

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Hooper offered the following:

2
3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5
6 Section 1. Paragraph (h) of subsection (2) of section
7 20.121, Florida Statutes, is amended to read:

8 20.121 Department of Financial Services.—There is created
9 a Department of Financial Services.

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

12 (h) The Division of Consumer Services.

13 1. The Division of Consumer Services shall perform the
14 following functions concerning products or services regulated by
15 the department ~~of Financial Services~~ or by ~~either office of the~~
16 Office of Insurance Regulation ~~Financial Services Commission~~:

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17 a. Receive inquiries and complaints from consumers.

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

20 c. Provide direct assistance and advocacy for consumers
21 who request such assistance or advocacy.

22 d. With respect to apparent or potential violations of law
23 or applicable rules by a person or entity licensed by the
24 department or office ~~by either office of the commission~~, report
25 ~~such~~ apparent or potential violations ~~violation~~ to the office or
26 the appropriate division of the department ~~or office of the~~
27 ~~commission~~, which may take such further action as it deems
28 appropriate.

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

31 2. Any person licensed or issued a certificate of
32 authority by the department or by the Office of Insurance
33 Regulation shall respond, in writing, to the Division of
34 Consumer Services within 20 days after receipt of a written
35 request for information from the division concerning a consumer
36 complaint. The response must address the issues and allegations
37 raised in the ~~this~~ complaint. The division may, ~~in its~~
38 ~~discretion~~, impose an administrative penalty for failure to
39 comply with this subparagraph of ~~in an amount~~ up to \$2,500 per
40 violation upon any entity licensed by the department or the
41 office ~~of Insurance Regulation~~ and \$250 for the first violation,
42 \$500 for the second violation, and up to \$1,000 per violation
43 thereafter upon any individual licensed by the department or the
44 office ~~of Insurance Regulation~~.

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45 3. The department may adopt rules to implement the
46 provisions of this paragraph.

47 4. The powers, duties, and responsibilities expressed or
48 granted in this paragraph do ~~shall~~ not limit the powers, duties,
49 and responsibilities of the department ~~of Financial Services,~~
50 the Financial Services Commission, the Office of Insurance
51 Regulation, or the Office of Financial Regulation set forth
52 elsewhere in the Florida Statutes.

53 Section 2. Subsection (5) of section 284.01, Florida
54 Statutes, is amended to read:

55 284.01 State Risk Management Trust Fund; coverages to be
56 provided.—

57 (5) Premiums charged to agencies for coverage shall be
58 adopted ~~promulgated~~ on a retrospective rating arrangement based
59 upon actual losses accruing to the fund and loss prevention
60 results, taking into account reasonable expectations,
61 maintenance, and stability of the fund and cost of reinsurance.

62 Section 3. Section 284.36, Florida Statutes, is amended to
63 read:

64 284.36 Appropriation deposits; premium payment.—Premiums
65 for coverage by the State Risk Management Trust Fund as
66 calculated on all coverages shall be billed and charged to each
67 state agency according to coverages obtained by the fund for
68 their benefit, and such obligations shall be paid promptly by
69 each agency from its operating budget upon presentation of a
70 bill therefor. After the first year of operation, premiums to be
71 charged to all departments of the state are to be computed on a
72 retrospective rating arrangement based upon actual losses

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73 accruing to the fund and loss prevention results, taking into
74 account reasonable expectations, the maintenance and stability
75 of the fund, and the cost of insurance.

76 Section 4. Subsection (1) of section 284.42, Florida
77 Statutes, is amended to read:

78 284.42 Reports on state insurance program.—

79 (1) (a) The Department of Financial Services, with the
80 Department of Management Services, shall conduct ~~make~~ an
81 analysis of the state insurance program each year and, on or
82 before January 1, submit a report containing the results of the
83 analysis to the Governor, the President of the Senate, and the
84 Speaker of the House of Representatives annually, which shall
85 include:

86 1. (a) Complete underwriting information as to the nature
87 of the risks accepted for self-insurance and those risks that
88 are transferred to the insurance market.

89 2. (b) The funds allocated to the Florida Casualty Risk
90 Management Trust Fund and premiums paid for insurance through
91 the market.

92 3. (e) The method of handling legal matters and the cost
93 allocated.

94 4. (d) The method and cost of handling inspection and
95 engineering of risks.

96 5. (e) The cost of risk management service purchased.

97 6. (f) The cost of managing the State Insurance Program by
98 the Department of Financial Services and the Department of
99 Management Services.

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100 (b) Beginning January 1, 2013, the Division of Risk
101 Management must include in its annual report an analysis of
102 agency return-to-work efforts, including, but not limited to,
103 agency return-to-work program performance metrics and a status
104 report on participating return-to-work programs. The report must
105 specify benchmarks, including, but not limited to, the average
106 lost-time claims per year for each agency; the total number of
107 lost claims; and specific agency measurable outcomes indicating
108 the change in performance from year to year.

109 Section 5. Subsections (3) and (4) are added to section
110 284.50, Florida Statutes, to read:

111 284.50 Loss prevention program; safety coordinators;
112 Interagency Advisory Council on Loss Prevention; employee
113 recognition program.—

114 (3) The Department of Financial Services and all agencies
115 that employ more than 3,500 full-time employees and are provided
116 workers' compensation insurance coverage by the State Risk
117 Management Trust Fund shall establish and maintain return-to-
118 work programs for employees who are receiving workers'
119 compensation benefits. The primary goal of such programs is to
120 enable injured workers to remain at work or return to work to
121 perform job duties within the physical or mental functional
122 limitations and restrictions established by the workers'
123 treating physicians. If limitations or restrictions are not
124 established in writing by a worker's treating physician, the
125 worker is deemed fully able to perform the same work duties he
126 or she performed before the injury.

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127 (4) The Division of Risk Management must evaluate each
128 agency's risk management programs, including, but not limited
129 to, return-to-work, safety, and loss prevention programs, at
130 least once every 5 years. A report, including, but not limited
131 to, any recommended corrective action, that results from an
132 evaluation must be provided to the head of the agency being
133 evaluated, the Chief Financial Officer, and the Director of the
134 Division of Risk Management. The agency head must provide to the
135 Division of Risk Management a response to all recommendations in
136 the report within 45 days after receipt of the report and a plan
137 for implementing any corrective action the agency intends to
138 take in response to the report. If the agency disagrees with any
139 final recommendations in the report, including, but not limited
140 to, any recommended corrective action or the agency fails to
141 implement any recommended corrective action within a reasonable
142 time, the division must submit a report of the evaluation to the
143 appropriations committees of the Legislature.

144 Section 6. Subsection (5) is added to section 440.50,
145 Florida Statutes, to read:

146 440.50 Workers' Compensation Administration Trust Fund.—

147 (5) Funds appropriated by operating appropriation or
148 nonoperating transfer from the Workers' Compensation
149 Administration Trust Fund to the Department of Education, the
150 Agency for Health Care Administration, the Department of
151 Business and Professional Regulation, the Department of
152 Management Services, the First District Court of Appeal, and the
153 Justice Administrative Commission remaining unencumbered on June

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154 30 or undisbursed on September 30 each year revert to the
155 Workers' Compensation Administration Trust Fund.

156 Section 7. This act shall take effect July 1, 2011.
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160 **T I T L E A M E N D M E N T**

161 Remove the entire title and insert:

162 A bill to be entitled

163 An act relating to the Department of Financial Services;
164 amending s. 20.121, F.S.; revising duties of the Division
165 of Consumer Services; amending ss. 284.01 and 284.36,
166 F.S.; revising criteria for premiums charged to agencies
167 and departments for purposes of the State Risk Management
168 Trust Fund; amending s. 284.42, F.S.; revising reporting
169 requirements on the state insurance program; requiring the
170 Division of Risk Management to analyze and report on
171 certain agency return-to-work programs and activities;
172 amending s. 284.50, F.S.; requiring certain agencies to
173 establish and maintain return-to-work programs for certain
174 employees; providing program goals; requiring the Division
175 of Risk Management to evaluate agency risk management
176 programs; requiring reports; requiring agencies to respond
177 to the division's evaluation and recommendations;
178 requiring the division to submit a report of an evaluation
179 to the appropriations committees of the Legislature under
180 certain circumstances; amending s. 440.50, F.S.; providing
181 for reversion of certain unencumbered and undisbursed

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182 funds to the Workers' Compensation Administration Trust
183 Fund; providing an effective date.