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| Tab 1 | CS/SB 496 by BI, Rader ; (Similar to CS/H 00429) Insurance Guaranty Associations |
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| | | | | | |
|----------------------|---|----|----------|-------------------|----------------|
| Tab 2 | CS/SB 532 by CA, Lee (CO-INTRODUCERS) Farmer ; (Similar to CS/H 00521) Wetland Mitigation | | | | |
| 722726 —A | S | WD | AEG, Lee | Delete L.56 - 57: | 03/19 01:39 PM |

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|-----------------------|---|----|--------------|---------------------|-------------------------|----------------|
| Tab 3 | CS/SB 626 by BI, Brandes (CO-INTRODUCERS) Broxson ; (Similar to CS/H 00673) Insurer Guaranty Associations | | | | | |
| 707912 | D | S | RCS | AEG, Brandes | Delete everything after | 03/19 01:39 PM |
| 722486 —AA | S | WD | AEG, Broxson | Delete L.325 - 337: | 03/19 01:39 PM | |

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| Tab 4 | SB 7062 by AG ; (Compare to CS/H 01215) Department of Agriculture and Consumer Services Citizen Support Organizations and Direct-support Organizations |
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The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

**APPROPRIATIONS SUBCOMMITTEE ON AGRICULTURE,
ENVIRONMENT AND GENERAL GOVERNMENT**

Senator Mayfield, Chair
Senator Powell, Vice Chair

MEETING DATE: Tuesday, March 19, 2019
TIME: 10:00 a.m.—12:00 noon
PLACE: *Toni Jennings Committee Room, 110 Senate Building*

MEMBERS: Senator Mayfield, Chair; Senator Powell, Vice Chair; Senators Albritton, Bean, Berman, Broxson, Hooper, Hutson, Rodriguez, and Stewart

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|-----|---|--|----------------------------|
| 1 | CS/SB 496 Banking and Insurance / Rader (Similar CS/H 429) | Insurance Guaranty Associations; Authorizing an employee of the Florida Insurance Guaranty Association or an employee of a guaranty association of another state to adjust losses for the Florida Insurance Guaranty Association if certain conditions are met; revising requirements for the Office of Insurance Regulation in levying assessments on workers' compensation insurers; requiring such insurers to recoup the assessments by applying a certain surcharge percentage to certain policies, etc. BI 03/04/2019 Fav/CS AEG 03/19/2019 Favorable AP | Favorable Yeas 9 Nays 0 |
| 2 | CS/SB 532 Community Affairs / Lee (Similar CS/H 521) | Wetland Mitigation; Authorizing a local government to allow permittee-responsible mitigation on lands purchased and owned by a local government for conservation purposes under certain circumstances; requiring such mitigation to meet specified requirements, etc. CA 03/05/2019 Fav/CS AEG 03/19/2019 Favorable AP | Favorable Yeas 9 Nays 1 |
| 3 | CS/SB 626 Banking and Insurance / Brandes (Similar CS/H 673) | Insurer Guaranty Associations; Revising applicability of part III of ch. 631, F.S., as to health maintenance organizations, long-term care insurance benefits, certain health care benefits, and certain structured settlement annuity benefits; revising the number of members and composition of the Florida Life and Health Insurance Guaranty Association's board of directors; adding the reissuance of covered policies to a list of duties of the association relating to insolvent insurers, etc. BI 03/04/2019 Fav/CS AEG 03/19/2019 Fav/CS AP | Fav/CS Yeas 9 Nays 0 |

COMMITTEE MEETING EXPANDED AGENDA

Appropriations Subcommittee on Agriculture, Environment and General Government
Tuesday, March 19, 2019, 10:00 a.m.—12:00 noon

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|---------------------------------|---|---|----------------------------|
| 4 | SB 7062 Agriculture (Compare H 1215) | Department of Agriculture and Consumer Services Citizen Support Organizations and Direct-support Organizations; Extending the scheduled repeal of the provisions governing the citizen support organizations operating to the benefit of the Babcock Ranch Preserve; abrogating the scheduled repeal of provisions governing the Florida Beef Council, Inc., direct-support organization; abrogating the scheduled repeal of provisions relating to direct-support organizations of the Department of Agriculture and Consumer Services, etc. AEG 03/19/2019 Favorable AP | Favorable Yeas 9 Nays 0 |
| 5 | Review and Discussion of Fiscal Year 2019-2020 Budget Issues Relating to: Department of Agriculture and Consumer Services Department of Citrus Department of Environmental Protection Fish and Wildlife Conservation Commission Department of Business and Professional Regulation Department of Financial Services Office of Financial Regulation Office of Insurance Regulation Department of Lottery Department of Management Services Agency for State Technology Division of Administrative Hearings Florida Commission on Human Relations Public Employees Relations Commission Public Service Commission Department of Revenue | | Discussed |
| Other Related Meeting Documents | | | |

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 Appropriations Subcommittee on Agriculture, Environment, and General Government

BILL: CS/SB 496

INTRODUCER: Banking and Insurance Committee and Senator Rader

SUBJECT: Insurance Guaranty Associations

DATE: March 18, 2019

REVISED: 3/19/19

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------------|----------------|------------|-----------------------------|
| 1. | <u>Matiyow</u> | <u>Knudson</u> | <u>BI</u> | <u>Fav/CS</u> |
| 2. | <u>Sanders</u> | <u>Betta</u> | <u>AEG</u> | <u>Recommend: Favorable</u> |
| 3. | <u></u> | <u></u> | <u>AP</u> | <u></u> |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 496 allows employees of the Florida Insurance Guaranty Association to adjust claims so long as they hold, or have held in the past 10 years, licensure in Florida that allows for the adjustment of claims. The bill allows certain employees of guaranty associations established by states whose insurance regulators are members of the National Association of Insurance Commissioners to adjust claims for the Florida Insurance Guaranty Association so long as the employees have experience and training in adjusting claims.

The bill revises the method by which Florida's Workers' Compensation Insurance Guaranty Association assessments are calculated against workers' compensation insurers by the Office of Insurance Regulation. The bill authorizes the Florida's Workers' Compensation Insurance Guaranty Association to audit reconciliation reports from insurers regarding amounts collected from policyholders.

The bill has no fiscal impact on state funds and has an effective date of July 1, 2019.

II. Present Situation:

Guaranty Associations

Under federal law, insurance companies cannot file for bankruptcy.¹ Instead, they are either rehabilitated or liquidated by their state of domicile. Florida law establishes the system for the treatment of impaired or insolvent insurers² in Florida and sets up guaranty payments where necessary.³ Florida laws provides for guaranty associations to ensure policyholders of insolvent insurers are protected with respect to insurance premiums paid and settlement of outstanding claims, up to limits provided by law.⁴ A guaranty association is a not-for-profit corporation created by law and directed to protect policyholders from financial losses and delays in claims payment and settlements due to the insolvency of an insurer.⁵ Insurers are required to participate in the guaranty associations as a condition of transacting insurance business in Florida. Florida operates four guaranty associations, including the Florida Insurance Guaranty Association (FIGA)⁶ and the Florida Workers' Compensation Insurance Guaranty Association (FWCIGA)⁷.

Florida Insurance Guaranty Association (FIGA)

The FIGA provides a “mechanism for the payment of covered claims under certain insurance policies to avoid” delay and financial loss due to the financial insolvency of an insurer.⁸ It issues guaranty fund payments and provides related services for all lines of property and casualty insurance with certain exceptions.⁹ When a property and casualty insurer becomes insolvent, the FIGA takes over the claims of that insurer and pays the claims of its policyholders, ensuring that policyholders are not left with unpaid claims. The FIGA obtains funds to pay the claims of insolvent insurers located in Florida from the liquidation of the assets of insolvent insurers by the Division of Rehabilitation and Liquidation (the Division) in the Florida Department of Financial Services (DFS) and from the liquidation of assets of insolvent insurers located outside Florida that transact insurance business in Florida.¹⁰ If an insurer’s assets are insufficient to pay all claims, the FIGA can also issue post-insolvency assessments against property and casualty insurers to obtain funds to pay the remaining claims.¹¹

When an insolvent insurer is liquidated in Florida, the FIGA assumes the claims and is “deemed the insurer to the extent of its obligation on...covered claims, and,...shall have all rights, duties,

¹ 11 U.S.C. s. 109(b)(2).

² An “insolvent insurer” means an insurer that was authorized to transact insurance in this state, either at the time the policy was issued or when the insured event occurred, and against which an order of liquidation with a finding of insolvency has been entered by a court of competent jurisdiction if such order has become final by the exhaustion of appellate review. s. 631.904(4), F.S.

³ Chapter 631, F.S.

⁴ *Id.*

⁵ *See e.g.*, ss. 631.51 and 631.902, F.S.

⁶ Chapter 631, part II, F.S.

⁷ Chapter 631, part V, F.S.

⁸ Section 631.51, F.S.

⁹ Section 631.52, F.S.

¹⁰ *See* s. 631.061, F.S. for grounds for liquidation. *See* s. 631.025, F.S., for an overview of persons subject to proceedings initiated by the Division.

¹¹ Section 631.57, F.S.

defenses, and obligations of the insolvent insurer as if the insurer had not become insolvent.”¹² Additionally, the FIGA has the right to employ the necessary staff to handle claims and perform other duties for the association.¹³

In general, when an insolvent insurer located in another state is liquidated, the claims in that state are referred to its guaranty association for claims handling. However, the FIGA handles claims that exist on policies issued in Florida by insolvent foreign insurers.¹⁴

Florida Workers’ Compensation Insurance Guaranty Association (FWCIGA)

The FWCIGA “provides a mechanism for the payment of covered claims under chapter 440 to avoid” delay and financial loss to claimants due to the insolvency of a workers’ compensation insurer.¹⁵ The FWCIGA services workers’ compensation claims against insolvent workers’ compensation insurers¹⁶ and self-insurance funds.¹⁷ When a workers’ compensation insurer or self-insurance fund becomes insolvent, the FWCIGA takes over the claims of that insurer and pays the claims of its policyholders, ensuring that policyholders are not left with unpaid claims. Like the FIGA, the FWCIGA is funded through the liquidation of insolvent insurers, including a portion of the estates of insolvent insurers in other states. If the assets of the liquidated insurer are insufficient to pay claims, the FWCIGA in conjunction with the Office of Insurance Regulation (OIR), may order assessments of workers’ compensation insurers and self-insurance funds writing workers’ compensation coverage in Florida.¹⁸ The FWCIGA levied assessments from its inception in 1998 through 2005.¹⁹ It has not levied any assessments since 2005, but anticipates doing so effective January 1, 2020.²⁰

Method of Assessment

In 2016, the method of assessment for the FWCIGA was amended to be more consistent with the method used to levy assessments on the other Florida guaranty associations.²¹ Since the 2016 amendments, the law has provided for two methods by which the FWCIGA can collect

¹² *Id.*

¹³ *Id.*

¹⁴ A foreign insurer is one formed under the laws of any state, district, territory, or commonwealth of the United States other than Florida. Section 624.06, F.S.

¹⁵ Section 631.902, F.S.

¹⁶ “‘Insurer’ means an insurance carrier or self-insurance fund authorized to insure under chapter 440. For purposes of this act, ‘insurer’ does not include a qualified local government self-insurance fund, as defined in s. 624.4622, or an individual self-insurer as defined in s. 440.385.” S. 631.904(5), F.S.

¹⁷ “‘Self-insurance fund’ means a group self-insurance fund authorized under s. 624.4621, a commercial self-insurance fund writing workers’ compensation insurance authorized under s. 624.462, or an assessable mutual insurer authorized under s. 628.6011. For purposes of this act, the term ‘self-insurance fund’ does not include a qualified local government self-insurance fund, as defined in s. 624.4622, an independent educational institution self-insurance fund as defined in s. 624.4623, an electric cooperative self-insurance fund as described in s. 624.4626, or an individual self-insurer as defined in s. 440.385.” S. 631.904(6), F.S.

¹⁸ Section 631.914, F.S.

¹⁹ Florida Workers’ Compensation Insurance Guaranty Association, *Assessments*, <https://fwciga.org/assessments> (last visited Feb. 27, 2019).

²⁰ Florida Workers’ Compensation Guaranty Association, *Bulletin 2019-1*, https://fwciga.org/wp-content/uploads/2019/01/Surcharge-Bulletin_sm.pdf (last visited Feb. 27, 2019). Pursuant to s. 631.914(4)(a), F.S., an insurer may be exempted from an assessment if, in the opinion of OIR, the assessment would impair the solvency of the insurer.

²¹ Chapter 16-170, Laws of Fla.

assessments from workers' compensation insurers and self-insurance funds.²² The FWCIGA may choose to fund an assessment by either of the following methods:²³

- Single payment, subject to true-up (pay and recover)²⁴ – under this method, the insurer pays the assessment to the FWCIGA and then recovers its payment from its insureds through policy surcharges. The assessment payment is due and payable no earlier than 30 days following written notice of the assessment order. For accounting purposes, the billed surcharges are a receivable and an asset for the purposes of the National Association of Insurance Commissioners' Statement of Statutory Accounting Principles Number 4²⁵ and would be recorded separately from the liability for the OIR reports.
- Installment (collect and remit) – under this method, the insurer would bill the insured for the surcharge as policies are written and remit the collected surcharges to the FWCIGA quarterly.²⁶

The insurer is required to submit a reconciliation report within 120 days following the end of the 12-month assessment recovery period showing the amount initially paid and the amount of the surcharge collected.²⁷ This results in a "true-up" of the actual assessment amount if the initial calculation and payment was too low or too high.²⁸

Calculation of Insurer Assessment Amount

The OIR, upon certification of need by the FWCIGA, levies assessments on each insurer "initially estimated in the proportion that the insurer's net direct written premiums" in Florida "bears to the total net direct premiums received" in Florida by all workers' compensation insurers during the previous calendar year.²⁹ The assessments levied against insurers and self-insurance funds are computed based upon the net direct written premium amounts set forth in Florida for workers' compensation insurance without consideration for any discount in premium or credit for deductibles.³⁰

The assessment is limited to two percent of an insurer's or self-insurance fund's net direct written premium in any given calendar year.³¹ If the assessment is insufficient to meet the FWCIGA's funding need for payments owing to claimants in a calendar year, then, upon certification by the FWCIGA, the OIR shall levy assessments of up to an additional one and one-half percent of the insurer's net direct written premiums in Florida.³² Insurers and self-insurance funds must report to the FWCIGA the amount of initial payment or installment payments made

²² See s. 631.914, F.S.

²³ See *id.*

²⁴ Section 631.914(1)(d), F.S.

²⁵ National Association of Insurance Commissioners & The Center for Insurance Policy and Research, *Statutory Accounting Principles*, http://www.naic.org/cipr_topics/topic_statutory_accounting_principles.htm (last visited Feb. 27, 2015).

²⁶ Section 631.914(1)(d), F.S.

²⁷ Section 631.914(1)(d)3., F.S.

²⁸ *Id.*

²⁹ Section 631.914(1)(a), F.S.

³⁰ *Id.*

³¹ *Id.*

³² Section 631.914(1)(c), F.S.

to the FWCIGA and the amount collected from policyholders.³³ The reporting must occur within 120 days after the 12-month assessment period and annually thereafter for three years.³⁴

III. Effect of Proposed Changes:

Section 1 creates s. 626.8621, F.S., to allow employees of the Florida Insurance Guaranty Association to adjust claims so long as they hold, or have held in the past 10 years, licensure in Florida that allows for the adjustment of claims. The bill also allows employees of guaranty association established by states whose insurance regulators are members of the National Association of Insurance Commissioners to adjust claims for Florida Insurance Guaranty Association so long as the employees have experience and training in adjusting claims.

Section 2 amends s 631.914, F.S., relating to the method by which assessments are levied against insurers and collected by the Florida Workers' Compensation Insurance Guaranty Association (FWCIGA). The bill provides that an insurer shall fully recoup assessments by applying a uniform surcharge percentage levied by the Office of Insurance Regulation (OIR) to all policies of the same kind or line as were considered by the OIR in determining the assessment liability of the insurer.

The bill provides the authority for the FWCIGA to audit the reports from insurers regarding the payments made to the FWCIGA and the amounts collected from policyholders.

Additionally, the bill provides that assessments paid by workers' compensation insurers constitute advances of funds to the FWCIGA under certain circumstances to allow for proper accounting treatment. The bill removes the word "net" from "net direct written premium" to use the more common workers' compensation industry terminology of "direct written premium."

Section 3 provides an effective date of July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

³³ Section 631.914(1)(a)d.3., F.S.

³⁴ *Id.*

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Changes how insurers must remit assessments to FWCIGA and allows the FWCIGA to specify whether assessments must be paid by the insurer upfront or may be passed through to policyholders by a surcharge. However, the total amount of any assessment will not change.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 631.914 of the Florida Statutes.

This bill creates section 626.8621 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Banking and Insurance on March 4, 2019:

The CS:

- Allows employees of the FIGA to adjust claims so long as they hold or have held in the past 10 years licensure in Florida that allows for the adjustment of claims.
- Requires out of state guaranty association employees contracted to adjust claims for the FIGA must reside in states whose insurance regulators are members of the NAIC and such employees must have experience and training in adjusting claims.

- Removes “large” deductibles and retrospectively rated policies from being excluded for discount and states that no policy shall be discounted when calculating the assessment amount.
- Reverts to current law that insurers must submit to the FWCIGA assessment reconciliation reports annually for three years.
- Makes other cross referencing and technical changes.

B. Amendments:

None.

By the Committee on Banking and Insurance; and Senator Rader

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A bill to be entitled

An act relating to insurance guaranty associations; creating s. 626.8621, F.S.; authorizing an employee of the Florida Insurance Guaranty Association or an employee of a guaranty association of another state to adjust losses for the Florida Insurance Guaranty Association if certain conditions are met; amending s. 631.914, F.S.; revising requirements for the Office of Insurance Regulation in levying assessments on workers' compensation insurers; requiring such insurers to recoup the assessments by applying a certain surcharge percentage to certain policies; providing that an insurer's direct written premium may not be reduced by certain amounts for the purposes of determining insurer assessments or policyholder surcharges; authorizing the Florida Workers' Compensation Insurance Guaranty Association to audit certain reports; revising requirements for remitting policy surcharges and assessments; conforming cross-references; providing that assessments paid by an insurer constitute advances of funds to the association under certain circumstances; revising requirements for insurers' reconciliation reports to the association; revising construction; providing an effective date.

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

Section 1. Section 626.8621, Florida Statutes, is created

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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to read:

626.8621 Adjustments by guaranty association employees.—

(1) An employee of the Florida Insurance Guaranty Association, created under part II of chapter 631, may adjust losses for the association if such employee holds, or has held within the past 10 years, licensure in this state which allows for the adjustment of such losses.

(2) An employee of a guaranty association established by another state and whose insurance regulators are members of the National Association of Insurance Commissioners may adjust losses for the Florida Insurance Guaranty Association. The authorization for such employees to adjust losses must be included in a contract with the Florida Insurance Guaranty Association and the employee's guarantee association or association's authorized representative. The Florida Insurance Guaranty Association shall contract only for employees of other state guaranty associations who maintain the appropriate experience and training for adjusting such claims.

Section 2. Subsections (1), (2), and (3) of section 631.914, Florida Statutes, are amended to read:

631.914 Assessments.—

(1) (a) To the extent necessary to secure the funds for the payment of covered claims, and also to pay the reasonable costs to administer the same, the Office of Insurance Regulation, upon certification by the board, shall levy assessments on each insurer ~~initially estimated in the proportion that the insurer's net direct written premiums in this state bears to the total of said net direct written premiums received in this state by all such workers' compensation insurers for the preceding calendar~~

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59 ~~year. An insurer shall fully recoup assessments by applying the~~
 60 ~~uniform surcharge percentage levied by the office to all~~
 61 ~~policies of the same kind or line as were considered by the~~
 62 ~~office in determining the assessment liability of the insurer.~~

63 Assessments levied against insurers and self-insurance funds
 64 pursuant to this paragraph must be computed and levied on the
 65 basis of ~~the full policy premium value on the net~~ direct written
 66 premium amount as set forth in the state for workers'
 67 compensation insurance ~~without consideration of any applicable~~
 68 ~~discount or credit for deductibles. An insurer's direct written~~
 69 ~~premium calculated for the purposes of determining the insurer's~~
 70 ~~assessment or policyholder surcharge may not be reduced by any~~
 71 ~~discount or credit for deductibles in a policy or by any premium~~
 72 ~~adjustment to a retrospectively rated policy. Insurers and self-~~
 73 insurance funds must report premiums in compliance with this
 74 paragraph, and the association may audit the reports.

75 Assessments shall be remitted to and administered by the board
 76 of directors in the manner specified by the approved plan of
 77 operation and paragraph (d). ~~Each assessment shall be a uniform~~
 78 ~~percentage applicable to the net direct written premiums of each~~
 79 ~~insurer writing workers' compensation insurance. Assessments~~
 80 levied against insurers and self-insurance funds shall not
 81 exceed in any calendar year more than 2 percent of that
 82 insurer's net direct written premiums in this state for workers'
 83 compensation insurance.

84 (c)(b) The office shall levy the uniform surcharge
 85 percentage on all policies of the same kind or line as were
 86 considered by the office in determining the assessment liability
 87 of the insurer. Member insurers shall collect policyholder

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88 surcharges at a uniform percentage rate on new and renewal
 89 policies issued and effective during the period of 12 months
 90 beginning on January 1, April 1, July 1, or October 1, whichever
 91 is the first day of the following calendar quarter as specified
 92 in an order issued by the office ~~directing insurers to pay an~~
 93 ~~assessment to the association. The policyholder~~ surcharge may
 94 not begin until 90 days after the board of directors certifies
 95 the assessment.

96 (b)(c) If assessments otherwise authorized in paragraph (a)
 97 are insufficient to make all payments on reimbursements then
 98 owing to claimants in a calendar year, then upon certification
 99 by the board, the office shall levy additional assessments of up
 100 to 1.5 percent of the insurer's net direct written premiums in
 101 this state.

102 (d) The association may use an installment method to
 103 require the insurer to remit the policyholder surcharge
 104 ~~assessment~~ as premium is collected ~~written~~ or may require the
 105 insurer to remit the assessment to the association before
 106 collecting the policyholder surcharge. ~~If the assessment is~~
 107 ~~remitted before the surcharge is collected, the assessment~~
 108 ~~remitted must be based on an estimate of the assessment due~~
 109 ~~based on the proportion of each insurer's net direct written~~
 110 ~~premium in this state for the preceding calendar year as~~
 111 ~~described in paragraph (a) and adjusted following the end of the~~
 112 ~~12-month period during which the assessment is levied.~~

113 1. If the association elects to use the installment method,
 114 the office may, in the order levying the assessment on insurers,
 115 specify that the policyholder surcharge ~~assessment~~ is due and
 116 payable quarterly as premium is collected ~~written~~ throughout the

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117 assessment year. Insurers shall collect policyholder surcharges
 118 at a uniform percentage rate specified by order as described in
 119 paragraph (c) ~~(b)~~. Insurers are not required to advance funds if
 120 the association and the office elect to use the installment
 121 option. Assessments levied under this subparagraph are paid
 122 after policyholder ~~policy~~ surcharges are collected, and the
 123 recognition of assets is based on actual premium collected
 124 ~~written~~ offset by the obligation to the association.

125 2. If the association elects to require insurers to remit
 126 the assessment before surcharging the policyholder, the
 127 following shall apply:

128 a. The assessment remitted must be based on an estimate of
 129 the assessment due based on the proportion of each insurer's
 130 direct written premium in this state for the preceding calendar
 131 year as described in paragraph (a).

132 b. ~~a.~~ The levy order shall provide each insurer so assessed
 133 at least 30 days' written notice of the date the initial
 134 assessment payment is due and payable by the insurer.

135 c. ~~b.~~ Insurers shall collect policyholder surcharges at a
 136 uniform percentage rate specified by the order, as described in
 137 paragraph (c) ~~(b)~~.

138 d. ~~e.~~ Assessments levied under this subparagraph and are
 139 paid by an insurer constitute advances of funds from the insurer
 140 to the association before policy surcharges are billed and
 141 result in a receivable for policyholder ~~policy~~ surcharges to be
 142 billed in the future. The amount of billed policyholder
 143 surcharges, to the extent it is likely that it will be realized,
 144 meets the definition of an admissible asset as specified in the
 145 National Association of Insurance Commissioners' Statement of

597-02676-19

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146 Statutory Accounting Principles No. 4. The asset shall be
 147 established and recorded separately from the liability. If an
 148 insurer is unable to fully recoup the amount of the assessment,
 149 the amount recorded as an asset shall be reduced to the amount
 150 reasonably expected to be recouped.

151 3. Insurers must submit a reconciliation report to the
 152 association within 120 days after the end of the 12-month
 153 assessment period and annually thereafter for a period of 3
 154 years. The report must indicate the amount of the initial
 155 payment or installment payments made to the association and the
 156 amount of policyholder surcharges collected ~~written premium~~
 157 ~~pursuant to paragraph (a)~~ for the assessment year. If the
 158 insurer's reconciled ~~assessment~~ obligation is more than the
 159 amount paid to the association, the insurer shall pay the excess
 160 policyholder surcharges collected to the association. If the
 161 insurer's reconciled ~~assessment~~ obligation is less than the
 162 initial amount paid to the association, the association shall
 163 return the overpayment to the insurer.

164 (2) Policyholder surcharges collected ~~Assessments levied~~
 165 under this section are not premium and are not subject to any
 166 premium tax, fees, or commissions. Insurers shall treat the
 167 failure of an insured to pay policyholder ~~assessment-related~~
 168 surcharges as a failure to pay premium. An insurer is not liable
 169 for any uncollectible policyholder ~~assessment-related~~ surcharges
 170 levied pursuant to this section.

171 (3) Assessments levied under this section may be levied
 172 only upon insurers. This section does not create a cause of
 173 action by a policyholder with respect to the levying of an
 174 assessment or a policyholder's duty to pay assessment-related

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2019496c1

175 policyholder surcharges.

176 Section 3. This act shall take effect July 1, 2019.

The Florida Senate COMMITTEE VOTE RECORD

COMMITTEE: Appropriations Subcommittee on Agriculture, Environment, and General Government
ITEM: CS/SB 496
FINAL ACTION: Favorable
MEETING DATE: Tuesday, March 19, 2019
TIME: 10:00 a.m.—12:00 noon
PLACE: 110 Senate Building

| FINAL VOTE | | SENATORS | | | | | | |
|------------|------------|--------------------|------------|------------|------------|------------|------------|------------|
| Yea | Nay | | Yea | Nay | Yea | Nay | Yea | Nay |
| X | | Albritton | | | | | | |
| | | Bean | | | | | | |
| X | | Berman | | | | | | |
| X | | Broxson | | | | | | |
| X | | Hooper | | | | | | |
| X | | Hutson | | | | | | |
| X | | Rodriguez | | | | | | |
| X | | Stewart | | | | | | |
| X | | Powell, VICE CHAIR | | | | | | |
| X | | Mayfield, CHAIR | | | | | | |
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| Yea | Nay | TOTALS | Yea | Nay | Yea | Nay | Yea | Nay |

CODES: FAV=Favorable RCS=Replaced by Committee Substitute TP=Temporarily Postponed WD=Withdrawn
 UNF=Unfavorable RE=Replaced by Engrossed Amendment VA=Vote After Roll Call OO=Out of Order
 -R=Reconsidered RS=Replaced by Substitute Amendment VC=Vote Change After Roll Call AV=Abstain from Voting

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 Appropriations Subcommittee on Agriculture, Environment, and General Government

BILL: CS/SB 532

INTRODUCER: Community Affairs Committee and Senators Lee and Farmer

SUBJECT: Wetland Mitigation

DATE: March 18, 2019

REVISED: 3/19/19

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|-----------------------------|
| 1. | Peacock | Yeatman | CA | Fav/CS |
| 2. | Reagan | Betta | AEG | Recommend: Favorable |
| 3. | | | AP | |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 532 amends current law provisions relating to wetland mitigation banking to authorize a local government to allow permittee-responsible mitigation consisting of the restoration or enhancement of lands purchased and owned by a local government for conservation purposes, and such mitigation must conform to the permitting requirements for mitigation banks.

The bill may have a positive fiscal impact on local governments who allow a public or private mitigation project to be created on conservation lands owned by the local government. The bill has no fiscal impact on state government.

The bill takes effect July 1, 2019.

II. Present Situation:

Background, Legislative Intent and Purpose

Environmental mitigation, as it relates to wetlands regulatory programs, is generally defined as “the creation, restoration, preservation or enhancement of wetlands to compensate for permitted wetlands losses.”¹ Mitigation banking is a concept designed to increase the success of

¹ John J. Fumero, *Environmental Law: 1994 Survey of Florida Law – At a Crossroads in Natural Resource Protection and Management in Florida*, 19 Nova L. Rev. 77, 101 (1994), available at <https://nsuworks.nova.edu/cgi/viewcontent.cgi?article=1537&context=nlr> (last visited Feb. 21, 2019).

environmental mitigation efforts and reduce costs to developers of individual mitigation projects.²

Section 404 of the federal Clean Water Act (CWA)³ and early Florida law attempted to regulate wetlands impacts; however, the regulations did not specifically establish a wetlands protection program. The Florida Legislature responded to the lack of both a comprehensive policy and a regulatory framework to handle environmental mitigation efforts with passage of s. 373.4135, F.S., as part of the Florida Environmental Reorganization Act of 1993.⁴ Section 373.4135, F.S., directs the Department of Environmental Protection (DEP)⁵ and the water management districts (WMDs)⁶ to participate in and encourage the establishment of private and public mitigation banks and offsite regional mitigation. The Legislature intended that the provisions for establishing mitigation banks would apply equally to both public and private entities, except for necessary variability for the DEP and each WMD to ensure the construction and perpetual protection of mitigation banks.⁷ Section 373.4135(1), F.S., recognizes the “improved likelihood of environmental success” associated with the establishment of mitigation banks, especially favoring “the restoration and enhancement of degraded ecosystems and the preservation of uplands and wetlands as intact ecosystems . . . through restoration of ecological communities that were historically present.”

Mitigation Banking Process

In 1994, rules governing the establishment and use of mitigation banks were adopted.⁸ The substantive aspects of these rules were later codified⁹ in s. 373.4136, F.S., and further specified in Ch. 62-342, F.A.C.

Mitigation banking is a practice in which an environmental enhancement and preservation project is conducted by a public agency or private entity (banker¹⁰) to provide mitigation for unavoidable wetland impacts within a defined region (mitigation service area). The bank is the site itself, and the currency sold by the banker to the impact permittee is a credit, which

² *Id.* at 103.

³ 33 U.S.C. s. 1344. Section 404 of the CWA establishes a program to regulate the discharge of dredged or fill material into the waters of the United States, including wetlands. *See* U.S. Environmental Protection Agency, Section 404 Permit Program, available at <https://www.epa.gov/cwa-404/section-404-permit-program> (last visited Feb. 28, 2019).

⁴ Fumero, *supra* note 1, at 103. *Also, see* Ch. 93-213, ss. 1 and 29, Laws of Fla.

⁵ The DEP is the state’s lead agency for environmental management and stewardship, protecting the state’s air, water and land. *See* About DEP, available at <https://floridadep.gov/about-dep> (last visited Feb. 22, 2019). The head of DEP is the secretary appointed by the Governor, with the concurrence of three members of the Cabinet. The secretary must be confirmed by the Florida Senate and serves at the pleasure of the Governor. *See* s. 20.255, F.S.

⁶ Florida’s five WMDs include the Northwest Florida Management Water District, the Suwannee River Water Management District, the St. John’s Water Management District, the Southwest Florida Water Management District, and the South Florida Water Management District. The DEP exercises general supervisory authority over the WMDs through a cooperative working relationship and guidance memos. *See* Florida DEP, Divisions, Office of Water Policy, Water Management Districts, available at <https://floridadep.gov/water-policy/water-policy/content/water-management-districts> (last visited Feb. 27, 2019).

⁷ Section 373.4135(1)(a), F.S.

⁸ The rules have been amended several times and are incorporated in Ch. 62-342, F.A.C.

⁹ In 1996, the Legislature revised the statutes on mitigation banking and the substantive sections of the rules were placed in s. 373.4136, F.S. *See* Ch. 96-371, Laws of Fla.

¹⁰ Rule 62-342.200(1), F.A.C., defines “banker” as an entity that creates, operates, manages, or maintains a Mitigation Bank pursuant to a Mitigation Bank Permit.

represents the wetland ecological value equivalent to the complete restoration of one acre. The number of potential credits permitted for the bank and the credit debits required for impact permits are determined by the permitting agencies. The Uniform Mitigation Assessment Method (UMAM)¹¹ is the method of assessment for banks established after February 2, 2004.¹²

A banker must apply for a mitigation bank permit before establishing and operating a mitigation bank.¹³ To obtain a mitigation bank permit, the applicant must provide reasonable assurance that the mitigation bank will:

- Improve ecological conditions of the regional watershed;
- Provide viable and sustainable ecological and hydrological functions for the proposed mitigation service area;
- Be effectively managed in perpetuity;
- Not destroy areas with high ecological value;
- Achieve mitigation success; and
- Be adjacent to lands that will not adversely affect the long-term viability of the mitigation bank due to unsuitable land uses or conditions.¹⁴

Also, the applicant for a mitigation bank must provide reasonable assurances that:

- Any surface water management system to be constructed, altered, operated, maintained, abandoned, or removed within the mitigation bank will meet the requirements of part IV, ch. 373, F.S., and the rules adopted thereunder;
- It has sufficient legal or equitable interest in the property to ensure perpetual protection and management of the land within a mitigation bank; and
- It can meet the financial responsibility requirements prescribed for mitigation banks.¹⁵

Mitigation banks are permitted by the DEP or one of the WMDs that has adopted rules, based on the location of the bank and activity-based considerations.¹⁶ Additionally, a mitigation bank requires federal authorization in the form of a Mitigation Bank Instrument (MBI) signed by several agencies, with the U.S. Army Corps of Engineers as lead. The DEP strongly encourages the mitigation bank applicant to have at least one pre-application meeting with an Interagency Review Team (IRT), consisting of all state and federal agencies that will be involved in processing the permit. The agencies that would generally make up the IRT are:

- U.S. Army Corps of Engineers, Jacksonville District (Corps.);
- National Marine Fisheries Services (NMFS);
- U.S. Fish and Wildlife Service (FWS);

¹¹ The UMAM provides a standardized procedure for assessing the ecological values and functions of wetlands and other surface waters. See Florida DEP, Division of Water Resource Management, Submerged Lands and Environmental Resources Coordination Program, Wetlands Mitigation, available at <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/mitigation> (last visited Feb. 26, 2019).

¹² See Florida DEP, Division of Water Resource Management, Submerged Lands and Environmental Resources Coordination Program, Mitigation and Mitigation Banking available at <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/mitigation-and-mitigation-banking> (last visited Feb. 26, 2019).

¹³ Section 373.4136(1), F.S., and Rule 62-342.450, F.A.C.

¹⁴ Section 373.4136(1), F.S., and Rule 62-342.400, F.A.C.

¹⁵ *Id.* Also, see Rule 62-342.700, F.A.C.

¹⁶ See Florida DEP, Division of Water Resource Management, Submerged Lands and Environmental Resources Coordination Program, Mitigation Banking Rule and Procedure Synopsis, available at <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/mitigation-banking-rule-and> (last visited Feb. 27, 2019).

- U.S. Environmental Protection Agency (EPA);
- Florida Fish and Wildlife Conservation Commission (FWC);
- Florida Department of Environmental Protection (DEP); or
- St. Johns River Water Management District; or
- South Florida Water Management District; or
- Southwest Florida Water Management District.¹⁷

In-Lieu-Fee Program

In 2000,¹⁸ the Legislature created an in-lieu-fee program¹⁹ by amending s. 373.4135, F.S., to allow the DEP, the WMDs, and local governments to sponsor regional offsite mitigation area (ROMA) projects that are paid for by monies accepted as mitigation. A memorandum of agreement is required between the sponsoring agency, and the DEP or a WMD, as appropriate, for any ROMA used for five or more projects or for more than 35 acres of impact. The major difference between a ROMA and a mitigation bank is that a ROMA can include an acquisition element and does not have to provide the same financial assurances as required in a mitigation bank permit.

Prohibition Under Current Law for Governmental Entities

Prior to 2012, a governmental entity could sponsor a ROMA project paid for by monies accepted as mitigation.

In 2012, the Legislature amended s. 373.4135, F.S.,²⁰ in HB 599. This bill created a new subparagraph (b) in s. 373.4135(1), F.S., to provide that a governmental entity may not create or provide mitigation for a project other than its own unless the governmental entity uses land that was not previously purchased for conservation and unless the governmental entity provides the same financial assurances as required for mitigation banks permitted under s. 373.4136, F.S.

The change made by HB 599 applies when a governmental entity enters the market and acts similarly to a mitigation bank. The governmental entity must comply with the financial responsibility requirements in Rule 62-342.700, F.A.C.²¹ HB 599 exempted certain mitigation banks or areas permitted or established before December 11, 2011, and other specified mitigation types from the prohibition.²²

¹⁷ *Id.*

¹⁸ Ch. 2000-133, Laws of Fla.

¹⁹ In-lieu fee mitigation occurs in circumstances where a permittee provides funds to an in-lieu-fee sponsor instead of either completing project-specific mitigation or purchasing credits from a wetland mitigation bank. *See Banks and Fees: The Status of Off-Site Wetland Mitigation in the United States*, Environmental Law Institute (Sept. 2002), p. 95, available at https://www.researchgate.net/profile/Christina_Kennedy2/publication/279516639_Banks_Fees_The_Status_of_Off-site_Wetland_Mitigation_in_the_US/links/559460f408ae5d8f392f675d/Banks-Fees-The-Status-of-Off-site-Wetland-Mitigation-in-the-US.pdf?origin=publication_detail (last visited Feb. 28, 2019).

²⁰ Ch. 2012-174, s. 4, Laws of Fla.

²¹ Section 373.4136(11), F.S.

²² Section 373.4135(1)(b), F.S.

Mitigation Requirements for Specified Transportation Projects

The Florida Department of Transportation (DOT) and participating transportation authorities²³ offset environmental impacts of transportation projects through the use of mitigation banks and other mitigation options, including the payment of funds to WMDs to develop and implement mitigation plans.²⁴ The mitigation plan is developed by the WMDs and is ultimately approved by the DEP.²⁵ The ability to exclude a project from the mitigation plan is provided to the DOT, a participating transportation authority, or a WMD.²⁶

III. Effect of Proposed Changes:

Section 1 provides legislative intent and amends s. 373.4135(1), F.S., to authorize a local government, if state and federal mitigation credits are not available to offset the adverse impacts of a project, to allow permittee-responsible mitigation²⁷ on lands purchased and owned by a local government for conservation purposes. Such mitigation must conform to the mitigation bank permitting requirements in s. 373.4136, F.S.

The restrictions on mitigation projects on government-owned land in current law remains.

IV. Section 2 provides that the bill takes effect July 1, 2019. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

²³ Chapters 348 and 349, F.S.

²⁴ Section 373.4137, F.S.

²⁵ *Id.*

²⁶ *Id.*

²⁷ Permittee-Responsible Mitigation is the restoration, establishment, enhancement or preservation of wetlands undertaken by a permittee in order to compensate for wetland impacts resulting from a specific project. The permittee performs the mitigation after the permit is issued and is ultimately responsible for implementation and success of the mitigation. Permittee-responsible mitigation may occur at the site of the permitted impacts or at an off-site location within the same watershed. See U.S. Environmental Protection Agency, Wetlands Compensatory Mitigation, *available at* https://www.epa.gov/sites/production/files/2015-08/documents/compensatory_mitigation_factsheet.pdf (last visited March 6, 2019).

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may have a positive impact on the building industry, providing an alternative option for compensatory mitigation in the event that private mitigation bank credits are unavailable.

C. Government Sector Impact:

The bill eases restrictions on offsite wetland mitigation activities on lands purchased and owned by a local government for conservation purposes. The bill may have a positive fiscal impact on local governments who allow a public or private mitigation project to be created on conservation lands owned by the local government. The bill has no fiscal impact on state government.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 373.4135 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Community Affairs on March 5, 2019:

The committee substitute amends s. 373.4135, F.S., authorizing a local government to allow permittee-responsible mitigation on lands purchased and owned by the local government for conservation purposes under certain circumstances.

B. Amendments:

None.

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



722726

LEGISLATIVE ACTION

| Senate | . | House |
|------------|---|-------|
| Comm: WD | . | |
| 03/19/2019 | . | |
| | . | |
| | . | |
| | . | |

Appropriations Subcommittee on Agriculture, Environment, and
General Government (Lee) recommended the following:

Senate Amendment

Delete lines 56 - 57

and insert:

2. Offsite regional mitigation areas established before
December 31, 2011, under subsection (6) or, when credits are not
available at a mitigation bank permitted under s. 373.4136,
mitigation areas created by a local government which were
awarded mitigation credits pursuant to the uniform mitigation
assessment method as provided in chapter 62-345, Florida



722726

11 Administrative Code, under a permit issued before December 31,
12 2011;

By the Committee on Community Affairs; and Senators Lee and Farmer

578-02722-19

2019532c1

1 A bill to be entitled
 2 An act relating to wetland mitigation; amending s.
 3 373.4135, F.S.; authorizing a local government to
 4 allow permittee-responsible mitigation on lands
 5 purchased and owned by a local government for
 6 conservation purposes under certain circumstances;
 7 requiring such mitigation to meet specified
 8 requirements; providing an effective date.
 9
 10 Be It Enacted by the Legislature of the State of Florida:
 11
 12 Section 1. Paragraph (b) of subsection (1) of section
 13 373.4135, Florida Statutes, is amended to read:
 14 373.4135 Mitigation banks and offsite regional mitigation.-
 15 (1) The Legislature finds that the adverse impacts of
 16 activities regulated under this part may be offset by the
 17 creation, maintenance, and use of mitigation banks and offsite
 18 regional mitigation. Mitigation banks and offsite regional
 19 mitigation can enhance the certainty of mitigation and provide
 20 ecological value due to the improved likelihood of environmental
 21 success associated with their proper construction, maintenance,
 22 and management. Therefore, the department and the water
 23 management districts are directed to participate in and
 24 encourage the establishment of private and public mitigation
 25 banks and offsite regional mitigation. Mitigation banks and
 26 offsite regional mitigation should emphasize the restoration and
 27 enhancement of degraded ecosystems and the preservation of
 28 uplands and wetlands as intact ecosystems rather than alteration
 29 of landscapes to create wetlands. This is best accomplished

Page 1 of 3

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

578-02722-19

2019532c1

30 through restoration of ecological communities that were
 31 historically present.
 32 (b) The Legislature recognizes the importance of mitigation
 33 banks as an appropriate and allowable mitigation alternative to
 34 permittee-responsible mitigation. However, the Legislature also
 35 recognizes that certain timing and geographical constraints
 36 could result in the unavailability of mitigation bank credits
 37 for a certain project upon completion of the project's
 38 application. If state and federal mitigation credits are not
 39 available to offset the adverse impacts of a project, a local
 40 government may allow permittee-responsible mitigation consisting
 41 of the restoration or enhancement of lands purchased and owned
 42 by a local government for conservation purposes, and such
 43 mitigation must conform to the permitting requirements of s.
 44 373.4136. Except where a local government has allowed a public
 45 or private mitigation project to be created on land it has
 46 purchased for conservation purposes pursuant to this paragraph
 47 ~~Notwithstanding the provisions of this section,~~ a governmental
 48 entity may not create or provide mitigation for a project other
 49 than its own unless the governmental entity uses land that was
 50 not previously purchased for conservation and unless the
 51 governmental entity provides the same financial assurances as
 52 required for mitigation banks permitted under s. 373.4136. This
 53 paragraph does not apply to:
 54 1. Mitigation banks permitted before December 31, 2011,
 55 under s. 373.4136;
 56 2. Offsite regional mitigation areas established before
 57 December 31, 2011, under subsection (6);
 58 3. Mitigation for transportation projects under ss.

Page 2 of 3

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

578-02722-19

2019532c1

59 373.4137 and 373.4139;

60 4. Mitigation for impacts from mining activities under s.

61 373.41492;

62 5. Mitigation provided for single-family lots or homeowners
63 under subsection (7);

64 6. Entities authorized in chapter 98-492, Laws of Florida;

65 7. Mitigation provided for electric utility impacts
66 certified under part II of chapter 403; or

67 8. Mitigation provided on sovereign submerged lands under
68 subsection (6).

69 Section 2. This act shall take effect July 1, 2019.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/19/19

Meeting Date

532

Bill Number (if applicable)

722726

Amendment Barcode (if applicable)

Topic Wetlands Mitigation

Name Frank Bernardino

Job Title Partner

Address 201 West Park Ave Suite 100

Phone 561/718-2345

Street

Tallahassee

FL

32301

Email Frank@andfieldflorida.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Palm Beach County

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/19/19

Meeting Date

CS/SB 532

Bill Number (if applicable)

Topic Wetland Mitigation

Amendment Barcode (if applicable)

Name Trish Neely

Job Title Board Member

Address 2024 Shangri La Lane

Phone 850 322 3317

Street

Tally FL 32303

Email _____

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing League Women Voters

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/19/19
Meeting Date

SB 532
Bill Number (if applicable)

Topic Wetland Mitigation

Amendment Barcode (if applicable)

Name Andrew Ketchel

Job Title Consultant / Capitol City Consulting

Address 101 E. College Ave.
Street
Tallahassee FL 32301
City State Zip

Phone _____

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Lennar Homes

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/19/19

Meeting Date

532

Bill Number (if applicable)

Topic Wetland Mitigation

Amendment Barcode (if applicable)

Name Edward Briggs

Job Title Consultant

Address 113 E. College Ave.

Phone 850-933-5994

Street

Tallahassee FL 32301

City

State

Zip

Email edward@rsacounseling.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Highland Homes

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/19/19

Meeting Date

532

Bill Number (if applicable)

Topic Wetland Mitigation

Amendment Barcode (if applicable)

Name Rusty Payton

Job Title CEO

Address 2600 Centennial Pkwy

Phone 567-1073

Street

Tallahassee FL 32308

Email rpayton@fhba.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Home Builders Assoc.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

3-19-19

Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

532

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name JESS MCCARTY

Job Title ASSISTANT COUNTY ATTORNEY

Address 111 NW 1ST STREET, SUITE 2810

Phone 305-979-7110

Street

MIAMI

FL

33128

Email JMM2@MIAMIDADE.GOV

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing MIAMI-DADE COUNTY

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

The Florida Senate
COMMITTEE VOTE RECORD

COMMITTEE: Appropriations Subcommittee on Agriculture, Environment, and General Government
ITEM: CS/SB 532
FINAL ACTION: Favorable
MEETING DATE: Tuesday, March 19, 2019
TIME: 10:00 a.m.—12:00 noon
PLACE: 110 Senate Building

| FINAL VOTE | | SENATORS | 3/19/2019 Amendment 722726 | | | | | |
|------------|------------|--------------------|-------------------------------|------------|------------|------------|------------|------------|
| Yea | Nay | | Yea | Nay | Yea | Nay | Yea | Nay |
| X | | Albritton | | | | | | |
| X | | Bean | | | | | | |
| X | | Berman | | | | | | |
| X | | Broxson | | | | | | |
| X | | Hooper | | | | | | |
| X | | Hutson | | | | | | |
| | X | Rodriguez | | | | | | |
| X | | Stewart | | | | | | |
| X | | Powell, VICE CHAIR | | | | | | |
| X | | Mayfield, CHAIR | | | | | | |
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| 9 | 1 | TOTALS | - | WD | | | | |
| Yea | Nay | | Yea | Nay | Yea | Nay | Yea | Nay |

CODES: FAV=Favorable RCS=Replaced by Committee Substitute TP=Temporarily Postponed WD=Withdrawn
 UNF=Unfavorable RE=Replaced by Engrossed Amendment VA=Vote After Roll Call OO=Out of Order
 -R=Reconsidered RS=Replaced by Substitute Amendment VC=Vote Change After Roll Call AV=Abstain from Voting

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 Appropriations Subcommittee on Agriculture, Environment, and General Government

BILL: PCS/CS/SB 626 (973990)

INTRODUCER: Appropriations Subcommittee on Agriculture, Environment, and General Government; Banking and Insurance Committee; and Senators Brandes and Broxson

SUBJECT: Insurer Guaranty Associations

DATE: March 21, 2019 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|-----------------------------|-----------------------------|------------|-----------------------------|
| 1. | <u>Johnson</u> | <u>Knudson</u> | <u>BI</u> | <u>Fav/CS</u> |
| 2. | <u>Babin/Davis</u> | <u>Betta</u> | <u>AEG</u> | <u>Recommend: Fav/CS</u> |
| 3. | <u> </u> | <u> </u> | <u>AP</u> | <u> </u> |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 626 revises provisions relating to the Florida Life and Health Insurance Guaranty Association (association or FLAHIGA)¹ and the Florida Health Maintenance Organization Consumer Assistance Plan (HMOCAP).² In response to recent long-term care insurer insolvencies, the bill incorporates some recent changes made to a National Association of Insurance Commissioners' (NAIC) model act and additional recommendations of stakeholders. The bill:

- Expands the assessment base of the association to fund long-term care insurer impairments and insolvencies by including health maintenance organizations (HMOs), life insurers, and annuity insurers. Any assessments related to a long-term care insurer would be allocated 50 percent to health member insurers and HMOs, and the remaining 50 percent to life and annuity member insurers. Total assessments on member insurers and HMOs are capped at 0.5 percent of premiums per year. Currently, only health insurers are assessed.
- Exempts any nonprofit HMO from the long-term care insurance assessment if it operates only in Florida and has statutory capital and surplus of less than \$200 million as of December 31 of the year preceding the year in which the assessment is made.

¹ The purpose of the association is to protect policyholders against failure in the performance of contractual obligations under life and health insurance policies and annuity contracts due to the impairment or insolvency of the member insurer that issued the policies or contracts.

² The purpose of the HMOCAP is to protect subscribers enrolled with HMOs, subject to certain limitations, against the failure of their HMO to perform its contractual obligations due to its insolvency.

- Increases the number of directors that may be on the association's board and requires that one director be a member director of the HMOCAP.

The bill has an indeterminate fiscal impact on the corporate income tax and an indeterminate fiscal impact on the insurance premium tax, both on a recurring basis. See Section V.

The bill takes effect upon becoming a law.

II. Present Situation:

People need long-term care when they are unable to take care of themselves. Long-term care services may include assistance with activities of daily living, home health care, respite care, hospice care, adult day care, or care in an assisted living facility or nursing home. Current estimates suggest the annual costs of care in a nursing home are \$85,000, and home health care can cost upwards of \$25,000 per year. The demand for long-term care has increased significantly, as people live longer and the U.S. population ages.³

Insurer Insolvency

States primarily regulate insurance companies, and the state of domicile serves as the primary regulator for insurers. In Florida, the Office of Insurance Regulation (OIR) licenses and regulates the activities of insurers and other risk-bearing entities.⁴ The OIR monitors the solvency of insurers, examines insurers, and takes administrative action, if necessary.⁵

Federal law provides that insurance companies may not file for bankruptcy.⁶ The state, through the Division of Rehabilitation and Liquidation of the Department of Financial Services (DFS), is instead responsible for rehabilitating or liquidating an insurer.⁷ If an insurer is found to be insolvent and is ordered to be liquidated by a court, a receiver takes over the insurer under court supervision and processes the assets and liabilities through liquidation. Generally, once an insurance company is liquidated, an insurance guaranty association becomes liable for the policy or contract obligations of the liquidated insurance company. Insurance guaranty funds are designed to protect policyholders of liquidated insurers from financial losses and delays in claim payments, up to limits provided by law. The Florida Legislature has created five guaranty funds.⁸

³ National Association of Insurance Commissioners, *Long Term Care Insurance Fact Sheet*, May 2018, available at https://www.naic.org/documents/consumer_alert_ltc.htm (last viewed Feb. 27, 2019). Life expectancy after age 65 is now 19.4 years. From 2015 to 2055, the number of people aged 85 and older is expected to almost triple from over six million to over 18 million.

⁴ Section 20.121(3), F.S.

⁵ Part VI, ch. 624, F.S.

⁶ The Bankruptcy Code expressly provides that "a domestic insurance company" may not be the subject of a federal bankruptcy proceeding. 11 U.S.C. s. 109(b)(2). The exclusion of insurers from the federal bankruptcy court process is consistent with federal policy generally allowing states to regulate the business of insurance. *See* 15 U.S.C. ss. 1011- 1012.

⁷ Sections 631.051 and 631.061, F.S. Chapter 631, F.S., governs the receivership process for insurance companies in Florida.

⁸ See parts II-V of ch. 631, F.S. and s. 440.385, F.S. (The Florida Insurance Guaranty Association, Florida Life and Health Insurance Guaranty Association, Florida Health Maintenance Organization Consumer Assistance Plan, Florida Workers' Compensation Insurance Guaranty Association, and the Florida Self-Insurers Guaranty Association, respectively.)

Florida Life and Health Insurance Guaranty Association

Part III of ch. 631, F.S., governs the powers and duties of the Florida Life and Health Insurance Guaranty Association (association or FLAHIGA).⁹ The association services covered policies and contracts, collects premiums, and pays valid claims.¹⁰ All insurers authorized to write life insurance policies, health insurance policies, supplemental contracts, and annuity contracts (with exceptions) in Florida are required, as a condition of doing business in this state, to be member insurers of the association.¹¹ Currently, the association does not provide coverage for or assess health maintenance organizations.¹²

The association's aggregate liability with respect to one life may not exceed the following:

- Life Insurance Death Benefit: \$300,000 per insured life.
- Life Insurance Cash Surrender: \$100,000 per insured life.
- Health Insurance or Long-term Care Insurance Claims: \$300,000 per insured life.
- Annuity Cash Surrender: \$250,000 for deferred annuity contracts per contract owner.
- Annuity in Benefit: \$300,000 per contract owner.¹³

The board of directors of the association must be composed of not fewer than five but not more than nine member insurers.¹⁴ At least one member of the board must be a domestic insurer.¹⁵ The member insurers elect the members of the board, and the members of the board are subject to the approval of the DFS. In approving or appointing members to the board, the DFS must consider whether all member insurers are represented fairly.

The association has three operating accounts: health insurance, life insurance, and annuity for purposes of administration and assessments.¹⁶ The association may impose Class A assessments for administrative costs¹⁷ and Class B assessments to administer its duties relating to impaired or insolvent insurers.¹⁸ Class B assessments are calculated based on the premiums collected by each assessed member insurer on policies or contracts covered for each account in proportion to premiums collected by all assessed member insurers for the three most recent calendar years. Florida law limits assessments on a member insurer to a maximum of one percent of the sum of the insurer's written premium in Florida regarding business covered by the account received

⁹ In 1979, the Florida Legislature enacted provisions of the National Association of Insurance Commissioners' *Life and Health Insurance Guaranty Association Model Act*, which created FLAHIGA. Ch. 79-189, L.O.F. The National Association of Insurance Commissioners (NAIC) is a voluntary association of insurance regulators from all 50 states. The NAIC coordinates regulation and examination of multistate insurers, provides a forum for addressing major insurance issues, and promotes uniform model laws among the states.

¹⁰ See association's website available at <http://www.flahiga.org/aboutus.cfm> (last viewed Feb. 18, 2019).

¹¹ Sections 631.713 and 631.715, F.S.

¹² Section 631.713(3)(e), F.S.

¹³ Section 631.717(9), F.S. FLAHIGA, *Frequently Asked Questions*, available at <https://www.flahiga.org/FAQ> (last viewed Feb. 28, 2019).

¹⁴ Section 631.716(1), F.S.

¹⁵ Section 624.06, F.S.

¹⁶ Section 631.715(2), F.S.

¹⁷ Section 631.718(2) and (3), F.S.

¹⁸ *Id.*

during the three calendar years preceding the year in which the assessment is made, divided by three.¹⁹

Member insurers of the association may offset the amount of an assessment against the insurance premium tax or corporate income tax.²⁰ The credit may be taken in an amount of five percent of the assessments for each of the 20 years following the year in which the assessment was paid.²¹

Florida Health Maintenance Organization Consumer Assistance Plan (HMOCAP)

Part IV of ch. 631, F.S., creates the HMOCAP. The purpose of the HMOCAP is to protect subscribers of commercial health maintenance organizations (HMOs) against the risk of harm resulting from an HMO's insolvency. All HMOs authorized in Florida are required to be members.²² The board of directors of the HMOCAP must consist of at least five and not more than nine persons.²³ Member HMOs select board members, and the board members are subject to approval by the DFS. Coverage by the HMOCAP²⁴ ceases six months after the date of the insolvency; once the HMOCAP has provided \$300,000 in covered benefits; or when a subscriber obtains coverage with another HMO or health insurer.

To provide funds for the administration of the plan and the payment of claims, the plan may assess members of the plan to fund claims paid by the plan.²⁵ Assessments against member HMOs are levied as a percentage of annual earned premium revenue for non-Medicare and non-Medicaid contracts. The assessment in any calendar year may not exceed 0.5 percent of each member HMO's annual earned premium revenue for non-Medicare and non-Medicaid contracts.²⁶

Section 631.828, F.S., allows a member HMO to offset against its corporate income tax liability or other liabilities, on an individual or consolidated basis, as applicable, any assessments described in s. 631.819, F.S. The credit may be taken to the extent of 20 percent of the amount of such assessment for each of the five calendar years following the year in which such assessment was paid.

Long-term Care Insurance and Insolvencies

Many individuals buy long-term care insurance policies²⁷ to help pay for some of their long-term care needs. Despite the growing long-term care need, the number of long-term care insurance policies have fallen from 754,000 in 2002 to 129,000 in 2014. The number of insurers offering

¹⁹ Section 631.718(5), F.S.

²⁰ Section 631.72, F.S.

²¹ *Id.*

²² Section 631.815, F.S.

²³ Section 631.816, F.S.

²⁴ Section 631.817, F.S.

²⁵ Section 631.819, F.S.

²⁶ Section 631.819(3), F.S.

²⁷ In Florida, a long-term care insurance policy is any insurance policy or rider advertised, marketed, offered, or designed to provide coverage on an expense-incurred, indemnity, prepaid, or other basis for one or more necessary or medically necessary diagnostic, preventive, therapeutic, curing, treating, mitigating, rehabilitative, maintenance, or personal care services provided in a setting other than an acute care unit of a hospital. Section 627.9404, F.S.

the coverage has declined from about 100 in 2002 to about 12 today.²⁸ This may be attributable to the premium rates for newly issued policies increasing as the remaining issuers of existing policies have refined their pricing due to inaccurate pricing assumptions relating to claim costs, mortality, interest rates, and policy lapses, which lead to an underpriced product.

Funding Claims of Insolvent Insurers

In 2017, Penn Treaty,²⁹ which was domiciled in Pennsylvania, was liquidated. The insurer wrote approximately 75,000 (primarily long-term care insurance) policies.³⁰ The insolvency is expected to be the second-largest insolvency in insurance guaranty fund history (the largest for an accident and health insurer).³¹ As of December 31, 2018, there were 7,468 in-force policies in Florida.³²

According to the NAIC, all states regulate long-term care insurance as health insurance.³³ The Penn Treaty insolvency resulted in health insurers bearing the majority of the assessments because long-term care insurance is classified as health insurance. Life insurers, however, wrote the majority of long-term care insurance premiums. In Florida, health insurers have paid almost \$336 million in assessments for the Penn Treaty insolvency.³⁴ The estimated actuarial liability on December 31, 2018, which is subject to change, was \$110 million.³⁵

NAIC Life and Health Insurance Guaranty Association Model Act

To address concerns with guaranty fund coverage and assessments for any future long-term care insurer insolvency, the NAIC modified the *Life and Health Insurance Guaranty Association Model Act* to expand the assessment base to include HMOs, life and annuity insurers for funding long-term care insurer insolvencies and impairments. Assessments for long-term care impairments and insolvencies are allocated equally between the life and health accounts. The NAIC clarifies the authority of the guaranty associations to adjust rates and coverage in the case of liquidation. Further, the NAIC clarifies that federal programs, such as Medicare and Medicaid, are excluded from the assessment base. Life and annuity policies with long-term care insurance riders are considered the same as the underlying product, not as a health insurance product.

²⁸ NAIC, *Long-term Care Challenges*, Jan. 14, 2019, available at https://www.naic.org/cipr_topics/topic_long_term_care.htm (last viewed Feb. 10, 2019).

²⁹ Penn Treaty collectively includes Penn Treaty Network America Insurance Company and its affiliate, American Network Insurance Company.

³⁰ National Organization of Life and Health Insurance Guaranty Associations (NOLHGA), *Guaranty System to Provide Safety Net for Policyholders of Penn Treaty/American Network Insurance Companies*, Mar. 1, 2017) available at <https://www.nolhga.com/resource/file/NOLHGAPennTreatyPressReleaseFINAL.pdf> (last viewed Feb. 20, 2019).

³¹ Chicago Fed Letter, *The risks of pricing new insurance products: The case of long-term care*, 2018 Number 397.

³² Correspondence from FLAHIGA, Feb. 24, 2019, on file with Senate Banking and Insurance Committee.

³³ NAIC and NOLHGA, *State of the U.S. long-term care insurance industry*, March 30, 2017.

³⁴ Assessments paid from 2015 to 2019. Correspondence on file with the Senate Committee on Banking and Insurance.

³⁵ *Id.*

III. Effect of Proposed Changes:

Florida Life and Health Insurance Guaranty Association (association or FLAHIGA) (Sections 1-7)

Section 1 amends s. 631.713, F.S., to revise application of this part and subject HMOs to Class B assessments for long-term care insurer impairments or insolvencies. Currently, HMOs are exempt from assessments by the association. The section removes the interest rate cap for FLAHIGA coverage for long-term care or any other health insurance benefit as many long-term care policies contain inflation protection benefits that exceed the current interest rate cap.³⁶ The section clarifies that the association does not provide coverage for federal programs (Medicare, Medicaid, or Children's Health Insurance program)³⁷ and certain structured settlement annuity benefits.

Section 2 amends 631.716, F.S., to revise the board of directors for the association by increasing the maximum number of members from nine to 11. One member of the HMOCAP board of directors, or alternate, must serve on the association's board of directors and has the right to attend all board meetings and has full voting rights on all issues. The association board of directors must confirm, subject to approval by the DFS, the HMOCAP member.

Section 3 amends s. 631.717, F.S., to revise the powers and duties of the association. The section provides that, in the event of a long-term care insurer impairment or insolvency, the association is required to coordinate its activities with the HMOCAP, including the development of any plan for administering the impairment or insolvency. Further, the association is required to share information, including data, with and assist, if applicable, the HMOCAP with the administration and collection of member HMO assessments for long-term care insurer impairments or insolvencies.

The section clarifies that the association's maximum coverage for long-term care policies is \$300,000, and that any portion of a long-term care rider to a life insurance policy or annuity contract is considered the same type of benefit as the base life insurance policy or annuity contract to which the rider relates. The section also provides technical changes.

The association is authorized to file with the OIR for actuarially justified rate or premium increases for any policy or contract for which it provides coverage under part III of ch. 631, F.S., if certain conditions are met. The approval authority for the association to issue certain alternative policies or contracts is changed from the receivership court to the DFS. The association is authorized to reissue policies or contracts.

Section 4 amends s. 631.718, F.S., to establish an assessment methodology for long-term care insurer insolvencies and impairments that is subject to approval by the DFS. The methodology must provide for 50 percent of the assessment to be allocated to health member insurers and 50

³⁶ Office of Insurance Regulation, *2019 Agency Legislative Bill Analysis of Senate Bill 626* (Feb. 6, 2019) (on file with the Appropriations Subcommittee on Agriculture, Environment, and General Government).

³⁷ The program, established pursuant to Title XXI of the U.S. Social Security Act, is a program administered by the United States Department of Health and Human Services that provides matching funds to states for health insurance to families with children.

percent to be allocated to life and annuity member insurers. The health members' share of the assessment is calculated by including the assessable premiums of member HMOs of the HMOCAP.

The total assessment for long-term care impairments or insolvencies upon a member insurer or member HMO may not exceed 0.5 percent in any one calendar year of the sum of the member insurer or member HMO premiums written in Florida covered by the account received during the calendar year preceding the year in which the assessment is made. If this information is unavailable, the member insurers of the association or the member HMOs of the HMOCAP may use other premium information.

Section 5 amends s. 631.721, F.S., to require the association to revise its plan of operation to provide for the coordination of efforts between the association and the HMOCAP in regards to assessments for long-term care insurer impairments or insolvencies.

Section 6 creates s. 631.738, F.S., relating to applicability as to certain member insurers and HMOs, to exempt any member insurer from long-term care assessment obligations if the member insurer has been adjudged insolvent by a court of competent jurisdiction, or has been determined insolvent by the DFS on or before the effective date of this act. The section also exempts any nonprofit HMO from the assessment if it operates only in Florida and has statutory capital and surplus of less than \$200 million as of December 31 of the year preceding the year in which the assessment is made.

Florida Health Maintenance Organization Consumer Assistance Plan (Sections 7 through 11)

Sections 7 through 10 amend ss. 631.816, 631.818, 631.819, and 631.820, F.S. The HMOCAP is required to designate one representative to serve on the association's board of directors, subject to approval by the DFS. In the event of a long-term care insurer impairment or insolvency, the HMOCAP must:

- Collect and transmit all information requested by the association to determine the appropriate assessment base;
- Levy and collect assessments from member HMOs;
- Coordinate the administration and collection of member assessments with the association insolvency;
- Issue a certificate of contribution to each member HMO paying a long-term care insurer assessment; and
- Revise the plan of operations by including procedures for coordinating the administration and collection of member HMO assessments with the association.

Section 11 amends s. 631.821, to provide a technical conforming change.

Section 12 provides the amendments made by the bill to ss. 631.713, 631.717, 631.718, 631.721, 631.818, 631.819, and 631.820, F.S., relating to long-term care assessment obligations apply only to long-term care assessment obligations assessed as a result of an insurer being adjudged insolvent by a court of competent jurisdiction or being determined by the OIR to be impaired on or after the effective date of this bill.

Section 13 directs the Division of Law Revision to replace the phrase, “effective date of this act” wherever it occurs in this act with the date this act becomes law.

Section 14 provides this bill will take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The expansion of the assessment base will provide access to more funds for the payment of policyholder claims in a more expedient manner.

For future impairments or insolvencies of long-term care insurers, life and annuity insurers and HMOs would be subject to assessments; however the fiscal impact is indeterminate. The bill exempts any nonprofit HMO operating only in Florida that has statutory capital and surplus of less than \$200 million, as of December 31 of the year preceding the year the assessment is made, from the assessment obligation.

Subject to certain conditions, assessments may offset insurance premium tax liabilities or corporate income tax liabilities. Currently only health insurers are subject to assessments. This would expand the assessment base, and potentially reduce future assessments for health insurers.

C. Government Sector Impact:

According to the Revenue Estimating Conference, any impact of the bill is dependent upon future insolvencies and the size and timing of future assessments. The bill is expected to have an indeterminate fiscal impact on the corporate income tax and an offsetting indeterminate fiscal impact on the insurance premium tax, both on a recurring basis.³⁸

VI. Technical Deficiencies:

Section 6 of the bill provides that the DFS or the OIR may determine whether an insurer is impaired. The OIR makes the initial determination on whether an insurer is impaired.

Section 6 exempts “any nonprofit health maintenance organization that operates only in this state” and meets certain capital and surplus requirements. The section could be clarified by amending it to exempt “any member nonprofit member health maintenance organization of the Florida Health Maintenance Organization Consumer Assistance Plan transacting business only in this state...”

VII. Related Issues:

The NAIC’s *Life and Health Insurance Guaranty Association Model Act* does not provide an assessment exemption for nonprofit entities that meet certain capital or surplus requirements.

However, ss. 631.718 and 631.819, F.S., authorize the association and the HMOCAP, respectively, to defer temporarily, in whole or in part, the assessment of a member if, in the opinion of the board, payment of an assessment would endanger the ability of the insurer or HMO to fulfill its contractual obligations.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 631.713, 631.716, 631.717, 631.718, 631.721, 631.816, 631.818, 631.819, 631.820, and 631.821.

This bill creates section 631.738 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

Recommended CS/CS by Appropriations Subcommittee on Agriculture, Environment, and General Government on March 19, 2019:

The committee substitute:

- Deletes the term and definition of “long-term care assessment obligations.”

³⁸ Revenue Estimating Conference, *Insurance Premium Tax/Corporate Income Tax, SB 626*, Feb. 15, 2019, available at <http://edr.state.fl.us/Content/> (last viewed Mar. 11, 2019).

- Clarifies the HMOCAP director who is added to the board of the FLAHIGA cannot be a FLAHIGA member that is currently serving on the FLAHIGA's board.
- Deletes proposed assessments against accident member insurers for long-term care providers' insolvencies.
- Replaces the "department" with "office" referring to the OIR instead of the DFS; and
- Clarifies the applicable provisions of the bill are not retroactive.

CS by Banking and Insurance on March 4, 2019:

The CS:

- Exempts any nonprofit HMO from the assessment if it operates only in Florida and has statutory capital and surplus of less than \$200 million as of December 31 of the year preceding the year in which the assessment is made; and
- Provides technical, clarifying changes.

B. Amendments:

None.



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LEGISLATIVE ACTION

| Senate | . | House |
|------------|---|-------|
| Comm: RCS | . | |
| 03/19/2019 | . | |
| | . | |
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Appropriations Subcommittee on Agriculture, Environment, and
General Government (Brandes) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (3) of section 631.713, Florida
Statutes, is amended to read:

631.713 Application of part.—

(3) This part does not apply to:

(a) That portion or part of a variable life insurance
contract or variable annuity contract not guaranteed by an



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11 insurer.

12 (b) That portion or part of any policy or contract under
13 which the risk is borne by the policyholder.

14 (c) Any policy or contract or part thereof assumed by the
15 impaired or insolvent insurer under a contract of reinsurance,
16 other than reinsurance for which assumption certificates have
17 been issued.

18 (d) Fraternal benefit societies as defined in s. 632.601.

19 (e) Health maintenance organizations, except for
20 assessments levied pursuant to ss. 631.715(2)(a)1.,
21 631.718(3)(b), and 631.819(2)(c) for long-term care insurer
22 impairments or insolvencies insurance.

23 (f) Dental service plan insurance.

24 (g) Pharmaceutical service plan insurance.

25 (h) Optometric service plan insurance.

26 (i) Ambulance service association insurance.

27 (j) Preneed funeral merchandise or service contract
28 insurance.

29 (k) Prepaid health clinic insurance.

30 (l) Any annuity contract or group annuity contract that is
31 not issued to and owned by an individual, except to the extent
32 of any annuity benefits:

33 1. Guaranteed directly and not through an intermediary to
34 an individual by an insurer under such contract or certificate;

35 2. Under an annuity issued by an insurer under 26 U.S.C. s.
36 408(b); or

37 3. Under an annuity issued by an insurer and held by a
38 custodian or trustee in accordance with 26 U.S.C. s. 408(a).
39



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40 This paragraph applies to every insolvency regardless of its
41 date of inception, and an assessment base may not include
42 premiums for such excluded products.

43 (m) Any federal employees' group policy or contract that,
44 under 5 U.S.C. s. 8909(f), is prohibited from being subject to
45 an assessment under s. 631.718.

46 (n) Except as provided in this paragraph, a portion of a
47 policy or contract, to the extent that the rate of interest on
48 which the policy or contract is based, or the interest rate,
49 crediting rate, or similar factor determined by use of an index
50 or other external reference stated in the policy or contract
51 employed in calculating returns or changes in value:

52 1. Averaged over the period of 4 years immediately
53 preceding the date on which the member insurer becomes an
54 impaired or insolvent insurer under this part, whichever is
55 earlier, exceeds the rate of interest determined by subtracting
56 2 percentage points from Moody's Corporate Bond Yield Average
57 averaged for that same 4-year period or for such lesser period
58 if the policy or contract was issued less than 4 years before
59 the member insurer becomes an impaired or insolvent insurer
60 under this part, whichever is earlier; and

61 2. On and after the date on which the member insurer
62 becomes an impaired or insolvent insurer under this part,
63 whichever is earlier, exceeds the rate of interest determined by
64 subtracting 3 percentage points from the most current version of
65 Moody's Corporate Bond Yield Average.

66
67 This paragraph does not apply to any portion of a policy or
68 contract, including a rider, which provides long-term care or



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69 any other health insurance benefit.

70 (o) A portion of a policy or contract to the extent the
71 policy or contract provides for interest or other changes in
72 value to be determined by the use of an index or other external
73 reference stated in the policy or contract, but which has not
74 been credited to the policy or contract, or as to which the
75 policy or contract owner's rights are subject to forfeiture, as
76 of the date the member insurer becomes an impaired or insolvent
77 insurer under this part. However, if the interest or change in
78 value is credited less frequently than annually as determined by
79 using the procedures defined in the policy or contract, interest
80 or change in value shall be credited by using the procedure
81 defined in the policy or contract as if the contractual date of
82 crediting interest or changing values was the date of impairment
83 or insolvency, whichever is earlier, and shall not be subject to
84 forfeiture.

85 (p) A policy or contract providing any hospital, medical,
86 prescription drug, or other health care benefits pursuant to
87 Title XVIII (Medicare), Title XIX (Medicaid), or Title XXI (the
88 Children's Health Insurance Program) of the Social Security Act
89 Medicare part C or part D or any regulations promulgated
90 thereunder issued pursuant to Medicare Part C or Part D.

91 (q) Structured settlement annuity benefits to which a
92 payee, or a beneficiary if the payee is deceased, has
93 transferred his or her rights in a structured settlement
94 factoring transaction, as that term is defined in 26 U.S.C. s.
95 5891(c)(3)(A).

96 Section 2. Subsection (1) of section 631.716, Florida
97 Statutes, is amended to read:



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98 631.716 Board of directors.-

99 (1) (a) The board of directors of the association shall have
100 at least 9, but no more than 11, members. The members shall be
101 comprised of ~~not fewer than five nor more than nine~~ member
102 insurers, serving terms as established in the plan of operation
103 and 1 Florida Health Maintenance Organization Consumer
104 Assistance Plan director confirmed pursuant to paragraph (b). At
105 all times, at least 1 ~~one~~ member of the board must ~~shall~~ be a
106 domestic insurer as defined in s. 624.06(1). The members of the
107 board who are member insurers shall be elected by member
108 insurers, subject to the approval of the department.

109 (b) The board shall confirm, subject to the approval of the
110 department, the Florida Health Maintenance Organization Consumer
111 Assistance Plan director. The confirmed director must not be a
112 member insurer serving on the board of the association. The
113 director confirmed to the board must be designated by the
114 Florida Health Maintenance Organization Consumer Assistance
115 Plan's board of directors to serve on the board and represent
116 the interests of the Florida Health Maintenance Organization
117 Consumer Assistance Plan and its board of directors. An
118 individual serving as a Florida Health Maintenance Organization
119 Consumer Assistance Plan director on the board must be a member
120 of the Florida Health Maintenance Organization Consumer
121 Assistance Plan's board of directors. The Florida Health
122 Maintenance Organization Consumer Assistance Plan director, or
123 his or her alternate, has the right to be present at all
124 meetings of the board and has full voting rights on all issues.

125 (c) A vacancy on the board shall be filled for the
126 remaining period of the term by a majority vote of the remaining



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127 board members, subject to the approval of the department. ~~Prior~~
128 ~~to the selection of the initial board of directors and the~~
129 ~~organization of the association, the department shall give~~
130 ~~notice to all member insurers of the time and place of the~~
131 ~~organizational meeting. At the organizational meeting, each~~
132 ~~member insurer shall be entitled to one vote, in person or by~~
133 ~~proxy. If the board of directors is not elected within 60 days~~
134 ~~after notice of the organizational meeting, the department may~~
135 ~~appoint the initial members.~~

136 Section 3. Present subsections (9) through (12) of section
137 631.717, Florida Statutes, are redesignated as subsections (12)
138 through (15), respectively, new subsections (9), (10), and (11)
139 are added to that section, subsections (2) and (3), paragraph
140 (c) of present subsection (9), and paragraph (g) of present
141 subsection (12) are amended, and paragraph (h) is added to
142 present subsection (12) of that section, to read:

143 631.717 Powers and duties of the association.—

144 (2) If a domestic insurer is an insolvent insurer, the
145 association shall, subject to the approval of the department:

146 (a) Guarantee, assume, reissue, or reinsure, or cause to be
147 guaranteed, assumed, reissued, or reinsured, the covered
148 policies of persons referred to in s. 631.713(2); and

149 (b) Provide moneys, pledges, notes, guarantees, or other
150 means that are proper and reasonably necessary to implement
151 paragraph (a) in order to assure payment of the contractual
152 obligations of the insolvent insurer with regard to persons
153 referred to in s. 631.713(2).

154 (3) If a foreign or alien insurer is an insolvent insurer,
155 the association shall, subject to the approval of the



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156 department:

157 (a) Guarantee, assume, reissue, or reinsure, or cause to be
158 guaranteed, assumed, reissued, or reinsured, the covered
159 policies of residents of this state; and

160 (b) Provide moneys, pledges, notes, guarantees, or other
161 means that are proper and reasonably necessary to implement
162 paragraph (a) in order to assure payment of the contractual
163 obligations of the insolvent insurer with regard to persons
164 referred to in s. 631.713(2).

165

166 However, this subsection does not apply when the department has
167 determined that the foreign or alien insurer's domiciliary
168 jurisdiction or state of entry provides, by statute, protection
169 substantially similar to that provided by this part for
170 residents of this state.

171 (9) For purposes of this part, benefits provided by a long-
172 term care rider to a life insurance policy or annuity contract
173 are considered the same type of benefits as the base life
174 insurance policy or annuity contract to which the rider relates.

175 (10) In the event of a potential long-term care insurer
176 impairment or insolvency, the association shall coordinate its
177 activities with the Florida Health Maintenance Organization
178 Consumer Assistance Plan, including the development of any plan
179 for handling the administration of the impairment or insolvency.

180 (11) The association shall share information, including
181 data, with and assist, as applicable, the board of directors of
182 the Florida Health Maintenance Organization Consumer Assistance
183 Plan with the administration and collection of member health
184 maintenance organization assessments for long-term care insurer



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185 impairments or insolvencies pursuant to ss. 631.715(2)(a)1.,
186 631.718(3)(b), 631.818(2), and 631.819(2)(c).

187 (12)(9) The association's liability for the contractual
188 obligations of the insolvent insurer must be as great as, but no
189 greater than, the contractual obligations of the insurer in the
190 absence of such insolvency, unless such obligations are reduced
191 as permitted by subsection (4), but the aggregate liability of
192 the association with respect to one life shall not exceed the
193 following:

194 (c) For all other benefits, including in long-term care
195 policies, \$300,000, including cash values, except as provided in
196 paragraph (d).

197
198 In no event is the association liable for any penalties or
199 interest.

200 (15)(12)

201 (g) In carrying out its duties in connection with
202 guaranteeing, assuming, reissuing, or reinsuring policies or
203 contracts under subsections (2) and (3), the association may,
204 subject to approval of the department receivership court, issue
205 an alternative policy or contract to substitute coverage for a
206 policy or contract providing that provides an interest rate,
207 crediting rate, or similar factor that was determined by use of
208 an index or other external reference stated in the policy or
209 contract and employed in calculating returns or changes in value
210 by issuing an alternative policy or contract. In lieu of the
211 index or other external reference provided for in the original
212 policy or contract, the alternative policy or contract must
213 provide for a fixed interest rate, payment of dividends with



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214 minimum guarantees, or a different method for calculating
215 interest or changes in value. In such case:

216 1. There is no requirement for evidence of insurability,
217 waiting period, or other exclusion that would not have applied
218 under the replaced policy or contract.

219 2. The alternative policy or contract shall be
220 substantially similar to the replaced policy or contract in all
221 other material terms.

222 (h) In accordance with the terms and conditions of the
223 policy or contract, the board may directly file for actuarially
224 justified rate or premium increases for any policy or contract
225 for which it provides coverage under this part.

226 Section 4. Paragraph (b) of subsection (3), paragraph (a)
227 of subsection (5), and subsection (8) of section 631.718,
228 Florida Statutes, are amended to read:

229 631.718 Assessments.—

230 (3)

231 (b)1. The amount of any Class B assessment, except for
232 assessments related to long-term care insurance, must ~~shall~~ be
233 allocated for assessment purposes among the accounts pursuant to
234 an allocation formula, which may be based on the premiums or
235 reserves of the impaired or insolvent insurer.

236 2. The amount of the Class B assessment for long-term care
237 insurance written by the impaired or insolvent insurer must be
238 allocated according to a methodology included in the plan of
239 operation and approved by the department. The methodology must
240 provide for 50 percent of the assessment to be allocated to
241 health member insurers and 50 percent to be allocated to life
242 and annuity member insurers.



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243 3. For the purposes of the methodology outlined in
244 subparagraph 2. and included in the plan of operation, the
245 health member insurers' share of the assessment must be
246 calculated by including the assessable premiums of member health
247 maintenance organizations of the Florida Health Maintenance
248 Organization Consumer Assistance Plan.

249 (5) (a) 1. The total of all assessments upon a member insurer
250 for each account may not in any one calendar year exceed 1
251 percent of the sum of the insurer's premiums written in this
252 state regarding business covered by the account received during
253 the 3 calendar years preceding the year in which the assessment
254 is made, divided by three. If premium information for the 3-year
255 period is not reasonably available for each member insurer, the
256 association may use any reasonably available premium
257 information.

258 2. For long-term care insurer impairments and insolvencies
259 only, the total assessments upon a member insurer or member
260 health maintenance organization of the Florida Health
261 Maintenance Organization Consumer Assistance Plan may not, in
262 any one calendar year, exceed 0.5 percent of the sum of the
263 member insurer's or member health maintenance organization's
264 premiums written in this state regarding business covered by the
265 account received during the calendar year preceding the year in
266 which the assessment is made. If premium information is not
267 reasonably available for each member insurer or member health
268 maintenance organization of the Florida Health Maintenance
269 Organization Consumer Assistance Plan, the association or the
270 Florida Health Maintenance Organization Consumer Assistance Plan
271 may use any reasonably available premium information.



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272 (8) The association shall issue to each member insurer
273 paying an assessment under this part, other than a Class A
274 assessment, a certificate of contribution, in a form prescribed
275 by the commission ~~department~~, for the amount of the assessment
276 so paid. All outstanding certificates are of equal dignity and
277 priority without reference to amounts or dates of issue. A
278 certificate of contribution may be shown by the insurer in its
279 financial statement as an asset in such form and for such
280 amount, if any, and period of time as the office ~~department~~
281 approves. However, any amount offset pursuant to s. 631.72 may
282 not be shown as an asset of the insurer on any of its financial
283 statements.

284 Section 5. Paragraph (b) of subsection (1), paragraph (f)
285 of subsection (3), and subsection (4) of section 631.721,
286 Florida Statutes, are amended to read:

287 631.721 Plan of operation.—

288 (1)

289 (b) ~~If the association fails to submit a suitable proposed~~
290 ~~plan of operation within 180 days following October 1, 1979, or~~
291 If at any time ~~thereafter~~ the association fails to submit
292 suitable amendments to the plan, the department shall, after
293 notice and hearing, adopt such reasonable rules as are necessary
294 to effectuate the provisions of this part. Such rules shall
295 continue in force until modified by the department or superseded
296 by a proposed plan submitted by the association and approved by
297 the department.

298 (3) The plan of operation shall, in addition to
299 requirements enumerated elsewhere in this part:

300 (f) Establish any additional procedures for assessments



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301 under s. 631.718, including procedures to share assessment
302 information, including data, with and assist, as applicable, the
303 board of directors of the Florida Health Maintenance
304 Organization Consumer Assistance Plan with the administration,
305 collection, and deposit of member health maintenance
306 organization assessments for long-term care insurer impairments
307 and insolvencies into the health account established under s.
308 631.715.

309 (4) The plan of operation may provide that any or all
310 powers and duties of the association, except those under ss.
311 631.717(13)(c) and 631.718 ~~ss. 631.717(10)(c) and 631.718~~, are
312 delegated to a corporation, association, or other organization
313 which performs or will perform functions similar to those of
314 this association, or its equivalent, in two or more states. Such
315 a corporation, association, or organization shall be reimbursed
316 for any payments made on behalf of the association and shall be
317 paid for its performance of any function of the association. A
318 delegation under this subsection shall take effect only with the
319 approval of both the board of directors and the department and
320 may be made only to a corporation, association, or organization
321 which extends protection not substantially less favorable and
322 effective than that provided by this part.

323 Section 6. Section 631.738, Florida Statutes, is created to
324 read:

325 631.738 Applicability as to certain member insurers and
326 health maintenance organizations.—The provisions of this part
327 which relate to long-term care assessment obligations do not
328 apply to:

329 (1) Any member insurer or health maintenance organization



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330 that, on or before the effective date of this act, has been
331 adjudged insolvent by a court of competent jurisdiction or has
332 been determined by the department or by the office to be
333 impaired.

334 (2) Any nonprofit health maintenance organization that
335 operates only in this state and whose statutory capital and
336 surplus is less than \$200 million as of December 31 of the year
337 preceding the year in which the assessment is made.

338 Section 7. Subsection (7) is added to section 631.816,
339 Florida Statutes, to read:

340 631.816 Board of directors.—

341 (7) Subject to the approval of the department, the board
342 shall designate one representative to serve as a member of the
343 board of directors of the Florida Life and Health Insurance
344 Guaranty Association pursuant to s. 631.716(1). The
345 representative, or his or her alternate, has the right to be
346 present during all meetings of the association board of
347 directors and shall have full voting rights.

348 Section 8. Present subsections (2) through (6) of section
349 631.818, Florida Statutes, are renumbered as subsections (3)
350 through (7), respectively, a new subsection (2) is added to that
351 section, present subsection (4) is amended, present paragraph
352 (f) of present subsection (6) is redesignated as paragraph (g),
353 and a new paragraph (f) is added to that subsection, to read:

354 631.818 Powers and duties of the plan.—

355 (2) In the event of a long-term care insurer impairment or
356 insolvency, pursuant to s. 631.819(2)(c), the plan shall:

357 (a) Collect and transmit all information requested by the
358 Florida Life and Health Insurance Guaranty Association for the



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359 association to determine the appropriate assessment base of the
360 health insurance account pursuant to ss. 631.715(2)(a)1. and
361 631.718(3)(b).

362 (b) Levy and collect assessments from HMOs.

363 (c) Coordinate the administration and collection of member
364 HMO assessments for long-term care insurer impairments and
365 insolvencies with the Florida Life and Health Insurance Guaranty
366 Association.

367 (5)~~(4)~~ The plan may render assistance and advice to the
368 department, at the department's request, concerning
369 rehabilitation, payment of claims, continuance of coverage, or
370 the performance of other contractual obligations of any HMO
371 subject to a delinquency proceeding ~~or a proceeding under s.~~
372 ~~624.90.~~

373 (7)~~(6)~~ The plan may:

374 (f) In the event of a long-term care insurer impairment or
375 insolvency, coordinate with the Florida Life and Health
376 Insurance Guaranty Association to carry out the responsibilities
377 of the association for the limited purpose of the long-term care
378 insurer impairment or insolvency, including the development of
379 any plan for handling the administration of the impairment or
380 insolvency.

381 Section 9. Subsections (1) and (3) of section 631.819,
382 Florida Statutes, are amended, paragraph (c) is added to
383 subsection (2), and subsection (6) is added to that section, to
384 read:

385 631.819 Assessments.—

386 (1) For the purposes of providing the funds necessary to
387 carry out the powers and duties of the plan, the board of



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388 directors shall assess the member HMOs at such time and for such
389 amounts as the board finds necessary. Assessments shall be due
390 not less than 30 days after written notice to the member HMOs
391 insurers.

392 (2) Assessments for funds to meet the requirements of the
393 plan with respect to an insolvent HMO shall not be made until
394 necessary to implement the purposes of this part. In order to
395 carry out its duties and powers under this part, upon the
396 insolvency of an HMO, the plan shall levy and collect
397 assessments as follows:

398 (c) For the purposes of long-term care insurer impairment
399 and insolvency assessments under s. 631.718(3)(b), member HMOs
400 must be assessed in the same manner as member insurers of the
401 Florida Life and Health Insurance Guaranty Association under
402 part III of this chapter. Long-term care insurer impairment and
403 insolvency assessments must be levied and collected by the plan
404 pursuant to this part, deposited into the health insurance
405 account established under s. 631.715, and used solely for long-
406 term care insurer impairment or insolvency obligations.
407 Assessments collected from member HMOs are considered part of
408 and satisfy the obligations of the health insurance account
409 under ss. 631.715(2)(a)1. and 631.718(3)(b).

410 (3) All assessments against HMOs, including long-term care
411 insurer impairment and insolvency assessments, must ~~shall~~ be
412 levied as a percentage of annual earned premium revenue for non-
413 Medicare and non-Medicaid contracts. In no event may the plan
414 assess in any calendar year more than 0.5 percent of each HMO's
415 annual earned premium revenue for non-Medicare and non-Medicaid
416 contracts.



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417 (6) The plan shall issue, in a form prescribed by the
418 commission, a certificate of contribution to each member HMO
419 paying a long-term care insurer impairment or insolvency
420 assessment under this part for the amount of the assessment so
421 paid. All outstanding certificates are of equal dignity and
422 priority without reference to amounts or dates of issue. A
423 certificate of contribution may be shown by the member HMO in
424 its financial statement as an asset in such form and for such
425 amount and period of time as the office approves. However, any
426 amount offset pursuant to s. 631.828 may not be shown as an
427 asset of the member HMO on any of its financial statements.

428 Section 10. Paragraph (f) of subsection (3) and paragraph
429 (a) of subsection (4) of section 631.820, Florida Statutes, are
430 amended to read:

431 631.820 Plan of operation.—

432 (3) The plan of operation shall, in addition to
433 requirements enumerated elsewhere in this part:

434 (f) Establish any additional procedures for assessments
435 under this part, including procedures to coordinate the
436 administration and collection of member HMO assessments for
437 long-term care insurer impairments and insolvencies with the
438 board of directors of the Florida Life and Health Insurance
439 Guaranty Association.

440 (4) (a) The plan of operation may provide that any or all
441 powers and duties of the plan, except those under ss.
442 631.818(7) (b) and (c) and 631.819 ~~ss. 631.818(6) (b) and (c) and~~
443 ~~631.819~~, are delegated to an administrator that ~~which~~ may be a
444 corporation, association, or other organization that ~~which~~
445 performs or will perform functions similar to those of this



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446 plan, or its equivalent.

447 Section 11. Subsection (2) of section 631.821, Florida
448 Statutes, is amended to read:

449 631.821 Powers and duties of the department.—

450 (2) Any action of the board of directors of the plan may be
451 appealed to the office by any member HMO if such appeal is taken
452 within 21 days of the action being appealed; however, the HMO
453 must comply with such action pending exhaustion of appeal ~~under~~
454 ~~s. 631.818(2)~~. Any appeal shall be promptly determined by the
455 office, and final action or order of the office shall be subject
456 to judicial review in a court of competent jurisdiction.

457 Section 12. The amendments made by this act to ss. 631.713,
458 631.717, 631.718, 631.721, 631.818, 631.819, and 631.820,
459 Florida Statutes, apply only to assessments that result from a
460 long-term care insurer being adjudged insolvent by a court of
461 competent jurisdiction or being determined by the Office of
462 Insurance Regulation to be impaired on or after the effective
463 date of this act.

464 Section 13. The Division of Law Revision is directed to
465 replace the phrase "the effective date of this act" wherever it
466 occurs in this act with the date this act becomes a law.

467 Section 14. This act shall take effect upon becoming a law.

468
469 ===== T I T L E A M E N D M E N T =====

470 And the title is amended as follows:

471 Delete everything before the enacting clause
472 and insert:

473 A bill to be entitled

474 An act relating to insurer guaranty associations;



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475 amending s. 631.713, F.S.; revising applicability of
476 part III of ch. 631, F.S., as to health maintenance
477 organizations, long-term care insurance benefits,
478 certain health care benefits, and certain structured
479 settlement annuity benefits; amending s. 631.716,
480 F.S.; revising the number of members and composition
481 of the Florida Life and Health Insurance Guaranty
482 Association's board of directors; specifying
483 requirements relating to the director of the Florida
484 Health Maintenance Organization Consumer Assistance
485 Plan to be confirmed to the association's board;
486 specifying rights of the director or his or her
487 alternate; deleting an obsolete provision; amending s.
488 631.717, F.S.; adding the reissuance of covered
489 policies to a list of duties of the association
490 relating to insolvent insurers; providing
491 construction; specifying duties of the association as
492 to potential long-term care insurer impairments or
493 insolvencies, sharing information, and providing
494 assistance to the Florida Health Maintenance
495 Organization Consumer Assistance Plan's board of
496 directors; revising applicability of a specified limit
497 on the association's liability for the contractual
498 obligations of an insolvent insurer; conforming a
499 provision to changes made by the act; requiring that
500 the Department of Financial Services, rather than a
501 receivership court, approve certain alternative
502 policies or contracts; authorizing the board to file
503 directly for actuarially justified rate or premium



504 increases; amending s. 631.718, F.S.; specifying the
505 calculation and allocation of Class B assessments for
506 long-term care insurance; specifying a limit on
507 certain assessments on a member insurer or member
508 health maintenance organization; providing that the
509 Financial Services Commission, rather than the
510 department, prescribes the form of a certain
511 certificate of contribution; providing that the Office
512 of Insurance Regulation, rather than the department,
513 approves certain assets shown on insurer financial
514 statements; conforming provisions to changes made by
515 the act; amending s. 631.721, F.S.; deleting an
516 obsolete provision; revising the requirements of the
517 association's plan of operation relating to long-term
518 care insurer impairments and insolvencies; conforming
519 a cross-reference; creating s. 631.738, F.S.;
520 providing that certain provisions do not apply to
521 certain member insurers and health maintenance
522 organizations; amending s. 631.816, F.S.; adding
523 duties of the board of directors of the Florida Health
524 Maintenance Organization Consumer Assistance Plan to
525 conform to changes made by the act; amending s.
526 631.818, F.S.; adding to the duties of the plan to
527 conform to changes made by the act; amending s.
528 631.819, F.S.; specifying requirements for long-term
529 care insurer impairment and insolvency assessments for
530 member health maintenance organizations; requiring the
531 plan to issue certificates of contribution to member
532 health maintenance organizations paying certain



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533 assessments; specifying requirements of, and the use
534 of, such certificates; amending s. 631.820, F.S.;
535 conforming provisions to changes made by the act;
536 amending s. 631.821, F.S.; making a technical change;
537 providing applicability; providing a directive to the
538 Division of Law Revision; providing an effective date.



722486

LEGISLATIVE ACTION

| | | |
|------------|---|-------|
| Senate | . | House |
| Comm: WD | . | |
| 03/19/2019 | . | |
| | . | |
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| | . | |

Appropriations Subcommittee on Agriculture, Environment, and
General Government (Broxson) recommended the following:

1 **Senate Amendment to Amendment (707912) (with title**
2 **amendment)**

3
4 Delete lines 325 - 337
5 and insert:

6 631.738 Applicability as to certain member insurer and
7 health maintenance organization premiums.-The provisions of this
8 part which relate to long-term care assessments do not apply to
9 premiums under this part for any member insurer or member health
10 maintenance organization of the Florida Health Maintenance



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11 Organization Consumer Assistance Plan which is operating under a
12 corrective action plan pursuant to s. 624.444(3) or s.
13 641.23(3), or if the office directs that the premium be excluded
14 from the assessment base based on the finding that the
15 assessment would endanger the ability of the member insurer or
16 member health maintenance organization to fulfill its
17 contractual obligations.

18
19 ===== T I T L E A M E N D M E N T =====

20 And the title is amended as follows:

21 Delete lines 521 - 522

22 and insert:

23 member insurer and member health maintenance
24 organization premiums under certain circumstances;
25 amending s. 631.816, F.S.; adding

By the Committee on Banking and Insurance; and Senator Brandes

597-02677-19

2019626c1

1 A bill to be entitled
 2 An act relating to insurer guaranty associations;
 3 amending s. 631.713, F.S.; revising applicability of
 4 part III of ch. 631, F.S., as to health maintenance
 5 organizations, long-term care insurance benefits,
 6 certain health care benefits, and certain structured
 7 settlement annuity benefits; amending s. 631.714,
 8 F.S.; defining the term "long-term care assessment
 9 obligations"; amending s. 631.716, F.S.; revising the
 10 number of members and composition of the Florida Life
 11 and Health Insurance Guaranty Association's board of
 12 directors; specifying requirements relating to the
 13 director of the Florida Health Maintenance
 14 Organization Consumer Assistance Plan to be confirmed
 15 to the association's board; specifying rights of the
 16 director or his or her alternate; deleting an obsolete
 17 provision; amending s. 631.717, F.S.; adding the
 18 reissuance of covered policies to a list of duties of
 19 the association relating to insolvent insurers;
 20 providing construction; specifying duties of the
 21 association as to potential long-term care insurer
 22 impairments or insolvencies, sharing information, and
 23 providing assistance to the Florida Health Maintenance
 24 Organization Consumer Assistance Plan's board of
 25 directors; revising applicability of a specified limit
 26 on the association's liability for the contractual
 27 obligations of an insolvent insurer; conforming a
 28 provision to changes made by the act; requiring that
 29 the Department of Financial Services, rather than a

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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30 receivership court, approve certain alternative
 31 policies or contracts; authorizing the board to file
 32 directly for actuarially justified rate or premium
 33 increases; amending s. 631.718, F.S.; specifying the
 34 calculation and allocation of Class B assessments for
 35 long-term care insurance; specifying a limit on
 36 certain assessments on a member insurer or member
 37 health maintenance organization; conforming provisions
 38 to changes made by the act; amending s. 631.721, F.S.;
 39 deleting an obsolete provision; revising the
 40 requirements of the association's plan of operation
 41 relating to long-term care insurer impairments and
 42 insolvencies; conforming a cross-reference; creating
 43 s. 631.738, F.S.; providing applicability of certain
 44 provisions to certain member insurers and health
 45 maintenance organizations; amending s. 631.816, F.S.;
 46 adding duties of the board of directors of the Florida
 47 Health Maintenance Organization Consumer Assistance
 48 Plan to conform to changes made by the act; amending
 49 s. 631.818, F.S.; adding to the duties of the plan to
 50 conform to changes made by the act; amending s.
 51 631.819, F.S.; specifying requirements for long-term
 52 care insurer impairment and insolvency assessments for
 53 member health maintenance organizations; requiring the
 54 plan to issue certificates of contribution to member
 55 health maintenance organizations paying certain
 56 assessments; specifying requirements of, and the use
 57 of, such certificates; amending s. 631.820, F.S.;
 58 conforming provisions to changes made by the act;

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59 amending s. 631.821, F.S.; making a technical change;
 60 providing a directive to the Division of Law Revision;
 61 providing an effective date.

62
 63 Be It Enacted by the Legislature of the State of Florida:

64
 65 Section 1. Subsection (3) of section 631.713, Florida
 66 Statutes, is amended to read:

67 631.713 Application of part.—

68 (3) This part does not apply to:

69 (a) That portion or part of a variable life insurance
 70 contract or variable annuity contract not guaranteed by an
 71 insurer.

72 (b) That portion or part of any policy or contract under
 73 which the risk is borne by the policyholder.

74 (c) Any policy or contract or part thereof assumed by the
 75 impaired or insolvent insurer under a contract of reinsurance,
 76 other than reinsurance for which assumption certificates have
 77 been issued.

78 (d) Fraternal benefit societies as defined in s. 632.601.

79 (e) Health maintenance organizations, except for
 80 assessments levied pursuant to ss. 631.715(2)(a)1.,
 81 631.718(3)(b), and 631.819(2)(c) for long-term care insurer
 82 impairments or insolvencies insurance.

83 (f) Dental service plan insurance.

84 (g) Pharmaceutical service plan insurance.

85 (h) Optometric service plan insurance.

86 (i) Ambulance service association insurance.

87 (j) Preneed funeral merchandise or service contract

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88 insurance.

89 (k) Prepaid health clinic insurance.

90 (l) Any annuity contract or group annuity contract that is
 91 not issued to and owned by an individual, except to the extent
 92 of any annuity benefits:

93 1. Guaranteed directly and not through an intermediary to
 94 an individual by an insurer under such contract or certificate;

95 2. Under an annuity issued by an insurer under 26 U.S.C. s.
 96 408(b); or

97 3. Under an annuity issued by an insurer and held by a
 98 custodian or trustee in accordance with 26 U.S.C. s. 408(a).

99
 100 This paragraph applies to every insolvency regardless of its
 101 date of inception, and an assessment base may not include
 102 premiums for such excluded products.

103 (m) Any federal employees' group policy or contract that,
 104 under 5 U.S.C. s. 8909(f), is prohibited from being subject to
 105 an assessment under s. 631.718.

106 (n) Except as provided in this paragraph, a portion of a
 107 policy or contract, to the extent that the rate of interest on
 108 which the policy or contract is based, or the interest rate,
 109 crediting rate, or similar factor determined by use of an index
 110 or other external reference stated in the policy or contract
 111 employed in calculating returns or changes in value:

112 1. Averaged over the period of 4 years immediately
 113 preceding the date on which the member insurer becomes an
 114 impaired or insolvent insurer under this part, whichever is
 115 earlier, exceeds the rate of interest determined by subtracting
 116 2 percentage points from Moody's Corporate Bond Yield Average

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117 averaged for that same 4-year period or for such lesser period
 118 if the policy or contract was issued less than 4 years before
 119 the member insurer becomes an impaired or insolvent insurer
 120 under this part, whichever is earlier; and

121 2. On and after the date on which the member insurer
 122 becomes an impaired or insolvent insurer under this part,
 123 whichever is earlier, exceeds the rate of interest determined by
 124 subtracting 3 percentage points from the most current version of
 125 Moody's Corporate Bond Yield Average.

126
 127 This paragraph does not apply to any portion of a policy or
 128 contract, including a rider, which provides long-term care or
 129 any other health insurance benefit.

130 (o) A portion of a policy or contract to the extent the
 131 policy or contract provides for interest or other changes in
 132 value to be determined by the use of an index or other external
 133 reference stated in the policy or contract, but which has not
 134 been credited to the policy or contract, or as to which the
 135 policy or contract owner's rights are subject to forfeiture, as
 136 of the date the member insurer becomes an impaired or insolvent
 137 insurer under this part. However, if the interest or change in
 138 value is credited less frequently than annually as determined by
 139 using the procedures defined in the policy or contract, interest
 140 or change in value shall be credited by using the procedure
 141 defined in the policy or contract as if the contractual date of
 142 crediting interest or changing values was the date of impairment
 143 or insolvency, whichever is earlier, and shall not be subject to
 144 forfeiture.

145 (p) A policy or contract providing any hospital, medical,

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146 prescription drug, or other health care benefits pursuant to
 147 Title XVIII (Medicare), Title XIX (Medicaid), or Title XXI (the
 148 Children's Health Insurance Program) of the Social Security Act
 149 Medicare part C or part D or any regulations promulgated
 150 thereunder issued pursuant to Medicare Part C or Part D.

151 (g) Structured settlement annuity benefits to which a
 152 payee, or a beneficiary if the payee is deceased, has
 153 transferred his or her rights in a structured settlement
 154 factoring transaction, as that term is defined in 26 U.S.C. s.
 155 5891(c) (3) (A).

156 Section 2. Present subsections (7) through (10) of section
 157 631.714, Florida Statutes, are redesignated as subsections (8)
 158 through (11), respectively, and a new subsection (7) is added to
 159 that section, to read:

160 631.714 Definitions.—As used in this part, the term:

161 (7) "Long-term care assessment obligations" means the long-
 162 term care impairment and long-term care insolvency assessment
 163 obligations of the association which are subject to assessment
 164 pursuant to ss. 631.715(2) (a)1. and 631.718(3) (b) in
 165 coordination with the Florida Health Maintenance Organization
 166 Consumer Assistance Plan, through a methodology provided in the
 167 association's plan of operation. All obligations other than
 168 long-term care assessment obligations are subject to assessment
 169 exclusively by the association in accordance with s.
 170 631.718(2) (b) and (3) (c), without contribution or involvement of
 171 the Florida Health Maintenance Organization Consumer Assistance
 172 Plan.

173 Section 3. Subsection (1) of section 631.716, Florida
 174 Statutes, is amended to read:

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175 631.716 Board of directors.-

176 (1) (a) The board of directors of the association shall have
 177 at least 9, but no more than 11, members. The members shall be
 178 comprised of not fewer than five nor more than nine member
 179 insurers, serving terms as established in the plan of operation
 180 and 1 Florida Health Maintenance Organization Consumer
 181 Assistance Plan director confirmed pursuant to paragraph (b),
 182 who shall be a nonmember-insurer board representative. At all
 183 times, at least 1 one member of the board must shall be a
 184 domestic insurer as defined in s. 624.06(1). The members of the
 185 board who are member insurers shall be elected by member
 186 insurers, subject to the approval of the department.

187 (b) The board shall confirm, subject to the approval of the
 188 department, the Florida Health Maintenance Organization Consumer
 189 Assistance Plan director. The director confirmed to the board
 190 must be designated by the Florida Health Maintenance
 191 Organization Consumer Assistance Plan's board of directors to
 192 serve on the board and represent the interests of the Florida
 193 Health Maintenance Organization Consumer Assistance Plan and its
 194 board of directors. An individual serving as a Florida Health
 195 Maintenance Organization Consumer Assistance Plan director on
 196 the board must be a member of the Florida Health Maintenance
 197 Organization Consumer Assistance Plan board of directors. The
 198 Florida Health Maintenance Organization Consumer Assistance Plan
 199 director, or his or her alternate, has the right to be present
 200 at all meetings of the board and has full voting rights on all
 201 issues.

202 (c) A vacancy on the board shall be filled for the
 203 remaining period of the term by a majority vote of the remaining

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204 board members, subject to the approval of the department. ~~Prior~~
 205 ~~to the selection of the initial board of directors and the~~
 206 ~~organization of the association, the department shall give~~
 207 ~~notice to all member insurers of the time and place of the~~
 208 ~~organizational meeting. At the organizational meeting, each~~
 209 ~~member insurer shall be entitled to one vote, in person or by~~
 210 ~~proxy. If the board of directors is not elected within 60 days~~
 211 ~~after notice of the organizational meeting, the department may~~
 212 ~~appoint the initial members.~~

213 Section 4. Present subsections (9) through (12) of section
 214 631.717, Florida Statutes, are redesignated as subsections (12)
 215 through (15), respectively, new subsections (9), (10), and (11)
 216 are added to that section, subsections (2) and (3), paragraph
 217 (c) of present subsection (9), and paragraph (g) of present
 218 subsection (12) are amended, and paragraph (h) is added to
 219 present subsection (12) of that section, to read:

220 631.717 Powers and duties of the association.-

221 (2) If a domestic insurer is an insolvent insurer, the
 222 association shall, subject to the approval of the department:

223 (a) Guarantee, assume, reissue, or reinsure, or cause to be
 224 guaranteed, assumed, reissued, or reinsured, the covered
 225 policies of persons referred to in s. 631.713(2); and

226 (b) Provide moneys, pledges, notes, guarantees, or other
 227 means that are proper and reasonably necessary to implement
 228 paragraph (a) in order to assure payment of the contractual
 229 obligations of the insolvent insurer with regard to persons
 230 referred to in s. 631.713(2).

231 (3) If a foreign or alien insurer is an insolvent insurer,
 232 the association shall, subject to the approval of the

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233 department:

234 (a) Guarantee, assume, reissue, or reinsure, or cause to be
 235 guaranteed, assumed, reissued, or reinsured, the covered
 236 policies of residents of this state; and

237 (b) Provide moneys, pledges, notes, guarantees, or other
 238 means that are proper and reasonably necessary to implement
 239 paragraph (a) in order to assure payment of the contractual
 240 obligations of the insolvent insurer with regard to persons
 241 referred to in s. 631.713(2).

242

243 However, this subsection does not apply when the department has
 244 determined that the foreign or alien insurer's domiciliary
 245 jurisdiction or state of entry provides, by statute, protection
 246 substantially similar to that provided by this part for
 247 residents of this state.

248 (9) For purposes of this part, benefits provided by a long-
 249 term care rider to a life insurance policy or annuity contract
 250 are considered the same type of benefits as the base life
 251 insurance policy or annuity contract to which the rider relates.

252 (10) In the event of a potential long-term care insurer
 253 impairment or insolvency, the association shall coordinate its
 254 activities with the Florida Health Maintenance Organization
 255 Consumer Assistance Plan, including the development of any plan
 256 for handling the administration of the impairment or insolvency.

257 (11) The association shall share information, including
 258 data, with and assist, as applicable, the board of directors of
 259 the Florida Health Maintenance Organization Consumer Assistance
 260 Plan with the administration and collection of member health
 261 maintenance organization assessments for long-term care insurer

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262 impairments or insolvencies pursuant to ss. 631.715(2)(a)1.,
 263 631.718(3)(b), 631.818(2), and 631.819(2)(c).

264 ~~(12)(9)~~ The association's liability for the contractual
 265 obligations of the insolvent insurer must be as great as, but no
 266 greater than, the contractual obligations of the insurer in the
 267 absence of such insolvency, unless such obligations are reduced
 268 as permitted by subsection (4), but the aggregate liability of
 269 the association with respect to one life shall not exceed the
 270 following:

271 (c) For all other benefits, including in long-term care
 272 policies, \$300,000, including cash values, except as provided in
 273 paragraph (d).

274

275 In no event is the association liable for any penalties or
 276 interest.

277 ~~(15)(12)~~

278 (g) In carrying out its duties in connection with
 279 guaranteeing, assuming, reissuing, or reinsuring policies or
 280 contracts under subsections (2) and (3), the association may,
 281 subject to approval of the department ~~receivership court~~, issue
 282 an alternative policy or contract to substitute coverage for a
 283 policy or contract providing that ~~provides~~ an interest rate,
 284 crediting rate, or similar factor that was determined by use of
 285 an index or other external reference stated in the policy or
 286 contract and employed in calculating returns or changes in value
 287 ~~by issuing an alternative policy or contract~~. In lieu of the
 288 index or other external reference provided for in the original
 289 policy or contract, the alternative policy or contract must
 290 provide for a fixed interest rate, payment of dividends with

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291 minimum guarantees, or a different method for calculating
292 interest or changes in value. In such case:

293 1. There is no requirement for evidence of insurability,
294 waiting period, or other exclusion that would not have applied
295 under the replaced policy or contract.

296 2. The alternative policy or contract shall be
297 substantially similar to the replaced policy or contract in all
298 other material terms.

299 (h) In accordance with the terms and conditions of the
300 policy or contract, the board may directly file for actuarially
301 justified rate or premium increases for any policy or contract
302 for which it provides coverage under this part.

303 Section 5. Paragraph (b) of subsection (3), paragraph (a)
304 of subsection (5), and subsection (8) of section 631.718,
305 Florida Statutes, are amended to read:

306 631.718 Assessments.-

307 (3)

308 (b)1. The amount of any Class B assessment, except for
309 assessments related to long-term care insurance, must ~~shall~~ be
310 allocated for assessment purposes among the accounts pursuant to
311 an allocation formula, which may be based on the premiums or
312 reserves of the impaired or insolvent insurer.

313 2. The amount of the Class B assessment for long-term care
314 insurance written by the impaired or insolvent insurer must be
315 allocated according to a methodology included in the plan of
316 operation and approved by the department. The methodology must
317 provide for 50 percent of the assessment to be allocated to
318 accident and health member insurers and 50 percent to be
319 allocated to life and annuity member insurers.

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320 3. For the purposes of the methodology outlined in
321 subparagraph 2. and included in the plan of operation, the
322 accident and health member insurers' share of the assessment
323 must be calculated by including the assessable premiums of
324 member health maintenance organizations of the Florida Health
325 Maintenance Organization Consumer Assistance Plan.

326 (5) (a) 1. The total of all assessments upon a member insurer
327 for each account may not in any one calendar year exceed 1
328 percent of the sum of the insurer's premiums written in this
329 state regarding business covered by the account received during
330 the 3 calendar years preceding the year in which the assessment
331 is made, divided by three. If premium information for the 3-year
332 period is not reasonably available for each member insurer, the
333 association may use any reasonably available premium
334 information.

335 2. For long-term care insurer impairments and insolvencies
336 only, the total assessments upon a member insurer or member
337 health maintenance organization of the Florida Health
338 Maintenance Organization Consumer Assistance Plan may not, in
339 any one calendar year, exceed 0.5 percent of the sum of the
340 member insurer or member health maintenance organization's
341 premiums written in this state regarding business covered by the
342 account received during the calendar year preceding the year in
343 which the assessment is made. If premium information is not
344 reasonably available for each member insurer or member health
345 maintenance organization of the Florida Health Maintenance
346 Organization Consumer Assistance Plan, the association or the
347 Florida Health Maintenance Organization Consumer Assistance Plan
348 may use any reasonably available premium information.

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349 (8) The association shall issue to each member insurer
 350 paying an assessment under this part, other than a Class A
 351 assessment, a certificate of contribution, in a form prescribed
 352 by the department, for the amount of the assessment so paid. All
 353 outstanding certificates are of equal dignity and priority
 354 without reference to amounts or dates of issue. A certificate of
 355 contribution may be shown by the insurer in its financial
 356 statement as an asset in such form and for such amount, if any,
 357 and period of time as the department approves. However, any
 358 amount offset pursuant to s. 631.72 may not be shown as an asset
 359 of the insurer on any of its financial statements.

360 Section 6. Paragraph (b) of subsection (1), paragraph (f)
 361 of subsection (3), and subsection (4) of section 631.721,
 362 Florida Statutes, are amended to read:

363 631.721 Plan of operation.—

364 (1)

365 (b) ~~If the association fails to submit a suitable proposed~~
 366 ~~plan of operation within 180 days following October 1, 1979, or~~
 367 If at any time thereafter the association fails to submit
 368 suitable amendments to the plan, the department shall, after
 369 notice and hearing, adopt such reasonable rules as are necessary
 370 to effectuate the provisions of this part. Such rules shall
 371 continue in force until modified by the department or superseded
 372 by a proposed plan submitted by the association and approved by
 373 the department.

374 (3) The plan of operation shall, in addition to
 375 requirements enumerated elsewhere in this part:

376 (f) Establish any additional procedures for assessments
 377 under s. 631.718, including procedures to share assessment

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378 information, including data, with and assist, as applicable, the
 379 board of directors of the Florida Health Maintenance
 380 Organization Consumer Assistance Plan with the administration,
 381 collection, and deposit of member health maintenance
 382 organization assessments for long-term care insurer impairments
 383 and insolvencies into the health account established under s.
 384 631.715.

385 (4) The plan of operation may provide that any or all
 386 powers and duties of the association, except those under ss.
 387 631.717(13)(c) and 631.718 ss. 631.717(10)(e) and 631.718, are
 388 delegated to a corporation, association, or other organization
 389 which performs or will perform functions similar to those of
 390 this association, or its equivalent, in two or more states. Such
 391 a corporation, association, or organization shall be reimbursed
 392 for any payments made on behalf of the association and shall be
 393 paid for its performance of any function of the association. A
 394 delegation under this subsection shall take effect only with the
 395 approval of both the board of directors and the department and
 396 may be made only to a corporation, association, or organization
 397 which extends protection not substantially less favorable and
 398 effective than that provided by this part.

399 Section 7. Section 631.738, Florida Statutes, is created to
 400 read:

401 631.738 Applicability as to certain member insurers and
 402 health maintenance organizations.—The provisions of this part
 403 which relate to long-term care assessment obligations do not
 404 apply to:

405 (1) Any member insurer or health maintenance organization
 406 that, on or before the effective date of this act, has been

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407 adjudged insolvent by a court of competent jurisdiction or has
 408 been determined by the department or by the office to be
 409 impaired.

410 (2) Any nonprofit health maintenance organization that
 411 operates only in this state and whose statutory capital and
 412 surplus is less than \$200 million as of December 31 of the year
 413 preceding the year in which the assessment is made.

414 Section 8. Subsection (7) is added to section 631.816,
 415 Florida Statutes, to read:

416 631.816 Board of directors.—

417 (7) Subject to the approval of the department, the board
 418 shall designate one representative to serve as a member of the
 419 board of directors of the Florida Life and Health Insurance
 420 Guaranty Association pursuant to s. 631.716(1). The
 421 representative, or his or her alternate, has the right to be
 422 present during all meetings of the association board of
 423 directors and shall have full voting rights.

424 Section 9. Present subsections (2) through (6) of section
 425 631.818, Florida Statutes, are redesignated as subsections (3)
 426 through (7), respectively, a new subsection (2) is added to that
 427 section, present subsection (4) is amended, present paragraph
 428 (f) of present subsection (6) is redesignated as paragraph (g),
 429 and a new paragraph (f) is added to that subsection, to read:

430 631.818 Powers and duties of the plan.—

431 (2) In the event of a long-term care insurer impairment or
 432 insolvency, pursuant to s. 631.819(2)(c), the plan shall:

433 (a) Collect and transmit all information requested by the
 434 Florida Life and Health Insurance Guaranty Association for the
 435 association to determine the appropriate assessment base of the

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436 health insurance account pursuant to ss. 631.715(2)(a)1. and
 437 631.718(3)(b).

438 (b) Levy and collect assessments from HMOs.

439 (c) Coordinate the administration and collection of member
 440 HMO assessments for long-term care insurer impairments and
 441 insolvencies with the Florida Life and Health Insurance Guaranty
 442 Association.

443 ~~(5)(4)~~ The plan may render assistance and advice to the
 444 department, at the department's request, concerning
 445 rehabilitation, payment of claims, continuance of coverage, or
 446 the performance of other contractual obligations of any HMO
 447 subject to a delinquency proceeding ~~or a proceeding under s.~~
 448 ~~624.90.~~

449 ~~(7)(6)~~ The plan may:

450 (f) In the event of a long-term care insurer impairment or
 451 insolvency, coordinate with the Florida Life and Health
 452 Insurance Guaranty Association to carry out the responsibilities
 453 of the association for the limited purpose of the long-term care
 454 insurer impairment or insolvency, including the development of
 455 any plan for handling the administration of the impairment or
 456 insolvency.

457 Section 10. Subsections (1) and (3) of section 631.819,
 458 Florida Statutes, are amended, paragraph (c) is added to
 459 subsection (2), and subsection (6) is added to that section, to
 460 read:

461 631.819 Assessments.—

462 (1) For the purposes of providing the funds necessary to
 463 carry out the powers and duties of the plan, the board of
 464 directors shall assess the member HMOs at such time and for such

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465 amounts as the board finds necessary. Assessments shall be due
466 not less than 30 days after written notice to the member HMOs
467 insurers.

468 (2) Assessments for funds to meet the requirements of the
469 plan with respect to an insolvent HMO shall not be made until
470 necessary to implement the purposes of this part. In order to
471 carry out its duties and powers under this part, upon the
472 insolvency of an HMO, the plan shall levy and collect
473 assessments as follows:

474 (c) For the purposes of long-term care insurer impairment
475 and insolvency assessments under s. 631.718(3)(b), member HMOs
476 must be assessed in the same manner as member insurers of the
477 Florida Life and Health Insurance Guaranty Association under
478 part III of this chapter. Long-term care insurer impairment and
479 insolvency assessments must be levied and collected by the plan
480 pursuant to this part, deposited into the health insurance
481 account established under s. 631.715, and used solely for long-
482 term care insurer impairment or insolvency obligations.
483 Assessments collected from member HMOs are considered part of
484 and satisfy the obligations of the health insurance account
485 under ss. 631.715(2)(a)1. and 631.718(3)(b).

486 (3) All assessments against HMOs, including long-term care
487 insurer impairment and insolvency assessments, must ~~shall~~ be
488 levied as a percentage of annual earned premium revenue for non-
489 Medicare and non-Medicaid contracts. In no event may the plan
490 assess in any calendar year more than 0.5 percent of each HMO's
491 annual earned premium revenue for non-Medicare and non-Medicaid
492 contracts.

493 (6) The plan shall issue, in a form prescribed by the

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494 department, a certificate of contribution to each member HMO
495 paying a long-term care insurer impairment or insolvency
496 assessment under this part for the amount of the assessment so
497 paid. All outstanding certificates are of equal dignity and
498 priority without reference to amounts or dates of issue. A
499 certificate of contribution may be shown by the member HMO in
500 its financial statement as an asset in such form and for such
501 amount and period of time as the department approves. However,
502 any amount offset pursuant to s. 631.828 may not be shown as an
503 asset of the member HMO on any of its financial statements.

504 Section 11. Paragraph (f) of subsection (3) and paragraph
505 (a) of subsection (4) of section 631.820, Florida Statutes, are
506 amended to read:

507 631.820 Plan of operation.—

508 (3) The plan of operation shall, in addition to
509 requirements enumerated elsewhere in this part:

510 (f) Establish any additional procedures for assessments
511 under this part, including procedures to coordinate the
512 administration and collection of member HMO assessments for
513 long-term care insurer impairments and insolvencies with the
514 board of directors of the Florida Life and Health Insurance
515 Guaranty Association.

516 (4) (a) The plan of operation may provide that any or all
517 powers and duties of the plan, except those under ss.
518 631.818(7)(b) and (c) and 631.819 ~~ss. 631.818(6)(b) and (c) and~~
519 ~~631.819~~, are delegated to an administrator that ~~which~~ may be a
520 corporation, association, or other organization that ~~which~~
521 performs or will perform functions similar to those of this
522 plan, or its equivalent.

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523 Section 12. Subsection (2) of section 631.821, Florida
524 Statutes, is amended to read:

525 631.821 Powers and duties of the department.—

526 (2) Any action of the board of directors of the plan may be
527 appealed to the office by any member HMO if such appeal is taken
528 within 21 days of the action being appealed; however, the HMO
529 must comply with such action pending exhaustion of appeal ~~under~~
530 ~~s. 631.818(2)~~. Any appeal shall be promptly determined by the
531 office, and final action or order of the office shall be subject
532 to judicial review in a court of competent jurisdiction.

533 Section 13. The Division of Law Revision is directed to
534 replace the phrase "the effective date of this act" wherever it
535 occurs in this act with the date this act becomes a law.

536 Section 14. This act shall take effect upon becoming a law.



2019 AGENCY LEGISLATIVE BILL ANALYSIS

Office of Insurance Regulation

| <u>BILL INFORMATION</u> | |
|--------------------------------|-------------------------------|
| BILL NUMBER: | SB 626 |
| BILL TITLE: | Insurer Guaranty Associations |
| BILL SPONSOR: | Brandes |
| EFFECTIVE DATE: | Upon Becoming a Law |

| <u>COMMITTEES OF REFERENCE</u> |
|---|
| 1) Banking and Insurance |
| 2) Appropriations Subcommittee on Agriculture, Environment and General Government |
| 3) Appropriations |
| 4) |
| 5) |

| <u>CURRENT COMMITTEE</u> |
|---------------------------------|
| Banking and Insurance |

| <u>SIMILAR BILLS</u> | |
|-----------------------------|--------|
| BILL NUMBER: | HB 673 |
| SPONSOR: | |

| <u>IDENTICAL BILLS</u> | |
|-------------------------------|--|
| BILL NUMBER: | |
| SPONSOR: | |

| <u>PREVIOUS LEGISLATION</u> | |
|------------------------------------|--|
| BILL NUMBER: | |
| SPONSOR: | |
| YEAR: | |
| LAST ACTION: | |

| |
|--|
| Is this bill part of an agency package? |
| No |

| <u>BILL ANALYSIS INFORMATION</u> | |
|---|------------------|
| DATE OF ANALYSIS: | February 6, 2019 |
| LEAD AGENCY ANALYST: | Chris Struk |
| ADDITIONAL ANALYST(S): | Shannon Doheny |
| LEGAL ANALYST: | Tracy Sumner |
| FISCAL ANALYST: | |

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

This bill amends several sections of Part III of Chapter 631 concerning the Florida Life and Health Insurance Guaranty Association (FLAHIGA) and several sections of Part IV of Chapter 631 concerning the Health Maintenance Organization Consumer Assistance Plan (HMO CAP). Its primary focus is to expand the number of entities that may be assessed by FLAHIGA to include health maintenance organizations (HMOs) and life and annuity insurers. Any assessments related to a long-term care insurance would be allocated 50 percent to accident and health insurers and HMOs and the remaining 50 percent to life and annuity insurers. It also increases the number of directors on FLAHIGA's board and requires that one director be a representative of the HMO CAP. It removes the interest rate cap for calculating the liability of FLAHIGA for long-term care policies of impaired or insolvent insurers.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Any assessments by FLAHIGA for long-term care policies are levied against health insurers. Life and annuity insurers are not assessable in the case of a long-term care insurer impairment or insolvency despite being the issuers of most long-term care insurance policies. HMOs are not members of FLAHIGA and are not currently assessable.

2. EFFECT OF THE BILL:

This bill amends several sections of Part III of Chapter 631 concerning FLAHIGA and several sections of Part IV of Chapter 631 concerning the HMO CAP.

Section 1 removes the exemption for HMOs such that HMOs would become subject to assessments by FLAHIGA. It also removes the interest rate cap for FLAHIGA coverage for long-term care or any other health insurance benefit as many long-term care policies contain inflation protection benefits that exceed the current interest rate cap. It also removes FLAHIGA coverage for structured settlement annuity benefits if the payee has transferred his or her right in a structured settlement transaction as defined in 26 U.S.C. s. 5891(c)(3)(A).

Section 2 defines "long-term care assessment obligations" and requires FLAHIGA to coordinate with the HMO CAP. It also states that all obligations other than long-term care assessment obligations are to be met without contribution or involvement of the HMO CAP.

Section 3 increases FLAHIGA's board of directors to at least 9 members but no more than 11 members. This is an increase from a previous range of 5 to 9 members. It also requires the HMO CAP's board of directors to select a representative to serve on FLAHIGA's board as a voting member and deletes obsolete language.

Section 4:

- Clarifies that FLAHIGA can reissue, or cause to be reissued, covered insurance policies.
- Clarifies that benefits provided by a long-term care rider to a life insurance policy or annuity contract are considered the same type of benefits as the base life insurance policy or annuity contract.
- Requires FLAHIGA, in the event of a potential long-term care insurer impairment or insolvency, to coordinate its activities with the HMO CAP including the development of any plan for handling the administration of the impairment or insolvency.
- Requires FLAHIGA to share information and assist the HMO CAP's board with the administration and collection of any assessments.
- Clarifies that FLAHIGA's maximum liability under a long-term care policy is \$300,000.
- Changes the approving authority from the receivership court to the Department of Financial Services for the issuance of alternative policies or contracts.
- Clarifies that FLAHIGA may directly file for actuarially justified rate or premium increases for any policy or contract for which it provides coverage.

Section 5 amends the methodology for Class B (non-administrative expense) assessments related to long-term care insurance. The methodology must provide for 50 percent of the assessment to be allocated to accident and health member insurers and members of the HMO CAP and the remaining 50 percent to life and annuity insurers. Assessments for HMO CAP members are limited to 0.5% of their assessable premium for the preceding year.

Section 6 deletes obsolete language and requires FLAHIGA to update its plan of operation to include procedures to share assessment information, including data, with and assist the board of the HMO CAP with the administration, collection, and deposit of HMO CAP member assessments.

Section 7 exempts FLAHIGA members from long-term care assessment obligations where the member has been adjudged insolvent by a court of competent jurisdiction or been determined to be impaired by the Department of Financial Services on or before the effective date of the bill.

Sections 8 through 12 requires the HMO CAP to:

- Designate a representative to serve on FLAHIGA’s board of directors.
- Collect and transmit all information requested by FLAHIGA to determine the appropriate assessment base, levy and collect assessments from HMOs, and coordinate the administration and collection of member assessments with FLAHIGA in the event of a long-term care insurer impairment or insolvency.
- Levy and collect assessments from member HMOs for long-term care impairments and insolvencies.
- Issue a certificate of contribution to each member HMO paying a long-term care insurer assessment.
- Update its plan of operation to include coordinating the administration and collection of member assessments with FLAHIGA.

3. DOES THE LEGISLATION DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? NO

| | |
|---|--|
| If yes, explain: | |
| What is the expected impact to the agency’s core mission? | |
| Rule(s) impacted (provide references to F.A.C., etc.): | |

4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

| | |
|--|--|
| List any known proponents and opponents: | |
| Provide a summary of the proponents’ and opponents’ positions: | |

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? NO

| | |
|--------------------------------|--|
| If yes, provide a description: | |
| Date Due: | |
| Bill Section Number(s): | |

6. ARE THERE ANY GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSION, ETC. REQUIRED BY THIS BILL? YES

| | |
|-------------------|---|
| Board: | Florida Life and Health Insurance Guaranty Association and the Health Maintenance Organization Consumer Assistance Plan |
| Board Purpose: | FLAHIGA – Pay claims of impaired and insolvent insurers HMO CAP – Assist consumers of insolvent HMOs |
| Who Appointments: | FLAHIGA – Member insurers HMO CAP – Department of Financial Services |

| | |
|-------------------------|---|
| Appointee Term: | FLAHIGA – based on plan of operation HMO CAP – 4 years |
| Changes: | FLAHIGA – increases the number of board members from a minimum/maximum of 5/9 to a minimum/maximum of 9/11. Adds a requirement for a HMO CAP representative member. Changes assessment base and plan of operations. HMO CAP – adds liability for long-term care assessments and changes plan of operations |
| Bill Section Number(s): | FLAHIGA – sections 1-7 HMO CAP – sections 8-11 |

FISCAL ANALYSIS

1. WHAT IS THE FISCAL IMPACT TO LOCAL GOVERNMENT? NONE

| | |
|---|--|
| Revenues: | |
| Expenditures: | |
| Does the legislation increase local taxes or fees? | |
| If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase? | |

2. WHAT IS THE FISCAL IMPACT TO STATE GOVERNMENT? NONE

| | |
|--|--|
| Revenues: | |
| Expenditures: | |
| Does the legislation contain a State Government appropriation? | |
| If yes, was this appropriated last year? | |

3. WHAT IS THE FISCAL IMPACT TO THE PRIVATE SECTOR?

| | |
|---------------|---|
| Revenues: | |
| Expenditures: | Life insurers and HMOs may be assessed for any long-term care impairments and insolvencies. |
| Other: | |

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES? NO

| | |
|--|---|
| Does the bill increase taxes, fees or fines? | Life insurers and HMOs may be assessed for any long-term care impairments and insolvencies. |
|--|---|

| | |
|---|--|
| Does the bill decrease taxes, fees or fines? | |
| What is the impact of the increase or decrease? | |
| Bill Section Number: | |

TECHNOLOGY IMPACT

| | |
|---|----|
| Does the legislation impact the agency's technology systems (i.e., IT support, licensing software, data storage, etc.)? | No |
| If yes, describe the anticipated impact to the agency including any fiscal impact. | |

FEDERAL IMPACT

| | |
|--|----|
| Does the legislation have a federal impact (i.e. federal compliance, federal funding, federal agency involvement, etc.)? | No |
| If yes, describe the anticipated impact including any fiscal impact. | |

ADDITIONAL COMMENTS

At line 298, the bill gives FLAHIGA the ability to directly file for actuarially justified rate or premium increase. However, it is unclear as to who FLAHIGA is filing the rate or premium increase with or whether that entity has approval authority.

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

| | |
|--|--|
| Issues/concerns/comments and recommended action: | |
|--|--|

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/19/2019

Meeting Date

626

Bill Number (if applicable)

722486

Amendment Barcode (if applicable)

Topic

Name Mark Delegal

Job Title Retained Counsel

Address 315 S. Calhoun St, #600

Street

Tallahassee

City

State

Zip

Phone 850 224 7000

Email

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing New York Life Insurance Company

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/19/19

Meeting Date

SB 626

Bill Number (if applicable)

722486

Amendment Barcode (if applicable)

Topic Charity Funds

Name Wences Troncoso

Job Title Vice president + General Counsel

Address 200 W. College Ave

Phone 850-212-3179

Street

Tallahassee

FL

32301

Email Wences@FAHA.net

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Association of Health Plans

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

03/19/19
Meeting Date

SB626

Bill Number (if applicable)

*AA# 722486

Amendment Barcode (if applicable)

Topic Insurer Guaranty Associations

Name Joseph Salzberg ("Saul's-berg")

Job Title Attorney/Govt Consultant

Address 301 S. Brokough St. #600

Phone (850) 572-9090

TLH FL 32301
City State Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing AvMed

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

3-19-19

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

626

Meeting Date

Bill Number (if applicable)

Topic Insurance Guaranty Associations

Amendment Barcode (if applicable)

Name Audrey Brown

Job Title President

Address 200 W. College Ave.

Phone _____

Street

Tallahassee

FL

32301

Email _____

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Association of Health Plans

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

March 19, 2019

SB 626

Meeting Date

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Paul Sanford

Job Title _____

Address 106 South Monroe Street

Phone 850-222-7200

Street

Tallahassee

FL 32301

Email _____

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Insurance Council, Florida Blue, American Council of Life Insurers & FLAHIGA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

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 Appropriations Subcommittee on Agriculture, Environment, and General Government

BILL: SB 7062

INTRODUCER: Agriculture Committee

SUBJECT: Department of Agriculture and Consumer Services Citizen Support Organizations and Direct-support Organizations

DATE: March 18, 2019

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------|----------------|-----------|---------------------------------------|
| | Akhavein | Becker | | AG Submitted as Committee Bill |
| 1. | Blizzard | Betta | AEG | Recommend: Favorable |
| 2. | | | AP | |

I. Summary:

SB 7062 removes the scheduled repeal date of the law authorizing the Florida Department of Agriculture and Consumer Services (department) to establish direct-support organizations (DSOs) to provide assistance, funding, and support to assist the department in furthering its goals. These DSOs include:

- Friends of the Florida State Forests;
- Forestry Arson Alert Association, Inc.;
- Florida Agricultural Museum;
- Florida Agriculture in the Classroom, Inc.;
- Florida Agriculture Center and Horse Park Authority;
- Living Healthy in Florida, Inc.; and
- Florida Beef Council, Inc.

The bill also extends the repeal date for the Friends of the Babcock Ranch Preserve, Inc., which serves as a citizen support organization (CSO) within the department, from October 1, 2019, to October 1, 2024.

Professional staff of the Senate Committee on Agriculture reviewed documents related to the DSOs and the CSO for compliance with the authorizing and accountability statutes and finds that they are in compliance with statutory requirements.

The bill has no fiscal impact on state funds.

The bill takes effect July 1, 2019.

II. Present Situation:

Citizen Support Organizations and Direct-Support Organizations

DSOs and CSOs are statutorily created non-profit organizations¹ authorized to assist or support governmental entities in carrying out their duties. The function and purpose of a DSO or CSO is prescribed by an enacting statute and a written contract with the agency the DSO or CSO supports.²

Transparency and Reporting Requirements

In 2014, the Legislature created s. 20.058, F.S., establishing a comprehensive set of transparency and reporting requirements for DSOs and CSOs.³ Specifically, the law requires each DSO or CSO to annually submit the following information to the appropriate agency by August 1:⁴

- The name, mailing address, telephone number, and website address of the organization;
- The statutory authority or executive order that created the organization;
- A brief description of the mission of, and results obtained by, the organization;
- A brief description of the organization's plans for the next three fiscal years;
- A copy of the organization's ethics code; and
- A copy of the organization's most recent Internal Revenue Service (IRS) Form 990.⁵

Each agency receiving information from a DSO or CSO pursuant to law must make such information available to the public through the agency's website.⁶ If the organization maintains a website, the agency's website must provide a link to the organization's website.⁷ Any contract between an agency and a DSO or CSO must be contingent upon the DSO or CSO submitting and posting the required information to the agency as specified in law.⁸ If a DSO or CSO fails to submit the required information to the agency for two consecutive years, the agency head must terminate any contract between the agency and the DSO or CSO.⁹

By August 15 of each year, the agency must report to the Governor, President of the Senate, Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability (OPPAGA) the information submitted by each DSO and CSO along with the agency's recommendation and supporting rationale to continue, terminate, or modify the agency's association with the DSO or CSO.¹⁰

¹ Chapter 617, F.S.

² See ss. 14.29(9)(a), 16.616(1), and 258.015(1), F.S. See also Rules of the Florida Auditor General, *Audits of Certain Nonprofit Organizations* (effective June 30, 2016), Rule 10.720(1)(b) and (d), available at http://www.myflorida.com/audgen/pages/pdf_files/10_700.pdf (Last visited February 28, 2019).

³ Section 3, ch. 2014-96, L.O.F.

⁴ Section 20.058(1), F.S.

⁵ The IRS Form 990 is an annual information return required to be filed with the IRS by most organizations exempt from federal income tax under 26 U.S.C. 501.26 C.F.R. 1.6033-2.

⁶ Section 20.058(2), F.S.

⁷ *Id.*

⁸ Section 20.058(4), F.S.

⁹ *Id.*

¹⁰ Section 20.058(3), F.S.

Any law creating, or authorizing the creation of a DSO or CSO must state that the authorization for the organization repeals on October 1 of the 5th year after enactment unless reviewed and reenacted by the Legislature. All DSOs and CSOs in existence prior to July 1, 2014, must be reviewed by the Legislature by July 1, 2019.¹¹

Audit Requirements

Section 215.981, F.S., requires each DSO or CSO with annual expenditures in excess of \$100,000 to provide for an annual financial audit of its accounts and records.¹² An independent certified public accountant in accordance with rules adopted by the Auditor General must conduct the audit. The audit report must be submitted within nine months after the end of the fiscal year to the Auditor General and to the state agency the DSO or CSO supports.¹³ Additionally, the Auditor General may, pursuant to his or her own authority, or at the direction of the Legislative Auditing Committee, conduct audits or other reviews of a DSO's or CSO's accounts and records.¹⁴

Ethics Code Requirement

Section 112.3251, F.S., requires DSOs and CSOs to adopt a code of ethics. The code of ethics must contain the specified standards of conduct and disclosures provided in ss. 112.313 and 112.3143(2), F.S.¹⁵ A DSO or CSO may adopt additional or more stringent standards of conduct and disclosure requirements and must post its code of ethics on its website.¹⁶

Florida Department of Agriculture and Consumer Services

The department supports and promotes Florida agriculture, protects the environment, safeguards consumers, and ensures the safety and wholesomeness of food.¹⁷ The following DSOs assist or support the department in carrying out its duties:

- **Friends of the Florida State Forests** – Through community support, it assists the Florida Forest Service to expand opportunities for recreation (hunting, horseback riding, hiking, Off Highway Vehicle, etc.), environmental education, and forest management within Florida's state forests.
- **Forestry Arson Alert Association, Inc.** – Through internal and external support, it helps reduce the incidence of wildland arson by making it possible to offer rewards for information leading to arrests of arsonists. It also increases public awareness about wildland arson and the destruction it can cause.

¹¹ Section 20.058(5), F.S.

¹² The independent audit requirement does not apply to a DSO for a university, district board of trustees of a community college, or district school board. Additionally, the expenditure threshold for an independent audit is \$300,000 for a DSO for the Department of Environmental Protection and the Department of Agriculture and Consumer Services.

¹³ Section 215.981(1), F.S.

¹⁴ Section 11.45(3), F.S.

¹⁵ Some of the standards of conduct and disclosures in ss. 112.313 and 112.3143(2), F.S., include misuse of public position, solicitation or acceptance of gifts, unauthorized compensation, and voting conflicts.

¹⁶ Section 112.3251, F.S.

¹⁷ <https://www.freshfromflorida.com/About/>

- **Florida Agricultural Museum** - With the assistance of volunteers, it preserves Florida's agricultural past, interprets agricultural issues of yesterday, today, and tomorrow, and educates the public about those issues through enjoyable experiences such as guided horseback trail rides, farmers markets, and learning about Florida's rare heritage Cracker cattle, horses, and sheep.
- **Florida Agriculture in the Classroom, Inc. (FAITC)** – The agriculture specialty license plate funds FAITC's ability to reach out to teachers and students in kindergarten through 12th grade. FAITC maintains a website of more than 100 agriculture-related lessons and activities, teacher school garden workshops and related farm tours on how to use agriculture lessons to teach core subjects, school garden curricula and grants programs, and the elementary school reading program, Florida Agriculture Literacy Day.
- **Florida Agriculture Center and Horse Park Authority** – Through internal and external support, it is a recreational and sporting organization dedicated to developing an international facility with opportunities for equine, agriculture, livestock, recreation, and educational events.
- **Living Healthy in Florida, Inc.** – Seventeen private sector partners work with numerous state agencies, individuals, organizations, and communities to share ideas and best practices to optimize health and wellness.
- **Florida Beef Council, Inc.** – The federal Beef Promotion and Research Act was passed as part of the 1985 Farm Bill and provides the mission and the base for development of a producer-funded beef promotion and research program, the national Beef Checkoff Program, aimed at building demand for beef and beef products, both domestically and internationally.¹⁸ The act required cattle producers to pay a fee, or "checkoff" on all sales of cattle to fund advertisements for the cattle industry. This act was challenged by cattle producers who disagreed with the content of those advertisements and brought action against the United States Department of Agriculture alleging that the government-required fee for advertising violated their First Amendment right to free speech. In response to this challenge, the Florida cattle industry worked with the Legislature to create the Beef Market Development Act in the event that they decided to hold a referendum to start a state "checkoff" program. The act included the Florida Beef Council, Inc., which was created to operate as a DSO within the department. Since the original federal challenge was not successful, the council was never set up as a DSO of the department. There is currently another challenge before the United States Court of Appeals for the Ninth Circuit, and therefore the Florida producers have requested that the DSO remain in statute in the event that they decide to move forward with a state program.¹⁹

The following CSO assists or supports the department in carrying out its duties:

- **Friends of the Babcock Ranch Preserve, Inc.** – The Babcock Ranch acquisition was one of the largest preservation purchases in the history of Florida and was made possible through the Babcock Ranch Preserve Act that was passed by the Legislature in 2006. The Act authorized the Babcock Ranch Preserve (Preserve) as a working ranch and to protect regionally important water resources, diverse natural habitats, scenic landscapes and historic and cultural resources in southwest Florida. Public recreational opportunities include hunting,

¹⁸ https://www.beefboard.org/library/beefact_order.asp (Last visited February 28, 2019).

¹⁹ Information provided by the Department of Agriculture and Consumer Services on file in the Senate Agriculture office.

hiking, wildlife viewing, bicycling, fishing, camping and horseback riding.²⁰

Section 259.10521, F.S., authorizes the creation of a CSO to raise funds, request and receive grants, gifts, and bequests of money, acquire, receive, hold, invest, and administer, in its own name, securities, funds, objects of value, or other property, real or personal. It may also make expenditures to or for the direct or indirect benefit of the Preserve. The Friends of the Babcock Ranch Preserve, Inc., will be established when the sale agreement for the Preserve is completed. The department anticipates the CSO will be in place before the end of the year.²¹

III. Effect of Proposed Changes:

Section 1 amends s. 259.10521, F.S., to extend the repeal date for the Friends of the Babcock Ranch Preserve, Inc., which serves as the citizen support organization within the department from October 1, 2019 to October 1, 2024.

Section 2 amends s. 570.83, F.S., to remove the scheduled repeal date for the law governing the Florida Beef Council, Inc., which serves as the direct-support organization within the department.

Section 3 amends s. 570.691, F.S., to remove the scheduled repeal date for the law governing the following direct-support organizations within the department:

- Friends of the Florida State Forests;
- Forestry Arson Alert Association, Inc.;
- Florida Agricultural Museum;
- Florida Agriculture in the Classroom, Inc.;
- Florida Agriculture Center and Horse Park Authority; and
- Living Healthy in Florida, Inc.

Section 4 provides that this act shall take effect July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

²⁰ April 4, 2013, analysis of CS/CS/SB 1628.

²¹ Information provided by the Department of Agriculture and Consumer Services on file in the Senate Agriculture office.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

By saving the statute governing the department's DSOs from repeal, the bill provides citizens with public recreational and educational opportunities relating to agriculture.

C. Government Sector Impact:

The bill has no fiscal impact on state funds. By saving the statutes governing the department's DSOs and the CSO from repeal, the bill provides support and assistance to the department in forest and land management and provides instructional agricultural activities for teachers and students. Additionally, these statutes provide for the development of a beef promotion and research program and help to reduce the incidence of wildland arson by incentivizing the public to provide information leading to arrests of arsonists.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends the following sections of the Florida Statutes: 259.10521, 570.83, and 570.691.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

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

By the Committee on Agriculture

575-02665-19

20197062__

1 A bill to be entitled
 2 An act relating to Department of Agriculture and
 3 Consumer Services citizen support organizations and
 4 direct-support organizations; amending s. 259.10521,
 5 F.S.; extending the scheduled repeal of the provisions
 6 governing the citizen support organizations operating
 7 to the benefit of the Babcock Ranch Preserve; amending
 8 s. 570.83, F.S.; abrogating the scheduled repeal of
 9 provisions governing the Florida Beef Council, Inc.,
 10 direct-support organization; amending s. 570.691,
 11 F.S.; abrogating the scheduled repeal of provisions
 12 relating to direct-support organizations of the
 13 Department of Agriculture and Consumer Services;
 14 providing an effective date.

15
 16 Be It Enacted by the Legislature of the State of Florida:

17
 18 Section 1. Subsection (4) of section 259.10521, Florida
 19 Statutes, is amended to read:

20 259.10521 Citizen support organization; use of property.—

21 (4) REPEAL.—This section is repealed October 1, 2024 ~~2019~~,
 22 unless reviewed and saved from repeal by the Legislature.

23 Section 2. Subsection (14) of section 570.83, Florida
 24 Statutes, is amended to read:

25 570.83 Beef Market Development Act; definitions; Florida
 26 Beef Council, Inc., creation, purposes, governing board, powers,
 27 and duties; referendum on assessments imposed on gross receipts
 28 from cattle sales; payments to organizations for services;
 29 collecting and refunding assessments; vote on continuing the

Page 1 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

575-02665-19

20197062__

30 act; council bylaws.—
 31 ~~(14) REPEAL.—This section is repealed October 1, 2019,~~
 32 ~~unless reviewed and saved from repeal by the Legislature.~~
 33 Section 3. Subsection (10) of section 570.691, Florida
 34 Statutes, is amended to read:
 35 570.691 Direct-support organization.—
 36 ~~(10) This section is repealed October 1, 2019, unless~~
 37 ~~reviewed and saved from repeal by the Legislature.~~
 38 Section 4. This act shall take effect July 1, 2019.

Page 2 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

The Florida Senate
COMMITTEE VOTE RECORD

COMMITTEE: Appropriations Subcommittee on Agriculture, Environment, and General Government
ITEM: SB 7062
FINAL ACTION: Favorable
MEETING DATE: Tuesday, March 19, 2019
TIME: 10:00 a.m.—12:00 noon
PLACE: 110 Senate Building

| FINAL VOTE | | SENATORS | | | | | | |
|------------|------------|--------------------|------------|------------|------------|------------|------------|------------|
| Yea | Nay | | Yea | Nay | Yea | Nay | Yea | Nay |
| X | | Albritton | | | | | | |
| | | Bean | | | | | | |
| X | | Berman | | | | | | |
| X | | Broxson | | | | | | |
| X | | Hooper | | | | | | |
| X | | Hutson | | | | | | |
| X | | Rodriguez | | | | | | |
| X | | Stewart | | | | | | |
| X | | Powell, VICE CHAIR | | | | | | |
| X | | Mayfield, CHAIR | | | | | | |
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| 9 | 0 | TOTALS | | | | | | |
| Yea | Nay | | Yea | Nay | Yea | Nay | Yea | Nay |

CODES: FAV=Favorable RCS=Replaced by Committee Substitute TP=Temporarily Postponed WD=Withdrawn
 UNF=Unfavorable RE=Replaced by Engrossed Amendment VA=Vote After Roll Call OO=Out of Order
 -R=Reconsidered RS=Replaced by Substitute Amendment VC=Vote Change After Roll Call AV=Abstain from Voting

Agriculture & Natural Resources Appropriations Subcommittee

| AGENCY | | | Governor's Recommended Budget | | | | | | | |
|--------|--|--|-------------------------------|--------------------|-------------------|-------------------|-------------------|------------------|----------------------|----------------------|
| Row# | ISSUE CODE | ISSUE TITLE | FTE | RATE | REC GR | NR GR | LATF | NR LATF | OTHER TFs | ALL FUNDS |
| 1 | AGRICULTURE & CONSUMER SERVICES | | | | | | | | | |
| 2 | 1100001 | Startup (OPERATING) | 3,651.25 | 154,234,791 | 99,011,767 | | 98,959,082 | | 1,486,797,490 | 1,684,768,339 |
| 3 | 1704010 | Transfer Fostering Success Pilot Project Training to the Department of Children and Families | | | (100,000) | | - | | | (100,000) |
| 4 | 2401000 | Replacement Equipment | | | - | | - | | 3,000,000 | 3,000,000 |
| 5 | 2401500 | Replacement of Motor Vehicles | | | - | | - | | 3,340,453 | 3,340,453 |
| 6 | 2402400 | Additional Equipment - Motor Vehicles | | | - | | - | | 530,520 | 530,520 |
| 7 | 2402500 | Replacement Equipment - Boats, Motors, and Trailers | | | - | | - | | 77,000 | 77,000 |
| 8 | 2503080 | Direct Billing for Administrative Hearings | | | - | | - | | (18,398) | (18,398) |
| 9 | 33V0050 | Reduction In Land Acquisition Trust Fund - Division of Plant Industry | | | - | | (24,000) | | | (24,000) |
| 10 | 33V1600 | Reduce Positions Vacant In Excess of 180 Days | (5.00) | (114,200) | - | | - | | (198,475) | (198,475) |
| 11 | 4900210 | Giant African Land Snail Eradication Program | | | - | | - | | 1,279,670 | 1,279,670 |
| 12 | 4901820 | Viticulture Program | | | - | | - | | 50,000 | 50,000 |
| 13 | 4906600 | Citrus Health Response Program | | | - | 2,022,158 | - | | 5,532,495 | 7,554,653 |
| 14 | 4908710 | Citrus Research | | | - | 8,000,000 | - | | | 8,000,000 |
| 15 | 990G000 | Grants and Aids - Fixed Capital Outlay | | | - | | - | | | - |
| 16 | 990M000 | Maintenance and Repair | | | - | | - | | | - |
| 17 | 990S000 | Special Purpose | | | - | | - | | | - |
| 18 | 990G000 | Grants and Aids - Fixed Capital Outlay | | | - | | - | | | - |
| 19 | 146556 | <i>Us Dept of Energy/Projects</i> | | | - | | - | | 5,000,000 | 5,000,000 |
| 20 | 990M000 | Maintenance and Repair | | | - | | - | | | - |
| 21 | 083622 | <i>Roads,Bridges/Maint</i> | | | - | | - | 4,466,526 | | 4,466,526 |
| 22 | 083643 | <i>Main/Rep/Const-Statewide</i> | | | - | | - | 3,945,761 | | 3,945,761 |
| 23 | 990S000 | Special Purpose | | | - | | - | | | - |
| 24 | 083791 | <i>Rep Forestry Stations-Stw</i> | | | - | | - | 1,500,000 | 350,000 | 1,850,000 |
| 25 | AGRICULTURE & CONSUMER SERVICES | | 3,646.25 | 154,120,591 | 98,911,767 | 10,022,158 | 98,935,082 | 9,912,287 | 1,505,740,755 | 1,723,522,049 |
| 26 | | | | | | | | | | |
| 27 | CITRUS | | | | | | | | | |
| 28 | 1100001 | Startup (OPERATING) | 41.00 | 3,258,615 | 1,585,550 | | - | | 25,653,522 | 27,239,072 |
| 29 | 17C08C0 | Data Processing Services Category - Deduct | | | - | | - | | (45,447) | (45,447) |
| 30 | 17C09C0 | Data Processing Services Category - Add | | | - | | - | | 45,447 | 45,447 |

Agriculture & Natural Resources Appropriations Subcommittee

| AGENCY | | | Governor's Recommended Budget | | | | | | | |
|--------|---------------------------------|---|-------------------------------|--------------------|-------------------|------------------|--------------------|----------|--------------------|--------------------|
| Row# | ISSUE CODE | ISSUE TITLE | FTE | RATE | REC GR | NR GR | LATF | NR LATF | OTHER TFs | ALL FUNDS |
| 31 | 33G0570 | Management Reduction of Administrative Expenses Not Related to a Specific Program | | | - | | - | | (150,000) | (150,000) |
| 32 | 33V0100 | Reduction of Paid Advertising / Promotions | | | - | | - | | (3,200,000) | (3,200,000) |
| 33 | 33V0300 | Reduction of Citrus Research Programs | | | - | | - | | (800,000) | (800,000) |
| 34 | 33V1600 | Reduce Positions Vacant In Excess of 180 Days | (6.00) | (218,906) | - | | - | | (334,005) | (334,005) |
| 35 | 4400060 | "Florida Forward" Consumer Communication Program | | | - | 4,064,450 | - | | | 4,064,450 |
| 36 | CITRUS | | 35.00 | 3,039,709 | 1,585,550 | 4,064,450 | - | - | 21,169,517 | 26,819,517 |
| 37 | | | | | | | | | | |
| 38 | ENVIRONMENTAL PROTECTION | | | | | | | | | |
| 39 | 1100001 | Startup (OPERATING) | 2,888.50 | 133,699,601 | 11,872,281 | | 120,410,391 | | 260,770,785 | 393,053,457 |
| 40 | 1100002 | Startup Recurring Fixed Capital Outlay (DEBT SERVICE/OTHER) | | | 1,701,131 | | 376,677,250 | | 9,571,363 | 387,949,744 |
| 41 | 17C08C0 | Data Processing Services Category - Deduct | | | - | | - | | (1,505,904) | (1,505,904) |
| 42 | 17C09C0 | Data Processing Services Category - Add | | | - | | - | | 1,505,904 | 1,505,904 |
| 43 | 1700610 | Transfer Environmental Crimes Investigators from Fish and Wildlife Commission - Add | 19.00 | 1,076,218 | - | | - | | 1,991,722 | 1,991,722 |
| 44 | 1800720 | Transfer Programs from Water Restoration Assistance to Water Resource Management - Deduct | (11.00) | (506,994) | - | | (440,248) | | (392,732) | (832,980) |
| 45 | 1800730 | Transfer Programs from Water Restoration Assistance to Water Resource Management - Add | 11.00 | 506,994 | - | | 440,248 | | 392,732 | 832,980 |
| 46 | 1800740 | Transfer the Water Supply Restoration Program from Water Resource Management to Water Restoration Assistance - Deduct | (3.00) | (138,916) | - | | - | | (2,970,888) | (2,970,888) |
| 47 | 1800750 | Transfer the Water Supply Restoration Program from Water Resource Management to Water Restoration Assistance - Add | 3.00 | 138,916 | - | | - | | 2,970,888 | 2,970,888 |
| 48 | 2000220 | Realign Budget Between Categories In Water Resource Management - Deduct | | | - | | - | | (50,000) | (50,000) |
| 49 | 2000230 | Realign Budget Between Categories In Water Resource Management - Add | | | - | | - | | 50,000 | 50,000 |
| 50 | 2000480 | Realign Budget Between Categories In Water Policy and Ecosystems Restoration - Deduct | | | - | | (4,000) | | | (4,000) |

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|--------|------------|--|-------------------------------|----------|-----------|---------|-----------|---------|-----------|-----------|
| Row# | ISSUE CODE | ISSUE TITLE | FTE | RATE | REC GR | NR GR | LATF | NR LATF | OTHER TFs | ALL FUNDS |
| 51 | 2000490 | Realign Budget Between Categories In Water Policy and Ecosystems Restoration - Add | | | - | | 4,000 | | | 4,000 |
| 52 | 2000730 | Realign Grant Budget Authority Between Categories Executive Direction - Deduct | | | - | | - | | (100,000) | (100,000) |
| 53 | 2000740 | Realign Grant Budget Authority Between Categories Executive Direction - Add | | | - | | - | | 100,000 | 100,000 |
| 54 | 2000890 | Realign Position from Utilities Siting and Coordination to Regulatory District Offices - Deduct | (1.00) | (38,659) | - | | - | | (64,329) | (64,329) |
| 55 | 2000900 | Realign Position from Utilities Siting and Coordination to Regulatory District Offices - Add | 1.00 | 38,659 | - | | - | | 64,329 | 64,329 |
| 56 | 2000950 | Realign Funding Between Programs - Deduct | | | - | | (66,388) | | | (66,388) |
| 57 | 2000960 | Realign Funding Between Programs - Add | | | - | | 66,388 | | | 66,388 |
| 58 | 2000970 | Realign Funds Between Categories In the Office of Technology and Information Services - Add | | | - | | 221,429 | | 221,429 | 442,858 |
| 59 | 2000980 | Realign Funds Between Categories In the Office of Technology and Information Services - Deduct | | | - | | (221,429) | | (221,429) | (442,858) |
| 60 | 2001050 | Realign Position from Water Resource Management to Regulatory District Offices - Deduct | (1.00) | (36,467) | - | | - | | (66,424) | (66,424) |
| 61 | 2001060 | Realign Position from Water Resource Management to Regulatory District Offices - Add | 1.00 | 36,467 | - | | - | | 66,424 | 66,424 |
| 62 | 20030C0 | Realign Budget for Cloud Ready Applications - Technology and Information Services - Deduct | | | - | | - | | (156,502) | (156,502) |
| 63 | 20035C0 | Realign Budget for Cloud Ready Applications - Technology and Information Services - Add | | | - | | - | | 156,502 | 156,502 |
| 64 | 2004500 | Realign Budget Between Categories In Division of Waste Management - Add | | | - | | - | | 590,000 | 590,000 |
| 65 | 2004510 | Realign Budget Between Categories In Division of Waste Management - Deduct | | | - | | - | | (590,000) | (590,000) |
| 66 | 2400450 | Replacement of Vessels | | | - | 355,000 | - | | 85,000 | 440,000 |
| 67 | 2401500 | Replacement of Motor Vehicles | | | 2,051,000 | | - | | | 2,051,000 |
| 68 | 2503080 | Direct Billing for Administrative Hearings | | | - | | - | | 175,217 | 175,217 |
| 69 | 3000300 | Additional Resources to Support Increase In Laboratory Services - Environmental Assessment and Restoration | | | - | | - | | 390,205 | 390,205 |

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|--------|------------|---|-------------------------------|------|-----------|------------|---------|---------|-------------|-------------|
| Row# | ISSUE CODE | ISSUE TITLE | FTE | RATE | REC GR | NR GR | LATF | NR LATF | OTHER TFs | ALL FUNDS |
| 70 | 3300200 | Reduce Funding Pursuant to Agency-Wide Lease Savings | | | - | | 7,628 | | (194,910) | (187,282) |
| 71 | 3302240 | Reduce Transfer to Fish and Wildlife Conservation Commission | | | - | | - | | (1,991,722) | (1,991,722) |
| 72 | 3302570 | Reduce Grant Spending Authority - State Lands | | | - | | - | | (265,000) | (265,000) |
| 73 | 3304600 | Reduce Local Government Cleanup Contract - Waste Management | | | - | | - | | (570,000) | (570,000) |
| 74 | 3308050 | Reduce Operations - Waste Management | | | - | | - | | (100,000) | (100,000) |
| 75 | 3400420 | Fund Shift from Federal Grants Trust Fund to Permit Fee Trust Fund - Deduct | | | - | | - | | (66,424) | (66,424) |
| 76 | 3400430 | Fund Shift from Federal Grants Trust Fund to Permit Fee Trust Fund - Add | | | - | | - | | 66,424 | 66,424 |
| 77 | 3400440 | Fund Shift from Internal Improvement Trust Fund to Administrative Trust Fund - Deduct | | | - | | - | | (418,624) | (418,624) |
| 78 | 3400450 | Fund Shift from Internal Improvement Trust Fund to Administrative Trust Fund - Add | | | - | | - | | 418,624 | 418,624 |
| 79 | 3400630 | Fund Shift from Inland Protection Trust Fund to Water Quality Assurance Trust Fund - Add | | | - | | - | | 366,393 | 366,393 |
| 80 | 3400640 | Fund Shift from Inland Protection Trust Fund to Water Quality Assurance Trust Fund - Deduct | | | - | | - | | (366,393) | (366,393) |
| 81 | 36209C0 | Increase Bandwidth - Technology and Information Services | | | - | | - | | 413,451 | 413,451 |
| 82 | 36210C0 | Application Platform As a Service (APAAS) Funding - Technology and Information Services | | | - | | - | | 647,325 | 647,325 |
| 83 | 36320C0 | Wireless Connectivity Improvements for State Parks - Technology and Information Services | | | - | | - | | 166,520 | 166,520 |
| 84 | 4100150 | Florida Resilient Coastline Initiative (FRCI) | | | 3,400,000 | | - | | | 3,400,000 |
| 85 | 4500140 | Indian River Lagoon National Estuary Program | | | 250,000 | | - | | | 250,000 |
| 86 | 4500430 | Increased Operational Funds for Coastal and Aquatic Managed Areas (CAMA) | | | - | | 105,000 | | | 105,000 |
| 87 | 4500440 | Water Quality Improvements | | | - | 10,800,000 | - | | | 10,800,000 |
| 88 | 4700390 | Diesel Emissions Reduction Act (DERA) Grant - Air Resources Management | | | - | | - | | 846,060 | 846,060 |

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| Row# | ISSUE CODE | ISSUE TITLE | FTE | RATE | REC GR | NR GR | LATF | NR LATF | OTHER TFs | ALL FUNDS |
| 89 | 5300460 | Tide Station Recovery and Maintenance - State Lands | | | - | | - | | 1,351,000 | 1,351,000 |
| 90 | 5300470 | Funding Adjustments for Management of Conservation and Recreation Lands (CARL) | | | - | | 57,940 | | | 57,940 |
| 91 | 6000160 | State Parks Marketing Initiative | | | 1,000,000 | | - | | | 1,000,000 |
| 92 | 6500500 | Increase Funding for Park Operating Costs | | | - | | 475,000 | | | 475,000 |
| 93 | 6500600 | Increase Funding for Americorps | | | - | | - | | 130,000 | 130,000 |
| 94 | 990D000 | Debt Service | | | - | | | | | - |
| 95 | 990E000 | Environmental Projects | | | | | | | | - |
| 96 | 990G000 | Grants and Aids - Fixed Capital Outlay | | | | | | | | - |
| 97 | 990L000 | Land Acquisition | | | | | | | | - |
| 98 | 990M000 | Maintenance and Repair | | | | | | | | - |
| 99 | 990D000 | Debt Service | | | - | | - | | | - |
| 100 | 089070 | Debt Service | | | - | | (8,298,869) | | | (8,298,869) |
| 101 | 089080 | Debt Service-Save Everg | | | - | | 531,460 | | | 531,460 |
| 102 | 089270 | Debt Service | | | - | | - | | (119,355) | (119,355) |
| 103 | 990E000 | Environmental Projects | | | - | | - | | | - |
| 104 | 080083 | Volkswagen Settlement | | | - | | - | | 10,000,000 | 10,000,000 |
| 105 | 080524 | Dry Clean/Site Cleanup | | | - | | - | | 8,500,000 | 8,500,000 |
| 106 | 082474 | Cleanup of State/Lands | | | - | | - | | 600,000 | 600,000 |
| 107 | 086000 | Waste Tire Abatement | | | - | | - | | 500,000 | 500,000 |
| 108 | 087125 | Restore/Deepwater Horizon | | | - | | - | | 500,000 | 500,000 |
| 109 | 087126 | Nfwf/Deepwater Horizon | | | - | | - | | 8,102,450 | 8,102,450 |
| 110 | 087127 | Nrdri/Final - Deepwater Hor | | | - | | - | | 500,000 | 500,000 |
| 111 | 087777 | Landfill Closures | | | - | | - | | 3,000,000 | 3,000,000 |
| 112 | 087889 | Petroleum Tanks Cleanup | | | - | | - | | 110,000,000 | 110,000,000 |
| 113 | 087945 | Habitat Restoration | | | - | | - | 500,000 | | 500,000 |
| 114 | 088502 | Hazard Waste/Site Cleanup | | | - | | - | | 5,500,000 | 5,500,000 |
| 115 | 088964 | Total Max Daily Loads | | | - | 50,000,000 | - | | | 50,000,000 |
| 116 | 140076 | G/A-Nps Mgmt Planning | | | - | 5,000,000 | - | | 12,500,000 | 17,500,000 |
| 117 | 140122 | Clean Marina | | | - | | - | | 2,160,000 | 2,160,000 |
| 118 | 140126 | Beach Projects - Stw | | | - | 20,506,111 | - | | | 20,506,111 |
| 119 | 140129 | Drink Water Fac Constr-Srl | | | - | 11,090,000 | - | | 114,457,958 | 125,547,958 |
| 120 | 140131 | Wastewater Treat Fac Const | | | - | 12,271,600 | - | | 169,413,455 | 181,685,055 |

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| Row# | ISSUE CODE | ISSUE TITLE | FTE | RATE | REC GR | NR GR | LATF | NR LATF | OTHER TFs | ALL FUNDS |
| 121 | 140134 | Solid Waste Management | | | - | | - | | 3,000,000 | 3,000,000 |
| 122 | 140895 | G/A-Innovative Tech | | | - | 10,000,000 | - | | | 10,000,000 |
| 123 | 141117 | Everglades Restoration | | | - | 91,324,918 | - | 98,000,000 | | 189,324,918 |
| 124 | 141132 | G/A-Reef Prot/Tire Abate | | | - | | - | | 2,500,000 | 2,500,000 |
| 125 | 141138 | G/A - Alt Water Supply | | | 40,000,000 | | - | | | 40,000,000 |
| 126 | 143276 | Small Co Wastewtr Trmt Gnt | | | - | | - | | 13,000,000 | 13,000,000 |
| 127 | 149935 | G/A-Water Quality Imprvmts | | | 50,000,000 | 50,000,000 | - | | | 100,000,000 |
| 128 | 990G000 | Grants and Aids - Fixed Capital Outlay | | | - | | - | | | - |
| 129 | 140001 | Fed Land/Water Consv/Grnts | | | - | | - | | 5,500,000 | 5,500,000 |
| 130 | 140061 | Florida Czm Program | | | - | | - | | 832,000 | 832,000 |
| 131 | 140185 | Nat'L Rec Trail Grants | | | - | | - | | 4,000,000 | 4,000,000 |
| 132 | 990L000 | Land Acquisition | | | - | | - | | | - |
| 133 | 084108 | Land Acq, Envir/Uniq, Stw | | | - | | - | | 100,000,000 | 100,000,000 |
| 134 | 990M000 | Maintenance and Repair | | | - | | - | | | - |
| 135 | 080039 | State Park Facility Improv | | | - | | - | 35,000,000 | 15,000,000 | 50,000,000 |
| 136 | 083643 | Main/Rep/Const-Statewide | | | - | | - | 339,000 | 750,000 | 1,089,000 |
| 137 | 087937 | Partnership/Parks/St Match | | | - | 750,000 | - | | | 750,000 |
| 138 | 088130 | Remove Access Barriers-Stw | | | - | | - | | 4,000,000 | 4,000,000 |
| 139 | 088137 | Grants & Donat Spdg Auth | | | - | | - | | 8,000,000 | 8,000,000 |
| 140 | ENVIRONMENTAL PROTECTION | | 2,907.50 | 134,775,819 | 110,274,412 | 262,097,629 | 489,965,800 | 133,839,000 | 875,613,524 | 1,871,790,365 |
| 141 | | | | | | | | | | |
| 142 | FISH & WILDLIFE CONSERVATION COMMISSION | | | | | | | | | |
| 143 | 1100001 | Startup (OPERATING) | 2,118.50 | 105,278,559 | 32,072,596 | | 103,644,447 | | 221,721,894 | 357,438,937 |
| 144 | 160F730 | Continue 5% Transfer #19-01 to Realign Budget Authority to Provide for Payroll and Grant Shortfalls - Deduct | | | - | | - | | (406,139) | (406,139) |
| 145 | 160F740 | Continue 5% Transfer #19-01 to Realign Budget Authority to Provide for Payroll and Grant Shortfalls - Add | | | - | | - | | 406,139 | 406,139 |
| 146 | 1600040 | Continuation of Budget Amendment #B0027 Providing Spending Authority to Support Contract #17224 | | | - | | - | | 281,157 | 281,157 |
| 147 | 1601A10 | Continue Budget Amendment #19-07 Transferring Salary Rate Between Budget Entities - Deduct | | (2,476) | - | | - | | | - |

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|--------|------------|--|-------------------------------|-------------|--------|-----------|-----------|-----------|-------------|-------------|
| Row# | ISSUE CODE | ISSUE TITLE | FTE | RATE | REC GR | NR GR | LATF | NR LATF | OTHER TFs | ALL FUNDS |
| 148 | 1601A20 | Continue Budget Amendment #19-07 Transferring Salary Rate Between Budget Entities - Add | | 2,476 | - | | - | | | - |
| 149 | 1609190 | Continue Budget Amendment #19-08 Creating Budget Authority to Remit Commissions Received by a Landlord to a Tenant Broker | | | - | | - | | 19,731 | 19,731 |
| 150 | 1609210 | Continue Budget Amendment #19-10 Providing Budget Authority for Fisheries Management Council Awards | | | - | | - | | 103,750 | 103,750 |
| 151 | 17C08C0 | Data Processing Services Category - Deduct | | | - | | - | | (857,487) | (857,487) |
| 152 | 17C09C0 | Data Processing Services Category - Add | | | - | | - | | 857,487 | 857,487 |
| 153 | 1700600 | Transfer Environmental Crimes Investigators to Department of Environmental Protection - Deduct | (19.00) | (1,076,218) | - | | - | | (1,991,722) | (1,991,722) |
| 154 | 2002120 | Realign Land Acquisition Trust Fund Budget - Deduct | | | - | | (72,205) | | | (72,205) |
| 155 | 2002130 | Realign Land Acquisition Trust Fund Budget - Add Back | | | - | | - | | 72,205 | 72,205 |
| 156 | 2007100 | Realignment of Administrative Expenditures - Deduct | | | - | | - | | (30,294) | (30,294) |
| 157 | 2007200 | Realignment of Administrative Expenditures - Add | | | - | | - | | 30,294 | 30,294 |
| 158 | 2401500 | Replacement of Motor Vehicles | | | - | 1,500,000 | - | | 2,329,000 | 3,829,000 |
| 159 | 2402500 | Replacement Equipment - Boats, Motors, and Trailers | | | - | | - | | 1,507,995 | 1,507,995 |
| 160 | 2503080 | Direct Billing for Administrative Hearings | | | - | | - | | 79,227 | 79,227 |
| 161 | 36100C0 | Enterprise Mobile Development Initiative | | | - | | - | | 486,400 | 486,400 |
| 162 | 36280C0 | Cybersecurity Remediation | | | - | | - | | 300,000 | 300,000 |
| 163 | 4102000 | Replacement Lease Space | | | - | | - | | 264,897 | 264,897 |
| 164 | 4104000 | Law Enforcement Vessel Refurbishment | | | - | 500,000 | - | | | 500,000 |
| 165 | 4400510 | Invasive Plant Management | | | - | | 4,000,000 | | | 4,000,000 |
| 166 | 4400550 | Hurricane Irma Marine Debris Removal | | | - | | - | | 4,460,912 | 4,460,912 |
| 167 | 4400560 | Hurricane Irma Marine Fisheries Disaster Recovery | | | - | | - | | 44,382,773 | 44,382,773 |
| 168 | 4400800 | Coral Reef Disease Response and Restoration | | | - | | - | | 397,000 | 397,000 |
| 169 | 4402510 | Public Assistance and Management of Invasive Species, Alligators, Crocodiles, Bears, Lionfish, and Other Conflict Wildlife | | | | 500,000 | | 1,623,000 | | 2,123,000 |
| 170 | 4403900 | Wildlife Management Area Private Landowner Remittance | | | - | | - | | 289,188 | 289,188 |
| 171 | 4404100 | Youth Conservation Education Donations | | | - | | - | | 200,000 | 200,000 |
| 172 | 4404270 | Lake Restoration and Enhancement Projects | | | - | | 1,500,000 | | | 1,500,000 |

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| Row# | ISSUE CODE | ISSUE TITLE | FTE | RATE | REC GR | NR GR | LATF | NR LATF | OTHER TFs | ALL FUNDS |
| 173 | 4603200 | Fish and Wildlife Research Institute Facility Safety and Security Repairs | | | - | | - | | 4,000 | 4,000 |
| 174 | 5000800 | Stone Crab Research and Monitoring | | | - | | - | | 303,497 | 303,497 |
| 175 | 6502110 | Aviation Enhancement | | | 403,384 | | - | | | 403,384 |
| 176 | 6503700 | Law Enforcement Body Worn Cameras | | | 906,416 | | - | | | 906,416 |
| 177 | 6503810 | Overtime Pay for Sworn Law Enforcement Officers | | | 460,000 | | - | | | 460,000 |
| 178 | 6506000 | Law Enforcement Officer Reserve Program | | | 243,052 | | - | | | 243,052 |
| 179 | 7005310 | Center for Red Tide Research | 2.00 | 130,000 | 2,041,980 | 2,170,020 | - | | | 4,212,000 |
| 180 | 990E000 | Environmental Projects | | | - | | | | | - |
| 181 | 990F000 | Support Facilities | | | - | | | | | - |
| 182 | 990G000 | Grants and Aids - Fixed Capital Outlay | | | - | | | | | - |
| 183 | 990S000 | Special Purpose | | | - | | | | | - |
| 184 | 990E000 | Environmental Projects | | | - | | | | | - |
| 185 | 140004 | Art Fish Reef Const Prog | | | | 300,000 | - | | 300,000 | 600,000 |
| 186 | 990F000 | Support Facilities | | | - | | | | | - |
| 187 | 084230 | Fwri Repairs | | | - | 1,463,025 | - | | | 1,463,025 |
| 188 | 990G000 | Grants and Aids - Fixed Capital Outlay | | | - | | | | | - |
| 189 | 082800 | Boating Infrastructure | | | - | | | | 3,900,000 | 3,900,000 |
| 190 | 140060 | Derelict Vessel Removal Pg | | | - | 1,400,000 | - | | | 1,400,000 |
| 191 | 140270 | Fl Boating Improvement Prg | | | - | | | | 1,842,600 | 1,842,600 |
| 192 | 990S000 | Special Purpose | | | - | | | | | - |
| 193 | 080060 | Fisheating Creek Wma | | | - | | | 900,000 | | 900,000 |
| 194 | 082528 | Roof Replace/Repair-Stwide | | | - | 162,000 | - | | | 162,000 |
| 195 | 083150 | Ada Repairs/Renov | | | - | | | 800,000 | | 800,000 |
| 196 | 084100 | Sw Reg Ofc Parking Lot Rep | | | - | 618,000 | - | | | 618,000 |
| 197 | 084240 | Babcock Webb Wma Office | | | - | | | 550,000 | | 550,000 |
| 198 | 084250 | Research Lab Replacement | | | - | | | | 496,000 | 496,000 |
| 199 | 084362 | Blackwater Rdc Renovation | | | - | | | 575,000 | | 575,000 |
| 200 | 089801 | Fctc-Cntr for Conservton | | | - | 2,500,000 | - | | | 2,500,000 |
| 201 | FISH & WILDLIFE CONSERVATION COMMISSION | | 2,101.50 | 104,332,341 | 36,627,428 | 10,613,045 | 110,695,242 | 2,825,000 | 281,750,504 | 442,511,219 |
| 202 | | | | | | | | | | |
| 203 | LOTTERY, DEPARTMENT OF THE | | | | | | | | | |

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| Row# | ISSUE CODE | ISSUE TITLE | FTE | RATE | REC GR | NR GR | LATF | NR LATF | OTHER TFs | ALL FUNDS |
| 204 | 1100001 | Startup (OPERATING) | 418.50 | 18,412,125 | - | - | - | - | 181,852,368 | 181,852,368 |
| 205 | 17C08C0 | Data Processing Services Category - Deduct | | | - | - | - | - | (31,883) | (31,883) |
| 206 | 17C09C0 | Data Processing Services Category - Add | | | - | - | - | - | 31,883 | 31,883 |
| 207 | 2000010 | Realignment of Instant Ticket and Full Service Vending Machine Appropriation to Gaming System Contract - Deduct | | | - | - | - | - | (5,962,950) | (5,962,950) |
| 208 | 2000020 | Realignment of Instant Ticket and Full Service Vending Machine Appropriation to Gaming System Contract - Add | | | - | - | - | - | 5,962,950 | 5,962,950 |
| 209 | 2000030 | Realignment of Terminal Games Fees to Gaming System Contract - Deduct | | | - | - | - | - | (34,280,983) | (34,280,983) |
| 210 | 2000040 | Realignment of Terminal Games Fees to Gaming System Contract - Add | | | - | - | - | - | 34,280,983 | 34,280,983 |
| 211 | 2401130 | Department Wide Security Equipment | | | - | - | - | - | 117,247 | 117,247 |
| 212 | 2503080 | Direct Billing for Administrative Hearings | | | - | - | - | - | (3,216) | (3,216) |
| 213 | 3007210 | Other Personal Services Security Officer Support In the District Offices | | | - | - | - | - | 353,616 | 353,616 |
| 214 | 3009300 | Florida Lottery Independent Security Audit | | | - | - | - | - | 225,000 | 225,000 |
| 215 | 33V02C0 | Reductions Related to the New Gaming System | | | - | - | - | - | (295,256) | (295,256) |
| 216 | 3301120 | Reduce General Expenses | | | - | - | - | - | (15,000) | (15,000) |
| 217 | 3301210 | Reduce Contracted Services Due to Cost Savings | | | - | - | - | - | (5,000) | (5,000) |
| 218 | 3301460 | Reduce Contracted Services Related to the New Phone System | | | - | - | - | - | (38,600) | (38,600) |
| 219 | 3301470 | Reduce Operating Capital Outlay Due to Cost Savings | | | - | - | - | - | (5,000) | (5,000) |
| 220 | 36220C0 | Video Spectral Comparator Replacement | | | - | - | - | - | 86,250 | 86,250 |
| 221 | 36232C0 | Information Technology Data Security | | | - | - | - | - | 229,100 | 229,100 |
| 222 | 5000110 | Increase to Instant Ticket Purchase Appropriation | | | - | - | - | - | 4,294,725 | 4,294,725 |
| 223 | 5000230 | Increase to Gaming System Contract | | | - | - | - | - | 15,022,185 | 15,022,185 |
| 224 | 5000360 | State Board of Administration Investment Fees | | | - | - | - | - | 43,000 | 43,000 |
| 225 | 5000370 | Operational Funding for the Office of the Inspector General | | | - | - | - | - | 120,000 | 120,000 |
| 226 | LOTTERY, DEPARTMENT OF THE | | 418.50 | 18,412,125 | - | - | - | - | 201,981,419 | 201,981,419 |
| 227 | | | | | | | | | | |

Agriculture & Natural Resources Appropriations Subcommittee

| AGENCY | | | Governor's Recommended Budget | | | | | | | |
|--------|---------------------------|--|-------------------------------|-------------------|-------------------|-------|------|---------|--------------------|--------------------|
| Row# | ISSUE CODE | ISSUE TITLE | FTE | RATE | REC GR | NR GR | LATF | NR LATF | OTHER TFs | ALL FUNDS |
| 228 | FINANCIAL SERVICES | | | | | | | | | |
| 229 | 1100001 | Startup (OPERATING) | 1,945.50 | 99,058,157 | 21,337,267 | | | | 253,355,538 | 274,692,805 |
| 230 | 1800530 | Transfer the Office of Fiscal Integrity to the Bureau of Insurance Fraud - Deduct | (9.00) | (461,505) | - | | | | (701,051) | (701,051) |
| 231 | 1800540 | Transfer the Office of Fiscal Integrity to the Bureau of Insurance Fraud - Add | 9.00 | 461,505 | - | | | | 701,051 | 701,051 |
| 232 | 2000260 | Realign Budget Authority Between Categories - On-Call Fees - Add | | | - | | | | 50,000 | 50,000 |
| 233 | 2000270 | Realign Budget Authority Between Categories - On-Call Fees - Deduct | | | - | | | | (50,000) | (50,000) |
| 234 | 2000310 | Realign Budget Authority Between Categories Within the Division of Rehabilitation and Liquidation - Deduct | | | - | | | | (284,250) | (284,250) |
| 235 | 2000320 | Realign Budget Authority Between Categories Within the Division of Rehabilitation and Liquidation - Add | | | - | | | | 284,250 | 284,250 |
| 236 | 20051C0 | Realign Budget Authority Between Categories for Risk Management Information System - Add | | | - | | | | 58,325 | 58,325 |
| 237 | 20052C0 | Realign Budget Authority Between Categories for Risk Management Information System - Deduct | | | - | | | | (58,325) | (58,325) |
| 238 | 2401030 | Replacement of Safety Equipment - Bomb Squads | | | - | | | | 438,400 | 438,400 |
| 239 | 2401510 | Replacement of High Mileage Vehicles | | | - | | | | 572,081 | 572,081 |
| 240 | 2503080 | Direct Billing for Administrative Hearings | | | - | | | | 55,192 | 55,192 |
| 241 | 3000130 | Additional Expenses Appropriations for Division of Rehabilitation and Liquidation | | | - | | | | 92,000 | 92,000 |
| 242 | 3000220 | Additional Position(S) In Division of Unclaimed Property for Fraud/ Suspicious Activity Review | 1.00 | 50,889 | - | | | | 61,216 | 61,216 |
| 243 | 3000610 | Other Personal Services - Staffing Assistance for Workload Issues | | | - | | | | 372,944 | 372,944 |
| 244 | 3001190 | Insurance Fraud - Financial Crimes, Leadership, and Best Practices Training for Law Enforcement Personnel | | | - | | | | 289,750 | 289,750 |
| 245 | 3004500 | Enhancements for Law Enforcement Personnel - Federal Law Enforcement Trust Fund | | | - | | | | 1,120,250 | 1,120,250 |

Agriculture & Natural Resources Appropriations Subcommittee

| Row# | AGENCY | | Governor's Recommended Budget | | | | | | | |
|------|------------|--|-------------------------------|----------|---------|---------|------|---------|------------|------------|
| | ISSUE CODE | ISSUE TITLE | FTE | RATE | REC GR | NR GR | LATF | NR LATF | OTHER TFs | ALL FUNDS |
| 246 | 3005320 | Staffing/Workload - Law Enforcement Personnel - Workers' Compensation Insurance Fraud | 3.00 | 129,423 | - | | - | | 210,000 | 210,000 |
| 247 | 33V1600 | Reduce Positions Vacant In Excess of 180 Days | (8.00) | | - | | - | | | - |
| 248 | 33V4060 | Eliminate Positions | (2.00) | | - | | - | | | - |
| 249 | 33V6110 | Eliminate Non-Regulatory Applications Review Program | (3.00) | (95,593) | - | | - | | (149,769) | (149,769) |
| 250 | 36105C0 | Flair Replacement | 4.00 | 259,740 | - | | - | | 22,669,837 | 22,669,837 |
| 251 | 36213C0 | Fortifying the Data Center Internal Security Perimeters Using Next-Generation Firewalls | | | - | | - | | 528,524 | 528,524 |
| 252 | 36214C0 | Microsoft Security, Productivity, and Collaboration Service Assistance | | | - | | - | | 531,720 | 531,720 |
| 253 | 36270C0 | Electronic Discovery Data Storage for Public Records Requests | | | - | | - | | 183,090 | 183,090 |
| 254 | 36307C0 | Mainframe Migration | | | - | | - | | 200,000 | 200,000 |
| 255 | 36308C0 | Development of Florida Open Financial Statement System Using Extensible Business Reporting Language (XBRL) Per 218.32 F.S. | | | 175,000 | 330,000 | - | | | 505,000 |
| 256 | 36316C0 | Multi-Division Application Suite Replacement Study | | | - | | - | | 250,000 | 250,000 |
| 257 | 36317C0 | Replace Florida Fire Incident Reporting System (FFIRS) | | | - | | - | | 125,500 | 125,500 |
| 258 | 36323C0 | Risk Management Information System | | | - | | - | | 38,675 | 38,675 |
| 259 | 36335C0 | Unclaimed Property Management Information System Business Needs Analysis | | | - | | - | | 500,000 | 500,000 |
| 260 | 4000110 | Relocation Costs | | | - | | - | | 1,307,671 | 1,307,671 |
| 261 | 4000200 | Intercontinental Exchange (ICE) Subscription | | | - | | - | | 20,000 | 20,000 |
| 262 | 4000230 | Additional Bloomberg Terminal | | | - | | - | | 30,000 | 30,000 |
| 263 | 4000260 | Purchase of Forklift | | | - | | - | | 145,000 | 145,000 |
| 264 | 4000270 | Additional Expenses Budget | | | - | | - | | 30,000 | 30,000 |
| 265 | 4000280 | Scanning and Shredding Documents | | | - | | - | | 82,000 | 82,000 |
| 266 | 4000360 | Additional Contracted Services Budget | | | - | | - | | 56,561 | 56,561 |
| 267 | 4000440 | Maintenance of Law Enforcement Radios | | | - | | - | | 12,000 | 12,000 |
| 268 | 4000610 | Tenant Broker Commission Fees | | | - | | - | | 504,103 | 504,103 |
| 269 | 990M000 | Maintenance and Repair | | | - | | - | | | - |
| 270 | 080940 | Arson Lab-Bldg Rep/Maint | | | - | | - | | 105,000 | 105,000 |
| 271 | 080990 | Fire College-Bldg Maint | | | - | | - | | 350,000 | 350,000 |

Agriculture & Natural Resources Appropriations Subcommittee

| AGENCY | | | Governor's Recommended Budget | | | | | | | |
|--------|---------------------------------------|---|-------------------------------|------------|------------|---------|------|---------|-------------|-------------|
| Row# | ISSUE CODE | ISSUE TITLE | FTE | RATE | REC GR | NR GR | LATF | NR LATF | OTHER TFs | ALL FUNDS |
| 272 | FINANCIAL SERVICES | | 1,940.50 | 99,402,616 | 21,512,267 | 330,000 | - | - | 284,087,283 | 305,929,550 |
| 273 | | | | | | | | | | |
| 274 | OFFICE OF INSURANCE REGULATION | | | | | | | | | |
| 275 | 1100001 | Startup (OPERATING) | 287.00 | 15,261,465 | - | - | - | - | 31,464,629 | 31,464,629 |
| 276 | 33V1600 | Reduce Positions Vacant In Excess of 180 Days | (6.00) | | - | - | - | - | | - |
| 277 | OFFICE OF INSURANCE REGULATION | | 281.00 | 15,261,465 | - | - | - | - | 31,464,629 | 31,464,629 |
| 278 | | | | | | | | | | |
| 279 | OFFICE OF FINANCIAL REGULATION | | | | | | | | | |
| 280 | 1100001 | Startup (OPERATING) | 354.00 | 20,569,839 | - | - | - | - | 41,299,137 | 41,299,137 |
| 281 | OFFICE OF FINANCIAL REGULATION | | 354.00 | 20,569,839 | - | - | - | - | 41,299,137 | 41,299,137 |
| 282 | | | | | | | | | | |
| 283 | PUBLIC SERVICE COMMISSION | | | | | | | | | |
| 284 | 1100001 | Startup (OPERATING) | 267.00 | 15,177,249 | - | - | - | - | 25,267,445 | 25,267,445 |
| 285 | 17C08C0 | Data Processing Services Category - Deduct | | | - | - | - | - | (17,942) | (17,942) |
| 286 | 17C09C0 | Data Processing Services Category - Add | | | - | - | - | - | 17,942 | 17,942 |
| 287 | 24000C0 | Enhancement to Emergency Operations Backup System | | | - | 500,000 | - | - | | 500,000 |
| 288 | PUBLIC SERVICE COMMISSION | | 267.00 | 15,177,249 | - | 500,000 | - | - | 25,267,445 | 25,767,445 |
| 289 | | | | | | | | | | |
| 290 | MANAGEMENT SRVCS, DEPT OF | | | | | | | | | |
| 291 | 1100001 | Startup (OPERATING) | 838.50 | 40,748,632 | 27,639,744 | - | - | - | 504,525,946 | 532,165,690 |
| 292 | 1100002 | Startup Recurring Fixed Capital Outlay (DEBT SERVICE/OTHER) | | | - | - | - | - | 23,042,269 | 23,042,269 |
| 293 | 17C08C0 | Data Processing Services Category - Deduct | | | (48,317) | - | - | - | (1,612,303) | (1,660,620) |
| 294 | 17C09C0 | Data Processing Services Category - Add | | | 48,317 | - | - | - | 1,612,303 | 1,660,620 |
| 295 | 17C18C0 | Transfer State Data Center from the Agency for State Technology to the Department of Management Services - Add | 166.00 | 10,243,915 | - | - | - | - | 56,780,550 | 56,780,550 |
| 296 | 17C24C0 | Transfer Executive Direction and Administration from the Agency for State Technology to the Department of Management Services - Add | 24.00 | 1,954,195 | 44,002 | - | - | - | 4,911,798 | 4,955,800 |
| 297 | 20070C0 | Transfer Budget from Expenses to Other Personal Services - Deduct | | | - | - | - | - | (167,214) | (167,214) |

Agriculture & Natural Resources Appropriations Subcommittee

| AGENCY | | | Governor's Recommended Budget | | | | | | | |
|--------|------------|--|-------------------------------|----------|----------|---------|------|---------|-----------|-----------|
| Row# | ISSUE CODE | ISSUE TITLE | FTE | RATE | REC GR | NR GR | LATF | NR LATF | OTHER TFs | ALL FUNDS |
| 298 | 20071C0 | Transfer Budget from Expenses to Other Personal Services - Add | | | - | | - | | 167,214 | 167,214 |
| 299 | 2008660 | Transfer Budget from Other Personal Services (OPS) to Salaries and Benefits - Deduct | | | - | | - | | (350,000) | (350,000) |
| 300 | 2008670 | Transfer Budget from Other Personal Services (OPS) to Salaries and Benefits - Add | | | - | | - | | 350,000 | 350,000 |
| 301 | 2401500 | Replacement of Motor Vehicles | | | - | | - | | 114,400 | 114,400 |
| 302 | 2503080 | Direct Billing for Administrative Hearings | | | (95,702) | | - | | 59,732 | (35,970) |
| 303 | 3000080 | Statewide Travel Management System Enhancements to Provide Public Viewing Capabilities | | | 350,000 | | - | | | 350,000 |
| 304 | 3002000 | First Responder Network Authority (FIRSTNET) Grant | | | - | | - | | 322,762 | 322,762 |
| 305 | 33V0420 | Reduce Expenses - Telecommunications Services | | | - | | - | | (100,000) | (100,000) |
| 306 | 33V0820 | Reduce Contracted Services | | | - | | - | | (116,000) | (116,000) |
| 307 | 33V1110 | Delete Position and Rate In the Retirement Program | (1.00) | (26,487) | (43,998) | | - | | | (43,998) |
| 308 | 36135C0 | Statewide Law Enforcement Radio System (SLERS) | | | - | | - | | 2,219,822 | 2,219,822 |
| 309 | 36270C0 | Information Technology Refresh | | | - | | - | | 34,600 | 34,600 |
| 310 | 36291C0 | Information Technology - Security Consolidation | | | - | | - | | 400,279 | 400,279 |
| 311 | 36334C0 | Fleet Management Information System | | | - | | - | | 180,000 | 180,000 |
| 312 | 36391C0 | Retirement System - Information Technology Security | | | - | | - | | 275,000 | 275,000 |
| 313 | 36393C0 | Federal Property Assistance - Information Technology | | | - | | - | | 17,000 | 17,000 |
| 314 | 36397C0 | Information Technology Security Services | | | - | | - | | 30,000 | 30,000 |
| 315 | 4A01000 | Staffing for the Florida Commission on Human Relations | 8.00 | 306,664 | - | | - | | 152,013 | 152,013 |
| 316 | 40014C0 | Statewide Law Enforcement Radio System (SLERS) Staff Augmentation and Independent Verification and Validation Services | | | - | | - | | 1,083,800 | 1,083,800 |
| 317 | 40042C0 | Mfn2 Wan Services - Florida Commission on Human Relations | | | - | | - | | 32,984 | 32,984 |
| 318 | 4100050 | Department of Management Services Administrative Assessment | | | - | | - | | 2,361 | 2,361 |
| 319 | 4100150 | Interior Refurbishment of Leased Space In the Florida Facilities Pool | | | - | | - | | 1,942,689 | 1,942,689 |
| 320 | 41004C0 | Domestic Security - Florida Mutual Aid Build Out (MAB) Insufficient Funding | | | - | 464,935 | - | | | 464,935 |

Agriculture & Natural Resources Appropriations Subcommittee

| AGENCY | | | Governor's Recommended Budget | | | | | | | |
|--------|--|--|-------------------------------|-------------------|-------------------|------------------|----------|----------|--------------------|--------------------|
| Row# | ISSUE CODE | ISSUE TITLE | FTE | RATE | REC GR | NR GR | LATF | NR LATF | OTHER TFs | ALL FUNDS |
| 321 | 41005C0 | Domestic Security - Florida Interoperability Network (FIN) Insufficient Funding | | | - | 1,296,900 | - | | | 1,296,900 |
| 322 | 41007C0 | Myfloridamarketplace | | | - | | - | | 277,000 | 277,000 |
| 323 | 4105610 | Increase In Pensions and Benefits | | | 319,448 | | - | | | 319,448 |
| 324 | 43020C0 | Transfer from Data Processing Assessment (AST) to Contracted Services - Deduct | | | - | | - | | (75,943) | (75,943) |
| 325 | 43021C0 | Transfer from Data Processing Assessment (AST) to Contracted Services - Add | | | - | | - | | 75,943 | 75,943 |
| 326 | 44007C0 | Division of Retirement Information Technology Transition | | | - | | - | | 1,500,000 | 1,500,000 |
| 327 | 990C000 | Code Corrections | | | - | | - | | | - |
| 328 | 081010 | Compl/Amer Disabil Act | | | - | | - | | 1,600,000 | 1,600,000 |
| 329 | 081400 | Life Safety Proj, Stw | | | - | | - | | 1,385,000 | 1,385,000 |
| 330 | 990D000 | Debt Service | | | - | | - | | | - |
| 331 | 089070 | Debt Service | | | - | | - | | (103,000) | (103,000) |
| 332 | 990M000 | Maintenance and Repair | | | - | | - | | | - |
| 333 | 080956 | Facilities Repair & Maint | | | - | 3,807,060 | - | | 2,100,000 | 5,907,060 |
| 334 | 083400 | Cap. Depre. - General | | | - | | - | | 5,267,574 | 5,267,574 |
| 335 | 089976 | Fl Holocaust Memorial | | | - | 400,000 | - | | | 400,000 |
| 336 | MANAGEMENT SRVCS, DEPT OF | | 1,035.50 | 53,226,919 | 28,213,494 | 5,968,895 | - | - | 607,938,579 | 642,120,968 |
| 337 | | | | | | | | | | |
| 338 | DIVISION OF ADMINISTRATIVE HEARINGS | | | | | | | | | |
| 339 | 1100001 | Startup (OPERATING) | 240.00 | 15,256,213 | - | - | - | - | 26,765,256 | 26,765,256 |
| 340 | DIVISION OF ADMINISTRATIVE HEARINGS | | 240.00 | 15,256,213 | - | - | - | - | 26,765,256 | 26,765,256 |
| 341 | | | | | | | | | | |
| 342 | AGENCY FOR STATE TECHNOLOGY | | | | | | | | | |
| 343 | 1100001 | Startup (OPERATING) | 203.00 | 12,945,676 | 44,002 | - | - | - | 64,181,908 | 64,225,910 |
| 344 | 17C15C0 | Transfer Data Center Administration from the Agency for State Technology to the Department of Management Services - Deduct | (10.00) | (603,688) | (44,002) | | - | | (2,510,486) | (2,554,488) |
| 345 | 17C17C0 | Transfer State Data Center from the Agency for State Technology to the Department of Management Services - Deduct | (166.00) | (10,243,915) | - | | - | | (56,780,550) | (56,780,550) |

Agriculture & Natural Resources Appropriations Subcommittee

| AGENCY | | | Governor's Recommended Budget | | | | | | | |
|--------|------------------------------------|---|-------------------------------|--------------------|--------------------|------------|------|---------|--------------------|--------------------|
| Row# | ISSUE CODE | ISSUE TITLE | FTE | RATE | REC GR | NR GR | LATF | NR LATF | OTHER TFs | ALL FUNDS |
| 346 | 17C23C0 | Transfer Executive Direction from the Agency for State Technology to the Department of Management Services - Deduct | (14.00) | (1,350,507) | - | | - | | (2,401,312) | (2,401,312) |
| 347 | 33V1620 | Vacant Position Reductions | (4.00) | | - | | - | | | - |
| 348 | 33V1660 | Executive Direction Staffing Reductions | (5.00) | (501,473) | - | | - | | (550,994) | (550,994) |
| 349 | 33V1680 | Data Center Administration Staffing Reductions | (4.00) | (246,093) | - | | - | | (364,041) | (364,041) |
| 350 | 33V1690 | State Technology Reorganization Efficiency Reductions | | | - | | - | | (574,525) | (574,525) |
| 351 | 3301180 | Reduce the Deferred-Payment Commodity Contract Category In the State Data Center | | | - | | - | | (1,000,000) | (1,000,000) |
| 352 | AGENCY FOR STATE TECHNOLOGY | | - | - | - | - | - | - | - | - |
| 353 | | | | | | | | | | |
| 354 | REVENUE, DEPARTMENT OF | | | | | | | | | |
| 355 | 1100001 | Startup (OPERATING) | 5,036.75 | 200,942,118 | 188,979,562 | | - | | 370,700,741 | 559,680,303 |
| 356 | 17C08C0 | Data Processing Services Category - Deduct | | | (157,241) | | - | | (1,711,835) | (1,869,076) |
| 357 | 17C09C0 | Data Processing Services Category - Add | | | 157,241 | | - | | 1,711,835 | 1,869,076 |
| 358 | 2503080 | Direct Billing for Administrative Hearings | | | (259,277) | | - | | (522,666) | (781,943) |
| 359 | 3002000 | Aid to Local Governments - Aerial Photography/Mapping | | | | 59,000 | - | | | 59,000 |
| 360 | 3002200 | Child Support Mandatory Case Fee | | | 140,701 | | - | | | 140,701 |
| 361 | 33V0330 | Child Support Program - Postal Savings from Revised Mailing Practices | | | (167,774) | | - | | (325,677) | (493,451) |
| 362 | 33V1000 | Savings from Replacing the Image Management System | (7.00) | | (390,022) | | - | | | (390,022) |
| 363 | 33V1600 | Reduce Positions Vacant In Excess of 180 Days | (9.00) | | | | - | | | - |
| 364 | 33V2130 | State Disbursement Unit Cost Reduction | | | (136,000) | | - | | (264,000) | (400,000) |
| 365 | 33V4030 | General Tax Administration - Postal Savings from Revised Mailing Practices | | | (17,360) | | - | | | (17,360) |
| 366 | 33V5080 | Reduction of Full Time Equivalent (FTE) Due to Increased Efficiencies of Electronic Filings | (3.00) | (83,781) | (129,312) | | - | | | (129,312) |
| 367 | 33V5090 | Expenses Reduction Through the Use of Electronic Correspondence System | | | (5,279) | | - | | | (5,279) |
| 368 | 36203C0 | Replacement of the Image Management System | | | | | - | | 4,023,891 | 4,023,891 |
| 369 | 5006080 | Continuation of Emergency Distribution to Counties | | | | | - | | 1,000,000 | 1,000,000 |
| 370 | 52M0540 | Fiscally Constrained Counties - Ad Valorem Tax | | | | 29,343,381 | - | | | 29,343,381 |

Agriculture & Natural Resources Appropriations Subcommittee

| AGENCY | | | Governor's Recommended Budget | | | | | | | |
|--------|----------------------------------|---|-------------------------------|--------------------|--------------------|--------------------|--------------------|--------------------|----------------------|----------------------|
| Row# | ISSUE CODE | ISSUE TITLE | FTE | RATE | REC GR | NR GR | LATF | NR LATF | OTHER TFs | ALL FUNDS |
| 371 | REVENUE, DEPARTMENT OF | | 5,017.75 | 200,858,337 | 188,015,239 | 29,402,381 | - | - | 374,612,289 | 592,029,909 |
| 372 | | | | | | | | | | |
| 373 | BUSINESS/PROFESSIONAL REG | | | | | | | | | |
| 374 | 1100001 | Startup (OPERATING) | 1,616.25 | 71,398,315 | 1,442,541 | | - | | 154,465,994 | 155,908,535 |
| 375 | 1600560 | Reapproval of Eog #B0202 - Transfer from Slots to Pari-Mutuel Wagering to Reclass a Vacant Position to a Veterinarian - Deduct | | (35,000) | - | | - | | (90,000) | (90,000) |
| 376 | 1600570 | Reapproval of Eog #B0202 - Transfer from Slots to Pari-Mutuel Wagering to Reclass a Vacant Position to a Veterinarian - Add | | 35,000 | - | | - | 90,000 | | 90,000 |
| 377 | 17C08C0 | Data Processing Services Category - Deduct | | | - | | - | | (1,184,263) | (1,184,263) |
| 378 | 17C09C0 | Data Processing Services Category - Add | | | - | | - | | 1,184,263 | 1,184,263 |
| 379 | 1800200 | Transfer FI Condos, Timeshares and Mobile Homes' Arbitration Unit to Executive Direction/Office of the General Counsel - Deduct | (10.00) | (500,142) | - | | - | | (783,499) | (783,499) |
| 380 | 1800210 | Transfer FI Condos, Timeshares and Mobile Homes' Arbitration Unit to Executive Direction/Office of the General Counsel - Add | 10.00 | 500,142 | - | | - | 783,499 | | 783,499 |
| 381 | 2405000 | Law Enforcement Equipment - Utilization of Forfeiture Funds from Federal Law Enforcement Trust Fund | | | - | | - | 43,710 | | 43,710 |
| 382 | 2503080 | Direct Billing for Administrative Hearings | | | - | | - | (819) | | (819) |
| 383 | 33V1600 | Reduce Positions Vacant In Excess of 180 Days | (2.00) | | - | | - | | | - |
| 384 | 33V4510 | Efficiency Savings Due to the Migration of Construction Exams to Computer Based Testing | | | - | | - | (151,957) | | (151,957) |
| 385 | 3801500 | Law Enforcement Training - Utilization of Forfeiture Funds from Federal Law Enforcement Trust Fund | | | - | | - | 121,750 | | 121,750 |
| 386 | 5200A70 | Retention Plan of Inspectors to Increase Food and Lodging Inspections | | 1,294,108 | - | | - | 1,500,000 | | 1,500,000 |
| 387 | BUSINESS/PROFESSIONAL REG | | 1,614.25 | 72,692,423 | 1,442,541 | - | - | - | 155,978,678 | 157,421,219 |
| 388 | Grand Total | | 19,858.75 | 907,125,646 | 486,582,698 | 322,998,558 | 699,596,124 | 146,576,287 | 4,433,669,015 | 6,089,422,682 |

CourtSmart Tag Report

Room: EL 110

Case No.:

Type:

Caption: Senate Appropriations Subcommittee on Agriculture, Environment, and General Government Judge:

Started: 3/19/2019 10:03:03 AM

Ends: 3/19/2019 10:32:38 AM

Length: 00:29:36

10:03:07 AM Call to Order
10:03:22 AM Sen. Mayfield (Chair)
10:04:28 AM S 7062
10:04:43 AM Sen. Albritton
10:06:38 AM Recording Paused
10:08:13 AM Recording Resumed
10:08:22 AM S 496
10:08:33 AM Sen. Rader
10:10:50 AM Sen. Bean
10:11:40 AM S 532
10:11:54 AM Sen. Lee
10:15:53 AM Sen. Powell
10:16:27 AM Sen. Lee
10:16:52 AM Sen. Stewart
10:17:14 AM Sen. Lee
10:18:06 AM Am. 722726
10:18:07 AM Sen. Lee
10:18:53 AM Frank Bernadino, Partner, Palm Beach County (waives in support)
10:19:09 AM S 532 (cont.)
10:19:12 AM Sen. Mayfield
10:19:28 AM Trish Neely, Board Member, League of Women Voters (waives in support)
10:19:36 AM Andrew Ketchel, Consultant, Capitol City Consulting representing Lennar Homes (waives in support)
10:19:42 AM Edward Briggs, Consultant, Highland Homes (waives in support)
10:19:48 AM Rusty Payton, CEO, Florida Home Builders Assn. (waives in support)
10:19:57 AM Jess McCarty, Assistant County Attorney, Miami-Dade County (waives in support)
10:20:12 AM Sen. Hutson
10:21:26 AM Vote Roll Call
10:21:42 AM S 626
10:21:49 AM Sen. Brandes
10:22:48 AM Am. 707912
10:22:57 AM Sen. Brandes
10:23:12 AM Am. 722486
10:23:22 AM Sen. Broxson
10:28:45 AM Am. 707912 (cont.)
10:29:11 AM S 626 (cont.)
10:29:22 AM Audrey Brown, President, Florida Assn. of Health Plans (waives in support)
10:29:29 AM Paul Sanford, FL Insurance Council, Florida Blue, American Council of Life Insurers and FL Life and Health Insurance Guaranty Assn. (FLAHIGA) (waives in support)
10:29:48 AM Sen. Brandes
10:31:05 AM TAB 5 - Review and Discussion of Fiscal Year 2019-2020 Budget Issues
10:32:12 AM Sen. Mayfield
10:32:22 AM Meeting Adjourned