

Committee on Banking and Insurance

SB 80 — Family Trust Companies

by Senators Richter and Soto

The bill (Chapter 2016-35, L.O.F.) amends the Florida Family Trust Company Act. This bill amends ch. 662, F.S., to:

- Require all family trust companies in operation on October 1, 2016, to either apply for licensure as a licensed family trust company, register as a family trust company, register as a foreign licensed family trust company, or cease doing business in this state by December 30, 2016.
- Provide that a family trust company registration application must state that trust operations will comply with statutory provisions relating to requirements in organizational documents and relating to minimum capital requirements;
- Require that a registration application for a foreign licensed family trust company must provide proof that the company is in compliance with the family trust company laws and regulations of its principal jurisdiction;
- Require amendments to certificates of formation or certificates of organization to be submitted to the Office of Financial Regulation (OFR) at least 30 days before it is filed or effective;
- Allow family trust companies, licensed family trust companies, and foreign licensed family trust companies to file annual renewal applications within 45 days of the end of each calendar year;
- Create a mechanism for automatic reinstatement of lapsed licenses and registrations by payment of appropriate fees and any fines imposed by the OFR;
- Provide that the OFR must conduct an examination of a licensed family trust company every 36 months instead of the current 18 months. The bill does not allow an audit to substitute for an examination conducted by the OFR;
- Remove the requirement that the OFR conduct examinations of unlicensed family trust companies;
- Require that a court determine there has been a breach of fiduciary duty or trust before the OFR may enter a cease and desist order;
- Require the management of a licensed family trust company to have at least three directors or managers and require that at least one of those directors or managers be a Florida resident;
- Provide that the designated relatives in a licensed family trust company may not have a common ancestor within three generations instead of the current five generations; and
- Make legislative findings that clarify that the OFR is responsible for the regulation, supervision, and examinations of licensed family trust companies but that for unlicensed or foreign family trust companies the role of the OFR is limited to ensuring that services provided by such companies are provided only to family members and not to the general public.

These provisions became law upon approval by the Governor on March 10, 2016.

Vote: Senate 34-0; House 116-0

Committee on Banking and Insurance

CS/CS/HB 145 — Financial Transactions

by Regulatory Affairs Committee; Insurance and Banking Subcommittee; and Rep. McGhee and others (CS/CS/CS/CS/SB 260 by Banking and Insurance Committee; Rules Committee; Judiciary Committee; Banking and Insurance Committee; and Senators Smith and Richter)

Remittance Transfers

The bill (Chapter 2016-53, L.O.F.) clarifies that ch. 670, F.S., applies to funds transfers that are remittance transfers under the federal Electronic Funds Transfer Act (EFTA), unless the remittance transfer is also an electronic funds transfer under the EFTA. The bill also provides that the federal EFTA will preempt ch. 670, F.S., in the event any inconsistency exists between ch. 670, F.S., and the EFTA regarding a funds transfer.

Cancellation of Mortgages

This bill reduces the period for cancellation of a mortgage from 60 days to 45 days after full payment of the amount due under a promissory note secured by a mortgage. The bill provides an additional requirement for cancelling open-end mortgages, requiring written notice from the borrower that he or she intends to close the mortgage. The provisions on mortgage cancellation do not apply to an open-end mortgage existing before July 1, 2016, if the loan agreement included procedures for cancelling the mortgage.

Consumer Finance Loans

Under current law, the Florida Consumer Finance Act, administered by the Office of Financial Regulation, prohibits and imposes disciplinary action on any person who compensates another person for referring a loan applicant to a licensed consumer finance lender. This bill provides an exception to the prohibition, in instances in which an amount is not charged directly or indirectly to the borrower.

Convenience Fees on Credit Cards

Current law authorizes certain private colleges to impose a convenience fee on credit card payments made to the school for tuition, fees, and other student expenses. This bill extends the authority to charge a convenience fee to private schools offering K-12 education.

These provisions were approved by the Governor and take effect July 1, 2016.

Vote: Senate 37-0; House 119-0

Committee on Banking and Insurance

CS/CS/SB 286 — Merger and Acquisition Brokers

by Fiscal Policy Committee; Banking and Insurance Committee; and Senator Brandes

The bill creates an exemption from registration with the Office of Financial Regulation (OFR) for a merger and acquisition (M&A) broker facilitating the offer or sale of securities in connection with the transfer of ownership of an eligible privately held company. Generally, an M&A broker, acting as an intermediary, engages in the business of transferring the ownership and control of a privately-held company through the sale of the business, which may be structured as an asset or securities transaction. The bill also provides an exemption for the securities transactions that are conducted through an M&A broker if certain conditions are met. Failure to meet the requirements of statutory exemptions can subject entities to civil, criminal, and administrative liability for the sale of unregistered securities.

If approved by the Governor, these provisions take effect July 1, 2016.

Vote: Senate 40-0; House 117-0

Committee on Banking and Insurance

SB 340 — Vision Care Plans

by Senators Latvala and Gaetz

The bill prohibits an insurer, a prepaid limited health service organization (PLHSO), or a health maintenance organization (HMO) from requiring a licensed ophthalmologist or licensed optometrist to join a network solely for credentialing the licensee for another insurer's, PLHSO's, or HMO's vision network, respectively. The bill does not prevent an insurer, PLHSO, or HMO from entering into a contract with another insurer's, PLHSO's, or HMO's vision care plan to use the vision network.

Further, plans are prohibited from restricting a licensed ophthalmologist, optometrist, or optician to specific suppliers of material or optical labs. However, the bill provides that this provision does not restrict an insurer, PLHSO, or HMO in determining specific amounts of coverage or reimbursement for the use of network or out-of-network suppliers or labs. The bill provides that a knowing violation of either of these provisions, as described above, constitutes an unfair insurance trade practice under s. 626.9541(1)(d), F.S.

The bill also requires insurers, PLHSOs, and HMOs to update their online vision care network directory monthly to reflect currently participating providers in their respective network.

If approved by the Governor, these provisions take effect July 1, 2016.

Vote: Senate 34-0; House 117-0

Committee on Banking and Insurance

CS/CS/HB 413 — Title Insurance

by Regulatory Affairs Committee; Insurance and Banking Subcommittee; and Rep. Hager (CS/CS/SB 548 by Appropriations Committee; Banking and Insurance Committee; and Senator Richter)

This bill increases the limit of risk a title insurer may assume on a single contract to not greater than its surplus as to policyholders. This bill also requires a title insurer to reinsure any excess above the surplus as to policyholders from authorized insurers or reinsurers that may provide reinsurance under s. 624.610, F.S. Currently, the limit of risk is one-half of the company's surplus as to policyholders and title insurers that are required to reinsure any excess may only obtain reinsurance from "approved" insurers.

There is no fiscal impact to state funds.

If approved by the Governor, these provisions take effect July 1, 2016.

Vote: Senate 35-0; House 119-0

Committee on Banking and Insurance

SB 422 — Health Insurance Coverage For Opioids

by Senator Benacquisto

The bill allows a health insurance policy providing coverage for opioid analgesic drug products to impose a prior authorization requirement for an abuse-deterrent opioid analgesic drug product only if the policy imposes the same prior authorization requirement for opioid analgesic drug products without an abuse-deterrence labeling claim. The bill also prohibits a health insurance policy from requiring the use of an opioid analgesic without an abuse-deterrent labeling claim before providing coverage for an abuse-deterrent opioid analgesic drug product.

If approved by the Governor, these provisions take effect January 1, 2017.

Vote: Senate 40-0; House 108-0

Committee on Banking and Insurance

CS/CS/HB 431 — Fire Safety

by Regulatory Affairs Committee; Insurance and Banking Subcommittee; and Reps. Raburn, Combee, and others (CS/CS/SB 822 by Appropriations Committee; Banking and Insurance Committee; and Senator Stargel)

The bill makes changes related to the Florida Fire Prevention Code on agricultural property.

The bill defines an “Agricultural pole barn” and exempts them from the Florida Fire Prevention Code, National Codes and the Life Safety Code. The bill clarifies tents currently exempt from such codes can be any shape up to 900 square feet.

The bill defines a nonresidential farm building and establishes classes for use in which such buildings can be exempt from the Florida Fire Prevention Code, National Codes and the Life Safety Code:

- Class 1: A nonresidential farm building that is used by the owner 12 times per year or fewer for agritourism activity with up to 100 persons occupying the structure at one time. A structure in this class is subject to annual inspection for classification by the local authority having jurisdiction. This class is not subject to the Florida Fire Prevention Code but is subject to rules adopted by the State Fire Marshal.
- Class 2: A nonresidential farm building that is used by the owner for agritourism activity with up to 300 persons occupying the structure at one time. A structure in this class is subject to annual inspection for classification by the local authority having jurisdiction. This class is not subject to the Florida Fire Prevention Code but is subject to rules adopted by the State Fire Marshal.
- Class 3: A structure or facility used primarily for housing, sheltering, or otherwise accommodating members of the general public. A structure or facility in this class is subject to annual inspection for classification by the local authority having jurisdiction. This class is subject to the Florida Fire Prevention Code.

The bill also requires the State Fire Marshal to adopt rules, including;

- The use of alternative lifesafety and fire prevention standards for Classes 1 and 2;
- Notification and inspection requirements for structures in Class 1 and Class 2;
- The application of the Florida Fire Prevention Code for structures in Class 3; and
- Any other standards or rules deemed necessary in order to facilitate the use of structures for agritourism activities.

Finally, the bill allows a local fire official to consider NFPA 101A: Guide on Alternative Approaches to Life Safety to identify low-cost, reasonable alternatives to fire safety.

If approved by the Governor, these provisions take effect July 1, 2016.

Vote: Senate 38-0; House 118-0

Committee on Banking and Insurance

CS/SB 592 — Public Records/Department of Financial Services/Emergency Medical Technicians or Paramedics

by Governmental Oversight and Accountability Committee and Senator Hutson

This bill amends s. 119.071, F.S., expanding the public records exemption for agency personnel information to include the home addresses, telephone numbers, social security numbers, dates of birth, and photographs of former and current nonsworn investigative personnel of the Department of Financial Services and former and current emergency medical technicians or paramedics certified under ch. 401, F.S. The bill also exempts the names, home addresses, telephone numbers, social security numbers, photographs, dates of birth, and places of employment, locations of schools and child care facilities of the spouses and children of such personnel.

The bill specifies that the exemptions are subject to the Open Government Sunset Review Act and provides a statement of public necessity for the exemptions.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 38-1; House 113-0

Committee on Banking and Insurance

CS/HB 613 — Workers' Compensation System Administration

by Regulatory Affairs Committee and Rep. Sullivan (CS/SB 986 by Banking and Insurance Committee and Senator Simpson)

The bill (Chapter 2016-56, L.O.F.) amends regulatory provisions of ch. 440, F.S., the “Workers Compensation Law,” which are administered by the Department of Financial Services (DFS).

The bill eliminates the new insurer registration fee (\$100) and the Special Disability Trust Fund notice of claim fee (\$250) and the proof of claim fee (\$500). The bill also eliminates the Preferred Worker Program, which has been inactive for over 10 years.

The bill revises provisions related to compliance and enforcement as follows:

- Creates a 25 percent penalty credit for employers who have not been issued a stop-work order or order of penalty assessment previously for non-compliance with coverage requirements if they maintain required business records and timely respond to the written DFS business records requests.
- Establishes a deadline for employers to file certain documentation to receive a penalty reduction.
- Reduces the imputed payroll multiplier related to penalty calculations from 2 times to 1.5 times the statewide average weekly wage.
- Eliminates a 3-day response requirement applicable to employer held exemption documentation.
- Allows employers to notify their insurers of their employee’s coverage exemption, rather than requiring that a copy of the exemption be provided.

The bill revises provisions related to health care services and disputes as follows:

- Removes insurers and employers from the medical reimbursement dispute provision.
- Allows a Judge of Compensation Claims the discretion to designate an expert medical advisor, rather than only those that are certified by the DFS.

These provisions were approved by the Governor and take effect October 1, 2016.

Vote: Senate 40-0; House 115-2

Committee on Banking and Insurance

CS/SB 626 — Consumer Credit

by Banking and Insurance Committee; and Senators Gaetz and Altman

The bill authorizes the Office of Financial Regulation to enforce the provisions of the federal Military Lending Act (MLA) for state-chartered financial institutions, consumer finance lenders, deferred presentment providers (payday lenders), and title loan lenders. The MLA provides greater consumer protections for service members and their dependents in connection with a broad range of consumer credit transactions, including consumer finance loans, payday loans, title loans, overdraft lines of credit, small dollar loans, and credit card accounts. The MLA caps the Military Annual Percentage Rate (MAPR) on these credit transactions at 36 percent, requires oral and written disclosures for the consumer, and prohibits certain terms and conditions on the loan, such as mandatory arbitration and prepayment penalties.

If approved by the Governor, these provisions take effect October 3, 2016.

Vote: Senate 37-0; House 117-0

Committee on Banking and Insurance

CS/CS/CS/HB 651 — Department of Financial Services

by Regulatory Affairs Committee; Governmental Operations Appropriations Subcommittee; Insurance and Banking Subcommittee; Rep. Beshears and others (CS/CS/SB 992 by Appropriations Committee; Banking and Insurance Committee; and Senator Brandes)

This bill amends various statutory provisions relating to the Department of Financial Services (DFS).

Current law requires plaintiffs to serve lawsuits on insurance companies by serving documents initiating the lawsuit at the DFS. These documents are sent to the DFS by mail or by process server. The bill allows the DFS to create a system for electronic service of process and create an internet-based system for distributing documents to insurance companies.

The Chief Financial Officer (CFO) is designated the State Fire Marshal. The CFO administers the state fire code and the certification of firefighters. This bill provides for expiration of firefighter certifications after four years and provides a renewal process. It provides additional grounds that the State Fire Marshal can suspend, revoke, or deny an application for certification. The bill creates a procedure for an applicant for firefighter certification with a criminal record or dishonorable discharge from the United States Armed Forces to obtain a certificate if they can demonstrate by clear and convincing evidence that they do not pose a risk to persons or property. The bill updates the safety requirements and standards for carbon monoxide detectors in rooms containing boilers. The bill amends the Anti-Fraud Reward Program to allow rewards for persons who provide information related to crimes investigated by the State Fire Marshal.

The bill creates the “Firefighter Assistance Grant Program.” The purpose of the program is to improve the emergency response capability of volunteer fire departments and combination fire departments. The program will provide financial assistance to improve firefighter safety and enable fire departments to provide firefighting, emergency medical, and rescue services to their communities.

Under current law, the exemption for medical malpractice insurance premiums from emergency assessments of the Florida Hurricane Catastrophe Fund will expire May 31, 2016. The bill extends the exemption until May 31, 2019.

This bill amends the Florida Single Audit Act to raise the audit threshold from \$500,000 to \$750,000 to conform to the federal single audit act. It reorganizes the statute to place the provisions relating to higher education entities in one section.

The bill provides that employees of the state university system, a special district, or a water management district can participate in the deferred compensation program for state employees administered by the DFS.

The bill allows the DFS to have access of digital photographs from the Department of Highway Safety and Motor Vehicles to investigate allegations of violations of the insurance code.

The bill provides that a licensed health insurance agent who assists an insured with coverage questions, medical procedure coding issues, balance billing issues, understanding the claim filing process, or filing a claim is not acting as a public adjuster.

The bill authorizes the DFS to select five persons nominated by the Florida Surplus Lines Association to serve on the Florida Surplus Lines Service Office board of governors. Current law requires the DFS to select members from the Florida Surplus Lines Association's regular membership but does not provide for nominations. The bill also provides that a surplus lines agent who has not transacted business during a quarter need not file an affidavit with the Florida Surplus Lines Service Office stating that all business conducted by the agent has been submitted to the office.

The department administers the sinkhole neutral evaluation program for the resolution of disputed sinkhole insurance claims. This bill amends the qualifications of the neutral evaluator to provide that one cannot serve as a neutral evaluator on a claim if the individual was employed, within the previous five years, by the firm that did the initial sinkhole testing.

The bill provides increased rulemaking authority for the unclaimed property program within the DFS.

The bill exempts travel insurance from the full rate review requirements of s. 627.062(2)(a) and (f), F.S., and the requirement to annually make a rate filing under s. 627.0645, F.S., if the insurance is issued as a master group policy, with a situs in another state, where each certificateholder pays less than \$30 for each covered trip, and if the insurer has written less than \$1 million in annual travel insurance premiums in this state during the most recent calendar year.

The bill appropriates the recurring sum of \$229,165 and one position to implement the bill.

If approved by the Governor, these provisions take effect July 1, 2016.

Vote: Senate 39-0; House 113-0

Committee on Banking and Insurance

CS/CS/HB 659 — Automobile Insurance

by Regulatory Affairs Committee; Insurance and Banking Subcommittee; and Rep. Santiago (CS/CS/CS/SB 1036 by Rules Committee; Commerce and Tourism Committee; Banking and Insurance Committee; and Senator Brandes)

The bill makes the following changes relating to automobile insurance:

Use of a Single ZIP-Code as a Rating Territory

The bill allows motor vehicle insurance rates to be developed using rating territories contained within a single zip code if the justification for the rate incorporates sufficient loss and loss adjustment expense experience to be actuarially sound. The Office of Insurance Regulation (OIR) must require that a rate filing resulting from the use of a single zip code as a rating territory does not contain a rate or rate change that is excessive, inadequate, or unfairly discriminatory.

Florida Automobile Joint Underwriting Association

The bill allows the Florida Automobile Joint Underwriting Association (Auto JUA) to cancel personal lines or commercial lines policies issued by the plan for nonpayment of premium if a check is dishonored for any reason or any other form of payment is rejected or deemed invalid. The cancellation may only occur within the first 60 days of the policy or binder. The bill prohibits an insured of the Auto JUA from cancelling a policy or binder within the first 90 days of its effective date unless the insured vehicle is totally destroyed, ownership of the vehicle is transferred, or another policy is purchased covering the vehicle.

Payment of Premium and Return of Unearned Premium

The bill allows motor vehicle insureds to apply the unearned portion of premium to unpaid balances of other policies with the same insurer or insurer group instead of receiving the premium via mail or electronic transfer. The bill specifies that motor vehicle insurance premiums may be paid in cash in the form of a draft or drafts. The bill allows an insurer to impose an insufficient funds fee of up to \$15 per occurrence if, due to insufficient funds, specified methods of premium payments are declined. The bill also exempts policies paid via a recurring credit card or debit card agreement with the insurer from the requirement that, prior to issuing or binding a motor vehicle insurance policy, the insured must pay at least 2 months' premium.

Personal Injury Protection (PIP)

The bill exempts publicly traded corporations with \$250 million or more in total annual sales in health care services from the requirement to obtain health care clinic licensure as a condition of qualifying for reimbursement under PIP coverage. The bill also clarifies and updates references to billing requirements under PIP.

If approved by the Governor, these provisions take effect July 1, 2016.

Vote: Senate 34-5; House 111-5

Committee on Banking and Insurance

CS/HB 695 — Title Insurance

by Regulatory Affairs Committee and Rep. Boyd (CS/CS/SB 940 by Commerce and Tourism Committee; Banking and Insurance Committee; and Senator Bradley)

The bill (Chapter 2016-57, L.O.F.) changes the unearned premium reserve requirement for title insurers that are members of an insurance holding company system having \$1 billion or more in surplus as to policyholders and have a financial strength rating of “superior,” “excellent,” “exceptional,” or an equivalent rating by a rating agency acceptable to the Office of Insurance Regulation. Such insurers must have a reserve of a minimum of 6.5 percent of the total of direct premiums written and premiums for reinsurance assumed, with certain adjustments. Currently, only title insurers with a surplus in excess of \$50 million can use that formula to calculate required unearned premium reserve.

The bill removes the requirement that a title insurer that transfers its domicile to Florida must set an unearned premium reserve and release its unearned premium reserve under the laws of its previous domicile state. Instead, the bill requires a title insurer that transfers its domicile to Florida to calculate an adjusted statutory or unearned premium reserve as if, on the effective date of redomestication, the insurer had been domesticated in Florida for the previous 20 years and authorizes the release of such reserve.

The bill is not anticipated to have an impact on state funds.

These provisions were approved by the Governor and take effect July 1, 2016.

Vote: Senate 37-0; House 119-0

Committee on Banking and Insurance

CS/CS/CS/HB 783 — Unclaimed Property

by Regulatory Affairs Committee; Government Operations Appropriations Subcommittee; Insurance and Banking Subcommittee; and Rep. Trumbull and others (CS/SB 970 by Banking and Insurance Committee and Senator Richter)

The bill amends the Florida Disposition of Unclaimed Property Act as implemented by the Department of Financial Services (DFS) Bureau of Unclaimed Property.

The bill makes the following changes to the act:

- Eliminates exceptions to the general 20 percent fee cap for out of country claimants and non-probated claims;
- Requires that the purchase agreement for unclaimed property which compensates the buyer through a flat fee show the fee as a percentage of the property;
- Requires that agreements to recover unclaimed property other than an original limited power of attorney be executed by the claimant no earlier than the date the claimant executed the original limited power of attorney;
- Requires a claim for unclaimed property to include certified copies of all court pleadings to establish entitlement to the property which were filed within 180 days before the claim form is signed;
- Repeals a provision giving DFS the exclusive right to notify owners of the existence of unclaimed property valued at more than \$250 within the first 45 days after the property is added to the unclaimed property database;
- Provides that unclaimed property in a campaign account for public office will escheat to the state and the proceeds will be deposited in the State School Trust Fund.
- Increases from \$5,000 to \$10,000 the aggregate value of the unclaimed property held by DFS which may be claimed by the beneficiary of the estate of a deceased owner without initiating probate proceedings;
- Authorizes DFS to estimate the value of unclaimed property held by the holder of the property if the holder fails to provide records after being requested to do so; and
- Increases to 30 days from 10 days the time by which a purchaser of unclaimed property must pay the seller, and voids the claim by the purchaser, if proof of payment is not filed with DFS.
- Exempts unclaimed patronage refunds held by a not-for-profit water and wastewater corporation under s. 196.2002, F.S., from the unclaimed property statute.

If approved by the Governor, these provisions take effect July 1, 2016.

Vote: Senate 38-0; House 116-0

Committee on Banking and Insurance

SB 812 — Reciprocal Insurers

by Senator Diaz de la Portilla

This bill creates an alternative process for a domestic reciprocal insurer to distribute unassigned funds, such as unused premiums, savings, and credits, to policyholders. The process created by the bill differs from current law primarily by not requiring the reciprocal insurer to create subscriber accounts to make distributions to policyholders. Distributions using this method may not exceed 50 percent of the insurer's net income from the previous calendar year and may be up to 10 percent of the insurer's surplus.

If approved by the Governor, these provisions take effect July 1, 2016.

Vote: Senate 36-0; House 117-0

Committee on Banking and Insurance

CS/CS/SB 828 — Insurance Guaranty Association Assessments

by Finance and Tax Committee; Banking and Insurance Committee; and Senator Bean

The bill substantially revises the assessment process of the Florida Workers' Compensation Insurance Guaranty Association (FWCIGA). The FWCIGA provides payment of workers' compensation claims of insolvent insurers and group self-insurance funds to avoid excessive delay in payment and to avoid financial loss to claimants in the event of the insolvency of a member insurer.

The bill provides the following changes to the FWCIGA assessment process:

- Revises the assessment recoupment method from recouping the assessment as part of the premium in a rate filing to adding a policy surcharge, which the insurer collects. The surcharge will not be subject to the insurance premium tax;
- Increases the assessment cap for self-insurance funds from 1.5 to 2 percent of net direct written premiums in Florida for workers' compensation insurance, which is consistent with the cap for insurers;
- Authorizes two assessment options for the FWCIGA, namely, an immediate single assessment payment by insurers with recoupment through policy surcharges; and an installment payment, which requires insurers to collect and remit policy surcharges quarterly to the FWCIGA;
- Revises the insurer's premium subject to an assessment from being based on the prior year's net direct written premium to the net direct written premium of the calendar year of the assessment; and
- Transfers order authority for assessments and other FWCIGA reporting related to insurer financial condition from the Department of Financial Services (DFS) to the Office of Insurance Regulation (OIR).

If approved by the Governor, these provisions take effect July 1, 2016.

Vote: Senate 35-0; House 114-0

Committee on Banking and Insurance

CS/CS/SB 854 — Funeral, Cemetery, and Consumer Services

by Regulated Industries Committee; Banking and Insurance Committee; and Senator Hukill

The bill amends ch. 497, F.S., the Florida Funeral, Cemetery, and Consumer Services Act, and the licensure requirements related to funerals and cemeteries regulated by the Department of Financial Services and the Board of Funeral, Cemetery, and Consumer Services.

The bill:

- Amends definitions in s. 497.005, F.S.
- Requires an applicant for embalmer apprentice to be of good character.
- Requires an e-mail address for licensure and allows email as a means of notification.
- Requires the department adopt rules on discipline for miscellaneous financial errors.
- Specifies disputes regarding cremated remains must be resolved by the courts.
- Specifies cremated remains are not property and not subject to partition by a court unless a legally authorized person consents.
- Provides a consistent deposit requirement for graves, mausoleums, and columbaria.
- Specifies that care and maintenance (C&M) trusts must be maintained by a cemetery company so that the grounds, structures, and improvements of a cemetery are maintained.
- Requires withdrawals from C&M trusts to cemetery companies must be done through a net income withdrawal or total return withdrawal method.
- Requires the board and department to adopt rules concerning C&M trusts.
- Clarifies that the C&M trust annual report must include the fair market value of the trust.
- Prohibits a trustee from investing in or counting as assets life insurance policies or annuity contracts and allows the trustee to allocate and divide capital gains and losses.
- Grants the board rulemaking authority to classify items sold in preneed contracts as services, cash advances, or merchandise.
- Requires a preneed licensee to deposit all preneed contract funds into a trust upon electing inactive status.
- Clarifies when a preneed contract may be made irrevocable, for purposes of a person qualifying for assistance programs such as Medicaid and Supplemental Security Income.
- Requires preneed licensees to provide an annual trust reports to the department.
- Repeals the servicing agent exemption from preneed licensure.
- Repeals the use of surety bonding in lieu of establishing a trust for the deposit of funds. Those licensees that have bonds in place prior to July 1, 2016, may continue to use them.
- Requires cemetery companies to remit unexpended monies paid on irrevocable preneed contracts to the Agency Health Care Administration for deposit into the Medical Care Trust Fund after the beneficiary's final disposition.

If approved by the Governor, these provisions take effect July 1, 2016.

Vote: Senate 40-0. House 117-0

Committee on Banking and Insurance

CS/HB 875 — Motor Vehicle Service Agreement Companies

by Insurance and Banking Subcommittee and Reps. Stark, Santiago, and others (CS/SB 1120 by Banking and Insurance Committee and Senator Abruzzo)

The bill (Chapter 2016-60, L.O.F.) allows motor vehicle service agreements regulated under chapter 634, F.S., to warrant the replacement of tires or wheels damaged as a result of encountering a road hazard, and the replacement of keys or key fobs. The bill defines road hazard as it relates to wheel and tire damage, and also clarifies that an “additive product” does not include a product applied to the exterior or interior surface of a motor vehicle to protect appearances.

These provisions were approved by the Governor and take effect July 1, 2016.

Vote: Senate 38-0; House 117-0

Committee on Banking and Insurance

SB 908 — Organization of the Department of Financial Services

by Senator Lee

The bill changes the organization of the Department of Financial Services (DFS). The bill repeals the statutory requirement to establish the following divisions and bureau:

- The Division of Legal Services;
- The Division of Information Systems and;
- The Bureau of Unclaimed Property.

The bill creates a Division of Unclaimed Property within the DFS. The DFS will continue to perform the functions performed by the Division of Legal Services and the Division of Information Systems but the CFO will have the authority to determine the organizational placement of those functions within the DFS.

The bill renames the Division of Insurance Fraud as the Division of Investigative and Forensic Services. It creates the Bureau of Forensic Services and the Bureau of Fire and Arson Investigations within the new division. The bill moves the Office of Fiscal Integrity from the Division of Accounting and Auditing to the new Division of Investigative and Forensic Services. The new division will perform the investigative functions currently performed by the Division of Insurance Fraud and the Division of State Fire Marshal.

The bill has no fiscal impact to the state.

If approved by the Governor, these provisions take effect July 1, 2016.

Vote: Senate 38-0; House 114-0

Committee on Banking and Insurance

CS/CS/HB 931 — Operations of the Citizens Property Insurance Corporation

by Regulatory Affairs Committee; Insurance and Banking Subcommittee; and Reps. Passidomo, Rodriguez J., and others (CS/CS/SB 1630 by Ethics and Elections Committee; Banking and Insurance Committee; and Senator Flores)

The bill make several changes to Citizens Property Insurance Corporation.

The bill requires Citizens to make changes, by January 1, 2017, to their plan of operation as it relates to take-out agreements made with private insurers. These changes require:

- Citizens to publish cycles for which take-out offers can be made.
- Private insurers to offer similar coverage comparable to Citizens and provide an estimate of premium.
- Private insurers must include in their take-out offers a comparison of coverages and rate between the insurer's policy and Citizens policy.
- Citizens to compile a list of companies that have shown interest in depopulating a policy and to make available to the agent of record.

The bill also:

- Requires that agents who write business for Citizens must also hold an appointment with an admitted carrier that is currently writing or renewing policies in the state.
- Allows the consumer representative to the Citizens Board of Governors to be afforded the same conflict of interest exemption as other board members.
- Allows Citizens to share underwriting and claims files data with authorized entities for the development of takeout plans or rating plans. General lines agents may not use such data to directly solicit policyholders.
- Allows Citizens to use a combination of the public model and private models when calculating the windstorm portion of rates.

If approved by the Governor, these provisions take effect July 1, 2016.

Vote: Senate 36-1; House 110-2

Committee on Banking and Insurance

CS/CS/HB 965 — Firesafety

by Health and Human Services Committee; Appropriations Committee; and Rep. Harrison (CS/CS/SB 1164 by Children, Families, and Elder Affairs Committee; Banking and Insurance Committee; and Senator Legg)

The bill authorizes the State Fire Marshal to use the most current edition of the National Fire Protection Association (NFPA) Life Safety Code, 101 and 101A, in determining the uniform safety fire code adopted for Assisted Living Facilities (ALFs). The bill amends s. 429.41, F.S., to repeal current fire safety requirements for ALFs that utilized previous editions of the NFPA Life Safety Code, including NFPA 101, 1994 edition.

The bill allows ALFs that have a building permit or certificate of occupancy issued before July 1, 2016, to remain under the provisions of the 1994 and 1995 editions of the NFPA Life Safety Code. Such facilities may make repairs, modernizations, renovations, or additions to or rehabilitate the facility in compliance with the 1994 and 1995 editions, as applicable. A facility must comply with the current NFPA Life Safety Code if it undergoes a Level III building alteration or rehabilitation under the Florida Building Code or seeks to utilize features not authorized under the 1994 or 1995 editions.

The bill removes the requirement that the Office of the State Fire Marshall provide specified training and education to the Agency for Health Care Administration employees and local government inspectors.

Lastly, the bill prohibits a local government or a utility from charging fees in excess of the actual expenses incurred in the installation and maintenance of an automatic fire sprinkler system in an existing ALF.

If approved by the Governor, these provisions take effect July 1, 2016.

Vote: Senate 38-0; House 114-0

Committee on Banking and Insurance

CS/SB 966 — Unclaimed Property

by Banking and Insurance Committee and Senators Benacquisto, Gaetz, Brandes, Negron, Bean, Hutson, Richter, Detert, Simpson, Simmons, Hays, Stargel, Soto and Bradley

The bill requires life insurers to determine whether their life or endowment insurance policyholders, annuitants, and retained asset account holders have died by annually comparing them against the United States Social Security Administration Death Master File (DMF). If an insurer compares annuities and other books of business with the DMF, the insurer must perform the comparison required by this bill at the same frequency. Insurers must also compare all life or endowment insurance policies, annuity contracts, and retained asset accounts that were in force on or after January 1, 1992. An insurer is required to perform the DMF comparison only for policies that are currently in-force if the insurer has compared all policies that were in force on or after January 1, 1992, or as of June 30, 2016, has a favorable targeted market conduct examination from the Office of Insurance Regulation (OIR) regarding claims-handling practices and use of the DMF or as of June 30, 2016, has entered into a regulatory settlement agreement with the OIR. The following products are not subject to the requirements of the bill: an annuity issued in connection with an employment-based plan subject to the Employee Retirement Income Security Act of 1974 or issued to fund an employment-based retirement plan, credit life or accidental death insurance, a joint and survivor annuity if an annuitant is still living, a policy issued to a group master policy owner for which the insurer does not perform recordkeeping functions, and life insurance assigned to a preneed licensee to fund a preneed funeral merchandise or service contract.

If a death is indicated, the bill requires the insurer to verify the death, verify if the deceased had other products with the company, determine if benefits are due, and attempt to locate and contact beneficiaries. If the policy or contract proceeds remain unclaimed 5 years after the date of death of the insured, annuitant, or account holder, the property escheats to the state as unclaimed property. Fines, penalties, or additional interest may not be imposed on the insurer for failure to report and remit property under the bill if such proceeds are reported and remitted to the Department of Financial Services (DFS) Bureau of Unclaimed Property no later than May 1, 2021.

The bill applies to all life insurers requirements agreed to by many of the largest life insurers in settlement agreements with the DFS, the Office of the Attorney General, and the Office of Insurance Regulation (OIR), often as part of multi-state settlement agreements. The settlement agreements are related to examinations that often find insurers use information from the Social Security Administration's Death Master File to stop paying a deceased person's annuity, but do not use such information to search for beneficiaries of a life insurance policy. According to the OIR, these settlement agreements have resulted in the return of over \$5 billion to beneficiaries directly by the companies nationwide and over \$2.4 billion being delivered to the states, which also attempt to locate and pay beneficiaries.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 39-0; House 109-0

Committee on Banking and Insurance

CS/CS/SB 1104 — Service of Process on Financial Institutions

by Rules Committee; Banking and Insurance Committee; and Senator Flores

This bill amends the procedures for service of process upon a financial institution. The bill allows a financial institution to designate a place or registered agent with the Department of State as the sole location or agent for service of process. The location or agent must be available to receive service of process between 9 a.m. and 5 p.m. on business days, excluding federal and Florida holidays.

If service upon a financial institution cannot be made at the designated central location, or the institution has not designated a registered agent, service may be made upon the officer, director, or business agent of the financial institution at its principal place of business or any other branch, office, or place of business in the state.

Service of process required or authorized to be made by the Office of Financial Regulation (OFR) may continue to be made through certified mail to any officer, director, or business agent of the financial institution at its principal place of business or any other branch, office, or place of business.

If approved by the Governor, these provisions take effect January 1, 2017.

Vote: Senate 38-0; House 117-0

Committee on Banking and Insurance

CS/SB 1106 — International Trust Entities

by Appropriations Committee and Senator Flores

The bill revises provisions relating to the regulation of international banking activity by the Office of Financial Regulation (OFR). The bill provides the following changes:

- The OFR will delay the enforcement of the licensure requirements under s. 663.04(4), F.S., relating to an organization or entity in Florida providing services to an international trust entity (ITE) that engages in the activities described in s. 663.0625, F.S. The delay in requirements is provided if the organization or entity meets certain regulatory requirements and provides assurances to the OFR. The moratorium would apply to the ITE, which is the offshore entity and the Florida organization or entity that is providing marketing and customer assistance on behalf of the ITE. The moratorium is repealed July 1, 2017.
- Defines the term, “international trust entity,” to mean any international trust company, international business, international business organization, or affiliated or subsidiary entities that are licensed, chartered, or similarly permitted to conduct trust business in a foreign country or countries under the laws of which it is organized and supervised.
- Provides the moratorium does not affect the OFR’s authority to enforce other provisions of the Financial Institutions Codes.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 35-0; House 116-0

Committee on Banking and Insurance

CS/CS/SB 1170 — Health Plan Regulatory Administration

by Appropriations Committee; Banking and Insurance Committee; and Senator Detert

The bill revises provisions in the Insurance Code and other Florida Statutes that conflict with the federal Patient Protection and Affordable Care Act (PPACA) and provides other changes. These changes include:

- Eliminating provisions relating to the imposition of a preexisting condition exclusion since the federal act requires guaranteed issue of coverage and prohibits preexisting condition exclusions;
- Removing the requirement that insurers provide an outline of coverage for individual or family accident and health insurance policies since the federal act requires a summary of benefits and coverage for individual and small group coverage;
- Eliminating provisions relating to medical loss ratios since the federal act prescribes such standards and requires rebates if certain conditions are met;
- Eliminating the requirement for insurers to issue certificates of creditable coverage; and
- Providing technical and conforming changes.

The bill also provides that a not for profit corporation whose membership consists entirely of local governmental units that are authorized to enter into risk management consortiums under s. 112.08, F.S., is exempt from licensure by the Office of Insurance Regulation (OIR) as a third-party administrator for self-insurance.

If approved by the Governor, these provisions take effect July 1, 2016.

Vote: Senate 38-0; House 114-0

Committee on Banking and Insurance

CS/HB 1233 — Federal Home Loan Banks

by Insurance and Banking Subcommittee; and Rep. Stevenson and others (CS/SB 1490 by Banking and Insurance Committee and Senators Garcia and Soto)

The bill clarifies that the Office of Financial Regulation (OFR), is not prevented from providing otherwise confidential information to any Federal Home Loan Bank (FHLB) regarding its member institutions pursuant to an information-sharing agreement. The FHLB system is a government-sponsored enterprise designed to support residential mortgage lending and community investment at the local level by providing primary mortgage liquidity (direct loans) to its members. Members include thrift institutions, commercial banks, credit unions, insurance companies, and certified community development financial institutions. The OFR is required to execute an information-sharing agreement with the FHLBs by August 1, 2016.

If approved by the Governor, these provisions take effect July 1, 2016.

Vote: Senate 38-0; House 113-0

Committee on Banking and Insurance

CS/CS/SB 1274 — Limited Sinkhole Coverage Insurance

by Fiscal Policy Committee; Banking and Insurance Committee; and Senator Latvala

The bill creates s. 627.7151, F.S., which allows insurers to offer a new type of personal lines residential sinkhole insurance coverage. Limited sinkhole coverage provides coverage for “sinkhole loss,” which is structural damage to the covered building, including the foundation, caused by sinkhole activity. Limited sinkhole coverage would also be subject to the statutory requirements for sinkhole insurance in ss. 627.706-627.7074, F.S., with the following exceptions:

- Coverage may be limited to repairs to stabilize the building and repair the foundation;
- Coverage does not have to include contents replacement or coverage for additional living expenses;
- Deductibles may be in an amount agreed to by the insured and insurer;
- Policy limits may be in an amount agreed to by the insured and insurer, provided policy limits below \$50,000 are not allowed unless that amount exceeds full replacement cost of the property;
- A notice signed by the applicant is required that the applicant has read and understands the coverages of limited sinkhole coverage, including when insuring for less than replacement cost or agreeing to a deductible greater than allowed in s. 627.706(1)(b), F.S.
- If a loss exceeds the policy limits, the insurer must agree to pay above policy limits to complete the repair or pay a contractor policy limits after the policyholder has signed a contract to repair. If the insured obtains a lower-cost alternative repair recommendation, the insurer must pay up to policy limits to complete the lower-cost alternative repair.
- Insurers are allowed to establish limited sinkhole policy forms not subject to filing with and approval by the Office of Insurance Regulation (OIR);
- Until October 1, 2019, insurers may file rates for limited sinkhole coverage that are not subject to the filing and review requirements of s. 627.062(2)(a) and (f), F.S.

The bill prohibits Citizens Property Insurance Corporation for offering limited sinkhole coverage and establishes surplus requirements of \$7.5 million for new and existing insurers that solely transact limited sinkhole coverage insurance. Insurers providing limited sinkhole coverage must notify the OIR at least 30 days prior to offering the coverage in the state. Such insurers must file a plan of operation and financial projections or revisions to such plan, as applicable, with the office

If approved by the Governor, these provisions take effect July 1, 2016.

Vote: Senate 39-0; House 113-1

Committee on Banking and Insurance

CS/CS/SB 1386 — Insurance Agents

by Rules Committee; Banking and Insurance Committee; and Senator Richter

The bill amends s. 626.593, F.S., to allow health insurance agents providing services on an individual health plan to contract with the insured for an additional service fee above the commission allowed under Chapter 627. If a contract for additional fee or compensation is agreed to then the agent must rebate to the insured any commissions paid by an insurer to the agent.

The bill also amends s. 626.785, F.S., to increase the allowable amount of coverage an insurance agent is able to sell for insurance policies covering burial related expenses. The bill increases the policy coverage maximum to \$21,000, plus an annual increase based on the CPI, beginning with the 2016 CPI. The bill will allow individuals, securing preneed contracts by means of insurance policies, to obtain a greater amount of coverage for burial services and merchandise.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 40-0; House 116-0

Committee on Banking and Insurance

SB 1402 —Ratification of Department of Financial Services Rules

by Senator Simmons

Florida's workers' compensation law requires that the provider reimbursement manuals setting maximum reimbursement rates for medical services must be updated every 3 years. Since the 2015 Legislature adjourned, the Department of Financial Services (DFS) has adopted amendments to the rule incorporating by reference the Florida Workers' Compensation Health Care Provider Reimbursement Manual, 2015 Edition (2015 Edition). The 2015 Edition sets out the policies, guidelines, codes, and maximum reimbursement allowances for services and supplies furnished by health care providers under the workers' compensation statutes. The 2015 Edition adopted as part of Rule 69L-7.020, F.A.C., *Florida Workers' Compensation Health Care Provider Reimbursement Manual, 2015 Edition* (rule), on July 16, 2015, and submitted for ratification on November 3, 2015.

The Statement of Estimated Regulatory Costs developed in conjunction with the rule shows that it has a specific, adverse economic effect, or increases regulatory costs, exceeding \$1 million over the first 5 years the rule is in effect. Accordingly, the rule must be ratified by the Legislature before it may go into effect. The bill ratifies the rule. The scope of the bill is limited to this rulemaking condition and does not adopt the substance of any rule into the statutes.

The bill will have a significant negative fiscal impact to state expenditures from the State Risk Management Trust Fund (SRMTF) within the DFS. The DFS Division of Risk Management (division) estimates an increase in workers' compensation expenses for the division by \$2.1 million in FY 2016-17, \$2.1 million in FY 2017-18, and \$2.2 million in FY 2018-19.

The impact to local government and the private sector is indeterminate. However, local governments and private employers responsible for paying workers' compensation claims or obtaining workers' compensation insurance will incur increased costs due to the increase in the maximum reimbursements for providers.

If approved by the Governor, these provisions take effect on July 1, 2016.

Vote: Senate 40-0; House 116-0

Committee on Banking and Insurance

CS/CS/SB 1416 — Public Records/Own-risk and Solvency Assessment/ Corporate Governance Annual Disclosure

by Governmental Oversight and Accountability; Banking and Insurance Committee; and Senator Simmons

The bill creates a public records exemption to incorporate the confidentiality provisions of two National Association of Insurance Commissioners' (NAIC) model acts. These two model acts provide state insurance regulators with additional solvency regulatory tools – the Own Risk and Solvency Assessment (ORSA) and the Corporate Governance Annual Disclosure. Both model acts require that states must keep these documents confidential. The related bill, CS/CS/SB 1422, implements the requirements of the model acts in the Insurance Code.

Generally, the ORSA model act requires certain insurers to conduct an ORSA and submit an ORSA summary report to the OIR. The Corporate Governance Annual Disclosure (Corporate Governance) Model Act and corresponding Corporate Governance Annual Disclosure Model Regulations, require insurers to disclose their corporate governance structure, procedures, and practices to the OIR on an annual basis.

The bill provides that, except for information obtained by the OIR, which would otherwise be available for public inspection, the following information held by the OIR is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

- An ORSA summary report, a substantially similar ORSA report, and supporting documents submitted pursuant to s. 628.8015, F.S.
- A corporate governance annual disclosure and supporting documents submitted pursuant to s. 628.8015, F.S.

The bill states that it is a public necessity to protect such information because it contains sensitive and strategic financial information and internal practices about an insurer or insurer group.

The bill provides for repeal of the exemption on October 2, 2021, unless reviewed and saved from repeal by the Legislature pursuant to the Open Government Sunset Review Act.

If approved by the Governor, these provisions take effect on the same date that CS/CS/SB 1422 takes effect, if such legislation becomes a law.

Vote: Senate 39-0; House 117-0

Committee on Banking and Insurance

CS/CS/SB 1422 — Insurer Regulatory Reporting

by Appropriations Committee; Banking and Insurance Committee; and Senator Simmons

The bill revises provisions within the Insurance Code relating to solvency requirements and regulatory oversight of insurers by the Office of Insurance Regulation (OIR). The bill implements the Risk Management and Own Risk and Solvency Assessment (ORSA) Model Act and the Corporate Governance Annual Disclosure (Corporate Governance) Model Act. These model acts originated from the National Association of Insurance Commissioners' Solvency Modernization Initiative.

The ORSA model act requires insurers to analyze all reasonable foreseeable and relevant material risks potentially affecting their ability to meet policyholder obligations. This will provide the OIR with an effective early warning mechanism and provides a group-level perspective on risk and capital. The Corporate Governance model act will provide the OIR with a detailed narrative describing governance practices to promote market stability and to deter unethical behavior.

If approved by the Governor, these provisions take effect on the same date that CS/CS/SB 1416 takes effect, if such legislation becomes a law.

Vote: Senate 38-0; House 117-0

Committee on Banking and Insurance

HB 7035 — OGSR/Office of Financial Regulation

by Government Operations Subcommittee and Rep. Fant (SB 7032 by Banking and Insurance Committee)

The bill (Chapter 2016-28, L.O.F.) reenacts the public records exemption that makes the following information held by the Office of Financial Regulation (OFR) before, on, or after July 1, 2011, confidential and exempt from public-records requirements:

- Information received from another state or federal regulatory, administrative, or criminal justice agency that is otherwise confidential or exempt pursuant to the laws of that state or pursuant to federal law.
- Information that is received or developed by the OFR as part of a joint or multiagency investigation or examination.

The Office of Financial Regulation (OFR) has regulatory oversight of financial institutions, securities dealers, investment advisers, mortgage loan originators, money services businesses, retail installment sellers, consumer finance companies, debt collectors, and other financial service providers. The OFR also has the authority to conduct examinations and investigations. Other states and federal agencies also have regulatory oversight of many of these entities. In addition, many of the regulated entities operate in multiple states, making interstate cooperation essential to achieving comprehensive, efficient, and effective regulatory oversight.

Pursuant to the Open Government Sunset Review Act, the exemption will repeal on October 2, 2016, unless reenacted by the Legislature. The bill eliminates the scheduled repeal of the public records exemption. As a result, this information will continue to be confidential and exempt from public disclosure. The continuation of this exemption will allow the OFR to obtain information that could assist it in pursuing violations of law under its jurisdiction and to participate in joint or multiagency investigations and examinations. Without this exemption, the effective and efficient administration of the regulatory programs administered by the OFR would be significantly impaired.

These provisions were approved by the Governor and take effect October 1, 2016.

Vote: Senate 36-0; House 118-0