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1
2 An act relating to the Department of Financial
3 Services; repealing ss. 17.53 and 17.556, F.S.,
4 relating to the Chief Financial Officer's
5 authorization to operate a personal check-cashing
6 service or a remote financial service unit at the
7 capitol and to employ additional persons to assist in
8 performing such services; abolishing appropriations
9 from the General Revenue Fund to pay the salaries of
10 the additional employees; amending s. 20.121, F.S.;
11 revising the duties of the Division of Consumer
12 Services; amending ss. 284.01 and 284.36, F.S.;
13 revising the criteria for premiums charged to agencies
14 and departments for purposes of the State Risk
15 Management Trust Fund; amending s. 284.42, F.S.;
16 revising requirements for reports concerning the state
17 insurance program; requiring the Division of Risk
18 Management to analyze and report on certain agency
19 return-to-work programs and activities; amending s.
20 284.50, F.S.; requiring certain agencies to establish
21 and maintain return-to-work programs for certain
22 employees; providing program goals; requiring the
23 Division of Risk Management to evaluate agency risk
24 management programs; requiring reports; requiring
25 agencies to respond to the division's evaluation and
26 recommendations; requiring the division to submit
27 certain evaluation reports to the legislative
28 appropriations committees; amending s. 440.50, F.S.;
29 providing for reversion of certain unencumbered and

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30 undisbursed funds to the Workers' Compensation
31 Administration Trust Fund; creating s. 626.9894, F.S.;
32 authorizing the department to accept any donation or
33 grant of property or moneys from certain entities for
34 purposes of anti-fraud efforts; providing for the
35 vesting of certain rights in the Division of Insurance
36 Fraud upon donation; providing for deposit of
37 donations and grants to the division into the
38 Insurance Regulatory Trust Fund; authorizing the
39 department to request annual appropriations from such
40 donations and grants; providing an effective date.

41
42 Be It Enacted by the Legislature of the State of Florida:

43
44 Section 1. Section 17.53, Florida Statutes, is repealed.

45 Section 2. Section 17.556, Florida Statutes, is repealed.

46 Section 3. Paragraph (h) of subsection (2) of section
47 20.121, Florida Statutes, is amended to read:

48 20.121 Department of Financial Services.—There is created a
49 Department of Financial Services.

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

52 (h) The Division of Consumer Services.

53 1. The Division of Consumer Services shall perform the
54 following functions concerning products or services regulated by
55 the department ~~of Financial Services~~ or by ~~either office of the~~
56 Office of Insurance Regulation ~~Financial Services Commission~~:

57 a. Receive inquiries and complaints from consumers.

58 b. Prepare and disseminate such information as the

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59 department deems appropriate to inform or assist consumers.

60 c. Provide direct assistance and advocacy for consumers who
61 request such assistance or advocacy.

62 d. With respect to apparent or potential violations of law
63 or applicable rules by a person or entity licensed by the
64 department or ~~by either office of the commission~~, report ~~such~~
65 apparent or potential violations ~~violation~~ to the office or the
66 appropriate division of the department ~~or office of the~~
67 ~~commission~~, which may take such further action as it deems
68 appropriate.

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

71 2. Any person licensed or issued a certificate of authority
72 by the department or by the Office of Insurance Regulation shall
73 respond, in writing, to the Division of Consumer Services within
74 20 days after receipt of a written request for information from
75 the division concerning a consumer complaint. The response must
76 address the issues and allegations raised in the ~~this~~ complaint.
77 The division may, ~~in its discretion~~, impose an administrative
78 penalty for failure to comply with this subparagraph of ~~in an~~
79 ~~amount~~ up to \$2,500 per violation upon any entity licensed by
80 the department or the office ~~of Insurance Regulation~~ and \$250
81 for the first violation, \$500 for the second violation, and up
82 to \$1,000 per violation thereafter upon any individual licensed
83 by the department or the office ~~of Insurance Regulation~~.

84 3. The department may adopt rules to administer ~~implement~~
85 ~~the provisions of~~ this paragraph.

86 4. The powers, duties, and responsibilities expressed or
87 granted in this paragraph do ~~shall~~ not limit the powers, duties,

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88 and responsibilities of the Department of Financial Services,
89 the Financial Services Commission, the Office of Insurance
90 Regulation, or the Office of Financial Regulation set forth
91 elsewhere in the Florida Statutes.

92 Section 4. Subsection (5) of section 284.01, Florida
93 Statutes, is amended to read:

94 284.01 State Risk Management Trust Fund; coverages to be
95 provided.—

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

101 Section 5. Section 284.36, Florida Statutes, is amended to
102 read:

103 284.36 Appropriation deposits; premium payment.—Premiums
104 for coverage by the State Risk Management Trust Fund as
105 calculated on all coverages shall be billed and charged to each
106 state agency according to coverages obtained by the fund for
107 their benefit, and such obligations shall be paid promptly by
108 each agency from its operating budget upon presentation of a
109 bill therefor. After the first year of operation, premiums to be
110 charged to all departments of the state are to be computed on a
111 retrospective rating arrangement based upon actual losses
112 accruing to the fund and loss prevention results, taking into
113 account reasonable expectations, the maintenance and stability
114 of the fund, and the cost of insurance.

115 Section 6. Subsection (1) of section 284.42, Florida
116 Statutes, is amended to read:

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117 284.42 Reports on state insurance program.—

118 (1) (a) The Department of Financial Services, with the
119 Department of Management Services, shall conduct ~~make~~ an
120 analysis of the state insurance program each year and submit the
121 results on or before January 1 in a report to the Governor, the
122 President of the Senate, and the Speaker of the House of
123 Representatives annually, which shall include:

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

127 2. (b) The funds allocated to the Florida Casualty Risk
128 Management Trust Fund and premiums paid for insurance through
129 the market.

130 3. (c) The method of handling legal matters and the cost
131 allocated.

132 4. (d) The method and cost of handling inspection and
133 engineering of risks.

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

135 6. (f) The cost of managing the State Insurance Program by
136 the Department of Financial Services and the Department of
137 Management Services.

138 (b) Beginning January 1, 2013, the Division of Risk
139 Management shall include in its annual report an analysis of
140 agency return-to-work efforts, including, but not limited to,
141 agency return-to-work program performance metrics and a status
142 report on participating return-to-work programs. The report
143 shall specify benchmarks, including, but not limited to, the
144 average lost-time claims per year, per agency; the total number
145 of lost claims; and specific agency measurable outcomes

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146 indicating the change in performance from year to year.

147 Section 7. Subsections (3) and (4) are added to section
148 284.50, Florida Statutes, to read:

149 284.50 Loss prevention program; safety coordinators;
150 Interagency Advisory Council on Loss Prevention; employee
151 recognition program.—

152 (3) The Department of Financial Services and all agencies
153 that are provided workers' compensation insurance coverage by
154 the State Risk Management Trust Fund and employ more than 3,000
155 full-time employees shall establish and maintain return-to-work
156 programs for employees who are receiving workers' compensation
157 benefits. The programs shall have the primary goal of enabling
158 injured workers to remain at work or return to work to perform
159 job duties within the physical or mental functional limitations
160 and restrictions established by the workers' treating
161 physicians. If no limitation or restriction is established in
162 writing by a worker's treating physician, the worker shall be
163 deemed to be able to fully perform the same work duties he or
164 she performed before the injury.

165 (4) The Division of Risk Management shall evaluate each
166 agency's risk management programs, including, but not limited
167 to, return-to-work, safety, and loss prevention programs, at
168 least once every 5 years. Reports, including, but not limited
169 to, any recommended corrective action, resulting from such
170 evaluations shall be provided to the head of the agency being
171 evaluated, the Chief Financial Officer, and the director of the
172 Division of Risk Management. The agency head must provide to the
173 Division of Risk Management a response to all report
174 recommendations within 45 days and a plan to implement any

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175 corrective action to be taken as part of the response. If the
176 agency disagrees with any final report recommendations,
177 including, but not limited to, any recommended corrective
178 action, or if the agency fails to implement any recommended
179 corrective action within a reasonable time, the division shall
180 submit the evaluation report to the legislative appropriations
181 committees.

182 Section 8. Subsection (5) is added to section 440.50,
183 Florida Statutes, to read:

184 440.50 Workers' Compensation Administration Trust Fund.—

185 (5) Funds appropriated by an operating appropriation or a
186 nonoperating transfer from the Workers' Compensation
187 Administration Trust Fund to the Department of Education, the
188 Agency for Health Care Administration, the Department of
189 Business and Professional Regulation, the Department of
190 Management Services, the First District Court of Appeal, and the
191 Justice Administrative Commission remaining unencumbered as of
192 June 30 or undisbursed as of September 30 each year shall revert
193 to the Workers' Compensation Administration Trust Fund.

194 Section 9. Section 626.9894, Florida Statutes, is created
195 to read:

196 626.9894 Gifts and grants.—

197 (1) The department may accept, for purposes of anti-fraud
198 efforts, any donation or grant of property or moneys from any
199 governmental unit, public agency, institution, person, firm, or
200 corporation.

201 (2) All rights to, interest in, and title to such donated
202 or granted property shall immediately vest in the Division of
203 Insurance Fraud upon donation. The division may hold such

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204 property in coownership, sell its interest in the property,
205 liquidate its interest in the property, or dispose of its
206 interest in the property in any other reasonable manner.

207 (3) All donations or grants of moneys to the division shall
208 be deposited into the Insurance Regulatory Trust Fund and shall
209 be separately accounted for and may be used by the division to
210 carry out its duties and responsibilities, or for the
211 subgranting of such funds to state attorneys for the purpose of
212 funding or defraying the costs of dedicated fraud prosecutors.

213 (4) Moneys deposited into the Insurance Regulatory Trust
214 Fund pursuant to this section may be appropriated by the
215 Legislature, pursuant to the provisions of chapter 216, for the
216 purpose of enabling the division to carry out its duties and
217 responsibilities, or for the purpose of funding or defraying the
218 costs of dedicated fraud prosecutors.

219 (5) Notwithstanding the provisions of s. 216.301 and
220 pursuant to s. 216.351, any balance of moneys deposited into the
221 Insurance Regulatory Trust Fund pursuant to this section
222 remaining at the end of any fiscal year shall be available for
223 carrying out the duties and responsibilities of the division.
224 The department may request annual appropriations from the grants
225 and donations received pursuant to this section and cash
226 balances in the Insurance Regulatory Trust Fund for the purpose
227 of carrying out its duties and responsibilities related to the
228 division's anti-fraud efforts, including the funding of
229 dedicated prosecutors and related personnel.

230 Section 10. This act shall take effect July 1, 2011.