomplishes the following:

(a) Defines the following types of adjusters who may be involved in the claim process: company adjuster, independent adjuster, and public adjuster.

(b) Explains that the public adjuster is not a representative or employee of the insurer.

(c) Explains that the insured is not required to hire a public adjuster, but has a right to do so.

(d) Explains that an insured has a right to initiate direct communications with the insured's attorney, the insurer, the company adjuster, the insurer's attorney, or any person regarding the settlement of the insured's claim.

(e) Explains that the public adjuster's salary, fee, commission, or other consideration to be paid to a public adjuster is the insured's responsibility.

(f) Explains that the public adjuster is required to provide the insured an unaltered copy of the executed contract at the time of execution.

(g) Explains that if the contract was entered based on events that are the subject of a declaration of a state of emergency by the Governor, the insured has a right to rescind the contract within 30 days.

(h) The public adjuster shall provide an unaltered copy of the executed disclosure document to the insured at the time of execution.

(6) A contract that does not comply with this section is invalid and unenforceable.

(7) The department may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this section, including rules

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to adopt forms required by this section.

Section 13. Section 626.8797, Florida Statutes, is amended to read:

626.8797 Proof of loss; fraud statement.—All proof-of-loss statements must prominently display the following statement in minimum 18-point bold type before the space reserved in the contract for the signature of the insured: "Pursuant to s. 817.234, Florida Statutes, any person who, with the intent to injure, defraud, or deceive any insurer or insured, prepares, presents, or causes to be presented a proof of loss or estimate of cost or repair of damaged property in support of a claim under an insurance policy knowing that the proof of loss or estimate of claim or repairs contains any false, incomplete, or misleading information concerning any fact or thing material to the claim commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, Florida Statutes."

Section 14. Paragraph (a) of subsection (1) of section 626.9541, Florida Statutes, is amended to read:

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

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

(a) *Misrepresentations and false advertising of insurance policies*.—Knowingly making, issuing, circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, statement, sales presentation, omission, comparison, or property and casualty certificate of insurance altered after

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being issued, which:

1. Misrepresents the benefits, advantages, conditions, or terms of any insurance policy.

2. Misrepresents the dividends or share of the surplus to be received on any insurance policy.

3. Makes any false or misleading statements as to the dividends or share of surplus previously paid on any insurance policy.

4. Is misleading, or is a misrepresentation, as to the financial condition of any person or as to the legal reserve system upon which any life insurer operates.

5. Uses any name or title of any insurance policy or class of insurance policies misrepresenting the true nature thereof.

6. Is a misrepresentation for the purpose of inducing, or tending to induce, the lapse, forfeiture, exchange, conversion, or surrender of any insurance policy.

7. Is a misrepresentation for the purpose of effecting a pledge or assignment of, or effecting a loan against, any insurance policy.

8. Misrepresents any insurance policy as being shares of stock or misrepresents ownership interest in the company.

9. Uses any advertisement that would mislead or otherwise cause a reasonable person to believe mistakenly that the state or the Federal Government is responsible for the insurance sales activities of any person or stands behind any person's credit or that any person, the state, or the Federal Government guarantees any returns on insurance products or is a source of payment of any insurance obligation of or sold by any person.

10. Fails to disclose a third party that receives

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royalties, referral fees, or other remuneration for sponsorship, marketing, or use of third-party branding for a health insurance contract as defined in s. 624.603.

Section 15. Paragraph (c) of subsection (2) of section 627.4025, Florida Statutes, is amended, and paragraph (d) is added to that subsection, to read:

627.4025 Residential coverage and hurricane coverage defined.—

(2) As used in policies providing residential coverage:

(c) "Hurricane" for purposes of paragraphs (a) and (b) means a storm system that has been declared to be a hurricane by the National Hurricane Center of the National Weather Service. The duration of the hurricane includes the time period, in Florida:

1. Beginning at the time a ~~hurricane watch or~~ hurricane warning is issued for any part of Florida by the National Hurricane Center of the National Weather Service; and

~~2. Continuing for the time period during which the hurricane conditions exist anywhere in Florida; and~~

~~3. Ending 24 72~~ hours following the termination of the last hurricane watch or hurricane warning issued for any part of Florida by the National Hurricane Center of the National Weather Service.

(d) "Hurricane deductible" means the deductible applicable to loss caused by a hurricane.

Section 16. Paragraph (b) of subsection (1) and paragraph (b) of subsection (2) of section 627.4133, Florida Statutes, are amended to read:

627.4133 Notice of cancellation, nonrenewal, or renewal

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premium.—

(1) Except as provided in subsection (2):

(b) An insurer issuing a policy providing coverage for property, casualty, except mortgage guaranty, surety, or marine insurance, other than motor vehicle insurance subject to s. 627.728 or s. 627.7281, shall give the first-named insured written notice of cancellation or termination other than nonrenewal at least 45 days prior to the effective date of the cancellation or termination, including in the written notice the reason or reasons for the cancellation or termination, except that:

1. When cancellation is for nonpayment of premium, at least 10 days' written notice of cancellation accompanied by the reason therefor shall be given. As used in this subparagraph and s. 440.42(3), the term "nonpayment of premium" means failure of the named insured to discharge when due any of her or his obligations in connection with the payment of premiums on a policy or any installment of such premium, whether the premium is payable directly to the insurer or its agent or indirectly under any premium finance plan or extension of credit, or failure to maintain membership in an organization if such membership is a condition precedent to insurance coverage. "Nonpayment of premium" also means the failure of a financial institution to honor an insurance applicant's check after delivery to a licensed agent for payment of a premium, even if the agent has previously delivered or transferred the premium to the insurer. If a dishonored check represents the initial premium payment, the contract and all contractual obligations shall be void ab initio unless the nonpayment is cured within

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the earlier of 5 days after actual notice by certified mail is received by the applicant or 15 days after notice is sent to the applicant by certified mail or registered mail, and if the contract is void, any premium received by the insurer from a third party shall be refunded to that party in full; and

2. When such cancellation or termination occurs during the first 90 days during which the insurance is in force and the insurance is canceled or terminated for reasons other than nonpayment of premium, at least 20 days' written notice of cancellation or termination accompanied by the reason therefor shall be given except where there has been a material misstatement or misrepresentation or failure to comply with the underwriting requirements established by the insurer.

After the policy has been in effect for 60 ~~90~~ days, no such policy shall be canceled by the insurer except when there has been a material misstatement, a nonpayment of premium, a failure to comply with underwriting requirements established by the insurer within 90 days of the date of effectuation of coverage, or a substantial change in the risk covered by the policy or when the cancellation is for all insureds under such policies for a given class of insureds. This subsection does not apply to individually rated risks having a policy term of less than 90 days.

(2) With respect to any personal lines or commercial residential property insurance policy, including, but not limited to, any homeowner, mobile home owner, farmowner, condominium association, condominium unit owner, apartment building, or other policy covering a residential structure or

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its contents:

(b) The insurer shall give the first-named insured written notice of nonrenewal, cancellation, or termination at least 120 days before the effective date of the nonrenewal, cancellation, or termination. The notice must include the reason for the nonrenewal, cancellation, or termination, except that:

1. If cancellation is for nonpayment of premium, at least 10 days' written notice of cancellation accompanied by the reason therefor must be given. As used in this subparagraph, the term "nonpayment of premium" means failure of the named insured to discharge when due her or his obligations for paying the premium on a policy or an installment of such premium, whether the premium is payable directly to the insurer or its agent or indirectly under a premium finance plan or extension of credit, or failure to maintain membership in an organization if such membership is a condition precedent to insurance coverage. The term also means the failure of a financial institution to honor an insurance applicant's check after delivery to a licensed agent for payment of a premium even if the agent has previously delivered or transferred the premium to the insurer. If a dishonored check represents the initial premium payment, the contract and all contractual obligations are void ab initio unless the nonpayment is cured within the earlier of 5 days after actual notice by certified mail is received by the applicant or 15 days after notice is sent to the applicant by certified mail or registered mail. If the contract is void, any premium received by the insurer from a third party must be refunded to that party in full.

2. If cancellation or termination occurs during the first

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90 days the insurance is in force and the insurance is canceled or terminated for reasons other than nonpayment of premium, at least 20 days' written notice of cancellation or termination accompanied by the reason therefor must be given unless there has been a material misstatement or misrepresentation or a failure to comply with the underwriting requirements established by the insurer.

3. After the policy has been in effect for 60 ~~90~~ days, the policy may not be canceled by the insurer unless there has been a material misstatement; a nonpayment of premium; a failure to comply, within 90 days after the date of effectuation of coverage, with underwriting requirements established by the insurer before the date of effectuation of coverage; or a substantial change in the risk covered by the policy or unless the cancellation is for all insureds under such policies for a given class of insureds. This subparagraph does not apply to individually rated risks that have a policy term of less than 90 days.

4. After a policy or contract has been in effect for more than 90 days, the insurer may not cancel or terminate the policy or contract based on credit information available in public records.

5. A policy that is nonrenewed by Citizens Property Insurance Corporation, pursuant to s. 627.351(6), for a policy that has been assumed by an authorized insurer offering replacement coverage to the policyholder is exempt from the notice requirements of paragraph (a) and this paragraph. In such cases, the corporation must give the named insured written notice of nonrenewal at least 45 days before the effective date

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of the nonrenewal.

6. Notwithstanding any other provision of law, an insurer may cancel or nonrenew a property insurance policy after at least 45 days' notice if the office finds that the early cancellation of some or all of the insurer's policies is necessary to protect the best interests of the public or policyholders and the office approves the insurer's plan for early cancellation or nonrenewal of some or all of its policies. The office may base such finding upon the financial condition of the insurer, lack of adequate reinsurance coverage for hurricane risk, or other relevant factors. The office may condition its finding on the consent of the insurer to be placed under administrative supervision pursuant to s. 624.81 or to the appointment of a receiver under chapter 631.

7. A policy covering both a home and a motor vehicle may be nonrenewed for any reason applicable to the property or motor vehicle insurance after providing 90 days' notice.

Section 17. Section 627.4554, Florida Statutes, is amended to read:

627.4554 Annuity investments.—

(1) PURPOSE.—The purpose of this section is to require agents to act in the best interest of the consumer when making a recommendation of an annuity and to require insurers to establish and maintain a system to supervise so set forth standards and procedures for making recommendations to consumers which result in transactions involving annuity products, and to establish a system for supervising such recommendations in order to ensure that the insurance needs and financial objectives of consumers are effectively appropriately addressed at the time of

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the transaction.

(2) SCOPE.—This section applies to any sale or recommendation of made to a consumer to purchase, exchange, or replace an annuity by an insurer or its agent, and which results in the purchase, exchange, or replacement recommended.

(3) DEFINITIONS.—As used in this section, the term:

(a) "Agent" means a person or entity required to be licensed under the laws of this state to sell, solicit, or negotiate insurance, including annuities. For purposes of this section, the term includes an insurer where no agent is involved ~~has the same meaning as provided in s. 626.015.~~

(b) "Annuity" means an insurance product under state law which is individually solicited, whether classified as an individual or group annuity.

(c) "Cash compensation" means any discount, concession, fee, service fee, commission, sales charge, loan, override, or cash benefit received by an agent from an insurer, intermediary, or directly from the consumer in connection with the recommendation or sale of an annuity.

(d) "Consumer profile information" means information that is reasonably appropriate to determine whether a recommendation addresses the consumer's financial situation, insurance needs, and financial objectives, including, at a minimum, the following:

1. Age.

2. Annual income.

3. Financial situation and needs, including debts and other obligations.

4. Financial experience.

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1277 5. Insurance needs.
 1278 6. Financial objectives.
 1279 7. Intended use of the annuity.
 1280 8. Financial time horizon.
 1281 9. Existing assets or financial products, including
 1282 investment, annuity, and insurance holdings.
 1283 10. Liquidity needs.
 1284 11. Liquid net worth.
 1285 12. Risk tolerance, including, but not limited to,
 1286 willingness to accept nonguaranteed elements in the annuity.
 1287 13. Financial resources used to fund the annuity.
 1288 14. Tax status.
 1289 (e)(e) "FINRA" means the Financial Industry Regulatory
 1290 Authority or a succeeding agency.
 1291 (f)(d) "Insurer" has the same meaning as provided in s.
 1292 624.03.
 1293 (g) "Intermediary" means an entity contracted directly with
 1294 an insurer or with another entity contracted with an insurer to
 1295 facilitate the sale of the insurer's annuities by agents.
 1296 (h) "Material conflict of interest" means a financial
 1297 interest of the agent in the sale of an annuity which a
 1298 reasonable person would expect to influence the impartiality of
 1299 a recommendation. The term does not include cash compensation or
 1300 noncash compensation.
 1301 (i) "Noncash compensation" means any form of compensation
 1302 that is not cash compensation, including, but not limited to,
 1303 health insurance, office rent, office support, and retirement
 1304 benefits.
 1305 (j) "Nonguaranteed elements" means the premiums; credited

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1306 interest rates, including any bonus; benefits; values;
 1307 dividends; noninterest based credits; charges; or elements of
 1308 formulas used to determine any of these, that are subject to
 1309 company discretion and are not guaranteed at issue. An element
 1310 is considered nonguaranteed if any of the underlying
 1311 nonguaranteed elements are used in its calculation.
 1312 (k)(e) "Recommendation" means advice provided by an ~~insurer~~
 1313 ~~or its~~ agent to an individual a consumer which was intended to
 1314 result or does result ~~which would result~~ in a the purchase, an
 1315 exchange, or a replacement of an annuity in accordance with that
 1316 advice. The term does not include general communication to the
 1317 public, generalized customer services, assistance or
 1318 administrative support, general educational information and
 1319 tools, prospectuses, or other product and sales material.
 1320 (l)(f) "Replacement" means a transaction in which a new
 1321 annuity policy or contract is to be purchased and it is known or
 1322 should be known to the proposing ~~insurer or its~~ agent, or to the
 1323 proposing insurer whether or not an agent is involved, that by
 1324 reason of such transaction an existing annuity or other
 1325 insurance policy has been or is to be any of the following ~~or~~
 1326 ~~contract will be:~~
 1327 1. Lapsed, forfeited, surrendered or partially surrendered,
 1328 assigned to the replacing insurer, or otherwise terminated;
 1329 2. Converted to reduced paid-up insurance, continued as
 1330 extended term insurance, or otherwise reduced in value due to
 1331 the use of nonforfeiture benefits or other policy values;
 1332 3. Amended so as to effect a reduction in benefits or the
 1333 term for which coverage would otherwise remain in force or for
 1334 which benefits would be paid;

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1335 4. Reissued with a reduction in cash value; or
 1336 5. Used in a financed purchase.
 1337 (m) "SEC" means the United States Securities and Exchange
 1338 Commission.
 1339 ~~(g) "Suitability information" means information related to~~
 1340 ~~the consumer which is reasonably appropriate to determine the~~
 1341 ~~suitability of a recommendation made to the consumer, including~~
 1342 ~~the following:~~
 1343 1. ~~Age;~~
 1344 2. ~~Annual income;~~
 1345 3. ~~Financial situation and needs, including the financial~~
 1346 ~~resources used for funding the annuity;~~
 1347 4. ~~Financial experience;~~
 1348 5. ~~Financial objectives;~~
 1349 6. ~~Intended use of the annuity;~~
 1350 7. ~~Financial time horizon;~~
 1351 8. ~~Existing assets, including investment and life insurance~~
 1352 ~~holdings;~~
 1353 9. ~~Liquidity needs;~~
 1354 10. ~~Liquid net worth;~~
 1355 11. ~~Risk tolerance; and~~
 1356 12. ~~Tax status.~~
 1357 (4) EXEMPTIONS.—Unless otherwise specifically included,
 1358 this section does not apply to transactions involving:
 1359 (a) Direct-response solicitations where there is no
 1360 recommendation based on information collected from the consumer
 1361 pursuant to this section;
 1362 (b) Contracts used to fund:
 1363 1. An employee pension or welfare benefit plan that is

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1364 covered by the federal Employee Retirement and Income Security
 1365 Act;
 1366 2. A plan described by s. 401(a), s. 401(k), s. 403(b), s.
 1367 408(k), or s. 408(p) of the Internal Revenue Code, if
 1368 established or maintained by an employer;
 1369 3. A government or church plan defined in s. 414 of the
 1370 Internal Revenue Code, a government or church welfare benefit
 1371 plan, or a deferred compensation plan of a state or local
 1372 government or tax-exempt organization under s. 457 of the
 1373 Internal Revenue Code; or
 1374 4. A nonqualified deferred compensation arrangement
 1375 established or maintained by an employer or plan sponsor;
 1376 (c)5- ~~Settlements or assumptions of liabilities associated~~
 1377 ~~with personal injury litigation or a dispute or claim-resolution~~
 1378 ~~process; or~~
 1379 (d)6- ~~Formal prepaid funeral contracts.~~
 1380 (5) DUTIES OF INSURERS AND AGENTS.—
 1381 (a) An agent, when making a recommendation of an annuity,
 1382 shall act in the best interest of the consumer under the
 1383 circumstances known at the time the recommendation is made,
 1384 without placing the financial interest of the agent or insurer
 1385 ahead of the consumer's interest. An agent has acted in the best
 1386 interest of the consumer if the agent has satisfied the
 1387 following obligations regarding care, disclosure, conflict of
 1388 interest, and documentation:
 1389 1.a. The agent, in making a recommendation, shall exercise
 1390 reasonable diligence, care, and skill to:
 1391 (I) Know the financial situation, insurance needs, and
 1392 financial objectives of the customer.

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1393 (II) Understand the available options after making a
 1394 reasonable inquiry into options available to the agent.
 1395 (III) Have a reasonable basis to believe the recommended
 1396 option effectively addresses the consumer's financial situation,
 1397 insurance needs, and financial objectives over the life of the
 1398 product, as evaluated in light of the consumer profile
 1399 information.
 1400 (IV) Communicate the reason or reasons for the
 1401 recommendation.
 1402 b. The requirements of sub-subparagraph a. include:
 1403 (I) Making reasonable efforts to obtain consumer profile
 1404 information from the consumer before the recommendation of an
 1405 annuity.
 1406 (II) Requiring an agent to consider the types of products
 1407 the agent is authorized and licensed to recommend or sell which
 1408 address the consumer's financial situation, insurance needs, and
 1409 financial objectives. This does not require analysis or
 1410 consideration of any products outside the authority and license
 1411 of the agent or other possible alternative products or
 1412 strategies available in the market at the time of the
 1413 recommendation. Agents shall be held to standards applicable to
 1414 agents with similar authority and licensure.
 1415 (III) Having a reasonable basis to believe the consumer
 1416 would benefit from certain features of the annuity, such as
 1417 annuitization, death or living benefit, or other insurance-
 1418 related features.
 1419 c. The requirements of this subsection do not create a
 1420 fiduciary obligation or relationship and only create a
 1421 regulatory obligation as provided in this section.

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1422 d. The consumer profile information, characteristics of the
 1423 insurer, and product costs, rates, benefits, and features are
 1424 those factors generally relevant in making a determination
 1425 whether an annuity effectively addresses the consumer's
 1426 financial situation, insurance needs, and financial objectives,
 1427 but the level of importance of each factor under the care
 1428 obligation of this paragraph may vary depending on the facts and
 1429 circumstances of a particular case. However, each factor may not
 1430 be considered in isolation.
 1431 e. The requirements under sub-subparagraph a. apply to the
 1432 particular annuity as a whole and the underlying subaccounts to
 1433 which funds are allocated at the time of purchase or exchange of
 1434 an annuity, and riders and similar product enhancements, if any.
 1435 f. Sub-subparagraph a. does not require that the annuity
 1436 with the lowest one-time occurrence compensation structure or
 1437 multiple occurrence compensation structure shall necessarily be
 1438 recommended.
 1439 g. Sub-subparagraph a. does require the agent to have
 1440 ongoing monitoring obligations under the care obligation,
 1441 although such an obligation may be separately owed under the
 1442 terms of a fiduciary, consulting, investment, advising, or
 1443 financial planning agreement between the consumer and the agent.
 1444 h. In the case of an exchange or replacement of an annuity,
 1445 the agent shall consider the whole transaction, which includes
 1446 taking into consideration whether:
 1447 (I) The consumer will incur a surrender charge; be subject
 1448 to the commencement of a new surrender period; lose existing
 1449 benefits, such as death, living, or other contractual benefits;
 1450 or be subject to increased fees, investment advisory fees, or

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charges for riders and similar product enhancements.

(II) The replacing product would substantially benefit the consumer in comparison to the replaced product over the life of the product.

(III) The consumer has had another annuity exchange or replacement and, in particular, an exchange or replacement within the preceding 60 months.

i. This section does not require an agent to obtain any license other than an agent license with the appropriate line of authority to sell, solicit, or negotiate insurance in this state, including, but not limited to, any securities license, in order to fulfill the duties and obligations contained in this section; provided, the agent does not give advice or provide services that are otherwise subject to securities laws or engage in any other activity requiring other professional licenses.

2. Disclosure obligation.

a. Before the recommendation or sale of an annuity, the agent shall prominently disclose to the consumer on a form substantially similar to that posted on the office website as Appendix A:

(I) A description of the scope and terms of the relationship with the consumer and the role of the agent in the transaction.

(II) An affirmative statement on whether the agent is licensed and authorized to sell the following products:

(A) Fixed annuities.

(B) Fixed indexed annuities.

(C) Variable annuities.

(D) Life insurance.

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(E) Mutual funds.

(F) Stocks and bonds.

(G) Certificates of deposit.

(III) An affirmative statement describing the insurers for which the agent is authorized, contracted, or appointed, or otherwise able to sell insurance products, using the following descriptions:

(A) From one insurer;

(B) From two or more insurers; or

(C) From two or more insurers, although primarily contracted with one insurer.

(IV) A description of the sources and types of cash compensation and noncash compensation to be received by the agent, including whether the agent is to be compensated for the sale of a recommended annuity by commission as part of premium or other remuneration received from the insurer, intermediary, or other agent, or by fee as a result of a contract for advice or consulting services; and

(V) A notice of the consumer's right to request additional information regarding cash compensation described in subparagraph b.

b. Upon request of the consumer or the consumer's designated representative, the agent shall disclose:

(I) A reasonable estimate of the amount of cash compensation to be received by the agent, which may be stated as a range of amounts or percentages.

(II) Whether the cash compensation is a one-time or multiple occurrence amount; and if a multiple occurrence amount, the frequency and amount of the occurrence, which may be stated

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as a range of amounts or percentages. ~~When recommending the purchase or exchange of an annuity to a consumer which results in an insurance transaction or series of insurance transactions, the agent, or the insurer where no agent is involved, must have reasonable grounds for believing that the recommendation is suitable for the consumer, based on the consumer's suitability information, and that there is a reasonable basis to believe all of the following:~~

c.1- Before or at the time of the recommendation or sale of an annuity, the agent shall have a reasonable basis to believe the consumer has been reasonably informed of various features of the annuity, such as the potential surrender period and surrender charge; potential tax penalty if the consumer sells, exchanges, surrenders, or annuitizes the annuity; mortality and expense fees; any annual fees; investment advisory fees; potential charges for and features of riders or other options of the annuity; limitations on interest returns; potential changes in nonguaranteed elements of the annuity; insurance and investment components; and market risk.

3.2- The consumer would benefit from certain features of the annuity, such as tax-deferred growth, annuitization, or the death or living benefit.

4. An agent shall identify and avoid or reasonably manage and disclose material conflicts of interest, including material conflicts of interest related to an ownership interest.

5. An agent shall at the time of the recommendation or sale:

a. Make a written record of any recommendation and the basis for the recommendation, subject to this section.

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b. Obtain a consumer signed statement on a form substantially similar to that posted on the office website as Appendix B, documenting:

(I) A customer's refusal to provide the consumer profile information, if any.

(II) A customer's understanding of the ramifications of not providing his or her consumer profile information or providing insufficient consumer profile information.

c. Obtain a consumer signed statement on a form substantially similar to that posted on the office website as Appendix C, acknowledging the annuity transaction is not recommended if a customer decides to enter into an annuity transaction that is not based on the agent's recommendation.

6. Application of the best interest obligation. Any requirement applicable to an agent under this subsection shall apply to every agent who has exercised material control or influence in the making of a recommendation and has received direct compensation as a result of the recommendation or sale, regardless of whether the agent has had any direct contact with the consumer. Activities such as providing or delivering marketing or education materials, product wholesaling or other back office product support, and general supervision of an agent do not, in and of themselves, constitute material control or influence.

3. The particular annuity as a whole, the underlying subaccounts to which funds are allocated at the time of purchase or exchange of the annuity, and riders and similar product enhancements, if any, are suitable; and, in the case of an exchange or replacement, the transaction as a whole is suitable

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for the particular consumer based on his or her suitability information.

4. In the case of an exchange or replacement of an annuity, the exchange or replacement is suitable after considering whether the consumer:

a. Will incur a surrender charge; be subject to the commencement of a new surrender period; lose existing benefits, such as death, living, or other contractual benefits; or be subject to increased fees, investment advisory fees, or charges for riders and similar product enhancements;

b. Would benefit from product enhancements and improvements; and

c. Has had another annuity exchange or replacement, including an exchange or replacement within the preceding 36 months.

(b) Before executing a purchase, exchange, or replacement of an annuity resulting from a recommendation, an insurer or its agent must make reasonable efforts to obtain the consumer's suitability information. The information shall be collected on form DFS-HI-1980, which is hereby incorporated by reference, and completed and signed by the applicant and agent. Questions requesting this information must be presented in at least 12-point type and be sufficiently clear so as to be readily understandable by both the agent and the consumer. A true and correct executed copy of the form must be provided by the agent to the insurer, or to the person or entity that has contracted with the insurer to perform this function as authorized by this section, within 10 days after execution of the form, and shall be provided to the consumer no later than the date of delivery

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of the contract or contracts.

(e) Except as provided under paragraph (d), an insurer may not issue an annuity recommended to a consumer unless there is a reasonable basis to believe the annuity is suitable based on the consumer's suitability information.

(b)(d) 1. Except as provided under subparagraph 2., An insurer's issuance of an annuity must be reasonable based on all the circumstances actually known to the insurer at the time the annuity is issued. However, an insurer or its agent shall not have does not have an obligation to a consumer related to an annuity transaction under subparagraph (a)1. paragraph (a) or paragraph (c) if:

a.1. A recommendation has not been made;

b.2. A recommendation was made and is later found to have been based on materially inaccurate information provided by the consumer;

c.3. A consumer refuses to provide relevant suitability information and the annuity transaction is not recommended; or

d.4. A consumer decides to enter into an annuity transaction that is not based on a recommendation of an insurer or its agent.

2. An insurer's issuance of an annuity subject to subparagraph 1. shall be reasonable under all the circumstances actually known to the insurer at the time the annuity is issued.

(c)1. Except as permitted under paragraph (b), an insurer may not issue an annuity recommended to a consumer unless there is a reasonable basis to believe the annuity would effectively address the particular consumer's financial situation, insurance needs, and financial objectives based on the consumer's consumer

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1625 profile information.

1626 ~~(e) At the time of sale, the agent or the agent's~~
 1627 ~~representative must:~~

1628 ~~1. Make a record of any recommendation made to the consumer~~
 1629 ~~pursuant to paragraph (a);~~

1630 ~~2. Obtain the consumer's signed statement documenting his~~
 1631 ~~or her refusal to provide suitability information, if~~
 1632 ~~applicable; and~~

1633 ~~3. Obtain the consumer's signed statement acknowledging~~
 1634 ~~that an annuity transaction is not recommended if he or she~~
 1635 ~~decides to enter into an annuity transaction that is not based~~
 1636 ~~on the insurer's or its agent's recommendation, if applicable.~~

1637 ~~(f) Before executing a replacement or exchange of an~~
 1638 ~~annuity contract resulting from a recommendation, the agent must~~
 1639 ~~provide on form DFS-HI-1981, which is hereby incorporated by~~
 1640 ~~reference, information that compares the differences between the~~
 1641 ~~existing annuity contract and the annuity contract being~~
 1642 ~~recommended in order to determine the suitability of the~~
 1643 ~~recommendation and its benefit to the consumer. A true and~~
 1644 ~~correct executed copy of this form must be provided by the agent~~
 1645 ~~to the insurer, or to the person or entity that has contracted~~
 1646 ~~with the insurer to perform this function as authorized by this~~
 1647 ~~section, within 10 days after execution of the form, and must be~~
 1648 ~~provided to the consumer no later than the date of delivery of~~
 1649 ~~the contract or contracts.~~

1650 ~~2.(g)~~ An insurer shall establish and maintain a supervision
 1651 system that is reasonably designed to achieve the insurer's and
 1652 its agent's compliance with this section, including, but not
 1653 limited to, the following:-

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1654 ~~1. Such system must include, but is not limited to:~~

1655 a. The insurer shall establish and maintain Maintaining
 1656 reasonable procedures to inform its agents of the requirements
 1657 of this section and incorporating those requirements into
 1658 relevant agent training manuals.~~+~~

1659 b. The insurer shall establish and maintain Establishing
 1660 standards for agent product training and shall establish and
 1661 maintain reasonable procedures to require its agents to comply
 1662 with the requirements of subsection (6).+

1663 c. The insurer shall provide Providing product-specific
 1664 training and training materials that explain all material
 1665 features of its annuity products to its agents.~~+~~

1666 d. The insurer shall establish and maintain Maintaining
 1667 procedures for the review of each recommendation before issuance
 1668 of an annuity which are designed to ensure that there is a
 1669 reasonable basis to determine the recommended annuity would
 1670 effectively address the particular consumer's financial
 1671 situation, insurance needs, and financial objectives ~~for~~
 1672 ~~determining that a recommendation is suitable.~~ Such review
 1673 procedures may use a screening system for identifying selected
 1674 transactions for additional review and may be accomplished
 1675 electronically or through other means, including, but not
 1676 limited to, physical review. Such electronic or other system may
 1677 be designed to require additional review only of those
 1678 transactions identified for additional review using established
 1679 selection criteria.~~+~~

1680 e. The insurer shall establish and maintain Maintaining
 1681 reasonable procedures to detect recommendations that are not in
 1682 compliance with paragraphs (a), (b), (d), and (e). This may

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1683 ~~include, but is not limited to, suitable, such as~~ confirmation
 1684 of consumer suitability information, systematic customer
 1685 surveys, ~~agent and~~ consumer interviews, confirmation letters,
 1686 ~~agent statements or attestations,~~ and internal monitoring
 1687 programs. This sub-subparagraph does not prevent an insurer from
 1688 using sampling procedures or from confirming the consumer
 1689 profile suitability information after the issuance or delivery
 1690 of the annuity. ~~and~~

1691 f. The insurer shall establish and maintain reasonable
 1692 procedures to assess, prior to or upon issuance or delivery of
 1693 an annuity, whether an agent has provided to the consumer the
 1694 information required to be provided under this subsection.

1695 g. The insurer shall establish and maintain reasonable
 1696 procedures to identify and address suspicious consumer refusals
 1697 to provide consumer profile information.

1698 h. The insurer shall establish and maintain reasonable
 1699 procedures to identify and eliminate any sales contests, sales
 1700 quotas, bonuses, and noncash compensation that are based on the
 1701 sales of specific annuities within a limited period of time. The
 1702 requirements of this sub-subparagraph are not intended to
 1703 prohibit the receipt of health insurance, office rents, office
 1704 support, retirement benefits, or other employee benefits by
 1705 employees, as long as those benefits are not based upon the
 1706 volume of sales of a specific annuity within a limited period of
 1707 time.

1708 i.f. The insurer shall annually provide providing a written
 1709 report to senior managers, including the senior manager who is
 1710 responsible for audit functions, which details a review, along
 1711 with appropriate testing, which is reasonably designed to

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1712 determine the effectiveness of the supervision system, the
 1713 exceptions found, and corrective action taken or recommended, if
 1714 any.

1715 ~~3.2-~~ An insurer is not required to include in its
 1716 supervision system:

1717 a. Agent recommendations to consumers of products other
 1718 than the annuities offered by the insurer; or

1719 b. Consideration of or comparison to options available to
 1720 the agent or compensation relating to those options other than
 1721 annuities or other products offered by the insurer.

1722 ~~4.3-~~ An insurer may contract for performance of a function,
 1723 including maintenance of procedures, required under subparagraph
 1724 1.

1725 a. An insurer's supervision system under this subsection
 1726 shall include supervision of contractual performance under this
 1727 subsection If an insurer contracts for the performance of a
 1728 function, the insurer must include the supervision of
 1729 contractual performance as part of those procedures listed in
 1730 subparagraph 1. These include, but are not limited to:

1731 (I) Monitoring and, as appropriate, conducting audits to
 1732 ensure that the contracted function is properly performed; and
 1733 (II) Annually obtaining a certification from a senior
 1734 manager who has responsibility for the contracted function that
 1735 the manager has a reasonable basis to represent, and does not
 1736 represent for representing that the function is being properly
 1737 performed.

1738 b. An insurer is responsible for taking appropriate
 1739 corrective action and may be subject to sanctions and penalties
 1740 pursuant to subsection (8) (7) regardless of whether the insurer

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contracts for performance of a function and regardless of the insurer's compliance with sub-subparagraph a.

~~(d)(4)~~ Neither an agent nor an insurer shall ~~may not~~ dissuade, or attempt to dissuade, a consumer from:

1. Truthfully responding to an insurer's request for confirmation of consumer profile suitability information;

2. Filing a complaint; or

3. Cooperating with the investigation of a complaint.

~~(e)1.(i)~~ Recommendations and sales made in compliance with comparable standards shall FINRA requirements pertaining to the suitability and supervision of annuity transactions satisfy the requirements of this section. This applies to all recommendations and FINRA broker-dealer sales of variable annuities made by financial professionals in compliance with business rules, controls, and procedures that satisfy a comparable standard even if such standard would not otherwise apply to the product or recommendation at issue and fixed annuities if the suitability and supervision is similar to those applied to variable annuity sales. However, this paragraph does not limit the ability of the office or the department to investigate and enforce, including investigate, the provisions of this section.

2. Subparagraph 1. shall not limit the insurer's obligation to comply with subparagraph (c)1., although the insurer may base its analysis on information received from either the financial professional or the entity supervising the financial professional.

3. For this paragraph to apply, an insurer ~~shall must~~:

~~a.1.~~ Monitor relevant conduct of the financial professional

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seeking to rely on subparagraph 1. or the entity responsible for supervising the financial professional, such as the financial professional's broker-dealer or an investment adviser registered under federal or state securities law, the FINRA member broker-dealer using information collected in the normal course of an insurer's business; and

~~b.2.~~ Provide to the entity responsible for supervising the financial professional seeking to rely on subparagraph 1., such as the financial professional's broker-dealer or investment adviser registered under federal or state securities laws, FINRA member broker-dealer information and reports that are reasonably appropriate to assist such entity the FINRA member broker-dealer in maintaining its supervision system.

4. For purposes of this paragraph, the term:

a. "Comparable standards" means:

(I) With respect to broker-dealers and registered representatives of broker-dealers, applicable SEC and FINRA rules pertaining to best interest obligations and supervision of annuity recommendations and sales including, but not limited to, Regulation Best Interest, 17 C.F.R. s. 240.151-1, and any amendments or successor regulations thereto;

(II) With respect to investment advisers registered under federal or state securities laws or investment adviser representatives, the fiduciary duties and all other requirements imposed on such investment advisers or investment adviser representatives by contract or under the Investment Advisers Act of 1940 or applicable state securities laws, including, but not limited to, Form ADV and interpretations; and

(III) With respect to plan fiduciaries or fiduciaries, the

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1799 duties, obligations, prohibitions and all other requirements
 1800 attendant to such status under the Employee Retirement Income
 1801 Security Act of 1974 or the Internal Revenue Code and any
 1802 amendments or successor statutes thereto.
 1803 b. "Financial professional" means an agent that is
 1804 regulated and acting as:
 1805 (I) A broker-dealer registered under federal or state
 1806 securities laws or a registered representative of a broker-
 1807 dealer;
 1808 (II) An investment adviser registered under federal or
 1809 state securities laws or an investment adviser representative
 1810 associated with the federal or state registered investment
 1811 adviser; or
 1812 (III) A plan fiduciary under s. 3(21) of the Employee
 1813 Retirement Income Security Act of 1974 or fiduciary under s.
 1814 4975(e) (3) of the Internal Revenue Code or any amendments or
 1815 successor statutes thereto.
 1816 (6) AGENT TRAINING.—
 1817 (a) An agent shall not solicit the sale of an annuity
 1818 product unless the agent has adequate knowledge of the product
 1819 to recommend the annuity and the agent is in compliance with the
 1820 insurer's standards for product training. An agent may rely on
 1821 insurer-provided product-specific training standards and
 1822 materials to comply with this subsection.
 1823 (b)1.a. An agent who engages in the sale of annuity
 1824 products shall complete a one-time 4-hour training course. This
 1825 requirement is not part of an agent's continuing education
 1826 requirement in s. 626.2815; however, if a course provider
 1827 submits and receives approval from the department, the course is

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1828 eligible for continuing education credit pursuant to s.
 1829 626.2815.
 1830 b. Agents who hold a life insurance line of authority on
 1831 the effective date of this act and who desire to sell annuities
 1832 shall complete the requirements of this subsection within 6
 1833 months after the effective date of this act. Individuals who
 1834 obtain a life insurance line of authority after the effective
 1835 date of this act may not engage in the sale of annuities until
 1836 the annuity training course required under this subsection has
 1837 been completed.
 1838 2. The minimum length of the training required under this
 1839 subsection is 4 hours.
 1840 3. The training required under this subsection shall
 1841 include information on the following topics:
 1842 a. The types of annuities and various classifications of
 1843 annuities.
 1844 b. Identification of the parties to an annuity.
 1845 c. How product-specific annuity contract features affect
 1846 consumers.
 1847 d. The application of income taxation of qualified and
 1848 nonqualified annuities.
 1849 e. The primary uses of annuities.
 1850 f. The appropriate standard of conduct, sales practices,
 1851 replacement, and disclosure requirements.
 1852 4. Providers of courses intended to comply with this
 1853 subsection shall cover all topics listed in the prescribed
 1854 outline and shall not present any marketing information or
 1855 provide training on sales techniques or provide specific
 1856 information about a particular insurer's products. Additional

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1857 topics may be offered in conjunction with and in addition to the
1858 required outline.

1859 5. A provider of an annuity training course intended to
1860 comply with this subsection shall register as a continuing
1861 education provider in this state and comply with the rules and
1862 guidelines applicable to agent continuing education courses as
1863 set forth in s. 626.2815.

1864 6. An agent who has completed an annuity training course
1865 approved by the office prior to the effective date of this act
1866 shall, within 6 months after the effective date of this act,
1867 complete either:

1868 a. A new 4-hour credit training course approved by the
1869 office after the effective date of this act; or

1870 b. An additional one-time one credit training course
1871 approved by the office and provided by an office-approved
1872 education provider on appropriate sales practices, replacement,
1873 and disclosure requirements under this section.

1874 7. Annuity training courses may be conducted and completed
1875 by classroom or self-study methods in accordance with s.
1876 626.2815.

1877 8. Providers of annuity training shall comply with the
1878 reporting requirements and shall issue certificates of
1879 completion in accordance with s. 626.2815.

1880 9. The satisfaction of the training requirements of another
1881 state that are substantially similar to the provisions of this
1882 subsection shall be deemed to satisfy the training requirements
1883 of this subsection in this state.

1884 10. The satisfaction of the training requirements of any
1885 course or courses with components substantially similar to the

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1886 provisions of this subsection shall be deemed to satisfy the
1887 training requirements of this subsection in this state.

1888 11. An insurer shall verify that an agent has completed the
1889 annuity training course required under this subsection before
1890 allowing the agent to sell an annuity product for that insurer.
1891 An insurer may satisfy its responsibility under this subsection
1892 by obtaining certificates of completion of the training course
1893 or obtaining reports provided by commissioner-sponsored database
1894 systems or vendors or from a reasonably reliable commercial
1895 database vender that has a reporting arrangement with approved
1896 insurance education providers.

1897 (7)(6) RECORDKEEPING.—

1898 (a) Insurers and agents must maintain or be able to make
1899 available to the office or department records of the information
1900 collected from the consumer and other information used in making
1901 the recommendations that were the basis for insurance
1902 transactions for 5 years after the insurance transaction is
1903 completed by the insurer. An insurer may maintain the
1904 documentation on behalf of its agent.

1905 (b) Records required to be maintained under this subsection
1906 may be maintained in paper, photographic, microprocess,
1907 magnetic, mechanical, or electronic media, or by any process
1908 that accurately reproduces the actual document.

1909 (8)(7) COMPLIANCE MITIGATION; PENALTIES.—

1910 (a) An insurer is responsible for compliance with this
1911 section. If a violation occurs because of the action or inaction
1912 of the insurer or its agent which results in harm to a consumer,
1913 the office may order the insurer to take reasonably appropriate
1914 corrective action for the consumer and may impose appropriate

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penalties and sanctions.

(b) The department may order:

1. An ~~insurance~~ agent to take reasonably appropriate corrective action for a consumer harmed by a violation of this section by the ~~insurance~~ agent, including monetary restitution of penalties or fees incurred by the consumer, and impose appropriate penalties and sanctions.

2. A managing general agency or insurance agency that employs or contracts with an ~~insurance~~ agent to sell or solicit the sale of annuities to consumers to take reasonably appropriate corrective action for a consumer harmed by a violation of this section by the ~~insurance~~ agent.

(c) In addition to any other penalty authorized under chapter 626, the department shall order an insurance agent to pay restitution to a consumer who has been deprived of money by the agent's misappropriation, conversion, or unlawful withholding of moneys belonging to the consumer in the course of a transaction involving annuities. The amount of restitution required to be paid may not exceed the amount misappropriated, converted, or unlawfully withheld. This paragraph does not limit or restrict a person's right to seek other remedies as provided by law.

(d) Any applicable penalty under the Florida Insurance Code for a violation of this section shall be reduced or eliminated according to a schedule adopted by the office or the department, as appropriate, if corrective action for the consumer was taken promptly after a violation was discovered.

(e) A violation of this section does not create or imply a private cause of action.

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(9)~~(8)~~ PROHIBITED CHARGES.—An annuity contract issued to a senior consumer age 65 or older may not contain a surrender or deferred sales charge for a withdrawal of money from an annuity exceeding 10 percent of the amount withdrawn. The charge shall be reduced so that no surrender or deferred sales charge exists after the end of the 10th policy year or 10 years after the date of each premium payment if multiple premiums are paid, whichever is later. This subsection does not apply to annuities purchased by an accredited investor, as defined in Regulation D as adopted by the United States Securities and Exchange Commission, or to those annuities specified in paragraph (4)(b).

(10)~~(9)~~ RULES.—The department and the commission may adopt rules to administer this section.

Section 18. Paragraph (b) of subsection (8) of section 634.041, Florida Statutes, is amended to read:

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

(8)

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

1. Coverage of 100 percent of the claim exposure is obtained from an insurer approved by the office, which holds a certificate of authority under s. 624.401 to do business within

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 this state, or secured through a risk retention group, which is authorized to do business within this state under s. 627.943 or s. 627.944. Such insurer or risk retention group must maintain a surplus as regards policyholders of at least \$15 million.

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

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

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

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

6. A policy issued in compliance with this subparagraph may either pay 100 percent of claims as they are incurred, or 100

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percent of claims due in the event of the failure of the service agreement company to pay such claims when due.

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

Section 19. The Division of Law Revision is directed to replace the phrase "the effective date of this act" wherever it occurs in this act with the date this act becomes a law.

Section 20. This act shall take effect upon becoming a law.

3.22.23

Meeting Date

Banking & Insurance

Committee

The Florida Senate

APPEARANCE RECORD

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1398

Bill Number or Topic

533280

Amendment Barcode (if applicable)

Name **Sarah Suskey**

Phone **850.222.8900**

Address **204 S. Monroe St.**

Email **sarah@tapfla.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:

**Florida Carpenters Regional
Council**

☐ 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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1398

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Sam Ammendolea

Phone

856-617-7906

Address

1084 Cavender Creek Rd

Email

Office@SuperClaimsAdjusting.com

Street

Minneola

City

FL

State

34715

Zip

Speaking:

☐ For



☐ 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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B+I

Committee

1398

Bill Number or Topic

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Amendment Barcode (if applicable)

Name

Dave Hall AIE

Phone

740-817-4588

Address

1365 Riva St SE

Email

Dave@GoldenTrails.com

Street

Palm Bay FL 32909

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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SB 1390

Bill Number or Topic

3/22/23

Meeting Date

Banking and Insurance

Committee

Amendment Barcode (if applicable)

Name Eric DeCampos

Phone 847-989-7104

Address 1111 E. Touhy Ave. Ste 400

Street

Email edecampos@nicb.org

Des Plaines

City

IL

State

60018

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 Insurance Crime Bureau

☐ 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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3/22/23

Meeting Date

R+I

Committee

1398

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Edwin Leal

Phone

813 301 0140

Address

4157 Rolling Springs Dr

Email

ELeal@claimsassistfl.com

Street

Tampa, FL 33624

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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8/22/23

Meeting Date

B+I

Committee

1398

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Mark Goldwisch

Phone

904-704-2200

Address

2601 Michaelson Way

Email

mgoldwisch@yahoo.com

Street

Jacksonville FL

32223

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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Meeting Date

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Committee

1398

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Tim Reynolds

Phone

941 223 8628

Address

15 PARADISE PLZ #335

Street

Email

Tim@ACORNADJUSTMENT.NET

SARASOTA

City

FL

State

34239

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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3122123

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1398

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Matthew Mink

Phone

321-402-6826

Address

7976 Pleasant Pine Cir

Email

yourclaimguy@gmail.com

Street

Winter Park FL

32792

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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Meeting Date

BI

Committee

1398

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Juli Mohan

Phone

940-243-5124

Address

5339 Del Monte Ct

Email

Street

Cape Coral FL 33944

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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Bill Number or Topic

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Amendment Barcode (if applicable)

Name

Jacki Hale

Phone

904-910-8695

Address

2585 Duval Run Lane

Email

Wheelerhale@gmail.com

Street

Orange Park FL

32073

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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BEI

Committee

51398

Bill Number or Topic

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Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name CURTIS LEONARD

Phone 850 274 1422

Address 150 S. MONROE St. Ste 206

Street

Email curtleonard@aclli.com

TALL.

City

FL

State

32317

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:

ACLI
AMERICAN COUNCIL OF LIFE
INSURERS

☐ 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

Meeting Date

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Phone

Address

Email

Street

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:

CFO JIMMY PATROWIS

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

3/22/23

Meeting Date

Insurance

Committee

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SB

1398

Bill Number or Topic

Amendment Barcode (if applicable)

Name

~~Mike~~ Mike Cantens

Phone

Address

108 S. Monroe St.
Street

Email

grferjoo@flapartners.com

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:

Rocket Mortgage

☐

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

March 22, 2023

Meeting Date

Banking + Insurance

Committee

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

SB 1398

Bill Number or Topic

N/A

Amendment Barcode (if applicable)

Name Tasha Carter, FL's Insurance Consumer Advocate Phone 850.413.5923

Address 200 E. Gaines Street

Street

Email tasha.carter@myfloridacfo.com

Tallahassee FL

City

32399

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:

Office of the Insurance Consumer
Advocate, Department 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 \(flsenate.gov\)](#)

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: SPB 7040

INTRODUCER: Banking and Insurance Committee

SUBJECT: OGSR/Security or Firesafety System Plans

DATE: March 24, 2023

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Thomas	Knudson		BI Submitted as Comm. Bill/Fav

I. Summary:

SPB 7040 saves from repeal the current public records exemptions for security or firesafety systems or plans for any state owned or leased buildings and any privately owned or leased property and information relating to such systems or plans that are held by a state agency. The bill also saves from repeal the current public meetings exemptions for any portion of a meeting that would reveal security or firesafety systems or plans that are exempt from public records requirements.

The exemptions are necessitated because it is believed that disclosure of sensitive information relating to the security or firesafety systems or plans could result in identification of vulnerabilities in such systems and allow a security breach that could damage the systems and disrupt their safe and reliable operation.

The Open Government Sunset Review Act requires the Legislature to review each public record and public meeting exemption 5 years after enactment. These exemptions are scheduled to repeal on October 2, 2023. The bill removes the scheduled repeals to continue the exempt status.

The bill is not expected to impact state and local revenues and expenditures.

The bill takes effect October 1, 2023.

II. Present Situation:

Public Records Law

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ This applies to the official business

¹ FLA. CONST., art. I, s. 24(a).

of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person who acts on behalf of the government.²

In addition to the Florida Constitution, the Florida Statutes provide that the public may access legislative and executive branch records.³ Chapter 119, F.S., constitutes the main body of public records laws, and is known as the Public Records Act.⁴ The Public Records Act states that:

It is the policy of this state that all state, county and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁵

According to the Public Records Act, a public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted. 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 connection with the transaction of official business by any agency.⁶

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business which are used to “perpetuate, communicate, or formalize knowledge of some type.”⁷

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any state or local government public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁸ A violation of the Public Records Act may result in civil or criminal liability.⁹

The Public Records Act contains general exemptions that apply across agencies. Agency or program-specific exemptions often are placed in the substantive statutes relating to that particular agency or program. Only the Legislature may create an exemption to public records requirements.¹⁰ An exemption must be created by general law and must specifically state the

² *Id.*

³ The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So.2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So.2d 255 (Fla. 1995). The Legislature’s records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are primarily located in s. 11.0431(2)-(3), F.S.

⁴ Public records laws are found throughout the Florida Statutes.

⁵ Section 119.01(1), F.S.

⁶ Section 119.011(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.”

⁷ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So.2d 633, 640 (Fla. 1980).

⁸ Section 119.07(1)(a), F.S.

⁹ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

¹⁰ FLA. CONST., art. I, s. 24(c).

public necessity which justifies the exemption.¹¹ Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill that enacts an exemption may not contain other substantive provisions¹² and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.¹³

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*.¹⁴ 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.¹⁵ Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.¹⁶

Open Meetings Laws

The Florida Constitution provides that the public has a right to access governmental meetings.¹⁷ Each collegial body must provide notice of its meetings to the public and permit the public to attend any meeting at which official acts are taken or at which public business is transacted or discussed.¹⁸ This applies to the meetings of any collegial body of the executive branch of state government, counties, municipalities, school districts, or special districts.¹⁹

Public policy regarding access to government meetings also is addressed in the Florida Statutes. Section 286.011, F.S., which is also known as the “Government in the Sunshine Law”²⁰ or the “Sunshine Law,”²¹ requires all meetings of any board or commission of any state or local agency or authority at which official acts are to be taken be open to the public.²² The board or commission must provide the public reasonable notice of such meetings.²³ Public meetings may not be held at any location that discriminates on the basis of sex, age, race, creed, color, origin or economic status or which operates in a manner that unreasonably restricts the public’s access to the facility.²⁴ Minutes of a public meeting must be promptly recorded and open to public

¹¹ *Id.*

¹² The bill may, however, contain multiple exemptions that relate to one subject.

¹³ FLA. CONST., art. I, s. 24(c).

¹⁴ *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So.2d 48, 53 (Fla. 5th DCA 2004).

¹⁵ *Id.*

¹⁶ *Williams v. City of Minneola*, 575 So.2d 683 (Fla. 5th DCA 1991).

¹⁷ FLA. CONST., art. I, s. 24(b).

¹⁸ *Id.*

¹⁹ FLA. CONST., art. I, s. 24(b). Meetings of the Legislature are governed by Article III, section 4(e) of the Florida Constitution, which states: “The rules of procedure of each house shall further provide that all prearranged gatherings, between more than two members of the legislature, or between the governor, the president of the senate, or the speaker of the house of representatives, the purpose of which is to agree upon formal legislative action that will be taken at a subsequent time, or at which formal legislative action is taken, regarding pending legislation or amendments, shall be reasonably open to the public.”

²⁰ *Times Pub. Co. v. Williams*, 222 So.2d 470, 472 (Fla. 2d DCA 1969).

²¹ *Board of Public Instruction of Broward County v. Doran*, 224 So.2d 693, 695 (Fla. 1969).

²² Section 286.011(1)-(2), F.S.

²³ *Id.*

²⁴ Section 286.011(6), F.S.

inspection.²⁵ Failure to abide by open meetings requirements will invalidate any resolution, rule, or formal action adopted at a meeting.²⁶ A public officer or member of a governmental entity who violates the Sunshine Law is subject to civil and criminal penalties.²⁷

The Legislature may create an exemption to open meetings requirements by passing a general law by a two-thirds vote of the House and the Senate.²⁸ The exemption must explicitly lay out the public necessity justifying the exemption, and must be no broader than necessary to accomplish the stated purpose of the exemption.²⁹ A statutory exemption which does not meet these two criteria may be unconstitutional and may not be judicially saved.³⁰

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act (the Act), prescribe a legislative review process for newly created or substantially amended public records or open meetings exemptions,³¹ with specified exceptions.³² The Act requires the repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption or repeal the sunset date.³³ In practice, many exemptions are continued by repealing the sunset date, rather than reenacting the exemption.

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. An exemption serves an identifiable purpose if the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption and it meets one of the following purposes:

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;³⁴
- The release of sensitive personal information would be defamatory or would jeopardize an individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;³⁵ or
- It protects trade or business secrets.³⁶

²⁵ Section 286.011(2), F.S.

²⁶ Section 286.011(1), F.S.

²⁷ Section 286.011(3), F.S.

²⁸ FLA. CONST., art. I, s. 24(c).

²⁹ *Id.*

³⁰ *See supra* note 11.

³¹ Section 119.15, F.S. Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings.

³² 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.

³³ Section 119.15(3), F.S.

³⁴ Section 119.15(6)(b)1., F.S.

³⁵ Section 119.15(6)(b)2., F.S.

³⁶ Section 119.15(6)(b)3., F.S.

The Act also requires specified questions to be considered during the review process.³⁷ In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

If, in reenacting an exemption or repealing the sunset date, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.³⁸ If the exemption is reenacted or saved from repeal without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.³⁹

Public Record and Public Meeting Exemptions Related to Security or Firesafety Systems or Plans

Current law provides public record and public meeting exemptions for certain information related to security or firesafety systems or plans held by an agency.⁴⁰ The law specifies the circumstances under which the information may be disclosed.⁴¹

Security or Firesafety System Plans

Section 119.071(3)(a), F.S., defines “security or firesafety system plan” to include all:

- Records, information, photographs, audio and visual representations, schematic diagrams, surveys, recommendations, or consultations or portions thereof relating directly to the physical security or firesafety of the facility or revealing security or firesafety systems;
- Threat assessments conducted by an agency or any private entity;
- Threat response plans;
- Emergency evacuation plans;
- Sheltering arrangements; or
- Manuals for security or firesafety personnel, emergency equipment, or security or firesafety training.

³⁷ Section 119.15(6)(a), F.S. The specific 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?

³⁸ FLA. CONST. art. I, s. 24(c).

³⁹ Section 119.15(7), F.S.

⁴⁰ Sections 119.071(3)(a), 281.301(1), and 286.0113(1), F.S. “Agency” means 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 chapter 119, F.S., 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. *See* s. 119.011(2), F.S.

⁴¹ Sections 119.071(3)(a) and 281.301(2), F.S.

A security or firesafety system plan, or portion thereof, held by an agency is confidential and exempt⁴² from public record requirements if the plan is for any property owned by or leased to the state or any of its political subdivisions or any privately owned or leased property.⁴³ An agency is authorized, but not required, to disclose such confidential and exempt plan:

- To the property owner or leaseholder;
- In furtherance of the official duties and responsibilities of the agency holding the information;
- To another local, state, or federal agency in furtherance of that agency's official duties and responsibilities; or
- Upon a showing of good cause before a court of competent jurisdiction.⁴⁴

Section 119.071(3)(a), F.S., also provides for retroactive application of the public record exemption.

Pursuant to s. 286.0113(1), F.S., any portion of a meeting that would reveal a security or firesafety system plan or portion thereof is exempt from public meeting requirements.⁴⁵

Other Information Related to Security or Firesafety Systems or Plans

Section 281.301(1), F.S., provides that information relating to security or firesafety systems, or revealing such systems or information, that is in the possession of an agency is confidential and exempt from public record requirements and any portion of a meeting relating directly to or that would reveal such systems or information is exempt from public meeting requirements, if the security or firesafety systems are for:

- Any property owned by or leased to the state or any of its political subdivisions; or
- Any privately owned or leased property.

The law specifies that the protected information includes all records, information, photographs, audio and visual presentations, schematic diagrams, surveys, recommendations, or consultations or portions thereof relating directly to or revealing such systems or information.⁴⁶

Any agency is authorized, but not required, to disclose the confidential and exempt information:

- To the property owner or leaseholder;
- In furtherance of the official duties and responsibilities of the agency holding the information;
- To another local, state, or federal agency in furtherance of that agency's official duties and responsibilities; or

⁴² There is a difference between records the Legislature designates exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. Sch. Bd. of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Rivera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released by the custodian of public records to anyone other than the persons or entities specifically designated in statute. See Op. Att'y Gen. Fla. 04- 09 (2004).

⁴³ Section 119.071(3)(a)2., F.S.

⁴⁴ Section 119.071(3)(a)3., F.S.

⁴⁵ Section 286.0113(1), F.S.

⁴⁶ *Id.*

- Upon a showing of good cause before a court of competent jurisdiction.⁴⁷

Public Record and Public Meeting Exemptions under Review

In 1987, the Legislature initially created⁴⁸ the public record and public meeting exemption found in s. 281.301(1), F.S., for security systems and records for any property owned by or leased to the state or any of its political subdivisions, and all meetings relating to or revealing such systems. In 1990, the Legislature amended⁴⁹ the exemptions, specifying that *information* relating to the security systems for any property owned by or leased to the state or any of its political subdivisions is protected.⁵⁰ The Legislature also exempted information related to the security systems for any privately owned or leased property held by an agency and specified that the protected information, in addition to records, includes information, photographs, audio and visual presentations, schematic diagrams, surveys, recommendations, or consultations.⁵¹ The Legislature further provided that the protected information was not only exempt from public record requirements, but confidential and exempt.⁵²

In 2001, the Legislature created⁵³ the public record exemption found in s. 119.071(3)(a), F.S., and the public meeting exemption found in s. 286.0113(1), F.S., for security system plans. The 2001 public necessity statement⁵⁴ for the public record and public meeting exemptions cite safety issues as the required public necessity for the exemptions.⁵⁵

In 2018, the Legislature amended⁵⁶ all three exemptions, creating public record and public meeting exemptions for firesafety system plans and information relating to firesafety systems that were identical to the exemptions under those statutes for security system plans and information relating to such plans. The Legislature also provided that portions of public meetings in which firesafety system plans and information relating to firesafety systems are discussed are exempt from public meeting requirements. The 2018 public necessity statement cites the connectivity and integrated nature of firesafety systems and security systems as necessitating the creation of the exemptions.⁵⁷

⁴⁷ Section 281.301(2), F.S.

⁴⁸ Chapter 87-355, L.O.F.

⁴⁹ Chapter 90-360, L.O.F.

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

⁵³ Chapter 2001-361, L.O.F.

⁵⁴ Article I, s. 24(c), FLA. CONST., requires each public record exemption to “state with specificity the public necessity justifying the exemption.”

⁵⁵ The 2001 public necessity statement provides, in part, “...security-system plans contain components that address safety issues for public and private property on which public business is conducted and address the security of private property on which a large segment of the public relies. The public relies on radio and television towers, telephone and cable lines, power plants and grids, oil and gas pipelines, and many types of privately owned infrastructure to provide necessary services. To coordinate the response of the public sector and the private sector in an emergency, such as an act of terrorism, public agencies must be able to review security-system plans for public and private property. If the information in security-system plans is available for inspection and copying, terrorists could use this information to hamper or disable emergency-response preparedness, thereby increasing injuries and fatalities.”

⁵⁶ Chapter 2018-146, L.O.F.

⁵⁷ The 2018 public necessity statement provides, in part, “[d]isclosure of sensitive information relating to firesafety systems could result in identification of vulnerabilities in such systems and allow a security breach that could damage firesafety

Pursuant to the OGSR Act, these exemptions will repeal on October 2, 2023, unless reenacted by the Legislature.

III. Effect of Proposed Changes:

Section 1 amends s. 119.071(3), F.S., to remove the scheduled repeal date of the public record exemption for security or firesafety system plans, thereby maintaining the public record exemption for such plans.

Section 2 amends s. 281.301, F.S., to remove the scheduled repeal date of the public record exemption and the public meetings exemption for security or firesafety systems, thereby maintaining the public record exemption for such systems and for any portion of a meeting that would reveal a security or firesafety system that is exempt from public records requirements.

Section 3 amends s. 286.0113, F.S., to remove the scheduled repeal date from public meeting requirements any portion of a meeting that would reveal a security or firesafety system plan that is exempt from public records requirements.

Section 4 provides that the bill is effective October 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

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 does not create or expand an exemption, thus, the bill does not require 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

systems and disrupt their safe and reliable operation, adversely impacting the public health and safety and economic well-being of the state. Because of the interconnected nature of firesafety and security systems, such a security breach may also impact security systems.”

justifying the exemption. This bill does not create or expand an exemption, thus, a statement of public necessity is not required.

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 exemption in the bill 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:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 119.071, 281.301, and 286.0113.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

FOR CONSIDERATION By the Committee on Banking and Insurance

597-02524B-23

20237040pb

A bill to be entitled

An act relating to a review under the Open Government Sunset Review Act; amending s. 119.071, F.S., which provides an exemption from public records requirements for security or firesafety system plans held by an agency; removing the scheduled repeal of the exemption; amending s. 281.301, F.S., which provides an exemption from public records and public meetings requirements for information relating to security or firesafety systems for certain properties and meetings relating to such systems and information; removing the scheduled repeal of the exemptions; amending s. 286.0113, F.S., which provides an exemption from public meetings requirements for portions of meetings that would reveal security or firesafety system plans held by an agency; removing the scheduled repeal of the exemption; providing an effective date.

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

Section 1. Paragraph (a) of subsection (3) of section 119.071, Florida Statutes, is amended to read:

119.071 General exemptions from inspection or copying of public records.—

(3) SECURITY AND FIRESAFETY.—

(a)1. As used in this paragraph, the term "security or firesafety system plan" includes all:

a. Records, information, photographs, audio and visual presentations, schematic diagrams, surveys, recommendations, or

Page 1 of 4

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

597-02524B-23

20237040pb

consultations or portions thereof relating directly to the physical security or firesafety of the facility or revealing security or firesafety systems;

b. Threat assessments conducted by any agency or any private entity;

c. Threat response plans;

d. Emergency evacuation plans;

e. Sheltering arrangements; or

f. Manuals for security or firesafety personnel, emergency equipment, or security or firesafety training.

2. A security or firesafety system plan or portion thereof for:

a. Any property owned by or leased to the state or any of its political subdivisions; or

b. Any privately owned or leased property

held by an agency is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption is remedial in nature, and it is the intent of the Legislature that this exemption apply to security or firesafety system plans held by an agency before, on, or after the effective date of this paragraph. ~~This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.~~

3. Information made confidential and exempt by this paragraph may be disclosed:

a. To the property owner or leaseholder;

b. In furtherance of the official duties and

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597-02524B-23

20237040pb

responsibilities of the agency holding the information;

c. To another local, state, or federal agency in furtherance of that agency's official duties and responsibilities; or

d. Upon a showing of good cause before a court of competent jurisdiction.

Section 2. Subsection (1) of section 281.301, Florida Statutes, is amended to read:

281.301 Security and firesafety systems; records and meetings exempt from public access or disclosure.—

(1) Information relating to the security or firesafety systems for any property owned by or leased to the state or any of its political subdivisions, and information relating to the security or firesafety systems for any privately owned or leased property which is in the possession of any agency as defined in s. 119.011(2), including all records, information, photographs, audio and visual presentations, schematic diagrams, surveys, recommendations, or consultations or portions thereof relating directly to or revealing such systems or information is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, and any portion of a meeting relating directly to or that would reveal such systems or information is exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution, and other laws and rules requiring public access or disclosure. ~~This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.~~

Section 3. Subsection (1) of section 286.0113, Florida

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Statutes, is amended to read:

286.0113 General exemptions from public meetings.—

(1) That portion of a meeting that would reveal a security or firesafety system plan or portion thereof made confidential and exempt by s. 119.071(3)(a) is exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution. ~~This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.~~

Section 4. This act shall take effect October 1, 2023.

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 Governmental Oversight and Accountability

BILL: SPB 7042

INTRODUCER: Banking and Insurance Committee

SUBJECT: OGSR/Citizens Property Insurance Corporation

DATE: March 24, 2023

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
Moody	Knudson	BI	BI Submitted as Comm.Bill/Fav
1. _____	_____	_____	_____
2. _____	_____	_____	_____

I. Summary:

SPB 7042 saves from repeal s. 627.352(1)(a), F.S., which makes confidential and exempt from disclosure records held by the Citizens Property Insurance Corporation (Citizens) which identify detection, investigation, or response practices for suspected or confirmed information technology security incidents if certain criteria are met.

The bill also saves from repeal the public records exemption in s. 627.352(1)(b), F.S., maintaining the exemptions in current law for any portions of a risk assessment, an evaluation, an audit, and any other reports of Citizens' information technology security program for its data, information, and information technology resources which are held by Citizens, if the disclosure meets certain criteria.

The bill makes technical amendments, including clarifying that "confidential and exempt" records and portions of public meeting records and transcripts are available to certain entities.

The public records exemption stands repealed on October 2, 2023, unless reviewed and reenacted by the Legislature under the Open Government Sunset Review Act. The bill removes the scheduled repeal of the exemption to continue the confidential and exempt status of the information under s. 627.352(1)(b), F.S.

This bill is not expected to impact state or local government revenues or expenditures.

The bill is effective October 1, 2023.

II. Present Situation:

The State Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ This applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person who acts on behalf of the government.²

Chapter 119, F.S., known as the Public Records Act, constitutes the main body of public records laws.³ The Public Records Act states that:

[i]t is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁴

The Public Records Act contains general exemptions that apply across agencies. Agency- or program-specific exemptions often are placed in the substantive statutes that relate to that particular agency or program.

The Public Records Act does not apply to legislative or judicial records.⁵ 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.

Section 119.011(12), F.S., defines “public records” to include:

[a]ll 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 which are used to “perpetuate, communicate, or formalize knowledge of some type.”⁶

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any state or local government public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

¹ FLA. CONST., art. I, s. 24(a).

² *Id.*

³ Public records laws are found throughout the Florida Statutes.

⁴ Section 119.01(1), F.S.

⁵ *Locke v. Hawkes*, 595 So. 2d 32, 34 (Fla. 1992); *see also*, *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995).

⁶ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁷ Section 119.07(1)(a), F.S.

⁸ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

Only the Legislature may create an exemption to public records requirements.⁹ An exemption must be created by general law and must specifically state the public necessity which justifies the exemption.¹⁰ Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill that enacts an exemption may not contain other substantive provisions¹¹ and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.¹²

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*.¹³ 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.¹⁴ Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.¹⁵

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act (the Act), prescribe a legislative review process for newly created or substantially amended public records or open meetings exemptions,¹⁶ with specified exceptions.¹⁷ The Act requires the repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption or repeal the sunset date.¹⁸ In practice, many exemptions are continued by repealing the sunset date, rather than reenacting the exemption.

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. An exemption serves an identifiable purpose if the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption and it meets one of the following purposes:

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;¹⁹

⁹ FLA. CONST., art. I, s. 24(c).

¹⁰ *Id.*

¹¹ The bill may, however, contain multiple exemptions that relate to one subject.

¹² FLA. CONST., art. I, s. 24(c).

¹³ *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).

¹⁴ *Id.*

¹⁵ *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

¹⁶ Section 119.15, F.S. Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings.

¹⁷ 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.

¹⁸ Section 119.15(3), F.S.

¹⁹ Section 119.15(6)(b)1., F.S.

- The release of sensitive personal information would be defamatory or would jeopardize an individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;²⁰ or
- It protects trade or business secrets.²¹

The Act also requires specified questions to be considered during the review process.²² In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

If, in reenacting an exemption or repealing the sunset date, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.²³ If the exemption is reenacted or saved from repeal without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.²⁴

Current State Agency Cybersecurity Information Exemptions

The State Cybersecurity Act provides for statutory exemptions of public records disclosure by state agencies related to information technology that are contained in s. 282.318(5) through (10), F.S. Similar statutory exemptions for utilities owned or operated by local governments are provided in s. 119.0713(5), F.S.

Portions of risk assessments, evaluations, external audits,²⁵ and other reports of a state agency's cybersecurity²⁶ program for the data, information, and information technology resources of the state agency²⁷ which are held by a state agency are confidential and exempt if the disclosure

²⁰ Section 119.15(6)(b)2., F.S.

²¹ Section 119.15(6)(b)3., F.S.

²² Section 119.15(6)(a), F.S. The specific 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?

²³ FLA. CONST. art. I, s. 24(c).

²⁴ Section 119.15(7), F.S.

²⁵ Section 282.318(5), F.S., defines "external audit" as an audit that is conducted by an entity other than the state agency that is the subject of the audit.

²⁶ Section 282.0041(8), F.S., defines "cybersecurity" as the protection afforded to an automated information system in order to attain the applicable objectives of preserving the confidentiality, integrity, and availability of data, information, and information technology resources.

²⁷ Section 282.0041(34), F.S., defines "state agency" as any official, officer, commission, board, authority, council, committee, or department of the executive branch of state government; the Justice Administrative Commission; and the Public Service Commission. The term does not include the Department of Legal Affairs, The Department of Agriculture and Consumer Services, and the Department of Financial Services. The term does not include university boards of trustees or state universities.

would facilitate unauthorized access to or the unauthorized modification, disclosure, or destruction of:

- Data²⁸ or information, whether physical or virtual; or
- Information technology (IT) resources,²⁹ which includes:
 - Information relating to the security of the agency's technologies, processes, and practices designed to protect networks, computers, data processing software, and data from attack, damage, or unauthorized access; or
- Security information, whether physical or virtual, which relates to the agency's existing or proposed IT³⁰ systems.^{31,32}

In addition, any portion of a public meeting that would reveal any of the above-described confidential and exempt records is exempt from public meeting requirements. Any portion of an exempt meeting must be recorded and transcribed. The recordings and transcripts are confidential and exempt from public record requirements unless a court of competent jurisdiction, following an in camera review, determines that the meeting was not restricted to the discussion of confidential and exempt data and information. If such a judicial determination occurs, only the portion of the recording or transcript that reveals nonexempt data may be disclosed.³³

The confidential and exempt cybersecurity information must be available to the Auditor General, the Cybercrime Office within the Florida Department of Law Enforcement (FDLE), the Florida Digital Service (FLDS),³⁴ and for agencies under the jurisdiction of the Governor, the Chief Inspector General. In addition, the records may be made available to a local government, another state agency, or a federal agency for cybersecurity purposes or in the furtherance of the state agency's official duties.³⁵

²⁸ Section 282.0041(9), F.S., defines "data" as a subset of structured information in a format that allows such information to be electronically retrieved and transmitted.

²⁹ Section 119.011(9), F.S., defines "information technology resources" as data processing hardware and software and services, communications, supplies, personnel, facility resources, maintenance, and training.

³⁰ Section 282.0041(20), F.S., defines "information technology" means equipment, hardware, software, firmware, programs, systems, networks, infrastructure, media, and related material used to automatically, electronically, and wirelessly collect, receive, access, transmit, display, store, record, retrieve, analyze, evaluate, process, classify, manipulate, manage, assimilate, control, communicate, exchange, convert, converge, interface, switch, or disseminate information of any kind or form.

³¹ Florida law provides a similar public record exemption for state university and Florida College System institutions. See s 1004.055, F.S.

³² Section 282.318(5), F.S.

³³ Section 282.318(6), F.S. Florida law provides a similar public meeting exemption for state university and Florida College system institutions, see s. 1004.055, F.S.

³⁴ Section 20.22(2)(b), F.S., provides that Florida Digital Service (FLDS) (formerly the Division of State Technology) is a subdivision of the Department of Management Services (DMS) and is charged with overseeing the state's information technology (IT) resources.

³⁵ Section 282.318(7), F.S.

Information related to the security of a utility³⁶ owned or operated by a unit of local government³⁷ that is designed to protect the utility's networks, computers, programs, and data from attack, damage or unauthorized access, is exempt from public record requirements to the extent disclosure of such information would facilitate the alteration, disclosure, or destruction of data or IT resources.³⁸

In addition, information related to the security of existing or proposed IT systems or industrial control technology systems of a utility owned or operated by a unit of local government is exempt from public record requirements to the extent disclosure would facilitate unauthorized access to, and the alternation or destruction of, such IT systems in a manner that would adversely impact the safe and reliable operations of the IT systems and the utility.³⁹

Exemptions Related to Agency Cybersecurity Information

In 2022, the Legislature adopted public records and public meetings exemptions for agency cybersecurity information under s. 119.0725, F.S.⁴⁰ The new section makes the following information held before, on, or after July 1, 2022 by an agency⁴¹ confidential and exempt from public disclosure requirements under ch. 119, F.S.,:

- Coverage limits and deductible or self-insurance amounts of insurance or other risk mitigation coverages acquired for the protection of IT systems, operational technology (OT) systems,⁴² or data of an agency.
- Information relating to critical infrastructure.⁴³
- Network schematics, hardware and software configurations, or encryption information or information that identifies detection, investigation, or response practices for suspected or confirmed cybersecurity incidents, including suspected or confirmed breaches,⁴⁴ if the disclosure of such information would facilitate unauthorized access to or unauthorized modification, disclosure, or destruction of:
 - Data or information, whether physical or virtual; or
 - IT resources, which include an agency's existing or proposed IT systems.

³⁶ Section 119.011(15), F.S., defines "utility" as a person or entity that provides electricity, natural gas, telecommunications, water, chilled water, reuse water, or wastewater.

³⁷ Section 119.0713(2)(a), F.S., defines "unit of local government" as a county, municipality, special district, local agency, authority, consolidated city-county government, or any other local governmental body or public body corporate or politic authorized or created by general or special law.

³⁸ Section 119.0713 (5)(a)1., F.S.

³⁹ Section 119.0713(5)(a)2., F.S.

⁴⁰ Ch. 2022-221, L.O.F.

⁴¹ 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.

⁴² Section 119.0725(1)(g), F.S., defines "operational technology" as the hardware and software that cause or detect a change through the direct monitoring or control of physical devices, systems, processes, or events.

⁴³ Section 119.0725(1)(b), F.S., defines "critical infrastructure" as existing and proposed information technology and operational technology systems and assets, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health, or public safety.

⁴⁴ Section 119.0725(1)(a), F.S., defines "breach" as unauthorized access of data in electronic form containing personal information. Good faith access of personal information by an employee or agent of an agency does not constitute a breach, provided that the information is not used for a purpose unrelated to the business or subject to further unauthorized use.

- Cybersecurity incident information reported pursuant to Sections 282.318 or 282.3185, F.S.

Any portion of a meeting that would reveal information made confidential and exempt under s. 119.0725(2), F.S., is exempt from public meeting disclosure requirements; however, any portion of an exempt meeting must be recorded and transcribed. The recording and transcript are confidential and exempt from public record requirements.⁴⁵

Such confidential and exempt information may to be made available to:

- A law enforcement agency.
- The Auditor General.
- The Cybercrime Office within FDLE.
- The Florida Digital Service.
- For agencies under the jurisdiction of the Governor, the Chief Inspector General.⁴⁶

Further, confidential and exempt information is authorized to be released:

- In the furtherance of the custodial agency's duties and responsibilities; or
- To another governmental entity in the furtherance of its statutory duties and responsibilities.⁴⁷

Agencies are authorized to report information about cybersecurity incidents in an aggregate format.⁴⁸

Section 119.0725, F.S., provides for repeal of the exemptions on October 2, 2027, unless reviewed and saved from repeal through reenactment of the Legislature.

Citizens Property Insurance Corporation

Citizens is a state-created, not-for-profit, tax-exempt governmental entity whose mission is to provide property insurance coverage to those unable to find affordable coverage in the private market.⁴⁹ It is not a private insurance company.⁵⁰

Records and meetings held by Citizens regarding information security incidents, such as investigations into security breaches, security technologies, processes and practices as well as security risk assessments are subject to Florida open records and meetings laws. Public disclosure of this information presents a significant security risk and would reveal weaknesses within Citizens' computer networks, raising the potential for exploitation.

Because Citizens is not created within the executive branch, it is not covered by the definition of "state agency"⁵¹ contained in the State Cybersecurity Act. Accordingly, Citizens is not subject to

⁴⁵ Section 119.0725(3), F.S.

⁴⁶ Section 119.0725(5)(a), F.S.

⁴⁷ Section 119.0725(5)(b), F.S.

⁴⁸ Section 119.0725(6), F.S.

⁴⁹ See Citizens Property Insurance Corporation, Who We Are, available at <https://www.citizensfla.com/who-we-are> (last viewed on March 6, 2023). See also s. 627.351(6)(a), F.S.

⁵⁰ Section 627.351(6)(a)1., F.S.

⁵¹ See *supra* note 27.

the exemptions from open meetings and public records laws for data and information technology systems owned, contracted, or maintained by specified state agencies. Therefore, Citizens is vulnerable to the disclosure of such information and records which, if disclosed, could potentially compromise the confidentiality, integrity, and availability of its information technology system. Such system contains highly sensitive policyholder, insurer, claims, financial, accounting and banking, personnel, and other records.⁵²

Citizens does fall within the definition of “agency” under s. 119.011(2), F.S., and, therefore, cybersecurity information that is subject to the public records and public meetings exemptions under s. 119.0725, F.S., apply to Citizens.

Security of Data and Information Technology in Citizens Property Insurance Corporation

Section 627.352, F.S., provides for a public record and public meeting exemptions to protect data and records pertaining to the security of the Citizens information networks from disclosure. Records held by Citizens that identify detection, investigation, or response practices for suspected or confirmed IT security incidents, including suspected or confirmed breaches, are confidential and exempt from public record requirements. In addition, portions of risk assessments, evaluations, audits, and other reports of Citizens’ IT security program for its data, information, and IT resources that are held by Citizens are confidential and exempt. Such records, and portions thereof, are only confidential and exempt if disclosure would facilitate unauthorized access to or unauthorized modification, disclosure, or destruction of:

- Physical or virtual data or information; or
- IT resources, including:
 - Information relating to the security of Citizens’ technologies, processes, and practices designed to protect networks, computers, data processing software, and data from attack, damage, or unauthorized access; or
 - Physical or virtual security information that relates to Citizens’ existing or proposed IT systems.

Section 627.352, F.S., also provides for a public meeting exemption for meetings and portions thereof that would reveal the above-described IT security information. Recordings or transcripts of such closed portions of meetings must be taken. Recordings or transcripts are confidential and exempt from public record requirements, unless a court, following an in-camera review, determines that the meeting was not restricted to the discussion of confidential and exempt data and information. In the event of such a judicial determination, only that portion of a transcript that reveals nonexempt data and information may be disclosed to a third party.

Confidential and exempt records related to the public meeting exemption are available to the Auditor General, the Cybercrime Office of Department of Law Enforcement, and the Office of Insurance Regulation. Such records and portions of meetings, recordings, and transcripts may

⁵² Section 627.351(6)(x), F.S., requires Citizens to hold the following records as confidential and exempt from disclosure under Florida’s public record laws: underwriting files, claim files, certain audit files, attorney-client privileged material, certain proprietary information licensed to Citizens, employee assistance program information, information relating to the medical condition or medical status of a Citizens employee, certain information relating to contract negotiations, and certain records related to closed meetings.

also be available to a state or federal agency for security purposes or in furtherance of the agency's official duties.⁵³

The public record exemptions apply to records or portions of public meetings, recordings, and transcripts held by Citizens. The public records exemption applies retroactively.

This section is subject to the OGSR in accordance with s. 119.15, F.S., and stands repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

III. Effect of Proposed Changes:

Section 1 saves from repeal s. 627.352(1)(a), F.S., which makes confidential and exempt from disclosure records held by the Citizens which identify detection, investigation, or response practices for suspected or confirmed information technology security incidents, including suspected or confirmed breaches, if the disclosure would facilitate unauthorized access to or unauthorized modification, disclosure, or destruction of:

- Data or information, whether physical or virtual; or
- Information technology resources, including:
 - Information relating to the security of the corporation's technologies, processes, and practices designed to protect networks, computers, data processing software, and data from attack, damage, or unauthorized access; or
 - Security information, whether physical or virtual, which relates to the corporation's existing or proposed information technology systems.

Despite the similarity between s. 119.075, F.S., and s. 627.352(1)(a), F.S., the later provision is being saved from repeal because it: (a) applies to "records," rather than "information," which may be construed to be broader than the general exemption under s. 119.075, F.S., and (b) explicitly protects security information held by third parties under contract with Citizens whereas the general exemption is unclear on this point. Further, the exemptions under s. 627.352(1), F.S., were modeled after the exemptions in s. 1004.055, F.S., with the intent that interpretations applying to one provision (e.g. s. 627.352(1)(a), F.S.) would apply to the other provision (e.g. s. 627.352(1)(b), F.S.). If s. 627.352(1)(a), F.S., were to be repealed and the general exemption were to be relied upon then there would be two different categories of exemptions with similar but different rules for each category.

The bill saves from repeal the public records exemption in s. 627.352(1)(b), F.S., maintaining the exemptions in current law for any portions of a risk assessment, an evaluation, an audit, and any other reports of Citizens' information technology security program for its data, information, and information technology resources which are held by Citizens, if the disclosure would facilitate unauthorized access to or the unauthorized modification, disclosure, or destruction of:

- Data or information, whether physical or virtual; or
- Information technology resources, including:
 - Information relating to the security of the corporation's technologies, processes, and practices designed to protect networks, computers, data processing software, and data from attack, damage, or unauthorized access; or

⁵³ Section 627.352(3), F.S.

- Security information, whether physical or virtual, which relates to the corporation's existing or proposed information technology systems.

Notwithstanding the similar protections provided in s. 282.318(5), F.S., this paragraph is not covered under that section because Citizens does not fall within the definition of "agency" under s. 282.0041(34), F.S.

The bill makes technical amendments, including clarifying that "confidential and exempt" records and portions of public meeting records and transcripts are available to certain entities.⁵⁴

The public records exemption stands repealed on October 2, 2023, unless reviewed and reenacted by the Legislature under the Open Government Sunset Review Act. The bill removes the scheduled repeal of the exemption to continue the confidential and exempt status of the information under s. 627.352(1)(b), F.S.

Section 2 provides an effective date of October 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

Voting Requirements

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 does not create or expand an exemption, thus, the bill does not require 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. This bill does not create or expand an exemption, thus, a statement of public necessity is not required.

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.

⁵⁴ Section 627.352(4), F.S.

The exemption in the bill 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:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 627.352 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

FOR CONSIDERATION By the Committee on Banking and Insurance

597-02523-23

20237042pb

A bill to be entitled

An act relating to a review under the Open Government Sunset Review Act; amending s. 627.352, F.S., which provides an exemption from public records requirements for certain data and information from technology systems owned by, under contract with, or maintained by Citizens Property Insurance Corporation and an exemption from public meetings requirements for portions of meetings which would reveal such data and information; removing the scheduled repeal of the exemptions; providing an effective date.

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

Section 1. Section 627.352, Florida Statutes, is amended to read:

627.352 Security of data and information technology in Citizens Property Insurance Corporation.—

(1) The following data and information from technology systems owned by, under contract with, or maintained by Citizens Property Insurance Corporation are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

(a) Records held by the corporation which identify detection, investigation, or response practices for suspected or confirmed information technology security incidents, including suspected or confirmed breaches, if the disclosure of such records would facilitate unauthorized access to or unauthorized modification, disclosure, or destruction of:

1. Data or information, whether physical or virtual; or

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2. Information technology resources, including:

a. Information relating to the security of the corporation's technologies, processes, and practices designed to protect networks, computers, data processing software, and data from attack, damage, or unauthorized access; or

b. Security information, whether physical or virtual, which relates to the corporation's existing or proposed information technology systems.

(b) Those portions of risk assessments, evaluations, audits, and other reports of the corporation's information technology security program for its data, information, and information technology resources which are held by the corporation, if the disclosure of such records would facilitate unauthorized access to or the unauthorized modification, disclosure, or destruction of:

1. Data or information, whether physical or virtual; or

2. Information technology resources, which include:

a. Information relating to the security of the corporation's technologies, processes, and practices designed to protect networks, computers, data processing software, and data from attack, damage, or unauthorized access; or

b. Security information, whether physical or virtual, which relates to the corporation's existing or proposed information technology systems.

(2) Those portions of a public meeting as specified in s. 286.011 which would reveal data and information described in subsection (1) are exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution. No exempt portion of an exempt meeting may be off the record. All exempt portions of such a

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meeting must be recorded and transcribed. The recording and transcript of the meeting must remain confidential and exempt from disclosure under s. 119.07(1) and s. 24(a), Art. I of the State Constitution unless a court of competent jurisdiction, following an in camera review, determines that the meeting was not restricted to the discussion of data and information made confidential and exempt by this section. In the event of such a judicial determination, only that portion of the transcript which reveals nonexempt data and information may be disclosed to a third party.

(3) The records and portions of public meeting recordings and transcripts described in subsection (2) must be available to the Auditor General, the Cybercrime Office of the Department of Law Enforcement, and the Office of Insurance Regulation. Such records and portions of meetings, recordings, and transcripts may be made available to a state or federal agency for security purposes or in furtherance of the agency's official duties.

(4) The exemptions provided by this section apply to records held by the corporation before, on, or after the effective date of this act.

~~(5) This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.~~

Section 2. This act shall take effect October 1, 2023.

The Florida Senate

APPEARANCE RECORD

3/22/23

Meeting Date

SB 7042

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

Christine Ashburn

Phone

850 513 3757

Address

2101 Maryland Circle

Email

christine.ashburn@citizensfla.com

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:

Citizens Property Insurance Corporation

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

Tallahassee, Florida 32399-1100

SENATOR BLAISE INGOGLIA

11th District

COMMITTEES:

Finance and Tax, *Chair*
Appropriations
Appropriations Committee on Criminal
and Civil Justice
Banking and Insurance
Children, Families, and Elder Affairs
Criminal Justice
Ethics and Elections

SELECT COMMITTEE:

Select Committee on Resiliency

JOINT COMMITTEE:

Joint Administrative Procedures Committee, *Alternating Chair*

March 22nd, 2023

The Honorable Jim Boyd, Chairman
Suite 418, Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Chairman Boyd,

I respectfully asked to be excused from the Committee Banking and Insurance that will be held on Wednesday, March 22nd at 11:00 am. I have a bill presentation during the time of committee.

Thank you for your consideration of this request.

Sincerely,

A handwritten signature in blue ink, appearing to read "Blaise Ingoglia".

Blaise Ingoglia
State Senator, District 11

*CC'd: James Knudson, Staff Director
Lisa Johnson, Deputy Staff Director
Amaura Canty, Administrative Assistant*

CourtSmart Tag Report

Room: KB 412
Caption: Senate Banking and Insurance Committee

Case No.: -

Type:
Judge:

Started: 3/22/2023 11:02:30 AM

Ends: 3/22/2023 12:14:29 PM

Length: 01:12:00

11:02:29 AM Chair Boyd calls meeting to order
11:02:40 AM Amaura will call roll
11:03:02 AM a quorum is present
11:03:41 AM tab 3 - SB 516
11:03:51 AM Sen. DiCeglie explains bill
11:04:46 AM Sen. Thompson recognized for question
11:05:04 AM DiCeglie responds - they go back & forth
11:06:43 AM amendment 509382 taken up
11:07:37 AM BG Murphy, representing Fla. Assn. of Insurance Agents, waives in support of amendment
11:07:58 AM DiCeglie waives close on amendment
11:08:02 AM amendment adopted
11:08:06 AM back on bill as amended - Robert Reyes with Amer. Contractors Ins. Group, waives in support
11:08:34 AM DiCeglie waives close on bill
11:08:57 AM CS/SB 516 reported favorably
11:09:10 AM tab 6 - SB 1158
11:09:22 AM Sen. DiCeglie explains bill
11:10:07 AM amendment 176642 is a Strike All
11:10:23 AM amendment explained
11:10:53 AM no questions, no debate on amendment
11:11:03 AM amendment adopted
11:11:07 AM on bill as amended
11:11:11 AM Heather Bemier waives in support
11:11:25 AM Austin Stowers waives in support for CFO Patronis
11:11:46 AM DiCeglie waives close - CS/SB 1158 reported favorably
11:12:20 AM tab 7 - SB 1398
11:12:27 AM Sen. DiCeglie explains
11:13:24 AM no questions on bill
11:13:28 AM amendment 533280 explained by sponsor
11:14:04 AM no questions
11:14:07 AM Sarah Suskey with Fla. Carpenters Reg'l Council, waives in support
11:14:28 AM amendment adopted
11:14:47 AM back on bill as amended - no questions
11:14:57 AM Sam Ammendolea speaks against bill
11:15:41 AM Dave Hall speaks against
11:19:11 AM Eric DeCampos w/ Nat'l Ins. Crime Bureau waives in support
11:20:12 AM Edwin Leal speaks against
11:23:29 AM Mark Goldwich speaks against
11:26:39 AM Tim Reynolds speaks against
11:29:36 AM Matthew Mink speaks against
11:31:23 AM Juli Mohan speaks against
11:33:53 AM Miss Jackie Hale speaks against
11:36:06 AM Curtis Leonard w/ Am. Council of Life Insurers waives in support
11:36:14 AM Austin Stowers waives in support
11:36:21 AM Mike Cantens w/ Rocket Mortgage waives in support
11:36:48 AM Tasha Carter, representing Office of Ins. Consumer Advocate, DFS, waives in support
11:36:55 AM Sen. Torres in debate
11:38:02 AM Sen. DiCeglie is recognized to close on bill as amended
11:38:59 AM roll call - CS/SB 1398 reported favorably
11:39:44 AM tab 2 - SB 410
11:39:52 AM Sen. Hutson is standing in for Sen. Garcia
11:40:31 AM Sen. Powell recognized for question
11:40:42 AM Sen. Hutson responds

11:41:18 AM Sen. Hutson waives close
11:41:24 AM roll call - SB 410 reported favorably
11:42:04 AM Sen. Boyd passes chair to Sen. Hutson
11:42:13 AM Sen. Boyd explains SB 356 - tab 1
11:43:52 AM amendment 180704 taken up
11:44:04 AM Sen. Boyd explains amendment
11:44:25 AM Joe Anne Hart w/ the Fla. Dental Assn. waives in support of amendment
11:44:43 AM no questions
11:44:50 AM Ray Colas representing Smile Direct Club speaks against
11:47:39 AM question from Sen. Powell to Mr. Colas
11:48:52 AM response from speaker
11:48:57 AM Sen. Powell follows up
11:49:18 AM response from Mr. Colas
11:49:52 AM back & forth
11:52:09 AM Sen. Thompson & Mr. Colas go back & forth
11:52:34 AM Sen. Broxson for a series of questions
11:53:28 AM Joe Anne Hart waives in support
11:53:45 AM Anita Berry representing Amer. Assn. of Orthodontists speaks for the bill
11:56:47 AM Dr. Brion Long speaks in support
12:01:03 PM no debate - Sen. Boyd recognized to close on bill
12:02:21 PM roll call - CS/SB 356 reported favorably
12:03:09 PM tab 8 - SBP 7040
12:03:16 PM Sen. Boyd explains bill
12:03:49 PM Sen. Boyd waives close
12:03:55 PM roll call - SPB 7040 reported favorably as a committee bill
12:04:21 PM tab 9 - SPB 7042
12:04:29 PM Sen. Boyd explains bill
12:05:00 PM Christine Ashburn w/ Citizens Property Ins. Corp. waives in support
12:05:11 PM roll call - SPB 7042 reported favorably as a committee bill
12:05:39 PM tab 4 - SB 628
12:05:54 PM Sen. Grall explains bill
12:07:06 PM amendment 806972 taken up & explained
12:07:45 PM without objection, amendment is approved
12:07:55 PM Sen. Powell recognized for a series of questions
12:09:13 PM Ron Book, representing Financial Counseling Assn. of Amer., waives in support
12:09:28 PM Sen. Grall waives close
12:09:33 PM roll call - CS/SB 628 reported favorably
12:10:02 PM tab 5 - SB 670
12:10:08 PM Sen. Yarborough explains amendment 187688, a Strike All
12:11:23 PM Sen. Thompson recognized for a series of questions
12:12:45 PM Curtis Leonard w/ ACLI waives in support
12:12:52 PM Nancy Lawther, Ph.D., w/ Fla. PTA waives in support
12:13:06 PM sponsor waives close
12:13:11 PM roll call - CS/SB 670 reported favorably
12:13:46 PM Sen. Burton - affirmative on SBs 356, 628, 7040, 7042
12:14:06 PM Sen. Burgess - tabs 1, 2 & 7 in the affirmative
12:14:15 PM Sen. Mayfield moves to adjourn