

Committee on Banking and Insurance

CS/HB 221 — Transportation Network Companies

by Government Accountability Committee; and Reps. Sprowls, Grant, J., and others (CS/CS/SB 340 by Judiciary Committee; Banking and Insurance Committee; and Senators Brandes, Galvano, Simpson, Artiles, Young, and Bracy)

The bill (Chapter 2017-12, L.O.F.) creates statewide requirements for transportation network companies (TNCs). Transportation network companies use smartphone technology to connect individuals who want to ride with private drivers for a fee. The bill preempts any local ordinances or rules on TNCs and provides that state law will regulate TNCs. The bill prohibits local governments from imposing taxes, licensing requirements, or other restrictions on TNCs.

The bill provides minimum insurance requirements for TNCs and TNC drivers. When a TNC driver is logged onto the digital network but not engaged in a prearranged ride, the bill requires:

- 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 (PIP) benefits that meet the minimum coverage amounts required under the Florida Motor Vehicle No-Fault Law; and
- Uninsured and underinsured vehicle coverage as required by law.

When a TNC driver is engaged in a prearranged ride the bill requires:

- Primary automobile liability coverage of at least \$1 million for death, bodily injury, and property damage;
- PIP benefits that meet the minimum coverage amounts required of a limousine under Florida Motor Vehicle No-Fault Law; and
- Uninsured and underinsured vehicle coverage as required by law.

The bill authorizes an automobile insurer not providing TNC insurance to exclude coverage provided to an owner or operator of a TNC vehicle while driving that vehicle if logged on to the digital network or providing a prearranged ride.

The bill requires the TNC to conduct, or have a private third party conduct, a local and national criminal background check on its drivers every 3 years, and a driving record check once when the person applies as a TNC driver. The bill prohibits the TNC from hiring a person as a TNC driver if he or she has been convicted of certain crimes or a certain number of moving violations. To ensure that the TNC has complied with the requirement of background checks, the bill requires the TNC to submit an examination report prepared by an independent certified public accountant to the Department of Financial Services and provides for penalties if the TNC fails to comply with the background check requirements.

The bill requires a TNC to implement a zero tolerance policy on the use of drugs and alcohol by its drivers, and to suspend a driver during the length of an investigation, if a rider registers a

complaint of drug or alcohol use. All TNCs must adopt policies on nondiscrimination and disability access. In addition, the bill:

- Requires a TNC to maintain an agent for service of process;
- Requires a TNC to disclose information on fares to riders before the beginning of prearranged rides;
- Requires a TNC driver to carry proof of insurance;
- Requires a TNC's digital network to display a photograph of the TNC driver and the license plate number of the TNC vehicle;
- Provides that TNC drivers are independent contractors if certain conditions are met;
- Prohibits TNC drivers from accepting rides for compensation outside of the TNC's digital network and from soliciting or accepting street hails; and
- Requires TNCs to maintain records on riders and TNC drivers.

These provisions were approved by the Governor and take effect July 1, 2017.

Vote: Senate 36-1; House 115-0

Committee on Banking and Insurance

HB 243 — Public Records/Nonsworn Investigative Personnel of OFR's Bureau of Financial Investigations

by Rep. Raulerson and others (SB 248 by Senators Broxson and Passidomo)

The bill exempts from public inspection and disclosure certain personal identifying information of nonsworn investigative employees of the Office of Financial Regulation. The exemption applies to all current or former employees as well as their spouses and children. The exemption also covers an employee's spouse's place of employment and his or her child's school or day care facility.

The provisions of the bill are subject to the Open Government Sunset Review Act and will be repealed on October 2, 2022, unless reenacted by the Legislature.

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

Vote: Senate 31-0; House 114-0

Committee on Banking and Insurance

CS/HB 307 — Florida Life and Health Insurance Guaranty Association

by Insurance and Banking Subcommittee and Rep. Drake (CS/SB 814 by Appropriations Committee and Senator Broxson)

The bill revises coverage provisions relating to the Florida Life and Health Insurance Guaranty Association (association). In 1979, the Legislature created the association to protect policyholders against failure in the performance of contractual obligations under life and health insurance policies and annuity contracts due to the impairment or insolvency of the member insurer that issued the policies or contracts.

Effective January 1, 2020, the bill increases the coverage limits for basic hospital expense health insurance policies, basic medical-surgical health insurance policies, and major medical expense health insurance policies from \$300,000 to \$500,000 for any one person. Further, the bill expands the association's scope of coverage to include annuities issued by an insurer pursuant to an individual retirement annuity and annuities issued by an insurer and held by a third party custodian or trustee pursuant to an individual retirement account.

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

Vote: Senate 37-0; House 119-0

Committee on Banking and Insurance

CS/HB 339 — Motor Vehicle Service Agreement Companies

by Insurance and Banking Subcommittee and Rep. White (CS/SB 794 by Banking and Insurance Committee and Senator Brandes)

The bill expands the methods by which a motor vehicle service agreement company may insure its ability to pay out on its warranty claims by allowing the company to procure insurance to cover its motor vehicle service agreement claim exposure from a risk retention group that is authorized to do business in Florida. The risk retention group or insurer covering the claims exposure of a motor vehicle service agreement company must maintain a surplus of at least \$15 million. For insurers current law requires a surplus of \$4 million. The bill also allows a motor vehicle service agreement company that provides vehicle protection expenses to obtain insurance coverage on its warranty claims from an insurer that is affiliated with the company. Lastly, the bill provides that cancellation of a motor vehicle service agreement by a lender, finance company, or creditor is valid only if those entities are authorized to do so in the underlying service agreement.

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

Vote: Senate 37-0; House 119-0

Committee on Banking and Insurance

CS/HB 359 — Regulation of Insurance Companies

by Commerce Committee and Rep. Santiago (CS/CS/SB 454 by Appropriations Committee; Banking and Insurance Committee; and Senator Brandes)

The bill makes several changes relating to the regulation of insurance companies. The bill:

- Deletes the future repeal of the exemption of medical malpractice insurance premiums from the Florida Hurricane Catastrophe Fund assessments. Under current law, the exemption is repealed May 31, 2019.
- Allows an insurer issuing only renter's insurance, tenant's coverage or cooperative unit owners insurance to maintain a surplus of \$10 million to do business in the state.
- Removes the requirement that all members of an audit committee for an insurer must be free of any relationships that could interfere with the member's independent judgement.
- Allows Florida Workers' Compensation Insurance Guaranty Association surcharges to be counted as insurer assets if those surcharges are paid to the Association before the surcharges are collected from the insureds.
- Removes the requirement on insurers writing certain lines of medical malpractice insurance to make a full rate filing annually; these insurers will have the option to certify their rates with the Office of Insurance Regulation.
- Renames "owners and encumbrance" reports to "property information" report and clarifies such reports are not title insurance.
- Allows electronic checks and drafts as acceptable methods of payment for specified lines of insurance and allows insurers to charge a \$15 insufficient funds fee.
- Specifies display requirements for the electronic delivery of documents.

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

Vote: Senate 37-0; House 117-0

Committee on Banking and Insurance

CS/CS/HB 421 — Public Housing Authority Insurance

by Commerce Committee; Insurance and Banking Subcommittee; and Rep. Shaw (CS/SB 850 by Banking and Insurance Committee and Senator Rouson)

The bill allows a for-profit or not-for-profit corporation, limited liability company, or other similar business entity in which a public housing authority holds an ownership interest or participates in its governance under s. 421.08(8), F.S., to join a self-insurance fund formed under s. 624.46226, F.S., in which the public housing authority participates. The entity may join the self-insurance fund solely to insure risks related to public housing.

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

Vote: Senate 36-0; House 117-0

Committee on Banking and Insurance

CS/CS/HB 435 — International Financial Institutions

by Commerce Committee; Insurance and Banking Subcommittee; and Rep. Raulerson and others (CS/CS/SB 736 by Appropriations Committee; Banking and Insurance Committee; and Senators Mayfield and Steube)

The bill modernizes the regulatory framework of international financial services subject to regulation by the Office of Financial Regulation (OFR), which will promote the growth of international financial services market in Florida. The bill revises provisions relating to the regulation of international banking corporations and international trust company representative offices (ITCROs) of international trust entities and creates a regulatory framework for qualified limited service affiliates (QLSAs). An ITCRO may conduct any nonfiduciary activities that are ancillary to the fiduciary business of its international trust entity (ITE), such as marketing and soliciting for fiduciary business on behalf of the ITE. The QLSAs are marketing and liaison offices that engage in permissible activities for the benefit of an ITE and are qualified by the OFR. An ITE is an international trust company, an international business, an international business organization, or an affiliated or subsidiary entities that is 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. The bill provides the following changes:

- Establishes oversight of qualified limited service affiliates and offices of ITEs.
- Provides an abbreviated application process to establish additional locations of an entity that meets certain conditions.
- Authorizes the OFR to implement a risk-based approach for capital requirements, which will allow the OFR to calculate capital requirements that reflect an entity's business model and its particular inherent risk profile.
- Provides the OFR with discretion to allow an after-the-fact licensure process of an entity in the event of an acquisition, merger, or consolidation, which would allow continuity of operations.
- Clarifies permissible activities of entities regulated under chapter 663, Florida Statutes.

If approved by the Governor, these provisions take effect January 1, 2018, except as otherwise provided.

Vote: Senate 36-0; House 117-0

Committee on Banking and Insurance

CS/CS/HB 437 — Public Records/International Financial Institutions

by Commerce Committee; Insurance and Banking Subcommittee; and Rep. Raulerson (CS/CS/CS/SB 738 by Appropriations Committee; Governmental Oversight and Accountability Committee; Banking and Insurance Committee; and Senators Mayfield and Steube)

The bill makes certain records related to international trust entities and qualified limited service affiliates confidential and exempt from public inspection and copying. The Office of Financial Regulation (OFR) must hold the following information confidential and exempt:

- Personal identifying information of the customer or prospective customers of affiliated international trust entities that appear in regulatory records of an international trust company representative office or a qualified limited services affiliate;
- The names of shareholders or members of an affiliated international trust entity or a qualified limited services affiliate; and
- Information received by the OFR from a person from another state or country or the Federal Government that is confidential, or exempt pursuant to the laws of that state or country or pursuant to federal law.

The bill authorizes the OFR to disclose otherwise confidential and exempt information in specified circumstances.

The bill also revises the public records exemption for OFR records and information related to investigations and examinations of financial institutions, and confidential documents supplied by other state and federal agencies, to specify that such records are exempt from section 24(a), Article I of the Florida Constitution. The revision is necessary because CS/CS/HB 435 expands the definition of “financial institution” to include an “international trust entity” and “qualified limited services affiliate,” thus expanding the existing public records exemption.

The public records exemptions created and amended by this bill are subject to the Open Government Sunset Review Act and repeal on October 2, 2022, unless the Legislature reviews and saves them from repeal through reenactment.

If approved by the Governor, these provisions take effect on the same date that CS/CS/HB 435 or similar legislation takes effect, if such legislation is adopted in this legislative session and becomes a law.

Vote: Senate 35-0; House 118-0

Committee on Banking and Insurance

CS/CS/HB 465 — Firefighters

by Government Accountability Committee; Local, Federal and Veterans Affairs Subcommittee; and Rep. Raburn and others (CS/SB 1084 by Banking and Insurance Committee and Senators Stargel and Artiles)

The bill creates a Lifetime Firefighter designation for firefighters and volunteer firefighters. Specifically, the bill:

- Provides that a firefighter or volunteer firefighter who has been employed by a fire service provider, is recorded on the fire service provider's roster in the division's electronic database, or who was previously certified as a firefighter or volunteer firefighter may apply for the designation if the individual has at least 20 years of service and is in good standing with his or her most recent fire service provider and has not been convicted of a felony or had another type of disqualifying event;
- Allows a firefighter or volunteer firefighter to have his or her Certificate of Compliance or Certificate of Completion placed in the Lifetime Firefighter designation at the time the person is required to renew the Certificate of Compliance or Completion;
- Requires the division to issue the Lifetime Firefighter designation in its online electronic database after a firefighter's 4-year period;
- Specifies that if a firefighter's Firefighter Certificate of Completion or Volunteer Firefighter Certificate of Completion is current upon the approval of a Lifetime Firefighter designation, and he or she applies to renew the certification within the first 4 years after the date of approval, he or she must successfully complete the Minimum Standards Course examination for firefighters and the requisite course examinations for volunteer firefighters;
- Provides that if the Firefighter Certificate of Completion or Volunteer Firefighter Certificate of Completion has expired upon the Lifetime Firefighter designation, and he or she wants to perform firefighting services, the person must complete the Minimum Standards Course examination for firefighters and the requisite course examinations for volunteer firefighters;
- Requires the Lifetime Firefighter designation to be revoked for certain reasons and authorizes the division to investigate and take necessary actions; and
- Authorizes the Division of the State Fire Marshal to adopt rules.

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

Vote: Senate 38-0; House 118-0

Committee on Banking and Insurance

CS/HB 577 — Discount Plan Organizations

by Health Innovation Subcommittee and Rep. Pigman (CS/CS/SB 430 by Appropriations Committee; Banking and Insurance Committee; and Senators Bean and Flores)

The bill amends part II of ch. 636, F.S., relating to Discount Medical Plan Organization.

The bill:

- Changes the term “discount medical plan” to “discount plan,” changes the term “discount medical plan organization” to “discount plan organization,” and allows old terms to be used until June 30, 2018;
- Exempts from licensure plans that do not charge a fee to plan members;
- Requires discount plans to retain member records for 5 years after a member agreement ends and subjects such records to inspection by the OIR at any time;
- Requires a member to receive a reimbursement of charges if the member cancels a plan in compliance with the rules of an open enrollment period or at any time within 30 days of written notice;
- Allows discount plans to make disclosures to those required by statute;
- Removes requirements that all discount plan charges must be submitted to the Office of Insurance Regulation (OIR), and that charges greater than \$30 per month and \$360 per year may only be charged if approved by OIR;
- Removes a standard that charges bear a reasonable relation to the benefits received;
- Removes the requirement that forms must be submitted to the OIR for approval;
- Allows a discount plan organization to delegate functions to its marketers;
- Allows a marketer or discount plan organization to commingle medical services and other services on a single page of forms, advertisements, marketing materials or brochures;
- Removes the requirement that the fees for the discount medical plan must be provided in writing to the member when a marketer or discount plan organization sells a discount medical plan together with any other product and the fees exceed \$30.

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

Vote: Senate 36-0; House 118-0

Committee on Banking and Insurance

CS/CS/SB 800 — Medication Synchronization

by Appropriations Committee; Banking and Insurance Committee; and Senators Broxson and Mayfield

The bill establishes coverage and payment requirements relating to medication synchronization. Medication synchronization is a process where a pharmacist coordinates or synchronizes refills for a patient who is taking multiple covered prescriptions, allowing them to be filled on the same day each month. Partial fills for less than the standard refill amount are often required in order to align all patient medications to the same refill date. Medication synchronization can be used to increase medication adherence.

The bill requires health insurers and health maintenance organizations (HMOs) that provide prescription drug coverage to offer insureds or members the option to align the refill dates of their prescription drugs through a network pharmacy at least once during the plan year. Controlled substances, prescription drugs dispensed in an unbreakable package, or a multidose unit of a prescription may not be partially filled for the purpose of aligning refill dates.

The bill requires health insurers and HMOs to pay a full dispensing fee to the network pharmacy unless otherwise agreed to by the plan and the network pharmacy. The health insurer or HMO must prorate cost-sharing obligations of the insured for each partial refill of a covered prescription drug dispensed to align refill dates. Notwithstanding these requirements for a medication synchronization process, the bill deems certain existing medication synchronization programs, which provide for early refills, refill overrides, and access on the insurer or HMO's website to information about the program as complying with the bill's requirements.

If approved by the Governor, these provisions take effect January 1, 2018.

Vote: Senate 36-0; House 120-0

Committee on Banking and Insurance

CS/CS/HB 805 — Insurance Policy Transfers

by Commerce Committee; Insurance and Banking Subcommittee; and Rep. Ingoglia (CS/CS/SB 812 by Rules Committee; Banking and Insurance Committee; and Senators Perry and Gibson)

The bill (Chapter 2017-19, L.O.F.) allows the transfer of a personal lines residential or commercial residential policy as a renewal if the authorized insurer to which the policy is being transferred:

- Is admitted in this state and other states;
- Is writing residential property insurance in multiple states;
- Is not converting the policy to a surplus lines policy; and
- Has been determined by the Office of Insurance Regulation to have the same or better financial strength than the transferring insurer.

The policyholder of the policy being transferred must be selected on a nondiscriminatory basis. The authorized insurer to which the policy is being transferred must provide a notice of change in policy terms to the policyholder. The notice must include notice of the policy transfer and the authorized insurer's financial rating and must be provided to the insured at least 60 days before the effective date of the transfer.

The transfer must result in substantially similar coverage and the Office of Insurance Regulation must approve the transfer.

Prior to the passage of the bill, insurance companies that write personal lines residential and commercial residential policies, except for certain farmowners policies, could not transfer renewal policies. Such insurers had to first cancel, nonrenew, or terminate residential policies, providing 120 days notice pursuant to state law.

These provisions were approved by the Governor and take effect July 1, 2017.

Vote: Senate 38-0; House 113-0

Committee on Banking and Insurance

CS/CS/HB 813 — Flood Insurance

by Commerce Committee; Insurance and Banking Subcommittee; and Rep. Lee (CS/CS/SB 420 by Community Affairs Committee; Banking and Insurance Committee; and Senator Brandes)

The bill extends to October 1, 2025, existing law that allows insurers offering private market flood insurance under s. 627.715, F.S., to make rate filings that are not required to be reviewed by the Office of Insurance Regulation (OIR) before implementation of the rate (“file and use” review) or shortly after implementation of the rate (“use and file” review). The bill generally applies s. 627.715, F.S., to excess flood insurance.

Excess coverage is exempted from the requirement of s. 627.715(1), F.S., to offer flood insurance on a standard, preferred, customized, flexible, or supplemental basis.

Until July 1, 2019, or upon the OIR commissioner determining there is an adequate admitted market, the bill allows flood policies to be placed with a surplus lines insurer without the agent first receiving one declination from an admitted insurer. If there are fewer than three admitted insurers after July 1, 2019, the number of declination shall equal the number of authorized insurers providing flood coverage.

The bill increases the interval for the Florida Commission on Hurricane Loss Projection Methodology to revise the criteria used in calculating flood loss projection models to 4 years. Lastly, the bill requires an insured currently covered under the National Flood Insurance Program (NFIP) to sign an acknowledgement before being placed with a private insurers informing them of the risk of being charged a higher rate should they choose to return to the NFIP at a later date.

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

Vote: Senate 31-0; House 117-0

Committee on Banking and Insurance

CS/CS/HB 837 — Insurer Insolvency

by Commerce Committee; Insurance and Banking Subcommittee; and Rep. Raburn (CS/CS/SB 730 by Rules Committee; Banking and Insurance Committee; and Senator Passidomo)

The bill amends Florida's Insurers Rehabilitation and Liquidation Act to include various provisions from the National Association of Insurance Commissioners' "Insurer Receivership Model Act." The bill:

- Provides that notices of hearings pertaining to the insolvency of a member insurer shall be delivered to the Florida Health Maintenance Organization Consumer Assistance Plan;
- Provides exclusive jurisdiction to the circuit court in Leon County over all assets and property of an insurer in receivership, whether or not such assets or property are located outside of Florida;
- Creates deadlines for written responses from an insurer subject to an order to show cause and establishes a deadline for commencement of a hearing to determine whether cause exists for the Department of Financial Services (DFS) to be appointed receiver;
- Exempts the Office of Insurance Regulation from the automatic stay provisions;
- Provides that the DFS may assume or reject unexpired leases or executory contracts of an insurer and pay expenses during the pendency of a receivership under contracts, leases, and other arrangements entered by insurers before commencement of the receivership;
- Provides that officers, directors, and managers, of a liquidated insurer are discharged of authority except as may be delegated by the DFS;
- Limits certain defenses which may be raised by third parties in actions brought by or against the DFS in its capacity as receiver;
- Limits third parties from asserting or raising obligations, claims, and defenses which were not recorded in the records of the insurer in receivership, with certain exceptions;
- Allows the court more flexibility in approving procedures for the "deemed filing" of claims, or claims where the DFS deems a claim filed and can distribute funds, such as a refund of unearned premium, to the claimant without the need of a formal claim;
- Allows the court to set a deadline for the filing of claims;
- Disallows claims for post-judgment interest accrued after the liquidation date;
- Creates a process for administering large deductible workers' compensation policies and the collateral for large deductible workers' compensation policies;
- Adds all costs and expenses related to administrative supervision to Class 1 of the priority of claims to be paid in distribution;
- Adds claims related to healthcare coverage by physicians, hospitals, and other providers of a health insurer or HMO and claims of residents which arise out of a continuing care contract to Class 2 of the priority of claims to be paid in a distribution; and
- Removes certain notice requirements related to early access distributions to guaranty associations.

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

Vote: Senate 36-0; House 117-0

Committee on Banking and Insurance

CS/CS/HB 911 — Insurance Adjusters

by Commerce Committee; Insurance and Banking Subcommittee; and Rep. Shaw (CS/CS/SB 922 by Appropriations Committee; Banking and Insurance Committee; and Senator Garcia)

The bill amends various statutes relating to insurance adjusters. The bill eliminates licensure for public adjuster apprentices and requires a public adjuster apprentice to be licensed as an all-lines adjuster and appointed as a public adjuster apprentice. In addition, the bill:

- Eliminates the temporary license, which is not currently used;
- Revises the requirements for public adjusters to expressly prohibit unlicensed public adjusting that is done directly or indirectly;
- Deletes a provision of law relating to solicitation by public adjusters;
- Excludes deductibles from the calculation of an adjuster's fee; and
- Reduces the time a public adjuster apprentice must be supervised before becoming eligible for licensure as a public adjuster.

If approved by the Governor, these provisions take effect January 1, 2018.

Vote: Senate 38-0; House 117-0

Committee on Banking and Insurance

CS/CS/HB 925 — Department of Financial Services

by Commerce Committee; Insurance and Banking Subcommittee; and Reps. Miller, M., Plakon, and others (CS/CS/SB 986 by Appropriations Committee; Banking and Insurance Committee; and Senator Stargel)

The bill makes various changes to statutes relating to the Department of Financial Services (DFS). The bill addresses issues at the DFS within the Divisions of Treasury, Accounting and Auditing, State Fire Marshal, Agent and Agency Services, and Risk Management. The bill:

- Replaces the Treasury Investment Committee with the Treasury Investment Council within the Division of Treasury and provides for the duties of the Council;
- Applies certain requirements relating to payments, warrants, and invoices to payments made in relation to certain agreements funded with federal or state assistance;
- Updates the 1991 Boiler Safety Act as to installation requirements, qualifications of inspectors of boilers in public assembly locations, continuing education requirements for inspectors, and criminal penalties to administrative fines for violations;
- Authorizes the Department the authority to use appropriated funds for the purpose of professional development and training courses;
- Allows licensed individuals who are active participants in specified insurance associations to annually earn continuing education credits;
- Provides that the Division of Agent and Agency Services may not issue a license until an applicant with a criminal history has paid all fines, restitution, and court costs;
- Provides that the Division of Agent and Agency Services is not required to issue licenses to persons who have received executive pardons or had civil rights restored;
- Allows an additional adjuster certification process to be used by applicants for an all-lines adjuster license;
- Allows insurance agents and adjusters to claim 2 hours of elected continuing education credit for membership in specified associations;
- Removes the statute of limitations for actions relating to the Holocaust Victims Assistance Program;
- Allows for the use of firefighter's confidential information for the purposes of certain studies; and
- Removes a requirement for an individual to send a written notice of claim or serve a summons on the DFS for an action against a county.

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

Vote: Senate 36-0; House 118-0

Committee on Banking and Insurance

CS/CS/CS/HB 1007 — Prohibited Insurance Acts

by Commerce Committee; Government Operations and Technology Appropriations Subcommittee; Insurance and Banking Subcommittee; and Reps. Raschein, Diamond, and others (CS/CS/SB 1012 by Appropriations Committee; Banking and Insurance Committee; and Senators Brandes and Young)

The bill creates new requirements for insurance companies relating to insurance fraud prevention and reporting. The bill requires all insurers to adopt an anti-fraud plan and to establish and maintain a designated anti-fraud unit within the company to investigate possible fraudulent insurance acts or contract with others to investigate fraudulent insurance acts. The insurer must electronically file with the Department of Financial Services (DFS) a detailed description of the designated anti-fraud unit or a copy of the contract with the company that investigates fraudulent insurance acts for the insurer and a copy of the anti-fraud plan. This filing must be made annually on or before December 1, starting in 2017.

The anti-fraud plan must include:

- An acknowledgment that the insurer has established procedures for detecting possible fraudulent insurance acts;
- An acknowledgement that the insurer has established procedures for reporting such acts to the DFS;
- An acknowledgement that the insurer provides required anti-fraud education to employees;
- A description of the anti-fraud education;
- A description of the insurer's anti-fraud unit; and
- The rationale for staffing levels and resources provided to the anti-fraud unit.

Beginning in 2019, the bill requires every insurer to annually submit anti-fraud statistics to the DFS by March 1 for the lines of business written by that insurer for the calendar year. The statistics must include:

- The number of policies in effect;
- The amount of premiums written for policies;
- The number of claims received;
- The number of claims referred to the anti-fraud investigative unit;
- The number of other insurance fraud matters referred to the anti-fraud investigative unit that were not claim related;
- The number of claims investigated or accepted by the anti-fraud investigative unit;
- The number of other insurance fraud matters investigated or accepted by the anti-fraud investigative unit that were not claim related;
- The number of cases referred to the DFS;
- The number of cases referred to other law enforcement agencies;
- The number of cases referred to other entities; and
- The estimated dollar amount of damages in cases referred to the DFS or other agencies.

Current law only requires statistical reporting from workers' compensation insurers. This bill requires all insurers to provide reports. The bill modifies reporting requirements for workers' compensation insurers.

The bill requires the DFS to create a report detailing best practices for the detection, investigation, prevention, and reporting of insurance fraud and other fraudulent insurance acts. The report must be updated at least every two years. The bill requires the DFS to collect data from each state attorney office that receives appropriations to fund prosecutor positions to prosecute insurance fraud cases. The state attorneys must provide specified data to the DFS each quarter and the DFS is required to report to the Executive Office of the Governor, President of the Senate, and Speaker of the House of Representatives each year.

The bill provides that a health maintenance organization authorized to exclusively market, sell, or offer to sell Medicare Advantage plans shall be actively engaged in managed care with 24 months after licensure in order to maintain its certificate of authority. The Office of Insurance Regulation (OIR) may extend the period upon written request.

The bill makes stranger-originated life insurance (STOLI) contracts void and unenforceable and allows a life insurer to contest a policy obtained through a STOLI practice, notwithstanding that life insurance contracts cannot be contested two years after issuance. A stranger-originated life insurance practice is an act, practice, arrangement or agreement to initiate a life insurance policy for the benefit of a third party investor who has no insurable interest in the insured at policy origination.

The bill makes void and unenforceable viatical settlement contracts subject to a loan secured by an interest in the insurance policy within five years from the issuance of the underlying insurance policy. This is referred to as the contestability period of the viatical settlement contract. The bill otherwise retains the existing two year contestability period under current law. Current law provides conditions that, if met, allow the execution of a viatical settlement contract during the contestability period. The bill modifies the process for doing so. The viator must provide a sworn affidavit and accompanying independent evidentiary documentation to a viatical settlement provider certifying that the viator has met a statutory exception that allows viatication of a policy during the contestability period. Current law does not require the viator to execute a sworn affidavit with documentation evidencing that the exception applies. The bill also revises and clarifies some of the conditions that allow viatication during the contestability period.

The bill adds as prohibited practices under the Viatical Settlement Act:

- Engaging in a fraudulent viatical settlement act;
- Engaging in a STOLI practice;
- Knowingly entering into a viatical settlement contract before the application for or issuance of a life insurance policy that is the subject of the viatical settlement contract or within a contestability period unless the viator complied with s. 626.99287, F.S.; and
- Knowingly issuing, soliciting, marketing, or promoting the purchase of a life insurance policy for the purpose of, or with an emphasis on selling the property to a third party.

Violations are third-degree felonies if the insurance policy has a value less than \$20,000; second degree felonies if the insurance policy has a value of \$20,000 or more but less than \$100,000; and first-degree felonies if the insurance policy has a value of \$100,000 or more.

The bill allows motor vehicle insurers an exemption from the requirement that they inspect each private passenger motor vehicle before issuing an insurance policy that provides coverage for physical damage. The inspection requirement only applies in counties with a 1988 population of 500,000 or greater. The bill requires insurers using the exemption to file a manual rule with the OIR and allows an insurer to file with the OIR their own preinsurance inspection requirements before insuring a private passenger motor vehicle.

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

Vote: Senate 33-0; House 116-0

Committee on Banking and Insurance

CS/HB 1009 — Public Records/Insurance Fraud Information/DFS

by Insurance and Banking Subcommittee and Rep. Raschein (CS/SB 1014 by Banking and Insurance Committee and Senator Brandes)

The bill creates a public records exemption for certain information submitted to the Department of Financial Services (DFS) by insurers to comply with insurance fraud prevention and reporting requirements. The bill provides that the following information is exempt from public inspection and copying:

- The description of the insurer's required anti-fraud education and training;
- The description or chart of the insurer's anti-fraud investigative unit;
- The rationale for the level of staffing and resources provided to the insurer's anti-fraud investigative unit;
- The number of claims referred to the anti-fraud investigative unit;
- The number of other insurance fraud matters referred to the anti-fraud investigative unit that were not claim related;
- The number of claims investigated or accepted by the anti-fraud investigative unit;
- The number of other insurance fraud matters investigated or accepted by the anti-fraud investigative unit that were not claim related; and
- The estimated dollar amount or range of damages on cases referred to the DFS's Division of Investigative and Forensic Services or other agencies.

The bill provides that the exemption applies to records held on, before, or after the effective date.

The bill provides that the public records exemption is subject to the Open Government Sunset Review Act and will expire October 2, 2022, unless saved from repeal by the Legislature.

If approved by the Governor, these provisions take effect on the same date that CS/HB 1007 or similar legislation takes effect, if such legislation is adopted in this legislative session and becomes a law.

Vote: Senate 37-0; House 119-0

Committee on Banking and Insurance

CS/CS/HB 1107 — Public Records/Workers' Compensation

by Commerce Committee; Insurance and Banking Subcommittee; and Rep. Albritton (CS/CS/SB 1008 by Rules Committee; Banking and Insurance Committee; and Senators Perry and Bradley)

The bill creates a public records exemption for personal identifying information of an injured or deceased employee contained in reports, notices, records, or supporting documentation held by the Department of Financial Services (DFS) pursuant to ch. 440, F.S. "Personal identifying information," means the injured or deceased employee's name, date of birth, home, mailing, or e-mail address, or telephone number. The bill authorizes the DFS to disclose personal identifying information made confidential and exempt only:

- To the injured employee, to the spouse or a dependent of the deceased employee, to the spouse or a dependent of the injured employee if authorized by the injured employee, or to the legal representative of the deceased employee's estate;
- To a party litigant, or his or her authorized representative, in matters pending before the Office of the Judges of Compensation Claims;
- To a carrier or an employer for the purpose of investigating the compensability of a claim or for the purpose of administering its anti-fraud investigative unit established pursuant to s. 626.9891, F.S.;
- In an aggregate reporting format that does not reveal the personal identifying information of any employee;
- Pursuant to a court order or subpoena;
- To an agency for administering its anti-fraud investigative function or in furtherance of the agency's official duties and responsibilities; or
- To a federal governmental entity in the furtherance of the entity's official duties and responsibilities.

The bill provides that a person who willfully and knowingly discloses personal identifying information made confidential and exempt by this bill to an unauthorized person or entity commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, F.S.

The public records exemption created by this bill is subject to the Open Government Sunset Review Act and will stand repealed on October 2, 2022, unless reviewed and saved from repeal through reenactment by the Legislature.

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

Vote: Senate 37-0; House 120-0

Committee on Banking and Insurance

CS/SB 1108 — Public Records/Firefighters and their Spouses and Children by Governmental Oversight and Accountability Committee and Senator Steube

The bill expands an existing public records exemption in s. 119.071(4)(d)2.b., F.S., for the personal identifying information of current firefighters, their spouses, and children. The expansion will extend the public records exemption to former firefighters and their families. The records exempted are the names of the spouses and children, home addresses, telephone numbers, dates of birth, photographs, places of employment, and the names and locations of schools and day care facilities attended by the children of firefighters.

The public records exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.15, F.S. The exemption will stand repealed on October 2, 2022, unless the Legislature reviews the exemption and saves it from repeal through reenactment.

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

Vote: Senate 37-0; House 120-0

Committee on Banking and Insurance

CS/HB 1347 — Application of the Florida Deceptive and Unfair Trade Practices Act to Credit Unions

by Insurance and Banking Subcommittee and Rep. Jones (SB 1620 by Senator Powell)

The bill exempts credit unions licensed under ch. 657, F.S., from part II of ch. 501, F.S., known as the Florida Deceptive and Unfair Trade Practices Act. Other entities currently exempt from the act include licensed banks and savings and loans associations.

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

Vote: Senate 37-0; House 114-0

Committee on Banking and Insurance

HB 7045 — OGSR/Reports of Unclaimed Property

by Oversight, Transparency and Administration Subcommittee and Rep. Raulerson (SB 7026 by Banking and Insurance Committee)

The bill continues the existing public records exemption for social security numbers and property identifiers held by the Division of Unclaimed Property at the Department of Financial Services by removing the October 2, 2017, repeal date.

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

Vote: Senate 35-0; House 113-0

Committee on Banking and Insurance

HB 7067 — A Review Under the Open Government Sunset Review Act

by Oversight, Transparency and Administration Subcommittee and Rep. Rommel (CS/SB 7024 by Rules Committee and Banking and Insurance Committee)

Title insurers and title insurance agencies are required to submit data identified by the Office of Insurance Regulation (OIR) to assist in the analysis of premium rates, title search costs, and the condition of Florida's title insurance industry. Proprietary business information provided to OIR by a title insurance agency or insurer is confidential and exempt from public record requirements until such information is otherwise publicly available or is no longer treated by the title insurance agency or insurer as proprietary business information.

The Open Government Sunset Review Act requires the Legislature to review each public record and each public meeting exemption 5 years after enactment. The public record exemption for proprietary business information will repeal on October 2, 2017. This bill saves the exemption from repeal. It also limits the categories of records that are exempt from the public records requirements.

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

Vote: Senate 36-0; House 112-0