

By the Committee on Banking and Insurance; and Senator Geller

597-2106-07

1 A bill to be entitled
 2 An act relating to insurance regulation;
 3 amending s. 20.121, F.S.; providing for the
 4 functions relating to insurance regulation to
 5 be located within the Department of Financial
 6 Services; creating the Division of Insurance
 7 Regulation within the department; abolishing
 8 the Office of Insurance Regulation under the
 9 Financial Services Commission; repealing
 10 obsolete provisions; providing an effective
 11 date.
 12
 13 Be It Enacted by the Legislature of the State of Florida:
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 15 Section 1. Section 20.121, Florida Statutes, is
 16 amended to read:
 17 20.121 Department of Financial Services.--There is
 18 created a Department of Financial Services.
 19 (1) DEPARTMENT HEAD.--The head of the Department of
 20 Financial Services is the Chief Financial Officer who may also
 21 be known as the Treasurer.
 22 (2) DIVISIONS.--The Department of Financial Services
 23 shall consist of the following divisions:
 24 (a) The Division of Accounting and Auditing, which
 25 shall include the following bureau and office:
 26 1. The Bureau of Unclaimed Property.
 27 2. The Office of Fiscal Integrity which shall function
 28 as a criminal justice agency for purposes of ss.
 29 943.045-943.08 and shall have a separate budget. The office
 30 may conduct investigations within or outside this state as the
 31 bureau deems necessary to aid in the enforcement of this

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

1 section. If during an investigation the office has reason to
2 believe that any criminal law of this state has or may have
3 been violated, the office shall refer any records tending to
4 show such violation to state or federal law enforcement or
5 prosecutorial agencies and shall provide investigative
6 assistance to those agencies as required.

7 (b) The Division of State Fire Marshal.

8 (c) The Division of Risk Management.

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

13 (e) The Division of Insurance Fraud.

14 (f) The Division of Rehabilitation and Liquidation.

15 (g) The Division of Insurance Agents and Agency
16 Services.

17 (h) The Division of Consumer Services.

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

22 a. Receive inquiries and complaints from consumers.

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

25 c. Provide direct assistance and advocacy for
26 consumers who request such assistance or advocacy.

27 d. With respect to apparent or potential violations of
28 law or applicable rules by a person or entity licensed by the
29 department or by either office of the commission, report such
30 apparent or potential violation to the appropriate division of
31

1 the department or office of the commission, which may take
2 such further action as it deems appropriate.

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

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

19 3. The department may adopt rules to implement the
20 provisions of this paragraph.

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

27 (i) The Division of Workers' Compensation.

28 (j) The Division of Administration.

29 (k) The Division of Legal Services.

30 (l) The Division of Information Systems.

31 (m) The Office of Insurance Consumer Advocate.

1 (n) The Division of Funeral, Cemetery, and Consumer
2 Services.

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

10 (3) FINANCIAL SERVICES COMMISSION.--Effective January
11 7, 2003, there is created within the Department of Financial
12 Services the Financial Services Commission, composed of the
13 Governor, the Attorney General, the Chief Financial Officer,
14 and the Commissioner of Agriculture, which shall for purposes
15 of this section be referred to as the commission. Commission
16 members shall serve as agency head of the Financial Services
17 Commission. The commission shall be a separate budget entity
18 and shall be exempt from the provisions of s. 20.052.
19 Commission action shall be by majority vote consisting of at
20 least three affirmative votes. The commission shall not be
21 subject to control, supervision, or direction by the
22 Department of Financial Services in any manner, including
23 purchasing, transactions involving real or personal property,
24 personnel, or budgetary matters.

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

29 1. ~~The Office of Insurance Regulation, which shall be~~
30 ~~responsible for all activities concerning insurers and other~~
31 ~~risk bearing entities, including licensing, rates, policy~~

1 ~~forms, market conduct, claims, issuance of certificates of~~
2 ~~authority, solvency, viatical settlements, premium financing,~~
3 ~~and administrative supervision, as provided under the~~
4 ~~insurance code or chapter 636. The head of the Office of~~
5 ~~Insurance Regulation is the Director of the Office of~~
6 ~~Insurance Regulation, who may also be known as the~~
7 ~~Commissioner of Insurance Regulation.~~

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

26 (b) Organization.--The commission shall establish by
27 rule any additional organizational structure of the Office of
28 Financial Regulation ~~offices~~. It is the intent of the
29 Legislature to provide the commission with the flexibility to
30 organize the office ~~offices~~ in any manner they determine
31 appropriate to promote both efficiency and accountability.

1 (c) Powers.--Commission members shall serve as the
2 agency head for purposes of rulemaking under ss.
3 120.536-120.565 by the commission and the Office of Financial
4 Regulation ~~all subunits of the commission. The Each~~ director
5 is agency head for purposes of final agency action under
6 chapter 120 for all areas within the regulatory authority
7 delegated to the ~~director's~~ office.

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

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

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

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

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

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

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

29 ~~(5) TRANSITIONAL RULES. Effective January 7, 2003,~~
30 ~~the rules of the Department of Banking and Finance and of the~~
31 ~~Department of Insurance that were in effect on January 6,~~

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

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

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8 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
9 COMMITTEE SUBSTITUTE FOR
10 Senate Bill 264

11 The Committee Substitute provides the following changes:

- 12 1. Deletes the bill's provisions that create a Department of
13 Insurance.
- 14 2. Creates a Division of Insurance Regulation to be located
15 within the Department of Financial Services which will be
16 responsible for licensure of insurers, approval of
17 insurance rates and policy forms, and all other duties
18 related to insurance regulation.
- 19 3. Abolishes the Office of Insurance Regulation (Office)
under the Financial Services Commission (Commission), and
deletes the authority of the Commission relative to this
Office.
- 20 4. Repeals obsolete provisions.