The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the General Government Appropriations Committee

BILL: CS/SB 1824

INTRODUCER: General Government Appropriations Committee and Senator Alexander

SUBJECT: Financial Services

DATE: April 2, 2008 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kynoch	DeLoach	GA	**Fav/CS**
2.				
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... [X] Statement of Substantial Changes

B. AMENDMENTS........................ [ ] Technical amendments were recommended

[ ] Amendments were recommended

[ ] Significant amendments were recommended

I. Summary:

The bill establishes a task force, to be led by the state's Chief Financial Officer (CFO), for the purpose of developing a successor financial and cash management system for the state. The task force is required to submit a report and draft legislative recommendations for the implementation of the system by January 1, 2009.

The bill establishes the Strategic Markets Research and Assessment Unit within the Office of Financial Regulation (OFR). The unit is required to report on the status of Florida's financial services markets on a quarterly basis, beginning September 1, 2008. The unit is required to submit findings and recommendations regarding certain regulatory and policy changes.

The bill amends the distribution of securities transaction fees to provide that the $30 portion of the $50 agent fee and 30.44% of the $100 branch fee be redirected from the General Revenue Fund to the Regulatory Trust Fund within the OFR. This redirect of the fee revenue is offset by fund shifting a commensurate amount of the OFR's base general revenue funding for the securities program back to the General Revenue Fund. The bill in combination with the Senate's proposed budget for the 2008-2009 fiscal year holds the General Revenue Fund harmless.

This bill amends the percentages for the distribution of revenues from taxes collected on premiums for surplus lines insurance and for insurance provided by risk retention groups, pursuant to section 627.944(3), Florida Statutes. The percentage of tax revenues distributed to the Insurance Regulatory Trust Fund within the Department of Financial Services (department) is decreased from 24.3 percent to 19.02 percent and the percentage distributed to the General Revenue Fund is increased from 75.7 percent to 80.98 percent. The bill redirects $12 million from the Insurance Regulatory Trust Fund to the General Revenue Fund.

The bill substantially amends the following sections of the Florida Statutes: 17.0315, 20.121(3)(a), 517.315, 626.932(5), and 626.938(7).

II. Present Situation:

State Financial and Cash Management

Section 17.001, F.S., provides that, in accordance with s. 4(c), Art. IV of the State Constitution, the Chief Financial Officer is the chief fiscal officer of the state and is responsible for settling and approving accounts against the state and keeping all state funds and securities.

The Department of Financial Services is responsible for supporting and maintaining the state's financial and cash management systems commonly referred to as the Florida Accounting Information Resource (FLAIR) Subsystem and the Cash Management Subsystem (CMS). Over the years, these systems have been maintained and incrementally upgraded. There is a substantial need to replace these aged systems in order to standardize accounting and cash management functions statewide.

Financial Services Markets in Florida

The Office of Financial Regulation is overseen by the Financial Services Commission and administratively housed within the Department of Financial Services pursuant to 20.121(3), F.S. The OFR is responsible for the regulation of banks, credit unions, mortgage brokers and lenders, the securities industry, finance companies, retail installment sales providers, title lenders, collection agencies, check cashers, deferred presentment ("pay-day loan") providers, money transmitters, certified capital companies, and other financial institutions. Functions performed by the OFR are intended to preserve the integrity of Florida's markets and financial service industries and to protect consumers from financial fraud.

The subprime mortgage crisis, which is currently affecting Florida's financial markets, began in late 2006 with an increasing number of foreclosures in the United States. The increase in foreclosures, which led to a global financial crisis during 2007 and 2008, began with the downturn of the U.S. housing market. This contributed to high default rates on "subprime" and other adjustable rate mortgages made to higher-risk borrowers with lower income or lesser credit history than "prime" borrowers. During 2007, nearly 1.3 million U.S. housing properties were subject to foreclosure activity, up 79 percent from 2006.[1]

[1] RealtyTrac, Inc., 2007 Year-End U.S. Foreclosure Market Report

Securities Transaction Fees

Currently, all fees and charges collected under the Florida Securities Investor Protection Act, ch. 517, F.S., are credited to the General Revenue Fund, except the fees collected for the Securities Guaranty Fund and $20 of the $50 assessment fee collected from each associated person (i.e. securities agents) under s. 517.12(10) and (11), Florida Statutes.

Section 517.131, F.S., provides for a portion of revenues from assessment fees for dealers, investment advisers, and associated persons to be transferred to or deposited in the Securities Guaranty Fund within the OFR. Pursuant to s. 517.141, F.S., the Securities Guaranty Fund serves as a repository for certain persons to apply for compensation payments equal to the amount of an unsatisfied portion of a judgment for damages up to $10,000. Payment for claims with multiple claimants is limited to $100,000 in aggregate.

Surplus Lines Insurance

Surplus lines insurance refers to a high risk category of insurance for which there is no market available through standard insurance carriers. The insurance coverage is provided by a company that is not licensed in Florida but is approved by the Office of Insurance Regulation (OIR) to transact insurance in the state as an “eligible” insurer. The purpose of the Surplus Lines Law (ss. 626.913 through 626.937, F.S.) is to provide consumers access to insurers when certain insurance coverage cannot be obtained from Florida-authorized insurers. In order to place a business with a surplus lines carrier, the agent must make a “diligent effort” to place the policy with a Florida-authorized insurer, which is demonstrated by having three written rejections of coverage from authorized insurers writing that type of insurance. Rates charged by a surplus lines insurer may not be lower than those in use and offered by the majority of authorized insurers writing similar coverage on similar risks in Florida. Insurance coverages available through a surplus lines insurer include homeowners’ insurance in hurricane-prone areas, commercial aircraft, and some sea vessels. Florida law provides stringent qualifications for those agents who insure surplus lines, who must be registered with the department.

Risk retention groups purchase liability insurance on a group basis in order to assume and spread the liability exposure of its members.

Currently, there is a five percent tax on premiums for surplus lines insurance and insurance provided by risk retention groups. The distribution percentages set forth for surplus lines insurers are also applied to insurance provided by risk retention groups. Twenty-four and three-tenths percent of the tax proceeds is distributed to the Insurance Regulatory Trust Fund within the department and 75.7 percent is distributed the General Revenue Fund. The Insurance Regulatory Trust Fund provides partial funding to the department and the OIR for its administrative and regulatory functions.

III. Effect of Proposed Changes:

Section 1 creates s. 17.0315, F.S., to establish a task force, to be led by the state Chief Financial Officer, for the purpose of developing a successor financial and cash management system for the state. The section requires that the task force submit to the Governor, the President of the Senate, and the House of Representatives a report and draft legislative recommendations for the implementation of the system by January 1, 2009.

Section 2 amends s. 20.121(3)(a), F.S., to establish the Strategic Markets Research and Assessment Unit within the Office of Financial Regulation. The section requires that the unit report to the Financial Services Commission, the President of the Senate, and the Speaker of the House of Representatives, regarding the status of Florida's financial services markets, on a quarterly basis beginning September 1, 2008. The section requires the unit to submit its findings and recommendations regarding certain regulatory and policy changes.

Section 3 amends 517.315, F.S., relating to the distribution of securities transaction fees, to provide that the $30 portion of the $50 assessment fee collected from each associated person (i.e. securities agents) under s. 517.12(10) and (11), Florida Statutes and 30.44% of the $100 assessment fee paid by dealers and advisers under section 517.12(10) and (11), Florida Statutes, (i.e. branch fee) be redirected from the General Revenue Fund to the Regulatory Trust Fund within the OFR.

Sections 4 and 5 amend ss. 626.932(5) and 626.938(7), F.S., to revise the percentages for the distribution of revenues from taxes collected on surplus lines insurance and insurance provided by risk retention groups. The percentage of tax revenues distributed to the Insurance Regulatory Trust Fund is decreased from 24.3 percent to 19.02 percent. The percentage of tax revenues distributed to the General Revenue Fund is increased from 75.7 percent to 80.98 percent. The increased percentage of tax revenues distributed to the General Revenue Fund is estimated to provide an additional $12 million to the fund on a recurring basis, beginning Fiscal Year 2008-2009.

Section 6 provides an effective date of July 1, 2008.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Senate proposed budget for Fiscal Year 2008-2009 provides three positions with associated salary rate of 185,269 and $300,000 general revenue funding to the Department of Financial Services to staff the task force established in s. 17.0315, F.S., for the implementation of a successor financial and cash management system.

The Senate proposed budget for Fiscal Year 2008-2009 provides three positions with associated salary rate of 196,303 and $337,958 from the Regulatory Trust Fund in the Office of Financial Regulation to establish the Strategic Markets Research and Assessment Unit required to report quarterly on the status of Florida’s financial services markets, beginning September 1, 2008.

The bill amends the distribution of securities transaction fees, to provide that the $30 portion of the $50 agent fee and 30.44% of the $100 branch fee be redirected from the General Revenue Fund to the Regulatory Trust Fund within the OFR. This redirect of the fee revenue is offset by fund shifting a commensurate amount of the OFR’s base general revenue funding for the securities program ($8,833,323) back to the General Revenue Fund. The bill, in combination with the Senate’s proposed budget for the 2008-2009 fiscal year, holds the General Revenue Fund harmless.

Beginning Fiscal Year 2008-2009, the amended distribution percentages for surplus lines insurance and insurance provided by risk retention groups will decrease tax revenues distributed to the Insurance Regulatory Trust Fund within the Department of Financial Services by $12 million and correspondingly increase tax revenues distributed to the General Revenue Fund by $12 million. These tax revenues are expected to remain relatively constant, thereby providing increased revenue to the General Revenue Fund on a recurring basis.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

CS by General Government Appropriations on April 2, 2008:

Senate Bill 1824 was originally filed as a shell bill expressing legislative intent to revise laws relating to governmental operations. The General Government Appropriations Committee adopted the committee substitute as described in this bill analysis.

The bill establishes a task force, to be led by the state Chief Financial Officer, for the purpose of developing a successor financial and cash management system for the state. The task force is required to submit a report and draft legislative recommendations for the implementation of the system by January 1, 2009.

The bill establishes the Strategic Markets Research and Assessment Unit within the Office of Financial Regulation. The unit is required to submit a quarterly report beginning September 1, 2008, and to submit its findings and recommendations regarding certain regulatory and policy changes.

The bill revises the distribution of securities transaction fees, to provide that the assessment fee collected from each associated person (i.e. securities agents) under s. 517.12(10) and (11), Florida Statutes and 30.44 percent of the $100 assessment fee paid by dealers and advisers (i.e. branch fee) under section 517.12(10) and (11), Florida Statutes, be transferred to the Regulatory Trust Fund within the Office of Financial Regulation.

The bill revises the percentages for the distribution of revenues from taxes collected on surplus lines insurance and insurance provided by risk retention groups.

The bill provides an effective date of July 1, 2008.

B. Amendments:

None.