

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/CS/HB 1073 Department of Financial Services

SPONSOR(S): Commerce Committee; Government Operations & Technology Appropriations Subcommittee; Insurance and Banking Subcommittee; Hager

TIED BILLS: **IDEN./SIM. BILLS:** CS/CS/SB 1292

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	14 Y, 0 N, As CS	Bowen	Luczynski
2) Government Operations & Technology Appropriations Subcommittee	11 Y, 0 N, As CS	Helpling	Topp
3) Commerce Committee	25 Y, 0 N, As CS	Bowen	Hamon

SUMMARY ANALYSIS

The bill modifies several areas regulated by the Department of Financial Services (DFS), including:

- Deeming electronic images of all records as original documents as used by the Division of Treasury;
- Requiring that financial literacy be addressed in a foster youth's transition plan;
- Changing the managing general agent license to an appointment and allowing a general lines agent to obtain a managing general agent appointment;
- Authorizing the Chief Financial Officer to develop the Florida Open Financial Statement System;
- Clarifying and expanding the circumstances under which a life agent may serve as a trustee or guardian or to act under a power of attorney for the insured;
- Deeming fingerprint submissions to be valid for 48 months for currently licensed individuals seeking additional licensure under ch. 626, F.S., and for bail bond agents under ch. 648, F.S.;
- Reducing the number of insurance policies that can be written each year, with an insurer by an unappointed agent from 24 to 4;
- Eliminating an affidavit requirement for nonresident public and all-lines insurance adjusters;
- Adding that DFS may utilize the Anti-Fraud Reward Program to pay rewards for tips relating to arson;
- Clarifying the terms of members of the Florida Fire and Safety Board;
- Allowing franchisees to operate under the fire equipment dealer license of their parent company;
- Modifying the requirements for the firefighter Special Certificate of Compliance; and
- Allowing fire service providers to employ veterans who have received equivalent training.

Regarding the Division of Risk Management (DRM), the bill:

- Makes it mandatory that agency safety coordinators complete the safety coordinator training offered by DFS within one year of being appointed to his or her position;
- Requires agencies to report to DFS on their return-to-work and risk management programs;
- Requires each agency to communicate with DRM about discrepancies in claims and loss records, and about any inquiries identifying conditions or trends that may lead to claims involving the state; and
- Allows DRM to share personal identifying information of individual workers' compensation claims with its contracted vendors, for the purpose of ascertaining claimant history to investigate the compensability of a claim or to identify and prevent fraud.

The bill has an insignificant negative fiscal impact on state government revenues and an indeterminate fiscal impact on the private sector (See *Fiscal Analysis and Economic Impact Statement*). The bill does not affect local expenditures or local revenues.

The bill has an effective date of July 1, 2018.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1073e.COM

DATE: 2/16/2018

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Reproductions of Certain Warrants, Records, and Documents (Section 1)

Current law authorizes the Division of Treasury to reproduce documents¹ and deems photographs, microphotographs, or reproductions on film of documents to be original records.² Use of these mediums is an obsolete method for fulfilling warrant image requests.

Effect of the bill

The bill deems electronic images of warrants, vouchers, or checks to be original records for all purposes. It also replaces the applicable medium from film or print to electronic, in provisions relating to copies and reproductions of records and documents of the division.

Financial Literacy for Foster Youth (Sections 3 & 7)

Foster care transition plans must be developed during the 180-day period after a child reaches 17 years of age. The transition plan must be developed by the child, with assistance from the Department of Children and Families (DCF) and the community-based care provider, in collaboration with the caregiver and any other individual the child would like to include. The transition plan is in addition to standard case management requirements and must address specific options for the child to use in obtaining services, including housing, health insurance, education, a driver license, and workforce support and employment services.³

The Road-to-Independence Program (Program) provides young adults, who were previously living in licensed care, an opportunity to receive postsecondary education services and support if certain conditions are met.⁴ Among other conditions, the young adult must have earned a high school diploma, been admitted to a postsecondary educational institution, have reached 18 years of age but is not yet 23 years old, applied for any available scholarship and grants, submitted a Free Application for Federal Student Aid, and signed an agreement to allow DCF to access his or her school records.⁵ The Program also makes aftercare services available to young adults who were previously living in licensed care and are currently not receiving funds available under s. 409.1451(2), F.S., to pursue postsecondary education.⁶ Aftercare services include mentoring and tutoring, various skills trainings, mental health and substance abuse counseling, temporary financial assistance for necessities, and financial literacy skills training.⁷

Effect of the bill

The bill adds a requirement that the transition plan also address financial literacy. It also requires that DCF and the community-based provider provide information for the financial literacy curriculum for foster youth offered by DFS.

Additionally, the bill provides that the financial literacy skills training available under aftercare services shall be the curriculum offered by DFS.

¹ s. 17.64(2), F.S.

² s. 17.64(1), F.S.

³ s. 39.6035(1), F.S.

⁴ s. 409.1451, F.S.

⁵ s. 409.1451(2), F.S.

⁶ s. 409.1451(3), F.S.

⁷ s. 409.1452(3)(b), F.S.

Local Government Reporting (Section 4)

Local government entities that are determined to be reporting entities and independent special districts must submit to DFS a copy of its annual financial report for the previous fiscal year.⁸ Annual financial reports must be submitted in a format prescribed by DFS.⁹ Each local government entity must also provide a link on their website to view the annual financial report submitted to DFS.¹⁰ Currently, local governments and independent special districts must file their annual financial reports using the Local Government Electronic Reporting (LOGER) program.¹¹

Effect of the Bill

The bill states that it is the intent of the Legislature to create the Florida Open Financial Statement System, which would be an interactive repository for governmental financial statements. The bill allows the Chief Financial Officer (CFO) to consult with stakeholders, including DFS, the Auditor General, a representative of a municipality or county, a representative of a special district, a municipal bond investor, and an information technology professional employed in the private sector for input on the design and implementation of the system.

The bill states that the CFO may choose contractors to build one or more eXtensible Business Reporting Language (XBRL) taxonomies suitable for state, county, municipal, and special district financial filings and to create a software tool that enables financial statement filers to easily create XBRL documents consistent with the taxonomy or taxonomies. XBRL is an international standard for digital reporting and exchanging business information.¹²

The bill requires the CFO to recruit and select contractors through an open request for proposals process pursuant to ch. 287, F.S., and requires that all work be completed by December 31, 2021. If the CFO deems the work products adequate, all local governmental financial statements pertaining to fiscal years ending on or after September 1, 2022, must be filed in XBRL format and must meet the validation requirements of the relevant taxonomy.

DIVISION OF RISK MANAGEMENT

The Division of Risk Management (DRM) is responsible for the management of claims reported by or against state agencies and universities for coverage under the self-insurance fund known as the "State Risk Management Trust Fund."¹³

Risk Management (Section 5 & 6)

Under current law, the head of each department of state government, except the Legislature, must designate a safety coordinator and DFS must provide the appropriate training to the safety coordinators.¹⁴ Currently, there is no requirement that safety coordinators attend the training provided by DFS.

In accordance with s. 284.50(3), F.S., DFS and all agencies employing more than 3,000 full-time employees must maintain return-to-work programs for employees receiving workers' compensation benefits.¹⁵ DFS is required to submit an annual report on the state insurance program, including agency

⁸ s. 218.32(1)(a), F.S.

⁹ *Id.*

¹⁰ s. 218.321(1)(g), F.S.

¹¹ Rule 69I-51.003, F.A.C.

¹² XBRL THE BUSINESS REPORTING STANDARD, *An Introduction to XBRL*, <https://www.xbrl.org/the-standard/what/> (last visited Feb. 14, 2018).

¹³ DIVISION OF RISK MANAGEMENT, <https://myfloridacfo.com/Division/Risk/default.htm> (last visited Jan. 19, 2018).

¹⁴ s. 284.50(1), F.S.

¹⁵ Return-to-work programs aim to enable injured workers to remain at work or return to work to perform job duties within the physical or mental functional limitations and restrictions. s. 284.50(3), F.S.

return-to-work programs;¹⁶ however, there is currently no requirement that agencies with return-to-work programs report any program information to DFS. According to DFS, several do not voluntarily provide return-to-work program information, and therefore DFS is not able to provide a complete and accurate report.¹⁷

Additionally, under s. 284.50(4), F.S., DRM is required to evaluate each agency's risk management programs at least once every five years. There is currently no statutory requirement that agencies provide the information DRM needs to perform such evaluation.

DRM routinely sends agencies reports of their claims and losses for review and notifies agencies of any unsafe conditions, trends, incidents, etc., that may lead to accidents or claims involving the state.¹⁸ Currently, agencies are not required to notify DRM of any discrepancies between the reports and their records nor are they required to respond to communications from DRM identifying conditions or trends that may lead to claims involving the state.¹⁹

In 2017, HB 1107²⁰ was passed, creating s. 440.1851, F.S., to restrict DFS's sharing of personal identifying information on workers' compensation claims by making the information confidential and exempt from public record disclosure requirements. This change had the unintended consequence of restricting the information that DRM can share with its contracted vendors to perform its duty of administering state employee workers' compensation claims. Under s. 440.1851, F.S., DRM's data sharing agreements with vendors, such as Insurance Services Office/Verisk Analytics, may be prohibited and, thus, is keeping DRM from sharing such information with the vendors. This hinders DRM in its efforts to obtain an accurate history of preexisting conditions, investigate compensability, and prevent fraud.

Effect of the bill

The bill makes the following changes to the state's safety management programs:

- Makes it mandatory that the safety coordinators complete the safety coordinator training offered by DFS within one year of being appointed to his or her position;
- Requires agencies employing more than 3,000 full-time employees to report return-to-work information to DFS to assist in their mandatory reporting requirement under s. 284.42(1)(b), F.S.;
- Requires each agency to provide risk management program information to DRM in support of DRM's requirement to evaluate and report on agency risk management programs as mandated in s. 284.50(4), F.S.;
- Requires each agency to review information provided by DRM on claims and losses and identify and report any discrepancies between the agency's records and DRM's records;
- Requires each agency to respond to communications from DRM identifying conditions or trends that may lead to claims involving the state; and
- Allows DRM to participate in data sharing agreements with its contracted vendors when administering workers' compensation claims.

DIVISION OF AGENT AND AGENCY SERVICES

The Division of Agent and Agency Services (A&A) regulates and manages the licensure of insurance agents, adjusters, limited surety (bail bond) agents, and other insurance-related entities.²¹

¹⁶ s. 284.42(1), F.S.

¹⁷ Department of Financial Services, Agency Analysis of 2018 House Bill 1073, p. 3 (Dec. 29, 2017).

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ Ch. 2017-185, Laws of Fla.

²¹ INSURANCE DIVISION OF AGENT AND AGENCY SERVICES, <https://myfloridacfo.com/Division/Agents/> (last visited Jan. 19, 2018).

Managing General Agent Licensure (Sections 10, 12, 14, 15, 16, 17, 19, 21, 23, 24, 25, 26, 27, 28, 30, 35, & 44)

A managing general agent (MGA) is defined as any person managing all or part of the insurance business of an insurer, including the management of a separate division, department, or underwriting office. In addition, an MGA, is a person acting as an agent for the insurer, who, with or without authority, separately or together with affiliates, produces directly or indirectly, or underwrites an amount of gross direct written premium equal to or more than five percent of the policyholder surplus as reported in the last annual statement of the insurer in any single quarter or year. The definition also includes that an MGA adjusts or pays claims and/or negotiates reinsurance on behalf of the insurer.²²

A&A currently licenses approximately 150 new MGA licensees per year.²³ To be an MGA requires an MGA license but this license type has no prelicensing requirements or formal examination to determine eligibility.²⁴ To obtain this license, the only requirements are to complete the application, be eligible to work in the United States, and submit fingerprints for a background evaluation.

Under s. 626.731, F.S., a general lines agent may not hold an MGA license.²⁵ A general lines agent²⁶ is one who sells one or more of the following lines of insurance: property;²⁷ casualty,²⁸ including commercial liability insurance underwritten by a risk retention group, a commercial self-insurance fund,²⁹ or a workers' compensation self-insurance fund;³⁰ surety;³¹ health;³² or, marine.³³ This is inconsistent with the National Association of Insurance Commissioners' Model Act MDL-225, Managing General Agents Act,³⁴ because the Act states that, a person shall not be an MGA without being a licensed agent in the state.

Effect of the bill

The bill eliminates the MGA license, but not the role of an MGA. It requires an MGA to be a licensed agent and have an MGA appointment (See *Fiscal Comments*). These changes will clarify some of the inconsistency in the MGA statutes. The bill makes technical changes throughout ch. 626, F.S., to conform terminology to these changes.

Fingerprinting Requirements (Sections 18 & 45)

Current law requires a submission of fingerprints and a fingerprint-processing fee of \$50 with each application for an insurance license and each application for licensure as a bail bonds agent.³⁵ A&A currently tracks its licensees against the Florida Clerk's database to identify existing licensees convicted or pleading to felony charges.³⁶ According to DFS, the fingerprinting requirement is unnecessary for those already licensed because it informs A&A of information they already knew through the Florida Clerk's database.³⁷

²² s. 626.015(16)(a), F.S.

²³ Department of Financial Services, Agency Analysis of 2018 House Bill 1073, p. 5 (Dec. 29, 2017).

²⁴ *Id.*

²⁵ s. 626.731(1)(f), F.S.

²⁶ s. 626.015(5), F.S.

²⁷ s. 624.604, F.S.

²⁸ s. 624.605, F.S.

²⁹ As defined in s. 624.462, F.S.

³⁰ Pursuant to s. 624.4621, F.S.

³¹ s. 626.606, F.S.

³² ss. 624.603 and 627.6482, F.S.

³³ s. 624.607, F.S.

³⁴ <http://www.naic.org/store/free/MDL-225.pdf> (last visited Jan. 21, 2018).

³⁵ ss. 626.202 and 648.34(4), F.S.

³⁶ Department of Financial Services, Agency Analysis of 2018 House Bill 1073, p. 5 (Dec. 29, 2017).

³⁷ *Id.*

Effect of the bill

Under the bill, an individual who is currently licensed under ch. 626, F.S., or ch. 648, F.S., and has submitted fingerprints in the past 48 months is not required to resubmit fingerprints or pay the fingerprint processing fee when applying for an additional license.³⁸

All-lines Adjuster Examination Requirements (Section 20)

Under s. 626.221, F.S., DFS may not issue any license as an agent or adjuster to any individual who has not taken and passed a written examination. However, there are exemptions from examination, including for applicants who have certain professional designations or certificates.³⁹

Effect of the bill

The bill adds Claims Adjuster Certified Professional from WebCE, Inc. to the list of professional designations that exempt an applicant from the all-lines adjuster licensure exam requirement.

Credit and Character Reports (Section 22)

Credit and character reports must be secured from an established and reputable independent reporting service. They must be secured and kept on file by the appointing insurer or employer for first-time applicants as agents, services representatives, customer representatives, or managing general agents, in the state.⁴⁰ If a credit and character report is requested by DFS, it must be submitted on a form furnished by DFS.⁴¹

Effect of the bill

The bill clarifies language and changes the time at which a credit and character report must be completed to before appointment rather than before licensure because the licensure process does not involve appointing entities.

The bill removes the requirement that a credit and character report requested by DFS be submitted on a form furnished by DFS. It also removes the requirement that the credit and character report be done by an “established and reputable independent reporting service” because there are no standards to determine “established and reputable independent reporting service;” hence, it is unenforceable. Additionally, the appointing insurer or employer is required to certify to DFS that the licensee is of good moral character and reputation, and is fit to engage in the insurance business.⁴² The bill also adds that the requirements for credit and character reports do not apply to licensees who self-appoint pursuant to s. 624.501, F.S.

Exchange of Business (Sections 13, 29, 30 & 32)

Under current “exchange of business” or “excess or rejected business” laws, brokering agents⁴³ are permitted to write up to 24 policies for an insurer each year without being appointed by the insurer.⁴⁴ Once an agent has written more than 24 policies, the insurer must report them to DFS under the

³⁸ DFS may still require fingerprints if they have reason to believe that the applicant has been found guilty of, or pleaded nolo contendere to, a felony or crime related to the business of insurance.

³⁹ s. 626.221(2)(j), F.S.

⁴⁰ s. 626.521, F.S.

⁴¹ s. 626.521(2), F.S.

⁴² s. 626.451(2), F.S.

⁴³ Brokering agent is defined in s. 626.751(1)(a), F.S., as “an originating general lines agent placing business with a company with which he or she is not appointed.”

⁴⁴ s. 626.752, F.S.

exchange of business appointment type.⁴⁵ This appointment type costs \$30 per year.⁴⁶ Under s. 626.451(3), F.S., an appointment of an agent by an insurer is a certification to DFS that the insurer is willing to be bound by the acts of the agent, within the scope of the licensee's employment or appointment.

Brokering agents are required to maintain a "bound journal" to record chronologically numbered insurance transactions.

Effect of the bill

The bill changes the requirement from "bound journal" to "permanent record of" to allow for electronic recordkeeping.

The bill reduces the number of policies that can be written each year by a brokering agent from 24 to four. The change in statute will allow DFS to protect consumers by increasing the number of policies written by agents that have been appointed by an insurer and are therefore bound by the acts of the agent.

Life Agent as Beneficiary; Prohibitions (Section 31)

Current law prohibits a life agent from placing life insurance coverage with the life agent, where the life agent or a family member of the life agent is the named beneficiary under the life insurance policy.⁴⁷ A life agent or a family member of a life agent also may not be designated as a trustee or guardian or be granted power of attorney unless he or she is a family member of the insured or is a bank or trust company duly authorized to act as a fiduciary.⁴⁸

Effect of the bill

The bill prohibits a life agent from modifying a life insurance contract to name the life agent or a family member of the life agent as the beneficiary unless the life agent has an insurable interest in the life of such person. The bill modifies the circumstances under which a life agent may serve as a trustee or guardian or accept authority to act under a power of attorney to include a life agent who is:

- Acting as a fiduciary;
- Licensed as a certified public accountant under s. 473.308, F.S.; and
- Registered as an investment advisor, or a representative thereof, under federal law or registered as a dealer, investment adviser, or associated person under state law.

Nonresident Public and All-lines Adjuster's Qualifications (Sections 33 & 34)

Current law requires nonresident public and nonresident all-lines adjusters, wishing to do business in Florida, to submit an affidavit certifying that the licensee is familiar with and understands the insurance code, administrative rules of the state, and the provisions of the contracts negotiated or to be negotiated as a condition precedent to the issuance, continuation, reinstatement, or renewal of appointment.⁴⁹ Insurance companies who appoint licensees are already required to certify to A&A that the licensee is of good moral character and is fit to engage in the insurance business.⁵⁰

⁴⁵ s. 626.752(5), F.S.

⁴⁶ s. 624.501(19)(e), F.S.

⁴⁷ s. 626.798(1), F.S.

⁴⁸ s. 626.798(2), F.S.

⁴⁹ ss. 626.8732(5) and 626.8734(4), F.S.

⁵⁰ s. 626.451(2), F.S.

Effect of the bill

The bill eliminates the affidavit requirement for non-resident public and all-lines adjusters because it is duplicative with the certification of good moral character and fitness by the appointing insurance company.

DIVISION OF STATE FIRE MARSHAL

The Florida State Fire Marshal is dedicated to protecting life, property and the environment from the devastation of fire. Their focus and efforts foster a fire safe environment through engineering, education and enforcement. The Division of State Fire Marshall (SFM) is comprised of the Bureau of Fire Prevention and the Bureau of Fire Standards and Training.

Anti-Fraud Reward Program (Section 38)

The Anti-Fraud Reward Program authorizes DFS to pay rewards of up to \$25,000 to persons providing information leading to the arrest and conviction of persons committing various crimes relating to insurance fraud.⁵¹ DFS may pay for tips relating to crimes involving, among others, explosives and arson resulting in injury to another.⁵²

Effect of the bill

The bill adds that DFS may also utilize the Anti-Fraud Reward Program to pay rewards for tips leading to the arrest and conviction of persons committing the crime of arson.

Florida Fire Safety Board (Section 39)

The Florida Fire Safety Board (Board) consists of seven members that act as an advisory board for the SFM. They advise on administrative rules, codes, standards, and training.⁵³ Currently, the initial term for board members is as follows: one member of the Board must be appointed for a term of one year, one member for a term of two years, two members for a term of three years, and two members for a term of four years.⁵⁴

Effect of the bill

The bill clarifies that each member of the Board shall serve a four-year term and removes language relating to the initial staggered terms. The initial terms are no longer necessary because the board is already established and the change is intended to remove confusing language and add clarity.

Fire Suppression Equipment; License to Install or Maintain (Sections 40 & 42)

Current law allows a person with a valid fire equipment dealer license to maintain their license in an inactive status for four years or when the license is renewed, whichever comes first.⁵⁵ Fire equipment dealer licenses are renewed every two years,⁵⁶ making this language contradictory.

Individuals performing the work of servicing, recharging, repairing, hydrotesting, installing, testing, or inspecting fire extinguishers or pre-engineered systems must possess a valid and subsisting permit.⁵⁷

⁵¹ s. 626.9892(2), F.S.

⁵² *Id.*

⁵³ s. 633.302(4), F.S.

⁵⁴ s. 633.302(3), F.S. Current law does not explicitly indicate that the staggered terms were only for the initial board members when the board was first established, which has caused confusion.

⁵⁵ s. 633.304(2), F.S.

⁵⁶ Department of Financial Services, Agency Analysis of 2018 House Bill 1073, p. 6 (Dec. 29, 2017).

⁵⁷ s. 633.304(3), F.S.

These permittees must be employees of a fire equipment dealer licensee.⁵⁸ Current law does not allow a franchisee to operate under the license of their parent company; the franchisee is required to obtain its own license.

Fire equipment dealers and fire protection system contractors are required to submit to the SFM proof of insurance providing coverage for comprehensive general liability for bodily injury and property damage, products liability, completed operations, and contractual liability.⁵⁹ The SFM may require proof of such insurance on a form provided by the SFM.⁶⁰

Effect of the bill

The bill clarifies ambiguous language to allow inactive fire equipment dealers to maintain their license in an inactive status for up to four years. It clarifies that in order to maintain the license in an inactive status; the inactive licensee must submit proof of continuing education and the inactive status fee every two years. The bill also allows franchisees to operate under the license of their parent company.

The bill also deletes the requirement that fire equipment dealer and fire protection system contractors furnish proof of insurance on a form provided by the SFM. According to DFS, industry practice is to use Accord forms to show proof of insurance and this change reflects that practice.⁶¹

Firefighter and Volunteer Firefighter Training and Certification (Sections 43 & 44)

Under current law, the SFM may establish requirements to be issued a Firefighter Certificate of Compliance, a Volunteer Firefighter Certificate of Compliance, and a Special Certificate of Compliance.⁶² A Special Certificate of Compliance only authorizes an individual to serve as an administrative and command head of a fire service provider.⁶³

Additionally, a fire service provider may not employ an individual unless they have a valid Firefighter Certificate of Compliance.⁶⁴

Effect of the bill

The bill adds the following requirements for the Special Certificate of Compliance:

- Requires that an individual who is employed as a fire chief, coordinator, director, or administrator must obtain certification within one year;
- Prohibits an individual from serving as a command officer or in a position dictating incident outcomes or objectives before achieving certification; and
- Requires that retention requirements must be similar to those for firefighters and volunteer firefighters.

The bill also allows a fire service provider to employ individuals who have received equivalent training while active in the United States Department of Defense. The individual must obtain a Firefighter Certificate of Compliance within two years of employment.

⁵⁸ *Id.*

⁵⁹ ss. 633.304(4)(d)(3) and 633.318(7), F.S.

⁶⁰ *Id.*

⁶¹ Department of Financial Services, Agency Analysis of 2018 House Bill 1073, p. 9 (Dec. 29, 2017).

⁶² s. 633.408, F.S.

⁶³ s. 633.408(6)(b), F.S.

⁶⁴ s. 633.416(1)(a), F.S.

Miscellaneous

Effect of the bill

The bill:

- Makes a technical change to fix an incorrect reference to the Department of Economic Opportunity with the Department of Education in a list of entities to which a public assistance recipient may be required to provide written consent for certain investigative inquiries (Section 8);
- The bill renames the Bureau of Fire and Arson Investigations as the Bureau of Fire, Arson, and Explosives Investigations. It also creates the Bureau of Insurance Fraud and the Bureau of Workers' Compensation Fraud (Section 2);
- Clarifies terminology related to insurance agents (Section 9);
- Deletes requirement that law enforcement or the state attorney's office notify DFS of criminal actions against licensees because monthly data matching between DFS and the clerks of courts system has made it unnecessary (Section 21);
- Makes a technical change to delete a contradiction and no longer applicable qualification for a general lines agent license (Section 25);
- Clarifies requirements for licensing of surplus lines agents and deletes an examination exemption that is no longer applicable (Section 36);
- Clarifies that surplus lines agents shall maintain their records in either his or her general lines agency office or managing general agency office (Section 37);
- Authorizes a fire extinguisher serial number to be affixed rather than stamped on the manufacturer's identification and instruction plate (Section 41); and
- Deletes the responsibility of the SFM to develop a staffing and funding formula for the Florida State Fire College because it was delegated to Marion County through a memorandum of agreement in 2008 (Section 45).

B. SECTION DIRECTORY:

Section 1: Amends s. 17.64, F.S., relating to Division of Treasury to make reproductions of certain warrants, records, and documents.

Section 2: Amends s. 20.121, F.S., relating to Department of Financial Services.

Section 3: Amends s. 39.6035, F.S., relating to transition plan.

Section 4: Amends s. 218.32, F.S., relating to Annual financial reports; local government entities.

Section 5: Amends s. 284.40, F.S., relating to Division of Risk Management.

Section 6: Amends s. 284.50, F.S., relating to Loss prevention program; safety coordinators; Interagency Advisory Council on Loss Prevention; employee recognition program.

Section 7: Amends s. 409.1451, F.S., relating to the Road-to-Independence Program.

Section 8: Amends s. 414.411, F.S., relating to public assistance fraud.

Section 9: Amends s. 624.317, F.S., relating to investigation of agents, adjusters, administrators, service companies, and others.

Section 10: Amends s. 624.34, F.S., relating to authority of Department of Law Enforcement to accept fingerprints of, and exchange criminal history records with respect to, certain persons.

Section 11: Amends s. 624.4073, F.S., relating to Officers and directors of insolvent insurers.

Section 12: Amends s. 624.4094, F.S., relating to bail bond premiums.

Section 13: Amends s. 624.501, F.S., relating to filing, license, appointment, and miscellaneous fees.

Section 14: Amends s. 624.509, F.S., relating to premium tax; rate and computation.

- Section 15:** Amends s. 625.071, F.S., relating to special reserve for bail and judicial bonds.
- Section 16:** Amends s. 626.112, F.S., relating to license and appointment required; agents, customer representatives, adjusters, insurance agencies, service representatives, managing general agents.
- Section 17:** Amends s. 626.171, F.S., relating to application for license as an agent, customer representative, adjuster, service representative, managing general agent, or reinsurance intermediary.
- Section 18:** Amends s. 626.202, F.S., relating to fingerprinting requirements.
- Section 19:** Amends s. 626.207, F.S., relating to disqualification of applicants and licensees; penalties against licensees; rulemaking authority.
- Section 20:** Amends s. 626.221, F.S., relating to examination requirement; exemptions.
- Section 21:** Amends s. 626.451, F.S., relating to appointment of agent or other representative.
- Section 22:** Amends s. 626.521, F.S., relating to character, credit reports.
- Section 23:** Amends s. 626.731, F.S., relating to qualifications for general lines agent's license.
- Section 24:** Amends s. 626.7351, F.S., relating to qualifications for customer representative's license.
- Section 25:** Amends s. 626.744, F.S., relating to service representatives, managing general agents; application for license.
- Section 26:** Amends s. 626.745, F.S., relating to service representatives, managing general agents; managers; activities.
- Section 27:** Amends s. 626.7451, F.S., relating to managing general agents; required contract provisions.
- Section 28:** Amends s. 626.7455, F.S., relating to managing general agent; responsibility of insurer.
- Section 29:** Amends s. 626.752, F.S., relating to exchange of business.
- Section 30:** Amends s. 626.793, F.S., relating to excess or rejected business.
- Section 31:** Amends s. 626.798, F.S., relating to Life agent as beneficiary; prohibition.
- Section 32:** Amends s. 626.837, F.S., relating to excess or rejected business.
- Section 33:** Amends s. 626.8732, F.S., relating to nonresident public adjuster's qualifications, bond.
- Section 34:** Amends s. 626.8734, F.S., relating to nonresident all-lines adjuster license qualifications.
- Section 35:** Amends s. 626.88, F.S., relating to definitions.
- Section 36:** Amends s. 626.927, F.S., relating to licensing of surplus lines agent.
- Section 37:** Amends s. 626.930, F.S., relating to records of surplus lines agent.
- Section 38:** Amends s. 626.9892, F.S., relating to Anti-Fraud Reward Program; reporting of insurance fraud.
- Section 39:** Amends s. 633.302, F.S., relating to Florida Fire Safety Board; membership; duties; meetings; officers; quorum; compensation; seal.
- Section 40:** Amends s. 633.304, F.S., relating to fire suppression equipment; license to install or maintain.
- Section 41:** Amends s. 633.314, F.S., relating to Sale or use of certain types of fire extinguishers prohibited; penalty.
- Section 42:** Amends s. 633.318, F.S., relating to certificate application and issuance; permit issuance; examination and investigation of applicant.
- Section 43:** Amends s. 633.408, F.S., relating to firefighter and volunteer firefighter training and certification.

- Section 44:** Amends s. 633.416, F.S., relating to firefighter employment and volunteer firefighter service; saving clause.
- Section 45:** Amends s. 633.444, F.S., relating to Division powers and duties; Florida State Fire College.
- Section 46:** Amends s. 648.27, F.S., relating to licenses and appointments; general.
- Section 47:** Amends s. 648.34, F.S., relating to bail bond agents; qualifications.
- Section 48:** Reenacts s. 626.8734, F.S., relating to nonresident all-lines adjuster license qualifications.
- Section 49:** Provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill eliminates the managing general agent (MGA) license. However, the bill requires that an MGA have an agent license, which will offset any loss of license revenues.

The Florida Department of Law Enforcement (FDLE) has indicated that eliminating the managing general agent license could result in a loss of revenue as the former MGA licensees will no longer be required to undergo a state and national criminal history record check for both the MGA license and the agent license.⁶⁵ However, any reduction in revenue to FDLE will likely be insignificant.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill will have an indeterminate but negative fiscal impact on local governments regarding the requirement that local government entities must submit annual financial reports using the XBRL system.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The direct economic impact is indeterminate. The bill provides insignificant cost savings for various license types and could potentially result in minor increases for insurers when agents who are not appointed by the insurers make sales under the exchange of business laws.

D. FISCAL COMMENTS:

None.

⁶⁵ Florida Department of Law Enforcement, Agency Analysis of 2018 House Bill 1073. p. 3 (Jan. 9, 2018).
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DATE: 2/16/2018

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill requires local governments to file annual financial reports in XBRL format; however, an exemption may apply because this appears to be a re-authorization of existing statutory authority under s. 218.32(1)(a), F.S. An exception may also apply as similarly situated persons are all required to comply. However, that exception also requires a determination of important state interest which is currently not in the bill.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create any rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 23, 2018, the Insurance & Banking Subcommittee considered the bill, adopted a strike-all, and reported the bill favorably as a committee substitute. The committee substitute:

- Updates a cross reference relating to an exception where a child in licensed care (e.g., foster care) may continue receiving care despite not meeting certain requirements;
- Removes the application fee waiver for cemetery operator licensure and adds additional application fee waivers under the Florida Funeral, Cemetery, and Consumer Services Act for members or veterans of the United States Armed Forces;
- Changes the provisions for the transfer of funds from the Preneed Funeral Contract Consumer Protection Trust Fund (CPTF) to the Regulatory Trust Fund to an initial one-time transfer of up to \$2 million and to annually transfer the accrued interest from the preceding fiscal year for five years starting in 2018;
- Clarifies what the transferred funds from the CPTF may be used to fund and provides that the authority to transfer funds expires on August 31, 2022;
- Adds that former officers and directors of insolvent insurers may not have direct or indirect control over the selection of officers or directors of an admitted insurer;
- Adds that the requirements for credit and character reports do not apply to licensees who self-appoint;
- Clarifies requirements for maintaining an inactive fire equipment dealer license;
- Clarifies that members of the Florida Fire Safety Board shall serve four-year terms; and
- Makes various technical changes.

On February 6, 2018, the Government Operations & Technology Appropriations Subcommittee considered the bill, adopted two amendments, and reported the bill favorably as a committee substitute. The committee substitute:

- Removes a section allowing DFS to transfer \$2 million and interest from the Preneed Funeral Contract Consumer Protection Trust Fund to the Regulatory Trust Fund for the purpose of acquiring information technology infrastructure; and
- Removes the requirement that the financial literacy curriculum be completed in order to remain in licensed care.

On February 13, 2018, the Commerce Committee considered the bill, adopted one amendment and reported the bill favorably as a committee substitute. The committee substitute:

- Authorizes the Chief Financial Officer to develop the Florida Open Financial Statement System, which would be an interactive repository for governmental financial statements;
- Prohibits a life agent from modifying a life insurance contract to name the life agent or a family member of the life agent as the beneficiary unless the life agent or family member has an insurable interest in the life of such person;
- Clarifies and expands the circumstances under which a life agent may serve as a trustee or guardian or accept the authority to act under a power of attorney;
- Deletes exemptions for veterans from certain application fees for licensure under the Division of Florida Funeral, Cemetery, and Consumer Services within DFS;
- Deletes the waiver for fingerprint submission requirements for applicants for licensure for members of the United States Armed Forces and veterans under the Division of Agent and Agency Services within DFS;
- Makes technical changes relating to the licensing of surplus lines agents and financial literacy for youth aging out of foster care; and
- Authorizes a fire extinguisher serial number to be affixed rather than stamped on the manufacturer's identification and instruction plate.

The staff analysis has been updated to reflect the committee substitute.