Tab 1	**SB 132** by **Rodriguez (CO-INTRODUCERS) Gruters, Burgess;** Compare to H 00999 Legal Tender					
605920	D	S	L	BI, Rodriguez	Delete everything after	03/28 05:47 PM

Tab 2	**CS/SB 232** by **CM, Rodriguez;** Similar to CS/H 00147 Debt Collection					
403842	D	S		BI, Rodriguez	Delete everything after	03/24 08:25 AM
624624	D	S		BI, Rodriguez	Delete everything after	03/28 01:12 PM

Tab 3	**CS/SB 498** by **JU, Grall;** Similar to H 00173 Trust Fund Interest for Purposes Approved by the Supreme Court					
496408	A	S		BI, Grall	Delete L.75 - 109:	03/28 12:00 PM

Tab 4	**CS/SB 924** by **GO, Calatayud (CO-INTRODUCERS) Sharief;** Similar to H 00677 Coverage for Fertility Preservation Services					
163044	A	S		BI, Calatayud	Delete L.24 - 59:	03/28 12:01 PM
354152	AA	S		BI, Calatayud	Delete L.27:	03/31 10:36 AM
478762	A	S	L	BI, Calatayud	Delete L.22:	03/31 12:09 PM

Tab 5	**SB 1206** by **DiCeglie;** Similar to H 00315 Transportation Network Company Driver Insurance					
401138	D	S		BI, DiCeglie	Delete everything after	03/28 12:02 PM

Tab 6	**SB 1428** by **DiCeglie;** Similar to H 00881 Consumer Protection in Insurance Matters

Tab 7	**SB 1466** by **DiCeglie;** Identical to H 00851 My Safe Florida Home Trust Fund/Department of Financial Services					
431514	A	S		BI, DiCeglie	Delete L.32 - 36:	03/28 12:02 PM

The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

BANKING AND INSURANCE
Senator Ingoglia, Chair
Senator Sharief, Vice Chair

MEETING DATE: Monday, March 31, 2025
TIME: 1:30—3:30 p.m.
PLACE: *Pat Thomas Committee Room,* 412 Knott Building

MEMBERS: Senator Ingoglia, Chair; Senator Sharief, Vice Chair; Senators Boyd, Burton, Hooper, Martin, Osgood, Passidomo, Pizzo, and Truenow

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	**SB 132** Rodriguez (Compare H 999)	Legal Tender; Specifying that specie legal tender and electronic currency are legal tender; specifying that certain transactions of specie do not give rise to tax liability; prohibiting persons from compelling others to tender or accept specie as legal tender; authorizing governmental entities to recognize specie legal tender for certain payments, etc. BI 03/31/2025 FT AP	
2	**CS/SB 232** Commerce and Tourism / Rodriguez (Similar CS/H 147)	Debt Collection; Revising prohibited practices for a person attempting to collect consumer debt, etc. CM 02/11/2025 Temporarily Postponed CM 03/03/2025 Fav/CS BI 03/25/2025 Temporarily Postponed BI 03/31/2025 RC	
3	**CS/SB 498** Judiciary / Grall (Similar H 173)	Trust Fund Interest for Purposes Approved by the Supreme Court; Authorizing financial institutions to hold funds in specified trust accounts to be used for specified purposes; requiring a financial institution to submit a rate validation sheet and affidavit to the Chief Financial Officer within a specified timeframe attesting it will pay a certain interest rate; requiring the Chief Financial Officer to determine, at specified intervals, the interest rate of a specified interest rate alternative, etc. JU 03/12/2025 Fav/CS BI 03/31/2025 RC	

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	**CS/SB 924** Governmental Oversight and Accountability / Calatayud (Similar H 677)	Coverage for Fertility Preservation Services; Requiring the Department of Management Services to provide coverage of certain fertility preservation services for state group health insurance plan policies issued on or after a specified date; prohibiting a state group health insurance plan from requiring preauthorization for certain covered services, etc. GO 03/11/2025 Fav/CS BI 03/31/2025 AP	
5	**SB 1206** DiCeglie (Similar H 315)	Transportation Network Company Driver Insurance; Revising automobile insurance requirements for transportation network company drivers, etc. BI 03/31/2025 TR RC	
6	**SB 1428** DiCeglie (Similar H 881)	Consumer Protection in Insurance Matters; Requiring public adjusters, public adjuster apprentices, and public adjusting firms to provide a specified response within a specified timeframe after receiving a request for claim status from a claimant, an insured, or a designated representative; requiring that universal life insurance policies include a provision requiring a certain annual report; requiring certain automobile insurers, under certain circumstances, to provide a specified statement in a certain manner; requiring insurers to pay or deny certain claims within a specified timeframe, etc. BI 03/31/2025 AEG RC	
7	**SB 1466** DiCeglie (Identical H 851, Compare H 853, S 1468)	My Safe Florida Home Trust Fund/Department of Financial Services; Creating the My Safe Florida Home Trust Fund within the Department of Financial Services; requiring that a certain percentage of specified sales tax be distributed into the fund; providing for future review and termination or re-creation of the trust fund, etc. BI 03/31/2025 FT AP	
	Other Related Meeting Documents		

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	SB 132
INTRODUCER:	Senator Rodriguez and others
SUBJECT:	Legal Tender
DATE:	March 28, 2025
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Moody	Knudson	BI	**Pre-meeting**
2.			FT	
3.			AP	

I. Summary:

SB 132 recognizes gold and silver coins and bullion ("specie") as legal tender in Florida. The bill exempts specie from personal property taxation and state tax liability while allowing, but not requiring, government entities to accept it for payments of private debts, taxes, and fees. Additionally, the bill provides that a person may not compel another person to tender specie as legal tender except as specifically provided in certain laws or by contract. Finally, the bill requires the Chief Financial Officer to adopt rules regarding the acceptance of specie legal tender as payment for any public debt, tax, fee, or obligation owed.

The OFR reports there is no fiscal impact on the state government.

The bill is effective July 1, 2025.

II. Present Situation:

Legal Tender and Specie under Federal and State Law

Article I, Section 8, Clause 5 of the U.S. Constitution grants Congress the exclusive power to coin money and regulate its value.[1] Under 31 U.S.C. § 5103, only United States coins and currency (including Federal Reserve notes) are recognized as legal tender for the payment of debts, public charges, taxes, and dues. Foreign gold or silver coins are not legal tender for debts under federal law.[2] Federal law also provides:

> "Whoever, except as authorized by law, makes or utters or passes, or attempts to utter or pass, any coins of gold or silver or other metal, or alloys of metals, intended for use as current money, whether in the resemblance of coins of the United States or of foreign

[1] U.S. Const. art. 1. s. 8. Cl. 5.
[2] 31 U.S.C. s. 5103

countries, or of original design, shall be fined under [Title 18] or imprisoned not more than five years, or both."[3]

While prohibited from coining money, under Article I, Section 10, Clause 1 of the U.S. Constitution, states are expressly authorized to "make gold and silver coin a tender in payment of debts."[4] This provision authorizes states to recognize gold and silver coin as legal tender for the payment of debts but prohibits states from creating or issuing their own currencies or recognizing other forms of money as tender.[5] The U.S. Supreme Court held that debts are an obligation to pay money under contract, including judgments and recognizances, but does not include taxes which are "…impost levied by authority of government on its citizens…and it is not founded on contract or agreement."[6] However, the Court also held that a state legislature has the authority to "…require the collection of taxes in kind, that is to say, by the delivery to the proper officers of a certain proportion of products, or in gold and silver bullion, or in gold and silver coin…"[7]

Tax Treatment of Specie and Bullion

Federal Taxation

At the federal level, gold and silver coins and bullion are classified as "collectibles" under 26 U.S.C. § 408(m), and gains from their sale are subject to a maximum long-term capital gains tax rate of 28 percent.[8] The Internal Revenue Code defines "collectible" to include "any metal or gem" and "any coin" not specifically exempted.[9] U.S.-minted gold and silver coins are explicitly exempt from being classified as "collectibles."[10]

Florida Taxation

Florida provides a limited sales tax exemption for sales of U.S. coins and currency and for foreign currency transactions exceeding $500.[11] Additionally, Florida provides a limited sales tax exemption on the sale of gold, silver, or platinum bullion, or any combination thereof, in a single transaction, is exempt when the total sales price of such bullion exceeds $500.[12] Depending on the form of the bullion and the nature of the transaction, sales of bullion may be subject to state sales tax as tangible personal property.[13] Florida does not impose an individual income tax, including capital gains tax.[14] In addition, Florida law does not explicitly address whether precious metals should be classified as tangible personal property subject to ad valorem taxation,

[3] 18 U.S.C. s. 486.
[4] U.S. Const. art. 1. s. 10. Cl. 1.
[5] *Id*.
[6] *Lane County v. Oregon*, 74 U.S. 71, 72 (1868); *Hager v. Reclamation Dist. No. 108*, 111 U.S. 701, 706-707 (1884).
[7] *Lane County v. Oregon*, 74 U.S. at 77.
[8] Internal Revenue Service, *Topic no. 49, Capital gains and losses*, January 2, 2025, available at Topic no. 409, Capital gains and losses | Internal Revenue Service (last visited March 24, 2025).
[9] 26 U.S.C. § 408(m)(2)(A)–(D).
[10] 26 U.S.C. § 408(m)(3)(A).
[11] Section 212.05(1)(j), F.S.
[12] Section 212.08(7)(ww), F.S.
[13] Section 212.05(1)(a)1.a., F.S.
[14] Art. VII, s. 5(a), Fla. Const.; Florida Department of Revenue, *Does Florida Have a Capital Gains Tax?*, available at https://floridarevenue.com/faq/Pages/FAQDetails.aspx?FAQID=1307&IsDlg=1 (last visited March 24, 2025).

although the statutory definition of tangible personal property includes "all goods, chattels, and other articles of value... capable of manual possession."[15]

Other States' Treatment of Specie and Bullion

Several states have adopted laws to recognize gold and silver as legal tender or to remove various tax barriers to facilitate their use in commerce. These laws vary in scope and effect, ranging from simple tax exemptions to the establishment of state-run bullion depositories.

- Arkansas law defines specie, in part, as "coin having gold or silver content" and provides that specie and legal tender consists of specie coin issued by the United States Government or other specie that an Arkansas court rules to be within the state's authority to make legal tender but does not explicitly provide that gold and silver coin are legal tender.[16]
- Arizona has removed state capital gains taxes on sales of precious metals. Like Wyoming, Arizona's approach focuses on tax treatment rather than establishing state-operated depositories or payment systems.[17] For purposes of reducing gross income with any net loss from the exchange of legal tender, Arizona has defined legal tender to include specie which means coins having precious metal content.[18]
- Idaho recently passed legislation that provides gold and silver coin and specie minted domestically are legal tender.[19]
- Louisiana recently declared gold or silver coin, specie, or bullion issued by any state or the United States government as legal tender.[20]
- Oklahoma law provides that gold and silver coin issued by the United State government are legal tender.[21]
- Texas has established a state-operated bullion depository, known as the Texas Bullion Depository, to securely store precious metals for individuals, businesses, and governmental entities. The depository provides secure storage and the ability for account holders to deposit and withdraw physical bullion. Although Texas law enables secure in-state storage of precious metals, it does not authorize gold and silver as official legal tender for payment of state taxes or other obligations.[22]
- Utah was the first state to recognize U.S.-minted gold and silver coins as legal tender through its Legal Tender Act of 2011. Utah law also provides a tax exemption for capital gains derived from the sale or exchange of gold and silver coins that are recognized as legal tender. In addition, Utah permits private firms to operate accounts backed by physical precious

[15] Section 192.001(11)(d), F.S.
[16] AR Code s. 4-56-106.
[17] Ariz. Rev. Stat. § 43-1021. *See also Bullion Feasibility Study: An Exploratory Review of Key Policy Considerations for Implementing Gold and Silver Bullion as Legal Tender in the State of Florida*, prepared for the Florida Department of Financial Services by Guidehouse Inc., p. 102. February 28, 2025.
[18] AZ Rev. Stat. s. 43.1021.
[19] Idaho HB 177 (2025).
[20] LA Rev. Stat. s. 6:341.
[21] 62 OK Stat. s. 4500.
[22] Tex. Gov't Code § 2116; S.B. 483 (2015). *See also Bullion Feasibility Study: An Exploratory Review of Key Policy Considerations for Implementing Gold and Silver Bullion as Legal Tender in the State of Florida*, prepared for the Florida Department of Financial Services by Guidehouse Inc., p. 116. February 28, 2025.

metals, which allows individuals to conduct transactions denominated in gold and silver.[23] Utah recently legislation that authorizes the state treasurer to issue a competitive procurement for a precious metals-backed electronic payment platform that would allow state vendors to elect to be paid in gold and silver.[24]

- Wyoming enacted legislation in 2018 declaring gold and silver legal tender and exempting the sale of these metals from state sales and use taxes. Wyoming law also prohibits the treatment of specie as taxable tangible personal property, effectively removing several barriers to the private holding and use of gold and silver for commerce.[25]

Other states, such as Kansas and Indiana, have adopted various forms of tax exemptions related to the sale or exchange of gold and silver bullion, though these laws do not necessarily recognize precious metals as legal tender or create infrastructure to support their use as a medium of exchange.[26]

While these states have taken steps to encourage the use of gold and silver by removing tax barriers and recognizing their status as lawful money in specific contexts, no state currently operates a fully integrated, government-supported electronic payment system backed by physical precious metals that is recognized for payment of all state taxes, fees, or other obligations. Most existing laws focus on facilitating private holding and exchange of gold and silver, and on removing disincentives such as sales and capital gains taxes, rather than creating comprehensive alternative currency systems.[27]

Chief Financial Officer

Florida law provides that the Chief Financial Officer (CFO) must serve as the state's chief fiscal officer and, amongst other things, is responsible for keeping all state funds.[28] The CFO is tasked with examining, auditing, adjusting, and settling all accounts of any person who may receive moneys of, or owes money to, the state.[29] Florida Statutes grant the CFO several powers to carry out these duties, such as the discretion on how to invest state funds within certain limitations,[30] authority to determine the frequency of certain state employee salary payments,[31] and requirement to report disbursements made.[32]

[23] Utah Code §§ 59-1-1501 et seq.; H.B. 317 (2011). *See also Bullion Feasibility Study: An Exploratory Review of Key Policy Considerations for Implementing Gold and Silver Bullion as Legal Tender in the State of Florida*, prepared for the Florida Department of Financial Services by Guidehouse Inc., p. 122. February 28, 2025.
[24] Utah HB 306 (2025).
[25] Wyo. Stat. §§ 34-29-101 to 34-29-103; SF111 (2018). *See also Bullion Feasibility Study: An Exploratory Review of Key Policy Considerations for Implementing Gold and Silver Bullion as Legal Tender in the State of Florida*, prepared for the Florida Department of Financial Services by Guidehouse Inc., p. 128. February 28, 2025.
[26] *Id*.
[27] *Id*. at 14, 20, 22-23.
[28] Fla. Const. art. IV s. 4(c); Section 17.001, F.S.
[29] Section 17.04, F.S.
[30] *See* s. 17.57, F.S.; s. 17.61, F.S.
[31] Section 17.28, F.S.
[32] Section 17.11, F.S.

III. Effect of Proposed Changes:

Section 1 of the bill declares specie and electronic currency legal tender in this state. The bill provides specie or specie legal tender may not be characterized as personal property for taxation or regulatory purposes. The bill also provides tax liability does not arise from:

- The purchase or sale of any type or form of specie; and
- The exchange of one type of form of legal tender for another type or form of legal tender.

The bill provides that a person may not compel another person to tender or accept specie as legal tender unless provided by the State Constitution, general law or contract. The bill authorizes, but does not require, specie legal tender to be recognized to pay private debts, taxes, and fees levied by the state or local government or any subdivision. Finally, the bill requires the Chief Financial Officer to adopt rules regarding the acceptance of specie legal tender as payment for any public debt, tax, fee, or obligation owed.

The bill defines the following terms:

- "Bullion" means refined precious metal in any shape or form with uniform content and purity, including, but not limited to, coins, rounds, bars, ingots, and any other products, which is:
  - Stamped or imprinted with the weight and purity of the precious metal that it contains; and
  - Valued primarily based on its metal content and not on its form and function.
- "Electronic currency" means a representation of physical gold, silver, specie, or bullion which may be transferred through a digital transaction by the owner of such currency and which is fully redeemable as physical gold, silver, specie, or bullion. Such representation must reflect the exact units of physical gold, silver, specie, or bullion in its fractional troy ounce measurement or grams.
- "Legal tender" means a recognized medium of exchange authorized by the United States Congress or by any state pursuant to s. 8 or s. 10, Art. I of the United States Constitution, respectively, for the payment of debts, public charges, taxes, or dues.
- "Precious metal" means gold or silver.
- "Specie" means coin having gold or silver content and bullion.
- "Specie legal tender" means:
  - Specie coin issued by the Federal Government at any time;
  - Specie coin issued by any foreign government at any time; or
  - Any other specie recognized by this state or any other state pursuant to s. 10, Art. I of the United States Constitution.

Section 2 provides the bill is effective July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The OFR reports there is no fiscal impact on the state government.[33]

VI. Technical Deficiencies:

SB 132 provides that the purchase or sale of any type or form of specie does not give rise to any tax liability (lines 60-61); however, the state does not have authority to legislative federal tax liability.

Florida law provides that coin or currency that is legal tender that is exchanged for a rate more than its face value but under $500 is subject to sales tax,[34] which is inconsistent with the provision of SB 132 that provides a full tax exemption for any exchange of one type or form of legal tender for another type.

VII. Related Issues:

None.

[33] The OFR, *2025 Agency Legislative Bill Analysis for SB 132*, March 14, 2025, 5-6 (on file with Senate Committee on Banking and Insurance).
[34] Section 212.05(1)(j), F.S.

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: 215.986

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.

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LEGISLATIVE ACTION

Senate . House

. . . . . .

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsection (19) of section 212.02, Florida Statutes, is amended to read:

212.02 Definitions.—The following terms and phrases when used in this chapter have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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(19) "Tangible personal property" means and includes personal property which may be seen, weighed, measured, or touched or is in any manner perceptible to the senses, including electric power or energy, boats, motor vehicles and mobile homes as defined in s. 320.01(1) and (2), aircraft as defined in s. 330.27, and all other types of vehicles. The term "tangible personal property" does not include stocks, bonds, notes, insurance, gold coin or silver coin as those terms are defined in s. 215.986, or other obligations or securities or pari-mutuel tickets sold or issued under the racing laws of the state.

Section 2. Paragraph (j) of subsection (1) of section 212.05, Florida Statutes, is amended to read:

212.05 Sales, storage, use tax.—It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of selling tangible personal property at retail in this state, including the business of making or facilitating remote sales; who rents or furnishes any of the things or services taxable under this chapter; or who stores for use or consumption in this state any item or article of tangible personal property as defined herein and who leases or rents such property within the state.

(1) For the exercise of such privilege, a tax is levied on each taxable transaction or incident, which tax is due and payable as follows:

(j)1. Notwithstanding any other provision of this chapter, there is hereby levied a tax on the sale, use, consumption, or storage for use in this state of any coin or currency, whether in circulation or not, when such coin or currency:

a. Is not legal tender;


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b. If legal tender, is sold, exchanged, or traded at a rate in excess of its face value; or

c. Is sold, exchanged, or traded at a rate based on its precious metal content.

2. Such tax shall be at a rate of 6 percent of the price at which the coin or currency is sold, exchanged, or traded, except that, with respect to a coin or currency which is legal tender of the United States or any gold coin or silver coin declared legal tender in this state pursuant to s. 215.986 and which is sold, exchanged, or traded, such tax shall not be levied. The person that claims the sales tax exemption bears the burden of determining whether the gold coin or silver coin meets the definitions provided in s. 215.986. In the absence of evidence to the contrary, there is a presumption that the gold coin or silver coin meets the percent purity requirements provided in s. 215.986 based upon:

a. The purity imprinted or stamped on the gold coin or silver coin; or

b. An electronic transfer, as defined in s. 215.986(1)(b), of a gold coin or silver coin or any fraction thereof.

3. There are exempt from this tax exchanges of coins or currency which are in general circulation in, and legal tender of, one nation for coins or currency which are in general circulation in, and legal tender of, another nation when exchanged solely for use as legal tender and at an exchange rate based on the relative value of each as a medium of exchange.

4. With respect to any transaction that involves the sale of coins or currency taxable under this paragraph in which the taxable amount represented by the sale of such coins or currency

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exceeds $500, the entire amount represented by the sale of such coins or currency is exempt from the tax imposed under this paragraph. The dealer must maintain proper documentation, as prescribed by rule of the department, to identify that portion of a transaction which involves the sale of coins or currency and is exempt under this subparagraph.

Section 3. Section 215.986, Florida Statutes, is created to read:

215.986 Gold and silver coin as legal tender.—

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

(a) "Debt" means an obligation for the payment of money under contract, whether expressed or implied, which includes judgments and recognizance. The term "debt" does not include taxes, charges, or dues imposed by the state.

(b) "Electronic transfer" means any transfer of gold coin or silver coin, or any fraction thereof, other than a transaction by check, draft, or similar paper instrument, which is initiated through debit card, mobile application, or computer to order, instruct, or authorize a financial institution as defined in s. 655.005(1)(i) or a money services business as defined in s. 560.103 to debit or credit an account with gold coin or silver coin or the equivalent coin or currency of the United States converted at current market price.

(c) "Gold coin" means a precious metal with the chemical element of atomic number 79 in solid form, typically in the shape of rounds, bars, ingots, or bullion coins, which is valued for its metal content and stamped or imprinted with its weight and which consists of at least 99.5 percent purity. The term "coin" does not mean any goods as defined in s. 672.105(1), such

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as jewelry, other items of utility such as picture frames, or keepsakes.

(d) "Governmental entity" means a state, regional, county, municipal, special district, or other political subdivision, whether executive, judicial, or legislative, including, but not limited to, a department, a division, a board, a bureau, a commission, an authority, a district, or an agency thereof, or a public school, a Florida College System institution, a state university, or an associated board.

(e) "Legal tender" means a medium of exchange that is authorized by this state pursuant to s. 10, Art. I of the United States Constitution for the payment of a debt.

(f) "Silver coin" means a precious metal with the chemical element of atomic number 47, in solid form typically in the shape of rounds, bars, ingots, or bullion coins, which is valued for its metal content and is stamped or imprinted with a weight that consists of at least 99.9 percent purity. The term "coin" does not mean any goods as defined in s. 672.105(1), such as jewelry, other items of utility such as picture frames, or keepsakes.

(2) LEGAL TENDER.-Effective January 1, 2026, gold coin and silver coin are legal tender for the payment of a debt in this state.

(a) This section may not be construed to restrict the electronic transfer of gold coin or silver coin as tender for the payment of a debt.

(b) A person may not be required to offer or accept any recognized legal tender, as described in this subsection, for the payment of a debt, deposit, or any other purpose. A person


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may not incur any liability for refusing to offer or accept such legal tender, except as specifically provided for by contract.

(c) A governmental entity may accept gold coin or silver coin for the payment of taxes or fees levied by the state or local government or any subdivision thereof. However, a governmental entity may tender or accept gold coin or silver coin as payment for a debt only by electronic transfer and may not tender or accept gold coin or silver coin in physical form.

(d) This section may not apply after the death of a system participant or account holder and may not affect the definitions of "tangible personal property" or "precious metals" for the purposes of chapters 731-738.

(e) This section does not exempt a person from any applicable federal tax law, rule, or regulation.

(3) GOVERNMENT IMPLEMENTATION.—Each governmental entity that intends to tender or to accept payment of gold coin or silver coin may enter into a written contract which must be procured through competitive bidding with a qualified public depository as defined in s. 280.02.

(a) Unless otherwise provided in chapter 280, a custodian of gold coin or silver coin, as that term is defined in s. 560.103, which holds gold coin or silver coin as public deposits must meet the requirements for qualified public depositories under that chapter.

(b) A governmental entity that tenders or accepts gold coin or silver coin as payment of a debt by one of the exemptions listed in s. 280.03(3) need not comply with this subsection for purposes of tendering or accepting such gold coin or silver coin.

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Section 4. Section 280.21, Florida Statutes, is created to read:

280.21 Custodians of gold coin and silver coin.—A custodian of gold coin or silver coin as that term is defined in s. 560.103 which holds public deposits must do all of the following:

(1) Meet the definition of a qualified public depository as defined in s. 280.02, except that such custodian is not required to be insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund for purposes of holding gold coin or silver coin as defined in s. 215.986.

(2) Comply with all other applicable qualified public depository requirements and be subject to the provisions of this chapter.

Section 5. Present subsections (13) through (19), (20) through (34), and (35) and (36) of section 560.103, Florida Statutes, are redesignated as subsections (14) through (20), (22) through (36), and (38) and (39), respectively, new subsections (13), (21), and (37) are added to that section, and present subsections (18), (23), and (24) of that section are amended, to read:

560.103 Definitions.—As used in this chapter, the term:

(13) "Custodian of gold coin or silver coin" means any person or entity providing secure vault facilities for the safekeeping and storage of gold coin or silver coin, the ownership of which is or may be transferred electronically as defined in s. 215.986(1). The term includes any person who holds gold coin or silver coin for more than 10 days.

(19)~~(18)~~ "Foreign currency exchanger" means a person who


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exchanges, for compensation, currency of the United States or a foreign government, gold coin, or silver coin to currency of another government.

(21) "Gold coin" has the same meaning as in s. 215.986.

(25) ~~(23)~~ "Money services business" means any person located in or doing business in this state, from this state, or into this state from locations outside this state or country who acts as a payment instrument seller, foreign currency exchanger, check casher, ~~or~~ money transmitter, or custodian of gold coin or silver coin.

(26) ~~(24)~~ "Money transmitter" means a corporation, limited liability company, limited liability partnership, or foreign entity qualified to do business in this state which receives currency, monetary value, a payment instrument, gold coin or silver coin, or virtual currency for the purpose of acting as an intermediary to transmit currency, monetary value, a payment instrument, gold coin or silver coin, or virtual currency from one person to another location or person by any means, including transmission by wire, facsimile, electronic transfer, courier, the Internet, or through bill payment services or other businesses that facilitate such transfer within this country, or to or from this country. The term includes only an intermediary that has the ability to unilaterally execute or indefinitely prevent a transaction.

(37) "Silver coin" has the same meaning as in s. 215.986.

Section 6. Subsection (3) is added to section 560.141, Florida Statutes, to read:

560.141 License application.—

(3) The office must approve an application for a custodian

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of gold coin or silver coin if the applicant demonstrates compliance with the provisions of this chapter and the rules adopted by the commission requiring guidelines for the storage, security, insurance, auditing, administration, authorized access, transacting, and transfer of gold coin or silver coin. The office may conduct an examination of the applicant before issuing a license to determine the applicant's ability to conduct business immediately upon opening for business.

Section 7. Present subsection (5) of section 560.142, Florida Statutes, is redesignated as subsection (6), and a new subsection (5) is added to that section, to read:

560.142 License renewal.—

(5) The office must approve a renewal application for a custodian of gold coin or silver coin if the licensee demonstrates compliance with the applicable provisions of this chapter and with the rules adopted by the commission requiring guidelines for the storage, security, insurance, auditing, administration, authorized access, transacting, and transfer of gold coin or silver coin.

Section 8. Section 560.150, Florida Statutes, is created to read:

560.150 Gold and silver coin as legal tender.—

(1) A money services business may not be required to offer products or services, including, but not limited to, transmitting, storing, exchanging, or accepting payment in gold coin or silver coin. To the extent that a money services business offers such products or services, the money services business must do all of the following:

(a) Insure the gold coin or silver coin, if not otherwise


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insured by an independent custodian of gold coin or silver coin, for 100 percent of the full replacement value of any deposit under an all-risk insurance policy issued by a nongovernmental operated insurer that is an authorized insurer or eligible surplus lines insurer.

(b) Securely store and safeguard all physical gold coin or silver coin with a custodian of gold coin or silver coin within this state.

(c) Include any fee to convert gold coin or silver coin to coin or currency of the United States or of another country in the total maximum interchange transaction fee that an issuer may charge with respect to an electronic debit transaction as provided under the Electronic Fund Transfer Act in 15 U.S.C. s. 1693 et seq.

(d) Ensure that any gold coin or silver coin that is purchased for use or circulation as legal tender is from an accredited refiner or wholesaler, as prescribed by commission rule, that certifies that the gold coin or silver coin being purchased meets the requirements of gold coin and silver coin defined in s. 215.986.

(e) Comply with chain of custody requirements, as prescribed by commission rule.

(f) Comply with all other applicable state and federal regulations.

(2) The commission may adopt rules as necessary to implement this section.

Section 9. Subsection (1) of section 560.204, Florida Statutes, is amended to read:

560.204 License required.—

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(1) Unless exempted, a person may not engage in, or in any manner advertise that they engage in, the activity of a payment instrument seller, ~~or~~ money transmitter, or custodian of gold coin or silver coin for compensation, without first obtaining a license under this part. For purposes of this subsection, the term "compensation" includes profit or loss on the exchange of currency, monetary value, or virtual currency.

Section 10. Section 560.205, Florida Statutes, is amended to read:

560.205 Additional license application requirements.—In addition to the license application requirements under part I of this chapter, an applicant seeking a license under this part must also submit any information required by this section to the office.~~:~~

(1) Any applicant seeking to operate as a payment instrument seller or money transmitter must provide all of the following information to the office:

(a) A sample authorized vendor contract, if applicable.

(b)~~(2)~~ A sample form of payment instrument, if applicable.

(c)~~(3)~~ Documents demonstrating that the net worth and bonding requirements specified in s. 560.209 have been fulfilled.

(d)~~(4)~~ A copy of the applicant's financial audit report for the most recent fiscal year. If the applicant is a wholly owned subsidiary of another corporation, the financial audit report on the parent corporation's financial statements satisfies ~~shall satisfy~~ this requirement.

(2) Any applicant seeking to operate as a custodian of gold coin or silver coin must provide all of the following

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information to the office:

(a) All requirements specified in subsection(1).

(b) Evidence of:

1. Insurance against loss for all gold coin and silver coin held in its custody;

2. Custody of the same quantity and type of asset for all current gold coin or silver coin held in its custody; and

3. Depository accreditation from an entity approved by the office.

(c) A statement of a business plan providing for the safe and sound operation of custodial services pertaining to the storage, security, insurance, auditing, administration, authorized access, transacting, and transfer of gold coin or silver coin to the satisfaction of the office or in accordance with rules adopted by the commission.

Section 11. Section 560.214, Florida Statutes, is created to read:

560.214 Custodians of gold coin or silver coin.—

(1) A custodian of gold coin or silver coin must meet all of the following requirements:

(a) Be located in a manner that allows quick and efficient movement of the gold coin or silver coin, or enables rapid response time from law enforcement if necessary.

(b) Meet security requirements in accordance with industry standards, including, but not limited to:

1. Use of a high-security vault rated by Underwriters' Laboratories, Inc.

2. Physical security and video surveillance 24 hours a day, 7 days a week;


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3. Biometric or multi-factor access controls;

4. Facility design that is disaster-resistant including resistant to fire, flood, or earthquakes; and

5. Regular review and updates of security procedure.

(c) Keep customer assets segregated from the custodian's own assets and from asset classes that are not gold coin and silver coin.

(d) Offer allocated storage where the gold coin or silver coin is kept separate and identifiable, or segregated storage where the gold coin or silver coin is stored apart from other customers' gold coin or silver coin.

(e) Comply with chain of custody requirements as prescribed by commission rule.

(f) Maintain records detailing the inventory system, including, but not limited to, serial number and bar number tracking and ledger accounts.

(g) Have its custodial holdings examined or audited at least annually by an independent certified public accountant or other auditor acceptable to the office. The auditor must verify that the custodian's custodial assets are sufficient to cover all customer holdings and are held as represented. The results of such audit or examination must be reported to the office.

(h) Maintain insurance covering 100 percent of the full replacement value of the stored gold coin or silver coin under an all-risk insurance policy for loss, theft, damage, and employee dishonesty by an authorized insurer or eligible surplus lines insurer.

(i) Permit visits or inspections with advance notice.

(j) Maintain secure technology, including all of the


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following cybersecurity measures:

1. Secure online portal for account access.

2. Data encrypted in transit and at rest.

3. Two-factor authentication for login.

4. Regular cybersecurity audits or vulnerability assessments.

(k) Maintain custody of the same quantity and type of gold coin or silver coin as that entrusted by each customer.

(l) Refrain from selling, lending, pledging, rehypothecating, or encumbering any customer's gold coin or silver coin except to the extent directed by the customer for a transfer or transaction.

(m) Comply with anti-money laundering regulation pursuant to this chapter, and any applicable state or federal regulation.

(2) For a custodian that has a direct contractual relationship with the owner of the gold coin or silver coin, such custodian must also comply with all of the following requirements:

(a) Furnish to each owner, at the inception of the relationship and on at least an annual basis, a clear, written disclosure of the terms and conditions of the custodial arrangement and the associated risks. Such disclosure must also state that gold or silver assets are not insured by the FDIC, NCUA, or SIPC and that the owner's assets are held by a licensed custodian under Florida law.

(b) Provide transparent contracts, products, services, and fees, including storage and transaction fees.

(c) Provide quarterly account statements to an owner which itemize the assets in custody for that owner, and promptly

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deliver an updated statement and return of the gold coin or silver coin to the owner or as the owner directs.

(d) Within 30 days of a request, make available to an owner a copy of any audit report required pursuant to paragraph (1)(e) which has been completed within the most recent 2-year period.

(3) A violation of any provision of this section or rules adopted hereunder constitutes a violation of this chapter. The office may take disciplinary action against a custodian or licensee or suspend or revoke the license, as applicable, for any violation of this section including, but not limited to, failure to safeguard assets, insolvency, commingling of customer assets, unauthorized use of assets, failure to maintain required records or reports, or other unsafe or unsound practices as defined in s. 655.005(1)(y).

(4) Obligations of a custodian to an owner of gold coin or silver coin under this section are fiduciary in nature for purposes of determining the priority of claims or losses.

(5) The commission may adopt rules as necessary to implement this section.

Section 12. Paragraph (e) of subsection (3) of section 655.50, Florida Statutes, is amended to read:

655.50 Florida Control of Money Laundering and Terrorist Financing in Financial Institutions Act.—

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

(e) "Monetary instruments" means coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, money orders, stored value cards, prepaid cards, gold coin or silver coin as those terms are defined in s. 215.986, investment securities or negotiable

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instruments in bearer form or otherwise in such form that title thereto passes upon delivery, or similar devices.

Section 13. Section 655.970, Florida Statutes, is created to read:

655.970 Gold and silver coin as legal tender.—

(1) A financial institution may not be required to take any of the following actions:

(a) Receive deposits, as that term is defined in s. 658.26(5)(c), consisting of gold coin or silver coin, as those terms are defined in s. 215.986, whether in physical form or by electronic transfer.

(b) Exchange gold coin or silver coin for coin or currency of the United States or of another country.

(2) To the extent that a financial institution accepts gold coin or silver coin deposits, the financial institution shall do all of the following:

(a) Maintain separate accounts for any gold coin or silver coin and not commingle such gold coin or silver coin with any other coin or currency of the United States or of another country.

(b) Insure the gold coin or silver coin, if not otherwise insured by the custodian of gold coin or silver coin, for 100 percent of the full replacement value of any deposit under an all-risk insurance policy issued by a nongovernmental-operated insurer that is an authorized insurer or an eligible surplus lines insurer.

(c) Securely store and safeguard all physical gold coin or silver coin with a custodian of gold or silver coin within this state.

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(d) Comply, or be responsible and accountable for any third-party vendor that stores such gold coin and silver coin to comply, with the requirements for a custodian of gold coin or silver coin as provided in s. 560.214.

(e) Include any fee to convert gold coin or silver coin to coin or currency of the United States or of another country in the total maximum interchange transaction fee that an issuer may charge with respect to an electronic debit transaction as provided under the Electronic Fund Transfer Act in 15 U.S.C. s. 1693 et seq.

(f) Ensure that any gold coin or silver coin purchased for use or circulation as legal tender is from an accredited refiner or wholesaler that certifies that the gold coin or silver coin being purchased meets the requirements of gold coin and silver coin defined in s. 215.986.

(g) Comply with all other applicable state and federal regulations.

(3) The commission may adopt rules as necessary to implement this section.

Section 14. Subsection (2) of section 672.511, Florida Statutes, is amended to read:

672.511 Tender of payment by buyer; payment by check.—

(2) Tender of payment is sufficient when made by any means or in any manner current in the ordinary course of business unless the seller demands payment in legal tender and gives any extension of time reasonably necessary to procure it. As provided in s. 215.986(2)(b), this section may not be construed to compel a person to tender payment in gold coin or silver coin.

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Section 15. The Department of Financial Services must submit a report by January 1, 2026 to the Governor, the President of the Senate, and the Speaker of the House of Representatives which contains all the following information:

(1) The progress of implementing s. 215.986, Florida Statutes.

(2) An explanation of any challenge that requires additional legislation to ensure that gold coin or silver coin may be accepted by the state as legal tender for payment of debts pursuant to s. 215.986, Florida Statutes.

Section 16. Paragraph (a) of subsection (4) of section 559.952, Florida Statutes, is amended to read:

559.952 Financial Technology Sandbox.—

(4) EXCEPTIONS TO GENERAL LAW AND WAIVERS OF RULE REQUIREMENTS.—

(a) Notwithstanding any other law, upon approval of a Financial Technology Sandbox application, the following provisions and corresponding rule requirements are not applicable to the licensee during the sandbox period:

1. Section 516.03(1), except for the application fee, the investigation fee, the requirement to provide the social security numbers of control persons, evidence of liquid assets of at least $25,000 or documents satisfying the requirements of s. 516.05(10), and the office’s authority to investigate the applicant’s background. The office may prorate the license renewal fee for an extension granted under subsection (7).

2. Section 516.05(1) and (2), except that the office shall investigate the applicant’s background.

3. Section 560.109, only to the extent that the section

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requires the office to examine a licensee at least once every 5 years.

4. Section 560.118(2).

5. Section 560.125(1), only to the extent that the subsection would prohibit a licensee from engaging in the business of a money transmitter or payment instrument seller during the sandbox period.

6. Section 560.125(2), only to the extent that the subsection would prohibit a licensee from appointing an authorized vendor during the sandbox period. Any authorized vendor of such a licensee during the sandbox period remains liable to the holder or remitter.

7. Section 560.128.

8. Section 560.141, except for s. 560.141(1)(a)1., 3., 7.-10. and (b), (c), and (d).

9. Section 560.142(1) and (2), except that the office may prorate, but may not entirely eliminate, the license renewal fees in s. 560.143 for an extension granted under subsection (7).

10. Section 560.143(2), only to the extent necessary for proration of the renewal fee under subparagraph 9.

11. Section 560.204(1), only to the extent that the subsection would prohibit a licensee from engaging in, or advertising that it engages in, the activity of a payment instrument seller or money transmitter during the sandbox period.

12. Section 560.205(1)(b) ~~Section 560.205(2)~~.

13. Section 560.208(2).

14. Section 560.209, only to the extent that the office may

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modify, but may not entirely eliminate, the net worth, corporate surety bond, and collateral deposit amounts required under that section. The modified amounts must be in such lower amounts that the office determines to be commensurate with the factors under paragraph (5)(c) and the maximum number of consumers authorized to receive the financial product or service under this section.

Section 17. 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 legal tender; amending s. 212.02, F.S.; revising the term "tangible personal property"; amending s. 212.05, F.S.; revising the sales and use tax of coin or currency tax exemption; specifying that a person who claims the sales tax exemption bears the burden for determining whether the gold coin or silver coin meets a specified definition; providing a presumption regarding the purity requirements of gold coin and silver coin; creating s. 215.986, F.S.; defining terms; specifying, beginning on a specified date, that gold coin and silver coin are legal tender for a specified purpose; providing construction; prohibiting persons from being required to offer or accept any legal tender for a specified purpose; prohibiting persons from incurring liability for refusing to offer or accept legal tender; providing an

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exception; authorizing a governmental entity to accept gold coin or silver coin for a specified purpose and only in a specified manner; providing applicability; providing construction; authorizing governmental entities to enter into written contracts under certain circumstances; requiring certain custodians of gold coin or silver coin to meet certain requirements; specifying that a governmental entity that tenders or accepts gold coin or silver coin under certain circumstances need not comply with certain provisions; creating s. 280.21, F.S.; requiring custodians of gold coin or silver coin which hold public deposits to meet certain requirements; amending s. 560.103, F.S.; revising definitions and defining terms; amending s. 560.141, F.S.; requiring the Office of Financial Regulation to approve an application for a custodian of gold coin or silver coin under certain circumstances; authorizing the office to conduct an examination of certain applicants before issuing a specified license; amending s. 560.142, F.S.; requiring the office to approve a renewal application for a custodian of gold coin or silver coin under certain circumstances; creating s. 560.150, F.S.; prohibiting money services businesses from being required to offer certain products or services; specifying certain requirements if money services businesses offer certain products or services; authorizing the Financial Services Commission to adopt rules; amending s. 560.204, F.S.; prohibiting a person

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from engaging in or advertising that they engage in the activity of a custodian of gold or coin or silver coin for compensation without a license; amending s. 560.205, F.S.; requiring applicants seeking to operate as a payment instrument seller, money transmitter, or a custodian of gold coin or silver coin to provide specified information to the office; amending s. 560.214, F.S.; requiring a custodian of gold coin or silver coin to meet certain requirements; specifying that certain actions constitute a violation of certain provisions; authorizing the office to take certain disciplinary actions; specifying that the obligations of a custodian to an owner of gold coin or silver coin are fiduciary in nature for a specified purpose; authorizing the commission to adopt rules; amending s. 655.50, F.S.; revising the definition of the term "monetary instrument"; creating s. 655.970, F.S.; prohibiting financial institutions from being required to take certain actions; requiring financial institutions to take actions under certain circumstances; authorizing the commission to adopt rules; amending s. 672.511, F.S.; providing construction; requiring, by a specified date, the Department of Financial Services to submit a specified report to the Governor and the Legislature; amending s. 559.952, F.S.; conforming a cross-reference; providing an effective date.

By Senator Rodriguez

40-00536-25 2025132__

A bill to be entitled

An act relating to legal tender; creating s. 215.986, F.S.; defining terms; specifying that specie legal tender and electronic currency are legal tender; prohibiting specie or specie legal tender from being characterized as personal property for taxation and regulatory purposes; specifying that certain transactions of specie do not give rise to tax liability; providing that exchange of one type or form of legal tender for another type or form of legal tender does not give rise to tax liability; prohibiting persons from compelling others to tender or accept specie as legal tender; authorizing governmental entities to recognize specie legal tender for certain payments; requiring the Chief Financial Officer to adopt rules; providing an effective date.

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

Section 1. Section 215.986, Florida Statutes, is created to read:

215.986 Specie legal tender and electronic currency as legal tender; prohibitions; tax liabilities; payment of debts.—

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

(a) "Bullion" means refined precious metal in any shape or form with uniform content and purity, including, but not limited to, coins, rounds, bars, ingots, and any other products, which is:

1. Stamped or imprinted with the weight and purity of the

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precious metal that it contains; and

2. Valued primarily based on its metal content and not on its form and function.

(b) "Electronic currency" means a representation of physical gold, silver, specie, or bullion which may be transferred through a digital transaction by the owner of such currency and which is fully redeemable as physical gold, silver, specie, or bullion. Such representation must reflect the exact units of physical gold, silver, specie, or bullion in its fractional troy ounce measurement or grams.

(c) "Legal tender" means a recognized medium of exchange authorized by the United States Congress or by any state pursuant to s. 8 or s. 10, Art. I of the United States Constitution, respectively, for the payment of debts, public charges, taxes, or dues.

(d) "Precious metal" means gold or silver.

(e) "Specie" means coin having gold or silver content and bullion.

(f) "Specie legal tender" means:

1. Specie coin issued by the Federal Government at any time;

2. Specie coin issued by any foreign government at any time; or

3. Any other specie recognized by this state or any other state pursuant to s. 10, Art. I of the United States Constitution.

(2)(a) Specie legal tender and electronic currency are legal tender.

(b) Specie or specie legal tender may not be characterized

as personal property for taxation or regulatory purposes.

(c) The purchase or sale of any type or form of specie does not give rise to any tax liability.

(d) The exchange of one type or form of legal tender for another type or form of legal tender does not give rise to any tax liability.

(e) Unless specifically provided by the State Constitution or general law or by contract, a person may not compel another person to tender specie or to accept specie as legal tender.

(f) Specie legal tender may be recognized to pay private debts, taxes, and fees levied by the state or local government or any subdivision thereof.

(3) The Chief Financial Officer shall adopt rules regarding the acceptance of specie legal tender as payment for any public debt, tax, fee, or obligation owed.

Section 2. This act shall take effect July 1, 2025.

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 Commerce and Tourism

BILL:	CS/SB 232
INTRODUCER:	Committee on Commerce and Tourism and Senator Rodriguez
SUBJECT:	Debt Collection
DATE:	March 24, 2025
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dike	McKay	CM	**Fav/CS**
2.	Moody	Knudson	BI	**Pre-meeting**
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 232 revises the Florida Consumer Collection Practices Act (FCCPA) to allow any person attempting to collect on a debt to communicate with a debtor via email between 9 p.m. and 8 a.m.

The bill takes effect July 1, 2025.

II. Present Situation:

The Florida Consumer Collection Practices Act

The FCCPA[1] prohibits certain practices by any person when attempting to collect on a debt.[2] This law is the counterpart to the federal Fair Debt Collection Practices Act (FDCPA) with the purpose of eliminating "abusive and harassing tactics in the collection of debts."[3] When

[1] Sections 559.55-559.785, F.S.

[2] "Debt collector" means any person who uses any instrumentality of commerce within this state, whether initiated from within or outside this state, in any business the principal purpose of which is the collection of debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another. The term "debt collector" includes any creditor who, in the process of collecting her or his own debts, uses any name other than her or his own which would indicate that a third person is collecting or attempting to collect such debts. Section 559.55(7), F.S.

[3] The Consumer Prot. Law Comm. of the Florida Bar, *The Consumer Law Bench Book*, p. 46, available at https://www.floridabar.org/about/cmtes/cmte-cm410/cplc-bench-manual/ (last visited Mar. 19, 2025).

collecting consumer debts,[4] collectors are not allowed to use or threaten violence,[5] use profane or vulgar language,[6] or attempt to enforce an illegitimate debt.[7] Among the list of prohibited practices, a collector is not allowed to "communicate with the debtor between the hours of 9 p.m. and 8 a.m. in the debtor's time zone without the prior consent of the debtor."[8] The current version of the statute does not specify what type of communication is prohibited between these hours.

A debtor[9] may bring a civil action against a consumer collection agency[10] or any person attempting to collect on a debt in a manner prohibited by law within two years of the date the alleged violation occurred.[11] The debtor may file such action "in the county in which the alleged violator resides or has his or her principal place of business or in the county where the alleged violation occurred."[12] If a collector does not comply with the provisions of s. 559.72, F.S., they are liable for actual and statutory damages up to $1000, court costs and attorney's fees that are incurred by the plaintiff,[13] and punitive damages or other equitable relief the court finds necessary or proper.[14] Additionally, if there is an inconsistency between the FCCPA and the FDCPA, the provision which is more protective of the debtor will prevail.[15]

The Fair Debt Collection Practices Act

The federal Fair Debt Collection Practices Act (FDCPA) (15 USC 1692 et seq.), which became effective in March 1978, was designed to eliminate abusive, deceptive, and unfair debt collection practices.[16] Pursuant to 12 CFR s. 1006.06(b)(1)(i), with certain exceptions (prior consent, or permission by a court), a debt collector must not communicate or attempt to communicate with a consumer in connection with the collection of any debt at any unusual time, or at a time that the debt collector knows or should know is inconvenient to the consumer. In the absence of the debt collector's knowledge of circumstances to the contrary, a time before 8:00 a.m. and after 9:00

[4] "Debt" or "consumer debt" means any obligation or alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance, or services which are the subject of the transaction are primarily for personal, family, or household purposes, whether or not such obligation has been reduced to judgement. Section 559.55(6), F.S.
[5] Section 559.72(2), F.S.
[6] Section 559.72(8), F.S.
[7] Section 559.72(9), F.S.
[8] Section 559.72(17), F.S.
[9] "Debtor" or "consumer" means any natural person obligated or allegedly obligated to pay any debt. Section 559.55(8), F.S.
[10] "Consumer collection agency" means any debt collector or business entity engaged in the business of soliciting consumer debts for collection or of collecting consumer debts, which debt collector or business is not expressly exempted as set forth in s. 559.553(3). Section 559.55(3), F.S.
[11] Section 559.77(4), F.S.
[12] Section 559.77(1), F.S.
[13] Section 559.77(2), F.S.
[14] *Id.*
[15] Section 559.552, F.S.
[16] The Fed. Rsrv., *Consumer Compliance Handbook*, available at https://www.federalreserve.gov/boarddocs/supmanual/cch/fairdebt.pdf, (last visited Mar. 19, 2025).

p.m. local time at the consumer's location is inconvenient. Email and text communications[17] are permitted, but the consumer must be offered a reasonable and simple method for opting out.[18]

Recent Litigation

The U.S. District Court for the Southern District of Florida recently interpreted what it means to "communicate with" a consumer under the FCCPA.[19] In this case, plaintiff sued a debt collector for sending her an e-mail at 8:23 p.m. which was delivered to her at 10:14 p.m. and which she did not open or read until 11:44 a.m. the next day.[20] Plaintiff argued that this constituted a communication in violation of s. 559.72(17), F.S.[21] Without legal precedent on point, the court determined that "no e-mail communication "with" the customer takes place until the consumer reads the message, or at least receives it."[22] Under this interpretation, the court found that the debt collector did not communicate with plaintiff until 11:44 a.m. because that was when she read the message, and as such, defendant's motion for summary judgment was granted.[23]

As this case was one of first impression, there is a chance that Florida courts or other federal district courts could deviate from this interpretation. Moreover, this interpretation diverges from the Consumer Financial Protection Bureau's interpretation of what it means to "communicate with" a debtor under the FDCPA.[24] Without statutory clarification, Florida courts are open to litigation over debt collection e-mails received and read after 9 p.m. and before 8 a.m.

III. Effect of Proposed Changes:

Prohibited Practices for Debt Collection

Section 1 amends s. 559.72, F.S., to allow any person attempting to collect on a debt to communicate with a debtor between 9 p.m. and 8 a.m. via email.

Incorporating Related Statutes

Sections 2-6 reenact ss. 559.565, 559.725, 559.77, 648.44, and 817.7001, F.S., respectively, for the purpose of incorporating the amendments to s. 559.72, F.S., in section 1 of the bill.

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[17] According to a recent news release, email communications are used by 74% of debt collectors, and use of text messaging grew by 5% between 2023 and 2024. TransUnion, *More Than Half of Debt Collection Companies Saw Increased Volume of Accounts in Past 12 Months*, available at https://newsroom.transunion.com/more-than-half-of-debt-collection-companies-saw-increased-volume-of-accounts-in-past-12-months/#:~:text=Use%20of%20text%2FSMS%20messaging,engage%20consumers%20regarding%20a%20debt, (last visited Mar. 19, 2025).

[18] The Consumer Fin. Prot. Bureau, *What laws limit what debt collectors can say or do?*, available at https://www.consumerfinance.gov/ask-cfpb/what-laws-limit-what-debt-collectors-can-say-or-do-en-329/, (last visited Mar. 19, 2025).

[19] *Quinn-Davis v. TrueAccord Corp.*, Case No. 1:23-cv-23590-LEIBOWITZ/REID, 2024 WL 4851344 (S.D. Fla. Nov. 20, 2024).

[20] *Id.* at *1.

[21] *Id.*

[22] *Id.*

[23] *Id.* at *7.

[24] *Id.* at *5 ("The CFPB interprets "communicate with" under the FDCPA to mean that a debt collector communicates with a customer when the debt collector "sends" an electronic communication.").

Effective Date

Section 7 provides an effective date of July 1, 2025.

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 identified.

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:

The phrase on lines 19-20, “unless authorized by law” makes it unclear whether the various practices prohibited under s. 559.72, F.S., may be authorized elsewhere. The lead-in phrase

would apply to all prohibited practices under s. 559.72, F.S., whereas the bill otherwise only modifies the prohibition in subsection (17).

VIII. Statutes Affected:

This bill substantially amends s. 559.72, F.S.

For the purpose of incorporating the amendments to s. 559.72, F.S., the bill reenacts the following sections: 559.72, 559.565, 559.725, 559.77, 648.44, 817.7001.

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 Commerce and Tourism Committee on March 3, 2025:
The committee substitute allows any person collecting debts to communicate with debtors via email between 9 p.m. and 8 a.m.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate . House

. . . . .

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 559.72, Florida Statutes, is amended to read:

559.72 Prohibited practices generally.—In collecting consumer debts, a ~~no~~ person may not ~~shall~~:

(1) Simulate in any manner a law enforcement officer or a representative of any governmental agency.

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(2) Use or threaten force or violence.

(3) Tell a debtor who disputes a consumer debt that she or he or any person employing her or him will disclose to another, orally or in writing, directly or indirectly, information affecting the debtor's reputation for credit worthiness without also informing the debtor that the existence of the dispute will also be disclosed as required by subsection (6).

(4) Communicate or threaten to communicate with a debtor's employer before obtaining final judgment against the debtor, unless the debtor gives her or his permission in writing to contact her or his employer or acknowledges in writing the existence of the debt after the debt has been placed for collection. However, this does not prohibit a person from telling the debtor that her or his employer will be contacted if a final judgment is obtained.

(5) Disclose to a person other than the debtor or her or his family information affecting the debtor's reputation, whether or not for credit worthiness, with knowledge or reason to know that the other person does not have a legitimate business need for the information or that the information is false.

(6) Disclose information concerning the existence of a debt known to be reasonably disputed by the debtor without disclosing that fact. If a disclosure is made before such dispute has been asserted and written notice is received from the debtor that any part of the debt is disputed, and if such dispute is reasonable, the person who made the original disclosure must reveal upon the request of the debtor within 30 days the details of the dispute to each person to whom disclosure of the debt without notice of

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the dispute was made within the preceding 90 days.

(7) Willfully communicate with the debtor or any member of her or his family with such frequency as can reasonably be expected to harass the debtor or her or his family, or willfully engage in other conduct which can reasonably be expected to abuse or harass the debtor or any member of her or his family.

(8) Use profane, obscene, vulgar, or willfully abusive language in communicating with the debtor or any member of her or his family.

(9) Claim, attempt, or threaten to enforce a debt when such person knows that the debt is not legitimate, or assert the existence of some other legal right when such person knows that the right does not exist.

(10) Use a communication that simulates in any manner legal or judicial process or that gives the appearance of being authorized, issued, or approved by a government, governmental agency, or attorney at law, when it is not.

(11) Communicate with a debtor under the guise of an attorney by using the stationery of an attorney or forms or instruments that only attorneys are authorized to prepare.

(12) Orally communicate with a debtor in a manner that gives the false impression or appearance that such person is or is associated with an attorney.

(13) Advertise or threaten to advertise for sale any debt as a means to enforce payment except under court order or when acting as an assignee for the benefit of a creditor.

(14) Publish or post, threaten to publish or post, or cause to be published or posted before the general public individual names or any list of names of debtors, commonly known as a

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deadbeat list, for the purpose of enforcing or attempting to enforce collection of consumer debts.

(15) Refuse to provide adequate identification of herself or himself or her or his employer or other entity whom she or he represents if requested to do so by a debtor from whom she or he is collecting or attempting to collect a consumer debt.

(16) Mail any communication to a debtor in an envelope or postcard with words typed, written, or printed on the outside of the envelope or postcard calculated to embarrass the debtor. An example of this would be an envelope addressed to "Deadbeat, Jane Doe" or "Deadbeat, John Doe."

(17) Communicate with the debtor between the hours of 9 p.m. and 8 a.m. in the debtor's time zone without the prior consent of the debtor. This subsection does not apply to an e-mail communication that is sent to an e-mail address and that otherwise complies with this section.

(a) The person may presume that the time a telephone call is received conforms to the local time zone assigned to the area code of the number called, unless the person reasonably believes that the debtor's telephone is located in a different time zone.

(b) If, such as with toll-free numbers, an area code is not assigned to a specific geographic area, the person may presume that the time a telephone call is received conforms to the local time zone of the debtor's last known place of residence, unless the person reasonably believes that the debtor's telephone is located in a different time zone.

(18) Communicate with a debtor if the person knows that the debtor is represented by an attorney with respect to such debt and has knowledge of, or can readily ascertain, such attorney's

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name and address, unless the debtor's attorney fails to respond within 30 days to a communication from the person, unless the debtor's attorney consents to a direct communication with the debtor, or unless the debtor initiates the communication. This subsection does not apply if a debtor does not owe a creditor any debt that is 90 days or more past due. Such creditor may not communicate with a debtor more than once within a 30-day period. Such communication is limited to sending the debtor a monthly account statement made and sent in the ordinary course of business to the debtor's last known mailing address, or last known e-mail address if the debtor has elected to receive paperless statements. Any such communication may contain only the usual information contained in a monthly account statement and must comply with the other requirements in this section.

(19) Cause a debtor to be charged for communications by concealing the true purpose of the communication, including collect telephone calls and telegram fees.

Section 2. For the purpose of incorporating the amendment made by this act to section 559.72, Florida Statutes, in a reference thereto, subsection (2) of section 559.565, Florida Statutes, is reenacted to read:

559.565 Enforcement action against out-of-state consumer debt collector.—The remedies of this section are cumulative to other sanctions and enforcement provisions of this part for any violation by an out-of-state consumer debt collector, as defined in s. 559.55(11).

(2) A person, whether or not exempt from registration under this part, who violates s. 559.72 is subject to sanctions the same as any other consumer debt collector, including imposition

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of an administrative fine. The registration of a duly registered out-of-state consumer debt collector is subject to revocation or suspension in the same manner as the registration of any other registrant under this part.

Section 3. For the purpose of incorporating the amendment made by this act to section 559.72, Florida Statutes, in a reference thereto, subsection (2) of section 559.725, Florida Statutes, is reenacted to read:

559.725 Consumer complaints; administrative duties.—

(2) The office shall inform and furnish relevant information to the appropriate regulatory body of the state or the Federal Government, or The Florida Bar in the case of attorneys, if a person has been named in a consumer complaint pursuant to subsection (3) alleging violations of s. 559.72. The Attorney General may take action against any person in violation of this part.

Section 4. For the purpose of incorporating the amendment made by this act to section 559.72, Florida Statutes, in references thereto, subsections (1) and (2) of section 559.77, Florida Statutes, are reenacted to read:

559.77 Civil remedies.—

(1) A debtor may bring a civil action against a person violating the provisions of s. 559.72 in the county in which the alleged violator resides or has his or her principal place of business or in the county where the alleged violation occurred.

(2) Any person who fails to comply with any provision of s. 559.72 is liable for actual damages and for additional statutory damages as the court may allow, but not exceeding $1,000, together with court costs and reasonable attorney’s fees

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incurred by the plaintiff. In determining the defendant's liability for any additional statutory damages, the court shall consider the nature of the defendant's noncompliance with s. 559.72, the frequency and persistence of the noncompliance, and the extent to which the noncompliance was intentional. In a class action lawsuit brought under this section, the court may award additional statutory damages of up to $1,000 for each named plaintiff and an aggregate award of additional statutory damages up to the lesser of $500,000 or 1 percent of the defendant's net worth for all remaining class members; however, the aggregate award may not provide an individual class member with additional statutory damages in excess of $1,000. The court may award punitive damages and may provide such equitable relief as it deems necessary or proper, including enjoining the defendant from further violations of this part. If the court finds that the suit fails to raise a justiciable issue of law or fact, the plaintiff is liable for court costs and reasonable attorney's fees incurred by the defendant.

Section 5. For the purpose of incorporating the amendment made by this act to section 559.72, Florida Statutes, in a reference thereto, paragraph (o) of subsection (1) of section 648.44, Florida Statutes, is reenacted to read:

648.44 Prohibitions; penalty.—

(1) A bail bond agent or bail bond agency may not:

(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.

Section 6. For the purpose of incorporating the amendment made by this act to section 559.72, Florida Statutes, in a

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reference thereto, paragraph (b) of subsection (2) of section 817.7001, Florida Statutes, is reenacted to read:

817.7001 Definitions.—As used in this part:

(2)

(b) "Credit service organization" does not include:

1. Any person authorized to make loans or extensions of credit under the laws of this state or the United States who is subject to regulation and supervision by this state or the United States or a lender approved by the United States Secretary of Housing and Urban Development for participation in any mortgage insurance program under the National Housing Act;

2. Any bank, savings bank, or savings and loan association whose deposits or accounts are eligible for insurance by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, or a subsidiary of such bank, savings bank, or savings and loan association;

3. Any credit union, federal credit union, or out-of-state credit union doing business in this state;

4. Any nonprofit organization exempt from taxation under s. 501(c)(3) of the Internal Revenue Code;

5. Any person licensed as a real estate broker by this state if the person is acting within the course and scope of that license;

6. Any person collecting consumer claims pursuant to s. 559.72;

7. Any person licensed to practice law in this state if the person renders services within the course and scope of his or her practice as an attorney and does not engage in the credit service business on a regular and continuing basis;

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8. Any broker-dealer registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission if the broker-dealer is acting within the course and scope of that regulation; or

9. Any consumer reporting agency as defined in the Federal Fair Credit Reporting Act, 15 U.S.C. ss. 1681-1681t.

Section 7. 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 debt collection; amending s. 559.72, F.S.; revising prohibited practices for a person attempting to collect consumer debt; providing applicability; authorizing certain creditors to communicate with a debtor a specified number of times within a specified timeframe; requiring that such communications be sent in a specified manner; requiring that such communications contain specific information; making a technical change; reenacting ss. 559.565(2), 559.725(2), 559.77(1) and (2), 648.44(1)(o), and 817.7001(2)(b), F.S., relating to enforcement action against an out-of-state consumer debt collector, consumer complaints and administrative duties, civil remedies, prohibitions and penalties, and definitions, respectively, to incorporate the amendment made to s. 559.72, F.S., in references

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thereto; providing an effective date.

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LEGISLATIVE ACTION

Senate . House

. . . . .

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 559.72, Florida Statutes, is amended to read:

559.72 Prohibited practices generally.—In collecting consumer debts, a ~~no~~ person may not ~~shall~~:

(1) Simulate in any manner a law enforcement officer or a representative of any governmental agency.

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(2) Use or threaten force or violence.

(3) Tell a debtor who disputes a consumer debt that she or he or any person employing her or him will disclose to another, orally or in writing, directly or indirectly, information affecting the debtor's reputation for credit worthiness without also informing the debtor that the existence of the dispute will also be disclosed as required by subsection (6).

(4) Communicate or threaten to communicate with a debtor's employer before obtaining final judgment against the debtor, unless the debtor gives her or his permission in writing to contact her or his employer or acknowledges in writing the existence of the debt after the debt has been placed for collection. However, this does not prohibit a person from telling the debtor that her or his employer will be contacted if a final judgment is obtained.

(5) Disclose to a person other than the debtor or her or his family information affecting the debtor's reputation, whether or not for credit worthiness, with knowledge or reason to know that the other person does not have a legitimate business need for the information or that the information is false.

(6) Disclose information concerning the existence of a debt known to be reasonably disputed by the debtor without disclosing that fact. If a disclosure is made before such dispute has been asserted and written notice is received from the debtor that any part of the debt is disputed, and if such dispute is reasonable, the person who made the original disclosure must reveal upon the request of the debtor within 30 days the details of the dispute to each person to whom disclosure of the debt without notice of

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the dispute was made within the preceding 90 days.

(7) Willfully communicate with the debtor or any member of her or his family with such frequency as can reasonably be expected to harass the debtor or her or his family, or willfully engage in other conduct which can reasonably be expected to abuse or harass the debtor or any member of her or his family.

(8) Use profane, obscene, vulgar, or willfully abusive language in communicating with the debtor or any member of her or his family.

(9) Claim, attempt, or threaten to enforce a debt when such person knows that the debt is not legitimate, or assert the existence of some other legal right when such person knows that the right does not exist.

(10) Use a communication that simulates in any manner legal or judicial process or that gives the appearance of being authorized, issued, or approved by a government, governmental agency, or attorney at law, when it is not.

(11) Communicate with a debtor under the guise of an attorney by using the stationery of an attorney or forms or instruments that only attorneys are authorized to prepare.

(12) Orally communicate with a debtor in a manner that gives the false impression or appearance that such person is or is associated with an attorney.

(13) Advertise or threaten to advertise for sale any debt as a means to enforce payment except under court order or when acting as an assignee for the benefit of a creditor.

(14) Publish or post, threaten to publish or post, or cause to be published or posted before the general public individual names or any list of names of debtors, commonly known as a

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deadbeat list, for the purpose of enforcing or attempting to enforce collection of consumer debts.

(15) Refuse to provide adequate identification of herself or himself or her or his employer or other entity whom she or he represents if requested to do so by a debtor from whom she or he is collecting or attempting to collect a consumer debt.

(16) Mail any communication to a debtor in an envelope or postcard with words typed, written, or printed on the outside of the envelope or postcard calculated to embarrass the debtor. An example of this would be an envelope addressed to "Deadbeat, Jane Doe" or "Deadbeat, John Doe."

(17) Communicate with the debtor between the hours of 9 p.m. and 8 a.m. in the debtor's time zone without the prior consent of the debtor. This subsection does not apply to an e-mail communication that is sent to an e-mail address and that otherwise complies with this section.

(a) The person may presume that the time a telephone call is received conforms to the local time zone assigned to the area code of the number called, unless the person reasonably believes that the debtor's telephone is located in a different time zone.

(b) If, such as with toll-free numbers, an area code is not assigned to a specific geographic area, the person may presume that the time a telephone call is received conforms to the local time zone of the debtor's last known place of residence, unless the person reasonably believes that the debtor's telephone is located in a different time zone.

(18) Communicate with a debtor if the person knows that the debtor is represented by an attorney with respect to such debt and has knowledge of, or can readily ascertain, such attorney's

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name and address, unless the debtor's attorney fails to respond within 30 days to a communication from the person, unless the debtor's attorney consents to a direct communication with the debtor, or unless the debtor initiates the communication.

(19) Cause a debtor to be charged for communications by concealing the true purpose of the communication, including collect telephone calls and telegram fees.

Section 2. For the purpose of incorporating the amendment made by this act to section 559.72, Florida Statutes, in a reference thereto, subsection (2) of section 559.565, Florida Statutes, is reenacted to read:

559.565 Enforcement action against out-of-state consumer debt collector.—The remedies of this section are cumulative to other sanctions and enforcement provisions of this part for any violation by an out-of-state consumer debt collector, as defined in s. 559.55(11).

(2) A person, whether or not exempt from registration under this part, who violates s. 559.72 is subject to sanctions the same as any other consumer debt collector, including imposition of an administrative fine. The registration of a duly registered out-of-state consumer debt collector is subject to revocation or suspension in the same manner as the registration of any other registrant under this part.

Section 3. For the purpose of incorporating the amendment made by this act to section 559.72, Florida Statutes, in a reference thereto, subsection (2) of section 559.725, Florida Statutes, is reenacted to read:

559.725 Consumer complaints; administrative duties.—

(2) The office shall inform and furnish relevant

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information to the appropriate regulatory body of the state or the Federal Government, or The Florida Bar in the case of attorneys, if a person has been named in a consumer complaint pursuant to subsection (3) alleging violations of s. 559.72. The Attorney General may take action against any person in violation of this part.

Section 4. For the purpose of incorporating the amendment made by this act to section 559.72, Florida Statutes, in references thereto, subsections (1) and (2) of section 559.77, Florida Statutes, are reenacted to read:

559.77 Civil remedies.—

(1) A debtor may bring a civil action against a person violating the provisions of s. 559.72 in the county in which the alleged violator resides or has his or her principal place of business or in the county where the alleged violation occurred.

(2) Any person who fails to comply with any provision of s. 559.72 is liable for actual damages and for additional statutory damages as the court may allow, but not exceeding $1,000, together with court costs and reasonable attorney’s fees incurred by the plaintiff. In determining the defendant’s liability for any additional statutory damages, the court shall consider the nature of the defendant’s noncompliance with s. 559.72, the frequency and persistence of the noncompliance, and the extent to which the noncompliance was intentional. In a class action lawsuit brought under this section, the court may award additional statutory damages of up to $1,000 for each named plaintiff and an aggregate award of additional statutory damages up to the lesser of $500,000 or 1 percent of the defendant’s net worth for all remaining class members; however,

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the aggregate award may not provide an individual class member with additional statutory damages in excess of $1,000. The court may award punitive damages and may provide such equitable relief as it deems necessary or proper, including enjoining the defendant from further violations of this part. If the court finds that the suit fails to raise a justiciable issue of law or fact, the plaintiff is liable for court costs and reasonable attorney's fees incurred by the defendant.

Section 5. For the purpose of incorporating the amendment made by this act to section 559.72, Florida Statutes, in a reference thereto, paragraph (o) of subsection (1) of section 648.44, Florida Statutes, is reenacted to read:

648.44 Prohibitions; penalty.—

(1) A bail bond agent or bail bond agency may not:

(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.

Section 6. For the purpose of incorporating the amendment made by this act to section 559.72, Florida Statutes, in a reference thereto, paragraph (b) of subsection (2) of section 817.7001, Florida Statutes, is reenacted to read:

817.7001 Definitions.—As used in this part:

(2)

(b) "Credit service organization" does not include:

1. Any person authorized to make loans or extensions of credit under the laws of this state or the United States who is subject to regulation and supervision by this state or the United States or a lender approved by the United States Secretary of Housing and Urban Development for participation in

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any mortgage insurance program under the National Housing Act;

2. Any bank, savings bank, or savings and loan association whose deposits or accounts are eligible for insurance by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, or a subsidiary of such bank, savings bank, or savings and loan association;

3. Any credit union, federal credit union, or out-of-state credit union doing business in this state;

4. Any nonprofit organization exempt from taxation under s. 501(c)(3) of the Internal Revenue Code;

5. Any person licensed as a real estate broker by this state if the person is acting within the course and scope of that license;

6. Any person collecting consumer claims pursuant to s. 559.72;

7. Any person licensed to practice law in this state if the person renders services within the course and scope of his or her practice as an attorney and does not engage in the credit service business on a regular and continuing basis;

8. Any broker-dealer registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission if the broker-dealer is acting within the course and scope of that regulation; or

9. Any consumer reporting agency as defined in the Federal Fair Credit Reporting Act, 15 U.S.C. ss. 1681-1681t.

Section 7. This act shall take effect upon becoming law.

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

And the title is amended as follows:

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Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to debt collection; amending s. 559.72, F.S.; revising prohibited practices for a person attempting to collect consumer debt; providing applicability; making a technical change; reenacting ss. 559.565(2), 559.725(2), 559.77(1) and (2), 648.44(1)(o), and 817.7001(2)(b), F.S., relating to enforcement action against an out-of-state consumer debt collector, consumer complaints and administrative duties, civil remedies, prohibitions and penalties, and definitions, respectively, to incorporate the amendment made to s. 559.72, F.S., in references thereto; providing an effective date.

WHEREAS, the Legislature acknowledges that s. 559.72(17), Florida Statutes, was adopted before e-mail communication became commonly used, and that the only specific communication explicitly contemplated in such subsection is telephone calls, and

WHEREAS, the Legislature intends to update and clarify prohibited practices in collecting debt to address e-mail communication by excluding such communication from prohibited contact between the hours of 9:00 p.m. and 8:00 a.m. because such contact is less invasive and less disruptive than telephone calls, NOW, THEREFORE,

By the Committee on Commerce and Tourism; and Senator Rodriguez

A bill to be entitled

An act relating to debt collection; amending s. 559.72, F.S.; revising prohibited practices for a person attempting to collect consumer debt; providing applicability; making a technical change; reenacting ss. 559.565(2), 559.725(2), 559.77(1) and (2), 648.44(1)(o), and 817.7001(2)(b), F.S., relating to enforcement action against an out-of-state consumer debt collector, consumer complaints and administrative duties, civil remedies, prohibitions and penalties, and definitions, respectively, to incorporate the amendment made to s. 559.72, F.S., in references thereto; providing an effective date.

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

Section 1. Section 559.72, Florida Statutes, is amended to read:

559.72 Prohibited practices generally.—Unless otherwise authorized by law, in collecting consumer debts, a ~~no~~ person may not ~~shall~~:

(1) Simulate in any manner a law enforcement officer or a representative of any governmental agency.

(2) Use or threaten force or violence.

(3) Tell a debtor who disputes a consumer debt that she or he or any person employing her or him will disclose to another, orally or in writing, directly or indirectly, information affecting the debtor's reputation for credit worthiness without also informing the debtor that the existence of the dispute will

also be disclosed as required by subsection (6).

(4) Communicate or threaten to communicate with a debtor's employer before obtaining final judgment against the debtor, unless the debtor gives her or his permission in writing to contact her or his employer or acknowledges in writing the existence of the debt after the debt has been placed for collection. However, this does not prohibit a person from telling the debtor that her or his employer will be contacted if a final judgment is obtained.

(5) Disclose to a person other than the debtor or her or his family information affecting the debtor's reputation, whether or not for credit worthiness, with knowledge or reason to know that the other person does not have a legitimate business need for the information or that the information is false.

(6) Disclose information concerning the existence of a debt known to be reasonably disputed by the debtor without disclosing that fact. If a disclosure is made before such dispute has been asserted and written notice is received from the debtor that any part of the debt is disputed, and if such dispute is reasonable, the person who made the original disclosure must reveal upon the request of the debtor within 30 days the details of the dispute to each person to whom disclosure of the debt without notice of the dispute was made within the preceding 90 days.

(7) Willfully communicate with the debtor or any member of her or his family with such frequency as can reasonably be expected to harass the debtor or her or his family, or willfully engage in other conduct which can reasonably be expected to abuse or harass the debtor or any member of her or his family.

(8) Use profane, obscene, vulgar, or willfully abusive language in communicating with the debtor or any member of her or his family.

(9) Claim, attempt, or threaten to enforce a debt when such person knows that the debt is not legitimate, or assert the existence of some other legal right when such person knows that the right does not exist.

(10) Use a communication that simulates in any manner legal or judicial process or that gives the appearance of being authorized, issued, or approved by a government, governmental agency, or attorney at law, when it is not.

(11) Communicate with a debtor under the guise of an attorney by using the stationery of an attorney or forms or instruments that only attorneys are authorized to prepare.

(12) Orally communicate with a debtor in a manner that gives the false impression or appearance that such person is or is associated with an attorney.

(13) Advertise or threaten to advertise for sale any debt as a means to enforce payment except under court order or when acting as an assignee for the benefit of a creditor.

(14) Publish or post, threaten to publish or post, or cause to be published or posted before the general public individual names or any list of names of debtors, commonly known as a deadbeat list, for the purpose of enforcing or attempting to enforce collection of consumer debts.

(15) Refuse to provide adequate identification of herself or himself or her or his employer or other entity whom she or he represents if requested to do so by a debtor from whom she or he is collecting or attempting to collect a consumer debt.

(16) Mail any communication to a debtor in an envelope or postcard with words typed, written, or printed on the outside of the envelope or postcard calculated to embarrass the debtor. An example of this would be an envelope addressed to "Deadbeat, Jane Doe" or "Deadbeat, John Doe."

(17) Communicate with the debtor between the hours of 9 p.m. and 8 a.m. in the debtor's time zone without the prior consent of the debtor. This subsection does not apply to an e-mail communication that is sent to an e-mail address and which otherwise complies with this section.

(a) The person may presume that the time a telephone call is received conforms to the local time zone assigned to the area code of the number called, unless the person reasonably believes that the debtor's telephone is located in a different time zone.

(b) If, such as with toll-free numbers, an area code is not assigned to a specific geographic area, the person may presume that the time a telephone call is received conforms to the local time zone of the debtor's last known place of residence, unless the person reasonably believes that the debtor's telephone is located in a different time zone.

(18) Communicate with a debtor if the person knows that the debtor is represented by an attorney with respect to such debt and has knowledge of, or can readily ascertain, such attorney's name and address, unless the debtor's attorney fails to respond within 30 days to a communication from the person, unless the debtor's attorney consents to a direct communication with the debtor, or unless the debtor initiates the communication.

(19) Cause a debtor to be charged for communications by concealing the true purpose of the communication, including

collect telephone calls and telegram fees.

Section 2. For the purpose of incorporating the amendment made by this act to section 559.72, Florida Statutes, in a reference thereto, subsection (2) of section 559.565, Florida Statutes, is reenacted to read:

559.565 Enforcement action against out-of-state consumer debt collector.—The remedies of this section are cumulative to other sanctions and enforcement provisions of this part for any violation by an out-of-state consumer debt collector, as defined in s. 559.55(11).

(2) A person, whether or not exempt from registration under this part, who violates s. 559.72 is subject to sanctions the same as any other consumer debt collector, including imposition of an administrative fine. The registration of a duly registered out-of-state consumer debt collector is subject to revocation or suspension in the same manner as the registration of any other registrant under this part.

Section 3. For the purpose of incorporating the amendment made by this act to section 559.72, Florida Statutes, in a reference thereto, subsection (2) of section 559.725, Florida Statutes, is reenacted to read:

559.725 Consumer complaints; administrative duties.—

(2) The office shall inform and furnish relevant information to the appropriate regulatory body of the state or the Federal Government, or The Florida Bar in the case of attorneys, if a person has been named in a consumer complaint pursuant to subsection (3) alleging violations of s. 559.72. The Attorney General may take action against any person in violation of this part.

Section 4. For the purpose of incorporating the amendment made by this act to section 559.72, Florida Statutes, in references thereto, subsections (1) and (2) of section 559.77, Florida Statutes, are reenacted to read:

559.77 Civil remedies.—

(1) A debtor may bring a civil action against a person violating the provisions of s. 559.72 in the county in which the alleged violator resides or has his or her principal place of business or in the county where the alleged violation occurred.

(2) Any person who fails to comply with any provision of s. 559.72 is liable for actual damages and for additional statutory damages as the court may allow, but not exceeding $1,000, together with court costs and reasonable attorney's fees incurred by the plaintiff. In determining the defendant's liability for any additional statutory damages, the court shall consider the nature of the defendant's noncompliance with s. 559.72, the frequency and persistence of the noncompliance, and the extent to which the noncompliance was intentional. In a class action lawsuit brought under this section, the court may award additional statutory damages of up to $1,000 for each named plaintiff and an aggregate award of additional statutory damages up to the lesser of $500,000 or 1 percent of the defendant's net worth for all remaining class members; however, the aggregate award may not provide an individual class member with additional statutory damages in excess of $1,000. The court may award punitive damages and may provide such equitable relief as it deems necessary or proper, including enjoining the defendant from further violations of this part. If the court finds that the suit fails to raise a justiciable issue of law or

fact, the plaintiff is liable for court costs and reasonable attorney's fees incurred by the defendant.

Section 5. For the purpose of incorporating the amendment made by this act to section 559.72, Florida Statutes, in a reference thereto, paragraph (o) of subsection (1) of section 648.44, Florida Statutes, is reenacted to read:

648.44 Prohibitions; penalty.—

(1) A bail bond agent or bail bond agency may not:

(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.

Section 6. For the purpose of incorporating the amendment made by this act to section 559.72, Florida Statutes, in a reference thereto, paragraph (b) of subsection (2) of section 817.7001, Florida Statutes, is reenacted to read:

817.7001 Definitions.—As used in this part:

(2)

(b) "Credit service organization" does not include:

1. Any person authorized to make loans or extensions of credit under the laws of this state or the United States who is subject to regulation and supervision by this state or the United States or a lender approved by the United States Secretary of Housing and Urban Development for participation in any mortgage insurance program under the National Housing Act;

2. Any bank, savings bank, or savings and loan association whose deposits or accounts are eligible for insurance by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, or a subsidiary of such bank, savings bank, or savings and loan association;

3. Any credit union, federal credit union, or out-of-state credit union doing business in this state;

4. Any nonprofit organization exempt from taxation under s. 501(c)(3) of the Internal Revenue Code;

5. Any person licensed as a real estate broker by this state if the person is acting within the course and scope of that license;

6. Any person collecting consumer claims pursuant to s. 559.72;

7. Any person licensed to practice law in this state if the person renders services within the course and scope of his or her practice as an attorney and does not engage in the credit service business on a regular and continuing basis;

8. Any broker-dealer registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission if the broker-dealer is acting within the course and scope of that regulation; or

9. Any consumer reporting agency as defined in the Federal Fair Credit Reporting Act, 15 U.S.C. ss. 1681-1681t.

Section 7. This act shall take effect July 1, 2025.

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 Judiciary

BILL:	CS/SB 498
INTRODUCER:	Judiciary Committee and Senator Grall
SUBJECT:	Trust Fund Interest for Purposes Approved by the Supreme Court
DATE:	March 12, 2025
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Cibula	JU	**Fav/CS**
2.	Johnson	Knudson	BI	**Pre-meeting**
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 498 establishes two interest rate options for financial institutions to select between when paying interest or dividends on lawyer or law firm trust accounts, known as the interest on trust accounts (IOTA). These accounts generate interest or dividends that fund a not-for-profit, tax-exempt entity, The Florida Bar Foundation, established by the Supreme Court, which provides free legal services to low-income individuals or for other purposes authorized by the Court.

The two interest rate alternatives under the bill are:

- The highest interest rate or dividend generally available from the institution to comparable business or consumer accounts or nonmaturing deposit accounts; or
- 25 percent of the federal funds target rate or 0.25 percent, whichever is higher, net of fees. As of March 1, 2025, the federal funds target rate is 4.25 – 4.50 percent; 25 percent of these rates would be 1.06 - 1.13 percent, respectively.

In 1981, the IOTA program was implemented by rules adopted by the Florida Supreme Court and is administered by The Florida Bar Foundation. Currently, The Florida Bar Rules prescribe criteria to determine whether a financial institution is eligible to participate in the voluntary IOTA program. One of the eligibility criteria is the minimum interest rate that must be paid by participating financial institutions. According to the Rules, when the Wall Street Journal Prime Rate (indexed rate) is between 3.25 and 4.99 percent, the minimum yield or interest rate paid net of all fees and service charges must be no less than 3.00 percent below the indexed rate. When

the indexed rate is 5.00 percent or above, the yield must be no less than 40 percent of the indexed rate in effect on the first business day of each month.

These provisions do not apply to interest rates that are established by written contract or obligations that are unrelated to the trust accounts described in this bill.

The bill takes effect upon becoming law.

II. Present Situation:

The Jurisdiction of the Florida Supreme Court, The Florida Bar, and the IOTA Program

The State Constitution grants exclusive jurisdiction to the Florida Supreme Court to regulate the admission of people to practice law in the state. The Court also has exclusive jurisdiction to discipline those people once they are admitted to practice law.[1] Florida is a mandatory bar state and all members who are admitted to practice in Florida must be members of The Florida Bar.[2]

The Florida Supreme Court has established the "authority and responsibilities of The Florida Bar" in the *Rules Regulating the Florida Bar*.[3] Chapter 5 contains the "Rules Regulating Trust Accounts," which all attorneys who maintain trust accounts must abide by. Funds that are placed in an attorney's trust account produce interest income exclusively for the IOTA program. Once generated, the interest funds are swept by The Florida Bar directly into the Bar's foundation, Funding Florida Legal Aid.

The Florida Bar created the non-profit, tax-exempt corporation, The Florida Bar Foundation (Foundation), in 1956, and subsequently changed the name of the Foundation to Funding Florida Legal Aid in 2023. The Foundation functions to increase legal access for people with limited means by funding legal services, developing programs, and supporting legal aid providers selected by the foundation for grant awards. The Foundation's primary financial support comes from the IOTA program, but donations are also received from attorneys, law firms, corporations, foundations, and individuals.[4]

Interest on Trust Accounts (IOTA) Program and Funding Florida Legal Aid (FFLA)

Background on Attorney Trust Accounts

A trust account is a short-term account set up by an attorney in which he or she deposits funds on behalf of a client. The account generally contains funds that are combined such as a retainer payment, discovery or litigation costs paid in advance, filing fees, or a settlement award. The amount of money in the account changes often because deposits and withdrawals are made

[1] FLA. CONST. art. V, s. 15. The Court conducts these official functions through two separate entities: the Florida Board of Bar Examiners and The Florida Bar.
[2] The Florida Bar, *Frequently Asked Questions*, https://www.floridabar.org/about/faq/ (last visited March 7, 2025).
[3] The Florida Bar, *Rules Regulating the Florida Bar*, https://www-media.floridabar.org/uploads/2025/02/2025_06-DEC-RRTFB-12-30-2024.pdf. The Rules are divided into 21 chapters consisting of 807 pages.
[4] FFLA, Funding Florida Legal Aid, *Leadership and Funding for Justice in Florida*, *https://fundingfla.org/about-ffla/ffla-overview/* (last visited March 7, 2025).

frequently. These fees may not be commingled with an attorney's operating account but must be kept separately.

A trust account has been described as an "unusual" creation that is significantly different from other accounts. Although an attorney opens the account and is responsible for managing the funds in the account, he or she is not technically the owner of the funds.[5] While an attorney is not the owner of the account, and therefore not entitled to interest generated by the account, neither is the client entitled to interest generated by the funds. The U.S. Court of Appeals for the Eleventh Circuit issued a decision in 1987 determining that a client was not entitled to the interest generated in a trust account.[6]

How the accounts may be regulated or restricted has presented a quandary for almost 200 years. The earliest attempt to regulate trust accounts can be traced to the Legislative Council of the Territory of Florida in 1828. In 1936, the Florida Supreme Court incorporated the regulation of trust accounts into the Court's rules. Additional measures were adopted over the years to ensure that attorneys, acting as "trustees" would not misuse their clients' funds or neglect to return them when requested to do so by the client.[7]

The Evolution of Interest Earned on Trust Accounts

Trust accounts have evolved from simple accounts that earned no interest and benefitted no one in particular to today's accounts in which The Florida Bar, with Florida Supreme Court approval, mandates participation by attorneys, establishes the interest rates, and requires that the interest be remitted to The Florida Bar's foundation, Funding Florida Legal Aid.

For many years, attorneys deposited their clients' funds in non-interest-bearing checking accounts because trying to apportion multiple clients' interest earnings on short-term deposits was too complex. However, in 1978 and in response to a petition by The Florida Bar,[8] the Florida Supreme Court amended the Bar rules and authorized attorneys to invest trust funds held for their clients to generate investment income that would, among other things, provide legal aid to the poor and help provide student loans.[9] Participation in the program would be voluntary. The interest payments would be transmitted directly from the financial institutions to The Florida Bar Foundation. In implementing these changes, Florida became the first state in the nation to adopt an interest on trust accounts program, commonly called IOTA.[10] After several adjustments were made, the program became operational in 1981 and permitted *voluntary* participation by

[5] *In re* Amendments to the Rules Regulating the Florida Bar-Miscellaneous: The Florida Bar's Response to the Florida Bankers Association's Motion for Rehearing, Case No. SC22-1292 (April 14, 2023), https://acis-api.flcourts.gov/courts/68f021c4-6a44-4735-9a76-5360b2e8af13/cms/case/baa8ed04-2926-4922-b099-9d51fd7ab2ae/docketentrydocuments/a8e413ea-a6d4-417f-a1b0-2536bb7c9292 (last visited Mar. 27, 2025).
[6] *Cone v. State Bar of Florida*, 819 F.2d 1002 (11th Cir. 1987).
[7] *A Petition of Florida Bar*, 356 So. 2d 799 (Mem), 800-801 (Fla. 1978). (The lengthier case style *is In re Interest on Trust Accounts, A Petition of The Florida Bar to Amend the Code of Professional Responsibility and the Rules Governing the Practice of Law*.)
[8] More specifically, the petition to amend the rules was brought by the Board of Governors of The Florida Bar with the concurrence of the Board of Directors of The Florida Bar Foundation.
[9] *In re* Interest on Trust Accounts, A Petition of The Florida Bar, 356 So. 2d 799 (Mem) (Fla. 1978).
[10] *Id.* at 800-801.

attorneys and their firms.[11] In 1989, the Rules were amended and participation in the program became *mandatory* for all attorneys.[12]

The next significant development occurred in 2001 when the trust account rules were amended to define financial institutions that are eligible to hold IOTA accounts. These eligible institutions were limited to the institutions that pay IOTA account depositors "the highest interest rate or dividend generally available from the institution to its non-IOTA account customers when IOTA accounts meet or exceed the same minimum balance" or other eligibility requirements. In essence, The Florida Bar Foundation was asking that IOTA accounts be placed on an equal par with non-IOTA accounts in an institution.[13] Financial institutions may impose charges and fees on IOTA accounts, as described below: **[14]**

The following charges and fees have been defined as "reasonable" and are the only service charges or fees permitted to be deducted from interest earned on IOTA accounts. These service charges or fees may be deducted from IOTA account interest only at such rates and under such circumstances as is the financial institution's customary practice for all its interest-bearing checking account customers:

- Per check charge.
- Per deposit charge.
- Fee in lieu of minimum balance.
- Federal deposit insurance fee.

Financial institutions also may recoup special costs for their participation in IOTA through deduction of a reasonable IOTA handling or administrative fee.[15]

2023 Amendments to Interest on Trust Accounts Rule

The Florida Bar's Position

The Florida Bar petitioned the Court on October 3, 2022, to amend the IOTA rules. The stated goal of the proposed amendments was to "include all possible accounts that can be used as trust accounts" and "ensure the highest possible interest is available for IOTA accounts."[16] The net effect of these amendments would be to increase funding to the Bar's legal aid funding organization, Funding Florida Legal Aid.

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[11] It should be noted that the establishment of IOTA or IOLTA (Interest on Lawyers' Trust Accounts as they are called in other states) was possible only after Congress made changes to federal banking laws in 1980 that allowed certain checking accounts to pay interest. American Bar Association, *Interest on Lawyers' Trust Accounts*, https://www.americanbar.org/groups/interest_lawyers_trust_accounts/overview/ (last visited Mar. 27, 2025). See also *Matter of Interest on Trust Accounts,* 402 So. 2d 389 (Mem) (Fla. 1981).

[12] *Matter of Interest on Trust Accounts: Petition to Amend the Rules Regulating the Florida Bar*, 538 So. 2d 448, 449-450, (Fla. 1989).

[13] *Amendment to Rules Regulating the Florida Bar—Rule 5-1.1(e)--IOTA*, 797 So. 2d 551 (Fla. 2001).

[14] Funding Florida Legal Aid, Iota, for Lawyers and Law Firms, https://fundingfla.org/iota/attorneys-lawfirms/ (last visited Mar. 24, 2025).

[15] *Id*.

[16] *In re* Amendments to the Rules Regulating the Florida Bar – Miscellaneous*:* Petition to Amend the Rules Regulating the Florida Bar, Case No. SC2022-1292 (10/03/2022), https://acis-api.flcourts.gov/courts/68f021c4-6a44-4735-9a76-5360b2e8af13/cms/case/baa8ed04-2926-4922-b099-9d51fd7ab2ae/docketentrydocuments/60ddf5a7-6ae4-425a-a90b-2cebcc635bd0 (last visited Mar. 27, 2025).

On March 16, 2023, the Florida Supreme Court adopted amendments to *Rules Regulating the Florida Bar*, including provisions regulating trust fund accounts. The amendments:

- Expand the definition of an interest or dividend-bearing account to include a business or consumer deposit account, non-maturing deposit, an investment product, a daily financial institution repurchase agreement or a money market account.[17]
- Require eligible institutions to maintain IOTA accounts that pay the highest interest rate or dividend generally available from the institution to its non-IOTA business or consumer account customers when IOTA accounts meet or exceed the same minimum balance qualifications.[18]
- Mandate that eligible institutions tie minimum interest rates for IOTA accounts to the Wall Street Journal Prime Rate (indexed rate).[19]

The formula to determine interest rates and dividends based on the Wall Street Journal Prime Rate is described by the amendments as follows:

> When the Wall Street Journal Prime Rate ("indexed rate") is between 325 and 499 basis points (3.25% and 4.99%), the minimum interest rate paid net of all fees and service charges ("yield") must be no less than 300 basis points (3.00%) below the indexed rate in effect on the first business day of each month. When the indexed rate is 500 basis points (5.00%) or above, the yield must be no less than 40% of the indexed rate in effect on the first business day of each month.[20]

The Wall Street Journal Prime Rate is a lending rate.[21] To establish this rate, the Wall Street Journal regularly surveys the 30 largest banks in the United States to determine what interest rate they are charging their customers with the highest-rated credit for short-term loans.[22] When 75 percent of the 30 banks change their prime rate, the Wall Street Journal changes its rate.[23] As of March 5, 2025, the Wall Street Journal Prime Rate is 7.5 percent.[24]

In a January 16, 2024, article published in the *Florida Bar News*, the amended rule was explained this way:

> For instance, under the amended rule, when prime rate is between 3.25% and 5%, then the trust account rate banks pay out is between .25% and 2%, a 3% gain. After that the gains get even better for banks. At a 7% interest rate, for example, banks will pay out 2.8%, a 4.2% gain.[25]

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[17] R. Regulating Fla. Bar Rule 5-1.1(g)(1)(E).
[18] R. Regulating Fla. Bar Rule 5-1.1(g)(5)(A).
[19] R. Regulating Fla. Bar Rule 5-1.1(g)(5)(B).
[20] *Id*.
[21] Fulton Bank, *What Is Wall Street Journal Prime Rate and Why It Matters* https://www.fultonbank.com/Education-Center/Managing-Credit-and-Debt/Prime-rate-and-why-it-matters (last visited March 7, 2025).
[22] Bankrate, Wall Street Journal Prime rate (Mar. 18, 2025), Wall Street Prime Rate | WSJ Current Prime Rate Index (last visited Mar. 24, 2025).
[23] *Id*.
[24] The Wall Street Journal, *WSJ-Markets*, https://www.wsj.com/market-data/bonds (last visited March 5, 2025).
[25] Florida Bar News, *Measure Would Have Florida's CFO Set the Rate Paid on Iota Accounts* (Jan. 16, 2024) https://www.floridabar.org/the-florida-bar-news/measure-would-have-floridas-cfo-set-the-rate-paid-on-iota-accounts/ (last visited Mar. 27, 2025).

Another article explained the rule change in these terms:

> As a result of this change, for a financial institution to be eligible to participate in the program, it must pay a minimum interest rate of 3.00% when the Wall Street Journal Prime Rate (index rate) is between 3.25% and 4.99%. When the index rate is above 5.00%, to stay eligible, financial institutions are required to pay a minimum interest rate equal to 40% of the index rate.[26]

Florida Bankers Association's Challenge to the 2023 Rule Amendments

One criticism of the amended rule is that the Wall Street Journal Prime Rate is a benchmark for *lending purposes* and is not used to set *deposit* account interest rates. As a result, the interest rate is significantly higher than interest rates paid for other deposits.

The Florida Bankers Association (FBA) filed a motion for rehearing on March 31, 2023, stating that it did not receive adequate or meaningful notice of the proposed IOTA amendments.[27] The FBA contended that the amended rules, while admirable, would "have a significant and negative impact on participating banks" and go far beyond its intended purpose. The FBA argued that basing the interest rate for IOTA accounts on the Wall Street Journal's Prime Rate would mean that the minimum interest paid on IOTA accounts would be significantly higher than any other interest rate offered by a bank on consumer or business accounts. The FBA also argued that the judicial branch had violated the separation of powers doctrine and encroached impermissibly on the executive branch's power to regulate banks through the Office of Financial Regulation, the Department of Financial Services, and the Financial Services Commission.

The new rule became effective on May 15, 2023, and remains in effect. The Court allowed comments from interested parties until November 1, 2023, and directed The Florida Bar to file a report on the status of the implementation of the rules.

Negotiation Attempts Have Failed to Reach a Compromise

According to documents filed in the Florida Supreme Court, the Florida Bankers Association and The Florida Bar have attempted for months to reach a compromise rate that is agreeable to both parties. This has resulted in an impasse and no compromise has been reached.[28] On August 7, 2024, the Court denied the Florida Bankers Association for rehearing.

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[26] The Bank of Tampa, *Invested in You*, https://www.bankoftampa.com/iota/ (last visited March 7, 2025).
[27] *In re*: Amendments to Rules Regulating the Florida Bar 5-1.1; Florida Bankers Association's Motion), Case No. SC22- 1292 (Mar. 31, 2023), 70f6bc15-9b6e-41b5-8c56-65db9b750a31 (flcourts.gov) (last visited Mar. 27, 2025).
[28] *In re* Amendments to the Rules Regulating the Florida Bar, The Florida Bankers Association's Comment to the Florida Bar's Report on Implementation Status, Case No: SC2022-1292, https://acis-api.flcourts.gov/courts/68f021c4-6a44-4735-9a76-5360b2e8af13/cms/case/baa8ed04-2926-4922-b099-9d51fd7ab2ae/docketentrydocuments/f5381851-24da-4ff6-932d-487a9ca0b99c (last visited Mar. 27, 2025).

IOTA Data for Funding Florida Legal Aid

Amounts Received by FFLA From the IOTA Program

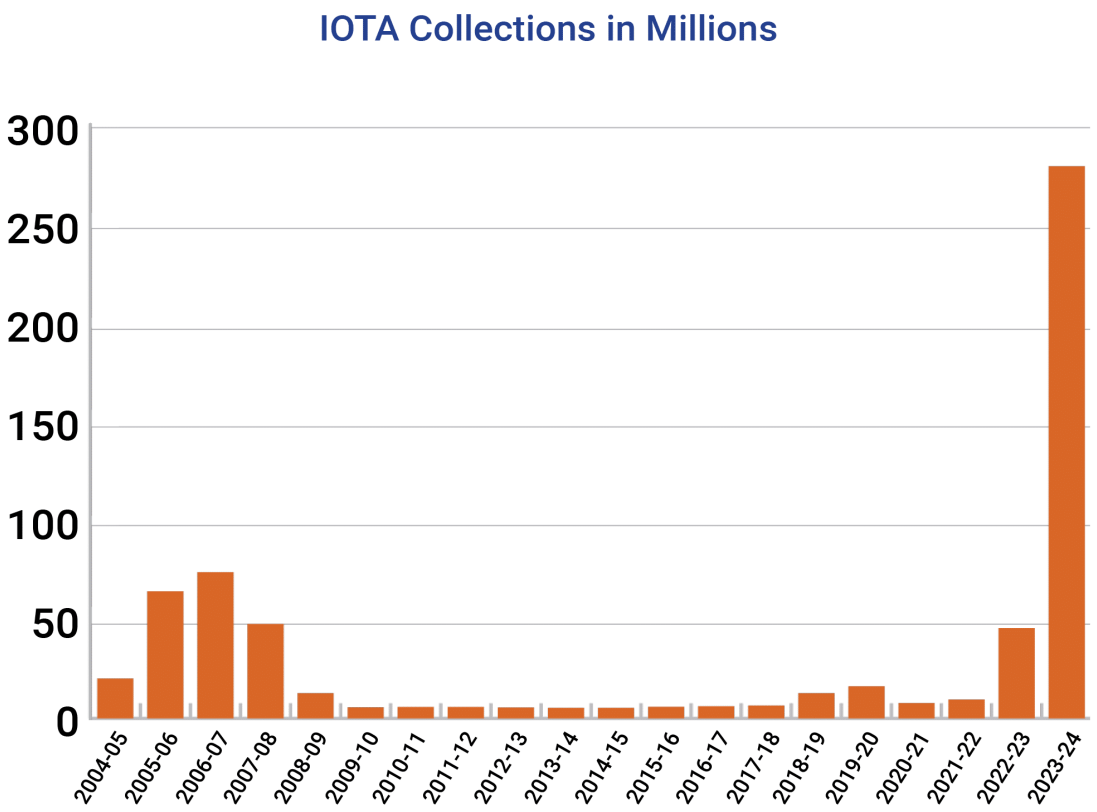
Funding Florida Legal Aid supplied the information below on remittances from the IOTA accounts. The fiscal year begins July 1 and ends June 30 of the following year.

FY 2018-19	$12,711,423
FY 2019-20	$16,233,686
FY 2020-21	$7,749,737
FY 2021-22	$9,498,692
FY 2022-23	$45,547,390
FY 2023-24	$279,656,155

Information for FY 2024-25 is only partially complete. However, for remittances received from July 2024 through January 2025, FFLA reports total receipts of $155,378,419.[29] It is significant to note that the IOTA collections increased by $234,108,765 between fiscal year 2022-23 and fiscal year 2023-24 due to the newly implemented funding formula authorized by the Supreme Court in May 2023 for the benefit of the Foundation.[30]

[29] Email from Amanda Fraser, Governmental Consultant on behalf of Funding Florida Legal Aid (March 5, 2025) (on file with the Senate Committee on Banking and Insurance).
[30] *In re* Amendments to the Rules Regulating the Florida Bar – Miscellaneous*:* The Florida Bar's Report on Implementation Status (April 2, 2024) Case No: SC2022-1292, https://acis-api.flcourts.gov/courts/68f021c4-6a44-4735-9a76-5360b2e8af13/cms/case/baa8ed04-2926-4922-b099-9d51fd7ab2ae/docketentrydocuments/e5b1ae2c-d317-4a98-8c2e-79231698b18d (last visited Mar. 27, 2025).

The FFLA shows with the chart below how the annual revenue collections through the IOTA program have changed over the years:[31]



Participating Banking Institutions and IOTA Program Accounts

The number of financial institutions participating in the IOTA program has increased since the interest formula was amended in May 2023.

April 2023	151[32]
December 2023	162[33]
December 2024	170[34]

According to the FFLA, the program has grown by a net of 16 banks since the IOTA interest formula was amended in 2023.[35] Four banks have withdrawn from the program since the

[31] Florida Funding Legal Aid, Financial Stewardship, https://fundingfla.org/about-ffla/ffla-finances/ (last visited March 10, 2025).
[32] Email from Amanda Fraser, Governmental Consultant on behalf of Funding Florida Legal Aid (Mar. 27, 2025) (on file with Senate Committee on Banking and Insurance).
[33] Email from Amanda Fraser, Governmental Consultant on behalf of Funding Florida Legal Aid, *SB 498 Fiscal Analysis from FFLA* (March 5, 2025) (on file with the Senate Committee on Banking and Insurance).
[34] *Id.*
[35] *Supra at 33.*

adoption of the 2023 IOTA amendment.[36] The number of trust accounts in the FFLA system as of January 2025 is 33,823.[37]

Receipts and Disbursements by Funding Florida Legal Aid

Funding Florida Legal Aid received $279,656,155 in IOTA collections for the fiscal year ending June 30, 2024. The Court granted FFLA's request to distribute $94,832,278 to qualified organizations and place the remaining $142,875,455 in reserve for the benefit of present and future organizations. The Court found the proposed distribution and additional reserve amount was reasonably prudent to promote stability in distribution of IOTA funds. According to the Court's administrative order, this represents a 145 percent increase over the previous year's distribution.[38]

Trust Account Programs in Other States

According to the American Bar Association (ABA), interest paid on trust account programs, sometimes called IOLTA, or Interest on Lawyers' Trust Accounts, are found in all 50 states, Washington, D.C., Puerto Rico, and the U.S. Virgin Islands. The ABA estimates that, since 1981, these programs have generated over $4 billion to fund legal services for people living in poverty, often through legal aid and pro bono programs.[39] According to the Foundation, most states that have a safe harbor rate, have rates that range from 50 - 55 percent of the Federal Funds Target Rate(FFR) up to one percent of the FFR.[40] The programs in Texas and Georgia are described below.

Texas

In Texas, the Access to Justice Foundation administers the IOLTA program, which was established in 1984 by the Supreme Court of Texas.[41] As of July 1, 1989, all Texas attorneys handling qualifying client funds must establish an IOLTA account, unless a low balance exempts them.[42] Pursuant to the Supreme Court of Texas, attorneys must hold IOLTA accounts in eligible banks, which are those that pay interest rates comparable to other similar situated accounts. The attorney, or law firm, establishing the interest-bearing demand account, must attempt in good faith to obtain a rate of interest payable on the account not less than the rate paid by the depository institution to other depositors with accounts of similar size.[43] A higher rate offered by the institution on deposits meeting certain time requirements or minimum amounts, such as those offered in the form of certificates of deposit, may be obtained if there is no impairment of the right to withdraw or transfer principal immediately, other than the statutory notification

[36] *Id.*
[37] *Id.*
[38] *In Re: FFLA-FY 2023-24 IOTA Collections, Request for Approval of Additional Reserve Amount*, No. AOSC24-70, (Oct. 4, 2024) https://supremecourt.flcourts.gov/content/download/2441648/file/AOSC24-70.pdf.
[39] American Bar Association, *Interest on Lawyers' Trust Accounts, Overview, The Impact of IOLTA*, https://www.americanbar.org/groups/interest_lawyers_trust_accounts/overview/.
[40] Email from Amanda Fraser, Governmental Consultant on behalf of Funding Florida Legal Aid, *SB 498 Fiscal Analysis from FFLA* (March 5, 2025) (on file with the Senate Committee on Banking and Insurance).
[41] Directory of IOLTA Programs (americanbar.org) (last visited Mar. 27, 2025).
[42] Texas Access to Justice Foundation, TAJF- Funding (teajf.org) (last visited Mar. 27, 2025).
[43] *See* State Bar of Texas Rules, Article XI, Sections 5-6. In the Supreme Court (teajf.org) (last visited Mar. 27, 2025).

requirements generally applicable to those accounts, even though interest may be lost because of the withdrawal or transfer.[44]

Georgia

Pursuant to the Georgia Supreme Court rules, the Georgia Bar Foundation administers the IOLTA program.[45] On any IOLTA account, the rate of interest payable may not be less than:

- The highest interest rate or dividend generally available from the approved institution to its non-IOLTA customers for each IOLTA account that meets the same minimum balance or other eligibility qualifications, if any. In determining the highest interest rate or dividend generally available from the institution to its non-IOLTA customers, the institution may consider factors, in addition to the IOLTA account balance, customarily considered by the institution when setting interest rates or dividends for its customers if such factors do not discriminate between IOLTA accounts and accounts of non-IOLTA customers; or
- Alternatively, an institution may choose a rate equal to the greater of 0.65% per annum or a benchmark interest rate, net of allowable reasonable fees, set by the Foundation, which shall be expressed as a percentage (index) of the federal funds target rate, as established from time to time by the Federal Reserve Board. In order to maintain an overall comparable rate, the Foundation will periodically, but not less than annually, publish its index. The index shall initially be 65 percent of the federal funds target rate.
- Approved institutions may choose to pay rates higher than comparable rates discussed above.[46]

Chief Financial Officer

The State Constitution provides that the Chief Financial Officer (CFO) serves as the chief fiscal officer of the state. The CFO is a member of the cabinet and is responsible for settling and approving accounts against the state and keeping all state funds and securities.[47] The CFO serves as the head of the Department of Financial Services (DFS).[48]

Additionally, the CFO is required by statute to set the rate of interest that will be payable on judgments or decrees for the calendar quarter beginning January 1 each year. The CFO must adjust the rate quarterly on April 1, July 1, and October 1, by averaging the discount rate of the Federal Reserve Bank of New York for the preceding 12 months, then adding 400 basis points to the average federal discount rate.[49] As of January 1, 2025, the annual interest rate is 9.38 percent.[50]

Financial Services Commission

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[44] *Id.*
[45] Supreme Court of Georgia, Rule 15-103, prescribes the rate of interest paid. ORDER-2014_1_FINAL_with-State-Bar-Edits1.pdf (gasupreme.us) (last visited Mar. 27, 2025).
[46] *Id.*
[47] FLA. CONST. art. IV, s. 4(c).
[48] Section 20.121(1), F.S.
[49] Section 55.03(1), F.S.
[50] My Florida CFO, *Current Judgment Interest Rates*, https://myfloridacfo.com/division/aa/audits-reports/judgment-interest-rates (last visited March 4, 2025).

The Financial Services Commission (commission) is composed of the Governor, the Attorney General, the CFO, and the Commissioner of Agriculture.[51] Commission members serve as the agency head for purposes of rulemaking under ch. 120, F.S.[52] The Office of Financial Regulation (OFR) and the Office of Insurance Regulation (OIR)[53] are units under the commission.[54] Each director or commissioner of the OIR and OFR, respectively, is the agency head for purposes of final agency action under chapter 120, F.S., for all areas within the regulatory authority delegated to the director's office.[55]

Although the commission is created within the DFS, the commission is not subject to the control, supervision, or direction by the DFS in any manner, including purchasing, transactions involving real or personal property, personnel, or budgetary matters.[56] Further, the DFS is required to provide administrative and information systems support to the offices.[57]

State and Federal Regulation of Financial Institutions

The OFR regulates state-chartered banks, credit unions, other financial institutions, finance companies, and the securities industry.[58] The Division of Financial Institutions within OFR charters, licenses, and regulates various entities that engage in financial institution business in Florida, in accordance with the Financial Institutions Code.[59]

Under the dual banking system in the United States, banks may be chartered under either state or federal law:

- *State-chartered banks*[60] are chartered under the laws of the state in which the bank is headquartered. State-chartered banks have both a state regulator, which for banks chartered by the state of Florida is the OFR, and a federal regulator. The primary federal regulator for state banks that are members of the Federal Reserve System is the Board of Governors of the Federal Reserve System, and the primary federal regulator for non-member state banks is the Federal Deposit Insurance Corporation.[61]

[51] Section 20.121(3), F.S.
[52] Section 20.121(3)(c), F.S
[53] Pursuant to s. 20.121(3)(a)1., F.S., the OIR is responsible for all activities concerning health maintenance organizations, life and health insurers, property and casualty insurers, and other risk-bearing entities, including licensing, rates, policy forms, market conduct, claims, issuance of certificates of authority, solvency, viatical settlements, premium financing, and administrative supervision, as provided under the Florida Insurance Code.
[54] Section 20.121(3)(a), F.S.
[55] Section 20.121(3)(c), F.S.
[56] Section 20.121(3), F.S.
[57] Section 20.121(3)(e), F.S.
[58] Section 20.121(3)(a)2., F.S.
[59] Pursuant to s. 655.005(1)(k), F.S., the term, "financial institutions code," means chs. 655, 657, 658, 660, 662, 663, 665, and 667, F.S.
[60] Like banks, credit unions can be organized under a state or federal charter. The National Credit Union Administration is an independent federal agency that insures deposits at federally insured credit unions, protects the members who own credit unions, and charters and regulates federal credit unions. 12 U.S.C. § 1753.
[61] 12 U.S.C. § 1813(q).

- *National banks*[62] are chartered by the Office of the Comptroller of the Currency (OCC) under the National Bank Act.[63] As such, the OCC is the primary federal regulator for national banks.[64]

A trust company is a business organization, other than a bank, which is authorized by lawful authority to engage in the business of acting as a fiduciary.[65] Trust companies are chartered by states, and the state regulator for trust companies chartered by the state of Florida is the OFR. Trust companies do not have a federal regulator.

III. Effect of Proposed Changes:

The bill provides two interest rate alternatives for financial institutions to select between when paying interest or dividends on a lawyer or law firm trust account. The interest or dividends will be remitted to an entity established by the Florida Supreme Court that facilitates free legal services to low-income people or a program that is consistent with other court-authorized purposes.

If a financial institution holds a lawyer's or law firm's trust account, it must quarterly select which of the two options it will pursue.

Alternative One – Measured with Deposit Rate Interest

The first interest-rate option requires the financial institution to pay the highest interest rate or dividend that is generally available to its comparable business or consumer accounts or nonmaturing deposit accounts if the trust account meets or exceeds the same minimum balance or other account requirements. Under this option, the institution must submit a rate validation sheet and affidavit to the Chief Financial Officer by the tenth day of each quarter attesting that it will pay at least the same interest on the trust accounts that it pays on comparable business or consumer accounts or nonmaturing deposit accounts. The affidavit must attest that the rate information submitted on the rate validation sheet is true and factual. The Chief Financial Officer must verify that the rate validation sheet and affidavit have been received by the Department of Financial Services.

Alternative Two – Measured with Federal Funds Target Rate or a Set Rate (Safe Harbor Rates)

The second interest rate option must be set at 25 percent of the federal funds target rate determined by the Federal Open Market Committee of the Federal Reserve System or 0.25 percent, whichever is higher, net of fees. The interest rate option at 25 percent of the federal funds target rate would be 1.06 - 1.13 percent (25 percent of 4.25 and 4.50 percent, respectively). The "federal funds target rate" is the interest rate that commercial banks charge one another for

[62] National banks are authorized to exercise "all such incidental powers as shall be necessary to carry on the business of banking; by discounting and negotiating promissory notes, drafts, bills of exchange, and other evidences of debt; by receiving deposits; by buying and selling exchange, coin and bullion; by loaning money on personal security; and by obtaining, issuing, and circulating notes." 12 U.S.C. § 24 (Seventh).
[63] 12 U.S.C. § 38.
[64] 12 U.S.C. § 1813(q).
[65] Section 658.12(20) and (21), F.S.

short-term loans or the interest rate that banks use to borrow or lend their excess reserves to one another overnight to meet the reserve balance requirements.[66] As of March 19, 2025, the Federal Open Market Committee of the Federal Reserve has not changed the federal funds target rate, and it remains at 4.25 percent to 4.50 percent.[67] If an institution selects this rate alternative, it is not required to submit a rate validation sheet to the CFO.

Under this option, the Chief Financial Officer must determine the interest rate on the first day of December, March, June, and September. That rate will take effect on the first day of the following January, April, July, and October, respectively. Within 3 days after determining the interest rate under this option, the Chief Financial Officer must inform the entity established by the Florida Supreme Court as to what the interest rate will be for the upcoming quarter.

These rate alternatives do not apply to interest rates that have been established by written contracts or obligations unrelated to the trust accounts described in this bill.

The bill takes 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:

Separation of Powers

The State Constitution divides the powers of state government into three branches: the legislative, executive, and judicial branches. The Constitution prohibits a person in one branch from exercising any powers that belong to the other two branches of government unless it is expressly provided.[68]

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[66] Investopedia, *Federal Funds Rate: What It Is, How It's Determined, and Why It's Important* (Jan. 27, 2025) https://www.investopedia.com/terms/f/federalfundsrate.asp.
[67] Board of Governors of the Federal Reserve System, *Federal Reserve Issues FOMC Statement* (Mar. 19 , 2025) Federal Reserve Board - Federal Reserve issues FOMC statement (last visited Mar. 24, 2025).
[68] FLA. CONST. art. II, s. 3.

The Florida Supreme Court, under s. 15 of Article V of the State Constitution, has the "exclusive jurisdiction to regulate the admission of persons to the practice of law and the discipline of persons admitted." The Supreme Court exercises this responsibility through The Florida Bar and its rules. If the bill is determined to be a regulation of attorneys or the practice of law, it may be declared unconstitutional.

Federal Preemption/Regulation of Federally Chartered Financial Institutions

The bill creates s. 655.97, F.S., within the Financial Institutions Code (code).[69] The code generally applies to the regulation of state-chartered financial institutions by the Office Financial Regulation. The provisions of the bill require the Chief Financial Officer (CFO) to establish rates of interest on trust accounts (IOTA) that are established by lawyers at participating or eligible institutions. Chapter 17, F.S, prescribes the duties of the CFO.

The National Banking Act was enacted by Congress to facilitate a national banking system.[70] The Office of the Comptroller of the Currency is the federal agency charged with regulating national banks and savings associations.[71] The National Credit Union Administration is an independent federal agency that insures deposits at federally insured credit unions, protects the members who own credit unions, and charters and regulates federal credit unions. It is unclear whether the regulation of rates of interest on trust accounts within the code would be applicable to federally chartered financial institutions, such as national banks, savings associations, or credit unions.

The U.S. Supreme Court has reviewed the federal constitutional foundations of the national banking system, and reaffirmed that national bank powers are not normally limited by state law.[72] The Court concluded that "where Congress has not expressly conditioned the grant of 'power' upon a grant of state permission, the Court has ordinarily found that no such condition applies."[73] Further, in another case, the Court concluded, "We find no indication that Congress intended to make this phase of national banking [deposit-taking] subject to local restrictions, as it has done by express language in several other instances."[74]

If the bill is determined to be a regulation of financial institutions, The Florida Bar may be required to revise its rules governing the obligations of attorneys to establish IOTA accounts or the eligibility of financial institutions to participate in the IOTA program. However, federal law may preempt the application of the bill to the regulation of federally chartered financial institutions. The OFR does not have primary regulatory authority over nationally chartered institutions.

[69] Chs. 655, 657, 658, 660,662,663, 665, and 667, F.S.
[70] *Marquette Nat'l Bank of Minneapolis v. First of Omaha Serv. Corp.,* 439 U.S. 299 (1978).
[71] 12 USC s. 1 *et seq.*
[72] *Barnett Bank of Marion County, N.A. v. Nelson*, 517 U.S. 25, 32 (1996) (the history of the legal concept of national bank powers "is one of interpreting grants of both enumerated and incidental 'powers' to national banks as grants of authority not normally limited by, but rather ordinarily preempting, contrary state law'"). See also Franklin Nat'l Bank v. New York, 347 U.S. 373 (1954).
[73] *Barnett*, 517 U.S. at 34.
[74] See also Franklin Nat'l Bank v. New York, 347 U.S. 373 (1954).

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill provides that financial institutions may opt out of the higher interest rate required by the Florida Bar Rules for attorneys by selecting alternative rates set by the Chief Financial Officer (CFO). As a result, financial institutions participating in the program may see greater profits under this bill, be able to pay higher interest rates to other customers, or charge lower fees for services. In contrast, Funding Florida Legal Aid will likely see a significant reduction in the interest revenue it receives to fund its legal aid programs, and other authorized programs.

According to the FFLA,[75] the proposed safe harbor rates contained in the bill (25 percent of the Federal Funds Target Rate or FFR) are the lowest in the country by half. Most states who have safe harbor plans have rates that range from .55 or 55% to up to 1.00 percent of the FFR. The state with the lowest safe harbor rate, Pennsylvania, provides a safe harbor rate of .50 percent of the FFR.

C. Government Sector Impact:

Indeterminate. The financial institution filings submitted to the CFO under this bill could be subject to OFR review during the normal course of a state-chartered financial institution examination. This would be similar to the current practice of OFR collecting and examining DFS pledge worksheets completed by institutions relating to public deposits. However, the OFR does not have primary regulatory authority over nationally chartered institutions.[76]

VI. Technical Deficiencies:

The bill establishes two interest rate alternatives that financial institutions must pay on lawyer or law firm trust accounts, known as the interest on trust account (IOTA) program. The bill requires the Chief Financial Officer to determine the interest rate of the second rate alternative for financial institutions participating in the IOTA program. It is unclear whether the Legislature can regulate federally chartered financial institutions, which are not subject to regulation by the Office of Financial Regulation (OFR). Further, the CFO does not appear to have regulatory jurisdiction of state-chartered financial institutions, which is under the jurisdiction of the OFR.

If a financial institution selects second rate alterative provided in the bill, it must submit a rate validation sheet and affidavit to the CFO that it will pay at least the same interest on IOTA accounts that it is paying on its comparable business or consumer accounts. The affidavit must

[75] *Id.*
[76] Office of Financial Regulation, *Analysis of SB 498* (Mar. 26, 2025) (on file with Senate Banking and Insurance Committee).

attest that the rate information submitted on the rate validation sheet is true and factual. Institutions must file a quarterly election, but no date is specified for the second option. It is unclear what happens if a financial institution does not timely file an interest rate election. There does not appear to be a default interest rate. It is unclear what specific information would be required on the "rate validation sheet."

The bill does not provide the Financial Services Commission with authority to adopt rules or forms to implement these reporting requirements. It is unclear whether the Department of Financial Services has the authority to adopt rules that apply to state-chartered financial institutions regulated under ch. 655, F.S.

VII. Related Issues:

In the event the Supreme Court declined to amend Rule 5-1.1(g) in accordance with the bill, it is unclear whether attorneys would still be subject to disciplinary action for failing to follow Florida Bar Rules and establishing IOTA accounts with a financial institution paying lower interest pursuant to the bill.

It is also possible that the effect of the bill may be to require the use of federally chartered financial institutions. The bill limits the interest that state-chartered financial institutions may offer on ITOA accounts. If such limitations are not in compliance with the requirements of the Rules Regulating the Florida Bar, then attorneys would need to maintain such accounts in federally chartered financial institutions, which are not subject to the requirements of ch. 655, F.S.

VIII. Statutes Affected:

This bill creates section 655.97 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 Judiciary on March 12, 2025:
The committee substitute differs from the underlying bill by:

- Removing references to Interest on Trust Account programs and Funding Florida Legal Aid.
- Requiring the institutions that choose the first interest rate alternative program submit an affidavit to the Chief Financial Officer in addition to the rate validation sheet.
- Clarifying that the Chief Financial Officer sets the interest rate only on the second interest rate alternative, not both interest rate alternatives.
- Clarifying that the bill is a regulation of financial institutions and is not a regulation of The Florida Bar.

B. Amendments:

None.

496408

LEGISLATIVE ACTION

Senate . House

. . . . .

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

Senate Amendment (with title amendment)

Delete lines 75 - 109

and insert:

holds such an account, it must pay the highest interest rate or dividend generally available from the institution to its comparable business or consumer accounts or nonmaturing deposit accounts, provided that the trust account meets or exceeds the same minimum balance or other account requirements, but the interest rate on trust accounts may not be less than 0.25

496408

percent.

(a) The financial institution must submit a rate validation sheet and affidavit to the Chief Financial Officer by the tenth day of each quarter attesting that it will pay the same interest rate or dividend on the lawyer or law firm trust accounts that it is paying on its comparable business or consumer accounts or nonmaturing deposit accounts or the minimum 0.25 percent.

(b) The affidavit must attest that the rate information submitted on the rate validation sheet is true and factual.

(c) The Chief Financial Officer shall verify that the rate validation sheet and affidavit have been received by the Department of Financial Services.

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

And the title is amended as follows:

Delete lines 7 - 22

and insert:

pay a certain interest rate or dividend; prohibiting the interest rate from being less than a specified percentage; requiring a financial institution to submit a rate validation sheet and affidavit to the Chief Financial Officer attesting it will pay a certain interest rate or dividend; requiring that the affidavit attest that certain information is true and factual; requiring the Chief Financial Officer to verify certain information; providing

By the Committee on Judiciary; and Senator Grall

590-02314-25 2025498c1

A bill to be entitled

An act relating to trust fund interest for purposes approved by the Supreme Court; creating s. 655.97, F.S.; authorizing financial institutions to hold funds in specified trust accounts to be used for specified purposes; requiring such financial institutions to quarterly select a certain interest rate alternative for a specified purpose; providing requirements for such interest rate alternatives; requiring a financial institution to submit a rate validation sheet and affidavit to the Chief Financial Officer within a specified timeframe attesting it will pay a certain interest rate; requiring that the affidavit attest that certain information is true and factual; requiring the Chief Financial Officer to verify certain information; requiring the Chief Financial Officer to determine, at specified intervals, the interest rate of a specified interest rate alternative; providing that such rates are effective on specified dates; requiring the Chief Financial Officer to inform a certain entity of the determined interest rate within a specified timeframe; providing applicability; providing an effective date.

WHEREAS, in September 1981, the Florida Supreme Court implemented the nation's first Interest on Trust Accounts (IOTA) program, establishing a vital funding source for civil legal aid, justice system improvements, and public service programs for law students, and

590-02314-25 2025498c1

WHEREAS, Funding Florida Legal Aid (FFLA), formerly known as The Florida Bar Foundation, and the Florida Bankers Association have cooperated for decades to sustain the program and encourage participation, and

WHEREAS, in March 2023, the Florida Supreme Court adopted new rules requiring lawyers to secure interest rates based on the Wall Street Journal Prime Rate, compelling banks to pay higher rates for IOTA accounts than for other similar accounts, and

WHEREAS, 44 states, the District of Columbia, and Puerto Rico have mandatory IOTA programs modeled after Florida's pre-2023 system, while 5 states and the U.S. Virgin Islands operate voluntary or opt-out programs, and

WHEREAS, the 2023 rule change made Florida an outlier compared to other jurisdictions where IOTA rates are typically benchmarked against interest-bearing checking account rates, and

WHEREAS, the Wall Street Journal Prime Rate serves as a benchmark for lending and is not used to set deposit account rates, and

WHEREAS, the 2023 rule change resulted in banks paying higher rates on funds in IOTA accounts, resulting in record revenues, exceeding $279 million, paid to FFLA during the 2023-2024 fiscal year, nearly four times the prior peak rate and far exceeding average annual interest revenues, and

WHEREAS, in October 2024, the Florida Supreme Court authorized FFLA to hold nearly $143 million in reserve, and

WHEREAS, it is in the best interests of this state for the Legislature to establish statutory benchmarks for IOTA rates to ensure regulatory safety, fairness, and sustainability, similar

to the quarterly interest rate determinations made by the Chief Financial Officer for interest paid on court judgments, NOW, THEREFORE,

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

Section 1. Section 655.97, Florida Statutes, is created to read:

655.97 Lawyer or law firm trust account interest rates.—

(1) A financial institution may hold funds in an interest-bearing trust account of a lawyer or law firm in which the institution remits interest or dividends on the balance of the deposited funds to an entity established by the Supreme Court for the purpose of providing or facilitating the provision of free legal services to low-income individuals or for other purposes authorized by the Supreme Court. If the institution holds such an account, it must quarterly select one of the following interest rate alternatives to determine the interest it will pay to the entity established by the Supreme Court:

(a) The first interest rate alternative must be set at the highest interest rate or dividend generally available from the institution to its comparable business or consumer accounts or nonmaturing deposit accounts, provided that the trust account meets or exceeds the same minimum balance or other account requirements.

1. If a financial institution chooses to pay the rate alternative provided in this paragraph, it must submit a rate validation sheet and affidavit to the Chief Financial Officer by the tenth day of each quarter attesting that it will pay at

least the same interest on the lawyer or law firm trust accounts that it is paying on its comparable business or consumer accounts or nonmaturing deposit accounts.

2. The affidavit must attest that the rate information submitted on the rate validation sheet is true and factual.

3. The Chief Financial Officer shall verify that the rate validation sheet and affidavit have been received by the Department of Financial Services.

(b) The second interest rate alternative must be set at 25 percent of the federal funds target rate determined by the Federal Open Market Committee of the Federal Reserve System or 0.25 percent, whichever is higher, net of fees.

1. Each December 1, March 1, June 1, and September 1, the Chief Financial Officer shall determine the interest rate of the second interest rate alternative. The rate alternative determined by the Chief Financial Officer is effective on the following January 1, April 1, July 1, and October 1, respectively.

2. Within 3 days after determining the interest rate under this paragraph, the Chief Financial Officer shall inform the entity established by the Supreme Court of the determined interest rate for the upcoming quarter.

(2) This section does not apply to interest rates established by written contract or obligations unrelated to the trust accounts described by this section.

Section 2. This act shall take effect upon becoming a law.

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 924		
INTRODUCER:	Governmental Oversight and Accountability Committee and Senator Calatayud		
SUBJECT:	Coverage for Fertility Preservation Services		
DATE:	March 28, 2025	REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	White	McVaney	GO	**Fav/CS**
2.	Johnson	Knudson	BI	**Pre-meeting**
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 924 requires all contracted state group health insurance plans issued on or after January 1, 2026, to provide coverage for standard fertility preservation services to individuals undergoing medically necessary treatments that may result in iatrogenic infertility. The bill prohibits a state group health insurance plan from imposing any preauthorization requirements.

The bill will have a negative impact on state revenues and expenditures. The Division of State Group Insurance within the Department of Management Services estimates an annual fiscal impact of $3,200,000 to the state employee group health plans.

The bill provides an effective date of July 1, 2025.

II. Present Situation:

Medical Treatments and Conditions Effecting Fertility

Infertility can be caused by many different things.[1] Numerous medical treatments may affect fertility or cause infertility in men and women; additionally, some individuals face potential infertility due to different medical conditions.

[1] National Health Services, *Infertility: Causes*, https://www.nhs.uk/conditions/infertility/causes/ (last visited Mar. 5, 2025).

Men and women's fertility can be negatively impacted by necessary surgeries that cause damage or scaring, or that remove certain necessary reproductive organs or tissues. Medications have also been linked to infertility, such as those used to treat certain anti-inflammatory and autoimmune diseases, some steroids, and other various prescription drugs.[2]

Cancer Specific

Infertility is often a side effect of life-saving cancer treatments like chemotherapy and radiation. Moreover, surgeries necessary to remove cancerous tissues and other cancer treating medications, such as hormone therapies, can affect a patient's fertility. The effects can be temporary or permanent. The likelihood that cancer treatment will harm fertility depends on the type and stage of cancer, the type of cancer treatment, and age at the time of treatment.[3]

Fertility Preservation Services

Fertility preservation is the practice of proactively helping patients to preserve their chances for future reproduction.[4] Fertility preservation saves and protects embryos, eggs, sperm, and reproductive tissues to enable an individual to have a child sometime in the future. It is an option for adults and even some children of both sexes. Fertility preservation is common in people whose fertility is compromised due to health conditions or diseases (medically indicated preservation) or when someone wishes to delay having children for personal reasons (elective preservation).[5] Medically indicative preservation is available to individuals affected by cancer, autoimmune disease, and other reproductive health conditions; as well as those facing medical treatments that may cause infertility.[6]

For female patients, fertility preservation comprises retrieval, cryopreservation, and storage of ova, but the patient will still require IVF services in the future.[7] The cost of a fertility preservation cycle can be expensive, since the average procedure costs of one cycle of oocyte cryopreservation or embryo cryopreservation, excluding storage costs, are $10,000-$15,000 and $11,000-$15,000, respectively.[8] Estimates for medication are generally $3,500 to $6,000.[9]

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[2] National Health Services, *Infertility: Causes*, *supra* n. 1; James F. Buchanan & Larry Jay Davis, *Drug-induced infertility*, 18(2) DRUG INTELL CLIN PHARM. 122, available at https://pubmed.ncbi.nlm.nih.gov/6141923/ (last visited Mar. 5, 2025).
[3] Mayo Clinic Staff, *Fertility preservation: Understand your options before cancer treatment*, https://www.mayoclinic.org/healthy-lifestyle/getting-pregnant/in-depth/fertility-preservation/art-20047512 (last visited Mar. 5, 2025).
[4] Yale Medicine, *Fertility Preservation*, https://www.yalemedicine.org/conditions/fertility-preservation (last visited Mar. 5, 2025).
[5] Cleveland Clinic, *Fertility Preservation*, https://my.clevelandclinic.org/health/treatments/17000-fertility-preservation (last visited Mar. 5, 2025).
[6] *Id.*; Mayo Clinic, *Fertility Preservation: Understand your options before cancer treatment*, https://www.mayoclinic.org/healthy-lifestyle/getting-pregnant/in-depth/fertility-preservation/art-20047512 (last visited Mar. 5, 2025).
[7] New York State, Department of Financial Services, DFS: Report on In-Vitro Fertilization and Fertilization Preservation Coverage (Feb. 27, 2019) (last visited Mar. 24, 2025).
[8] Sauerbrun-Cutler, M.-T.; Rollo, A.; Gadson, A.; Eaton, J.L. *The Status of Fertility Preservation Insurance Mandates and Their Impact on Utilization and Access to Care.* J. Clin. Med. 2024, 13, 1072. https://pmc.ncbi.nlm.nih.gov/articles/PMC10889224/pdf/jcm-13-01072.pdf (last visited Mar. 24, 2025).
[9] Pacific Fertility Center Los Angeles, The Cost of Egg Freezing in the U.S. (Jun. 29, 2022), https://www.pfcla.com/blog/egg-freezing-

Further, storage is an additional cost of $700-$1,000 per year.[10] For men, fertility preservation options cost in the range of $500- $12,000, excluding storage costs.[11] The high cost of fertility preservation services and lack of insurance coverage are often cited as reasons for explaining the low utilization of fertility preservation services.[12] In 2024, there were 16 states with insurance mandates for fertility preservation, including California, Colorado, Connecticut, Delaware, Illinois, Kentucky, Louisiana, Maine, Maryland, Montana, New Hampshire, New Jersey, New York, Rhode Island, Texas, and Utah.[13]

State Employee Health Plan

For state employees who participate in the state employee benefit program, the Department of Management Services (DMS) through the Division of State Group Insurance (DSGI) administers the state group health insurance program (Program).[14] The program is a cafeteria plan managed consistent with section 125 of the Internal Revenue Service Code.[15] The program is an optional benefit for most state employees employed by state agencies, state universities, the court system, and the Legislature. The program provides health, life, dental, vision, disability, and other supplemental insurance benefits. To administer the program, DSGI contracts with third party administrators for self-insured plans, a fully insured HMO, and a pharmacy benefits manager for the state employees' self-insured prescription drug program, pursuant to s. 110.12315, F.S. The DSGI, with prior approval by the Legislature, is responsible for determining the health benefits provided and the contributions to be required for the program.[16] To achieve the "prior approval" aspect, the Legislature directs the benefits to be offered each year in the general appropriations act. For example, in the 2024-2025 General Appropriations Act, the Legislature directed:

> For the period July 1, 2024, through June 30,2025, the benefits provided under each of the plans shall be those benefits as provided in the current State Employees' PPO Plan Group Health Insurance Plan Booklet and Benefit Document, and current Health Maintenance Organization contracts and benefit documents, including any revisions to such health benefits approved by the Legislature.[17]

costs#:~:text=The%20Cost%20of%20Egg%20Freezing,for%20purchasing%20multiple%20cycles%20upfront. (last visited Mar. 26, 2025).

[10] *Id.*

[11] Alliance for Fertility Preservation, Paying for Treatments https://www.allianceforfertilitypreservation.org/paying-for-treatments/ (last visited Mar. 26, 2025).

[12] Pacific Fertility Center Los Angeles, The Cost of Egg Freezing in the U.S. (Jun. 29, 2022), https://www.pfcla.com/blog/egg-freezing-costs#:~:text=The%20Cost%20of%20Egg%20Freezing,for%20purchasing%20multiple%20cycles%20upfront

[13] *Id.*

[14] Section 110.123, F.S; Department of Management Services, Division of State Group Insurance, *Legislative and Policy Resources*, https://www.dms.myflorida.com/workforce_operations/state_group_insurance/legislative_and_policy_resources (last visited Mar. 7, 2025).

[15] A section 125 cafeteria plan is a type of employer offered, flexible health insurance plan that provides employees a menu of pre-tax and taxable qualified benefits to choose from, but employees must be offered at least one taxable benefit such as cash, and one qualified benefit, such as a Health Savings Account.

[16] Section 110.123(5)(a), F.S.

[17] Chapter 2024-231, s. 8(3)(c)2, Laws of Fla.

***Coverage for Fertility Treatments*[18]**

Currently, the Program only provides coverage for tests to determine the cause of infertility and the treatment of medical conditions resulting in infertility, excluding fertility tests and treatments considered experimental or investigational. The Program does not provide coverage for fertility testing and treatment for the specific purpose to assist in achieving pregnancy, including in-vitro fertilization (IVF), artificial insemination, follicle puncture for retrieval of oocyte, abdominal or endoscopic aspiration of eggs from ovaries, all other procedures related to the retrieval and/or placement and/or storage of oocyte, eggs, embryos, ovum or embryo placement or transfer, gamete intrafallopian transfer, cryogenic and/or other preservation techniques used in such and/or similar procedures.

Health Insurance Premiums and Revenues

The health insurance benefit for active employees has premium rates for single, spouse program,[19] or family coverage regardless of plan selection. These premiums cover both medical and pharmacy claims. Over 193,000 active and retired state employees and officers are expected to participate in the health insurance program during Fiscal Year 2025-2026.[20] The estimated total revenues expected for FY 2024-25 is over $3.75 billion with an over $4.1 billion expected cash balance. Total expenses expected for FY 2024-25 is $3.9 billion.[21]

III. Effect of Proposed Changes:

Section 1 amends 110.12303, F.S., to expand coverage under the state employee health insurance plan for policies issued on or after January 1, 2026, to include coverage for standard fertility preservation services where medically necessary treatment may cause iatrogenic infertility. Covered services must meet nationally recognized clinical practice standards.

Iatrogenic infertility is defined as the impairment of fertility directly or indirectly caused by surgery, chemotherapy, radiation, or other medical necessary treatment with a potential side effect of potential side effect of impaired fertility as established by the American Society for Reproductive Medicine. Standard fertility preservation services is defined as oocyte and sperm preservation procedures and includes the cost of storing such material for up to three years.

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[18] Department of Management Services, *Analysis of CS/SB 924* (Mar. 28, 2025) (on file with the Florida Senate Committee on Banking and Insurance).
[19] The Spouse Program provides discounted rates for family coverage when both spouses work for the state.
[20] Florida Legislature, Office of Economic and Demographic Research, State Employees' Group Health Self-Insurance Trust Fund: Exhibit I Enrollment Outlook by Fiscal Year, *in* JULY AND AUGUST 2024 SELF-INSURANCE ESTIMATING CONFERENCE PUBLICATIONS (published by Florida Legislature, Office of Economic and Demographic Research), 2, available at https://edr.state.fl.us/content/conferences/healthinsurance/archives/240807healthins.pdf (last visited Mar. 7, 2024).
[21] Florida Dept. of Management Services, Division of State Group Insurance, State Employees' Group Health Self-Insurance Trust Fund Report on Financial Outlook for the Fiscal Years Ending June 30, 3034 through June 30, 3029 (Aug. 7, 2024), *in* JULY AND AUGUST 2024 SELF-INSURANCE ESTIMATING CONFERENCE PUBLICATIONS (published by Florida Legislature, Office of Economic and Demographic Research), 8, available at https://edr.state.fl.us/content/conferences/healthinsurance/archives/240807healthins.pdf (last visited Mar. 7, 2024) (beginning on page 48 of collection).

Coverage of costs of storage expires three years from the date of the procedures presenting an iatrogenic infertility risk or when the individual is no longer covered by the state group health insurance plan.

The bill prohibits state group health insurance plans from requiring preauthorization for coverage of standard fertility preservation procedures. The coverage, however, may still be limited by provisions relating to maximum benefits, deductibles, copayments, and coinsurance.

Section 2 provides that the bill takes effect July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, or reduce the percentage of state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

None identified.

C. Trust Funds Restrictions:

None identified.

D. State Tax or Fee Increases:

None identified.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None identified.

B. Private Sector Impact:

The coverage of fertility preservation services will allow eligible individuals covered by the Program to obtain fertility preservation services without incurring significant out-of-pocket costs that may exceed $15,000 or more.

The inclusion of coverage for fertility preservation services with cost sharing restrictions may positively impact physicians who will likely see an increased demand for their

services as well as collateral and ancillary medical supports such as medical facilities that would store oocytes and sperm.

Most of the plans can implement this legislation without issue as they currently offer standard fertility preservation options for other entities. One contracted group indicated that this would be a new benefit that could require system coding.[22]

C. Government Sector Impact:

The bill has a negative impact on state revenue and expenditures. The DSGI within the DMS administers the Program. The DMS estimates the total annual fiscal impact as $3,200,000. (PPO plan $200,000 plus the HMO plans $3,000,000). Actual costs could, however, vary widely based on actual member utilization and the necessary level of utilization.[23] The DMS expressed concern that the list of services provided may be broader than intended, noting that if the list of services or the services provided are broader than anticipated, the fiscal impact will increase.[24]

VI. Technical Deficiencies:

The comprehensive list of services intended to be covered by the bill is unknown. For example, it is unclear how many fertility preservation cycles the Program would be required to cover for an enrolled individual. Further, it is unclear whether medications would be covered.

VII. Related Issues:

The bill prohibits the plans from imposing any preauthorization for this service, therefore, the ability for plans to verify a member's eligibility, including diagnosis and treatment, may be limited.

VIII. Statutes Affected:

This bill substantially amends section 110.12303 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 Governmental Oversight and Accountability on March 11, 2025:

- Clarifies that coverage for fertility preservation services for an individual under the state group health insurance plan facing iatrogenic is not limited to those diagnosed with cancer;
- Deletes references to reproductive age and the American Society of Clinical Oncology;

[22] Department of Management Services, A*nalysis of CS/SB 924* (Mar. 28, 2025) (on file with the Florida Senate Committee on Banking and Insurance).
[23] *Id.*
[24] *Id.*

- Provides for the expiration of coverage of the cost of storage when an individual is no longer covered under the state health insurance plan;
- Conforms standards of procedures and storage to nationally recognized clinical practice guidelines and definitions; and
- Defines nationally recognized clinical practice guidelines and definitions

B. Amendments:

None.

163044

LEGISLATIVE ACTION

Senate . House

. . . . .

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

Senate Amendment (with title amendment)

Delete lines 24 - 59
and insert:
fertility preservation services when cancer treatments may directly or indirectly cause iatrogenic infertility.

(b) Coverage of standard fertility preservation services under this subsection includes the costs associated with retrieving and preserving sperm and oocyte materials which are consistent with nationally recognized clinical practice

163044

guidelines and definitions. Coverage of retrieval and storage expires after a period of 3 years from the date of the procedures presenting a risk of iatrogenic infertility or when the individual is no longer covered under the state group health insurance plan, whichever occurs first.

(c) A state group health insurance plan may not require preauthorization for coverage of standard fertility retrieval and preservation services; however, a health benefit plan may contain provisions for maximum benefits and may subject the covered service to the same deductible, copayment, and coinsurance.

(d) As used in this subsection, the term:

1. "Iatrogenic infertility" means an impairment of fertility caused directly or indirectly by surgery, chemotherapy, radiation, or other associated medically necessary treatment with a potential side effect of impaired fertility as established by the American Society for Reproductive Medicine.

2. "Nationally recognized clinical practice guidelines and definitions" mean evidence-based clinical practice guidelines developed by independent organizations or medical professional societies using a transparent methodology and reporting structure and with a conflict-of-interest policy, and definitions used or established in said guidelines. Guidelines developed by such organizations or societies must establish standards of care informed by a systematic review of evidence and an assessment of the benefits and costs of alternative care options and include recommendations intended to optimize patient care.

3. "Standard fertility retrieval and preservation services"

163044

means oocyte and sperm retrieval and preservation procedures and storage, including ovarian

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

And the title is amended as follows:

Delete line 5

and insert:

of certain fertility retrieval and preservation services for state

354152

LEGISLATIVE ACTION

Senate . House

. . . . .

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

Senate Amendment to Amendment (163044)

Delete line 27
and insert:
established by the American Society for Clinical Oncology.

478762

LEGISLATIVE ACTION

Senate . House

. . . . .

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

Senate Amendment

Delete line 22
and insert:
issued on or after January 1, 2026, the department shall provide, consistent with the laws of this state,

By the Committee on Governmental Oversight and Accountability; and Senator Calatayud

585-02289-25 2025924c1

A bill to be entitled

An act relating to coverage for fertility preservation services; amending s. 110.12303, F.S.; requiring the Department of Management Services to provide coverage of certain fertility preservation services for state group health insurance plan policies issued on or after a specified date; specifying requirements and limitations regarding such coverage; prohibiting a state group health insurance plan from requiring preauthorization for certain covered services; authorizing health benefit plans to contain certain provisions under specified conditions; defining terms; providing an effective date.

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

Section 1. Subsection (7) is added to section 110.12303, Florida Statutes, to read:

110.12303 State group insurance program; additional benefits; price transparency program; reporting.—

(7)(a) For state group health insurance plan policies issued on or after January 1, 2026, the department shall provide coverage of medically necessary expenses relating to standard fertility preservation services when a medically necessary treatment may directly or indirectly cause iatrogenic infertility.

(b) Coverage of standard fertility preservation services under this subsection includes the costs associated with preserving sperm and oocyte materials which are consistent with

585-02289-25 2025924c1

nationally recognized clinical practice guidelines and definitions. Coverage of storage expires after a period of 3 years from the date of the procedures presenting a risk of iatrogenic infertility or when the individual is no longer covered under the state group health insurance plan, whichever occurs first.

(c) A state group health insurance plan may not require preauthorization for coverage of standard fertility preservation services; however, a health benefit plan may contain provisions for maximum benefits and may subject the covered service to the same deductible, copayment, and coinsurance.

(d) As used in this subsection, the term:

1. "Iatrogenic infertility" means an impairment of fertility caused directly or indirectly by surgery, chemotherapy, radiation, or other medically necessary treatment with a potential side effect of impaired fertility as established by the American Society for Reproductive Medicine.

2. "Nationally recognized clinical practice guidelines and definitions" mean evidence-based clinical practice guidelines developed by independent organizations or medical professional societies using a transparent methodology and reporting structure and with a conflict-of-interest policy, and definitions used or established in said guidelines. Guidelines developed by such organizations or societies must establish standards of care informed by a systematic review of evidence and an assessment of the benefits and costs of alternative care options and include recommendations intended to optimize patient care.

3. "Standard fertility preservation services" means oocyte

and sperm preservation procedures and storage, including ovarian tissue, sperm, and oocyte cryopreservation, which are consistent with nationally recognized clinical practice guidelines and definitions.

Section 2. This act shall take effect July 1, 2025.

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 1206
INTRODUCER:	Senator DiCeglie
SUBJECT:	Transportation Network Company Driver Insurance
DATE:	March 28, 2025
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Moody	Knudson	BI	**Pre-meeting**
2.			TR	
3.			RC	

I. Summary:

SB 1206 reduces the insurance requirement that applies when a transportation network company driver is engaged in a prearranged ride, but the rider is not in the vehicle. Current coverage required during the entire prearranged ride is $1 million, per accident for death, bodily injury, and property damage. The bill modifies this requirement for the portion of a prearranged ride in which the rider does not occupy the vehicle to $50,000 for bodily injury or death per person, $100,000 for bodily injury or death per incident, and $25,000 for property damage. This coverage is the same insurance obligation that applies when a TNC driver is logged on to the application but is waiting to be connected to a rider for a prearranged ride.

The insurance requirement for when a TNC driver is engaged in a prearranged ride and the rider is in the vehicle is unchanged at $1 million, per accident for death, bodily injury, and property damage.

The bill is effective July 1, 2025.

II. Present Situation:

Transportation Network Companies (TNCs)

Transportation network companies (TNCs) are businesses that use a digital network to connect riders with drivers who provide prearranged rides.[1] Examples of TNCs include Uber and Lyft. Chapter 627.748, F.S., governs the operation of TNCs, including their insurance coverage requirements.

[1] Section 627.748(1)(e), F.S.

A "TNC vehicle" is defined as a vehicle that is used by a TNC driver to offer or provide a prearranged ride and is owned, leased, or otherwise authorized to be used by the TNC driver. A vehicle that is let or rented to another for consideration may be used as a TNC vehicle. A taxicab or jitney is not a TNC vehicle.[2]

Statute also defines the term "prearranged ride" as the provision of transportation by a TNC driver to a rider, beginning when a TNC driver accepts a ride requested by a rider through a digital network[3] controlled by a TNC, continuing while the TNC driver transports the requesting rider, and ending when the last requesting rider departs from the TNC vehicle. The term does not include a taxicab, for-hire vehicle, or street hail[4] service and does not include ridesharing,[5] carpool,[6] or any other type of service in which the driver receives a fee that does not exceed the driver's cost to provide the ride.[7]

TNC Coverage Requirements

Current law requires a TNC driver, or a TNC on behalf of the TNC driver, to maintain auto insurance that recognizes the TNC driver as a TNC driver or an individual who uses the vehicle to transport riders for compensation and covers the TNC driver while the TNC driver is logged on to the digital network or engaged in a prearranged ride.[8] Different insurance requirements apply for these two scenarios. The required coverage is significantly higher for TNC drivers engaged in a prearranged ride.

The following coverage requirements apply while a TNC driver is logged on to the digital network but not engaged in a prearranged ride:[9]

- Primary automobile liability coverage of at least $50,000 for death and bodily injury per person, $100,000 for death and bodily injury per incident, and $25,000 for property damage.
- Personal injury protection benefits that meet the minimum coverage amounts required under sections 627.730-627.7405, F.S.[10]

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[2] Section 627.748(1)(h), F.S.
[3] "Digital network" is defined as any online-enabled technology application service, website, or system offered or used by a TNC which enables the prearrangement of riders with TNC drivers. Section 627.748(1)(a), F.S.
[4] "Street hail" is defined as an immediate arrangement on a street with a driver by a person using any method other than a digital network to seek immediate transportation. Section 627.748(1)(d), F.S.
[5] Section 341.031(9)(a), F.S., defines "ridesharing" as an arrangement between persons with a common destination, or destinations, within the same proximity, to share the use of a motor vehicle on a recurring basis for round-trip transportation to and from their place of employment or other common destination. For purposes of ridesharing, employment shall be deemed to commence when an employee arrives at the employer's place of employment to report for work and shall be deemed to terminate when the employee leaves the employer's place of employment, excluding areas not under the control of the employer. However, an employee shall be deemed to be within the course of employment when the employee is engaged in the performance of duties assigned or directed by the employer, or acting in the furtherance of the business of the employer, irrespective of location.
[6] Section 450.28(3), F.S., defines "carpool" as an arrangement made by the workers using one worker's own vehicle for transportation to and from work and for which the driver or owner of the vehicle is not paid by any third person other than the members of the carpool.
[7] Section 627.748(1)(b), F.S.
[8] Section 627.748(7)(a), F.S.
[9] Section 627.748(7)(b), F.S.
[10] Sections 627.730-627.7405, F.S., are the "Florida Motor Vehicle No-Fault Law." The law requires Florida motor vehicle owners to maintain Personal Injury Protection (PIP) insurance coverage.

- Uninsured and underinsured vehicle coverage as required by section 627.727, F.S.[11]

Current law applies the following coverage requirements while a TNC driver is engaged in a prearranged ride, both when connected to a rider but the rider is not yet in the vehicle and when the rider is in the vehicle:[12]

- A primary automobile liability coverage of at least $1 million for death, bodily injury, and property damage.
- Personal injury protection meeting the minimum coverage amounts required for a limousine under 627.730-627.7405, F.S.
- Uninsured and underinsured vehicle coverage as required by section 627.727, F.S.

III. Effect of Proposed Changes:

Section 1 of the bill lowers minimum coverage requirements currently applicable to TNC drivers who are logged onto the digital network but do not have a rider in their vehicle. In other words, the TNC driver is connected to the application for a ride and the TNC driver is en route to the rider's location.

Current coverage required is $1 million, per accident for death, bodily injury, and property damage, regardless of whether a rider is occupying the vehicle. The bill reduces this requirement to $50,000 for bodily injury or death per person, $100,000 for bodily injury or death per incident, and $25,000 for property damage. This coverage is the same insurance obligation that applies when a TNC driver is logged on to the application but is waiting to be connected to a rider for a prearranged ride.

The minimum coverage required for TNC drivers engaged in a prearranged ride with a rider in their vehicle remains unchanged.

Section 2 of the bill provides an effective date of July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

[11] Section 627.727, F.S., provides uninsured and underinsured vehicle coverage requirements for all motor vehicle liability policies issued in Florida.
[12] Section 627.748(7)(c), F.S.

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:

TNC networks may pay reduced insurance premiums, which may possibly be passed onto consumers or to the compensation received by TNC drivers.

Persons that incur bodily injuries or property damage caused by an at-fault TNC driver who is on the way to pick up a rider will have reduced ability to receive compensation for their damages.

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: 627.748.

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.

401138

LEGISLATIVE ACTION

Senate . House

. . . . . .

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 paragraphs (c) through (i) of subsection (7) of section 627.748, Florida Statutes, are redesignated as paragraphs (d) through (j), respectively, a new paragraph (c) is added to that subsection, and paragraph (a) and present paragraphs (c), (d), and (h) of that subsection are amended, to read:

401138

627.748 Transportation network companies.—

(7) TRANSPORTATION NETWORK COMPANY AND TNC DRIVER INSURANCE REQUIREMENTS.—

(a) Beginning July 1, 2025 ~~2017~~, a TNC driver or a TNC on behalf of the TNC driver shall maintain primary automobile insurance that:

1. Recognizes that the TNC driver is a TNC driver or otherwise uses a vehicle to transport riders for compensation; and

2. Covers the TNC driver while the TNC driver is logged on to the digital network of the TNC or while the TNC driver is engaged in a prearranged ride.

(c) The following automobile insurance requirements apply while a participating TNC driver has accepted a prearranged ride, but a rider does not occupy the TNC vehicle:

1. Automobile insurance that provides:

a. A primary automobile liability coverage of at least $50,000 for death and bodily injury per person, $100,000 for death and bodily injury per incident, and $25,000 for property damage;

b. Personal injury protection benefits that meet the minimum coverage amounts required under ss. 627.730-627.7405; and

c. Uninsured and underinsured vehicle coverage as required under s. 627.727.

2. The coverage requirements of this paragraph may be satisfied by any of the following:

a. Automobile insurance maintained by the TNC driver or the TNC vehicle owner;

b. Automobile insurance maintained by the TNC; or

c. A combination of sub-subparagraphs a. and b.

(d) ~~(c)~~ The following automobile insurance requirements apply while a TNC driver is engaged in a prearranged ride and the rider occupies the TNC vehicle:

1. Automobile insurance that provides:

a. A primary automobile liability coverage of at least $1 million for death, bodily injury, and property damage;

b. Personal injury protection benefits that meet the minimum coverage amounts required of a limousine under ss. 627.730-627.7405; and

c. Uninsured and underinsured vehicle coverage as required by s. 627.727.

2. The coverage requirements of this paragraph may be satisfied by any of the following:

a. Automobile insurance maintained by the TNC driver or the TNC vehicle owner;

b. Automobile insurance maintained by the TNC; or

c. A combination of sub-subparagraphs a. and b.

(e) ~~(d)~~ The TNC shall maintain the required coverage under paragraphs (b), (c), and (d) unless the driver maintains a policy that does not exclude, pursuant to subsection (8), the required coverage under either paragraph (b), paragraph (c), or paragraph (d). If the insurance maintained by the TNC driver ~~TNC driver's insurance~~ under paragraph (b), paragraph (c), or paragraph (d) lapses, ~~paragraph (b) or paragraph (c) has lapsed or does not provide the required coverage, the insurance maintained by~~ the TNC must provide the coverage required under this subsection, beginning with the first dollar of a claim, and

401138

have the duty to defend such claim.

(i) ~~(h)~~ A TNC driver shall carry proof of coverage satisfying paragraphs (b), (c), and (d) ~~paragraphs (b) and (c)~~ with him or her at all times during his or her use of a TNC vehicle in connection with a digital network. In the event of an accident, a TNC driver shall provide this insurance coverage information to any party directly involved in the accident or the party's designated representative, automobile insurers, and investigating police officers. Proof of financial responsibility may be presented through an electronic device, such as a digital phone application, under s. 316.646. Upon request, a TNC driver shall also disclose to any party directly involved in the accident or the party's designated representative, automobile insurers, and investigating police officers whether he or she was logged on to a digital network or was engaged in a prearranged ride at the time of the accident.

Section 2. This act shall take effect July 1, 2025.

================ 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 transportation network company driver insurance; amending s. 627.748, F.S.; revising automobile insurance requirements for transportation network company drivers; providing an effective date.

By Senator DiCeglie

18-00260-25 20251206__

A bill to be entitled

An act relating to transportation network company driver insurance; amending s. 627.748, F.S.; revising automobile insurance requirements for transportation network company drivers; providing an effective date.

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

Section 1. Paragraphs (b) and (c) of subsection (7) of section 627.748, Florida Statutes, are amended to read:

627.748 Transportation network companies.—

(7) TRANSPORTATION NETWORK COMPANY AND TNC DRIVER INSURANCE REQUIREMENTS.—

(b) The following automobile insurance requirements apply while a participating TNC driver is logged on to the digital network and ~~but~~ is not engaged in a prearranged ride or is engaged in a prearranged ride, but a rider does not occupy the TNC vehicle:

1. Automobile insurance that provides:

a. A primary automobile liability coverage of at least $50,000 for death and bodily injury per person, $100,000 for death and bodily injury per incident, and $25,000 for property damage;

b. Personal injury protection benefits that meet the minimum coverage amounts required under ss. 627.730-627.7405; and

c. Uninsured and underinsured vehicle coverage as required by s. 627.727.

2. The coverage requirements of this paragraph may be

18-00260-25 20251206__

satisfied by any of the following:

a. Automobile insurance maintained by the TNC driver or the TNC vehicle owner;

b. Automobile insurance maintained by the TNC; or

c. A combination of sub-subparagraphs a. and b.

(c) The following automobile insurance requirements apply while a TNC driver is engaged in a prearranged ride and a rider occupies the TNC vehicle:

1. Automobile insurance that provides:

a. A primary automobile liability coverage of at least $1 million for death, bodily injury, and property damage;

b. Personal injury protection benefits that meet the minimum coverage amounts required of a limousine under ss. 627.730-627.7405; and

c. Uninsured and underinsured vehicle coverage as required by s. 627.727.

2. The coverage requirements of this paragraph may be satisfied by any of the following:

a. Automobile insurance maintained by the TNC driver or the TNC vehicle owner;

b. Automobile insurance maintained by the TNC; or

c. A combination of sub-subparagraphs a. and b.

Section 2. This act shall take effect July 1, 2025.

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 1428
INTRODUCER:	Senator DiCeglie
SUBJECT:	Consumer Protection in Insurance Matters
DATE:	March 28, 2025
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Thomas	Knudson	BI	**Pre-meeting**
2.			AEG	
3.			RC	

I. Summary:

SB 1428 contains several provisions relating to consumer protection in insurance matters providing:

- That a public adjuster, public adjuster apprentice, or public adjusting firm must provide a specific response to a written or electronic request for claim status from a claimant, an insured, or the person's designated representative within 14 days after receiving the request and must retain a copy of its response for its records.
- That universal life insurance policy issued in this state must entitle each policyholder to receive an annual report on the policy's status, unless the policy is a variable contract as defined in s. 627.8015, F.S.
- That for an out-of-state group health insurance provider to be exempt from complying with the provisions of part VIII of ch. 627, F.S., the policies of such provider must offer dependent child coverage that complies with the state's requirements for dependent coverage under a group health insurance policy pursuant to s. 627.6562, F.S.
- That an automobile insurer providing towing and labor as a filed claim coverage must notify its claimant before the submission of a non crash-related claim that using the towing and labor coverage requires the filing of a claim that will become part of the claimant's claim history for future underwriting.
- Requirements for a private passenger automobile insurer in the payment of certain first-party claims, including that such claims be paid or denied within 60 days of receiving notice of the claim.

The bill does not appear to have a significant fiscal impact on state or local government.

The bill takes effect on July 1, 2025.

II. Present Situation:

Public Adjusters

A public adjuster is any person, except a duly licensed attorney-at-law, who, for money, commission, or any other things of value, directly or indirectly prepares, completes, or files an insurance claim for an insured 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.[1] The term 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, an insured, or a third-party claimant but 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] The term does not apply to:

- A licensed health care provider or employee thereof who prepares or files a health insurance claim form on behalf of a patient.
- 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.
- A person who files a health claim on behalf of another and does so without compensation.[3]

An adjuster must follow the code of ethics set by the Department of Financial Services in rule as "necessary to ensure fair dealing, prohibit conflicts of interest, and ensure preservation of the rights of the claimant to participate in the adjustment of claims."[4] A licensed adjuster must identify themself in any advertisements, solicitations or written documents based on the adjuster appointment type held.[5] An adjuster who has had his or her license revoked or suspended is prohibited from participating in an insurance claim or in the insurance claims adjusting process.[6]

Life Insurance

Part III of ch. 627, F.S., applies to life insurance and annuity contracts. "Life insurance," is insurance of human lives and includes the granting of annuity contracts.[7] Life insurance may:

- Provides a death benefit for an individual's beneficiaries;
- It allows survivors to pay off debts and other expenses; and
- It can also provide a source of income to replace that lost by the death of the insured.[8]

There are two primary types of life insurance:

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[1] Section 626.854(1), F.S.
[2] *Id.*
[3] Section 626.854(2), F.S.
[4] Section 626.878(1), F.S.
[5] Section 626.878(2), F.S.
[6] Section 626.878(3), F.S.
[7] Section 624.602(1), F.S.
[8] https://floir.com/life-health/life (last visited March 27, 2025).

- Term, which provides insurance for a specified period of time at a lower cost; and
- Permanent, which provides a certain amount of coverage at variable rates and has variations, including universal life, which builds cash value and is widely marketed by life insurance companies.[9]

Universal Life Insurance

Universal life insurance is a type of permanent life insurance that, like other permanent insurance, has a cash value element and offers lifetime coverage so long as the policyholders pays the premiums. [10] Unlike whole life insurance, universal life allows the policyholder to raise or lower premiums within certain limits, and it can be cheaper than whole life coverage. A disadvantage is that the policyholder must keep an eye on the cash value or the policy could become underfunded, meaning it may take big payments to keep the policy active.[11]

A universal life insurance policyholder may increase or decrease the face amount of insurance, within limits stated in the policy, to meet changing needs. The policyholder can decide, within policy guidelines, on the amount of premiums and the schedule of payments. There may be limits on premiums because of tax laws. The policyholder may select a policy that is interest sensitive or one that has a guaranteed rate. Universal life insurance is useful for meeting various financial obligations that may occur during a lifetime, such as those that involve marriage or raising a family. Providing guaranteed death benefits for people who need them but want the opportunity to earn more interest on the policy's cash value. With an interest sensitive policy, the policyholder can accept at least part of the investment risk.[12]

Group Health Insurance Providers

Requirements for Group Health Insurance Policies Issued in Florida Insurers issuing group health insurance policies in Florida must comply with the requirements of part VII of ch. 627, F.S. This part contains most of the mandatory benefit and coverage requirements that must be provided by such policies. Some mandatory benefit requirements are in part I of chapter 627, F.S.

Dependent Coverage

An insurer offering coverage under a group, blanket, or franchise health insurance policy must insure a dependent child of the policyholder at least until the end of the calendar year in which the child reaches the age of 25, if the child is:

- Dependent upon the policyholder for support; and
- Living in the household of the policyholder, or the child is a full-time or part-time student.[13]

Such policy must also offer the policyholder the option to insure a dependent child at least until the end of the calendar year in which the child reaches the age of 30, if the child:

- Is unmarried and does not have a dependent of his or her own;

[9] *Id.*
[10] https://www.investopedia.com/terms/u/universallife (last visited March 27, 2025).
[11] *Id.*
[12] https://www.myfloridacfo.com/life-insurance-guide.pdf page 7 (last visited March 27, 2025).
[13] Section 627.6562(1), F.S.

- Is a resident of this state or a full-time or part-time student; and
- Is not provided coverage as a named subscriber, insured, enrollee, or covered person under any other group, blanket, or franchise health insurance policy or individual health benefits plan, or is not entitled to benefits under Title XVIII of the Social Security Act.[14]

The dependent coverage requirements do not apply to accident only, specified disease, disability income, Medicare supplement, or long-term care insurance policies.[15]

Out-of-State Group Health Insurance Providers

Insurers that issue policies to groups or associations outside of Florida, but which are sold and marketed to individuals in Florida (who are issued "certificates"), are generally exempt from Florida's rate filing and approval requirements. Group certificates issued in Florida must be filed with the Office of Insurance Regulation (OIR) "for information purposes only."[16] Any group health insurance policy issued or delivered outside this state under which a resident of this state is provided coverage must comply with the provisions of part VIII of ch. 627, F.S., in the same manner as group health policies issued in this state.[17] However, such coverage is not required to comply with the provisions of part VIII of ch. 627, F.S., in the same manner as group health policies issued in this state if the policy complies with the restrictions on use of state and federal funds for state exchanges requirements of s. 627.66996, F.S., and provides the benefits specified in:

- Section 627.419, F.S., Construction of policies;
- Section 627.6574, F.S., Maternity care;
- Section 627.6575, F.S., Coverage for newborn children;
- Section 627.6579, F.S., Coverage for child health supervision services;
- Section 627.6612, F.S., Coverage for surgical procedures and devices incident to mastectomy;
- Section 627.66121, F.S., Coverage for length of stay and outpatient postsurgical care;
- Section 627.66122, F.S., Requirements with respect to breast cancer and routine follow-up care;
- Section 627.6613, F.S., Coverage for mammograms;
- Section 627.667, F.S., Extension of benefits;
- Section 627.6675, F.S., Conversion on termination of eligibility;
- Section 627.6691, F.S., Coverage for osteoporosis screening, diagnosis, treatment, and management; and
- Section 627.66911, F.S., Required coverage for cleft lip and cleft palate.

Motor Vehicle Insurance

The first automobile liability insurance policy was issued by Travelers Insurance Company in Dayton, Ohio, protecting the driver if his vehicle killed or injured someone or damaged their property.[18] These coverages today are provided through bodily injury liability and property

[14] Section 627.6562(2), F.S.
[15] Section 627.6562(5), F.S.
[16] Section 627.410(1), F.S.
[17] Section 627.6515(1), F.S.
[18] https://www.iii.org/publications/insurance-handbook/brief-history (last visited March 27, 2025).

damage liability insurance. In 1925, Connecticut passed the first financial responsibility law requiring owners of automobiles to demonstrate the ability to financially respond when they are at fault for damages caused to other persons and property.[19] As the automobile became a ubiquitous part of American life, more states passed financial responsibility laws. Today, every state has a financial responsibility law regarding owning or operating a motor vehicle.

Florida's financial responsibility law exists to ensure that the privilege of owning or operating a motor vehicle on the public streets and highways is exercised with due consideration for others and their property, to promote safety, and to provide financial security requirements for the owners or operators of motor vehicles who are responsible to recompense others for injury to person or property caused by a motor vehicle.[20] The financial responsibility law requires drivers of motor vehicles with 4 or more wheels to purchase both personal injury protection (PIP) and property damage liability (PD) insurance.[21] Florida law does not require insurance coverage for motorcycles; however, if a motorcyclist is involved in an accident, that person's license and registration are subject to suspension if insurance was not purchased.

A driver in compliance with the requirement to carry PIP coverage is not required to maintain bodily injury liability coverage, except that Florida law requires proof of ability to pay monetary damages for bodily injury and property damage liability arising out of a motor vehicle accident or serious traffic violation.[22] The owner and operator of a motor vehicle need not demonstrate financial responsibility, i.e., obtain BI and PD coverages, until *after the accident*.[23] At that time, a driver's financial responsibility is proved by the furnishing of an active motor vehicle liability policy. The minimum amounts of liability coverages required are $10,000 in the event of bodily injury to, or death of, one person, $20,000 in the event of injury to, or death of, two or more persons, and $10,000 in the event of damage to property of others, or $30,000 combined BI/PD policy.[24] The driver's license and registration of the driver who fails to comply with the security requirement to maintain PIP and PD insurance coverage is subject to suspension.[25] A driver's license and registration may be reinstated by obtaining a liability policy and by paying a fee to the Department of Highway Safety and Motor Vehicles.[26]

Roadside Assistance Coverage Through Motor Vehicle Insurance

Several insurers offer roadside assistance coverage in Florida. Roadside assistance coverage can help with non-accident-related events, such as mechanical or electrical breakdowns, however, using roadside assistance may be considered a claim, which may increase insurance rates.[27]

Some car insurance companies report roadside assistance claims to ChoicePoint, a company in Alpharetta, Ga., that collects claims information for the auto insurance industry and this

[19] *Id.*
[20] Section 324.011, F.S.
[21] See ss. 324.022, F.S. and 627.733, F.S.
[22] See ch. 324, F.S.
[23] Section 324.011, F.S.
[24] Section 324.022, F.S.
[25] Section 324.0221(2), F.S.
[26] Section 324.0221(3), F.S.
[27] *Finding the Best Car Insurance With Roadside Assistance*. https://www.caranddriver.com/car-insurance/ (last visited March 27, 2025).

information may eventually be viewed by other auto insurers.[28] Multiple roadside assistance claims in a short period could cause some insurance companies to raise rates.[29]

Claim Settlement Practices

Section 626.9743, F.S., provides certain settlement requirements for motor vehicle insurers in the settlements of claims. These include that an insurer:

- May not, when liability and damages owed under the policy are reasonably clear, recommend that a third-party claimant make a claim under his or her own policy solely to avoid paying the claim under the policy issued by that insurer.
- That elects to repair a motor vehicle and specifically requires a particular repair shop for vehicle repairs shall cause the damaged vehicle to be restored to its physical condition as to performance and appearance immediately prior to the loss at no additional cost to the insured or third-party claimant other than as stated in the policy.
- May not require the use of replacement parts in the repair of a motor vehicle which are not at least equivalent in kind and quality to the damaged parts prior to the loss in terms of fit, appearance, and performance.

Personal injury protection insurance benefits are considered overdue if not paid within 30 days after the insurer has been provided with written notice of the fact of a covered loss and of the amount of the loss.[30] However, there is not such a time limit on the payments of first-party physical damage insurance claims.

III. Effect of Proposed Changes:

Public Adjusters

Section 1 amends s. 626.854, F.S., to provide that a public adjuster, public adjuster apprentice, or public adjusting firm must provide a specific response to a written or electronic request for claim status from a claimant, an insured, or the person's designated representative within 14 days after receiving the request and must retain a copy of its response for its records.

Universal Life Insurance

Section 2 creates s. 627.4815, F.S., to provide requirements relating to universal health insurance policies. The bill provides definitions of the terms "cash surrender value," "fixed premium universal life insurance policy," "flexible premium universal life insurance policy," "net cash surrender value," "policy value," and "universal life insurance policy." "Universal life insurance policy" is defined as:

> any individual life insurance policy, rider, group master policy, or individual certificate that includes separately identified interest credits and mortality and expense charges. A universal life insurance policy may also include other types of credits and charges. The term does not apply to policies, riders, group master policies, or individual certificates in

[28] *Does using roadside assistance increase insurance rates?* https://www.insurance.com/roadside-assistance (last visited March 27, 2025).
[29] *Id.*
[30] Section 627.736(4)(b), F.S.

connection with dividend accumulations, premium deposit funds, or other supplementary accounts.

The bill provides that the insurer of a universal life insurance policy must provide to the policyowner, at no cost, an annual report on the policy's status. The report must be sent within 3 months after the end of the reporting period and must include:

- The beginning and end of the current reporting period.
- The policy value at the end of the previous reporting period and at the end of the current reporting period.
- The total amounts that have been credited or debited to the policy value during the current reporting period, identified by type.
- The current death benefit at the end of the current reporting period on each life covered by the policy.
- The net cash surrender value of the policy as of the end of the current reporting period.
- The amount of outstanding loans, if any, as of the end of the current reporting period.
- For fixed premium policies, if, assuming guaranteed interest, mortality and expense loads, and continued scheduled premium payment, the policy's net cash surrender value is such that it would not maintain insurance in force until the end of the next reporting period, a notice to that effect.
- For flexible premium policies, if, assuming guaranteed interest and mortality and expense loads, the policy's net cash surrender value will not maintain insurance in force until the end of the next reporting period unless further premium payments are made, a notice to that effect.
- For fixed premium or flexible premium policies, if, assuming guaranteed interest and mortality and expense loads, the policy's net cash surrender value will not maintain insurance in force until maturity of the contract, the projected date on which policy values will be insufficient to continue coverage in force.

The bill provides that these requirements apply to all universal life insurance policies except variable contracts as defined in s. 627.8015, F.S., which are annuity contracts, life insurance contracts, and contracts upon the lives of beneficiaries under life insurance contracts when such annuities or contracts provide variable or indeterminate benefits, values, or premiums for which assets are held in a separate account.

Out-of-State Group Health Insurance Providers

Section 3 amends s. 627.6515, F.S., to provide that, in order for an out-of-state group health insurance provider to be exempt from complying with the provisions of part VIII of ch. 627, F.S., in the same manner as group health policies issued in this state, the policies of such provider must offer to insure a dependent child of the policyholder at least until the end of the calendar year in which the child reaches the age of 25, if the child is:

- Dependent upon the policyholder for support; and
- Living in the household of the policyholder, or the child is a full-time or part-time student.

Such policy must also offer the policyholder the option to insure a dependent child at least until the end of the calendar year in which the child reaches the age of 30, if the child:

- Is unmarried and does not have a dependent of his or her own;
- Is a resident of this state or a full-time or part-time student; and
- Is not provided coverage as a named subscriber, insured, enrollee, or covered person under any other group, blanket, or franchise health insurance policy or individual health benefits plan, or is not entitled to benefits under Title XVIII of the Social Security Act.

Motor Vehicle Insurance

Roadside Assistance Coverage

Section 4 creates s. 627.7293, F.S., to require an automobile insurer that provides towing and labor coverage as a filed claim to provide the following language or substantially similar language on any web or electronic platform through which a towing or labor claim is made or verbally stated to the claimant if the claim is being made over the phone:

> Your auto insurance policy provides coverage for towing and labor. Use of this coverage requires a filing of a claim. Such claim filing will remain in your claims' history for use of future underwriting of any initial or renewal offer made by this insurer or any other insurer.

The automobile insurer must obtain the claimant's express consent before submitting a claim filed under the towing and labor coverage. The disclosure requirement does not apply if the towing and labor claim is filed as part of a crash-related damage claim.

Claim Settlement Practices

Section 5 creates s. 627.7431, F.S., to provide requirements on automobile insurers in the payment of first-party claims. The bill defines "claim" as a first-party claim under a motor vehicle insurance policy providing coverage for a private passenger motor vehicle. The bill requires:

- Within 60 days after receipt of an initial, reopened, or supplemental first-party physical damage insurance claim from a policyholder, the insurer must pay or deny such claim or a portion of the claim unless the failure to pay is caused by factors beyond the control of the insurer.
- The insurer must provide a reasonable explanation in writing to the policyholder of the basis in the insurance policy for the payment, denial, or partial denial of a claim.
- If the insurer's claim payment is less than that specified in any insurer's detailed estimate of the amount of the loss, the insurer must provide a reasonable explanation in writing of the difference to the policyholder.
- Any payment of an initial or supplemental claim or portion of such claim made 60 days after the insurer receives notice of the claim, or made after the expiration of any additional timeframe provided to pay or deny a claim or a portion of a claim made pursuant to an order of the OIR finding factors beyond the control of the insurer, whichever is later, bears interest at the rate set forth in s. 55.03, F.S. Interest begins to accrue from the date the insurer receives notice of the claim.
- That these provisions may not be waived, voided, or nullified by the terms of the insurance policy.

- If there is a right to prejudgment interest, the insured must select whether to receive prejudgment interest or interest under this section. Interest is payable when the claim or portion of the claim is paid.
- Failure to comply with these provisions constitutes a violation of the Insurance Code but does not form the sole basis for a private cause of action.

The bill makes these provisions applicable to surplus lines insurers but not applicable to:
- Any claims covered under an insurance policy providing coverage for commercial motor vehicles as defined in s. 627.732, F.S.
- Any portion of a claim covered under an insurance policy covering private passenger motor vehicles if the portion of the claim is based on coverage for:
  - Personal injury protection;
  - Property damage liability;
  - Bodily injury;
  - Uninsured motorists or underinsured motorists; or
  - Medical payments.

The exceptions for the above coverages mean that generally the claim settlement practices established by the bill will apply to claims and portions of claims payable under collision coverage, comprehensive coverages, rental reimbursement, and towing and labor coverage.

The bill provides that the timelines of these requirements are tolled:
- During the pendency of any mediation proceeding under s. 627.745, F.S., or any alternative dispute resolution proceeding provided for in the insurance contract. The tolling period ends upon the end of the mediation or alternative dispute resolution proceeding.
- Upon the failure of a policyholder or a representative of the policyholder to provide material claims information requested by the insurer within 10 days after the request was received. The tolling period ends upon the insurer's receipt of the requested information. Tolling under this paragraph applies only to requests sent by the insurer to the policyholder or to a representative of the policyholder at least 15 days before the insurer is required to pay or deny the claim or a portion of the claim.

For purposes of this section, "factors beyond the control of the insurer" means:
- Any of the following events that is the basis for the OIR issuing an order finding that such event renders all or specified motor vehicle insurers reasonably unable to meet the requirements of this section in specified locations and ordering that such insurer or insurers may have additional time, not exceeding 30 days, as specified by the OIR, to comply with the requirements of this section: a state of emergency declared by the Governor under s. 252.36, F.S., a breach of security that must be reported under s. 501.171(3), F.S., or an information technology issue.
- Actions by the policyholder or the policyholder's representative which constitute fraud, lack of cooperation, or intentional misrepresentation regarding the claim for which benefits are owed, when such actions reasonably prevent the insurer from complying with any requirement of this section.

- Actions by any repair company which constitute fraud, lack of cooperation, or intentional misrepresentation regarding the claim for which benefits are owed, when such actions reasonably prevent the insurer from complying with any requirement of this section.
- Inaccessibility to or delay in the arrival of parts necessary for the repair of the vehicle.

Effective Date

Section 6 provides that the bill takes effect July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill will have an impact on the operations of the affected insurers.

C. Government Sector Impact:

The bill does not appear to have a significant impact on state or local government

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 626.854 and 627.6515.

This bill creates the following sections of the Florida Statutes: 627.4815, 627.7293, and 627.7431.

IX. Additional Information:

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

None.

B. Amendments:

None.

By Senator DiCeglie

18-01081A-25 20251428__

A bill to be entitled

An act relating to consumer protection in insurance matters; amending s. 626.854, F.S.; requiring public adjusters, public adjuster apprentices, and public adjusting firms to provide a specified response within a specified timeframe after receiving a request for claim status from a claimant, an insured, or a designated representative; requiring such adjusters, apprentices, and firms to retain a copy of such response; creating s. 627.4815, F.S.; defining terms; requiring that universal life insurance policies include a provision requiring a certain annual report; specifying requirements for the annual report; providing applicability; amending s. 627.6515, F.S.; revising applicability relating to group health insurance policies; creating s. 627.7293, F.S.; requiring certain automobile insurers, under certain circumstances, to provide a specified statement in a certain manner; requiring the automobile insurer to obtain express consent before submitting specified claims; providing applicability; creating s. 627.7431, F.S.; defining terms; requiring insurers to pay or deny certain claims within a specified timeframe; providing an exception; requiring insurers to provide certain explanations to policyholders under certain circumstances; specifying that certain payments bear specified interest; specifying when the interest begins to accrue; providing construction; requiring the insured to select the manner of receiving

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prejudgment interest under certain circumstances; specifying that the failure to comply with certain provisions does not form the basis of a private cause of action; providing applicability; specifying that certain requirements are tolled under certain circumstances; providing an effective date.

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

Section 1. Subsection (24) is added to section 626.854, Florida Statutes, 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.

(24) A public adjuster, public adjuster apprentice, or public adjusting firm must provide a specific response to a written or electronic request for claim status from a claimant, an insured, or the person's designated representative within 14 days after receiving the request. The public adjuster, public adjuster apprentice, or public adjusting firm must retain a copy of its response for its records.

Section 2. Section 627.4815, Florida Statutes, is created to read:

627.4815 Universal life policies.—

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

(a) "Cash surrender value" means the net cash surrender value plus any amounts outstanding as policy loans.

(b) "Fixed premium universal life insurance policy" means a

universal life insurance policy other than a flexible premium universal life insurance policy.

(c) "Flexible premium universal life insurance policy" means a universal life insurance policy that permits the policyowner to vary, independently of each other, the amount or timing of one or more premium payments or the amount of insurance.

(d) "Net cash surrender value" means the maximum amount payable to the policyowner upon surrender.

(e) "Policy value" means the value of any individual life insurance policy, rider, group master policy, or individual certificate. The term includes separately identified interest credits, except those related to dividend accumulations, premium deposit funds, or other supplementary accounts, and mortality and expense charges.

(f) "Universal life insurance policy" means any individual life insurance policy, rider, group master policy, or individual certificate that includes separately identified interest credits and mortality and expense charges. A universal life insurance policy may also include other types of credits and charges. The term does not apply to policies, riders, group master policies, or individual certificates in connection with dividend accumulations, premium deposit funds, or other supplementary accounts.

(2) A universal life insurance policy issued in this state must include a provision requiring the policyowner to receive, at no cost, an annual report on the policy's status. The report must be sent within 3 months after the end of the reporting period. The report must include all of the following:

(a) The beginning and end of the current reporting period.

(b) The policy value at the end of the previous reporting period and at the end of the current reporting period.

(c) The total amounts that have been credited or debited to the policy value during the current reporting period, identified by type.

(d) The current death benefit at the end of the current reporting period on each life covered by the policy.

(e) The net cash surrender value of the policy as of the end of the current reporting period.

(f) The amount of outstanding loans, if any, as of the end of the current reporting period.

(g) For fixed premium policies, if, assuming guaranteed interest, mortality and expense loads, and continued scheduled premium payment, the policy's net cash surrender value is such that it would not maintain insurance in force until the end of the next reporting period, a notice to that effect.

(h) For flexible premium policies, if, assuming guaranteed interest and mortality and expense loads, the policy's net cash surrender value will not maintain insurance in force until the end of the next reporting period unless further premium payments are made, a notice to that effect.

(i) For fixed premium or flexible premium policies, if, assuming guaranteed interest and mortality and expense loads, the policy's net cash surrender value will not maintain insurance in force until maturity of the contract, the projected date on which policy values will be insufficient to continue coverage in force.

(3) This section applies to all universal life insurance

policies except variable contracts as defined in s. 627.8015.

Section 3. Subsection (2) of section 627.6515, Florida Statutes, is amended to read:

627.6515 Out-of-state groups.—

(2) Except as otherwise provided in this part, this part does not apply to a group health insurance policy issued or delivered outside this state under which a resident of this state is provided coverage if:

(a) The policy is issued to an employee group the composition of which is substantially as described in s. 627.653; a labor union group or association group the composition of which is substantially as described in s. 627.654; an additional group the composition of which is substantially as described in s. 627.656; a group insured under a blanket health policy when the composition of the group is substantially in compliance with s. 627.659; a group insured under a franchise health policy when the composition of the group is substantially in compliance with s. 627.663; an association group to cover persons associated in any other common group, which common group is formed primarily for purposes other than providing insurance; a group that is established primarily for the purpose of providing group insurance, provided the benefits are reasonable in relation to the premiums charged thereunder and the issuance of the group policy has resulted, or will result, in economies of administration; or a group of insurance agents of an insurer, which insurer is the policyholder;

(b) Certificates evidencing coverage under the policy are issued to residents of this state and contain in contrasting

color and not less than 10-point type the following statement: "The benefits of the policy providing your coverage are governed primarily by the law of a state other than Florida"; and

(c) The policy provides the benefits specified in ss. 627.419, 627.6562, 627.6574, 627.6575, 627.6579, 627.6612, 627.66121, 627.66122, 627.6613, 627.667, 627.6675, 627.6691, and 627.66911, and complies with the requirements of s. 627.66996.

(d) Applications for certificates of coverage offered to residents of this state must contain, in contrasting color and not less than 12-point type, the following statement on the same page as the applicant's signature:

"This policy is primarily governed by the laws of ...(insert state where the master policy is filed).... As a result, all of the rating laws applicable to policies filed in this state do not apply to this coverage, which may result in increases in your premium at renewal that would not be permissible under a Florida-approved policy. Any purchase of individual health insurance should be considered carefully, as future medical conditions may make it impossible to qualify for another individual health policy. For information concerning individual health coverage under a Florida-approved policy, consult your agent or the Florida Department of Financial Services."

This paragraph applies only to group certificates providing health insurance coverage which require individualized underwriting to determine coverage eligibility for an individual

or premium rates to be charged to an individual except for the following:

1. Policies issued to provide coverage to groups of persons all of whom are in the same or functionally related licensed professions, and providing coverage only to such licensed professionals, their employees, or their dependents;

2. Policies providing coverage to small employers as defined by s. 627.6699. Such policies shall be subject to, and governed by, the provisions of s. 627.6699;

3. Policies issued to a bona fide association, as defined by s. 627.6571(5), provided that there is a person or board acting as a fiduciary for the benefit of the members, and such association is not owned, controlled by, or otherwise associated with the insurance company; or

4. Any accidental death, accidental death and dismemberment, accident-only, vision-only, dental-only, hospital indemnity-only, hospital accident-only, cancer, specified disease, Medicare supplement, products that supplement Medicare, long-term care, or disability income insurance, or similar supplemental plans provided under a separate policy, certificate, or contract of insurance, which cannot duplicate coverage under an underlying health plan, coinsurance, or deductibles or coverage issued as a supplement to workers' compensation or similar insurance, or automobile medical-payment insurance.

Section 4. Section 627.7293, Florida Statutes, is created to read:

627.7293 Towing and labor coverage requirements.—

(1) An automobile insurer that provides towing and labor

coverage as a filed claim shall provide the following language or substantially similar language on any web or electronic platform through which a towing or labor claim is made or verbally stated to the claimant if the claim is being made over the phone:

> Your auto insurance policy provides coverage for towing and labor. Use of this coverage requires a filing of a claim. Such claim filing will remain in your claims' history for use of future underwriting of any initial or renewal offer made by this insurer or any other insurer.

(2) The automobile insurer shall obtain the claimant's express consent before submitting a claim filed under the towing and labor coverage.

(3) This disclosure requirement provided under subsection (1) does not apply if the towing and labor claim is filed as part of a crash-related damage claim.

Section 5. Section 627.7431, Florida Statutes, is created to read:

627.7431 Payment of first-party claim.—

(1) For purposes of this section, the term:

(a) "Claim" means any first-party claim under an insurance policy providing coverage for a private passenger motor vehicle as defined in s. 627.732.

(b) "Factors beyond the control of the insurer" means:

1. Any of the following events that is the basis for the office issuing an order finding that such event renders all or

specified motor vehicle insurers reasonably unable to meet the requirements of this section in specified locations and ordering that such insurer or insurers may have additional time, not exceeding 30 days, as specified by the office, to comply with the requirements of this section: a state of emergency declared by the Governor under s. 252.36, a breach of security that must be reported under s. 501.171(3), or an information technology issue.

2. Actions by the policyholder or the policyholder's representative which constitute fraud, lack of cooperation, or intentional misrepresentation regarding the claim for which benefits are owed, when such actions reasonably prevent the insurer from complying with any requirement of this section.

3. Actions by any repair company which constitute fraud, lack of cooperation, or intentional misrepresentation regarding the claim for which benefits are owed, when such actions reasonably prevent the insurer from complying with any requirement of this section.

4. Inaccessibility to or delay in the arrival of parts necessary for the repair of the vehicle.

(2) Within 60 days after an insurer receives notice of an initial, reopened, or supplemental first-party physical damage insurance claim from a policyholder, the insurer shall pay or deny such claim or a portion of the claim unless the failure to pay is caused by factors beyond the control of the insurer. The insurer shall provide a reasonable explanation in writing to the policyholder of the basis in the insurance policy, in relation to the facts or applicable law, for the payment, denial, or partial denial of a claim. If the insurer's claim payment is

less than that specified in any insurer's detailed estimate of the amount of the loss, the insurer must provide a reasonable explanation in writing of the difference to the policyholder. Any payment of an initial or supplemental claim or portion of such claim made 60 days after the insurer receives notice of the claim, or made after the expiration of any additional timeframe provided to pay or deny a claim or a portion of a claim made pursuant to an order of the office finding factors beyond the control of the insurer, whichever is later, bears interest at the rate set forth in s. 55.03. Interest begins to accrue from the date the insurer receives notice of the claim. This subsection may not be waived, voided, or nullified by the terms of the insurance policy. If there is a right to prejudgment interest, the insured must select whether to receive prejudgment interest or interest under this subsection. Interest is payable when the claim or portion of the claim is paid. Failure to comply with this subsection constitutes a violation of this code. However, failure to comply with this subsection does not form the sole basis for a private cause of action.

(3) This section applies to surplus lines insurers and surplus lines insurance authorized under ss. 626.913-626.937 providing personal automobile coverage.

(4) This section does not apply to any of the following claims:

(a) Any claims covered under an insurance policy providing coverage for commercial motor vehicles as defined in s. 627.732.

(b) Any portion of a claim covered under an insurance policy covering private passenger motor vehicles if the portion of the claim is based on coverage for:

1. Personal injury protection;

2. Property damage liability;

3. Bodily injury;

4. Uninsured motorists or underinsured motorists; or

5. Medical payments.

(5) The requirements of this section are tolled:

(a) During the pendency of any mediation proceeding under s. 627.745 or any alternative dispute resolution proceeding provided for in the insurance contract. The tolling period ends upon the end of the mediation or alternative dispute resolution proceeding.

(b) Upon the failure of a policyholder or a representative of the policyholder to provide material claims information requested by the insurer within 10 days after the request was received. The tolling period ends upon the insurer's receipt of the requested information. Tolling under this paragraph applies only to requests sent by the insurer to the policyholder or to a representative of the policyholder at least 15 days before the insurer is required to pay or deny the claim or a portion of the claim under subsection (2).

Section 6. This act shall take effect July 1, 2025.

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 1466
INTRODUCER:	Senator DiCeglie
SUBJECT:	My Safe Florida Home Trust Fund/Department of Financial Services
DATE:	March 28, 2025
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Thomas	Knudson	BI	**Pre-meeting**
2.			FT	
3.			AP	

I. Summary:

SB 1466 creates the My Safe Florida Home Trust Fund within the Department of Financial Services. The trust fund shall consist of funds collected in an amount equal to five percent of the state sales tax remitted to the Department of Revenue pursuant to s. 212.15(4), F.S., in the two months following the month of landfall of a hurricane from dealers within the counties named in a declaration of a state of emergency by the Governor. The funds are to be used exclusively for the purposes of the MSFH Program.

Any balance in the trust fund at the end of any fiscal year shall remain in the trust fund at the end of the year and shall be available for carrying out the purpose of the trust fund. The balance in the trust may not exceed $300 million at any time. Any funds in excess of this amount must be transferred to the General Revenue Fund.

Pursuant to s. 19 (f), Art. III of the State Constitution, the My Safe Florida Home Trust Fund terminates on July 1, 2029, unless terminated sooner or recreated by the Legislature. Additionally, the trust fund shall be reviewed as provided in s. 215.3206, F.S., before its scheduled termination.

This bill has not yet been reviewed by the Revenue Estimating Conference. The fiscal impact of this bill is indeterminate.

This bill, creating a new trust fund, must pass by a three-fifths vote of the membership of each house to become law pursuant to s. 19 (f), Art. III of the State Constitution.

The bill takes effect July 1, 2025.

II. Present Situation:

Trust Funds

Establishment of Trust Funds

A trust fund may be created by law only by the Legislature and only if passed by a three-fifths vote of the membership of each house in a separate bill for that purpose only.[1] Except for trust funds being re-created by the Legislature, each trust fund must be created by statutory language that specifies at least the following:

- The name of the trust fund.
- The agency or branch of state government responsible for administering the trust fund.
- The requirements or purposes that the trust fund is established to meet.
- The sources of moneys to be credited to the trust fund or specific sources of receipts to be deposited in the trust fund.[2]

Review of Trust Funds

All state trust funds must terminate not more than four years after the effective date of the act authorizing the initial creation of the trust fund.[3] The Legislature may set a shorter time period for which any trust fund is authorized.[4] The Legislature must review all state trust funds at least once every 4 years prior to the regular session of the Legislature immediately preceding the date on which any executive or judicial branch trust fund is scheduled to be terminated, or such earlier date as the Legislature may specify.[5]

The agency responsible for the administration of the trust fund and the Governor, for executive branch trust funds, or the Chief Justice, for judicial branch trust funds, must recommend to the President of the Senate and the Speaker of the House of Representatives whether the trust fund should be allowed to terminate or should be re-created.[6] Each recommendation must be based on a review of the purpose and use of the trust fund and a determination of whether the trust fund will continue to be necessary.[7] A recommendation to re-create the trust fund may include suggested modifications to the purpose, sources of receipts, and allowable expenditures for the trust fund.[8]

When the Legislature terminates a trust fund, the agency or branch of state government that administers the trust fund must pay any outstanding debts or obligations of the trust fund as soon as practicable.[9] The Legislature may also provide for the distribution of moneys in that trust fund. If no such distribution is provided, the moneys remaining after all outstanding obligations of the trust fund are met must be deposited in the General Revenue Fund.[10]

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[1] Art. III, s. 19(f)(1), Fla. Const.
[2] Section 215.3207, F.S.
[3] Art. III, s. 19(f)(2), Fla. Const.
[4] *Id.*
[5] Section 215.3206(1), F.S.
[6] *Id.*
[7] *Id.*
[8] *Id.*
[9] Section 215.3208(2)(a), F.S.
[10] Section 215.3208(2)(b), F.S.

My Safe Florida Home Program

Background

Following the 2004 and 2005 hurricane seasons, where 2.8 million Florida homeowners suffered more than $33 billion in insured property damage, 86 percent of the 4.4 million homes in Florida were built prior to the adoption of stronger building codes in 2002, and the average age of a home was 26 years, Florida began to experience a decline in the availability of property insurance and an increase in its cost.[11] In 2006, the Legislature created the My Safe Florida Home Program (MSFH Program) within the Department of Financial Services (DFS).[12] The original appropriation for the MSFH Program was $250 million for a period not to exceed three years with any unused appropriated funds reverting to the General Revenue Fund on June 30, 2009.[13]

The MSFH Program was created with the intent to provide trained and certified inspectors to perform mitigation inspections for owners of site-built, single-family, residential properties, and mitigation grants to eligible applicants, subject to the availability of funds.[14] The Program was to "develop and implement a comprehensive and coordinated approach for hurricane damage mitigation…"[15] The Program allowed the DFS to undertake a public outreach and advertising campaign to inform consumers of the availability and benefits of the mitigation inspections and grants.[16] From its inception to January 30, 2009, the Program received approximately 425,193 applications, performed more than 391,000 inspections and awarded 39,000 grants. From July 2007 through January 2009, MSFH Program expenditures totaled approximately $151.9 million.[17] Funding for the program ceased on June 30, 2009.[18]

Renewal and Funding of the MSFH Program

In May 2022, during Special Session 2022-D, and under a property insurance bill (SB 2-D), the Legislature reestablished the MSFH Program and appropriated $150 million in nonrecurring funds from the General Revenue Fund designated for the following purposes:

- $25 million for hurricane mitigation inspections;
- $115 million for hurricane mitigation grants;
- Four million dollars for education and consumer awareness;
- One million dollars for public outreach to contractors, real estate brokers, and sales associates; and

[11] Department of Financial Services, *My Safe Florida Home, 2008 Annual Report* (Feb. 2009) (on file with Senate Committee on Banking and Insurance).
[12] The Legislature initially established the program as the Florida Comprehensive Hurricane Damage Mitigation Program (ch. 2006-12, L.O.F.) however, the name was subsequently changed in 2007 (ch. 2007-126, L.O.F.).
[13] Chapter 2006-12, L.O.F.
[14] Section 215.5586, F.S.
[15] *Id*.
[16] Section 215.5586(3), F.S.
[17] Florida Auditor General, *Department of Financial Services, My Safe Florida Home Program, Operational Audit Report No. 2010-074* (Jan. 2010), *available at* https://flauditor.gov (last visited March 27, 2025).
[18] Department of Financial Services, *My Safe Florida Home, 2008 Annual Report* (Feb. 2009) (on file with Senate Committee on Banking and Insurance).

- Five million dollars for administrative costs.[19]

During the 2023 Regular Legislative Session, the Legislature appropriated an additional $100 million in nonrecurring funds from the General Revenue Fund for mitigation grants and $2,065,000 for operations and administration costs.[20] During Special Session 2023-C, the Legislature appropriated $176,170,000 in nonrecurring funds from the General Revenue Fund for hurricane mitigation grants and $5,285,100 for administrative costs. During the 2024 Regular Legislative Session, the Legislature appropriated $200 million in nonrecurring funds from the General Revenue Fund for hurricane mitigation grants, inspections, and administrative costs.[21]

Emergency Powers of the Governor

The Governor is responsible for meeting the dangers presented to this state and its people by emergencies.[22] In the event of an emergency or threat of one, the Governor may declare a state of emergency by executive order or proclamation. The order or proclamation must be filed with the Department of State and in the commission offices of the affected counties. The state of emergency continues until the Governor finds that the threat or danger has been dealt with to the extent that the emergency conditions no longer exist, but the order may not continue for longer than 60 days. The Governor may extend the order as necessary.[23] However, the Legislature may end a state of emergency by passing a concurrent resolution.[24]

Overview of Florida Sales and Use Tax

Florida levies a 6 percent tax on the sale or rental of most items of tangible personal property,[25] admissions,[26] and transient rentals.[27] Sales tax is added to the price of the taxable good or service and collected from the purchaser at the time of sale.[28] Counties are authorized to impose local discretionary sales surtaxes in addition to the state sales tax.[29] A surtax applies to "all transactions … subject to the state tax … on sales, use, services, rentals, admissions, and other transactions …."[30] The discretionary sales surtax rates currently levied vary by county in a range of 0.5 to 1.5 percent.[31]

Persons desiring to engage in or conduct business in this state as a dealer must first apply with Department of Revenue (department) as a dealer.[32] Each dealer must file a return and remit the

[19] Section 4, ch. 2022-268, L.O.F.
[20] SB 2500 (2023); Specific Appropriations 2368A & 2368B, ch. 2023-239, Laws of Fla.
[21] Section 2, ch. 2024-107, L.O.F.
[22] Section 252.36(1)(a), F.S.
[23] Section 252.36(2), F.S.
[24] Section 252.36(3), F.S.
[25] Section 212.05(1)(a)1.a., F.S.
[26] Section 212.04(1)(b), F.S.
[27] Section 212.03(1)(a), F.S.
[28] Section 212.07(2), F.S.
[29] Section 212.055, F.S.
[30] Section 212.054(2)(a), F.S.
[31] FLA. DEP'T OF REVENUE, *Discretionary Sales Surtax Information for Calendar Year 2025, available at* https://floridarevenue.com/Forms_library/current/dr15dss.pdf (last visited March 27, 2025).
[32] Section 212.18(3)(a), F.S.

tax due on or before the 20th day of the month.[33] Businesses that sell tangible personal property and services that are subject to the Florida sales tax are required to collect the sales tax on the sale and to remit their collections.[34] These businesses are referred to as dealers and are required to file returns[35] and maintain books and records to evidence past sales,[36] which are subject to audit by the department.[37]

III. Effect of Proposed Changes:

The bill creates s. 215.55861, F.S., to establish the My Safe Florida Home Trust Fund within the DFS. The trust fund shall consist of funds collected in an amount equal to five percent of the state sales tax remitted to the Department of Revenue pursuant to s. 212.15(4), F.S., in the two months following the month of landfall of a hurricane from dealers within the counties named in a declaration of a state of emergency by the Governor. The funds are to be used exclusively for the purposes of the MSFH Program. The Department of Revenue must distribute the funds to the My Safe Florida Home Trust Fund no later than the end of the third month after the month landfall took place.

Any balance in the trust fund at the end of any fiscal year shall remain in the trust fund at the end of the year and shall be available for carrying out the purpose of the trust fund. The balance in the trust may not exceed $300 million at any time. Any funds in excess of this amount must be transferred to the General Revenue Fund.

The DFS must provide an annual report on fund balances and any transfers made pursuant to this section. The report must be delivered to the President of the Senate and the Speaker of the House of Representatives by February 1 of each year.

As required by the Florida Constitution, the My Safe Florida Home Trust Fund terminates on July 1, 2029, unless terminated sooner or recreated by the Legislature.[38] Additionally, the trust fund shall be reviewed as provided in s. 215.3206, F.S., before its scheduled termination.

The bill takes effect July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

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[33] Section 212.11(1)(b), F.S.
[34] *See generally* s. 212.06, F.S.
[35] *See* s. 212.11, F.S.
[36] *See* s. 212.13, F.S.
[37] *Id*.
[38] Fla. Const. art. III, s. 19(f).

C. Trust Funds Restrictions:

Article III, s. 19(f)(1) of the Florida Constitution specifies that a trust fund may be created or re-created only by a three-fifths vote of the membership of each house of the Legislature in a separate bill for that purpose only.

Article III, s. 19(f)(2) of the Florida Constitution specifies that state trust funds must terminate not more than four years after the effective date of the act authorizing the initial creation of the trust fund. By law the Legislature may set a shorter time period for which any trust fund is authorized.

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 creates a dedicated funding source for the MSFH Program which should allow for the continued funding of grants under the Program.

C. Government Sector Impact:

This bill has not yet been reviewed by the Revenue Estimating Conference.

Creating the My Safe Florida Home Trust Fund within the DFS provides a dedicated revenue source to fund the MSFH Program. The Trust Fund will be supported with diverted sales tax revenue in the two months following the month of landfall of a hurricane from dealers within the counties named in a declaration of a state of emergency by the Governor.

The Department of Revenue reports that distributions will be variable and depend on the weather. Therefore, distributions will be manual using existing resources. However, programming may need to be developed, or programming changes may be required, if these distributions impact annual closeouts or disrupt the normal timing of other distributions

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Department of Revenue reports it is unclear if the distributions the Department is required to make are to include discretionary sales surtax. It recommends amending language on line 32, as follows:

> "Governor, an amount equal to 5 percent of the remaining proceeds ~~state sales tax~~"

The proposed amendment will clarify that the 5% distribution will not apply to surtaxes, local option taxes, or other local taxes.

VIII. Statutes Affected:

This bill creates the following section of the Florida Statutes: 215.55861.

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.

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LEGISLATIVE ACTION

Senate . House

. . . . . .

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

Senate Amendment (with title amendment)

Delete lines 32 - 36
and insert:
Governor, an amount equal to 20 percent of the insurance premium tax collected pursuant to ss. 252.372, 624.4625, and 624.509-624.519 shall be distributed to the My Safe Florida Home Trust Fund. The

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And the title is amended as follows:

Delete line 7

and insert:

specified insurance premium tax be distributed into the fund;