

FLORIDA HOUSE OF REPRESENTATIVES

BILL ANALYSIS

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BILL #: [HB 1399](#)

TITLE: Property Insurance Affiliates

SPONSOR(S): Berfield

Committee References

[Insurance & Banking](#)

17 Y, 0 N

COMPANION BILL: None

LINKED BILLS: None

RELATED BILLS: None

[Commerce](#)



SUMMARY

Effect of the Bill:

The bill increases regulatory oversight of financial transactions between property insurers and their affiliates. Specifically, the bill requires:

- Property insurers to submit documentation to the Office of Insurance Regulation (OIR) demonstrating that all payments to affiliates are fair and reasonable. The bill also provides factors for OIR to determine whether those transactions are fair and reasonable.
- OIR to review and approve dividends and pledges of capitals or assets from property insurers to their affiliates.
- All agreements between property insurers and their affiliates to include a termination clause and provides that they may not exceed three years without review and reapproval by OIR.
- Property insurers to notify OIR at least 30 days before pledging capital or assets to an affiliate, and OIR may prohibit those arrangements if not in the insurer's best interest.
- Affiliates of property insurers to register with OIR before doing business in the state.

The bill gives OIR the authority to:

- Require affiliates to refund improper transfers back to property insurers.
- Consider transactions between property insurers and affiliates as part of the rate review process.
- Impose penalties for violations of the bill.

Fiscal or Economic Impact:

The bill may have an indeterminate fiscal impact on state government and the private sector.

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ANALYSIS

EFFECT OF THE BILL:

Affiliate Transactions

The bill creates a framework for the oversight of [affiliates](#) and their [transactions](#) with property insurers. (Section [1](#)).

The bill defines the term "affiliate" as an entity that engages in the business of insurance that controls or is controlled by an insurer through ownership of voting securities, shared management, or participation in management. The definition also explicitly includes [attorneys in fact](#) and [managing general agents](#) (MGAs). (Sections [1](#), [2](#), and [3](#)).

The bill requires property insurers to submit documentation to the [Office of Insurance Regulation](#) (OIR) demonstrating that all fees, commissions, or payments to affiliates are fair and reasonable. OIR must evaluate whether the transactions are fair and reasonable based on the following factors:

- the actual cost of each service being provided by the affiliate;

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- the relative financial condition of the property insurer and the affiliate;
- the level of debt and how the debt is serviced;
- the amount of the dividends paid by the property insurer and the affiliate and for what purpose;
- whether the terms of the written contract benefit the property insurer and are in the best interest of the policyholders or subscribers; and
- any other information the office reasonably requires in making the determination. (Section [1](#)).

The bill requires all contracts between property insurers and their affiliates to include a termination clause that automatically ends the contract after three years. The contract may be extended, subject to approval by OIR. (Section [1](#)).

The bill grants OIR the authority to restrict fund transfers from all or specific property insurers to affiliates during a declared state of emergency. Any order restricting transfer of funds between property insurers and their affiliates may not exceed 60 days, but may be extended by OIR. (Section [1](#)).

The bill provides that property insurers may not issue dividends to their affiliates without prior approval by OIR. Dividends must be fair and reasonable, and they may not be made for the purpose of manipulating the property insurer's financial position. Additionally, a property insurer may only issue dividends if it is solvent. (Section [2](#)).

The bill requires property insurers to provide notice to OIR at least 30 days before a pledge of capital or assets to an affiliate for a loan or financial obligation. The bill grants OIR the authority to reject the pledge if not in the best interest of the financial condition of the property insurer. (Section [2](#)).

Registration

The bill creates a registration process for property insurance affiliates. Before transacting the business of insurance in the state, an affiliate of a property insurer must register with OIR. As part of the application for registration, the affiliate must submit the following information and documents to OIR:

- a statement of duties the affiliate is expected to perform on behalf of the property insurer, and the lines of insurance for which the applicant is to be authorized to act;
- all basic organizational documents of the affiliate;
- the names, addresses, official positions, and professional qualifications of the individuals employed or retained by the affiliate who are responsible for managing the affairs of the property insurer;
- an independent background report detailing the involvement of the individuals employed or retained by the affiliate who are responsible for managing the affairs of the property insurer;
- a self-disclosure of any administrative, civil, or criminal complaints related to the insurance laws of any state. (Section [3](#)).

Affiliates must renew the registration annually. OIR may not charge a fee for the registration or the renewal of the registration. (Section [3](#)).

The bill provides grounds for denial of a registration, as well as revocation, suspension, or nonrenewal of a registration, as well as the imposition of fines of up to \$10,000. These grounds include:

- any cause for which OIR would have denied the application for registration if the office had known about it;
- violation of any provision of the Florida Insurance Code;
- using the affiliate registration to circumvent any of the requirements or prohibitions of the Florida Insurance Code;
- any of the individuals who are responsible for managing the affairs of the affiliate being found guilty or pleading nolo contendere to a felony in this state or any other state relating to the business of insurance;
- knowingly employing an individual in a managerial capacity or in a capacity dealing with the public who is under an order of revocation by either OIR or the Department of Financial Services (DFS);
- engaging in unfair methods of competition or in unfair or deceptive acts or practices while conducting business under the affiliate registration;

- knowingly aiding, assisting, procuring, advising, or abetting any person in the violation of or in the attempt to violate a provision of the Florida Insurance Code or any order of OIR, DFS, or the Financial Services Commission (FSC);
- receiving a fee, commission, or other financial consideration or payment that violates the requirements of the bill;
- failing to renew the registration annually; and
- failing to refund to an insurer a fee, commission, or other financial consideration or payment as required by the bill. (Section [3](#)).

The bill makes it a first degree misdemeanor to do business as an affiliate without a registration for the first offense. For a second or subsequent offense, acting as an affiliate without a registration is a third degree felony. (Section [3](#)).

The registration requirement for affiliates of property insurers goes into effect on January 1, 2027. (Section [3](#)).

Rate Review

The bill requires OIR to consider the profits, revenues, and investment income of any affiliate which are attributable to materially related to the insurer's business in this state as part of property insurers' rate filings. Additionally, OIR may deem a property insurer's filed rates excessive if they do not reflect the profits, revenues, and investment income of any affiliate which are attributable or materially related to the insurer's business in the state. (Section [4](#)).

Enforcement Authority

The bill grants OIR the authority to impose penalties for violations of the bill's requirements, including administrative fines of up to \$10,000 for each violation, as well as suspension or revocation of the insurer's license. Additionally, if OIR determines that a payment or dividend made by a property insurer to an affiliate is not fair and reasonable, the affiliate must refund the improper payment to the insurer. (Sections [1](#) and [2](#)).

Except as otherwise provided, the bill provides an effective date of July 1, 2026. (Section [5](#)).

RULEMAKING:

The bill requires OIR to adopt forms, processes, and rules necessary to implement OIR's oversight of transactions, dividends, and pledges of capital or assets between property insurers and their affiliates. (Sections [1](#) and [2](#)). OIR is also granted rulemaking authority to adopt forms, processes, and rules for affiliates to obtain and renew their registration and for the regulation, investigation, and discipline of affiliates. (Section [3](#)).

Lawmaking is a legislative power; however, the Legislature may delegate a portion of such power to executive branch agencies to create rules that have the force of law. To exercise this delegated power, an agency must have a grant of rulemaking authority and a law to implement.

FISCAL OR ECONOMIC IMPACT:

STATE GOVERNMENT:

There is an indeterminate fiscal impact to state government. To the extent that the bill requires OIR to oversee financial transactions between property insurers and their affiliates to ensure they are fair and reasonable, review contract renewals, proposed dividends, and process applications for registrations there may be an indeterminate fiscal impact to the office.

PRIVATE SECTOR:

There may be an indeterminate fiscal impact to property insurers, who have affiliates, to ensure compliance with the provisions of the bill.

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Affiliates

Affiliates are defined in the Florida Insurance code as entities that exercise control over or are directly or indirectly controlled by the insurer through:¹

- equity ownership of voting securities;
- common managerial control; or

collusive participation by the management of the insurer and affiliate in the management of the insurer or the affiliate.

Payments to Affiliates

Each insurer doing business in Florida that pays a fee, commission, or other financial consideration or payment to any affiliate is required to provide, upon request, any information OIR deems necessary. The fee, commission, or other financial consideration or payment to any affiliate must be fair and reasonable.²

In determining whether the fee, commission, or other financial consideration or payment is fair and reasonable, current law does not dictate which factors OIR must consider and only explicitly lists the actual cost of the service being provided.³

Affiliate Fee Analysis Draft Report

In February of 2025, the *Tampa Bay Times* published a draft report commissioned by OIR analyzing fees paid by insurers to their affiliates during the 2017-2019 period.⁴ The draft report claimed that while the 53 insurers assessed reported \$61 million in net income, their affiliates reported \$14 billion in income.⁵

The draft report included the following observations and recommendations:⁶

- Requiring all managing general agent (MGA) agreements to be reviewed and updated. This recommendation stemmed from some agreements being more than a decade old and not including the appropriate language to address data security, access, ownership, and control – particularly in the event of regulatory proceedings. Additionally, some of the reviewed contracts included premium-based compensation rates exceeding 25%, and the parties had not revisited or reviewed those provisions since the contracts were signed.
- Requiring insurers to provide documentation and financial projections that demonstrate that the proposed fees in the agreement are fair and reasonable to the insurer.
- The report flagged fee forgiveness and capital contributions and noted that while the MGA model in Florida is a common way for insurers to attract capital, it can also be used to circumvent insurer dividend requirements.
- The report noted that several insurers did not provide all the information necessary to assess whether fees paid to MGAs and other affiliates were reasonable, therefore it recommended to OIR conducting limited scope examinations to review these transactions.

¹ [S. 624.10\(1\), F.S.](#)

² [S. 624.424\(13\), F.S.](#)

³ *Id.*

⁴ Lawrence Mower, *Florida Insurance Companies Steered Money to Investors while Claiming Losses, Study Says*, Tampa Bay Times, (Feb. 22, 2025), <https://www.tampabay.com/news/florida-politics/2025/02/22/florida-insurance-profits-desantis-regulation-investors-crisis/> (last visited Jan. 9, 2026).

⁵ Jan Moenck, *Affiliated Fee Analysis Executive Summary*, (Mar. 31, 2022),

<https://www.documentcloud.org/documents/25540452-affiliated-fee-analysis-executive-summary/> (last visited Jan. 9, 2026), at 4.

⁶ *Id.* at 5-6.

The draft report used guidance from OIR rules in the Florida Administrative Code and from the National Association of Insurance Commissioners (NAIC) *Financial Analysis Handbook* to assess the fairness and reasonableness of fees paid by insurers to affiliates, but noted that Florida “does not have specific statutory guidance” defining the “fair and reasonable” standard for payments to affiliates.⁷

Managing General Agents (MGAs)

An MGA is a specialized type of insurance affiliate that has underwriting authority from an insurer.⁸ MGAs can perform certain functions that insurers typically handle, including binding coverage, underwriting and pricing, agent appointments, and claims adjusting and settlement.⁹ An MGA may be an affiliate of an insurer.

A currently effective producer license and an MGA appointment is required to perform MGA services.¹⁰ Insurers are required to notify DFS and OIR in writing within 30 days of appointing or terminating an MGA.¹¹ This notice must include:¹²

- a statement of duties the MGA applicant is expected to perform for the insurer;
- the lines of insurance for which the MGA applicant will be authorized to act; and
- any other information DFS or OIR may request from the insurer.

Insurers are required to review their books and records quarterly to determine if any of their producers have become a managing general agent.¹³

OIR is responsible for examining the affairs, transactions, accounts, records, and assets of each insurer that holds a certificate of authority to transact insurance business in Florida.¹⁴ OIR’s examination authority extends to MGAs.¹⁵ As part of the examination process, all persons being examined must make available to OIR the accounts, records, documents, files, information, assets, and matters in their possession or control that relate to the subject of the examination.¹⁶

As part of an examination, OIR reviews contracts between insurers and MGAs, so that it can determine how much an insurer is paying its MGA and what services the insurer is receiving for the fee it pays. The scope of the examination of an insurer’s affiliates in a holding company system is limited to information reasonably necessary to ascertain an insurer’s financial condition.

Attorneys in Fact

A reciprocal insurance exchange is an insurance enterprise where subscribers enter into direct agreements with each other, pledging to contribute proportionally to cover losses experienced by fellow members.¹⁷ The customers, known as subscribers, sign an agreement authorizing an agent to act as their attorney in fact for the purpose of insurance.¹⁸ The attorney in fact is usually a management company, and they are authorized to sign contracts on behalf of all subscribers.¹⁹

⁷ *Id.* at 1-2.

⁸ [S. 626.015\(16\)\(a\), F.S.](#), *see also*, International Risk Management Institute, <https://www.irmi.com/term/insurance-definitions/managinggeneral-agent> (last visited Jan. 9, 2026).

⁹ *See supra* note 2.

¹⁰ [S. 626.112\(5\), F.S.](#)

¹¹ [S. 626.7454\(5\), F.S.](#)

¹² *Id.*

¹³ [S. 626.7454\(6\), F.S.](#)

¹⁴ [S. 624.316\(1\)\(a\), F.S.](#)

¹⁵ *Id.* [S. 626.7452, F.S.](#)

¹⁶ [S. 624.318\(2\), F.S.](#)

¹⁷ Andrew Verstein, *Enterprise Without Entities*, 116 MICH. L. REV. 247, 249 (2017),

https://repository.law.umich.edu/cgi/viewcontent.cgi?params=/context/mlr/article/1672/&path_info=Enterprise_Without_Entities_revised_first_page.pdf.

¹⁸ *Id.* at 264.

¹⁹ *Id.* at 251.

Office of Insurance Regulation

The Office of Insurance Regulation (OIR) regulates all activities relating to insurers and other risk bearing entities, including licensing, rates, policy forms, marked conduct, claims, issuance of certificates of authority, solvency, viatical settlements, premium financing, and administrative supervision.²⁰ OIR is responsible for examining the affairs, transactions, accounts, records, and assets of each authorized insurer in the state.²¹

As part of that process, insurers must make available all records relating to the subject of the examination.²² OIR is also authorized to carry out market conduct examinations to determine compliance with the Florida Insurance Code.²³

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Insurance & Banking Subcommittee	17 Y, 0 N		Brackett	Miguez
Commerce Committee				

²⁰ [S. 20.121\(3\)\(a\), F.S.](#)

²¹ [S. 624.316\(1\)\(a\), F.S.](#)

²² [S. 624.318\(2\), F.S.](#)

²³ [S. 624.3161, F.S.](#)