

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 Rules Committee

BILL: CS/CS/SB 1252

INTRODUCER: Rules Committee, Budget Committee, and Senator Smith

SUBJECT: Insurance

DATE: April 27, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Johnson</u>	<u>Burgess</u>	<u>BI</u>	Favorable
2.	<u>Frederick</u>	<u>Meyer, C.</u>	<u>BC</u>	Fav/CS
3.	<u>Johnson</u>	<u>Phelps</u>	<u>RC</u>	Fav/CS
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|-----------------------------------------|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

In Florida, the Office of Insurance Regulation (OIR) regulates insurers and other risk-bearing entities. The Department of Financial Services (DFS) has regulatory authority over many insurance-related activities, including, but not limited to, insurance agents and agencies, investigation of insurance fraud, and the administration of the Workers Compensation Law.¹ The bill provides the following changes to these insurance-related activities:

- **Notification of the Cancellation, Nonrenewal, or Renewal of a Policy--**The bill revises the policyholder notification requirements for an insurer in transactions involving the nonrenewal, renewal, or cancellation of workers compensation, employer liability, commercial liability, motor vehicle, or other property and casualty insurance coverage. The bill changes the designated person or persons an insurer is required to notify from the “named insured” to the “first-named insured” in transactions involving the nonrenewal, renewal, or cancellation of such.
- **Workers’ Compensation Insurance--** The bill allows for the use of a prepaid card for the provision of workers’ compensation benefits to an injured employee if certain conditions are

¹ Chapter 440, F.S.

met. Currently, such benefits are payable by check or by direct deposit into the employee's account. The bill permits flexibility for insurers regarding the frequency of premium audits by providing that such audits are not required for coverage, except as provided by the insurance policy, by an order of the OIR, or at the request of the insured. The bill provides that assessments for the Special Disability Trust Fund are determined on a calendar year basis rather than a fiscal year basis.

- **Certificate of Authority Requirements for Insurers** -- The bill allows insurers domiciled outside of the U.S., that cover only persons who are nonresidents of the U.S., to be exempt from the certificate of authority provisions if certain conditions are met. Currently, life insurers are provided an exemption if certain conditions are met.
- **Licensure of Agents and Agencies** -- The bill revises the requirements for disqualification of applicants convicted of certain crimes from agent and adjuster licensure by the DFS. The bill bars persons who commit specified felonies² from applying for licensure and revises license waiting periods for other persons. The bill grants the Division of Administrative Hearings (DOAH) the final authority of appeals with respect to certain agent licensure determinations by the DFS.
- **Motor Vehicle Insurance** -- The bill requires a law enforcement officer investigating a motor vehicle crash to use the *Florida Traffic Crash Report—Long Form* if passengers are in any of the vehicles involved in the crash or any party or passenger complains of pain or discomfort. The bill creates a civil penalty for motor vehicle insurance fraud authorizing civil fines of up to \$5,000 for the first offense, \$10,000 for the second offense, and \$15,000 for third and subsequent offenses.
- **Service Warranty Associations** -- The bill exempts a service warranty company from licensure requirements if the service warranties it offers are only offered, marketed, or sold to nonresidents of Florida, and meets other requirements.
- **Captive Insurance** -- A “captive insurer” is a domestic insurer that is owned by, or is under common ownership with, a specific corporation or group of corporations for which the captive insurer provides insurance coverage.³ The bill removes the current law requirement that, in addition to meeting the capital and surplus requirements applicable to captive insurers, a captive insurer must also meet the same level of capital and reserves that are specified for various lines of insurance written in this state, as contained in ss. 624.407 and 624.408, F.S.

This bill substantially amends following sections of the Florida Statutes: 120.80, 316.066, 440.12, 440.20, 440.49, 624.402, 626.207, 627.4133, 627.4137, 627.442, 627.7277, 627.728, 627.7281, 627.7295, 628.901, 628.905, 628.909, 634.403, and 817.234. The bill creates s. 628.908, Florida Statutes. The bill repeals s. 628.903, Florida Statutes.

² First-degree felony, a capital felony, a felony involving money laundering, fraud, or embezzlement, or a felony directly related to a financial services business.

³ Section 628.901, F.S.

II. Present Situation:

Workers' Compensation

Workers' compensation is a form of insurance designed to provide wage replacement and medical benefits for employees who are injured in the course of employment, in exchange for giving up the right to sue the employer for negligence. In Florida, workers' compensation is governed by ch. 440, F.S., the "Workers' Compensation Law." The law prescribes coverage requirements, medical and indemnity benefits, the rights and responsibilities of employers, injured employees, medical providers, and carriers, as well as procedures for dispute resolution.

Currently, all compensation payments to an injured worker, except for the first payment, are paid by check or, if authorized by the employee, deposited directly into the employee's account at a financial institution.

Licensure and Regulation of Insurers and other Risk Bearing Entities

The regulation and oversight of insurers and other risk-bearing entities by the OIR includes licensure, approval of rates and policy forms, market conduct and financial examinations, solvency oversight, administrative supervision, and licensure of viatical settlement and premium finance companies.

Section 624.401, F.S., requires insurers and other risk-bearing entities to obtain a certificate of authority prior to engaging in insurance transactions unless specifically exempted. Section 624.402, F.S., exempts various insurers from obtaining a certificate of authority if certain conditions are met. For example, life insurance policies or annuity contracts issued by an insurer domiciled outside of the U.S., covering only persons who, at the time of issuance, are not residents of the U.S., are exempt from the certificate of authority requirements if certain requirements are met.

Licensure of Insurance Agents and Adjusters

Section 626.207, F.S., requires the Department of Financial Services (DFS) to establish waiting periods for applicants to become eligible for licensure as an insurance agent or adjuster following denial, suspension, or revocation. The waiting periods are based on the type of conduct, length of time since the conduct occurred, and the propensity to reoffend. The waiting periods may be adjusted based on aggravating and mitigation factors. The DFS is required to refuse to issue a license based on enumerated factors in s. 626.611, F.S., such as a demonstrated lack of fitness or trustworthiness to engage in the business of insurance, and is given discretionary authority to refuse to issue a license pursuant to s. 626.621, F.S.

The DFS currently utilizes a "fit and trustworthiness" process to deny licenses for applicants with specific criminal backgrounds that make them unsuitable for such a license. The Division of Administrative Hearings has determined, however, that the current statute must be clarified to specify the crimes and offenses which would make a person unfit for licensure as an agent or adjuster and the time periods to be used in the waiting period process. An applicant who is denied a license by the DFS may challenge the department's decision through the DOAH.

Notice of Cancellation and Policy Changes Policy Changes

Generally, the “named insured” is the person or persons listed by name on the insurance policy’s declaration page. Although the named insured is commonly one person, for a partnership, corporation, or other entity with insurable interests, multiple named insureds may be included. In regards to personal property or motor vehicle coverage, the named insured is commonly one or more individuals (husband and wife, etc).

The “first-named insured” is the first named insured listed on the policy declarations. This insured acts as the legal agent for all named insureds in initiating cancellation, requesting policy changes, reporting notices of loss, accepting any return premiums, or other administrative functions. The first-named insured may also be responsible for payment of the premiums.

For purposes of commercial coverage, generally all named insureds on a policy are related by common ownership or a common business venture. Therefore, multiple named insureds may exist and would be included on the policy. Often, the named insureds are located at the same address, resulting in the insurer mailing multiple copies of the same notice to the same address.

Usually, lenders are added as loss payees with the attached endorsement rather than as named insureds. Status as a loss payee under the attached endorsement entitles the lender to receive notice from the insurer as a loss payee.

The insurance code contains specific policyholder notification requirements for cancellations, renewals, and nonrenewals. These provisions require notification to the named insured or the policyholder. According to the insurance industry, until recently, the OIR had interpreted the “named insured” to be “first-named insured” for purpose of notice requirements for most lines of commercial insurance. Because of this change of notification to the named insured, the OIR approved revisions to standard forms used in the commercial market related to notification requirements. As a result, all named insureds of personal and commercial policies will receive cancellation and nonrenewal notices.

Florida Motor Vehicle No-Fault Law

Under the state’s no-fault law, owners or registrants of motor vehicles are required to purchase \$10,000 of personal injury protection (PIP) insurance, which compensates persons injured in accidents regardless of fault. Policyholders are indemnified by their own insurer. The intent of no-fault insurance is to provide prompt medical treatment without regard to fault. This coverage also provides policyholders with immunity from liability for economic damages up to the policy limits and limits tort suits for non-economic damages (pain and suffering) below a specified injury threshold. In contrast, under a tort liability system, the negligent party is responsible for damages caused and an accident victim can sue the at-fault driver to recover economic and non-economic damages.

Florida drivers are required to purchase both personal injury protection (PIP) and property damage liability (PD) insurance. The personal injury protection must provide a minimum benefit of \$10,000 for bodily injury to any one person and \$20,000 for bodily injuries to two or more people. Personal injury protection coverage provides reimbursement for 80 percent of reasonable

medical expenses, 60 percent of loss of income, 100 percent of replacement services, for bodily injury sustained in a motor vehicle accident, without regard to fault. The property damage liability coverage must provide a \$10,000 minimum benefit. A \$5,000 death benefit is also provided.

Section 316.066, F.S., provides that a Florida Traffic Crash Report-Long Form must be completed and submitted to the Department within 10 days after an investigation by every law enforcement who, in the regular course of duty, investigates a motor vehicle crash that resulted in death or personal injury, that involved a violation of s. 316.061(1), F.S., or s. 316.193, F.S., and in which a vehicle was rendered inoperative to a degree that required a wrecker to remove it from traffic, if the action is appropriate, in the officer's discretion. For every crash for which a Florida traffic crash report long form is not required by s. 316.066, F.S., the law enforcement officer may complete a short form crash report or provide a short form crash report to be completed by each party involved in the crash.

Fraudulent claims are a major cost driver and result in higher insurance premium costs. Representatives from the Division of Insurance Fraud of the DFS have identified the failure of some crash reports completed by law enforcement to identify all passengers involved in an accident as a source of motor vehicle insurance fraud.

Captive Insurer

A captive insurer is an insurance company primarily or exclusively insures a business entity, or entities, that owns or is an affiliate of the captive insurer. The insured business entities pay premiums to the captive insurer for specified insurance coverages. A captive insurance arrangement can provide a number of benefits, depending on the type of business arrangement, the domicile of the insured business and the captive insurer, and the coverages involved.

In Florida, captive insurance is regulated by the OIR under part V of ch. 628, F.S. That part defines a captive insurer to be “a domestic insurer established under part I⁴ to insure the risks of a specific corporation or group of corporations under common ownership owned by the corporation or corporations from whom it accepts risk under a contract of insurance.”⁵ Section 628.903(2), F.S., defines an “industrial insured captive insurer” as a captive insurer that:

- Has as its stockholders or members only industrial insureds⁶ that are insured by the captive.
- Provides insurance only to the industrial insureds that are its stockholders or members and affiliates of its parent cooperation.
- Provides reinsurance to insurers only on risks written by such insurers for the industrial insureds who are stockholders or members and affiliates of the industrial insured captive or its parent company.
- Maintains unimpaired capital and surplus of at least \$20 million.

⁴ Part I of ch. 628, F.S., is entitled “STOCK AND MUTUAL INSURERS: ORGANIZATION AND CORPORATE PROCEDURES.”

⁵ Section 628.901, F.S.

⁶ Section 628.903(1), F.S. An industrial insured must have gross assets in excess of \$50 million, at least 100 full-time employees, and pay annual premiums of at least \$200,000 for each line of insurance.

Section 628.907, F.S., requires all captives to maintain unimpaired paid-in capital of at least \$500,000 and unimpaired surplus of at least \$250,000. Section 628.909, F.S., further requires that all captive insurers be also subject to the same level of capital⁷ and reserves⁸ that are specified for various lines of insurance written in this state.

Warranty Associations and Service Agreements

Chapter 634, F.S., governs the regulation of warranty associations, which are motor vehicle service agreements companies, home warranty associations, and service warranty associations. Although a warranty is not considered a traditional insurance product, it protects purchasers from future risks and associated costs. In Florida, warranty associations are regulated by the OIR. The OIR's regulatory authority includes approval of forms, investigation of complaints, and monitoring of reserve requirements, among other duties. However, the OIR does not approve rates. Current law requires any service warranty entity to meet these licensure requirements, regardless to whom the service warranty is offered.⁹

Service warranty associations are entities, other than insurers, which issue service warranties. A service warranty is an agreement or maintenance service contract equal to or greater than 1 year in length to repair, replace, or maintain a consumer product, or for indemnification for repair, replacement, or maintenance, for operational or structural failure due to a defect in materials or workmanship, normal wear and tear, power surge, or accidental damage from handling in return for the payment of a segregated charge by the consumer.

III. Effect of Proposed Changes:

Section 1 amends s. 120.80, F.S., to provide that, notwithstanding ss. 120.569, 120.57, and 120.60, F.S., the Division of Administrative Hearings (DOAH) has final order authority on appeals relating to the DFS' determinations on applications for licensure as an insurance agent or adjuster, under specific circumstances. Currently, the DOAH submits a recommended order to the DFS and the DFS issues a final order, pursuant to s. 120.57, F.S.

Section 2 amends s. 316.066(1), F.S., to require the law enforcement officer investigating a motor vehicle crash to use the *Florida Traffic Crash Report—Long Form* if passengers are in any of the vehicles involved in the crash or any party or passenger complains of pain or discomfort. The long-form and short-form crash report must also list the names and addresses of all passengers involved in the crash and identify the vehicle where the passenger was located. The bill also specifies that the investigating officer may testify at trial or provide a signed affidavit to confirm or supplement the information on the long-form or short-form report.

Sections 3 and 4 amend ss. 440.12, F.S., and 440.20, F.S., respectively, to allow a workers' compensation carrier, if authorized by the employee, to issue the weekly payment to an employee by means of a prepaid card if the employee is:

⁷ Sections 624.407, F.S.

⁸ Sections 624.408, F.S.

⁹Section 634.403(1), F.S.

- Provided with at least one means of accessing the entire compensation payment each week without incurring fees.
- Provided with the terms and conditions of the program, including a description of any fees.
- Given the option of receiving compensation payments by direct deposit into a personal account at a financial institution.

The bill further requires a carrier to keep a record of all payments and to furnish the records, if requested, to the Division of Insurance Fraud and the Division of Workers' Compensation within the DFS.

Section 5 amends s. 440.49, F.S., to revise the assessment cycle for the Special Disability Trust Fund by providing an assessment on a calendar year, which would align the assessment with the annual January 1, rate filing for workers' compensation insurance policies.

Section 6 amends s. 624.402, F.S., to exempt an insurer from certificate of authority requirements if the insurer is domiciled outside of the U.S. covering only persons who, at the time of issuance or renewal, are nonresidents of the U.S., and meets the following conditions:

- The insurer does not solicit business from U.S. residents.
- The insurer registers with the OIR.
- The insurer provides the following information to the OIR on an annual basis:
 - Names of the owners, officers, and directors and number of employees.
 - Types of products offered.
 - A statement from the applicable regulatory body of the insurer's domicile certifying that the insurer is licensed or registered in that domicile.
 - A copy of filings required by the insurer's domicile.
- The insurer is also required to include a disclosure in all certificates issued in Florida indicating that the policy has not been approved by the OIR.
- The insurer is required to provide written notice to the OIR within 30 days after ceasing the operations.

Currently, life insurance policies or annuity contracts issued by an insurer domiciled outside of the U.S., covering only persons who, at the time of issuance, are not residents of the U.S., are exempt from the certificate of authority requirements if certain conditions are met. The bill substantially reduces the requirements that these life insurance policies or annuity contracts must meet to be exempt from regulation by the OIR.

Finally, a "nonresident" is defined as a person who has not: had his or her principal place of domicile in the U.S. for 180 days during the 365 days prior to purchasing or renewing the policy; registered to vote in any state; made a statement of domicile in any state; or filed for homestead tax exemption on property in any state.

Section 7 amends s. 626.207, F.S., to specify that an applicant for an agent or adjuster's license who has committed a first-degree felony, capital felony, a felony involving money laundering, fraud, or embezzlement, or a felony directly related to the financial services business are disqualified from obtaining a license from the DFS. The bill defines the term "financial services

business” to mean, any financial activity regulated by the department, the OIR, or the Office of Financial Regulation.

Felonies involving moral turpitude, while not permanently disqualifying, are subject to a waiting period, to give the applicant time to demonstrate that he or she has been rehabilitated and is fit and trustworthy. The bill requires the DFS to adopt rules establishing a process and application of the disqualifying periods for all other felony and misdemeanor crimes directly related to the financial services business. This section becomes effective upon becoming a law.

Sections 8 amends s. 627.4133, F.S., relating to workers’ compensation and employer’s liability insurance, property, casualty, except for mortgage guaranty, surety, marine insurance, and motor vehicle, to require the “first-named insured” rather than the “named insured” to receive notice of nonrenewal or renewal premium, as well as cancellation or termination of coverage. The bill also requires an insurer to provide notice to the “first-named insured” rather than the “named insured” with respect to the nonrenewal or renewal, as well as cancellation or termination of any personal lines or commercial property insurance policy. The section also provides that when a cancellation request is made by the insured in writing, a notice of cancellation is not required to be delivered to the insured. Instead, the cancellation effective date is the date requested by the insured or otherwise the date of the written request, if no date is specified.

Section 9 amends s. 627.4137, F.S., to require that requests for insurance-related information to a self-insured corporation must be sent by certified mail to the registered agent of the disclosing entity. Currently, the law does not specify the method in which requests from claimants are to be made.

Section 10 amends s. 627.442, F.S., relating to insurance contracts, to provide that notwithstanding s. 440.381(3), F.S., premium audits are not required for workers’ compensation coverage, except as provided by the insurance policy, by an order of the OIR, or at least once per policy period if requested by the insured. Section 440.381(3), F.S., requires the Financial Services Commission to adopt rules to require annual audits of employers engaged in the construction industry.

Sections 11, 12, and 13 amend ss. 627.7277, 627.728, and 627.7281, F.S., respectively, relating to motor vehicle insurance coverage, to require an insurer to provide notice of the nonrenewal, renewal, and cancellation to the “first-named insured” instead of the “named insured” or policyholder.

Section 14 amends s. 627.7295, F.S., relating to motor vehicle insurance, to eliminate the requirement that an agent or insurer must collect the first premium payment via cash, check, or money order, even when automatic payroll deduction has been authorized.

Sections 15-19 amends ss. 628.901, 628.905, and 628.909, creates s. 628.908, and repeals s. 628.903, F.S. The bill amends s. 628.901, F.S., by adding a definition for “association” and “association captive insurer.” Association is defined as a legal association of nursing homes, hospitals, skilled nursing facilities, assisted living facilities, or continuing care retirement communities. An association captive insurer is defined as a company that insures risks of the member organizations of the association and their affiliated companies.

The bill adds a definition for “pure captive insurer” to mean a company that insures the risks of its parent, affiliated companies, controlled unaffiliated businesses, or a combination thereof. The bill deletes the current definition of a captive insurer and replaces it with a definition that a captive insurance company means a pure captive insurer or an association captive insurer domiciled in this state and formed or licensed under the captive insurance part V of ch. 628, F.S.

The bill repeals s. 628.903, F.S., wherein the terms “industrial insured” and “industrial insured captive insurer” are currently defined, and incorporates the current definitions, without substantive change, into the amended s. 628.901, F.S.

The bill adds the following information that an association captive insurer must include in its application for a license:

- Evidence demonstrating that it intends to employ or contract with a reputable person or firm that possesses the appropriate expertise, experience, and character to manage the association captive insurer.
- If the association captive insurer operates with separate cells or segregated accounts, a certificate of insurance used to satisfy financial responsibility laws shall be issued in an amount not exceeding the total funds in the segregated accounts or separate cells of each member organization of the association.

The bill requires a captive insurer to:

- Maintain its principal place of business in Florida; and
- Hold at least one annual meeting in Florida for, depending on the structure of the insurer, the board of directors, the subscriber’s advisory committee, or the managing board.

The bill removes the current law requirement that, in addition to meeting the capital and surplus requirements applicable to captive insurers, a captive insurer must also meet the same level of capital and reserves that are specified for various lines of insurance written in this state, as contained in ss. 624.407 and 624.408, F.S.

Section 20 amends s. 634.403, F. S., to provide an exemption of service warranty companies from licensure requirements under the following conditions:

- The service warranties are sold only to persons who are nonresidents of this state and the person does not issue, market, or cause to be marketed service warranties to residents of this state and does not administer service warranties that were originally issued to residents of this state.
- The person provides the following information to the OIR on an annual basis:
 - The type of products offered.
 - A statement certifying that the products are not regulated in the state in which it is transacting business or that the person is licensed in the state in which it is transacting business.
 - The name of the person; the state of domicile; the home address of the person; the name of the owners and their percentage of ownership; the names of the officers and directors;

the name, e-mail and telephone number of a contact person; the states in which it is transacting business; and how many individuals are employed in this state.

- The person is required to provide written notice to the OIR within 30 days after ceasing its operations in this state.

Section 21 amends s. 817.234, F.S., relating to false and fraudulent insurance claims, to create a civil penalty applicable to a person convicted of violating the s. 817.234, F.S., for the purpose of receiving insurance proceeds for a motor vehicle insurance contract. The civil penalty is:

- A fine of up to \$5,000 for the first offense.
- A fine greater than \$5,000 not to exceed \$10,000 for the second offense.
- A fine greater than \$10,000 not to exceed \$15,000 for the third offense.
- For organizing, planning, or participating in a staged accident the fine must be at least \$15,000 not to exceed \$50,000.

The civil penalty does not prohibit a state attorney from entering into a written agreement in which the person charged with the violation does not admit to or deny the charges but consents to pay the civil penalty. Civil penalty payments must be deposited into the Insurance Regulatory Trust Fund within the DFS and used for the investigation and prosecution of insurance fraud.

Section 22 provides an effective date of July 1, 2011, except as expressly provided.

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:

The bill will reduce administrative costs associated with notifications by providing notice only to the “first-named insured” rather than all “named insureds.” This change is anticipated to reduce administrative costs associated with mailing multiple notices to all named insureds of a policy.

The bill exempts insurers domiciled outside of the United States covering only persons who, at the time of issuance or renewal, are nonresidents of the U.S., if the insurer meets certain conditions. Presently, life insurance policies or annuity contracts sold to nonresidents are able to be exempt from regulation by the OIR, if conditions that are more stringent are met. These provisions will allow nonresident consumers access to additional insurance coverage.

The bill substantially changes the capital and surplus requirements for captive insurers by removing the current requirement that, in addition to meeting the capital and surplus requirements applicable to captive insurers, a captive insurer must also meet the same level of capital and reserves that are specified for various lines of insurance written in this state, as contained in ss. 624.407 and 624.408, F.S. This could make it less costly to create a captive insurer and may allow a captive to provide coverage for a lower premium. This provision also may have an impact on the level of assurance that a captive insurer is able to meet its claims obligations.

The bill expands the benefit payment options for an injured worker by allowing an injured worker to receive benefits via prepaid card, as well as check and direct deposit.

Limiting the number of workers' compensation premium audits will reduce the costs of such audits borne by private employers.

C. Government Sector Impact:

The Office of Insurance Regulation, no additional funding is needed to implement the provisions of this bill.

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/CS by Rules Committee on April 26, 2011

The committee substitute makes the following changes:

- Applies the Special Disability Trust Fund assessments on an annual basis rather than a fiscal year basis.
- Removes a provision allowing the consumer to negotiate the price of a motor vehicle service agreement with a salesperson under certain conditions.
- Removes the current requirement that, in addition to meeting the capital and surplus requirements applicable to captive insurers, a captive insurer must also meet the same

level of capital and reserves that are specified for various lines of insurance written in this state, as contained in ss. 624.407 and 624.408, F.S.

- Eliminates the requirement that an agent or insurer must collect the first premium payment via cash, check, or money order, even when automatic payroll deduction has been authorized.
- Requires a law enforcement officer investigating a motor vehicle crash to use the *Florida Traffic Crash Report—Long Form* if passengers are in any of the vehicles involved in the crash or any party or passenger complains of pain or discomfort.
- Creates a civil penalty for motor vehicle insurance fraud authorizing civil fines of up to \$5,000 for the first offense, \$10,000 for the second offense, and \$15,000 for third and subsequent offenses.
- Revises premium audit provisions.

CS by Budget Committee on April 15, 2011

The committee substitute makes the following changes:

- Grants the Division of Administrative Hearings final order authority on appeals in connection with certain licensure determinations by the Department of Financial Services.
- Permits weekly workers' compensation payments to be paid by an insurer using a prepaid card without the recipient incurring any fees, if certain conditions are met.
- Provides an exemption from certificate of authority requirements for an insurer domiciled outside of the U.S. and covering only persons who, at the time of issuance or renewal, are nonresidents of the U.S., but residing legally in the U.S., if the insurer meets certain conditions.
- Revises the requirements for the disqualification of applicants for licensure of financial services activities regulated by DFS, the Office of Financial Regulation, or the OIR, due to certain felony convictions. The committee substitute requires the department to adopt rules establishing the process and application of disqualifying periods for all other crimes not related to a first-degree felony; capital felony; a felony involving money laundering, fraud, or embezzlement; or a felony directly related to a financial services business.
- Requires that a request for disclosure of liability insurance information from a self-insured corporation be sent by certified mail to the registered agent of the corporation.
- Permits workers' compensation insurers to perform premium audits only as required in the policy, as ordered by the Office of Insurance Regulation, or once every two years, if requested by the insured.
- Permits the consumer to negotiate the price of a motor vehicle service agreement with a salesperson under certain conditions.
- Provides persons in a service warranty company an exemption from licensure requirements if certain requirements are met.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
