

Bill No. SB 264

Barcode 391008

CHAMBER ACTION

Senate

House

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Section 20.121, Florida Statutes, is amended to read:

20.121 Department of Financial Services.--There is created a Department of Financial Services.

(1) DEPARTMENT HEAD.--The head of the Department of Financial Services is the Chief Financial Officer who may also be known as the Treasurer.

(2) DIVISIONS.--The Department of Financial Services shall consist of the following divisions:

(a) The Division of Accounting and Auditing, which shall include the following bureau and office:

- 1. The Bureau of Unclaimed Property.
- 2. The Office of Fiscal Integrity which shall function

as a criminal justice agency for purposes of ss.

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1 943.045-943.08 and shall have a separate budget. The office
 2 may conduct investigations within or outside this state as the
 3 bureau deems necessary to aid in the enforcement of this
 4 section. If during an investigation the office has reason to
 5 believe that any criminal law of this state has or may have
 6 been violated, the office shall refer any records tending to
 7 show such violation to state or federal law enforcement or
 8 prosecutorial agencies and shall provide investigative
 9 assistance to those agencies as required.

10 (b) The Division of State Fire Marshal.

11 (c) The Division of Risk Management.

12 (d) The Division of Treasury, which shall include a
 13 Bureau of Deferred Compensation responsible for administering
 14 the Government Employees Deferred Compensation Plan
 15 established under s. 112.215 for state employees.

16 (e) The Division of Insurance Fraud.

17 (f) The Division of Rehabilitation and Liquidation.

18 (g) The Division of Insurance Agents and Agency
 19 Services.

20 (h) The Division of Consumer Services.

21 1. The Division of Consumer Services shall perform the
 22 following functions concerning products or services regulated
 23 by the Department of Financial Services or by either office of
 24 the Financial Services Commission:

25 a. Receive inquiries and complaints from consumers.

26 b. Prepare and disseminate such information as the
 27 department deems appropriate to inform or assist consumers.

28 c. Provide direct assistance and advocacy for
 29 consumers who request such assistance or advocacy.

30 d. With respect to apparent or potential violations of
 31 law or applicable rules by a person or entity licensed by the

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1 department or by either office of the commission, report such
 2 apparent or potential violation to the appropriate division of
 3 the department or office of the commission, which may take
 4 such further action as it deems appropriate.

5 e. Designate an employee of the division as primary
 6 contact for consumers on issues relating to sinkholes.

7 2. Any person licensed or issued a certificate of
 8 authority by the department or by the Office of Insurance
 9 Regulation shall respond, in writing, to the Division of
 10 Consumer Services within 20 days after receipt of a written
 11 request for information from the division concerning a
 12 consumer complaint. The response must address the issues and
 13 allegations raised in this complaint. The division may, in its
 14 discretion, impose an administrative penalty for failure to
 15 comply with this subparagraph in an amount up to \$2,500 per
 16 violation upon any entity licensed by the department or the
 17 Office of Insurance Regulation and \$250 for the first
 18 violation, \$500 for the second violation, and up to \$1,000 per
 19 violation thereafter upon any individual licensed by the
 20 department or the Office of Insurance Regulation.

21 3. The department may adopt rules to implement the
 22 provisions of this paragraph.

23 4. The powers, duties, and responsibilities expressed
 24 or granted in this paragraph shall not limit the powers,
 25 duties, and responsibilities of the Department of Financial
 26 Services, the Financial Services Commission, the Office of
 27 Insurance Regulation, or the Office of Financial Regulation
 28 set forth elsewhere in the Florida Statutes.

29 (i) The Division of Workers' Compensation.

30 (j) The Division of Administration.

31 (k) The Division of Legal Services.

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1 (l) The Division of Information Systems.

2 (m) The Office of Insurance Consumer Advocate.

3 (n) The Division of Funeral, Cemetery, and Consumer
4 Services.

5 (o) The Division of Insurance Regulation, which is
6 responsible for all activities concerning insurers and other
7 risk-bearing entities, including licensing, rates, policy
8 forms, market conduct, claims, issuance of certificates of
9 authority, solvency, viatical settlements, premium financing,
10 and administrative supervision, as provided under the
11 insurance code or chapter 636.

12 (3) FINANCIAL SERVICES COMMISSION.--Effective January
13 7, 2003, there is created within the Department of Financial
14 Services the Financial Services Commission, composed of the
15 Governor, the Attorney General, the Chief Financial Officer,
16 and the Commissioner of Agriculture, which shall for purposes
17 of this section be referred to as the commission. Commission
18 members shall serve as agency head of the Financial Services
19 Commission. The commission shall be a separate budget entity
20 and shall be exempt from the provisions of s. 20.052.

21 Commission action shall be by majority vote consisting of at
22 least three affirmative votes. The commission shall not be
23 subject to control, supervision, or direction by the
24 Department of Financial Services in any manner, including
25 purchasing, transactions involving real or personal property,
26 personnel, or budgetary matters.

27 (a) Structure.--The major structural unit of the
28 commission is the Office of Financial Regulation. ~~Each office~~
29 ~~shall be headed by a director. The following offices are~~
30 ~~established:~~

31 ~~1. The Office of Insurance Regulation, which shall be~~

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1 ~~responsible for all activities concerning insurers and other~~
2 ~~risk bearing entities, including licensing, rates, policy~~
3 ~~forms, market conduct, claims, issuance of certificates of~~
4 ~~authority, solvency, viatical settlements, premium financing,~~
5 ~~and administrative supervision, as provided under the~~
6 ~~insurance code or chapter 636. The head of the Office of~~
7 ~~Insurance Regulation is the Director of the Office of~~
8 ~~Insurance Regulation, who may also be known as the~~
9 ~~Commissioner of Insurance Regulation.~~

10 2. The Office of Financial Regulation is, ~~which shall~~
11 ~~be~~ responsible for all activities of the Financial Services
12 Commission relating to the regulation of banks, credit unions,
13 other financial institutions, finance companies, and the
14 securities industry. The head of the office is the Director of
15 the Office of Financial Regulation, who may also be known as
16 the Commissioner of Financial Regulation. The Office of
17 Financial Regulation shall include a Bureau of Financial
18 Investigations, which shall function as a criminal justice
19 agency for purposes of ss. 943.045-943.08 and shall have a
20 separate budget. The bureau may conduct investigations within
21 or outside this state as the bureau deems necessary to aid in
22 the enforcement of this section. If, during an investigation,
23 the office has reason to believe that any criminal law of this
24 state has or may have been violated, the office shall refer
25 any records tending to show such violation to state or federal
26 law enforcement or prosecutorial agencies and shall provide
27 investigative assistance to those agencies as required.

28 (b) Organization.--The commission shall establish by
29 rule any additional organizational structure of the Office of
30 Financial Regulation ~~offices~~. It is the intent of the
31 Legislature to provide the commission with the flexibility to

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1 organize the office ~~offices~~ in any manner they determine
2 appropriate to promote both efficiency and accountability.

3 (c) Powers.--Commission members shall serve as the
4 agency head for purposes of rulemaking under ss.

5 120.536-120.565 by the commission and the Office of Financial
6 Regulation ~~all subunits of the commission. The~~ Each director
7 is agency head for purposes of final agency action under
8 chapter 120 for all areas within the regulatory authority
9 delegated to the ~~director's~~ office.

10 (d) Appointment and qualifications of director
11 ~~directors~~.--The commission shall appoint or remove the ~~each~~
12 director by a majority vote consisting of at least three
13 affirmative votes, with both the Governor and the Chief
14 Financial Officer on the prevailing side. ~~The minimum~~
15 ~~qualifications of the directors are as follows:~~

16 ~~1. Prior to appointment as director, the Director of~~
17 ~~the Office of Insurance Regulation must have had, within the~~
18 ~~previous 10 years, at least 5 years of responsible private~~
19 ~~sector experience working full time in areas within the scope~~
20 ~~of the subject matter jurisdiction of the Office of Insurance~~
21 ~~Regulation or at least 5 years of experience as a senior~~
22 ~~examiner or other senior employee of a state or federal agency~~
23 ~~having regulatory responsibility over insurers or insurance~~
24 ~~agencies.~~

25 ~~2. Prior to appointment as director, the Director of~~
26 ~~the Office of Financial Regulation must have had, within the~~
27 ~~previous 10 years, at least 5 years of responsible private~~
28 ~~sector experience working full time in areas within the~~
29 ~~subject matter jurisdiction of the Office of Financial~~
30 ~~Regulation or at least 5 years of experience as a senior~~
31 ~~examiner or other senior employee of a state or federal agency~~

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1 having regulatory responsibility over financial institutions,
2 finance companies, or securities companies.

3 (e) Administrative support.--The office ~~offices~~ shall
4 have a sufficient number of attorneys, examiners,
5 investigators, other professional personnel to carry out its
6 ~~their~~ responsibilities and administrative personnel as
7 determined annually in the appropriations process. The
8 Department of Financial Services shall provide administrative
9 and information systems support to the office ~~offices~~.

10 (f) Records retention schedules.--The commission and
11 the office ~~offices~~ may destroy general correspondence files
12 and also any other records that they deem no longer necessary
13 to preserve in accordance with retention schedules and
14 destruction notices established under rules of the Division of
15 Library and Information Services, records and information
16 management program, of the Department of State. Such schedules
17 and notices relating to financial records of the commission
18 and office ~~offices~~ shall be subject to the approval of the
19 Auditor General.

20 (g) Records storage.--The commission and office
21 ~~offices~~ may photograph, microphotograph, or reproduce on film
22 such documents and records as they may select, in such manner
23 that each page will be exposed in exact conformity with the
24 original. After reproduction and filing, original documents
25 and records may be destroyed in accordance with the provisions
26 of paragraph (f).

27 (4) BOARD OF FUNERAL, CEMETERY, AND CONSUMER
28 SERVICES.--The Board of Funeral, Cemetery, and Consumer
29 Services is created within the Division of Funeral, Cemetery,
30 and Consumer Services of the Department of Financial Services.

31 ~~(5) TRANSITIONAL RULES.--Effective January 7, 2003,~~

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1 ~~the rules of the Department of Banking and Finance and of the~~
2 ~~Department of Insurance that were in effect on January 6,~~
3 ~~2003, shall become rules of the Department of Financial~~
4 ~~Services or the Financial Services Commission as is~~
5 ~~appropriate to the corresponding regulatory or constitutional~~
6 ~~function and shall remain in effect until specifically amended~~
7 ~~or repealed in the manner provided by law.~~

8 Section 2. This act shall take effect January 1, 2009.

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

12 And the title is amended as follows:

13 Delete everything before the enacting clause

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15 and insert:

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A bill to be entitled

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An act relating to insurance regulation;

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amending s. 20.121, F.S.; providing for the

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functions relating to insurance regulation to

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be located within the Department of Financial

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Services; creating the Division of Insurance

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Regulation within the department; abolishing

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the Office of Insurance Regulation under the

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Financial Services Commission; repealing

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obsolete provisions; providing an effective

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date.

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