

Tab 1	SB 314 by Baxley; (Identical to H 00193) Mortgage Brokering
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Tab 2	SB 518 by Bean; (Similar to CS/CS/H 00329) Motor Vehicle Insurance Coverage Exclusions
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710292	A	S	WD	BI, Thurston	Delete L.16 - 42:	01/23 06:10 PM
565706	A	S	FAV	BI, Bean	Delete L.18 - 37:	01/23 06:10 PM

Tab 3	SB 738 by Perry; (Similar to CS/H 00411) Public Records and Public Meetings/Firesafety System Plans
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Tab 4	SB 746 by Bean; (Similar to CS/H 00529) Florida Fire Prevention Code
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328070	A	S	RCS	BI, Bean	Delete L.54 - 57:	01/23 06:02 PM
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Tab 5	SB 762 by Mayfield; (Similar to CS/CS/H 00483) Permissible Insurance Acts
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242446	D	S	RCS	BI, Mayfield	Delete everything after	01/23 06:02 PM
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Tab 6	SB 894 by Garcia; (Similar to CS/H 00935) Mortgage Lending
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Tab 7	SB 924 by Baxley; (Identical to H 00537) Health Benefit Coverage for Prescription Eye Drop Refills
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Tab 8	SB 1168 by Steube; (Compare to H 07015) Insurance
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422902	D	S	UNFAV	BI, Broxson	Delete everything after	01/23 06:02 PM
178904	A	S	RCS	BI, Steube	btw L.103 - 104:	01/23 06:02 PM
606060	A	S	RCS	BI, Steube	Delete L.118 - 122:	01/23 06:02 PM
382922	A	S	RCS	BI, Steube	Delete L.134:	01/23 06:02 PM
202936	A	S	RCS	BI, Steube	Delete L.150 - 167:	01/23 06:02 PM
313360	A	S	RCS	BI, Steube	Delete L.186 - 194:	01/23 06:02 PM
804018	D	S	WD	BI, Broxson	Delete everything after	01/23 06:02 PM
960354	A	S	WD	BI, Steube	Delete L.195:	01/23 06:02 PM

Tab 9	SB 1292 by Stargel; (Similar to CS/H 01073) Department of Financial Services
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928844	D	S	RCS	BI, Stargel	Delete everything after	01/23 06:02 PM
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The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

BANKING AND INSURANCE

Senator Flores, Chair
Senator Steube, Vice Chair

MEETING DATE: Tuesday, January 23, 2018

TIME: 3:30—5:30 p.m.

PLACE: *Toni Jennings Committee Room, 110 Senate Office Building*

MEMBERS: Senator Flores, Chair; Senator Steube, Vice Chair; Senators Bracy, Bradley, Braynon, Broxson, Gainer, Garcia, Grimsley, Taddeo, and Thurston

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 314 Baxley (Similar S 282, Identical H 193)	Mortgage Brokering; Providing an exemption from regulation under parts I and II of ch. 494, F.S., for certain securities dealers, investment advisers, and associated persons, etc. RI 12/07/2017 Favorable BI 01/23/2018 Favorable RC	Favorable Yeas 10 Nays 0
2	SB 518 Bean (Similar CS/CS/H 329)	Motor Vehicle Insurance Coverage Exclusions; Providing that private passenger motor vehicle policies may exclude certain identified individuals from specified coverages under certain circumstances; providing that such policies may not exclude coverage under certain circumstances, etc. BI 01/10/2018 Not Considered BI 01/16/2018 Temporarily Postponed BI 01/23/2018 Unfavorable CM RC	Unfavorable Yeas 4 Nays 5
3	SB 738 Perry (Identical H 411)	Public Records and Public Meetings/Firesafety System Plans; Providing an exemption from public records requirements for firesafety system plans held by an agency; providing an exemption from public records and public meetings requirements for information relating to firesafety systems for certain properties and meetings relating to such systems and information; providing for future legislative review and repeal of the exemptions; providing a statement of public necessity, etc. BI 01/23/2018 Favorable GO RC	Favorable Yeas 10 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Banking and Insurance

Tuesday, January 23, 2018, 3:30—5:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 746 Bean (Similar CS/H 529)	Florida Fire Prevention Code; Requiring that doorstep refuse and recycling collection containers be allowed in exit corridors of certain apartment occupancies under certain circumstances; authorizing authorities having jurisdiction to approve certain alternative containers and storage arrangements, etc. BI 01/23/2018 Fav/CS RI RC	Fav/CS Yeas 7 Nays 1
5	SB 762 Mayfield (Similar CS/CS/H 483)	Permissible Insurance Acts; Revising the types, value, and frequency of advertising and promotional gifts that licensed insurers or their agents may give to insureds, prospective insureds, or others; authorizing such insurers and agents to make specified charitable contributions on behalf of insureds or prospective insureds, etc. BI 01/23/2018 Fav/CS CM RC	Fav/CS Yeas 7 Nays 0
6	SB 894 Garcia (Similar H 935, Compare S 282)	Mortgage Lending; Revising the definition of the term "mortgage loan"; defining the term "hold himself or herself out to the public as being in the mortgage lending business", etc. BI 01/23/2018 Favorable CM RC	Favorable Yeas 10 Nays 0
7	SB 924 Baxley (Similar S 552, Identical H 537)	Health Benefit Coverage for Prescription Eye Drop Refills; Requiring health insurance policies providing coverage for certain prescription eye drops to provide coverage for eye drop prescription refills under certain circumstances; providing applicability of prescription eye drop refill coverage requirements to group health insurance, blanket health insurance, and franchise health insurance, etc. BI 01/23/2018 Temporarily Postponed AGG AP	Temporarily Postponed

COMMITTEE MEETING EXPANDED AGENDA

Banking and Insurance

Tuesday, January 23, 2018, 3:30—5:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	SB 1168 Steube (Compare H 7015, S 62, S 256, S 258)	Insurance; Providing that certain attorney fees and costs paid by property insurers may not be included in the property insurer's rate base and may not be used to justify a rate increase or rate change; providing that personal lines residential and commercial residential property insurance policies may not restrict the assignment of post-loss benefits; providing that an agreement to assign post-loss benefits of a residential homeowner's property insurance is not valid unless specified conditions are met, etc. BI 01/16/2018 Not Considered BI 01/23/2018 Fav/CS JU RC	Fav/CS Yeas 7 Nays 3
9	SB 1292 Stargel (Identical H 1073, Compare H 29, S 1884)	Department of Financial Services; Providing that electronic images of warrants, vouchers, or checks in the Division of Treasury are deemed to be original records; renaming the Bureau of Fire and Arson Investigations within the Division of Investigative and Forensic Services as the Bureau of Fire, Arson, and Explosives Investigations; revising conditions under which certain children are eligible to remain in licensed care; providing an exemption from specified application fees for members and certain veterans of the United States Armed Forces, etc. BI 01/23/2018 Fav/CS CF AP	Fav/CS Yeas 8 Nays 0
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 Committee on Banking and Insurance

BILL: SB 314

INTRODUCER: Senator Baxley

SUBJECT: Mortgage Brokering

DATE: January 22, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>McSwain</u>	<u>RI</u>	Favorable
2.	<u>Johnson</u>	<u>Knudson</u>	<u>BI</u>	Favorable
3.	<u> </u>	<u> </u>	<u>RC</u>	<u> </u>

I. Summary:

SB 314 exempts a securities dealer, investment advisor, or associated person registered under ch. 517, F.S., from regulation as a loan originator or mortgage broker under ch. 494, F.S., if the person in the normal course of conducting securities business with corporate or individual clients:

- Solicits or offers to solicit a mortgage loan from a securities client, or refers a securities client to an entity exempt from regulation under parts I or II of ch. 494, F.S., pursuant to s. 494.00115, F.S., a licensed mortgage broker, a licensed mortgage lender, or a registered loan originator; and
- Does not accept or offer to accept a mortgage loan application, negotiate or offer to negotiate the terms or conditions of a new or existing mortgage loan on behalf of a borrower or lender, or negotiate or offer to negotiate the sale of an existing mortgage loan to a noninstitutional investor for compensation or gain.

Any referral or solicitation made under this exemption must comply with the provisions of ch. 517, F.S., the federal Real Estate Settlement Procedures Act, and any applicable federal law or general law of this state.

The bill may have an insignificant, negative fiscal impact to state government.

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

II. Present Situation:

State Regulation of Non-Depository Mortgage Business

The Office of Financial Regulation (OFR) regulates state-chartered banks, credit unions, other financial institutions, as well as finance companies, and the securities industry.¹ The OFR's Division of Consumer Finance licenses and regulates various aspects of the non-depository financial services industries, including individuals and businesses engaged in the mortgage business.

Under ch. 494, F.S., the OFR licenses and regulates the following individuals and businesses:

- **Loan originator**, who, directly or indirectly, solicits or offers to solicit a mortgage loan, accepts or offers to accept an application for a mortgage loan, negotiates or offers to negotiate the terms or conditions of a new or existing mortgage loan on behalf of a borrower or lender, or negotiates or offers to negotiate the sale of an existing mortgage loan to a noninstitutional investor for compensation or gain. The term includes an individual who is required to be licensed as a loan originator under the S.A.F.E. Mortgage Licensing Act of 2008.² The term does not include an employee of a mortgage broker or mortgage lender whose duties are limited to physically handling a completed application form or transmitting a completed application form to a lender on behalf of a prospective borrower.³
- **Mortgage broker**, who conducts loan originator activities through one or more licensed loan originators employed by the mortgage broker or as independent contractors to the mortgage broker.⁴
- **Mortgage lender**, who makes a mortgage loan or services a mortgage loan for others, or, for compensation or gain, directly or indirectly, sells or offers to sell a mortgage loan to a noninstitutional investor.⁵ A mortgage lender may act as a mortgage broker.⁶

Under ch. 494, F.S., these licensees are subject to:

- Requirements for the maintenance of books and records relating to the licensee's compliance with the chapter, with regard to expenses paid by the licensee on behalf of the borrower, and relating to its advertisements.⁷
- Investigations and examinations by the OFR.⁸
- The OFR's enforcement authority, such as injunctions, cease and desist orders, suspension or revocation of licensure, and administrative fines.⁹

¹ Section 20.121(3)(a)2. and (d), F.S. The OFR is housed within the Financial Services Commission (commission). The commission, comprised of the Governor and Cabinet, appoints the OFR Commissioner. The commission is a separate budget entity under the Department of Financial Services (DFS), and is not subject to the control or supervision by the DFS.

² The Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (S.A.F.E. Act) (12 U.S.C. s. 5101-5116), enacted on July 30, 2008, establishes minimum standards for the licensing and registration of state-licensed mortgage loan originators, and mandates a nationwide licensing and registration system for residential mortgage loan originators.

³ Section 494.001(17), F.S.

⁴ Section 494.001(22), F.S.

⁵ Section 494.001(23), F.S.

⁶ Section 494.0073, F.S.

⁷ Sections 494.0016 and 494.00165(2), F.S.

⁸ Section 494.0012, F.S.

⁹ Sections 494.0013, 494.0014, and 494.00255, F.S.

In order to obtain a license as a mortgage loan originator, an individual must:¹⁰

- Be at least 18 years of age and have a high school diploma or its equivalent;
- Complete a 20-hour prelicensing class;¹¹
- Pass a written test;¹²
- Submit an application form;
- Submit nonrefundable application fees totaling \$215;
- Submit fingerprints, the cost of which is borne by the applicant; and
- Authorize access to his or her credit report, the cost of which is borne by the applicant.

In order to obtain a license as a mortgage broker, a person must:¹³

- Submit an application form, which must designate a qualified principal loan originator;
- Submit nonrefundable application fees totaling \$525;
- Submit fingerprints for each of the applicant's control persons,¹⁴ the cost of which is borne by the person subject to the background check; and
- Authorize access to the credit reports on each of the applicant's control persons, the cost of which is borne by the applicant.

In order to obtain licensure as a mortgage lender, a person must:¹⁵

- Submit an application form, which must designate a qualified principal loan originator;
- Submit nonrefundable application fees totaling \$600;
- Submit fingerprints for each of the applicant's control persons, the cost of which is borne by the person subject to the background check;
- Submit a copy of the applicant's financial audit report for the most recent fiscal year, which must document that the applicant has a net worth of at least \$63,000 if the applicant is not seeking a servicing endorsement, or at least \$250,000 if the applicant is seeking a servicing endorsement; and
- Authorize access to the credit reports of each of the applicant's control persons, the cost of which is borne by the applicant.

A mortgage loan originator, broker, and lender license is subject to annual renewal by December 31.¹⁶ In order to renew:

- A mortgage loan originator license, an individual must submit a renewal form and nonrefundable renewal fees totaling \$170; provide documentation of completion of at least

¹⁰ Section 494.00312, F.S.

¹¹ The cost of prelicensing courses may vary by course provider, but one such course provider charges \$349 for the required 20-hour course. See MortgageEducation.com, Mortgage Loan Originator Courses, <https://www.mortgage-education.com/StatePage.aspx?StateCode=FL> (last visited January 18, 2018).

¹² The cost of written test is \$110. See Nationwide Multistate Licensing System & Registry, Uniform State Test (UST) Implementation Information, <http://mortgage.nationwidelicencingsystem.org/profreq/testing/Pages/UniformStateTest.aspx> (last visited January 18, 2018).

¹³ Section 494.00321, F.S.

¹⁴ "Control persons" is defined in s. 494.001(6), F.S., to mean, in part, "an individual, partnership, corporation, trust, or other organization that possesses the power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract, or otherwise."

¹⁵ Section 494.00611, F.S.

¹⁶ Sections 494.00312(7), 494.00321(7), and 494.00611, F.S.

eight hours of continuing education courses;¹⁷ and authorize access to his or her credit report, the cost of which is borne by the licensee.¹⁸

- A mortgage broker license, a person must submit a renewal form and nonrefundable renewal fees totaling \$475; submit fingerprints for any new control persons who have not been screened; and authorize access to the credit reports of each of the mortgage broker's control persons, the cost of which is borne by the licensee.¹⁹
- A mortgage lender license, a person must submit a renewal form and nonrefundable renewal fees totaling \$575; submit fingerprints for any new control persons who have not been screened; submit proof that the mortgage lender continues to meet the applicable net worth requirement; and authorize access to the credit reports of each of the mortgage lender's control persons, the cost of which is borne by the licensee.²⁰

The following persons are exempt from mortgage broker and mortgage lender regulation under ch. 494, F.S.:²¹

- Any person operating exclusively as a registered loan originator²² in accordance with the S.A.F.E. Act.
- A depository institution; certain regulated subsidiaries owned and controlled by a depository institution; or institutions regulated by the Farm Credit Administration.
- The Federal National Mortgage Association; the Federal Home Loan Mortgage Corporation; any agency of the Federal Government; any state, county, or municipal government; or any quasi-governmental agency that acts in such capacity under the specific authority of the laws of any state or the United States.
- An attorney licensed in this state who negotiates the terms of a mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client.
- A person involved solely in the extension of credit relating to the purchase of a timeshare plan.
- A person who performs only real estate brokerage activities and is licensed or registered in this state under part I of ch. 475, F.S., unless the person is compensated by a lender, a mortgage broker, or other loan originator or by an agent of such lender, mortgage broker, or other loan originator.

The following persons are exempt from the mortgage lender licensing requirements of ch. 494, F.S.:²³

- A person acting in a fiduciary capacity conferred by the authority of a court.
- A person who, as a seller of his or her own real property, receives one or more mortgages in a purchase money transaction.

¹⁷ See note 11.

¹⁸ Section 494.00313, F.S.

¹⁹ Section 494.00322, F.S.

²⁰ Section 494.00612, F.S.

²¹ Section 494.00115(1), F.S.

²² Section 494.001(31), F.S., defines a "registered loan originator" as "a loan originator who is employed by a depository institution, by a subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency, or by an institution regulated by the Farm Credit Administration, and who is registered with and maintains a unique identifier through the [Nationwide Mortgage Licensing System and Registry]." A registered loan originator must comply with federal registration requirements rather than the loan originator licensing requirements under ch. 494, F.S.

²³ Section 494.00115(2), F.S.

- A person who acts solely under contract and as an agent for federal, state, or municipal agencies for the purpose of servicing mortgage loans.
- A person who makes only nonresidential mortgage loans and sells loans only to institutional investors.
- An individual making or acquiring a mortgage loan using his or her own funds for his or her own investment, and who does not hold himself or herself out to the public as being in the mortgage lending business.
- An individual selling a mortgage that was made or purchased with that individual's funds for his or her own investment, and who does not hold himself or herself out to the public as being in the mortgage lending business.

Federal Real Estate Settlement Procedures Act of 1974

The federal Real Estate Settlement Procedures Act²⁴ (the Act) became effective on June 20, 1975.²⁵ The Act requires lenders, mortgage brokers, or servicers of home loans to provide borrowers with pertinent and timely disclosures regarding the nature and costs of the real estate settlement process. In addition, the Act prohibits specific practices, such as kickbacks,²⁶ and places limitations upon compensation and fees.²⁷

Federal Securities Regulation

The federal Securities Exchange Act of 1934 ('34 Act) requires registration of securities market participants such as broker-dealers.²⁸ Generally, any person acting as “broker” or “dealer” as defined in the '34 Act must be registered with the Securities and Exchange Commission (SEC) and join a self-regulatory organization (SRO), like the Financial Industry Regulatory Authority (FINRA) or a national securities exchange.

The '34 Act broadly defines “broker” as “any person engaged in the business of effecting transactions in securities for the account of others,” which the SEC has interpreted to include involvement in any of the key aspects of a securities transaction, including solicitation, negotiation, and execution.²⁹ A “dealer” is “any person engaged in the business of buying and selling securities . . . for such person's own account through a broker or otherwise.”³⁰

State Securities Regulation

In addition to federal securities laws, “Blue Sky Laws” are state laws designed to protect investors against fraudulent sales practices and activities by requiring companies making

²⁴ 12 U.S.C. ss. 2601 et seq.

²⁵ 12 CFR Part 1024 (Regulation X) implements RESPA.

²⁶ 12 CFR s. 1024.14.

²⁷ *Id.*

²⁸ See 15 U.S.C. s. 78l, relating to registration requirements for securities.

²⁹ 15 U.S.C. ss. 78c(4) and 78o. U.S. Securities and Exchange Commission, Guide to Broker-Dealer Registration, <https://www.sec.gov/reportspubs/investor-publications/divisionsmarketregbdguidehtm.html> (last visited January 18, 2018).

³⁰ 15 U.S.C. s. 78c(5).

offerings of securities to register their offerings before they can be sold in that state and by requiring licensure for brokerage firms, their brokers, and investment adviser representatives.³¹

In Florida, the OFR's Division of Securities oversees the Securities and Investor Protection Act, ch. 517, F.S. (act), which regulates the offer and sale of securities in, to, or from Florida by firms, branch offices, and individuals affiliated with these firms. The act requires the following individuals or businesses to be registered with the OFR under s. 517.12, F.S., in order for such persons to sell or offer to sell any securities in or from offices in this state, or to sell securities to persons in this state from offices outside this state.³²

- **Dealers**, which include:³³
 - Any person, other than an associated person registered under ch. 517, F.S., who engages, either for all or part of her or his time, directly or indirectly, as broker or principal in the business of offering, buying, selling, or otherwise dealing or trading in securities issued by another person.
 - Any issuer who through persons directly compensated or controlled by the issuer engages, either for all or part of her or his time, directly or indirectly, in the business of offering or selling securities which are issued or are proposed to be issued by the issuer.
- **Investment advisors**, which include:³⁴
 - Any person who receives compensation, directly or indirectly, and engages for all or part of her or his time, directly or indirectly, or through publications or writings, in the business of advising others as to the value of securities or as to the advisability of investments in, purchasing of, or selling of securities, except a dealer whose performance of these services is solely incidental to the conduct of her or his business as a dealer and who receives no special compensation for such services.
 - But does not include a "federal covered advisor."³⁵
- **Associated persons**, with respect to a dealer or investment adviser, include:³⁶
 - Any partner, officer, director, or branch manager of a dealer or investment adviser or any person occupying a similar status or performing similar functions;
 - Any natural person directly or indirectly controlling or controlled by such dealer or investment adviser, other than an employee whose function is only clerical or ministerial; or
 - Any natural person, other than a dealer, employed, appointed, or authorized by a dealer, investment adviser, or issuer to sell securities in any manner or act as an investment adviser as defined in this section.
- **Associated persons**, with respect to a federal covered adviser, includes any person who is an investment adviser representative and who has a place of business in this state.

³¹ U.S. Securities and Exchange Commission, Blue Sky Laws, <http://www.sec.gov/answers/bluesky.htm> (last visited January 18, 2017).

³² Section 517.12(1), F.S.

³³ Section 517.021(6)(a), F.S.

³⁴ Section 517.021(14)(a), F.S.

³⁵ Section 517.021(9) and (14)(b)9., F.S. A federal covered advisor must be registered under federal law and must provide a notice-filing to the OFR pursuant to ss. 517.021 and 517.1201, F.S.

³⁶ Section 517.021(2)(a), F.S.

Wells Fargo Declaratory Statement

In May 2016, Wells Fargo Advisors, LLC (Wells Fargo), filed a petition for a declaratory statement³⁷ with the OFR to determine whether it would be in compliance with ch. 494, F.S., if it were to start compensating its financial advisors for certain mortgage loan originator activities that it argued were purely incidental to the otherwise authorized securities and investment activities for Wells Fargo and its financial advisors.³⁸

Wells Fargo is a full-service broker-dealer firm subject to supervision by the SEC and the OFR.³⁹ Wells Fargo is indirectly owned by Wells Fargo & Co., a bank holding company that also owns certain national banks.⁴⁰ Therefore, Wells Fargo is affiliated with such banks through common ownership.⁴¹

Despite the fact Wells Fargo holds a mortgage broker license and many of its financial advisors hold a license as a mortgage loan originator, Wells Fargo and its financial advisors do not:

- Solicit the general public for mortgage loans;
- Solicit lenders on behalf of borrowers;
- Take, complete, accept, or assist in preparing applications for any mortgage loans;
- Negotiate the interest rate, terms or conditions for new or existing mortgage loans; or
- Offer any mortgage loans to borrowers.⁴²

If Wells Fargo's securities clients raise issues about other financial matters, such as a business need for a residential mortgage, the financial advisors may inform securities clients that the affiliated banks make mortgage loans and may provide bank-approved material.⁴³ If a securities client contacts an affiliated bank regarding a mortgage loan and ultimately obtains mortgage financing, Wells Fargo provides "additional compensation" to the financial advisor who interacted with the particular client.⁴⁴ Neither Wells Fargo nor the financial advisor, however, receives a fee of any kind from either the securities client obtaining the mortgage loan, or the affiliated bank making the mortgage loan.⁴⁵ Wells Fargo and the financial advisor do not have any additional involvement with the affiliated banks' mortgage loan origination process.⁴⁶

The determinative issues in the Declaratory Statement and Final Order issued by the OFR (OFR Declaratory Statement) were: 1) the prohibition against a mortgage broker paying a commission to any person not licensed or exempt from licensure under ch. 494, F.S.;⁴⁷ 2) permitting

³⁷ Pursuant to s. 120.565(1), F.S., "any substantially affected person may seek a declaratory statement regarding an agency's opinion as to the applicability of a statutory provision, or of any rule or order of the agency, as it applies to the petitioner's particular set of circumstances."

³⁸ *In Re Petition for Declaratory Statement, Wells Fargo Advisors, LLC*, Case No. 66425, pp. 1 and 4-6 (Fla. OFR Aug. 15, 2016).

³⁹ *Id.* at 2.

⁴⁰ *Id.* at 3.

⁴¹ *Id.*

⁴² *Id.* at pp. 3 and 5.

⁴³ *Id.* at pp. 3-4.

⁴⁴ *Id.* at p. 4.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ Section 494.0038(2), F.S.

“additional compensation” related to the mortgage loans to be paid to the financial adviser; and 3) the referral aspect of the above set of facts.⁴⁸

The OFR Declaratory Statement concluded both the compensation and the referral require Wells Fargo be licensed as either a mortgage broker or mortgage lender and require its financial advisors be licensed as mortgage loan originators.⁴⁹

III. Effect of Proposed Changes:

SB 314 amends s. 494.00115, F.S., to exempt a securities dealer, investment advisor, or associated person registered under ch. 517, F.S., from regulation as a loan originator or mortgage broker under ch. 494, F.S., if the person in the normal course of conducting securities business with corporate or individual clients:

- Solicits or offers to solicit a mortgage loan from a securities client, or refers a securities client to an entity exempt from regulation under parts I or II of ch. 494, F.S., pursuant to s. 494.00115, F.S.,⁵⁰ a licensed mortgage broker, a licensed mortgage lender, or a registered loan originator; and
- Does not accept or offer to accept an application for a mortgage loan, negotiate or offer to negotiate the terms or conditions of a new or existing mortgage loan on behalf of a borrower or lender, or negotiate or offer to negotiate the sale of an existing mortgage loan to a noninstitutional investor for compensation or gain.

Any referral or solicitation made pursuant to this exemption must comply with ch. 517, F.S., the federal Real Estate Settlement Procedures Act, and any other applicable federal law or general law of this state.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

⁴⁸ Declaratory Statement and Final Order, *In Re: Petition for Declaratory Statement, Wells Fargo Advisors, LLC*, Case No. 66425 (Fla. OFR Aug. 15, 2016), at pp. 7-8.

⁴⁹ *Id.* at pp. 8 - 9.

⁵⁰ Section 494.00115(1)(b), F.S., provides an exemption from regulation as a mortgage broker or loan originator under parts I and II of ch. 494, F.S., for a “depository institution; subsidiaries that are owned and controlled by a depository institution and regulated by the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the National Credit Union Administration, or the Federal Deposit Insurance Corporation; or institutions regulated by the Farm Credit Administration.” The Federal Deposit Insurance Act defines a “depository institution” as a bank or saving association. *See* 12 U.S.C. 1813(c).

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may decrease licensing costs for securities dealers, investment advisors, or associated persons exempted from the license requirements under ch. 494, F.S.

C. Government Sector Impact:

The Office of Financial Regulation states the licensure exemption for securities dealers, investment advisors, or associated persons may result in an insignificant loss in revenues.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The provisions in SB 314 relating to the exemption from regulation as a loan originator or mortgage broker under ch. 494, F.S., for securities dealers, investment advisors, and associated persons in certain situations are substantively similar to provisions contained in CS/CS/HB 747 (2017 Regular Session), relating to Mortgage Regulation, by the Commerce Committee, Insurance and Banking Subcommittee, and Rep. Stark.⁵¹ CS/CS/HB 747 passed the Legislature but subsequently was vetoed by the Governor. The Governor's veto was based on the bill's revised definition of the term "mortgage loan" in s. 494.001(24), F.S.⁵² SB 314 does not include the provision that was the basis for the Governor's veto.

VIII. Statutes Affected:

This bill substantially amends section 494.00115 of the Florida Statutes.

⁵¹ The Senate companion was CS/CS/SB 830 (2017 Regular Session) by the Banking and Insurance Committee, the Regulated Industries Committee, and Senator Baxley.

⁵² The Governor's veto of CS/CS/HB 747 was based on his concern the bill's revised definition of the term "mortgage loan" in s. 494.001(24), F.S., would expand the regulatory environment for residential mortgages and add overly prescriptive regulations related to mortgage lending. Specifically, the Governor's veto message noted CS/CS/HB 747 seemed overly burdensome on Florida families because it might have required a parent or other relative who decides to make a residential loan to a child or other loved one to be licensed by Florida Office of Financial Regulation.

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 Senator Baxley

12-00567-18

2018314__

A bill to be entitled

An act relating to mortgage brokering; amending s. 494.00115, F.S.; providing an exemption from regulation under parts I and II of ch. 494, F.S., for certain securities dealers, investment advisers, and associated persons; providing requirements for certain solicitations and referrals; providing an effective date.

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

Section 1. Present subsections (2) and (3) of section 494.00115, Florida Statutes, are redesignated as subsections (3) and (4), respectively, and a new subsection (2) is added to that section, to read:

494.00115 Exemptions.—

(2) (a) A securities dealer, an investment adviser, or an associated person registered under s. 517.12 is exempt from regulation under this part and part II of this chapter if such person, in the normal course of conducting securities business with a corporate or an individual client:

1. Solicits or offers to solicit a mortgage loan from a securities client or refers a securities client to an entity exempt under paragraph (1) (b), a licensed mortgage broker, a licensed mortgage lender, or a registered loan originator; and

2. Does not accept or offer to accept an application for a mortgage loan, negotiate or offer to negotiate the terms or conditions of a new or existing mortgage loan on behalf of a borrower or lender, or negotiate or offer to negotiate the sale

Page 1 of 2

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

12-00567-18

2018314__

of an existing mortgage loan to a noninstitutional investor for compensation or gain.

(b) Any solicitation or referral made pursuant to this subsection must comply with chapter 517; the federal Real Estate Settlement Procedures Act, 12 U.S.C. ss. 2601 et seq.; and any applicable federal law or general law of this state.

Section 2. This act shall take effect July 1, 2018.

Page 2 of 2

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



SENATOR DENNIS BAXLEY
12th District

THE FLORIDA SENATE

COMMITTEES:
Governmental Oversight and Accountability, *Chair*
Criminal Justice, *Vice Chair*
Appropriations
Appropriations Subcommittee on Criminal and
Civil Justice
Appropriations Subcommittee on Health and
Human Services
Agriculture
Transportation

SELECT COMMITTEE:
Joint Select Committee on Collective Bargaining

JOINT COMMITTEE:
Joint Legislative Auditing Committee

December 7, 2017

The Honorable Senator Anitere Flores
404 Senate Office Building
404 So Monroe Street
Tallahassee, FL 32399

Dear Chairwoman Flores,

I respectfully request SB 314 Mortgage Brokering be placed on your next available agenda. This good bill is necessary to permit licensed securities dealers to refer business to licensed or registered mortgage brokers or banks in Florida when acting in the normal course of business.

I appreciate your favorable consideration.

Onward & Upward,

A handwritten signature in dark ink, appearing to read "Dennis Baxley", is written over the typed name and title.

Senator Dennis Baxley
Senate District 12

DKB/dd

320 Senate Office Building, 404 South Monroe St, Tallahassee, Florida 32399-1100 • (850) 487-5012
Email: baxley.dennis@flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/23/18
Meeting Date

314
Bill Number (if applicable)

Topic Bill

Amendment Barcode (if applicable)

Name Anthony DiMarco

Job Title VP of Govt. Relations

Address 1001 Thornhill Rd

Phone 228-2265

Willamette FL 32303
City State Zip

Email admarco@floridabankers.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Bankers Association

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)

01/23/2018

314

Meeting DateBill Number (if applicable)Topic Mortgage BrokeringAmendment Barcode (if applicable)Name Warren Husband

Job Title _____

Address PO Box 10909Phone (850) 205-9000StreetTallahasseeFL32302CityStateZip

Email _____

Speaking: ☐ For ☐ Against ☐ InformationWaive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)Representing Securities Industry and Financial Markets AssociationAppearing at request of Chair: ☐ Yes ☒ NoLobbyist 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.

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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)

01/23/2018

Meeting Date

314

Bill Number (if applicable)

Topic Mortgage Brokering

Amendment Barcode (if applicable)

Name Warren Husband

Job Title _____

Address PO Box 10909

Phone (850) 205-9000

Street

Tallahassee

FL

32302

Email _____

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Securities Industry and Financial Markets Association

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.

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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)

314

Meeting Date

Bill Number (if applicable)

Topic

Mortgage Brokers

Amendment Barcode (if applicable)

Name

Sean Stafford

Job Title

Address

115 E. Park Ave

Phone

727-6222

Street

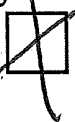
Email

City

State

Zip

Speaking:



For



Against



Information

Waive Speaking:



In Support



Against

(The Chair will read this information into the record.)

Representing

Florida Securities Dealers Association

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 Committee on Banking and Insurance

BILL: SB 518

INTRODUCER: Senator Bean

SUBJECT: Motor Vehicle Insurance Coverage Exclusions

DATE: January 9, 2017

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Matiyow</u>	<u>Knudson</u>	<u>BI</u>	<u>Unfavorable</u>
2. _____	_____	<u>CM</u>	_____
3. _____	_____	<u>RC</u>	_____

I. Summary:

SB 518 authorizes private passenger motor vehicle policyholders to exclude named members of their household who are of driving age, from all coverages under their policy. Such exclusions do not apply when the excluded member is not operating a motor vehicle covered under the policy, or if the exclusion is unfairly discriminatory by law, as determined by the Office of Insurance Regulation (OIR), or if the exclusion is inconsistent with the underwriting guidelines filed by the insurer with OIR. The exclusion of an identified named driver is invalid unless the named policyholder consents in writing to the exclusion of a named driver and the excluded named drivers are listed on the policy's declarations page or policy endorsement.

II. Present Situation:

Part XI of ch. 627, F.S., Motor Vehicle and Casualty Insurance Contracts, and ch. 324, F.S., the Financial Responsibility Law of 1955, establish motor vehicle coverage requirements. Owners and operators of motor vehicles must maintain the ability to respond in damages at specified minimum amounts for personal injury protection, bodily injury or death, and property damage. Current laws require insurance coverage that provides personal injury protection, or that is used to meet mandatory financial responsibility requirements be issued to all driving age individuals residing in the same household. For example, personal injury protection insurance is required to cover persons operating the insured motor vehicle and relatives residing in the same household as the policyholder, (i.e. named insured).¹ A motor vehicle liability policy providing coverage for bodily injury, death, and property damage is required to provide coverage for individuals named on the policy and anyone operating a motor vehicle listed on the policy when the operator has the express or implied permission of the insured motor vehicle owner.² An insured motor vehicle that is operated without the express or implied consent of the insured vehicle's owner is an

¹ s. 627.736(1) and s. 627.7407(5)(a), F.S.

² s. 324.151(1)(a), F.S.

uninsured/underinsured motor vehicle for purposes of uninsured/underinsured motor vehicle coverage. Unless there are separate policies issued that provide coverage for each individual driver, neither the policyholder nor the insurer can exclude anyone residing in the same household. Insurers may cancel a motor vehicle insurance policy if the named insured or any operator who resides in the same household or customarily operates a motor vehicle insured under the policy has her or his driver license revoked or suspended.

There is no authority under the motor vehicle insurance laws for an insurer to exclude mandatory coverages of a named individual, up to minimum limits required under Florida law. Such coverages include personal injury protection (PIP) coverage, property damage (PD) liability coverage, bodily injury (BI) liability coverage (if the policy is certified as proof of financial responsibility, and uninsured motorist (UM) coverage (if BI is certified as proof of financial responsibility and the UM coverage is not specifically declined by the policyholder. For these mandatory coverages insurers may choose not to write a policy in order to avoid specific individuals unless the practice is unfair discrimination. This results in consumers who reside with another individual that is a high insurance risk being denied opportunities to purchase motor vehicle insurance or having to pay more because they live with individuals that the policyholder or insurer would like to exclude from the policy. Additionally, policyholders may have their policy cancelled if the license or registration of a co-resident is suspended or revoked.

III. Effect of Proposed Changes:

The bill authorizes insurers and policyholders to exclude identified individuals from coverage under a private passenger motor vehicle insurance policy. An individual would not be covered for damages that occur while operating a motor vehicle that is insured under a policy that excludes the individual by name. The bill prohibits exclusion when the named excluded individual is injured while not operating a motor vehicle, if the OIR determines the exclusion is unfairly discriminatory, or if the exclusion is inconsistent with the underwriting guidelines filed by the insurer with OIR. The exclusion of an identified driver is not valid unless the named insured on the policy consents in writing to the exclusion of a named driver and the excluded drivers are named on the policy's declarations page or on a policy endorsement.

The effective date of the bill is July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Policyholders who reside in the same household as a high-risk individual who is of driving age could see a decrease in their rates if they exclude such drivers from all coverages. Additionally, applicants for mandatory coverages may have an easier time obtaining insurance when no longer coupled with a high-risk household member.

The bill may increase the incidence of uninsured drivers operating motor vehicles if the excluded, high-risk driver does not have motor vehicle insurance.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 324.151, 627.736, and 627.7407.

This bill creates section 627.747 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.)

None.

B. Amendments:

None.



710292

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
01/23/2018	.	
	.	
	.	
	.	

The Committee on Banking and Insurance (Thurston) recommended the following:

Senate Amendment (with title amendment)

Delete lines 16 - 42

and insert:

627.747 Named driver exclusion.—

(1) A private passenger motor vehicle policy may exclude an individual identified by name on the declarations page as an excluded driver from coverage while such individual is operating a vehicle designated as an insured vehicle on the policy, but only as provided in this section. The coverages from which the



710292

identified individual may be excluded are:

(a) Coverages the named insured are not required by law to purchase, other than uninsured motorist coverage; and

(b) Bodily injury liability coverage and property damage liability coverage as required under chapter 324, but only as authorized under s. 324.151(1) (a) .

(2) Notwithstanding any other law to the contrary, a private passenger motor vehicle policy may not exclude:

(a) Coverage when the identified individual is injured while not operating a motor vehicle as defined in s. 324.021(1);

(b) Coverage when the exclusion is unfairly discriminatory as determined by the office under the insurance code;

(c) Coverage when the exclusion is inconsistent with the underwriting rules filed by the insurer pursuant to s. 627.0651(13) (a); or

(d) Uninsured motorist coverage for the excluded driver, if such coverage was included in the policy.

(3) This section does not eliminate any financial responsibility obligation under chapter 324 for the excluded driver.

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

And the title is amended as follows:

Delete line 8

and insert:

circumstances; providing construction; amending ss.

324.151, 627.736, and



565706

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
01/23/2018	.	
	.	
	.	
	.	

The Committee on Banking and Insurance (Bean) recommended the following:

Senate Amendment

Delete lines 18 - 37
and insert:
identified individual from the following coverages while the
identified individual is operating a motor vehicle, provided the
identified individual is specifically excluded by name on the
declarations page or by endorsement, and a policyholder consents
in writing to such exclusion:
(a) Notwithstanding the Florida Motor Vehicle No-Fault Law,



565706

the personal injury protection coverage specifically applicable to the identified excluded individual's injuries, lost wages, and death benefits.

(b) Property damage liability coverage.

(c) Bodily injury liability coverage, if required by law and purchased by the policyholder.

(d) Uninsured motorist coverage for any damages sustained by the identified excluded individual, if the policyholder has purchased such coverage.

(e) Any coverage the policyholder is not required by law to purchase.

(2) A private passenger motor vehicle policy may not exclude coverage when:

(a) The identified excluded individual is injured while not

By Senator Bean

4-00624-18

2018518__

A bill to be entitled

An act relating to motor vehicle insurance coverage exclusions; creating s. 627.747, F.S.; providing that private passenger motor vehicle policies may exclude certain identified individuals from specified coverages under certain circumstances; providing that such policies may not exclude coverage under certain circumstances; amending ss. 324.151, 627.736, and 627.7407, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Section 627.747, Florida Statutes, is created to read:

627.747 Named driver exclusion.—

(1) A private passenger motor vehicle policy may exclude an identified individual who is not a named insured from the following coverages while the identified individual is operating a motor vehicle, provided the identified individual is named on the declarations page or by endorsement, and the named insured consents in writing to such exclusion:

(a) Notwithstanding the Florida Motor Vehicle No-Fault Law, the personal injury protection coverage specifically applicable to the identified individual's injuries, lost wages, and death benefits.

(b) Property damage liability coverage.

(c) Bodily injury liability coverage, if required by law and purchased by the named insured.

4-00624-18

2018518__

(d) Uninsured motorist coverage for any damages sustained by the identified excluded individual, if the named insured has purchased such coverage.

(e) Any coverage the named insured is not required by law to purchase.

(2) A private passenger motor vehicle policy may not exclude coverage when:

(a) The identified individual is injured while not operating a motor vehicle;

(b) The exclusion is unfairly discriminatory under the Florida Insurance Code, as determined by the office; or

(c) The exclusion is inconsistent with the underwriting rules filed by the insurer pursuant to s. 627.0651(13)(a).

Section 2. Paragraph (a) of subsection (1) of section 324.151, Florida Statutes, is amended to read:

324.151 Motor vehicle liability policies; required provisions.—

(1) A motor vehicle liability policy to be proof of financial responsibility under s. 324.031(1), shall be issued to owners or operators under the following provisions:

(a) An owner's liability insurance policy ~~must~~ shall designate by explicit description or by appropriate reference all motor vehicles with respect to which coverage is thereby granted, ~~must and shall~~ insure the owner named therein, and, except for a named driver excluded under s. 627.747, must insure any other person as operator using such motor vehicle or motor vehicles with the express or implied permission of such owner against loss from the liability imposed by law for damage arising out of the ownership, maintenance, or use of such motor

4-00624-18

2018518__

vehicle or motor vehicles within the United States or the Dominion of Canada, subject to limits, exclusive of interest and costs with respect to each such motor vehicle as is provided for under s. 324.021(7). Insurers may make available, with respect to property damage liability coverage, a deductible amount not to exceed \$500. In the event of a property damage loss covered by a policy containing a property damage deductible provision, the insurer shall pay to the third-party claimant the amount of any property damage liability settlement or judgment, subject to policy limits, as if no deductible existed.

Section 3. Subsection (1) of section 627.736, Florida Statutes, is amended to read:

627.736 Required personal injury protection benefits; exclusions; priority; claims.—

(1) REQUIRED BENEFITS.—An insurance policy complying with the security requirements of s. 627.733 must provide personal injury protection to the named insured, relatives residing in the same household unless excluded under s. 627.747, persons operating the insured motor vehicle, passengers in the motor vehicle, and other persons struck by the motor vehicle and suffering bodily injury while not an occupant of a self-propelled vehicle, subject to subsection (2) and paragraph (4)(e), to a limit of \$10,000 in medical and disability benefits and \$5,000 in death benefits resulting from bodily injury, sickness, disease, or death arising out of the ownership, maintenance, or use of a motor vehicle as follows:

(a) *Medical benefits*.—Eighty percent of all reasonable expenses for medically necessary medical, surgical, X-ray, dental, and rehabilitative services, including prosthetic

4-00624-18

2018518__

devices and medically necessary ambulance, hospital, and nursing services if the individual receives initial services and care pursuant to subparagraph 1. within 14 days after the motor vehicle accident. The medical benefits provide reimbursement only for:

1. Initial services and care that are lawfully provided, supervised, ordered, or prescribed by a physician licensed under chapter 458 or chapter 459, a dentist licensed under chapter 466, or a chiropractic physician licensed under chapter 460 or that are provided in a hospital or in a facility that owns, or is wholly owned by, a hospital. Initial services and care may also be provided by a person or entity licensed under part III of chapter 401 which provides emergency transportation and treatment.

2. Upon referral by a provider described in subparagraph 1., followup services and care consistent with the underlying medical diagnosis rendered pursuant to subparagraph 1. which may be provided, supervised, ordered, or prescribed only by a physician licensed under chapter 458 or chapter 459, a chiropractic physician licensed under chapter 460, a dentist licensed under chapter 466, or, to the extent permitted by applicable law and under the supervision of such physician, osteopathic physician, chiropractic physician, or dentist, by a physician assistant licensed under chapter 458 or chapter 459 or an advanced registered nurse practitioner licensed under chapter 464. Followup services and care may also be provided by the following persons or entities:

a. A hospital or ambulatory surgical center licensed under chapter 395.

4-00624-18

2018518__

- 117 b. An entity wholly owned by one or more physicians
 118 licensed under chapter 458 or chapter 459, chiropractic
 119 physicians licensed under chapter 460, or dentists licensed
 120 under chapter 466 or by such practitioners and the spouse,
 121 parent, child, or sibling of such practitioners.
 122 c. An entity that owns or is wholly owned, directly or
 123 indirectly, by a hospital or hospitals.
 124 d. A physical therapist licensed under chapter 486, based
 125 upon a referral by a provider described in this subparagraph.
 126 e. A health care clinic licensed under part X of chapter
 127 400 which is accredited by an accrediting organization whose
 128 standards incorporate comparable regulations required by this
 129 state, or
 130 (I) Has a medical director licensed under chapter 458,
 131 chapter 459, or chapter 460;
 132 (II) Has been continuously licensed for more than 3 years
 133 or is a publicly traded corporation that issues securities
 134 traded on an exchange registered with the United States
 135 Securities and Exchange Commission as a national securities
 136 exchange; and
 137 (III) Provides at least four of the following medical
 138 specialties:
 139 (A) General medicine.
 140 (B) Radiography.
 141 (C) Orthopedic medicine.
 142 (D) Physical medicine.
 143 (E) Physical therapy.
 144 (F) Physical rehabilitation.
 145 (G) Prescribing or dispensing outpatient prescription

Page 5 of 8

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

4-00624-18

2018518__

- 146 medication.
 147 (H) Laboratory services.
 148 3. Reimbursement for services and care provided in
 149 subparagraph 1. or subparagraph 2. up to \$10,000 if a physician
 150 licensed under chapter 458 or chapter 459, a dentist licensed
 151 under chapter 466, a physician assistant licensed under chapter
 152 458 or chapter 459, or an advanced registered nurse practitioner
 153 licensed under chapter 464 has determined that the injured
 154 person had an emergency medical condition.
 155 4. Reimbursement for services and care provided in
 156 subparagraph 1. or subparagraph 2. is limited to \$2,500 if a
 157 provider listed in subparagraph 1. or subparagraph 2. determines
 158 that the injured person did not have an emergency medical
 159 condition.
 160 5. Medical benefits do not include massage as defined in s.
 161 480.033 or acupuncture as defined in s. 457.102, regardless of
 162 the person, entity, or licensee providing massage or
 163 acupuncture, and a licensed massage therapist or licensed
 164 acupuncturist may not be reimbursed for medical benefits under
 165 this section.
 166 6. The Financial Services Commission shall adopt by rule
 167 the form that must be used by an insurer and a health care
 168 provider specified in sub-subparagraph 2.b., sub-subparagraph
 169 2.c., or sub-subparagraph 2.e. to document that the health care
 170 provider meets the criteria of this paragraph. Such rule must
 171 include a requirement for a sworn statement or affidavit.
 172 (b) *Disability benefits.*—Sixty percent of any loss of gross
 173 income and loss of earning capacity per individual from
 174 inability to work proximately caused by the injury sustained by

Page 6 of 8

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

4-00624-18

2018518__

the injured person, plus all expenses reasonably incurred in obtaining from others ordinary and necessary services in lieu of those that, but for the injury, the injured person would have performed without income for the benefit of his or her household. All disability benefits payable under this provision must be paid at least every 2 weeks.

(c) *Death benefits.*—Death benefits of \$5,000 per individual. Death benefits are in addition to the medical and disability benefits provided under the insurance policy. The insurer may pay death benefits to the executor or administrator of the deceased, to any of the deceased's relatives by blood, legal adoption, or marriage, or to any person appearing to the insurer to be equitably entitled to such benefits.

Only insurers writing motor vehicle liability insurance in this state may provide the required benefits of this section, and such insurer may not require the purchase of any other motor vehicle coverage other than the purchase of property damage liability coverage as required by s. 627.7275 as a condition for providing such benefits. Insurers may not require that property damage liability insurance in an amount greater than \$10,000 be purchased in conjunction with personal injury protection. Such insurers shall make benefits and required property damage liability insurance coverage available through normal marketing channels. An insurer writing motor vehicle liability insurance in this state who fails to comply with such availability requirement as a general business practice violates part IX of chapter 626, and such violation constitutes an unfair method of competition or an unfair or deceptive act or practice involving

4-00624-18

2018518__

the business of insurance. An insurer committing such violation is subject to the penalties provided under that part, as well as those provided elsewhere in the insurance code.

Section 4. Paragraph (a) of subsection (5) of section 627.7407, Florida Statutes, is amended to read:

627.7407 Application of the Florida Motor Vehicle No-Fault Law.—

(5) No later than November 15, 2007, each motor vehicle insurer shall provide notice of the provisions of this section to each motor vehicle insured who is subject to subsection (1). The notice is not subject to approval by the Office of Insurance Regulation. The notice must clearly inform the policyholder:

(a) That beginning on January 1, 2008, Florida law requires the policyholder to maintain personal injury protection ("PIP") insurance coverage and that this insurance pays covered medical expenses for injuries sustained in a motor vehicle crash by the policyholder, passengers, and relatives residing in the policyholder's household unless excluded under s. 627.747.

Section 5. This act shall take effect July 1, 2018.



The Florida Senate

Committee Agenda Request

To: Senator Anitere Flores, Chair
Committee on Banking and Insurance

Subject: Committee Agenda Request

Date: November 7, 2017

I respectfully request that **Senate Bill #518**, relating to Motor Vehicle Insurance Coverage Exclusions, be placed on the:

- ☐ committee agenda at your earliest possible convenience.
- ☒ next committee agenda.

A handwritten signature in blue ink that reads "Aaron Bean". The signature is written in a cursive, flowing style.

Senator Aaron Bean
Florida Senate, District 4

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/23/2018

Meeting Date

518

Bill Number (if applicable)

Topic Motor Vehicle Insurance Coverage Exclusions

Amendment Barcode (if applicable)

Name Samantha Sexton

Job Title VP of Legislative and Regulatory Affairs

Address 201 S. Monroe Street, Suite 835

Phone 321-544-1577

Street

Tallahassee

FL

32301

Email samantha.sexton@piff.net

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Personal Insurance Federation of Florida

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)

1/23
Meeting Date

518
Bill Number (if applicable)

Topic Auto Insurance

Amendment Barcode (if applicable)

Name Mark Delegal

Job Title Retained Counsel

Address 315 S. Calhoun

Phone _____

Street

City

State

Zip

Email _____

Speaking: ☒ For ☐ Against ☐ Information

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

Representing

State Farm Mutual Automobile Ins

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.

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S-001 (10/14/14)

APPEARANCE RECORD

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518

Meeting Date

Bill Number (if applicable)

Topic DRIVER EXCLUDED BILL

Amendment Barcode (if applicable)

Name CRAIG DUNCAN

Job Title INSURANCE AGENT

Address 3428 ASPEN TER.

Phone 727-204-6208

Street

CLEARWATER

FL

33761

Email Craig@duncan.net

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing NAIFA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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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)

518

Meeting Date _____

Bill Number (if applicable) _____

Topic Named Driver Exclusion

Amendment Barcode (if applicable) _____

Name Dale Swope

Job Title _____

Address 1234 5th Ave

Phone 813 273 0819

Street

Email _____

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida Justice Association

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)

APPEARANCE RECORD

Meeting Date

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

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name

Job Title

Address

Street

City

State

Zip

Phone

Email

Speaking:

☐

For

☒

Against

☐

Information

Waive Speaking:

☐

In Support

☐

Against

(The Chair will read this information into the record.)

Representing

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 Committee on Banking and Insurance

BILL: SB 738

INTRODUCER: Senator Perry

SUBJECT: Public Records and Public Meetings/Firesafety System Plans

DATE: January 22, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Matiyow	Knudson	BI	Favorable
2.			GO	
3.			RC	

I. Summary:

SB 738 makes confidential and exempt from public records requirements in s. 119.07(1), F.S., and s. 24(a), Art. I of the Florida Constitution firesafety system plans for any state owned or leased buildings and any privately owned or leased property and information relating to such systems that are held by a state agency. The bill also makes confidential and exempt from public meeting requirements any portion of a meeting that would reveal a firesafety system plan that is exempt from public records requirements. The exemption is incorporated into the existing public records and public meeting exemptions for security systems.

The exemptions are necessitated because firesafety systems are often integrated with security systems. It is believed that disclosure of sensitive information relating to the firesafety systems could result in identification of vulnerabilities in the firesafety or security systems and allow a security breach that could damage the systems and disrupt their safe and reliable operation.

The bill has an effective date of upon becoming law and provides for repeal of the exemption on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

II. Present Situation:

Public Records Law

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ This applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.²

¹ FLA. CONST., art. I, s. 24(a).

² FLA. CONST., art. I, s. 24(a).

In addition to the Florida Constitution, the Florida Statutes provide that the public may access legislative and executive branch records.³ Chapter 119, F.S., constitutes the main body of public records laws, and is known as the Public Records Act.⁴ The Public Records Act states that

it is the policy of this state that all state, county and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁵

According to the Public Records Act, a public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.⁶ The Florida Supreme Court has interpreted public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate or formalize knowledge of some type.”⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

The Legislature may create an exemption to open meetings requirements by passing a general law by a two-thirds vote of the House and the Senate.⁹ The exemption must explicitly lay out the public necessity justifying the exemption, and must be no broader than necessary to accomplish the stated purpose of the exemption.¹⁰ A statutory exemption which does not meet these two criteria may be unconstitutional and may not be judicially saved.¹¹

When creating a public records exemption, the Legislature may provide that a record is ‘confidential and exempt’ or ‘exempt.’¹² Records designated as ‘confidential and exempt’ may be released by the records custodian only under the circumstances defined by the Legislature.

³ The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So.2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So.2d 255 (Fla. 1995). The Legislature’s records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are primarily located in s. 11.0431(2)-(3), F.S.

⁴ Public records laws are found throughout the Florida Statutes.

⁵ s. 119.01(1), F.S.

⁶ s. 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

⁷ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So.2d 633, 640 (Fla. 1980).

⁸ s. 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

⁹ FLA. CONST., art. I, s. 24(c).

¹⁰ FLA. CONST., art. I, s. 24(c).

¹¹ *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So.2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption. *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption in order to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So.2d 189 (Fla. 1st DCA 2004), the court found that the intent of a statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

¹² If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48 (Fla. 5th DCA 2004).

Records designated as ‘exempt’ may be released at the discretion of the records custodian under certain circumstances.¹³

Exemptions Related to Security Systems

Current law provides public record and public meeting exemptions for certain information related to security systems. The law specifies the circumstances under which the information may be disclosed and to whom it may be disclosed.

Public Records and Public Meeting Exemptions for Security System Plans

Section 119.071(3)(a)1., F.S., defines “security system plan” to include all:

- Records, information, photographs, audio and visual presentations, schematic diagrams, surveys, recommendations, or consultations or portions thereof relating directly to the physical security of the facility or revealing security systems;
- Threat assessments conducted by any agency or any private entity;
- Threat response plans;
- Emergency evacuation plans;
- Sheltering arrangements; or
- Manuals for security personnel, emergency equipment, or security training.

A security system plan or any portion thereof that is held by an agency¹⁴ is confidential and exempt¹⁵ from public record requirements if the plan is for:

- Any property owned by or leased to the state or any of its political subdivisions; or
- Any privately owned or leased property.¹⁶

An agency is authorized to disclose the confidential and exempt information:

- To the property owner or leaseholder;
- In furtherance of the official duties and responsibilities of the agency holding the information;
- To another local, state, or federal agency in furtherance of that agency’s official duties and responsibilities; or
- Upon a showing of good cause before a court of competent jurisdiction.¹⁷

¹³ A record classified as exempt from public disclosure may be disclosed under certain circumstances. *Williams v. City of Minneola*, 575 So.2d 683 (Fla. 5th DCA 1991).

¹⁴ Section 119.011(2), F.S., defines “agency” to mean any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of ch. 119, F.S., the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.

¹⁵ There is a difference between records the Legislature designates as exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released by the custodian of public records to anyone other than the persons or entities specifically designated in statute. See Attorney General Opinion 85-62 (August 1, 1985).

¹⁶ Section 119.071(3)(a)2., F.S.

¹⁷ Section 119.071(3)(a)3., F.S.

Section 281.301, F.S., provides that information relating to security systems that is in the possession of an agency is confidential and exempt from public record and public meeting requirements if the security systems are for:

- Any property owned by or leased to the state or any of its political subdivisions; or
- Any privately owned or leased property.

The law specifies that the protected information includes all records, information, photographs, audio and visual presentations, schematic diagrams, surveys, recommendations, or consultations or portions thereof relating directly to or revealing such systems or information.

An agency is authorized to disclose the confidential and exempt information:

- To the property owner or leaseholder;
- In furtherance of the official duties and responsibilities of the agency holding the information;
- To another local, state, or federal agency in furtherance of that agency's official duties and responsibilities; or
- Upon a showing of good cause before a court of competent jurisdiction.

Section 286.0113, F.S., provides any portion of a meeting that would reveal a security system plan or portion thereof is exempt from public meeting requirements.

III. Effect of Proposed Changes:

The bill makes confidential and exempt from public records requirements in s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution firesafety system plans for any state owned or leased buildings and any privately owned or leased property and information relating to such systems that are held by a state agency. The bill also makes confidential and exempt from public meeting requirements any portion of a meeting that would reveal a firesafety system plan that is exempt from public records requirements.

The bill specifies that the public record and public meeting exemptions must be given retroactive application because they are remedial in nature. Thus, records of firesafety system plans and records relating to firesafety systems in existence prior to the effective date of the bill will be protected by the exemptions.

The bill provides a public necessity statement as required by the State Constitution, specifying that as firesafety systems become more integrated with security systems, disclosure of sensitive information relating to the firesafety systems could result in identification of vulnerabilities in the systems and allow a security breach that could damage the systems and disrupt their safe and reliable operation.

The bill provides for repeal of the exemption on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill is effective upon becoming law.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

Article I, s. 24(c) of the Florida Constitution requires the following to enact a new public records exemption or public meetings exemption:

- Final passage by two-thirds of the members present.
- The law must state with specificity the public necessity justifying the exemption and be no broader than necessary to accomplish the stated purpose of the law.

C. Trust Funds Restrictions:

The law must contain only exemptions from public records and public meetings requirements and relate to one subject

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 119.071, 281.301, and 286.0113.

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 Senator Perry

8-00823-18

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1 A bill to be entitled
 2 An act relating to public records and public meetings;
 3 amending s. 119.071, F.S.; providing an exemption from
 4 public records requirements for firesafety system
 5 plans held by an agency; amending s. 281.301, F.S.;
 6 providing an exemption from public records and public
 7 meetings requirements for information relating to
 8 firesafety systems for certain properties and meetings
 9 relating to such systems and information; amending s.
 10 286.0113, F.S.; providing an exemption from public
 11 meetings requirements for portions of meetings that
 12 would reveal firesafety system plans held by an
 13 agency; providing for retroactive application;
 14 providing for future legislative review and repeal of
 15 the exemptions; providing a statement of public
 16 necessity; providing an effective date.
 17
 18 Be It Enacted by the Legislature of the State of Florida:
 19
 20 Section 1. Paragraph (a) of subsection (3) of section
 21 119.071, Florida Statutes, is amended to read:
 22 119.071 General exemptions from inspection or copying of
 23 public records.—
 24 (3) SECURITY AND FIRESAFETY.—
 25 (a)1. As used in this paragraph, the term "security or
 26 firesafety system plan" includes all:
 27 a. Records, information, photographs, audio and visual
 28 presentations, schematic diagrams, surveys, recommendations, or
 29 consultations or portions thereof relating directly to the

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30 physical security or firesafety of the facility or revealing
 31 security or firesafety systems;
 32 b. Threat assessments conducted by any agency or any
 33 private entity;
 34 c. Threat response plans;
 35 d. Emergency evacuation plans;
 36 e. Sheltering arrangements; or
 37 f. Manuals for security or firesafety personnel, emergency
 38 equipment, or security or firesafety training.
 39 2. A security or firesafety system plan or portion thereof
 40 for:
 41 a. Any property owned by or leased to the state or any of
 42 its political subdivisions; or
 43 b. Any privately owned or leased property
 44
 45 held by an agency is confidential and exempt from s. 119.07(1)
 46 and s. 24(a), Art. I of the State Constitution. This exemption
 47 is remedial in nature, and it is the intent of the Legislature
 48 that this exemption apply to security or firesafety system plans
 49 held by an agency before, on, or after the effective date of
 50 this paragraph. This paragraph is subject to the Open Government
 51 Sunset Review Act in accordance with s. 119.15 and shall stand
 52 repealed on October 2, 2023, unless reviewed and saved from
 53 repeal through reenactment by the Legislature.
 54 3. Information made confidential and exempt by this
 55 paragraph may be disclosed:
 56 a. To the property owner or leaseholder;
 57 b. In furtherance of the official duties and
 58 responsibilities of the agency holding the information;

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c. To another local, state, or federal agency in furtherance of that agency's official duties and responsibilities; or

d. Upon a showing of good cause before a court of competent jurisdiction.

Section 2. Section 281.301, Florida Statutes, is amended to read:

281.301 Security and firesafety systems; records and meetings exempt from public access or disclosure.—

(1) Information relating to the security or firesafety systems for any property owned by or leased to the state or any of its political subdivisions, and information relating to the security or firesafety systems for any privately owned or leased property which is in the possession of any agency as defined in s. 119.011(2), including all records, information, photographs, audio and visual presentations, schematic diagrams, surveys, recommendations, or consultations or portions thereof relating directly to or revealing such systems or information is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, and any portion of a meeting all ~~meetings~~ relating directly to or that would reveal such systems or information is ~~are~~ confidential and exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution, ss. 119.07(1) and 286.011 and other laws and rules requiring public access or disclosure. This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

(2) Information made confidential and exempt by this

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section may be disclosed:

(a) To the property owner or leaseholder;

(b) In furtherance of the official duties and responsibilities of the agency holding the information;

(c) To another local, state, or federal agency in furtherance of that agency's official duties and responsibilities; or

(d) Upon a showing of good cause before a court of competent jurisdiction.

Section 3. Subsection (1) of section 286.0113, Florida Statutes, is amended to read:

286.0113 General exemptions from public meetings.—

(1) That portion of a meeting that would reveal a security or firesafety system plan or portion thereof made confidential and exempt by s. 119.071(3)(a) is exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution. This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 4. (1) The Legislature finds that it is a public necessity that:

(a) Firesafety system plans held by an agency be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution.

(b) Information relating to firesafety systems for any property owned by or leased to the state or any of its political subdivisions or which is in the possession of an agency be made confidential and exempt from s. 119.07(1), Florida Statutes, and

8-00823-18

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s. 24(a), Article I of the State Constitution, and any portion of a meeting relating directly to or that would reveal such systems or information be made confidential and exempt from s. 286.011, Florida Statutes, and s. 24(b), Article I of the State Constitution.

(c) Any portion of a meeting revealing firesafety system plans held by an agency be made confidential and exempt from s. 286.011, Florida Statutes, and s. 24(b), Article I of the State Constitution.

(2) As firesafety systems become more connected and integrated with security systems, this connectivity and integration exposes such systems to threats intended to disable their operation. Disabling a firesafety system could impact the safety of individuals within the building and the integrity of the building's security system. Maintaining safe and reliable firesafety systems is vital to protecting the public health and safety and ensuring the economic well-being of the state. Disclosure of sensitive information relating to firesafety systems could result in identification of vulnerabilities in such systems and allow a security breach that could damage firesafety systems and disrupt their safe and reliable operation, adversely impacting the public health and safety and economic well-being of the state. Because of the interconnected nature of firesafety and security systems, such a security breach may also impact security systems. As a result, the Legislature finds that the public and private harm in disclosing the information made exempt by this act outweighs any public benefit derived from the disclosure of such information. The protection of information made exempt by this act will ensure

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2018738

that firesafety systems are better protected against security threats and will bolster efforts to develop more resilient firesafety systems. Therefore, the Legislature finds that it is a public necessity to make firesafety system plans held by an agency and information relating to firesafety systems for certain properties exempt from public records and public meetings requirements.

(3) The Legislature further finds that these public meetings and public records exemptions must be given retroactive application because they are remedial in nature.

Section 5. This act shall take effect upon becoming a law.

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The Florida Senate

Committee Agenda Request

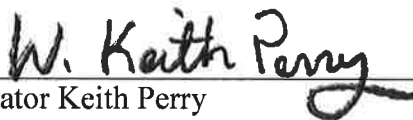
To: Senator Anitere Flores, Chair
Committee on Banking and Insurance

Subject: Committee Agenda Request

Date: November 15, 2017

I respectfully request that **Senate Bill #738**, relating to Public Records and Public Meetings/Firesafety Systems Plans, be placed on the:

- ☒ committee agenda at your earliest possible convenience.
- ☐ next committee agenda.



Senator Keith Perry
Florida Senate, District 8

THE FLORIDA SENATE
APPEARANCE RECORD

1/23/18

Meeting Date

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

SB 738

Bill Number (if applicable)

Topic Public Records & Public Meeting / Fire Safety System Amendment Barcode (if applicable)

Name JOHN PASTORE

Job Title President

Address 8015 S.W. 42nd Terr
Street

Phone 352-317-4379

Gainesville FL 32608
City State Zip

Email JPASTORE@CRS.NET

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Alarm Association For Florida

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 Committee on Banking and Insurance

BILL: CS/SB 746

INTRODUCER: Banking and Insurance Committee and Senator Bean

SUBJECT: Florida Fire Prevention Code

DATE: January 23, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Matiyow	Knudson	BI	Fav/CS
2.			RI	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 746 establishes a 3-year exemption to the Fire Prevention Code to allow for the limited placement of waste containers and waste within the hallways of apartment buildings that utilize a doorstep waste pickup service.

A doorstep waste collection service may operate in apartment buildings with enclosed corridors served by interior or exterior exit stairs if waste is not placed in exit access corridors for longer than 5 hours; waste containers do not occupy exit access corridors for longer than 12 hours; and effective January 1, 2020, waste containers do not exceed 13 gallons. For apartment buildings with open-air corridors or balconies serviced by exterior stairs waste cannot be placed in exit access corridors for longer than 5 hours; there is no limit on how long waste containers may occupy access corridors; and effective January 1, 2020, waste container size may not exceed 27 gallons.

In all cases the garbage cans cannot reduce the means of egress width below that required under NFPA Life Safety Code 101:31. Additionally, the management of an apartment complex utilizing a doorstep waste collection service that would operate under this new law must have written policies and procedures in place and enforce them to insure compliance. A copy of such policies and procedures can be requested and must be provided to the authority having jurisdiction.

The bill has a legislative intent statement to make clear the requirements in the bill are not intended to set president with regards to any future changes to the Florida Fire Prevention Code.

The bill expires on January 1, 2021.

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

II. Present Situation:

State Fire Prevention – State Fire Marshal

Florida's fire prevention and control law, ch. 633, F.S., designates the state's Chief Financial Officer as the State Fire Marshal. The State Fire Marshal, through the Division of State Fire Marshal within the Department of Financial Services (DFS), is charged with enforcing the provisions of ch. 633, F.S., and all other applicable laws relating to fire safety, and has the responsibility to minimize the loss of life and property in this state due to fire.¹ Pursuant to this authority, the State Fire Marshal regulates, trains, and certifies fire service personnel and fire safety inspectors; investigates the causes of fires; enforces arson laws; regulates the installation of fire equipment; conducts fire safety inspections of state property; and operates the Florida State Fire College.

Adoption and Interpretation of the Florida Fire Prevention Code

The State Fire Marshal also adopts by rule the Florida Fire Prevention Code (Fire Code), which contains all fire safety laws and rules that pertain to the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities, and the enforcement of such fire safety laws and rules, at ch. 69A-60, F.A.C.

The State Fire Marshal adopts a new edition of the Fire Code every 3 years.² When adopting the Fire Code the Fire Marshal is required to adopt the most current version of the national fire and life safety standards set forth by the National Fire Protection Association (NFPA) including the:

- NFPA's Fire Code (1);
- Life Safety Code (101); and
- Guide on Alternative Approaches to Life Safety (101A).³

The State Fire Marshal may modify the national fire safety and life safety standards as needed to accommodate the specific needs of the state.⁴

The most recent Fire Code is the 6th edition, which is referred to as the 2017 Florida Fire Prevention Code. The 6th edition of the Fire Code took effect on January 1, 2018.

¹ s. 633.104, F.S.

² s. 633.202, F.S.

³ s. 633.202(2), F.S. Founded in 1896, the National Fire Protection Association delivers information and knowledge through more than 300 consensus codes and standards, research, training, education, outreach and advocacy; and by partnering with others who share an interest in furthering the mission. NFPA, *About NFPA*, <http://www.nfpa.org/about-nfpa> (last visited on January 17, 2018).

⁴ *Id.*

The State Marshal has authority to interpret the Code, and is the only authority that may issue a declaratory statement relating to the Fire Code.⁵

Fire Safety Enforcement by Local Governments

State law requires all municipalities, counties, and special districts with fire safety responsibilities to enforce the Fire Code as the minimum fire prevention code to operate uniformly among local governments and in conjunction with the Florida Building Code.⁶ These local enforcing authorities may adopt more stringent fire safety standards, subject to certain requirements in s. 633.208, F.S., but may not enact fire safety ordinances that conflict with ch. 633, F.S., or any other state law.⁷

The chiefs of local government fire service providers (or their designees) are authorized to enforce ch. 633, F.S., and rules within their respective jurisdictions as agents of those jurisdictions, not agents of the State Fire Marshal.⁸ Each county, municipality, and special district with fire safety enforcement responsibilities is also required to employ or contract with a fire safety inspector (certified by the State Fire Marshal) to conduct all fire safety inspections required by law.⁹

Section 633.208(5), F.S., states “With regard to existing buildings, the Legislature recognizes that it is not always practical to apply any or all of the provisions of the Fire Code and that physical limitations may require disproportionate effort or expense with little increase in fire or life safety.” Pursuant to s. 633.208(5), F.S., local fire officials shall apply the Fire Code for existing buildings to the extent practical to ensure a reasonable degree of life safety and safety of property. The local fire officials are also required to fashion reasonable alternatives that afford an equivalent degree of life safety and safety of property.

Florida Building Code

The Florida Building Code (Building Code) is the statewide building code for all construction in the state. The Florida Building Commission (Commission), housed within the Department of Business and Professional Regulation (DBPR), implements the Building Code. The Commission reviews the International Code Council’s I-Codes and the National Electric Code every 3 years to determine if it needs to update the Building Code.¹⁰

Means of Egress

A means of egress is a path available for a person to leave a building. A means of egress is made up of three parts, which includes the following:

- Exit access;
- Exit; and

⁵ s. 633.104(6), F.S.

⁶ ss. 633.108 and 633.208, F.S.

⁷ ss. 633.208 and 633.214(4), F.S.

⁸ s. 633.118, F.S.

⁹ s. 633.216(1), F.S.

¹⁰ s. 553.73(7)(a), F.S.

- Exit discharge.¹¹

The exit access is a path, such as a hallway or corridor, from any location in the building to an exit. The exit is usually a door leading outside, or in a multi-story building, an enclosed stairway. The exit discharge is a path from the exit to a space that is dedicated to public use such as a street or alley.¹²

The Fire Code provides that a building's means of egress must be a certain width determined by the number of occupants in the building and the use of the building.¹³ The Fire Code further provides that a building's means of egress must be free of all obstructions or impediments in case of fire or other emergency.¹⁴

The Building Code also provides that a building's means of egress must be a certain width determined by the number of occupants in the building.¹⁵ The Building Code provides that the *required width* of a building's means of egress must be free of all obstructions and impediments.¹⁶

However, the Building Code provides that maintenance of a building's means of egress must be in accordance with the Fire Code.¹⁷ The Department of Business and Professional Regulation has interpreted this to mean that the Fire Code takes precedence when it comes to people placing objects, such as a trashcan, in a building's means of egress.¹⁸

Combustible Waste and Refuse

The Fire Code defines combustible waste as any “combustible or loose waste material that is generated by an establishment or process and, if salvageable, is retained for scrap or reprocessing on the premises where generated or transported to a plant for processing.”¹⁹

The Fire Code defines combustible refuse as “a combustible or loose rubbish, litter, or waste materials generated by an occupancy that are refused, rejected, or considered worthless and are disposed of by incineration on the premises where generated or periodically transported from the premises.”²⁰

Combustible waste and refuse may be stored in an apartment building if the combustible waste and refuse is:

- Stored in a container less than 1.5 cubic yards (302 gallons);

¹¹ Section 3.3.176 of the 6th edition of the Florida Fire Prevention Code (NFPA 1, Fire Code).

¹² International Code Council, *Accessible Means of Egress*, <https://www.iccsafe.org/safety/Documents/MeansofEgressBroch.pdf> (last visited January 17, 2018).

¹³ See Section 7.3.4 of the 6th edition of the Florida Fire Prevention Code (NFPA 101, Life Safety Code).

¹⁴ Section 7.1.10.1 of the 6th edition of the Florida Fire Prevention Code (NFPA 101, Life Safety Code).

¹⁵ Section 1005 of the 6th edition of the Florida Building Code (Building).

¹⁶ Section 1018.1, 1020.3, and 1024.2 of the 6th edition of the Florida Building Code (Building).

¹⁷ Section 1001.3 of the 6th edition of the Florida Building Code (Building).

¹⁸ Email from Department of Business and Professional Regulation, Florida Building Code questions (On file with Banking and Insurance Committee).

¹⁹ Section 3.3.63 of the 6th edition of the Florida Fire Prevention Code (NFPA 1, Fire Code).

²⁰ Section 3.3.62 of the 6th edition of the Florida Fire Prevention Code (NFPA 1, Fire Code).

- Stored in an enclosed area with a 1 hour fire resistance rating and an automatic sprinkler system;
- Removed from the building once a day unless the waste and refuse is stored in a noncombustible room; and
- Not stored in the building's exit(s).²¹

Private Doorstep Waste Collection Providers

Currently, there are various providers offering doorstep waste collection services to apartment complexes throughout the state. The basic business model requires the residents of an apartment building to place their waste outside of their doorstep, in a specified container approved by the provider. The waste collection companies then come by and collect the waste at a specified time.²²

An apartment complex resident's front door opens to a hallway, corridor, or walkway, which is usually the building's exit access and therefore part of the building's means of egress. According to DFS, apartments that contract with the doorstep waste collection providers are violating the Fire Code by allowing residents to place combustible waste and refuse in their buildings' means of egress.²³

In recent declaratory statements, the State Fire Marshal determined that apartments may not allow residents to place waste containers outside their front doors regardless of the size of the container or if the waste is removed daily. The State Fire Marshal determined that the Fire Code prohibits apartment residents from placing any type of waste container outside their door because the residents are placing an obstruction in a building's means of egress and combustible waste in a building's exit.²⁴

III. Effect of Proposed Changes:

Section 1 amends s. 633.202(20), F.S., to establish a 3-year exemption to the Fire Prevention Code to allow for the limited placement of waste containers and waste within the hallways of apartment buildings that utilize a doorstep waste pickup service.

A doorstep waste collection service may operate in apartment buildings with enclosed corridors served by interior or exterior exit stairs if waste is not placed in exit access corridors for longer than 5 hours; waste containers do not occupy exit access corridors for longer than 12 hours; and effective January 1, 2020, waste containers do not exceed 13 gallons. For apartment buildings with open-air corridors or balconies serviced by exterior stairs waste cannot be placed in exit access corridors for longer than 5 hours; there is no limit on how long waste containers may occupy access corridors; and effective January 1, 2020, waste container size may not exceed 27 gallons.

²¹ Sections 10.19.4 and 19.2.1.4 of the 6th edition of the Florida Fire Prevention Code (NFPA 1, Fire Code).

²² Department of Financial Services, Agency analysis of 2018 Senate Bill 746 (November 29, 2017).

²³ *See Id.*

²⁴ *See In the matter of: William Harrison, Fire Marshal Clermont Fire Department*, Case No.: 188696-16-DS (Fla. DFS) (June 21, 2016); *In the matter of: Steve Strong, Fire Marshal Clearwater Fire & Rescue*, Case No.: 196979-16-DS (Fla. DFS) (Dec. 23, 2016).

In all cases the management of an apartment complex utilizing a doorstep waste collection service that would operate under this new law must have written policies and procedures in place and enforce them to insure compliance. A copy of such policies and procedures can be requested and must be provided to the authority having jurisdiction. Additionally, waste containers may not reduce the means of egress width below that required under NFPA Life Safety Code 101:31.

The bill would preempt NFPA 101:7.1.10.1 which provides that the means of egress shall be continuously maintained free of all obstructions or impediments to full instant use in the case of fire or other emergency.

Based on the two declaratory statements released by the State Fire Marshal, the bill would exempt the following code requirements of the Fire Prevention Code:²⁵

- NFPA 1:19.1.3 provides that combustible waste or refuse shall be properly stored or disposed of to prevent unsafe conditions.
- NFPA 1:10.19.4 provides that combustible material shall not be stored in exits.
- NFPA 101:7.1.10.1 provides that the means of egress shall be continuously maintained free of all obstructions or impediments to full instant use in the case of fire or other emergency.
- NFPA 1:19.2.1.2.1 describes the requirements for nonmetallic rubbish containers exceeding a capacity of 40 gallons. (This code would only be enforced effective January 1, 2020, until the bill expires January 1, 2021.)

The bill has a legislative intent statement that the legislature intends to allow doorstep refuse and recycling collection containers in exit corridors pursuant to the requirements enacted in the bill, and that the requirements in the bill are not intended to set precedent with regards to any future changes to the Florida Fire Prevention Code.

The bill sunsets all exemptions and requirements on January 1, 2021.

Section 2 provides an effective date of July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

²⁵ See *In the matter of: William Harrison, Fire Marshal Clermont Fire Department*, Case No.: 188696-16-DS (Fla. DFS) (June 21, 2016); *In the matter of: Steve Strong, Fire Marshal Clearwater Fire & Rescue*, Case No.: 196979-16-DS (Fla. DFS) (Dec. 23, 2016).

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Doorstep waste pickup services will be allowed to operate in apartment buildings while changes are pursued to the Fire Prevention Code.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 633.202 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 January 23, 2018:

The CS:

- Delays enforcement on waste container size until January 1, 2020.
- Provides a legislative intent statement.
- Provides a sunset date of January 1, 2021.

B. Amendments:

None.



328070

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/23/2018	.	
	.	
	.	
	.	

The Committee on Banking and Insurance (Bean) recommended the following:

Senate Amendment (with title amendment)

Delete lines 54 - 57
and insert:

(d) The authority having jurisdiction may not enforce
subparagraphs (a)1. and (b)1. until January 1, 2020.

(e) It is the intent of the Legislature to allow doorstep
refuse and recycling collection containers in exit corridors
pursuant to this subsection until adoption of the next edition
of the Florida Fire Prevention Code. The Legislature intends



328070

that this subsection does not establish precedent regarding
standards for doorstep refuse and recycling collection
containers in exit corridors in subsequent editions of the
Florida Fire Prevention Code and that the State Fire Marshal
exercise independent discretion when adopting such standards.

(f) This subsection expires January 1, 2021.

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

And the title is amended as follows:

Delete lines 8 - 11

and insert:

containers and storage arrangements; prohibiting such
authorities from enforcing specified provisions until
a specified date; providing legislative intent;
providing for expiration; providing an effective date.

By Senator Bean

4-00965-18

2018746__

A bill to be entitled

An act relating to the Florida Fire Prevention Code; amending s. 633.202, F.S.; requiring that doorstep refuse and recycling collection containers be allowed in exit corridors of certain apartment occupancies under certain circumstances; authorizing authorities having jurisdiction to approve certain alternative containers and storage arrangements; requiring such authorities to allow apartment occupancies a phase-in period to comply until a specified date; providing for future repeal; providing an effective date.

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

Section 1. Subsection (20) is added to section 633.202, Florida Statutes, to read:

633.202 Florida Fire Prevention Code.—

(20) (a) In apartment occupancies with enclosed corridors served by interior or exterior exit stairs, doorstep refuse and recycling collection containers must be allowed in exit corridors when all of the following conditions exist:

1. The maximum waste container size does not exceed 13 gallons.

2. Waste is not placed in the exit access corridors for single periods exceeding 5 hours.

3. Waste containers do not occupy the exit access corridors for single periods exceeding 12 hours.

4. Waste containers do not reduce the means of egress width below that required under NFPA Life Safety Code 101:31, as

Page 1 of 2

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

4-00965-18

2018746__

adopted under the Florida Fire Prevention Code.

5. Management staff have written policies and procedures in place and enforce them to ensure compliance with this subsection, and, upon request, provide a copy of such policies and procedures to the authority having jurisdiction.

(b) In apartment occupancies with open-air corridors or balconies served by exterior exit stairs, doorstep refuse and recycling collection containers must be allowed in exit corridors when all of the following conditions exist:

1. The maximum waste container size does not exceed 27 gallons.

2. Waste is not placed in the exit access corridors for single periods exceeding 5 hours.

3. Waste containers do not reduce the means of egress width below that required under NFPA Life Safety Code 101:31, as adopted under the Florida Fire Prevention Code.

4. Management staff have written policies and procedures in place and enforce them to ensure compliance with this subsection, and, upon request, provide a copy of such policies and procedures to the authority having jurisdiction.

(c) The authority having jurisdiction may approve alternative containers and storage arrangements that are demonstrated to provide an equivalent level of safety to that provided under paragraphs (a) and (b).

(d) The authority having jurisdiction shall allow apartment occupancies a phase-in period until December 31, 2020, to comply with this subsection.

(e) This subsection is repealed on July 1, 2021.

Section 2. This act shall take effect July 1, 2018.

Page 2 of 2

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



The Florida Senate

Committee Agenda Request

To: Senator Anitere Flores, Chair
Committee on Banking and Insurance

Subject: Committee Agenda Request

Date: November 15, 2017

I respectfully request that **Senate Bill # 746**, relating to Fire Prevention Codes, be placed on the:

- ☐ committee agenda at your earliest possible convenience.
- ☒ next committee agenda.

B

A handwritten signature in blue ink that reads "Aaron Bean".

Senator Aaron Bean
Florida Senate, District 4

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/23/2018

Meeting Date

746

Bill Number (if applicable)

Topic Florida Fire Prevention Code-allowing door-step collection

Amendment Barcode (if applicable)

Name Kevin SchwartzJob Title Regulatory ConsultantAddress P.O. Box 76245Phone 727-290-8238

Street

St. PetersburgFL33734Email kevin.schwartz@valetliving.com

City

State

Zip

Speaking: ☒ For ☐ Against ☐ InformationWaive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)Representing Valet LivingAppearing at request of Chair: ☐ Yes ☒ NoLobbyist 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)

January 23, 2018

Meeting Date

746

Bill Number (if applicable)

Topic Florida Fire Prevention Code

Amendment Barcode (if applicable)

Name Jon Pasqualone

Job Title Executive Director

Address 9097 SE Hobe Ridge Ave

Phone 772-349-1507

Street

Hobe Sound

FL

33455

Email jon.pasqualone@ffmia.org

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

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

Representing FL Fire Marshals and Inspectors Association (FFMIA)

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)

1/23/18

Meeting Date

746

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Courtney Barnard

Job Title Gov. Affairs Director

Address 105 E. Robinson Street STE 301

Phone 407-960-2910

Street

Orlando

FL

32801

City

State

Zip

Email Courtney@faahq.org

Speaking: ☒ For ☐ Against ☐ Information *and/or*

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

Representing FLORIDA APARTMENT ASSOCIATION

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)

APPEARANCE RECORD

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

746

Meeting Date _____

Bill Number (if applicable) _____

Topic _____

Amendment Barcode (if applicable) _____

Name Justin Frost

Job Title Owner Affinity Waste Solutions

Address 4847 Ohio Ave

Phone 407-808-0550

Street Sanford State FL Zip 32771

Email _____

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Affinity Waste Solutions

ring at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

part of the public record for this meeting.

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 Committee on Banking and Insurance

BILL: CS/SB 762

INTRODUCER: Banking and Insurance Committee and Senator Mayfield

SUBJECT: Permissible Insurance Acts

DATE: January 23, 2018

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Matiyow</u>	<u>Knudson</u>	<u>BI</u>	<u>Fav/CS</u>
2. _____	_____	<u>CM</u>	_____
3. _____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 762 amends the Unfair Insurance Trade Practices Act to allow insurers and their agents to give gifts, certain services, donations and other items not exceeding \$100 in value within 1 calendar year to insureds, prospective insureds and others.

Current law limits the gifting of promotional merchandise up to \$25 per gift to an insured, prospective insured, or any person, for the purpose of advertising. The \$25 limit has been in place since 1989 but there is no limit on the frequency of giving or the aggregate value of advertising merchandise given over any period of time.

In relation to advertising gifts by title insurance agents, agencies, and insurers, the bill limits them to an aggregate \$25 gift value per calendar year, rather than a \$25 per gift value limit with no annual aggregate limitation.

The bill also creates an exception to the prohibitions of the Unfair Insurance Trade Practices Act to allow the offering of complimentary grief counseling or funeral planning services and discounted rates on funeral services as part of a group life or health insurance policy.

The bill is effective July 1, 2018.

II. Present Situation:

The Unfair Insurance Trade Practices Act¹ (Act) prohibits unfair methods of competition and unfair or deceptive acts in the business of insurance. The Act prohibits certain inducements to the purchase of insurance; however, there are also exceptions provided by law.

The Act specifies that a licensed insurer or its agent may provide advertising gifts to insureds, prospective insureds, and others in the form of any article of merchandise having a value of not more than \$25.² Such gifts are deemed to not violate prohibitions under the Act against issuing specified stock, benefit certificates, shares, securities, or contracts as an inducement to insurance;³ engaging in specified acts of unfair discrimination;⁴ and providing unlawful rebates. This exception restricts the value of the advertising gift, but it does not limit the frequency of giving or the aggregate value of gifts given over any period of time. The \$25 limit has been in place since 1989.⁵

III. Effect of Proposed Changes:

Section 1 amends s. 626.9541(1)(m), F.S., regarding advertising gifts permitted under the Unfair Insurance Trade Practices Act. The bill allows insurers and their agents to give goods, wares, store gift cards, gift certificates, event tickets, anti-fraud or loss mitigation services, or other items to insureds, prospective insureds and others. Alternatively, insurers and agents may make charitable contributions in the name of insureds or prospective insureds. The bill prohibits the giving of both merchandise and charitable contributions to a policyholder or prospective policyholder in the same year. The total value of such gifts or charitable contributions may not exceed \$100 in a calendar year.

The bill exempts such gifts and charitable contributions from the prohibitions in paragraphs (f), (g), and (h) of s. 626.9541(1), F.S. Generally, rebates are unlawful under the Act. For example, it is an unfair method of competition and unfair act or practice to pay any valuable consideration or inducement not specified in the insurance contract as an inducement to insurance under s. 626.9541(1)(h)1.b., F.S. Current law has an exception for gifts for the purpose of advertising. The bill eliminates the requirement that gifts be for the purpose of advertising, thus converting the provision allowing advertising gifts to a provision allowing certain inducements to purchase insurance.

In relation to advertising gifts by title insurance agents, agencies, and insurers, the bill limits them to an aggregate \$25 gift value per calendar year, rather than a \$25 per gift value limit with no annual aggregate limitation.

The bill also creates an exception to the prohibitions of the Unfair Insurance Trade Practices Act to allow insurers and agents to offer complimentary grief counseling or funeral planning services and discounted rates on funeral services as part of a group life or health insurance policy. Funeral

¹ Section 626.9541, F.S.

² Section 626.9541(1)(m), F.S.

³ Section 626.9541(1)(f), F.S.

⁴ Section 626.9541(1)(g), F.S.

⁵ Chapter 89-360 L.O.F.

planning services or funeral services must be rendered by persons licensed under ch. 497, F.S., or licensed under the applicable laws in another jurisdiction in which the funeral provider is located. The contact to such funeral providers must be initiated by the beneficiaries or family members of the group policy insured and not by the funeral provider. The bill provides all such offerings are not an advertisement, designation, direction, rebate, or inducement.

Section 2 provides an effective date of July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Insurers and agents will be allowed to provide insureds, prospective insureds, and others with a limited amount of gifts, gift cards and services, or provide a charitable donation, as an appreciation for doing business.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 626.9541 of the Florida Statutes.

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

CS by Banking and Insurance on January 23, 2018:

The CS:

- Changes the term customer to insured.
- Clarifies that merchandise and a charitable contribution cannot both be provided to insureds or prospective insureds in the same year.
- Allows group life and health insurers to offer policyholders, at no additional cost, funeral planning services and grief counseling provided by the proper license holders. Such added benefits are not considered an advertisement, designation, direction, inducement or rebate under the Unfair Insurance Trade Practices Act.

- B. **Amendments:**

None.



242446

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/23/2018	.	
	.	
	.	
	.	

The Committee on Banking and Insurance (Mayfield) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraphs (m) and (t) of subsection (1) of
section 626.9541, Florida Statutes, are amended to read:

626.9541 Unfair methods of competition and unfair or
deceptive acts or practices defined.—

(1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE
ACTS.—The following are defined as unfair methods of competition



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and unfair or deceptive acts or practices:

(m) Advertising and promotional gifts and charitable contributions permitted.—

1. ~~No provision of~~ Paragraph (f), paragraph (g), or paragraph (h) ~~does not shall be deemed to~~ prohibit a licensed insurer or its agent from:

a. Giving to insureds, prospective insureds, ~~or and others,~~ for the purpose of advertising, any article of merchandise, goods, wares, store gift cards, gift certificates, event tickets, anti-fraud or loss mitigation services, or other items having a total value of \$100 or less per insured or prospective insured within 1 calendar year; or having a value of not more than \$25.

b. Making charitable contributions, as defined in s. 170(c) of the Internal Revenue Code, on behalf of insureds or prospective insureds of up to \$100 per insured or prospective insured within 1 calendar year.

2. Paragraph (f), paragraph (g), or paragraph (h) does not prohibit a title insurance agent or title insurance agency, as those terms are defined in s. 626.841, or a title insurer, as defined in s. 627.7711, from giving to insureds, prospective insureds, or others, for the purpose of advertising, any article of merchandise having a value of not more than \$25. A person or entity governed by this subparagraph is not subject to subparagraph 1.

(t) Certain life insurance relations as to with funeral directors, funeral services, and grief counseling prohibited.—

1. ~~A No~~ life insurer may not shall permit any funeral director or direct disposer to act as its representative,



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adjuster, claim agent, special claim agent, or agent for such insurer in soliciting, negotiating, or effecting contracts of life insurance on any plan or of any nature issued by such insurer or in collecting premiums for holders of any such contracts except as prescribed in s. 626.785(3).

2. A ~~No~~ life insurer may not ~~shall~~:

a. Affix, or permit to be affixed, advertising matter of any kind or character of any licensed funeral director or direct disposer to such policies of insurance.

b. Circulate, or permit to be circulated, any such advertising matter with such insurance policies.

c. Attempt in any manner or form to influence policyholders of the insurer to employ the services of any particular licensed funeral director or direct disposer.

3. ~~No~~ Such an insurer may not ~~shall~~ maintain, or permit its agent to maintain, an office or place of business in the office, establishment, or place of business of any funeral director or direct disposer in this state.

4. A licensed insurer or its agent may offer, in conjunction with the sale of a group life or health insurance policy, complimentary grief counseling or funeral planning services, or discounted rates on funeral services offered by a third party provider. Funeral planning services or funeral services must be rendered by persons licensed under chapter 497 or licensed under the applicable laws in another jurisdiction in which the funeral provider is located. The contact to such funeral providers must be initiated by the beneficiaries or family members of the group policy insured and not by the funeral provider. All such offerings under this paragraph are



242446

not an advertisement, designation, direction, rebate, or
inducement as described in this section.

Section 2. This act shall take effect July 1, 2018.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to permissible insurance acts;
amending s. 626.9541, F.S.; revising the types, value,
and frequency of advertising and promotional gifts
that licensed insurers or their agents may give to
insureds, prospective insureds, or others; authorizing
such insurers and agents to make specified charitable
contributions on behalf of insureds or prospective
insureds; providing that title insurance agents, title
insurance agencies, or title insurers may give
insureds, prospective insureds, or others advertising
gifts up to a specified value; providing
applicability; authorizing licensed insurers and their
agents to offer complimentary, or discounted rates on,
certain funeral-related services in conjunction with
the sale of a group life or health insurance policy;
specifying a requirement for, and a limitation on, the
providers of such services; providing construction;
providing an effective date.

By Senator Mayfield

17-00320-18

2018762__

1 A bill to be entitled
 2 An act relating to permissible insurance acts;
 3 amending s. 626.9541, F.S.; revising the types, value,
 4 and frequency of advertising and promotional gifts
 5 that licensed insurers or their agents may give to
 6 insureds, prospective insureds, or others; authorizing
 7 such insurers and agents to make specified charitable
 8 contributions on behalf of insureds or prospective
 9 insureds; prohibiting title insurance agents, title
 10 insurance agencies, or title insurers from giving
 11 insureds, prospective insureds, or others any article
 12 of merchandise in excess of a specified value;
 13 providing applicability; providing an effective date.
 14
 15 Be It Enacted by the Legislature of the State of Florida:
 16
 17 Section 1. Paragraph (m) of subsection (1) of section
 18 626.9541, Florida Statutes, is amended to read:
 19 626.9541 Unfair methods of competition and unfair or
 20 deceptive acts or practices defined.—
 21 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE
 22 ACTS.—The following are defined as unfair methods of competition
 23 and unfair or deceptive acts or practices:
 24 (m) Advertising and promotional gifts and charitable
 25 contributions permitted.—
 26 1. No provision of paragraph (f), paragraph (g), or
 27 paragraph (h) shall be deemed to prohibit a licensed insurer or
 28 its agent from:
 29 a. Giving to insureds, prospective insureds, or ~~and~~ others;

Page 1 of 2

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

17-00320-18

2018762__

30 ~~for the purpose of advertising,~~ any article of merchandise,
 31 goods, wares, store gift cards, gift certificates, event
 32 tickets, anti-fraud or loss mitigation services, and other items
 33 having a total value of \$100 or less per customer or prospective
 34 customer within 1 calendar year ~~having a value of not more than~~
 35 ~~\$25.~~
 36 b. Making charitable contributions, as defined in s. 170(c)
 37 of the Internal Revenue Code, on behalf of insureds or
 38 prospective insureds, of up to \$100 per insured or prospective
 39 insured, within 1 calendar year.
 40 2. A title insurance agent or title insurance agency, as
 41 those terms are defined in s. 626.841, or a title insurer, as
 42 defined in s. 627.7711, may not give to insureds, prospective
 43 insureds, or others, for the purpose of advertising, any article
 44 of merchandise having a value of more than \$25. A person or
 45 entity governed by this subparagraph is not subject to
 46 subparagraph 1.
 47 Section 2. This act shall take effect July 1, 2018.

Page 2 of 2

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR DEBBIE MAYFIELD
17th District

November 20, 2017

The Honorable Anitere Flores
Chair, Banking and Insurance
404 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Re: SB 762

Dear Chair Flores,

I am respectfully requesting Senate Bill 762, a bill relating to Permissible Insurance Acts, be placed on the agenda for your committee on Banking and Insurance.

I appreciate your consideration of this bill and I look forward to working with you and the Banking and Insurance committee. If there are any questions or concerns, please do not hesitate to call my office at 850-487-5017

Thank you,

A handwritten signature in blue ink that reads "Debbie Mayfield".

Senator Debbie Mayfield
District 17

Cc: James Knudson, Sheri Green, Nick Alvarez, Demi Busatta

COMMITTEES:

Education, Vice Chair
Government Oversight & Accountability, Vice Chair
Appropriations Subcommittee on the
Environment and Natural Resources
Appropriations subcommittee on General
Government
Agriculture
Judiciary

JOINT COMMITTEES:

Joint Legislative Auditing Committee,
Alternating Chair

REPLY TO:

- ☐ 900 E. Strawbridge Avenue, Melbourne, Florida 32901 (321) 409-2025
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JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

APPEARANCE RECORD

1/23

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

Meeting Date

762

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Robert Reyes

Job Title _____

Address 817 Ingleside Ave

Street

Phone 850-509-1802TAH 32303

City

State

Zip

Email creyes@capitolga.comSpeaking: ☐ For ☐ Against ☐ InformationWaive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)Representing Allstate Insurance CoAppearing at request of Chair: ☐ Yes ☐ NoLobbyist 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)

1-23-18

Meeting Date

SB762

Bill Number (if applicable)

Topic Permissible Insurance Acts

Amendment Barcode (if applicable)

Name Joy Ryan

Job Title _____

Address 3005. Duval St, #410

Phone 425-4000

Street

Tallahassee, FL 32301

City

State

Zip

Email joy@moonanlawfirm.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing MetLife

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 Committee on Banking and Insurance

BILL: SB 894

INTRODUCER: Senator Garcia

SUBJECT: Mortgage Lending

DATE: January 22, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Knudson	BI	Favorable
2.			CM	
3.			RC	

I. Summary:

SB 894 revises provisions governing non-depository loan originators, mortgage brokers, and mortgage lender businesses subject to regulation by the Office of Financial Regulation (OFR) to provide greater consumer protections for residential loans. The bill amends the definition of “mortgage loan” to include residential mortgage loans made for business purposes. Persons originating, brokering, or lending such loans may be subject to licensure by the OFR, unless they are otherwise exempt. Further, the bill provides a definition of the term “hold himself or herself out to the public as being in the mortgage lending business,” as that term currently exists under two licensing exemption provisions.

Under ch. 494, F.S., conditions requiring licensure by the OFR include whether a person takes part in making a mortgage loan primarily for personal, family, or household use. Under current law, two exemptions in ch. 494, F.S., permit an individual investor to make or acquire a mortgage loan with his or her own funds, or to sell such mortgage loan, without being licensed as a mortgage lender, if the individual does not “hold himself or herself out to the public as being in the mortgage lending business.” However, this term is currently undefined.

The fiscal impact on the OFR is indeterminate.

II. Present Situation:

Shadow Real Estate Transactions

The federal Financial Crimes Enforcement Network (FinCEN)¹ recently announced the renewal of an existing Geographic Targeting Order (GTO) in 2017. This GTO temporarily extends the

¹ Financial Crimes Enforcement Network, a bureau of the U.S. Department of Treasury, serves as the nation’s financial intelligence unit, and is charged with safeguarding the U.S. financial system from the abuses of money laundering, terrorist financing, and other financial crime. FinCEN administers the federal Bank Secrecy Act. FinCEN analyzes and shares

requirement that U.S. title insurance companies in six metropolitan areas in the U.S., including Miami-Dade County, Florida, identify the natural persons behind shell companies used to pay “all cash” for high-end residential real estate.² FinCEN has found that about 30 percent of the transactions covered by the GTOs involve a beneficial owner or purchaser representative that is also the subject of a previous suspicious activity report. The GTOs are one of the tools that FinCEN uses to combat money laundering. According to FinCEN, this corroborates their concerns about the use of shell companies to buy luxury real estate in “all-cash” transactions. In an earlier GTO issued in January 2016, FinCEN indicated that it was prioritizing anti-money laundering protections on real estate transactions involving lending.

In recent years, private lenders and representatives of a local building association have reported alleged unlicensed mortgage lending activity in South Florida. According to these reports, some lending entities were providing residential loans with usurious interest rates and high fees made under the guise of business purpose loans in order to avoid licensure and disclosure requirements under ch. 494, F.S., as a mortgage lender. These groups also claimed that some of these unscrupulous lenders would not make the “residential loan” unless the borrower formed a limited liability company.³ In another example described by the private lenders and local building association, an offshore shell company buys a parcel of real estate. Shortly thereafter, a Florida corporation, which is formed to participate in the scheme, obtains a mortgage loan on the property through an unlicensed mortgage lender. Next, the shell company pays the Florida corporation’s monthly mortgage payments and ultimately pays off the mortgage. As a result, the perpetrator successfully launders money in the United States.

Federal Oversight of Mortgage Brokerage Industry

Secure and Fair Enforcement for Mortgage Licensing Act of 2008

On July 30, 2008, the federal Housing and Economic Recovery Act of 2008 was enacted.⁴ Title V of this act is titled the “Secure and Fair Enforcement for Mortgage Licensing Act of 2008” or the “S.A.F.E. Mortgage Licensing Act of 2008” (SAFE Act). The SAFE Act establishes minimum standards for state licensure of residential mortgage loan originators in order to increase uniformity, improve accountability of loan originators, combat fraud, and enhance consumer protections. The act required all states to adopt a system of licensure meeting minimum standards for mortgage loan originators by August 1, 2009, or be subject to federal regulation. The act establishes regulatory requirements for individuals, rather than businesses, licensed or registered as mortgage brokers and lenders, collectively known as loan originators. Pursuant to the SAFE Act, states are required to participate in a national licensing registry, the Nationwide Mortgage Licensing System and Registry (registry), which contains employment

financial intelligence with law enforcement and regulatory agencies. In addition, FinCEN works with the financial industry to deter, detect, investigate, and prosecute money laundering, terrorist financing, and other crimes.

² FinCEN Press Release (Feb. 23, 2017) available at <https://www.fincen.gov/news/news-releases/fincen-renews-real-estate-geographic-targeting-orders-identify-high-end-cash> (last viewed Jan. 10, 2018).

³ Latin Builders Association, Letter to Governor Rick Scott (Dec. 19, 2013) (on file with the Senate Committee on Banking and Insurance.).

⁴ Pub. L. No. 110-289.

history as well as disciplinary and enforcement actions against loan originators. Applicants are subject to licensure by the state regulator.⁵

Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010

In 2010, the federal Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act) created the Consumer Financial Protection Bureau (CFPB) and provided sweeping changes to the regulation of financial services, including changes to federal mortgage loan origination and lending laws.⁶ The Dodd-Frank Act authorizes the CFPB to have rulemaking, enforcement, and supervisory powers over many consumer financial products and services, as well as the entities that sell them. Some of the consumer laws under the CFPB include the Truth in Lending Act (TILA)⁷ and the Real Estate Settlement Procedures Act (RESPA).⁸ The TILA is intended to ensure that credit terms are disclosed in a meaningful way so consumers can compare credit terms, and is implemented by Regulation Z. The RESPA requires lenders, mortgage brokers, or servicers of home loans to provide borrowers with pertinent and timely disclosures regarding the nature and costs of the real estate settlement process, and is implemented by Regulation X.

Both TILA and RESPA exempt from their regulations a mortgage loan made “primarily for a business, commercial or agricultural purpose.”⁹ Therefore, TILA and RESPA do not cover “business purpose” mortgage loans but rather only “consumer purpose” mortgage loans. When determining whether credit is for a consumer purpose, the creditor must evaluate all of the following factors:

- Any statement obtained from the consumer describing the purpose of the proceeds;
- The primary occupation of the consumer and how it relates to the use of the proceeds;
- Personal management of the assets purchased from proceeds;
- The size of the transaction; and
- The amount of income derived from the property acquired by the loan proceeds relative to the borrower’s total income.

The Dodd-Frank Act mandated that the CFPB adopt an integrated disclosure form for use by lenders and creditors to comply with the disclosure requirements of RESPA and TILA,¹⁰ and the CFPB issued final rules in 2015.¹¹ The integrated rule applies to most closed-end consumer mortgages secured by real property. It does not apply to home equity lines of credit (HELOCs), reverse mortgages, or mortgages secured by a mobile home or by a dwelling that is not attached to real property (i.e., land). *The Small Entity Guide* published by the CFPB does not specify whether loans for business purposes or for investment properties are exempt from the rule.

⁵ NLMS Resource Center, available at <http://mortgage.nationwidelicencingsystem.org/about/Pages/default.aspx> (last viewed Jan. 10, 2018).

⁶ Pub. L. No. 111-203.

⁷ 15 U.S.C. 1601, *et. seq.*

⁸ 15 U.S.C. 2601, *et. seq.*

⁹ Consumer Financial Protection Bureau, *2013 Integrated Mortgage Disclosure Rule Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z)*, available at <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/2013-integrated-mortgage-disclosure-rule-under-real-estate-settlement-procedures-act-regulation-x-and-truth-lending-act-regulation-z/> (last viewed Jan. 10, 2018).

¹⁰ 12 U.S.C. ss. 5532(f), 2603; 15 U.S.C. s. 1604(b).

¹¹ 78 Fed Reg 79730.

However, the guide does provide that creditors are not prohibited from using the integrated disclosure forms on loans that are not covered by the rule.¹²

State Regulation of Mortgage Loans

The Office of Financial Regulation (OFR) regulates a wide range of financial activities, such as state-chartered banks, credit unions, and non-depository loan originators, mortgage brokers and mortgage lenders. In 2009, the Florida Legislature implemented the minimum standards of the SAFE Act, which increased licensure requirements and required licensure through the registry.¹³

Section 494.001(24), F.S., defines the term “mortgage loan” to mean a:

- Residential loan primarily for personal, family, or household use which is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling, as defined in s. 103(v) of the federal TILA,¹⁴ or for the purchase of residential real estate upon which a dwelling is to be constructed;
- Loan on commercial real property if the borrower is an individual or the lender is a noninstitutional investor; or
- Loan on improved real property consisting of five or more dwelling units if the borrower is an individual or the lender is a noninstitutional investor.

Licensure of Loan Originators, Mortgage Brokers, and Mortgage Broker Lenders

An individual who acts as a loan originator must obtain a loan originator license.¹⁵ A “loan originator” means an individual who, directly or indirectly:

- Solicits or offers to solicit a mortgage loan;
- Accepts or offers to accept an application for a mortgage loan;
- Negotiates or offers to negotiate the terms or conditions of a new or existing mortgage loan on behalf of a borrower or lender; or
- Negotiates or offers to negotiate the sale of an existing mortgage loan to a noninstitutional investor for compensation or gain.¹⁶

The term “loan originator” includes an individual who is required to be licensed as a loan originator under the SAFE Act. The term does not include an employee of a mortgage broker or mortgage lender whose duties are limited to physically handling a completed application form or transmitting a completed application form to a lender on behalf of a prospective borrower.¹⁷

¹² See CFPB, *Small Entity Compliance Guide*, available at http://s3.amazonaws.com/files.consumerfinance.gov/f/documents/kbyo_smallentitycomplianceguide_v4_10072016.pdf (last viewed Jan. 12, 2018).

¹³ Chapter 2009-241, Laws of Fla.

¹⁴ The term “dwelling” means a residential structure or mobile home which contains one to four family housing units, or individual units of condominiums or cooperatives. Current law inadvertently references the definition of “material disclosure” under s. 103(v), rather than the term “dwelling,” which is defined under s. 103(w). See 15 U.S.C. 1602.

¹⁵ Section 494.00312, F.S.

¹⁶ Section 494.001(17), F.S.

¹⁷ *Id.*

A “mortgage broker” means a person conducting loan originator activities through one or more licensed loan originators employed by the mortgage broker or as an independent contractor to the mortgage broker¹⁸ and such persons are required to be licensed as mortgage brokers.¹⁹

A “mortgage lender” means any person making a mortgage loan for compensation or gain, directly or indirectly, or selling or offering to sell a mortgage loan to a noninstitutional investor,²⁰ and such persons are required to be licensed as mortgage lenders.²¹ “Making a mortgage loan” means closing a mortgage loan in a person's name, advancing funds, offering to advance funds, or making a commitment to advance funds to an applicant for a mortgage loan.²²

The following persons are exempt from regulation as a mortgage lender under part III of ch. 494, F.S.:

- A person acting in a fiduciary capacity conferred by the authority of a court;
- A person who, as a seller of his or her own real property, receives one or more mortgages in a purchase money transaction;
- A person who acts solely under contract and as an agent for federal, state, or municipal agencies for servicing mortgage loans;
- A person who makes only nonresidential mortgage loans and sells loans only to institutional investors;
- An individual making or acquiring a mortgage loan using his or her own funds for his or her own investment, and who does not hold himself or herself out to the public as being in the mortgage lending business; and
- An individual selling a mortgage that was made or purchased with that individual's funds for his or her own investment, and who does not hold himself or herself out to the public as being in the mortgage lending business.²³

OFR’s Examination Authority, Administrative Penalties and Fines

The OFR may conduct investigations, examinations, and investigate complaints.²⁴ The OFR may take disciplinary action against a person licensed or subject to licensure under parts II or III of ch. 494, F.S., if the person violates any provision of RESPA, TILA, or any regulations adopted under such acts, during the course of any mortgage transaction.²⁵

In recent years, the OFR has closed cases relating to information pertaining to approximately 24 entities allegedly making residential mortgage loans for business purposes. Of these cases, the OFR imposed administrative fines on three entities engaging in unlicensed mortgage lending. The OFR closed 15 other cases because the residential loans were determined to be for business purposes, which was outside of the jurisdiction of the OFR.²⁶

¹⁸ Section 494.001(22), F.S.

¹⁹ Section 494.00321, F.S.

²⁰ Section 494.001(23), F.S.

²¹ Section 494.00611, F.S.

²² Section 494.001(20), F.S.

²³ Section 494.00115(2), F.S.

²⁴ Section 494.0012, F.S.

²⁵ See s. 494.00255, F.S.

²⁶ OFR Mortgage Lender Referrals (Nov. 3, 2016) (on file with Senate Banking and Insurance Committee).

III. Effect of Proposed Changes:

Section 1 amends the definition of the term, “mortgage loan” in s. 494.001(24), F.S., by removing the requirement that residential loans be used primarily for personal, family, or household purposes. As a result, the bill allows residential loans made for a business purpose to fall under the definition of a “mortgage loan” and to be subject to regulation by the OFR. The bill may require persons originating, brokering, or lending such loans to obtain licensure under ch. 494, F.S., unless they fall within an exemption under s. 494.00115, F.S. The bill also makes a technical change to correct a reference to the definition of “dwelling” in s. 103(w) of the federal TILA.

Section 2 amends s. 494.00115, F.S., to define a term currently used under two mortgage lender licensing exemption provisions. The bill defines “hold himself or herself out to the public as being in the mortgage lending business” as any of the following:

- Representing to the public, through advertising or other means of communicating or providing information (including the use of business cards, stationery, brochures, signs, rate lists, or promotional items), by any medium whatsoever, that such individual can or will perform the activities described in s. 494.001(23), F.S., as a mortgage lender;
- Soliciting in a manner that would lead the intended audience to reasonably believe that such individual is in the business of performing the activities described in s. 494.001(23), F.S.;
- Maintaining a commercial business establishment at which, or premises from which, such individual regularly performs the activities described in s. 494.001(23), F.S., or regularly meets with current or prospective borrowers; or
- Advertising, soliciting, or conducting business through use of a name, trademark, service mark, trade name, Internet address, or logo which indicates or reasonably implies that the business being advertised, solicited, or conducted is the kind or character of business transacted or conducted by a licensed mortgage lender or which is likely to lead any person to believe that such business is that of a licensed mortgage lender.

The exemptions from mortgage lender licensure affected by this section are those for:

- An individual making or acquiring a mortgage loan using his or her own funds for his or her own investment, and who does hold himself or herself out to the public as being in the mortgage lending business.
- An individual selling a mortgage that was made or purchased with that individual’s funds for his or her own investment, and who does not hold himself or herself out to the public as being in the mortgage lending business.²⁷

Section 3 provides the effective date of January 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

²⁷ See s. 494.00115(2)(e) and (f), F.S.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Implementation of the bill would allow borrowers obtaining residential mortgage for business purposes (not primarily for personal, family, or household use) greater consumer protections provided under ch. 494, F.S., which requires compliance with RESPA and TILA. All residential mortgage loans regardless of the purpose would be subject to the provisions of ch. 494, F.S.

According to the OFR, the bill will require an indeterminate number of businesses and individuals to become licensed as mortgage lenders, mortgage brokers, and loan originators. The total number of entities operating in the state of Florida in this manner is unknown; however, the OFR has received information pertaining to approximately 24 entities making mortgage loans for business purposes.²⁸

C. Government Sector Impact:

The OFR has indicated that two additional FTEs²⁹ may be needed to perform licensing and regulatory functions since additional persons would be required to be licensed and examined.³⁰

	<u>Year 1</u>		<u>Year 2</u>		<u>Year 3</u>	
Salaries & Benefits:	Recurring	Non-Recurring	Recurring	Non-Recurring	Recurring	Non-Recurring
Financial Specialist (Registrations)	\$46,681.50	\$0.00	\$62,242.00	\$0.00	\$62,242.00	\$0.00
Financial Specialist (Enforcement)	\$46,681.50	\$0.00	\$62,242.00	\$0.00	\$62,242.00	\$0.00
	<u>\$93,363.00</u>	<u>\$0.00</u>	<u>\$124,484.00</u>	<u>\$0.00</u>	<u>\$124,484.00</u>	<u>\$0.00</u>

²⁸ Office of Financial Regulation, *Analysis of SB 894* (Dec. 17, 2017) (on file with Senate Banking and Insurance Committee).

²⁹ *Id.*

³⁰ Office of Financial Regulation correspondence (Jan. 2018) (on file with Senate Committee on Banking and Insurance Committee).

Expenses:	Recurring	Non-Recurring	Recurring	Non-Recurring	Recurring	Non-Recurring
Financial Specialist (Registrations)	\$1,350.00	\$0.00	\$1,800.00	\$0.00	\$1,800.00	\$0.00
Financial Specialist (Enforcement)	\$1,350.00	\$0.00	\$1,800.00	\$0.00	\$1,800.00	\$0.00
	<u>\$2,700.00</u>	<u>\$0.00</u>	<u>\$3,600.00</u>	<u>\$0.00</u>	<u>\$3,600.00</u>	<u>\$0.00</u>
OCO:	Recurring	Non-Recurring	Recurring	Non-Recurring	Recurring	Non-Recurring
Financial Specialist (Registrations)	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Financial Specialist (Enforcement)	\$0.00	\$1,500.00	\$0.00	\$0.00	\$0.00	\$0.00
	<u>\$0.00</u>	<u>\$1,500.00</u>	<u>\$0.00</u>	<u>\$0.00</u>	<u>\$0.00</u>	<u>\$0.00</u>
	<u>\$97,563.50</u>	<u>\$1,500.00</u>	<u>\$128,084.00</u>		<u>\$128,084.00</u>	

VI. Technical Deficiencies:

Section 2 of the bill amending s. 494.00115, F.S., relating to exemptions from licensure (lines 38 – 41) provides that anyone “soliciting in a manner that would lead the intended audience to reasonably believe that such individual is in the business of performing activities described in s. 494.001(23).” According to the OFR, this paragraph appears very broad in who it would encompass and would likely create confusion for impacted businesses and individuals, as well as the OFR in how it is interpreted. Paragraphs (a), (c), and (d) provide more definitive guidance as to the exact activities or circumstances by which a business or individual is included in the definition. The OFR suggests that paragraph (b) should be clarified or removed in its entirety.

VII. Related Issues:

A violation of RESPA, TILA, or any regulations adopted thereunder committed in any mortgage transaction, is a ground for disciplinary action under ch. 494, F.S. Both RESPA and TILA exclude business purpose loans from the scope of their regulation. Therefore, a person may be subject to licensure under ch. 494, F.S., but would not necessarily be required to provide the disclosures required under RESPA and TILA if the residential mortgage loan is made for business purposes.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 494.001 and 494.00115.

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 Senator Garcia

36-01122-18

2018894__

A bill to be entitled

An act relating to mortgage lending; amending s.

494.001, F.S.; revising the definition of the term

"mortgage loan"; amending s. 494.00115, F.S.; defining

the term "hold himself or herself out to the public as

being in the mortgage lending business"; providing an

effective date.

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

Section 1. Subsection (24) of section 494.001, Florida Statutes, is amended to read:

494.001 Definitions.—As used in this chapter, the term:

(24) "Mortgage loan" means any:

(a) Residential loan that primarily for personal, family,
~~or household use which~~ is secured by a mortgage, deed of trust,
or other equivalent consensual security interest on a dwelling,
as defined in s. 103(w) ~~s. 103(v)~~ of the federal Truth in
Lending Act, or for the purchase of residential real estate upon
which a dwelling is to be constructed;

(b) Loan on commercial real property if the borrower is an
individual or the lender is a noninstitutional investor; or

(c) Loan on improved real property consisting of five or
more dwelling units if the borrower is an individual or the
lender is a noninstitutional investor.

Section 2. Subsection (4) is added to section 494.00115,
Florida Statutes, to read:

494.00115 Exemptions.—

(4) As used in this section, the term "hold himself or

36-01122-18

2018894__

herself out to the public as being in the mortgage lending

business" includes any of the following:

(a) Representing to the public, through advertising or
other means of communicating or providing information, and by
any medium whatsoever, including the use of business cards,
stationery, brochures, signs, rate lists, or promotional items,
that such individual can or will perform the activities
described in s. 494.001(23).

(b) Soliciting in a manner that would lead the intended
audience to reasonably believe that such individual is in the
business of performing the activities described in s.
494.001(23).

(c) Maintaining a commercial business establishment at
which, or premises from which, such individual regularly
performs the activities described in s. 494.001(23) or regularly
meets with current or prospective borrowers.

(d) Advertising, soliciting, or conducting business through
use of a name, trademark, service mark, trade name, Internet
address, or logo that indicates or reasonably implies that the
business being advertised, solicited, or conducted is the kind
or character of business transacted or conducted by a licensed
mortgage lender or that is likely to lead any person to believe
that such business is that of a licensed mortgage lender.

Section 3. This act shall take effect January 1, 2019.



The Florida Senate
State Senator René García
36th District

Please reply to:

☐ District Office:

1490 West 68 Street
Suite # 201
Hialeah, FL. 33014
Phone# (305) 364-3100

December 7, 2017

The Honorable Anitere Flores
Chair, Banking and Insurance
320 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Senator Flores,

Please have this letter serve as my formal request to have **SB 894: Mortgage Lending** be heard during the next scheduled Banking and Insurance Committee Meeting. Should you have any questions or concerns, please do not hesitate to contact my office.

Sincerely,

A handwritten signature in black ink, appearing to read "René García".

State Senator René García
District 36

CC: James Knudson
Sheri Green

Committees: Children, Families, and Elder Affairs, Chair, Appropriations Subcommittee on Finance and Tax, Vice Chair, Appropriations Subcommittee on the Environment and Natural Resources, Appropriations Subcommittee on General Government, Banking and Insurance, Judiciary, Joint Administrative Procedures Committee.

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 Committee on Banking and Insurance

BILL: SB 924

INTRODUCER: Senator Baxley

SUBJECT: Health Benefit Coverage for Prescription Eye Drop Refills

DATE: January 22, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Knudson	BI	Pre-meeting
2.			AGG	
3.			AP	

I. Summary:

SB 924 requires a health insurance policy or health maintenance organization (HMO) contract, which provides coverage for prescription eye drops for the treatment of chronic eye disease or condition, to provide for an early refill of the eye drops at 80 percent of the predicted days of use. An insurer or HMO must provide coverage for an early refill if the refill is dispensed on or before the last day of the prescribed dosage period (but not earlier than the 24th day for a 30-day supply, 48th day for a 60-day supply, and 72nd day for a 90-day supply), and the original prescription allows for additional quantities. Prescription eye drops covered under this bill are subject to the same deductibles, copayments, coinsurance, or cost-sharing provisions established for all other prescription drug benefits under the policy or contract.

According to the Department of Management Services, the bill would have no fiscal impact on the self-insured State Employees' Prescription Drug Plan.

II. Present Situation:

Prescription eye drops are used to treat acute and chronic conditions. Patients with ocular hypertension, glaucoma, uveitis, or chronic dry eye disease may require multiple refills to treat these chronic diseases and conditions.¹

Accidental overuse or wastage (too many drops at once or drops outside of the eye) can exhaust the eye drops in a bottle before the projected period of use, which may lead to medication compliance issues. Besides overuse and wastage, systematic adherence to a treatment regimen may contribute to early bottle exhaustion. A 2014 study evaluated the prevalence of self-reported

¹ Allaboutvision, *Eye Problems and Diseases* available at <http://www.allaboutvision.com/conditions/> (last viewed Jan. 22, 2018).

early glaucoma eye drop bottle exhaustion and associated risk factors.² Self-reported early glaucoma bottle exhaustion regularly affected 5 percent of patients in the population and 25 percent reported early exhaustion at least once; the main risk factor was poor vision in at least one eye. The study noted that at least nine states had enacted legislation relating to early refills since 2013.³

Federal Health Insurance Provisions

Federal Patient Protection and Affordable Care Act

The federal Patient Protection and Affordable Care Act (PPACA) was signed into law on March 23, 2010.⁴ The PPACA provides fundamental changes to the health care system by requiring health insurers to make coverage available to all individuals and employers, without exclusions for preexisting conditions and without basing premiums on any health-related factors. The PPACA imposes many insurance requirements including required essential health benefits and rating and underwriting standards.⁵ PPACA requires health plans that are required to provide coverage of essential health benefits (EHB), to meet cost-sharing limits and actuarial value requirements. The PPACA directs coverage of at least 10 specified categories of essential health benefits, including prescription drugs.⁶

Medicare Prescription Drug Coverage of Early Refills

Medicare Part D is a Medicare prescription drug plan. These plans add drug coverage to original Medicare, some Medicare Cost Plans, some Medicare private fee-for-service plans, and Medicare Medical Savings Account plans.⁷ The Centers for Medicare and Medicaid Services (CMS) recognizes that early refill edits are an important utilization management tool used to promote compliance and prevent waste. However, CMS notes that it is important that Part D⁸ sponsors implement such edits in a manner that does not unreasonably put beneficiaries at risk of interruptions in drug therapy that potentially has serious consequences. The CMS recommends that Part D sponsors permit refills at 70 percent of the predicted days of use. By way of an example, for a prescribed medication with an expected duration of 30 days of use, the refills would be allowed at day 21.⁹

² Moore DB, Walton C, Moeller KL, Slabaugh MA, Mudumbai RC, Chen PP. Prevalence of self-reported early glaucoma eye drop bottle exhaustion and associated risk factors: a patient survey. *BMC Ophthalmology*. 2014;14:79. doi:10.1186/1471-2415-14-79, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4072615/#B9> (last viewed Jan. 19, 2018).

³ A limited survey by Banking and Insurance Committee staff indicated at least two additional states (Illinois and Oklahoma) had enacted legislation since the study's date of publication (on file with Banking and Insurance Committee).

⁴ The Patient Protection and Affordable Care Act (Pub. L. 111–148) was enacted on March 23, 2010. The Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152), which amended and revised several provisions of the Patient Protection and Affordable Care Act, was enacted on March 30, 2010. P.L. 111-148.

⁵ Most of the insurance regulatory provisions in PPACA amend Title XXVII of the Public Health Service Act (PHSA), (42 U.S.C. 300gg *et seq.*).

⁶ See <https://www.cms.gov/ccio/resources/data-resources/ehb.html> (last viewed Jan.10, 2018) for Florida's benchmark plan.

⁷ Medicare, *How to get drug coverage*, available at <https://www.medicare.gov/sign-up-change-plans/get-drug-coverage/get-drug-coverage.html#1372> (last viewed Jan. 20, 2018).

⁸ Medicare, Part D (Drug Coverage) available at <https://www.medicare.gov/part-d/> (last viewed Jan. 20, 2018)

⁹ Department of Health and Human Services, CMS, *Early Refill Edits on Topical Ophthalmic Products*, (June 2, 2010) available at https://www.cms.gov/Medicare/Prescription-Drug-Coverage/PrescriptionDrugCovContra/Downloads/MemoEarlyRefillOphth_060210.pdf (last viewed Jan. 17, 2018).

Office of Insurance Regulation

The Office of Insurance Regulation (OIR) licenses and regulates the activities of insurers, HMOs, and other risk-bearing entities.¹⁰ The Agency for Health Care Administration regulates the quality of care provided by HMOs under part III of ch. 641, F.S. Before receiving a certificate of authority from the OIR, an HMO must receive a Health Care Provider Certificate from AHCA.¹¹

State Group Health Insurance Program

The Department of Management Services (DMS), through the Division of State Group Insurance, administers the state group health insurance program under a cafeteria plan consistent with s. 125, Internal Revenue Code.¹² To administer the state group health insurance program, DMS contracts with third party administrators for self-insured health plans, insured health maintenance organizations (HMOs), and a pharmacy benefits manager (PBM) for the state employees' self-insured prescription drug program pursuant to s. 110.12315, F.S. The program typically makes benefits changes on a plan year basis, which is January 1 through December 31.

The state employees' self-insured prescription drug program has three cost-share categories for members: generic drugs, preferred brand name drugs (those brand name drugs on the preferred drug list), and non-preferred brand name drugs (those brand name drugs not on the preferred drug list). The PBM for the state employees' self-insured prescription drug program updates the preferred drug list quarterly, as generic and brand name drugs enter the market, and as the PBM negotiates pricing, including rebates with manufacturers.

Generic drugs are the least expensive and have the lowest member cost share, preferred brand name drugs have the middle cost share, and non-preferred brand name drugs are the most expensive and have the highest member cost share. Generally, prescriptions written for a brand name drug, preferred or non-preferred, are substituted with a generic drug when available. If the prescribing provider states on the prescription that the brand name drug is "medically necessary" over the generic equivalent, the member will pay only the brand name (preferred or non-preferred) cost share. If the member requests the brand name drug over the generic equivalent, then the member will pay the brand name (preferred or non-preferred) cost share plus the difference between the cost of the generic drug and the brand name drug.

The program covers all federal legend drugs (open formulary) for covered medical conditions, and employs very limited utilization review and clinical review for traditional or specialty prescription drugs. Specialty drugs are high-cost prescription medications used to treat complex, chronic conditions such as cancer, rheumatoid arthritis, and multiple sclerosis. Specialty drugs often require special handling (e.g., refrigeration during shipping) and administration (such as injection or infusion).

¹⁰ Section 20.121(3), F.S.

¹¹ Section 641.21(1), F.S.

¹² Section 110.123, F.S.

The federal out-of-pocket limit applies to members of the state group self-insured health plans and insured HMOs, all of which include prescription drug coverage. Copayments (and coinsurance for high deductible plans) for each drug tier are the same for all plans, as follows:

Drug Tier	Retail – Up to 30-Day Supply	Retail and Mail – Up to 90-Day Supply and Specialty Medications
Generic	\$7	\$14
Preferred Brand	\$30	\$60
Non-Preferred Brand	\$50	\$100

California Study on the Coverage of Early Refills of Prescription Eye Drops

In 2016, similar legislation¹³ was introduced in California. The California Health Benefits Review Program (CHRP) evaluated the legislation.¹⁴ In CHRP's report, the total increase in expenditures statewide for premiums of employers, employees, and individuals was estimated to be \$483,000 for a 12-month period. Additionally, the increase in enrollees' out-of-pocket expenses for covered benefits was estimated to be \$112,000 for the same period.

According to CHRP, the bill was most likely to improve adherence among typically adherent patients. However, there was insufficient evidence to suggest that the limited number of additional days (often as few as 1-3 days) of adherence made possible by the bill would measurably impact the effectiveness of treatment. For this reason, the study did not project a measurable impact on the population's health outcomes within the first year of the bill's passage into law. However, the study noted the average age of Californians has been increasing, and is expected to continue to do so. Resulting increases in age-related chronic eye conditions may lead to greater use of eye drops and eye ointments and so to greater use of the earlier refills that the bill would require. The report noted that the mandate would alter the terms but not require new benefit coverage and so would not exceed federal essential health benefits. The CHBRP expects that, on average, the post mandate possibility of earlier refill coverage would result in one additional refill per year among enrollees with a chronic condition and changed benefit coverage.¹⁵

III. Effect of Proposed Changes:

Sections 1, 2, and 3 require that individual and group health insurance policies and HMO contracts, which provide coverage for prescription eye drops to treat a chronic eye disease or condition, must provide coverage for prescription eye drop refills if the following criteria are met:

¹³ Assembly Bill (AB) 1831 (introduced February 2016) would prohibit denial of refill coverage for covered topical ophthalmic products (TOPs) at and after 70 percent of predicted use. The TOPs include eye drops and eye ointments. The terms of coverage for 85 percent of enrollees would change, where coverage had been available for refills at and after 75 percent to 85 percent of projected use, refills would be covered at 70 percent of projected use.

¹⁴ The California Health Benefits Review Program (CHBRP) was established in 2002 to provide the California Legislature with independent analysis of the medical, financial, and public health impacts of proposed health insurance benefit mandates and repeals, per its authorizing statute.

¹⁵ CHRP Study available at Analysis of California Assembly Bill (AB) 1831 Topical Ophthalmic Refills (Apr. 2016) http://chbrp.ucop.edu/index.php?action=read&bill_id=199&doc_type=3 (last viewed Jan. 21, 2018).

- The refill is dispensed on or before the last day of the prescribed dosage period (but not earlier than the 24th day for a 30-day supply, 48th day for a 60-day supply, and 72nd day for a 90-day supply) and the original prescription allows for additional quantities.
- The bill provides the prescription eye drop refills are subject to the same member cost share as all other prescription drug benefits under the policy or contract.

Section 4 provides for a July 1, 2018, effective date.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

To the extent a commercial insurer or HMO is not currently providing access to such early refills, this bill would provide insureds with access to such additional coverage.

The provisions of the bill will not apply to employers that offer self-insured plans.¹⁶ In Florida, an estimated 63 percent of private sector enrollees are enrolled in self-insured plans. Further, the bill would not apply to Medicaid plans since the bill does not amend ch. 409, F.S.

C. Government Sector Impact:

According to DMS, the bill would provide for an 80 percent refill threshold, which is more restrictive than the current 75 percent threshold allowed under the self-insured State

¹⁶ The federal Employee Retirement Income Security Act of 1975 (ERISA) allows employers to self-insure in order to offer uniform health benefits across states. A plan that is self-insured is subject to ERISA's requirements. Such employers are not required to cover health care services for state-mandated benefits.

Employees' Prescription Drug Plan. The PBM for DMS estimates that the bill would not have a fiscal impact on the self-insured State Employees' Prescription Drug Plan.¹⁷

VI. Technical Deficiencies:

None.

VII. Related Issues:

The effective date of the bill is July 1, 2018. Health plans have already filed and received approval of their forms and rates for 2018.¹⁸ Further, many policies and contracts provide coverage on a calendar year basis. An effective date of January 1, 2019, for the bill would allow plans to incorporate the additional coverage requirements into their policies and contracts.

If the bill mandates additional coverage beyond what is currently required in the Florida Insurance Code, the bill may be subject to the requirements of s. 624.215, F.S. This provision creates a framework for the Legislature to conduct a systematic review of the impact of creating new mandates. The law requires that the proponent of proposed legislation mandating health benefit coverage submit a report to the Agency for Health Care Administration and the legislative committee having jurisdiction. The report must assess, among other things, the utilization rate of the treatment or service, the extent and impact of current coverage, the level of demand for the treatment or service and for insurance in general, the level of interest of collective bargaining agents in negotiating for such coverage, the cost of such coverage and the impact of such coverage on the overall cost of health care.

If this bill is deemed to provide a state-mandated benefit that exceeds the essential health benefits of Florida's benchmark plan, the federal Patient Protection Affordable Care Act (PPACA) requires states to defray such costs of state-mandated benefits.¹⁹ The CHRP study of pending legislation in California noted that the mandate would alter the terms but not require new benefit coverage and so the mandate would not exceed the essential health benefits provided by California's benchmark plan.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 627.662 and 641.31.

This bill creates section 627.6411 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.)

None.

¹⁷ Department of Management Services, *Analysis of SB 924 (Nov. 21, 2017)* (on file with Banking and Insurance Committee).

¹⁸ Office of Insurance Regulation, *Analysis of SB 924* (on file with Senate Banking and Insurance Committee).

¹⁹ 42 U.S. Code § 18031(d)(3)(B) and 45 CFR §155.170.

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 Senator Baxley

12-00878-18

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A bill to be entitled

An act relating to health benefit coverage for prescription eye drop refills; creating s. 627.6411, F.S.; requiring health insurance policies providing coverage for certain prescription eye drops to provide coverage for eye drop prescription refills under certain circumstances; providing that such benefits are subject to the same cost-sharing provisions established for other prescription drug benefits under such policies; amending s. 627.662, F.S.; providing applicability of prescription eye drop refill coverage requirements to group health insurance, blanket health insurance, and franchise health insurance; amending s. 641.31, F.S.; requiring health maintenance contracts providing coverage for certain prescription eye drops to provide coverage for eye drop prescription refills under certain circumstances; providing that such benefits are subject to the same cost-sharing provisions established for other prescription drug benefits under such contracts; providing an effective date.

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

Section 1. Section 627.6411, Florida Statutes, is created to read:

627.6411 Coverage for prescription eye drop refills.—

(1) A health insurance policy that provides coverage for prescription eye drops to treat a chronic eye disease or

Page 1 of 3

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

12-00878-18

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condition must provide coverage for a refill of prescription eye drops if all of the following conditions are met:

(a) The refill is dispensed on or before the last day of the prescribed dosage period, and not earlier than:

1. The 24th day after the date a prescription for a 30-day supply of eye drops is dispensed;

2. The 48th day after the date a prescription for a 60-day supply of eye drops is dispensed; or

3. The 72nd day after the date a prescription for a 90-day supply of eye drops is dispensed.

(b) The original prescription states that additional quantities are needed and the refill requested by the insured does not exceed such quantities.

(2) The prescription eye drop benefits covered under this section are subject to the same annual deductibles, copayments, coinsurance, or other cost-sharing provisions established for all other prescription drug benefits under the health insurance policy.

Section 2. Present subsection (15) of section 627.662, Florida Statutes, is redesignated as subsection (16), and a new subsection (15) is added to that section, to read:

627.662 Other provisions applicable.—The following provisions apply to group health insurance, blanket health insurance, and franchise health insurance:

(15) Section 627.6411, relating to coverage for prescription eye drop refills.

Section 3. Subsection (45) is added to section 641.31, Florida Statutes, to read:

641.31 Health maintenance contracts.—

Page 2 of 3

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

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59 (45) (a) A health maintenance contract that provides
60 coverage for prescription eye drops to treat a chronic eye
61 disease or condition must provide coverage for a refill of
62 prescription eye drops if all of the following conditions are
63 met:

64 1. The refill is dispensed on or before the last day of the
65 prescribed dosage period, and not earlier than:

66 a. The 24th day after the date a prescription for a 30-day
67 supply of eye drops is dispensed;

68 b. The 48th day after the date a prescription for a 60-day
69 supply of eye drops is dispensed; or

70 c. The 72nd day after the date a prescription for a 90-day
71 supply of eye drops is dispensed.

72 2. The original prescription states that additional
73 quantities are needed and the refill requested by the subscriber
74 does not exceed such quantities.

75 (b) The prescription eye drop benefits covered under this
76 subsection are subject to the same annual deductibles,
77 copayments, coinsurance, or other cost-sharing provisions
78 established for all other prescription drug benefits under the
79 health maintenance contract.

80 Section 4. This act shall take effect July 1, 2018.



THE FLORIDA SENATE

SENATOR DENNIS BAXLEY
12th District

COMMITTEES:

Governmental Oversight and Accountability, *Chair*
Criminal Justice, *Vice Chair*
Appropriations
Appropriations Subcommittee on Criminal and
Civil Justice
Appropriations Subcommittee on Health and
Human Services
Agriculture
Transportation

SELECT COMMITTEE:

Joint Select Committee on Collective Bargaining

JOINT COMMITTEE:

Joint Legislative Auditing Committee

December 5, 2017

The Honorable Chairwoman Anitere Flores
404 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

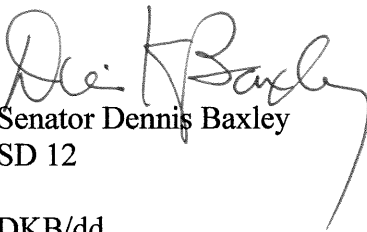
Dear Chairwoman Flores,

I respectfully request that you place SB 924 Health Benefit Coverage for Prescription Eye Drop Refills on your next available agenda.

This bill requires a health insurance policy or a health maintenance contract that provides coverage for prescription eye drops to treat a chronic eye disease or condition, must provide coverage for a refill of prescription eye drops if the refill is dispensed on or after the 24th day after the date a prescription for a 30 day supply is dispensed; 48th day after for a 60 day supply; 72nd day after the date a prescription for a 90 day supply is dispensed and if the original prescription states that additional quantities are needed and the refill requested by the insured does not exceed such quantities.

I appreciate your favorable consideration.

Onward & Upward,


Senator Dennis Baxley
SD 12

DKB/dd

320 Senate Office Building, 404 South Monroe St, Tallahassee, Florida 32399-1100 • (850) 487-5012

Email: baxley.dennis@flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

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 Committee on Banking and Insurance

BILL: CS/SB 1168

INTRODUCER: Banking and Insurance Committee and Senator Steube

SUBJECT: Insurance

DATE: January 24, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Billmeier	Knudson	BI	Fav/CS
2.			JU	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1168 creates new requirements for assignment of post-loss benefits from personal residential property insurance policies. The bill does not allow personal lines residential or commercial residential property insurance policies to prohibit the post-loss assignment of benefits. It provides, however, that an agreement to assign post-loss benefits is not valid unless the agreement:

- Is in writing;
- Is limited to claims for work performed or work to be performed by the assignee;
- Contains an accurate and up-to-date statement of the scope of work to be performed;
- Allows the insured to rescind the assignment within 7 days after execution without penalty or fee;
- Prohibits any check or mortgage processing fee or administrative fee;
- Provides that the insured may be responsible for payment for any work performed before the rescission of the assignment; and
- Contains a notice provision informing the homeowner of certain rights and obligations.

The bill requires the assignee to:

- Provide a copy of the assignment agreement to the insurer within a specified time;
- Provide the insurer with a written estimate of the work to be done; and
- Provide specified notice to the insurer no later than 30 days before initiating litigation against an insurer.

The bill allows the insurer to inspect the property at any time. The assignee may raise the insurer's failure to in good faith attempt to inspect the property within 7 days of learning of the loss and promptly deliver to the assignee written notice of any perceived deficiency in the assignee's notice or work performed, for purposes of estopping the insurer from asserting that the work done was not reasonably necessary or the assignee provided insufficient notice.

The bill provides that acceptance by an assignee of a valid assignment agreement constitutes a waiver by the assignee of any claims, with specified exceptions, against named insureds for payment arising from the loss. This waiver is valid even if the assignment agreement is determined to be invalid.

The bill provides that in a civil action relating to a residential homeowner's property insurance claim under a policy in which an assignment agreement was executed, a proposal for settlement may be made by any party no earlier than 30 days after the civil action has commenced.

The bill requires each insurer to report specified data on each residential property claim paid pursuant to an assignment agreement in the prior calendar year to the Office of Insurance Regulation (OIR).

The bill restricts an insurer's ability to deny claims or rescind a policy based on misrepresentations on insurance applications and restricts an insurer's ability to require or recommend specific vendors to policyholders.

The bill amends s. 627.062, F.S., to provide that attorney fees paid pursuant to s. 627.428, F.S., may not be included in the insurer's rate base and may not be used to justify a rate or rate change. These provisions will bar the use of attorney fees paid pursuant to s. 627.428, F.S., in rate making for property insurance.

II. Present Situation:

Property Insurance Rates (Section 1 of the bill)

Section 627.062, F.S., specifies the rate filing process for property and casualty insurers and provides rating standards for these insurers. The rating law applies to property, casualty and surety insurance and prohibits rates that are excessive, inadequate, or unfairly discriminatory. At the same time, an insurer is allowed a reasonable rate of return. The Office of Insurance Regulation (OIR) regulates insurer rate and form filing.

A rate is excessive if:

- It is likely to produce a profit from Florida business that is unreasonably high in relation to the risk involved or if expenses are unreasonably high in relation to the services rendered.
- The rate structure established by a stock insurance company provides for replenishment of surpluses from premiums, when the replacement is attributable to investment losses.¹

A rate is inadequate if:

¹ s. 627.062(2)(e)1. and 2., F.S.

- It is clearly insufficient, together with the investment income attributable to them to sustain projected losses and expenses in the class of business to which it applies.
- If discounts or credits are allowed that exceed a reasonable reflection of expense savings and reasonably expected loss experience from the risk or group of risks.²

A rate is unfairly discriminatory if:

- The rating plan, including discounts, credits, or surcharges fails to clearly and equitably reflect consideration of the policyholder's participation in a risk management program pursuant to s. 627.0625, F.S.
- As to a risk or group of risks, the application of premium discounts, credits, or surcharges among the risks does not bear a reasonable relationship to the expected loss and expense experience among the various risks.³

Attorney Fees in Insurance Litigation

Section 627.428, F.S., provides, in part:

Upon the rendition of a judgment or decree by any of the courts of this state against an insurer and in favor of any named or omnibus insured or the named beneficiary under a policy or contract executed by the insurer, the trial court or, in the event of an appeal in which the insured or beneficiary prevails, the appellate court shall adjudge or decree against the insurer and in favor of the insured or beneficiary a reasonable sum as fees or compensation for the insured's or beneficiary's attorney prosecuting the suit in which the recovery is had.

This statute allows the insured or the insured's assignee⁴ to recover attorney's fees if the insured or assignee prevails in an action against an insurer. Florida courts have interpreted the statute broadly to allow recovery of fees when the insurer ultimately settles the case before trial.⁵ Fees are awarded pursuant to the statute even if the insurer does not act in bad faith.⁶ The Florida Supreme Court recently explained the purpose of the statute:

The need for fee and cost reimbursement in the realm of insurance litigation is deeply rooted in public policy. Namely, the Legislature recognized that it was essential to "level the playing field" between the economically-advantaged and sophisticated insurance companies and the individual citizen. Most assuredly, the average policyholder has neither the finances nor the expertise to single-handedly take on an insurance carrier. Without the funds necessary to compete with an

² s. 627.062(2)(e)3. and 5., F.S.

³ s. 627.062(2)(e)4. and 6., F.S.

⁴ *All Ways Reliable Bldg. Maintenance, Inc. v. Moore*, 261 So.2d 131 (Fla. 1972).

⁵ *Johnson v. Omega Ins. Co.*, 200 So.3d 1207, 1215 (Fla. 2016) (noting that "it is well settled that the payment of a previously denied claim following the initiation of an action for recovery, but prior to the issuance of a final judgment, constitutes the functional equivalent of a confession of judgment").

⁶ *Johnson v. Omega Ins. Co.*, 200 So.3d 1207, 1216 (Fla. 2016) (noting "the insurer's intentions do not factor into a policyholder's recovery of fees; it is the fact that the denial of benefits was ultimately incorrect that triggers the statute"); *Ins. Co. of N. Am. v. Lexow*, 602 So.2d 928, 531 (Fla. 1992) ("INA's good faith in bringing this suit is irrelevant. If the dispute is within the scope of s. 627.428, F.S., and the insurer loses, the insurer is always obligated for attorney's fees").

insurance carrier, often a concerned policyholder's only means to take protective action is to hire that expertise in the form of legal counsel... For this reason, the Legislature recognized that an insured is not made whole when an insurer simply grants the previously denied benefits without fees. The reality is that once the benefits have been denied and the plaintiff retains counsel to dispute that denial, additional costs that require relief have been incurred. Section 627.428, F.S., takes these additional costs into consideration and levels the scales of justice for policyholders by providing that the insurer pay the attorney's fees resulting from incorrectly denied benefits.⁷

Attorney Fees in Insurance Rates

Generally, attorney fees, including those paid pursuant to s. 627.428, F.S., are expenses that insurers can use to justify a rate.⁸ However, motor vehicle insurers cannot use attorney fees to justify a rate or rate change if those fees are related to bad faith or punitive damages.⁹ Medical malpractice insurers are likewise prohibited from using attorney fees related to bad faith to justify a rate or rate change.¹⁰

Section 627.062(10), F.S., provides that an insurer cannot include interest paid to a policyholder when an insurer does not act on a claim within statutory time limits.

Misrepresentations in Insurance Applications (Section 2 of the bill)

Section 627.409, F.S., provides that recovery under an insurance policy may be prevented if a misrepresentation, omission, concealment of fact, or incorrect statement on an application for insurance:

- (1) is fraudulent or is material either to the acceptance of the risk or to the hazard assumed by the insurer; or
- (2) if the true facts had been known to the insurer, the insurer would not have issued the policy, would not have issued it at the same premium rate, would not have issued a policy in as large an amount, or would not have provided coverage with respect to the hazard resulting in the loss.

If an insurer discovers a misrepresentation or omission after issuing the policy, it may deny coverage after a claim is made. In *Nationwide Mutual Fire Insurance Company v. Kramer*,¹¹ an insurer refused to pay a claim for a stolen automobile because the insureds did not disclose a previous bankruptcy filing. In *Kieser v. Old Line Insurance Company of America*,¹² an insurance company refused to pay a life insurance policy because the insured failed to disclose certain health conditions and failed to disclose that he was shopping for other life insurance policies. In *Universal Property and Casualty Insurance Company v. Johnson*,¹³ an insurance company

⁷ *Johnson v. Omega Ins. Co.*, 200 So.3d 1207, 1215-1216 (Fla. 2016)(internal citations omitted).

⁸ *See, e.g.*, s. 627.062(2)(b), F.S., (requiring the OIR to consider expenses when reviewing a rate filing).

⁹ s. 627.0651(12), F.S.

¹⁰ s. 627.062(7)(a), F.S.

¹¹ 725 So.2d 1141 (Fla. 2^d DCA 1998).

¹² 712 So.2d 1261 (Fla. 1st DCA 1998).

¹³ 114 So.3d 1031 (Fla. 1st DCA 2013).

refused to pay a property insurance claim because the insureds failed to disclose prior criminal history. A misrepresentation from or an omission in an insurance application need not be intentional in order for the insurance company to deny recovery.¹⁴

A misrepresentation does not need to have a causal connection to the claim in order for the misrepresentation to be material.¹⁵ One commenter explained the rationale for the general rule:

There is a very sound reason for not requiring a causal connection: such a requirement may encourage fraud. If a loss is caused by something other than the fact misrepresented, there will be coverage. If the cause of loss is connected to the misrepresented fact, the insured has lost nothing, because he wouldn't have had coverage anyway. If the cause of loss is not connected, he has coverage he otherwise couldn't have obtained. Thus, he had nothing to lose by misrepresenting.¹⁶

Mandatory Offer of Replacement Cost Coverage and Law and Ordinance Coverage

Section 627.7011, F.S., requires an insurer, prior to issuing a homeowner's insurance policy, to offer each of the following:

- A policy providing that any loss that is repaired or replaced will be adjusted on the basis of replacement costs to the dwelling not exceeding policy limits, rather than actual cash value, but not including costs necessary to meet applicable laws and ordinances regulating the construction, use, or repair of any property or requiring the tearing down of any property, including the costs of removing debris.
- A policy providing that, subject to other policy provisions, any loss that is repaired or replaced at any location will be adjusted on the basis of replacement costs to the dwelling not exceeding policy limits, rather than actual cash value, and also including costs necessary to meet applicable laws and ordinances regulating the construction, use, or repair of any property or requiring the tearing down of any property, including the costs of removing debris.

Unless the insurer obtains the policyholder's written refusal of the policies or endorsements discussed above, any policy covering the dwelling is deemed to include the law and ordinance coverage limited to 25 percent of the dwelling limit. In the event of a loss for which a dwelling or personal property is insured on the basis of replacement costs, the insurer must initially pay at least the actual cash value of the insured loss, less any applicable deductible. The insurer shall pay any remaining amounts necessary to perform such repairs as work is performed and expenses are incurred. If a total loss of a dwelling occurs, the insurer shall pay the replacement cost coverage without reservation or holdback of any depreciation in value.

¹⁴ *Universal Property and Casualty Insurance Company*, 114 So.3d at 1035.

¹⁵ John Dwight Ingram, *Misrepresentations in Applications for Insurance*, University of Miami Business Law Review, 14:103 (2005) at p. 111 ("In most jurisdictions, a misrepresentation is considered material and sufficient grounds for rescission or denial of a claim regardless of whether the fact represented has any causal connection with the death or loss involved in the claim").

¹⁶ *Id.* at 111.

Assignment of Benefits (Sections 3 and 4 of the bill)

Background on Assignment of Benefits

An assignment is the voluntary transfer of the rights of one party under a contract to another party. Current law generally allows an insurance policyholder to assign the benefits of the policy, such as the right to be paid, to another party. Once an assignment is made, the assignee can take action to enforce the contract. Accordingly, if the benefits are assigned and the insurer refuses to pay, the assignee may file a lawsuit against the insurer to recover the insurance benefits.

Section 627.422, F.S., governs assignability of insurance contracts and provides that a policy may or may not be assignable according to its terms. In *Lexington Insurance Company v. Simkins Industries*,¹⁷ the court held that a provision in an insurance contract prohibiting assignment of the policy was enforceable under the plain language of s. 627.422, F.S. The court explained that the purpose of a provision prohibiting assignment was to protect an insurer against unbargained-for risks.¹⁸ However, an assignment made after the loss is valid even if the contract states otherwise.¹⁹ In *Continental Casualty Company v. Ryan Incorporated*,²⁰ the court noted that it is a “well-settled rule that [anti-assignment provisions do] not apply to an assignment after loss.” A court explained that a rationale for post-loss assignments is that “assignment of the policy, or rights under the policy, before the loss is incurred transfers the insurer’s contractual relationship to a party with whom it never intended to contract, but an assignment after loss is simply the transfer of the right to a claim for money” and “has no effect upon the insurer’s duty under the policy.”²¹

Assignments have been prohibited by contract in other insurance contexts. In *Kohl v. Blue Cross Blue Shield of Florida, Inc.*,²² the court found anti-assignment language was sufficiently clear and upheld language prohibiting the assignment of a health insurance claim. The court explained that anti-assignment clauses “prohibiting an insured’s assignments to out-of-network medical providers are valuable tools in persuading health [care] providers to keep their costs down and as such override the general policy favoring the free alienability of choses in action.”²³

Section 627.428, F.S., provides, in part:

Upon the rendition of a judgment or decree by any of the courts of this state against an insurer and in favor of any named or omnibus insured or the named beneficiary under a policy or contract executed by the insurer, the trial court or, in the event of an appeal in which the insured or beneficiary prevails, the appellate court shall adjudge or decree against the insurer and in favor of the insured or

¹⁷ 704 So.2d 1384 (Fla. 1998).

¹⁸ *Id.* at 1386.

¹⁹ *West Fla. Grocery Co. v. Teutonia Fire Ins. Co.*, 74 Fla. 220, 77 So. 209 (1917); *Gisela Inv., N.V. v. Liberty Mut. Ins. Co.*, 452 So.2d 1056 (Fla. 3d DCA 1984).

²⁰ 974 So.2d 368, 377 n. 7 (Fla. 2000).

²¹ *Wehr Constructors, Inc. v. Assurance Company of America*, 384 S.W.3d 680, 683 (Ky. 2012).

²² 955 So.2d 1140 (Fla. 4th DCA 2007).

²³ *Id.* at 1144-1145.

beneficiary a reasonable sum as fees or compensation for the insured's or beneficiary's attorney prosecuting the suit in which the recovery is had.

This statute allows the insured to recover attorney's fees if the insured prevails in an action against an insurer. A person who takes an assignment of benefits is entitled to attorney's fees if that assignee prevails in an action against an insurer.²⁴

Assignment of Benefits in Property Insurance Cases

In recent years, insurers have complained of abuse of the assignment of benefits process. An insurance company described the issue in a court filing:

The typical scenario surrounding the use of an "assignment of benefits" involved vendors and contractors, mostly water remediation companies, who were called by an insured immediately after a loss to perform emergency remediation services, such as water extraction. The vendor came to the insured's home and, before performing any work, required the insured to sign an "assignment of benefits" – when the insured would be most vulnerable to fraud and price gouging. Vendors advised the insured, "We'll take care of everything for you." The vendor then submitted its bill to the insurer that was, on average, nearly 30 percent higher than comparative estimates from vendors without an assignment of benefits. Some vendors added to the invoice an additional 20 percent for "overhead and profit," even though a general contractor would not be required or hired to oversee the work. Vendors used these inflated invoices to extract higher settlements from insurers. This, in turn, significantly increases litigation over the vendors' invoices.²⁵

In a court filing in a different case, a company that provides emergency repair and construction services explained the rationale behind assignments of insurance benefits:

As a practical matter, a homeowner often will not be able to afford or hire a contractor immediately following a loss unless the contractor accepts an assignment of benefits to ensure payment. A homeowner may be unable to comply with the ... provision requiring the homeowner to protect and repair the premises unless the remediation contractor accepts an assignment of benefits, however, contractors will become unwilling to accept payments by assignment if court decisions render the assignments unenforceable ...

Whether the repair invoice is routed through the insured or submitted by the service provider directly by assignment, the service provider's repair invoice is submitted to the insurer for coverage and reviewed by an adjuster. The only difference an assignment makes is that, if an insurance company wishes to

²⁴ *All Ways Reliable Bldg. Maint., Inc. v. Moore*, 261 So.2d 131 (Fla. 1972); *Allstate Insurance Co. v. Regar*, 942 So.2d 969 (Fla.2d DCA 2006).

²⁵ *Security First Insurance Company v. State of Florida, Office of Insurance Regulation*, Case No. 1D14-1864 (Fla. 1st DCA), Appellant's Initial Brief at pp. 3-4 (appellate record citations omitted).

partially deny coverage or contest an invoice as unreasonable, the insured policyholder is not mired in litigation in which he or she has no stake.²⁶

There have been a number of cases in recent years where courts have held that post-loss benefits are assignable.²⁷

Data and Recommendations for Reform

According to the Department of Financial Services, the number of lawsuits related to water claims where the claimant is an assignee has increased in recent years. In 2006, there were 8 lawsuits and in 2010, there were 483. The numbers increased in subsequent years:

2011 – 989
 2012 – 1,603
 2013 – 2,083
 2014 – 2,786
 2015 – 5,328
 2016 – 8,488
 2017 through September 30 – 5,968²⁸

In 2015, the Office of Insurance Regulation (OIR) did a data call to attempt to determine the effect of assignment of benefits in the insurance market.²⁹ The OIR found that water losses alone could require rate increases of 10 percent per year.³⁰ One company reported that, in 2015, the claim cost of a claim with an assignment of benefits was 141 percent greater than the claim cost of a claim without an assignment of benefits.³¹ The company reported 90 cases of suspected insurance fraud to the Department of Financial Services in 2015 and part of 2016.

Citizens Property Insurance Company reported that the percentage of claims litigated with an assignment of benefits increased from 9.6 percent in 2012 to 46.9 percent in 2015.³² It projects that the average premium will increase in Miami-Dade County from \$2,926 to \$4,712 by 2022, and in Broward County from \$2,390 to \$3,850 by 2022.³³ Citizens reports that water claims, including those that do not involve an assignment of benefits, have been increasing:

²⁶ *One Call Property Services, Inc. v. Security First Insurance Company*, Case No. 4D14-0424 (Fla. 4th DCA), Appellant's Initial Brief at 46-48.

²⁷ See, e.g., *Security First Ins. Co. v. State of Florida Office of Insurance Regulation*, 177 So.3d 627, rehearing denied (Fla. 1st DCA 2015); *Bioscience W., Inc. v. Gulfstream Prop. & Cas. Ins. Co.*, 185 So.2d 638 (Fla.2d DCA 2016); *One Call Property Services, Inc. v. Security First Ins. Co.*, 165 So.3d 749 (Fla. 4th DCA 2015); *Accident Cleaners, Inc. v. Universal Ins. Co.*, 186 So.3d 1 (Fla. 5th DCA 2015).

²⁸ Information provided by the DFS to Committee staff (on file with the Committee on Banking and Insurance).

²⁹ <http://www.floir.com/Sections/PandC/AssignmentofBenefits.aspx> (last accessed January 8, 2018).

³⁰ Office of Insurance Regulation, *2015 Report on Review of the 2015 Assignment of Benefits Data Call* (February 8, 2016) at p. 8.

³¹ *Security First Insurance, Troubled Water: An Analysis of Water Damage Claims and the Impact on Homeowner's Insurance Premiums in Florida* (July 20, 2016) at p. 13.

³² Citizens Property Insurance Corporation, *Non-Catastrophic Homeowners Water Claims* (January 2016) at p. 3. The report can be found here: <https://www.citizensfla.com/documents/20702/1335431/20160121+White+Paper+Non-Catastrophic+Homeowners+Water+Claims.pdf/f66d4f43-e4cf-4e6e-b857-d457d761f5d6> (last accessed January 8, 2018).

³³ Citizens Property Insurance Company, *AOB Reform Makes Pocket Sense* (on file with the Committee on Banking and Insurance).

8,097 new lawsuits were filed against Citizens between January and November 2016, a 30 percent increase from the same period in 2015. Meanwhile, Citizens' policy count dropped by 26.3 percent between January 2015 and November 2016.³⁴

Citizens noted that factors other than assignment of benefits contribute to the increase in the number of lawsuits. It noted that in many cases, it is made aware of a loss only after repairs are made or the policyholder has hired an attorney or a public adjuster.³⁵

Citizens reported 16,150 closed non-weather water claims between January 1, 2016, and June 30, 2017:

Type of Claim	Number of Claims	Severity
Attorney Involved and AOB	5,042	\$29,889
Attorney Involved, No AOB	4,644	\$21,289
No Attorney Involved and AOB	636	\$9,530
No Attorney Involved, No AOB	5,828	\$4,430 ³⁶

In a presentation to the Florida Cabinet on February 7, 2017, the State Insurance Commissioner explained that the frequency of water claims rose by 46 percent from 2010 to 2015 and the amount the insurers pay on those claims has increased 28 percent.³⁷ Data gathered in a data call by the OIR showed that the use of assignments of benefits has increased from 5.7 percent of the claims in 2010 to 15.9 percent of the claims in 2015.³⁸ The Commissioner continued:

Absent any other type of reform, absent any other type of coverage or other expense that might be present on an insurance policy, were these trends to continue unchecked, policyholders would expect to see about a 10 percent rate increase going forward just to keep up with the water trends that are covering their policy.³⁹

The Commissioner recommended various reforms:

- Amending s. 627.428, F.S., to apply to insureds only and not to assignees;
- Consumer protections so that consumers are not left “holding the bag” if there is a dispute between the insurance company and a contractor; and
- Notice requirements so the insurer is aware of the assignment and can participate in the claims adjustment process.⁴⁰

³⁴ https://www.citizensfla.com/-/20161207_bog-press-release (last accessed January 8, 2018).

³⁵ *Id.*

³⁶ Citizens Property Insurance Corporation, *President's Report*, December 13, 2017, at p 14 (on file with the Committee on Banking and Insurance).

³⁷ Transcript of the Meeting of the Governor and Cabinet, February 7, 2017, at p. 11. The transcript can be found at <http://www.myflorida.com/myflorida/cabinet/agenda17/0207/transcript.pdf> (last accessed January 8, 2018).

³⁸ Office of Insurance Regulation, *2015 Report on Review of the 2015 Assignment of Benefits Data Call* (February 8, 2016) at p. 6 and 11.

³⁹ *Id.* at 11-12.

⁴⁰ *Id.* at 16-18.

On January 12, 2018, the OIR released a report on a 2017 data call.⁴¹ The frequency of water claims per 1,000 policies has increased 44 percent since 2015 and the average severity of claims has increased 11.4 percent on annualized basis since 2018.⁴² The number of water claims with an AOB has increased to 17 percent in 2017 from 14.9 percent in 2016.⁴³ The report also showed a claim with at least one AOB was generally a more severe claim than a claim without an AOB.⁴⁴

The First District Court of Appeal recently noted:

[W]e are not unmindful of the concerns that Security First expressed in support of [limiting assignment of benefits], providing evidence that inflated or fraudulent post-loss claims filed by remediation companies exceeded by thirty percent comparable services; that policyholders may sign away their rights without understanding the implications; and that a "cottage industry" of "vendors, contractors, and attorneys" exists that use the "assignments of benefits and the threat of litigation" to "extract higher payments from insurers." These concerns, however, are matters of policy that we are ill-suited to address.⁴⁵

The Fourth District Court of Appeal explained the competing policy arguments raised by the assignment of benefits issue:

Turning to the practical implications of this case, we note that this issue boils down to two competing public policy considerations. On the one side, the insurance industry argues that assignments of benefits allow contractors to unilaterally set the value of a claim and demand payment for fraudulent or inflated invoices. On the other side, contractors argue that assignments of benefits allow homeowners to hire contractors for emergency repairs immediately after a loss, particularly in situations where the homeowners cannot afford to pay the contractors up front.⁴⁶

The court noted that if “studies show that these assignments are inviting fraud and abuse, then the legislature is in the best position to investigate and undertake comprehensive reform.”⁴⁷

Proposals for Settlement (Lines 173-177 of the bill)

The “offer of judgment” provided by s. 768.79, F.S., awards attorney’s fees to:

⁴¹ Office of Insurance Regulation, *Report of the 2017 Assignment of Benefits Data Call*, January 12, 2018. The report can be found at <https://www.flair.com/siteDocuments/AssignmentBenefitsDataCallReport02082017.pdf> (last visited January 22, 2018).

⁴² *Id.* at 3.

⁴³ *Id.* at 9.

⁴⁴ *Id.* at 8. The OIR noted that the reason for higher severity cannot be determined from the information gathered in the data call.

⁴⁵ *Security First Ins. Co. v. State of Florida Office of Insurance Regulation*, 177 So.3d 627, 628, *rehearing denied* (Fla. 1st DCA 2015).

⁴⁶ *One Call Property Services, Inc. v. Security First Ins. Co.*, 165 So.3d 749, 755 (Fla. 4th DCA 2015).

⁴⁷ *Id.*

- A defendant in any civil action for damage whose proposal for settlement is rejected where the judgment is 75 percent or less than the defendant's offer (including where the plaintiff is awarded nothing or there is a finding of no liability); or
- A plaintiff whose proposal for settlement is rejected where the judgment is at least 25 percent more than the plaintiff's offer.

Section 768.79, F.S., does not provide a time for making settlement proposals. However, Florida Rule of Civil Procedure 1.442(b) provides:

A proposal to a defendant shall be served no earlier than 90 days after service of process on the defendant; a proposal to the plaintiff shall be serviced no earlier than 90 days after the action has been commenced.

III. Effect of Proposed Changes:

Insurance Rates (Section 1 of the bill)

The bill amends s. 627.062, F.S., to provide that attorney fees paid pursuant to s. 627.428, F.S., may not be included in the insurer's rate base and may not be used to justify a rate or rate change. These provisions will bar the use of attorney fees paid pursuant to s. 627.428, F.S., in rate making in property insurance.

Misrepresentations in Insurance Applications (Section 2 of the bill)

The bill amends s. 627.409, F.S., to provide that a misrepresentation, omission, concealment of fact, or incorrect statement on an insurance application may prevent recovery only if the misrepresentation, omission, concealment of fact, or incorrect statement directly relates to the cause of the claim. If the misrepresentation, omission, concealment of fact or incorrect statement directly relates to the cause of the claim, one of the following must apply:

- (1) The misrepresentation, omission, concealment, or statement is fraudulent or is material to the acceptance of the risk or to the hazard assumed by the insurer; or
- (2) If the true facts relative to the loss claimed had been known to the insurer pursuant to a policy requirement or other requirement, the insurer in good faith would not have:
 - Issued the policy or contract;
 - Issued the policy or contract at a premium rate at least 20 percent higher than the rate actually charged;
 - Issued a policy or contract in as large an amount; or
 - Provided coverage with respect to the hazard resulting in the loss.

Replacement Cost Coverage

Section 4 amends s. 627.7011, F.S., to prohibit an insurer from requiring that a particular vendor make repairs to a dwelling insured on the basis of replacement costs. It also prohibits the insurer from recommending or suggesting a particular vendor to make repairs to a dwelling insured on the basis of replacement costs.

Assignment of Benefits

Section 3 of the bill amends s. 627.422, F.S., to provide that a personal lines residential property insurance policy or a commercial residential property insurance policy may not restrict the assignment of post-loss benefits. This provision is a restatement of case law that prohibits the restriction of post-loss assignments.

Section 5 of the bill creates s. 627.7152, F.S., to provide requirements for the valid execution of an assignment of post-loss benefits of a residential homeowner's property insurance policy, create requirements regarding litigation involving such assignments, and require insurers to report data to the OIR regarding homeowner's insurance claims involving post-loss assignments.

The bill in s. 627.7152(1), F.S., provides that an agreement to assign post-loss benefits of a residential homeowner's property insurance policy is not valid unless the agreement:

- Is in writing;
- Is limited to claims for work performed or work to be performed by the assignee;
- Contains an accurate and up-to-date statement of the scope of work to be performed;
- Allows the insured to rescind the assignment within 7 days after the execution of the assignment without a penalty or fee;
- Prohibits any check or mortgage processing fee or administrative fee;
- Provides that the insured may be responsible for payment for any work performed before the rescission of the assignment; and
- Contains a provision, in 14-point boldfaced type, which allows the insured to rescind the agreement within 7 days after execution of the assignment, and with a notice that if the assignment is rescinded, the homeowner is responsible to pay for the work done up to the date of the rescission and that the homeowner is not otherwise responsible to pay for the work covered by the assignment.

The bill in s. 627.7152(2), F.S., requires the assignee to provide a copy of the assignment agreement to the insurer within the earlier of 7 days after execution of the agreement, or 48 hours after beginning nonemergency work if the insurer has a facsimile number and e-mail address on its website designated for the delivery of such documents. The assignment agreement must be accompanied by a written estimate of the work to be done, with unit prices indicated where appropriate, and the basis for calculating lump sum fees if unit prices are inappropriate. The estimate must be timely updated if conditions require a change in scope. The failure to comply with this requirement constitutes a defense to any payment obligation under the policy or the assignment, if the insurer can establish prejudice resulting from the failure.

The bill allows the insurer to inspect the property at any time. If the insurer fails to attempt in good faith to inspect the property within 7 days after learning of the loss and promptly deliver to the assignee written notice of any perceived deficiency in the assignee's notice or the work being performed, the failure may be raised to estop the insurer from asserting that work done was not reasonably necessary or that the notice was insufficient.

The bill in s. 627.7152(3), F.S., provides that notwithstanding any other law, the acceptance by an assignee of a valid assignment agreement constitutes a waiver by the assignee or transferee,

and any subcontractor of the assignee or transferee, of any and all claims against named insureds for payment arising from the specified loss. However, all named insureds remain responsible for:

- The payment of any deductible amount provided for by the terms of the insurance policy;
- The payment for work performed before the rescission of the assignment agreement, if there is a rescission; and
- The cost of any betterment ordered by all named insureds.

This waiver is valid even if the assignment agreement is determined to be invalid.

Under s. 627.7152(7), F.S., the bill's requirements relating to assignment agreements do not apply to:

- An assignment, transfer, or conveyance granted to a subsequent purchaser of the property with an insurable interest in the property following a loss; or
- A power of attorney under ch. 709, F.S., which grants to a management company, family member, guardian, or similarly situated person of an insured the authority to act on behalf of an insured as it relates to a property insurance claim.

Presuit Notice

The bill in s. 627.7152(4), F.S., requires an assignee to provide the insurer an invoice for all work that has been performed and a current estimate of work remaining to be performed no later than 30 days before an assignee initiates litigation against an insurer relating to a residential homeowner's property insurance claim.

Proposals for Settlement

The bill in s. 627.7152(5), F.S., provides that in a civil action relating to a residential homeowner's property insurance claim under a policy in which an assignment agreement was executed, an offer of settlement under s. 768.79, F.S., by any party may be made no earlier than 30 days after the civil action has commenced.

Required Reports to the Office of Insurance Regulation

The bill in s. 627.7152(6), F.S., requires each insurer to report data on each residential property claim paid pursuant to an assignment agreement in the prior calendar year. The data must include specific data about claims adjustment and settlement timeframes and trends grouped by whether litigated or not litigated, by loss adjustment expenses, and by the amount and type of attorney fees incurred or paid. The bill provides that the Financial Services Commission may adopt rules to administer these provisions.

The required information must be reported by January 30, 2021, and each year thereafter.

Section 6 provides that the amendments made by the bill to s. 627.422, F.S., and the provisions of s. 627.7152, F.S. (created by the bill) apply to assignment agreements executed on or after July 1, 2018.

Section 7 provides that the bill takes effect July 1, 2018.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:**Court Rulemaking**

Lines 194-198 of the bill allow either party to make a proposal for settlement no earlier than 30 days after the civil action has commenced. Florida Rule of Civil Procedure 1.442(b) provides that a proposal for settlement to a defendant shall be served no earlier than 90 days after service of process on that defendant. A proposal to a plaintiff shall be served no earlier than 90 days after the action has been commenced. Florida Rule of Civil Procedure 1.442(a) provides that the rule applies to all proposals for settlement and “supersedes all other provisions of the rules and statutes that may be inconsistent with this rule.”

Article V, section 2(a), of the Florida Constitution provides, in relevant part:

The supreme court shall adopt rules for the practice and procedure in all courts including the time for seeking appellate review, the administrative supervision of all courts, the transfer to the court having jurisdiction of any proceeding when the jurisdiction of another court has been improvidently invoked, and a requirement that no cause shall be dismissed because an improper remedy has been sought.

Article II, section 3 of the Florida Constitution, reads:

The powers of the state government shall be divided into legislative, executive and judicial branches. No person belonging to one branch shall exercise any powers appertaining to either of the other branches unless expressly provided herein.

These provisions have been interpreted to give the Florida Supreme Court exclusive jurisdiction over procedural matters while the Legislature has exclusive jurisdiction over substantive law.

The issue created by the bill is whether the Legislature has the constitutional power to set a time for service of proposals for settlement which conflicts with the time set in court rule. The Florida Rules of Civil Procedure are rules of procedure adopted by the Florida Supreme Court. If the timing of service of proposals for settlement is deemed procedural, then the Florida Supreme Court has exclusive jurisdiction to set the time. If it is substantive, then the Legislature can set the time by general law.

The Florida Supreme Court has not specifically addressed the issue. If the statute were to be challenged, the court would have a number of options. In *Timmons v. Coombs*,⁴⁸ the court found that s. 768.79, F.S., contained procedural portions and adopted those as rules of court without explaining which portions of the law were procedural and which portions were substantive. If the court were to find the time for service is procedural, it would strike down the statute and require parties to follow rule 1.442.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Section 1 of this bill is similar to a provision in CS/SB 1684 filed during the 2017 session. In its analysis of that bill, the OIR expressed concerns that if insurers are not allowed to use attorney fees as part of the ratemaking process, the OIR might be forced to approve rates that are insufficient. The OIR was also concerned that insurers may pay many more claims to avoid paying attorney fees and that this could lead to rate increases.⁴⁹

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 627.062, 627.409, 627.422, and 627.7011.

⁴⁸ 608 So.2d 1 (1992).

⁴⁹ Office of Insurance Regulation, *Analysis of SB 1684* (March 28, 2017)(on file with the Committee on Banking and Insurance).

This bill creates section 627.7152 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 January 23, 2018:

The CS:

- Prohibits insurers from requiring particular vendors or recommending particular vendors when the dwelling is insured on the basis of replacement costs;
- Prohibits administrative fees or mortgage processing fees from being charged to the consumer;
- Provides that the vendor who accepts an AOB waives certain claims against the homeowner; and
- Makes technical changes.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
01/23/2018	.	
	.	
	.	
	.	

The Committee on Banking and Insurance (Broxson) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 627.7152, Florida Statutes, is created
to read:

627.7152 Assignment of property insurance post-loss
benefits.—

(1) As used in this section, the term "assignment
agreement" means any instrument by which post-loss property



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insurance benefits for services to protect, repair, restore, or replace property, or to mitigate against further damage to property, are assigned, transferred, or conveyed, regardless of how named or styled.

(2) Notwithstanding any other law, as to suits based on claims arising under property insurance policies, attorney fees may not be awarded under s. 626.9373 or s. 627.428 in favor of any person or entity seeking relief against an insurer pursuant to an assignment agreement, but may be awarded only under s. 57.105 or s. 768.79 in favor of any person or entity seeking relief against the insurer pursuant to an assignment agreement.

(3) An assignment agreement is not valid unless it meets all of the following requirements:

(a) The assignment agreement is in writing and is executed by all named insureds;

(b) The assignment agreement contains a provision that permits all named insureds to rescind the assignment agreement without any penalty or rescission or cancellation fee within 7 business days after the date the assignment agreement is executed by all named insureds;

(c) The assignment agreement contains a provision requiring the assignee or transferee to provide a copy of the executed assignment agreement to the insurer no later than 3 business days after the assignment agreement is executed by any named insured; and

(d) The assignment agreement contains a written, itemized, per-unit cost estimate of the work to be performed by the assignee or transferee.

(4) The following provisions may not be included in an



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assignment agreement and are deemed to be invalid and
unenforceable against the property insurer or named insureds:

(a) A penalty or fee for rescission of the assignment
agreement pursuant to subsection (3);

(b) A check or mortgage processing fee;

(c) A penalty or fee for cancellation of the assignment
agreement pursuant to subsection (3); or

(d) An administrative fee.

(5) As to claims arising under an assignment agreement, the
failure to comply with any provision of this subsection creates
a presumption that the insurer is prejudiced by such failure to
comply and shifts the burden in any proceeding or suit to the
party seeking benefits, rights, or proceeds from the insurer to
demonstrate that the insurer was not prejudiced. The assignee or
transferee must do all of the following:

(a) Maintain records of all services provided under the
assignment agreement;

(b) Cooperate with the insurer in the investigation of a
claim;

(c) Provide the insurer with any and all records and
documents requested related to services provided and permit the
insurer to make copies;

(d) Deliver a copy of the executed assignment agreement to
the insurer no later than 3 business days after the assignment
agreement is executed by all named insureds; and

(e) Concurrently with any request for payment of benefits
under the insurance policy, provide the insurer with a written,
itemized, per-unit cost statement of services actually performed
pursuant to the assignment agreement.



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(6) As to claims arising under an assignment agreement, an assignee must, as a condition precedent to filing a suit under the policy:

(a) If required by the insurer, submit to examinations under oath and recorded statements conducted by the insurer or the insurer's representative which are limited to matters related to the services provided, the costs of services, and the assignment or transfer; and

(b) Participate in an appraisal or other alternative dispute resolution method in accordance with the terms of the policy.

(7) An activity in compliance with subsections (5) and (6) does not constitute practice as a public adjuster pursuant to part VI of chapter 626.

(8) Notwithstanding any other law, the acceptance by a person of any assignment agreement constitutes a waiver by the assignee or transferee, and any subcontractor of the assignee or transferee, of any and all claims against all named insureds for payment arising from the specified loss, except that all named insureds remain responsible for the payment of any deductible amount provided for by the terms of the insurance policy and for the cost of any betterment ordered by all named insureds. This waiver remains in effect notwithstanding any subsequent determination that the assignment agreement is invalid or the rescission of the assignment agreement by all named insureds.

(9) This section does not permit an assignment agreement to modify or eliminate any term, condition, or defense relating to any managed repair arrangement provided for in the insurance policy to which the assignment agreement relates.



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(10) This section does not apply to:

(a) An assignment, transfer, or conveyance granted to a subsequent purchaser of property who acquires an insurable interest in the property following a loss;

(b) A power of attorney granted to a management company, family member, guardian, or similarly situated person which complies with chapter 709 and which may include, as part of the authority granted, the authority to act on behalf of a principal as it relates to a property insurance claim; or

(c) Liability coverage under a property insurance policy.

(11) This section applies to assignment agreements that are executed after July 1, 2018.

Section 2. To ensure that insurers are incorporating adjusted loss trends into rates after July 1, 2018, a property insurer that is subject to s. 627.0645, Florida Statutes, in the year after July 1, 2018, may not certify a rate pursuant to s. 627.0645(3)(b), Florida Statutes, but must make a full filing pursuant to s. 627.0645(3)(a), Florida Statutes, to meet the annual filing requirement under that section.

Section 3. This act shall take effect July 1, 2018.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to the assignment of property
insurance benefits; creating s. 627.7152, F.S.;
defining the term "assignment agreement"; prohibiting



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127 certain awards of attorney fees to certain persons or
128 entities in suits brought against insurers based on
129 claims arising under property insurance policies;
130 providing that attorney fees may be awarded to such
131 persons or entities only under specified provisions;
132 providing that an assignment agreement is not valid
133 unless specified requirements are met; prohibiting
134 certain provisions in an assignment agreement;
135 specifying requirements for an assignee or transferee;
136 requiring an assignee to meet certain requirements as
137 a condition precedent to filing suit under a policy;
138 providing construction; providing applicability;
139 providing that certain property insurers, within a
140 specified timeframe, must make full annual base rate
141 filings with the Office of Insurance Regulation rather
142 than certifying rates; providing an effective date.



178904

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/23/2018	.	
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The Committee on Banking and Insurance (Steube) recommended the following:

Senate Amendment (with title amendment)

Between lines 103 and 104
insert:

Section 4. Paragraph (a) of subsection (3) of section
627.7011, Florida Statutes, is amended to read:

627.7011 Homeowners' policies; offer of replacement cost
coverage and law and ordinance coverage.—

(3) In the event of a loss for which a dwelling or personal
property is insured on the basis of replacement costs:



178904

(a) For a dwelling:

1. The insurer must initially pay at least the actual cash value of the insured loss, less any applicable deductible. The insurer shall pay any remaining amounts necessary to perform such repairs as work is performed and expenses are incurred. If a total loss of a dwelling occurs, the insurer shall pay the replacement cost coverage without reservation or holdback of any depreciation in value, pursuant to s. 627.702.

2. The insurer may not require that a particular vendor make repairs to such dwelling.

3. The insurer may not, unless expressly requested by the insured, recommend or suggest a particular vendor for repairs to be made to such dwelling.

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

And the title is amended as follows:

Delete line 14

and insert:

assignment of post-loss benefits; amending s.
627.7011, F.S.; prohibiting specified acts by insurers
relating to certain losses under homeowners' insurance
policies; creating s.



606060

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/23/2018	.	
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The Committee on Banking and Insurance (Steube) recommended the following:

Senate Amendment

Delete lines 118 - 122
and insert:
days after the execution of the assignment without a penalty or fee;

(e) Prohibits any check or mortgage processing fee or administrative fee;

(f) Provides that the insured may be responsible for payment for any work performed before the rescission of the



606060

11 assignment; and
12 (g) Contains a provision, in 14-point boldfaced type, which



382922

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/23/2018	.	
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The Committee on Banking and Insurance (Steube) recommended the following:

Senate Amendment

Delete line 134
and insert:
such documents. This assignment agreement must be accompanied by
a written



202936

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/23/2018	.	
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The Committee on Banking and Insurance (Steube) recommended the following:

Senate Amendment (with title amendment)

Delete lines 150 - 167

and insert:

(3) Notwithstanding any other law, the acceptance by a person of any assignment agreement constitutes a waiver by the assignee or transferee, and any subcontractor of the assignee or transferee, of any and all claims against all named insureds for payment arising from the specified loss, except that all named insureds remain responsible for the payment of any deductible



202936

amount provided for by the terms of the insurance policy and for
the cost of any betterment ordered by all named insureds. This
waiver remains in effect notwithstanding any subsequent
determination that the assignment agreement is invalid or
notwithstanding the rescission of the assignment agreement by
all named insureds, except that the assignee is entitled to
payment for the reasonable cost of any contracted work performed
before the assignor rescinded the assignment agreement.

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

And the title is amended as follows:

Delete lines 29 - 35

and insert:

certain assertions by the insurer; providing that a
person's acceptance of an assignment agreement
constitutes a waiver by the assignee or transferee, or
any subcontractor of the assignee or transferee, of
certain claims against named insureds, except under
specified circumstances; providing construction
relating to such waiver; requiring an



313360

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/23/2018	.	
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The Committee on Banking and Insurance (Steube) recommended the following:

Senate Amendment (with title amendment)

Delete lines 186 - 194

and insert:

The commission may adopt rules to administer this subsection.

(7) This section does not apply to:

(a) An assignment, transfer, or conveyance granted to a subsequent purchaser of the property with an insurable interest in the property following a loss; or

(b) A power of attorney under chapter 709 which grants to a



313360

management company, family member, guardian, or similarly
situated person of an insured the authority to act on behalf of
an insured as it relates to a property insurance claim.

Section 5. The amendment made by this act to s. 627.422,
Florida Statutes, and the creation by this act of s. 627.7152,
Florida Statutes, apply to assignment agreements executed on or
after July 1, 2018.

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

And the title is amended as follows:

Delete line 44

and insert:

authorizing the Financial Services Commission to adopt
rules; providing



804018

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
01/23/2018	.	
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	.	
	.	

The Committee on Banking and Insurance (Broxson) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 627.7152, Florida Statutes, is created
to read:

627.7152 Assignment of property insurance post-loss
benefits.—

(1) As used in this section, the term "assignment
agreement" means any instrument by which post-loss property



804018

insurance benefits for services to protect, repair, restore, or replace property, or to mitigate against further damage to property, are assigned, transferred, or conveyed, regardless of how named or styled.

(2) Notwithstanding any other law, as to suits based on claims arising under property insurance policies, attorney fees may not be awarded under s. 626.9373 or s. 627.428 in favor of any person or entity seeking relief against the insurer pursuant to an assignment agreement.

(3) An assignment agreement is not valid unless it meets all of the following requirements:

(a) The assignment agreement is in writing and is executed by all named insureds;

(b) The assignment agreement contains a provision that permits all named insureds to rescind the assignment agreement without any penalty or rescission or cancellation fee within 7 business days after the date the assignment agreement is executed by all named insureds;

(c) The assignment agreement contains a provision requiring the assignee or transferee to provide a copy of the executed assignment agreement to the insurer no later than 3 business days after the assignment agreement is executed by any named insured; and

(d) The assignment agreement contains a written, itemized, per-unit cost estimate of the work to be performed by the assignee or transferee.

(4) The following provisions may not be included in an assignment agreement and are deemed to be invalid and unenforceable against the property insurer or named insureds:



804018

40 (a) A penalty or fee for rescission of the assignment
41 agreement pursuant to subsection (3);

42 (b) A check or mortgage processing fee;

43 (c) A penalty or fee for cancellation of the assignment
44 agreement pursuant to subsection (3); or

45 (d) An administrative fee.

46 (5) As to claims arising under an assignment agreement, the
47 failure to comply with any provision of this subsection creates
48 a presumption that the insurer is prejudiced by such failure to
49 comply and shifts the burden in any proceeding or suit to the
50 party seeking benefits, rights, or proceeds from the insurer to
51 demonstrate that the insurer was not prejudiced. The assignee or
52 transferee must do all of the following:

53 (a) Maintain records of all services provided under the
54 assignment agreement;

55 (b) Cooperate with the insurer in the investigation of a
56 claim;

57 (c) Provide the insurer with any and all records and
58 documents requested related to services provided and permit the
59 insurer to make copies;

60 (d) Deliver a copy of the executed assignment agreement to
61 the insurer no later than 3 business days after the assignment
62 agreement is executed by all named insureds; and

63 (e) Concurrently with any request for payment of benefits
64 under the insurance policy, provide the insurer with a written,
65 itemized, per-unit cost statement of services actually performed
66 pursuant to the assignment agreement.

67 (6) As to claims arising under an assignment agreement, an
68 assignee must, as a condition precedent to filing a suit under



804018

the policy:

(a) If required by the insurer, submit to examinations under oath and recorded statements conducted by the insurer or the insurer's representative which are limited to matters related to the services provided, the costs of services, and the assignment or transfer; and

(b) Participate in an appraisal or other alternative dispute resolution method in accordance with the terms of the policy.

(7) An activity in compliance with subsections (5) and (6) does not constitute practice as a public adjuster pursuant to part VI of chapter 626.

(8) Notwithstanding any other law, the acceptance by a person of any assignment agreement constitutes a waiver by the assignee or transferee, and any subcontractor of the assignee or transferee, of any and all claims against all named insureds for payment arising from the specified loss, except that all named insureds remain responsible for the payment of any deductible amount provided for by the terms of the insurance policy and for the cost of any betterment ordered by all named insureds. This waiver remains in effect notwithstanding any subsequent determination that the assignment agreement is invalid or the rescission of the assignment agreement by all named insureds.

(9) This section does not permit an assignment agreement to modify or eliminate any term, condition, or defense relating to any managed repair arrangement provided for in the insurance policy to which the assignment agreement relates.

(10) This section does not apply to:

(a) An assignment, transfer, or conveyance granted to a



804018

subsequent purchaser of property who acquires an insurable
interest in the property following a loss;

(b) A power of attorney granted to a management company,
family member, guardian, or similarly situated person which
complies with chapter 709 and which may include, as part of the
authority granted, the authority to act on behalf of a principal
as it relates to a property insurance claim; or

(c) Liability coverage under a property insurance policy.

(11) This section applies to assignment agreements that are
executed after July 1, 2018.

Section 2. (1) Within 60 days after the effective date of
this section, the Office of Insurance Regulation shall enter
into a contract with an independent consultant to calculate the
savings expected as a result of this act. The contract must
require the use of generally accepted actuarial techniques and
standards in determining the expected impact on losses and
expenses. By September 15, 2018, the office shall submit to the
Governor, the President of the Senate, and the Speaker of the
House of Representatives a report concerning the results of the
independent consultant's calculations.

(2) By October 1, 2018, an insurer writing property
insurance in this state shall make a rate filing with the Office
of Insurance Regulation. A rate certification does not satisfy
this requirement. If the insurer requests a rate in excess of a
10 percent reduction as applied to the current rate in its
overall base rate for property insurance, the insurer must
include in its rate filing a detailed explanation of the reasons
for its failure to achieve a 10 percent reduction.

(3) By January 1, 2020, an insurer writing property



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insurance in this state shall make a rate filing with the Office of Insurance Regulation. A rate certification does not satisfy this requirement. If the insurer requests a rate in excess of a 25 percent reduction as applied to the rate in effect as of July 1, 2018, in its overall base rate for property insurance since July 1, 2018, the insurer must include in its rate filing a detailed explanation of the reasons for its failure to achieve a 25 percent reduction.

(4) If an insurer fails to provide the detailed explanation required by subsection (2) or subsection (3), the Office of Insurance Regulation must order the insurer to stop writing new property insurance policies in this state until it provides the required explanation.

(5) The sum of \$200,000 of nonrecurring revenue is appropriated from the Insurance Regulatory Trust Fund to the Office of Insurance Regulation for the purpose of implementing the requirements of subsection (1) during the 2017-2018 fiscal year. Any unexpended balance of the appropriation at the end of the fiscal year shall be carried forward and be available for expenditure for that purpose during the 2018-2019 fiscal year. Notwithstanding s. 287.057, Florida Statutes, the office may retain an independent consultant to implement the requirements of subsection (1) without a competitive solicitation.

(6) This section shall take effect upon this act becoming a law.

Section 3. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect July 1, 2018.



804018

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

And the title is amended as follows:

 Delete everything before the enacting clause
and insert:

 A bill to be entitled

 An act relating to the assignment of property
 insurance benefits; creating s. 627.7152, F.S.;
 defining the term "assignment agreement"; prohibiting
 certain awards of attorney fees to certain persons or
 entities in suits based on claims arising under
 property insurance policies; providing that an
 assignment agreement is not valid unless specified
 requirements are met; prohibiting certain provisions
 in an assignment agreement; specifying requirements
 for an assignee or transferee; requiring an assignee
 to meet certain requirements as a condition precedent
 to filing suit under a policy; providing construction;
 providing applicability; requiring the Office of
 Insurance Regulation, within a specified timeframe, to
 contract with an independent consultant to calculate
 expected savings as a result of this act; requiring
 the contract to require the use of certain actuarial
 techniques and standards; requiring the office to
 submit a certain report to the Governor and the
 Legislature by a specified date; requiring property
 insurers to make rate filings with the office by
 specified dates; providing construction; requiring an
 insurer to include a certain explanation in its rate



804018

185 filing under certain circumstances; requiring the
186 office to order an insurer that fails to provide such
187 explanation to stop writing new property insurance
188 policies until it provides the explanation; providing
189 an appropriation; authorizing the office to retain the
190 consultant without a competitive solicitation;
191 providing effective dates.



960354

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
01/23/2018	.	
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The Committee on Banking and Insurance (Steube) recommended the following:

Senate Amendment (with title amendment)

Delete line 195

and insert:

Section 5. (1) Within 60 days after the effective date of this section, the Office of Insurance Regulation shall enter into a contract with an independent consultant to calculate the savings expected as a result of this act. The contract must require the use of generally accepted actuarial techniques and standards in determining the expected impact on losses and



960354

11 expenses. By September 15, 2018, the office shall submit to the
12 Governor, the President of the Senate, and the Speaker of the
13 House of Representatives a report concerning the results of the
14 independent consultant's calculations.

15 (2) By October 1, 2018, an insurer writing property
16 insurance in this state shall make a rate filing with the Office
17 of Insurance Regulation. A rate certification does not satisfy
18 this requirement. If the insurer requests a rate in excess of a
19 10 percent reduction as applied to the current rate in its
20 overall base rate for property insurance, the insurer must
21 include in its rate filing a detailed explanation of the reasons
22 for its failure to achieve a 10 percent reduction.

23 (3) By January 1, 2020, an insurer writing property
24 insurance in this state shall make a rate filing with the Office
25 of Insurance Regulation. A rate certification does not satisfy
26 this requirement. If the insurer requests a rate in excess of a
27 25 percent reduction as applied to the rate in effect as of July
28 1, 2018, in its overall base rate for property insurance since
29 July 1, 2018, the insurer must include in its rate filing a
30 detailed explanation of the reasons for its failure to achieve a
31 25 percent reduction.

32 (4) If an insurer fails to provide the detailed explanation
33 required by subsection (2) or subsection (3), the Office of
34 Insurance Regulation must order the insurer to stop writing new
35 property insurance policies in this state until it provides the
36 required explanation.

37 (5) The sum of \$200,000 of nonrecurring revenue is
38 appropriated from the Insurance Regulatory Trust Fund to the
39 Office of Insurance Regulation for the purpose of implementing



960354

the requirements of subsection (1) during the 2017-2018 fiscal year. Any unexpended balance of the appropriation at the end of the fiscal year shall be carried forward and be available for expenditure for that purpose during the 2018-2019 fiscal year. Notwithstanding s. 287.057, Florida Statutes, the office may retain an independent consultant to implement the requirements of subsection (1) without a competitive solicitation.

(6) This section shall take effect upon this act becoming a law.

Section 6. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect July 1, 2018.

===== T I T L E A M E N D M E N T =====
And the title is amended as follows:

Delete line 45
and insert:
applicability; requiring the office, within a specified timeframe, to contract with an independent consultant to calculate expected savings as a result of this act; requiring the contract to require the use of certain actuarial techniques and standards; requiring the office to submit a certain report to the Governor and the Legislature by a specified date; requiring property insurers to make rate filings with the office by specified dates; providing construction; requiring an insurer to include a certain explanation in its rate filing under certain circumstances;



960354

69 requiring the office to order an insurer that fails to
70 provide such explanation to stop writing new property
71 insurance policies until it provides the explanation;
72 providing an appropriation; authorizing the office to
73 retain the consultant without a competitive
74 solicitation; providing effective dates.

By Senator Steube

23-01236C-18

20181168__

1 A bill to be entitled
 2 An act relating to insurance; amending s. 627.062,
 3 F.S.; providing that certain attorney fees and costs
 4 paid by property insurers may not be included in the
 5 property insurer's rate base and may not be used to
 6 justify a rate increase or rate change; amending s.
 7 627.409, F.S.; adding and revising conditions under
 8 which certain misrepresentations, omissions,
 9 concealments of fact, or incorrect statements may
 10 prevent recovery under an insurance policy or annuity
 11 contract; amending s. 627.422, F.S.; providing that
 12 personal lines residential and commercial residential
 13 property insurance policies may not restrict the
 14 assignment of post-loss benefits; creating s.
 15 627.7152, F.S.; providing that an agreement to assign
 16 post-loss benefits of a residential homeowner's
 17 property insurance is not valid unless specified
 18 conditions are met; requiring the assignee, under
 19 certain circumstances, to provide a copy of the
 20 assignment agreement and a specified written estimate
 21 to the insurer within a specified timeframe; requiring
 22 the estimate to be timely updated if conditions
 23 require a change in scope; providing construction
 24 relating to failure to comply with such requirement;
 25 authorizing an insurer to inspect the property at any
 26 time; providing that an insurer's failure to make a
 27 certain attempt to inspect the property and deliver a
 28 certain notice, under certain circumstances, may estop
 29 certain assertions by the insurer; providing that an

Page 1 of 7

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

23-01236C-18

20181168__

30 assignee's acceptance of a valid assignment agreement
 31 constitutes a waiver by the assignee or transferee, or
 32 any subcontractor of the assignee or transferee, of
 33 certain claims against named insureds, except under
 34 specified circumstances; providing construction
 35 relating to the validity of such waiver; requiring an
 36 assignee, before initiating certain litigation against
 37 an insurer, to provide a certain invoice and estimate
 38 to the insurer within a specified timeframe; providing
 39 that certain offers of settlement in certain civil
 40 actions may not be made until after a specified
 41 timeframe; requiring the office to require each
 42 insurer to annually report specified data relating to
 43 certain claims paid pursuant to assignment agreements;
 44 authorizing the office to adopt rules; providing
 45 applicability; providing an effective date.

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

48
 49 Section 1. Subsection (11) is added to section 627.062,
 50 Florida Statutes, to read:

51 627.062 Rate standards.—

52 (11) Attorney fees and costs paid by a property insurer
 53 pursuant to s. 627.428 may not be included in the property
 54 insurer's rate base and may not be used to justify a rate
 55 increase or rate change.

56 Section 2. Subsection (1) of section 627.409, Florida
 57 Statutes, is amended to read:

58 627.409 Representations in applications; warranties.—

Page 2 of 7

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

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20181168

(1) Any statement or description made by or on behalf of an insured or annuitant in an application for an insurance policy or annuity contract, or in negotiations for a policy or contract, is a representation and not a warranty. Except as provided in subsection (3), a misrepresentation, omission, concealment of fact, or incorrect statement may prevent recovery under the contract or policy only if the misrepresentation, omission, concealment of fact, or incorrect statement directly relates to the cause of the claim being made and any of the following apply:

(a) The misrepresentation, omission, concealment, or statement is fraudulent or is material to the acceptance of the risk or to the hazard assumed by the insurer.

(b) If the true facts relative to the loss claimed had been known to the insurer pursuant to a policy requirement or other requirement, the insurer in good faith would not have:

1. Issued the policy or contract; ~~it would not have~~
 2. Issued the policy or contract ~~it~~ at a the same premium rate at least 20 percent higher than the rate actually charged; ~~it would not have~~

3. Issued a policy or contract in as large an amount; ~~or~~ or
 4. ~~would not have~~ Provided coverage with respect to the hazard resulting in the loss.

Section 3. Section 627.422, Florida Statutes, is amended to read:

627.422 Assignment of policies or post-loss benefits.—A policy may be assignable, or not assignable, as provided by its terms.

(1) LIFE OR HEALTH INSURANCE POLICIES.—Subject to its terms

23-01236C-18

20181168

relating to assignability, any life or health insurance policy under the terms of which the beneficiary may be changed upon the sole request of the policyowner may be assigned either by pledge or transfer of title, by an assignment executed by the policyowner alone and delivered to the insurer, whether or not the pledgee or assignee is the insurer. Any such assignment shall entitle the insurer to deal with the assignee as the owner or pledgee of the policy in accordance with the terms of the assignment, until the insurer has received at its home office written notice of termination of the assignment or pledge or written notice by or on behalf of some other person claiming some interest in the policy in conflict with the assignment.

(2) POST-LOSS BENEFITS UNDER CERTAIN PROPERTY INSURANCE POLICIES.—A personal lines residential property insurance policy or a commercial residential property insurance policy may not restrict the assignment of post-loss benefits.

Section 4. Section 627.7152, Florida Statutes, is created to read:

627.7152 Assignment of residential homeowner's property insurance post-loss benefits; prelitigation invoice; offer of settlement; annual reporting.—

(1) An agreement to assign post-loss benefits of a residential homeowner's property insurance policy is not valid unless the agreement:

(a) Is in writing;

(b) Is limited to claims for work performed or work to be performed by the assignee;

(c) Contains an accurate and up-to-date statement of the scope of work to be performed;

23-01236C-18

20181168

- 117 (d) Allows the insured to rescind the assignment within 7
 118 days after the execution of the assignment;
- 119 (e) Provides that the insured may be responsible for
 120 payment for any work performed before the rescission of the
 121 assignment; and
- 122 (f) Contains a provision, in 14-point boldfaced type, which
 123 allows the insured to rescind the agreement within 7 days after
 124 execution of the assignment, and with a notice that if the
 125 assignment is rescinded, the homeowner is responsible to pay for
 126 the work done up to the date of the rescission and that the
 127 homeowner is not otherwise responsible to pay for the work
 128 covered by the assignment.
- 129 (2) (a) The assignee shall provide a copy of the assignment
 130 agreement to the insurer within 7 days after execution of the
 131 agreement, or within 48 hours after beginning nonemergency work,
 132 whichever is earlier, if the insurer has a facsimile number and
 133 e-mail address on its website designated for the delivery of
 134 such documents. This notice must be accompanied by a written
 135 estimate of the work to be done, with unit prices indicated
 136 where appropriate, and the basis for calculating lump sum fees
 137 if unit prices are inappropriate. The estimate must be timely
 138 updated if conditions require a change in scope. The failure to
 139 comply with this requirement constitutes a defense to any
 140 payment obligation under the policy or the assignment, if the
 141 insurer can establish prejudice resulting from the failure.
- 142 (b) The insurer may inspect the property at any time. If
 143 the insurer fails to attempt in good faith to do so within 7
 144 days after learning of the loss and promptly deliver to the
 145 assignee written notice of any perceived deficiency in the

Page 5 of 7

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

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20181168

- 146 assignee's notice or the work being performed, the failure may
 147 be raised to estop the insurer from asserting that work done was
 148 not reasonably necessary or that the notice was insufficient to
 149 comply with this section.
- 150 (3) Notwithstanding any other law, the acceptance by an
 151 assignee of a valid assignment agreement constitutes a waiver by
 152 the assignee or transferee, and any subcontractor of the
 153 assignee or transferee, of any and all claims against named
 154 insureds for payment arising from the specified loss, except
 155 that all named insureds remain responsible for:
- 156 (a) The payment of any deductible amount provided for by
 157 the terms of the insurance policy;
- 158 (b) The payment for work performed before the rescission of
 159 the assignment agreement, if there is a rescission;
- 160 (c) The cost of any betterment specifically authorized by
 161 the insured in a writing that identifies the work as betterment
 162 for which the insured will be liable; and
- 163 (d) A misrepresentation of the existence of homeowner's
 164 coverage by the homeowner.
- 165 The waiver in this subsection is valid even if the assignment
 166 agreement is determined to be invalid.
- 167 (4) No later than 30 days before an assignee initiates
 168 litigation against an insurer relating to a residential
 169 homeowner's property insurance claim, the assignee must provide
 170 the insurer an invoice for all work that has been performed and
 171 a current estimate of work remaining to be performed.
- 172 (5) In a civil action relating to a residential homeowner's
 173 property insurance claim under a policy in which an assignment
 174

Page 6 of 7

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

23-01236C-18

20181168__

175 agreement under this section was executed, an offer of
176 settlement under s. 768.79 by any party may be made no earlier
177 than 30 days after the civil action has commenced.

178 (6) The office shall require each insurer to report by
179 January 30, 2021, and each year thereafter, data on each
180 residential property insurance claim paid in the prior calendar
181 year pursuant to an assignment agreement. Such data must
182 include, but are not limited to, specific data about claims
183 adjustment and settlement timeframes and trends grouped by
184 whether litigated or not litigated, by loss adjustment expenses,
185 and by the amount and type of attorney fees incurred or paid.
186 The office may adopt rules to administer this subsection.

187 (7) This section does not apply to:

188 (a) An assignment, transfer, or conveyance granted to a
189 subsequent purchaser of the property with an insurable interest
190 in the property following a loss; or

191 (b) A power of attorney under chapter 709 which grants to a
192 management company, family member, guardian, or similarly
193 situated person of an insured the authority to act on behalf of
194 an insured as it relates to a property insurance claim.

195 Section 5. This act shall take effect July 1, 2018.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Judiciary, *Chair*
Banking and Insurance, *Vice Chair*
Agriculture
Appropriations Subcommittee on Finance and Tax
Appropriations Subcommittee on Pre-K - 12 Education
Children, Families, and Elder Affairs
Regulated Industries

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR GREG STEUBE

23rd District

December 18, 2017

The Honorable Anitere Flores
Florida Senate
404 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Senator Flores,

I am writing this letter because my bill, SB 1168 Insurance, has been referred to the Senate Banking and Insurance Committee. I am respectfully requesting that you place the bill on your committee's calendar for the next committee week.

Thank you for your consideration. Please contact me if you have any questions.

Very respectfully yours,

A handwritten signature in blue ink, appearing to be "W. Gregory Steube".

W. Gregory Steube, District 23

REPLY TO:

- ☐ 6230 University Parkway, Suite 202, Sarasota, Florida 34240 (941) 342-9162
- ☐ 326 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5023

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/23/18

Meeting Date

1168

Bill Number (if applicable)

422902

Amendment Barcode (if applicable)

Topic Property Insurance/AOB

Name Dave DeBlander

Job Title Owner

Address 3255 Potter St. # C

Street

Pensacola FL 32514

City

State

Zip

Phone 850-712-8711

Email dave@proclean
restoration.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing ProClean Restoration

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

1/23/18

Meeting Date

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

1168

Bill Number (if applicable)

422902

Topic Property Insurance/AOB

Amendment Barcode (if applicable)

Name Jeremy Neale

Job Title Owner

Address 5480 Hwy 98 W Phone 850-660-6900
Santa Rosa Bch FL 32459 Email jneale@apexisthere.com
Street City State Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Apex Disaster Specialists

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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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)

1/23/18

1168

Meeting Date

Bill Number (if applicable)

422902

Topic Property Insurance/AOB

Amendment Barcode (if applicable)

Name Richie Kidwell

Job Title Owner

Address P.O. Box 16226

Phone 407-233-0493

Street

Altamonte Springs

FL

32716

Email info@airqualityassessors.com

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Air Quality Assessors

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.

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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)

1/23/18

Meeting Date

1168

Bill Number (if applicable)

422902

Amendment Barcode (if applicable)

Topic Property Insurance/AOB

Name Amanda Prater

Job Title Legislative Director

Address 941 Morse Blvd.

Phone 850-766-0679

Street

Winter Park

FL

32789

City

State

Zip

Email Amanda@cooperativestrategies

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Restoration Association of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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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)

1-23-18
Meeting Date

1168
Bill Number (if applicable)
422902
Amendment Barcode (if applicable)

Topic Insurance

Name Kenneth B. Bell

Job Title Attorney

Address 215 S. Monroe St. Suite 601
Street

Phone 850-521-1980

Tallahassee FL 32301
City State Zip

Email kbell@gnster.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing AST

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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THE FLORIDA SENATE
APPEARANCE RECORD

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

1/23/2018

Meeting Date

1168

Bill Number (if applicable)

422902

Amendment Barcode (if applicable)

Topic Insurance

Name Samantha Sexton

Job Title VP of Legislative and Regulatory Affairs

Address 201 S. Monroe Street, Suite 835

Street

Tallahassee

City

FL

State

32301

Zip

Phone 321-544-1577

Email samantha.sexton@piff.net

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Personal Insurance Federation of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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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)

1. 23. 18
Meeting Date

1168
Bill Number (if applicable)
422902
Amendment Barcode (if applicable)

Topic AOB

Name Ashley Kalifah

Job Title Lobbyist

Address 101 E College Ave # 1002
Tallahassee, FL 32303
Street City State Zip

Phone 222-9075

Email akalifah@capitolinsult.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FOR I, AIF, AIA

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.

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THE FLORIDA SENATE
APPEARANCE RECORD

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

1-23-18

Meeting Date

SB 1168

Bill Number (if applicable)

Topic

AOB

AMENDMENT

422902
Amendment Barcode (if applicable)

Name

CAROL BOWEN

Job Title

CHIEF LOBBYIST

Address

3730 COCONUT CREEK PARKWAY

Street

COCONUT CREEK FL 33066

City

State

Zip

Phone

954-984-0075

Email

CBOWEN@ABC
EASTFLORIDA.COM

Speaking:

☒

For

☐

Against

☐

Information

Waive Speaking:

☒

In Support

☐

Against

(The Chair will read this information into the record.)

Representing

ASSOCIATED BUILDERS & CONTRACTORS

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☒

Yes

☐

No

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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)

1-23-18

Meeting Date

SB 1168

Bill Number (if applicable)

AMENDMENT 422902

Amendment Barcode (if applicable)

Topic

ASSIGNMENT OF BENEFITS

Name

CHRIS FENTRIS

Job Title

LEGISLATIVE COUNSEL

Address

1400 VILLAGE SQ # 3-243

Street

Phone

850-222-2772

TALL

City

FL

State

32312

Zip

Email

FENTRIS@MOC.COM

Speaking:

☒

For

☐

Against

☐

Information

Waive Speaking:

☒

In Support

☐

Against

(The Chair will read this information into the record.)

Representing

FCA, ROOFING & SHEET METAL CONTRACTORS ASSN
FCA, REFRIGERATION & AC CONTRACTORS ASSN

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☒

Yes

☐

No

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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)

11/23/18
Meeting Date

1168
Bill Number (if applicable)
422902
Amendment Barcode (if applicable)

Topic Insurance - Broxson Amendment

Name Caitlin Murray

Job Title Director of Government Affairs

Address
Street

Phone

City

State

Zip

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Office of Insurance Regulation

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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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)

1/23/18
Meeting Date

1168
Bill Number (if applicable)

Topic PROPERTY / INSURANCE AOB

178904
Amendment Barcode (if applicable)

Name KEN LARSEN

Job Title CONSULTANT

Address 135 CARSON OAKS LANE
Street

Phone 817 542 1189

SANTA ROSA BEACH FL 32459
City State Zip

Email _____

Speaking: ☒ For ☐ Against ☐ Information

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

Representing INTERNATIONAL DRY STANDARD ORGANIZATION

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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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)

1/23/10

Meeting Date

1100

Bill Number (if applicable)

178904

Amendment Barcode (if applicable)

Topic Prop-Insurance/AOB

Name Dave DeBlander

Job Title owner

Address 3255 Potter St.

Street

Pensacola

City

FL

State

32514

Zip

Phone 850-712-8711

Email dave@procleanrestoration.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Pro Clean Restoration

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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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)

1/16/18

Meeting Date

1168

Bill Number (if applicable)

178904

Amendment Barcode (if applicable)

Topic Insurance

Name Foyt Ralston

Job Title _____

Address 317 East Park Ave

Street

Tallahassee

City

FL

State

32301

Zip

Phone 850-294-5390

Email foyt@capadvocates.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Association of Restoration Specialists

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

1/23/18

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

1168

Meeting Date

Bill Number (if applicable)

178904

Topic Property Insurance/AOB

Amendment Barcode (if applicable)

Name Amanda Prater

Job Title Legislative Director

Address 941 Morse Blvd.

Phone 850-766-0679

Street

Winter Park

FL

32789

City

State

Zip

Email Amanda@cooperativestrategies

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Restoration Association of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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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)

1/23/18

Meeting Date

1168

Bill Number (if applicable)

178904

Amendment Barcode (if applicable)

Topic Property Insurance/AOB

Name Richie Kidwell

Job Title Owner

Address P.O. Box 16226

Street

Altamonte Springs

City

FL

State

32716

Zip

Phone 407-233-0493

Email info@airqualityassessors.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Air Quality Assessors

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

1/23/18

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

1168

Meeting Date

Bill Number (if applicable)

178904

Topic Property Insurance/AOB

Amendment Barcode (if applicable)

Name Jeremy Neale

Job Title Owner

Address 5480 HWY 90 W

Street

Phone 850-660-6900

Santa Rosa Bch FL 32459

City

State

Zip

Email jneale@apexisthere.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Apex Disaster Specialists

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

APPEARANCE RECORD

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

1/23/18

Meeting Date

1168

Bill Number (if applicable)

422902

Amendment Barcode (if applicable)

Topic Assignment of Benefits

Name Christine Ashburn

Job Title Chief - Communications + Legislative Affairs

Address 2101 Maryland Circle

Street

Phone 850-513-3746

Tallahassee FL

City

State

32303

Zip

Email _____

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Citizens Property Insurance Corporation

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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APPEARANCE RECORD

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

1/23/17
Meeting Date

1168

Bill Number (if applicable)

422902

Amendment Barcode (if applicable)

Topic Insurance

Name Logan McFaddin

Job Title Regional Manager

Address 215 S. Monroe Street
Street

Phone 850-681-2618

Tallahassee FL 32301
City State Zip

Email logan.mcfaddin@pciaa.net

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Property Casualty Insurers Association of America (PCI)

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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APPEARANCE RECORD

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

1/23/18

Meeting Date

SB 1108

Bill Number (if applicable)

422902

Amendment Barcode (if applicable)

Topic InsuranceName Cecelyn JohnsonJob Title Policy DirectorAddress 130 S Bronough St
StreetPhone 521-1200Tallahassee

City

FL

State

32301

Zip

Email cjohnson@floridachamber.comSpeaking: ☒ For ☐ Against ☐ InformationWaive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)Representing Florida Chamber of CommerceAppearing at request of Chair: ☒ Yes ☒ NoLobbyist registered with Legislature: ☒ Yes ☐ No

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APPEARANCE RECORD

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

1/23/18

Meeting Date

L 1168

Bill Number (if applicable)

422902

Amendment Barcode (if applicable)

Topic SEN. BLOXSON STRIKE-ALLName JASON MULHOLLANDJob Title ATTORNEYAddress 9312 N. ARMENIA AVE
StreetPhone 813 935-8256TAMPA FL 33612
City State ZipEmail jason@mul-law.comSpeaking: ☐ For ☒ Against ☐ InformationWaive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)Representing FJAAppearing at request of Chair: ☐ Yes ☒ NoLobbyist 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.

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THE FLORIDA SENATE
APPEARANCE RECORD

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

1/23/18

Meeting Date

1168

Bill Number (if applicable)

422902

Amendment Barcode (if applicable)

Topic Insurance

Name Foyt Ralston

Job Title _____

Address 317 E Park Ave

Street

Tallahassee

City

FL

State

32301

Zip

Phone 850-294-5390

Email foyt@capadvocates.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida Association of Restoration Specialists

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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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)

1/23/18

Meeting Date

1168

Bill Number (if applicable)

Topic Prop Insurance / AOB

Amendment Barcode (if applicable)

Name Dave DeBlander

Job Title Owner

Address 3255 Potter St. #C

Street

Phone

Pensacola FL 32514

City

State

Zip

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Pro Clean Restoration

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.

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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)

123
1/16/18

Meeting Date

1168

Bill Number (if applicable)

Topic Insurance

Amendment Barcode (if applicable)

Name Foyt Ralston

Job Title

Address 317 East Park Ave

Phone 850-294-5390

Street

Tallahassee

FL

32301

City

State

Zip

Email foyt@capadvocates.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Association of Restoration Specialists

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.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

1.23.18

Meeting Date

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

1168

Bill Number (if applicable)

Topic AOB

Amendment Barcode (if applicable)

Name Amley Kalifeh

Job Title Lobbyist

Address 101 E College Ave
Street

Phone 222-9075

Tallahassee, FL 32303
City State Zip

Email akalifeh@capitolhill.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing FORI, AIF, AIA

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.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

1-23-18 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)
Meeting Date

SB 1168
Bill Number (if applicable)

Topic AOB

Amendment Barcode (if applicable)

Name CAM FENTRIS

Job Title LEGISLATIVE COUNSEL

Address 1400 VILLAGE SQ # 3-243
Street

Phone 850-222-2772

TALL FL 32312
City State Zip

Email AFENTRIS@AOL.COM

Speaking: ☐ For ☒ Against ☐ Information

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

Representing FCA. ROOFING + SHEET METAL CONTRACTORS ASSN

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.

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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)

1/23/18

Meeting Date

1168

Bill Number (if applicable)

Topic Assignment of Benefits

Amendment Barcode (if applicable)

Name William Stander

Job Title Exec. Dir.

Address P.O. Box 454

Phone (850) 212-3250

Street

Tallahassee FL 32302

City

State

Zip

Email william@williamstander.com

Speaking: ☐ For ☒ Against ☐ Information
If the permit

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

Representing Florida Property & Casualty Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

APPEARANCE RECORD

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

Meeting Date _____

11003
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Leslie Dughi

Job Title _____

Address 101 E College Avenue
Street

Phone _____

City _____ State _____ Zip _____

Email ldughi1@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida Insurance Council

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)

1/23/18

Meeting Date

1168

Bill Number (if applicable)

Topic Insurance

Amendment Barcode (if applicable)

Name Caitlin Murray

Job Title Director of Government Affairs

Address _____ Phone _____
Street

City _____ State _____ Zip _____ Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Office of Insurance Regulation

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)

1/23/18

Meeting Date

1168

Bill Number (if applicable)

Topic Assignment of Benefits

Amendment Barcode (if applicable)

Name Christine Ashburn

Job Title Chief - Communications + Legislative Affairs

Address 2101 Maryland Circle

Phone 850-513-3746

Street

Tallahassee FL

City State

32303

Zip

Email _____

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Citizens Property Insurance Corporation

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.

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S-001 (10/14/14)

APPEARANCE RECORD

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

Meeting Date _____

168
Bill Number (if applicable)

Topic Bloxson Amendment

Amendment Barcode (if applicable) _____

Name Tim Meenan

Job Title _____

Address 375 S. Duval
Street

Phone _____

City _____ State _____ Zip _____

Email _____

Speaking: ☒ For ☐ Against ☐ Information

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

Representing National Association of Insurance & Financial Advisors

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.

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THE FLORIDA SENATE

APPEARANCE RECORD

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

1/23/18

Meeting Date

1168

Bill Number (if applicable)

Topic Property Insurance/AOB

Amendment Barcode (if applicable)

Name Jeremy Neale

Job Title Owner

Address 5480 Hwy 98 W

Street

Phone 850-660-6900

Sanita Rosa Bch FL 32459

City

State

Zip

Email jneale@apexisthere.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Apex Disaster Specialists

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.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

1/23/18

Meeting Date

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

1168

Bill Number (if applicable)

Topic Property Insurance/AOB

Amendment Barcode (if applicable)

Name Richie Kidwell

Job Title Owner

Address P.O. Box 16226

Phone 407-233-0493

Street

Altamonte Springs

FL

32716

City

State

Zip

Email info@airqualityassessors.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Air Quality Assessors

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.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

1/23/18

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

1168

Meeting Date

Bill Number (if applicable)

Topic Property Insurance/AOB

Amendment Barcode (if applicable)

Name Amanda Prater

Job Title Legislative Director

Address 941 Morse Blvd.

Phone 850-766-0679

Street

Winter Park

FL

32789

Email Amanda@cooperativestrategies

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Restoration Association of Florida

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.

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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)

1/23/2018

Meeting Date

1168

Bill Number (if applicable)

Topic Insurance

Amendment Barcode (if applicable)

Name Samantha Sexton

Job Title VP of Legislatiev and Regulatory Affairs

Address 201 S. Monroe Street, Suite 835

Phone 321-544-1577

Street

Tallahassee

FL

32301

Email samantha.sexton@piff.net

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Personal Insurance Federation of Florida

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.

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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)

1-23-18

Meeting Date

1168

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Gary Guzzo

Job Title Lobbyist/consultant

Address 108 S. Monroe St

Phone 850-681-0024

Tallahassee Fla 32301

City

State

Zip

Email g.guzzo@flapartners.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Institute For Legal Reform

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

APPEARANCE RECORD

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

1/23/18

Meeting Date

SB 1168

Bill Number (if applicable)

Topic ACT RELATING TO INSURANCE

Amendment Barcode (if applicable)

Name JASON MUELHOLLAND

Job Title ATTORNEY

Address 9312 N. ARMENIA AVE
Street

Phone 813 935 8256

TAMPA
City

FL
State

33612
Zip

Email jason@mul-law.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FJA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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APPEARANCE RECORD

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

1/23/18

Meeting Date

1168

Bill Number (if applicable)

Topic Insurance

Amendment Barcode (if applicable)

Name Carolyn Johnson

Job Title Policy Director

Address 136 S Bronaugh St

Phone 521-1200

Tallahassee

FL

32301

Email cjohnson@flchamber.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Chamber of Commerce

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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THE FLORIDA SENATE
APPEARANCE RECORD

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

1/23/18
Meeting Date

1168
Bill Number (if applicable)

960354
Amendment Barcode (if applicable)

Topic Insurance - Study / Rate Filing

Name Caitlin Murray

Job Title Director of Government Affairs

Address _____ Phone _____
Street

City _____ State _____ Zip _____ Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Office of Insurance Regulation

Appearing at request of Chair: ☐ Yes ☒ No Lobbyist registered with Legislature: ☒ Yes ☐ No

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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)

1/23/18

Meeting Date

1168

Bill Number (if applicable)

960354

Amendment Barcode (if applicable)

Topic Insurance

Name Foyt Ralston

Job Title _____

Address 317 E Park Ave

Street

Tallahassee

City

FL

State

32301

Zip

Phone 850-294-5390

Email foyt@capadvocates.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Association of Restoration Specialists

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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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)

23
1/16/18

Meeting Date

1168

Bill Number (if applicable)

313360

Amendment Barcode (if applicable)

Topic Insurance

Name Foyt Ralston

Job Title

Address 317 East Park Ave

Street

Phone 850-294-5390

Tallahassee

FL

32301

Email foyt@capadvocates.com

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 Restoration Specialists

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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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)

1/23/18
Meeting Date

1168
Bill Number (if applicable)
202936
Amendment Barcode (if applicable)

Topic Insurance - Consumer Protection Piece

Name Caitlin Murray

Job Title Director of Government Affairs

Address _____ Phone _____
Street

City _____ State _____ Zip _____ Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Office of Insurance Regulation

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.

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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)

²³
1/16/18

Meeting Date

1168

Bill Number (if applicable)

202936

Amendment Barcode (if applicable)

Topic Insurance

Name Foyt Ralston

Job Title

Address 317 East Park Ave

Street

Tallahassee

City

FL

State

32301

Zip

Phone 850-294-5390

Email foyt@capadvocates.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Association of Restoration Specialists

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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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)

1/16/18

Meeting Date

1168

Bill Number (if applicable)

382922

Amendment Barcode (if applicable)

Topic Insurance

Name Foyt Ralston

Job Title _____

Address 317 East Park Ave

Street

Tallahassee

City

FL

State

32301

Zip

Phone 850-294-5390

Email foyt@capadvocates.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Association of Restoration Specialists

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.

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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)

1/16/18

Meeting Date

1168

Bill Number (if applicable)

606060

Amendment Barcode (if applicable)

Topic Insurance

Name Foyt Ralston

Job Title _____

Address 317 East Park Ave

Street

Tallahassee

City

FL

State

32301

Zip

Phone 850-294-5390

Email foyt@capadvocates.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Association of Restoration Specialists

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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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 Committee on Banking and Insurance

BILL: CS/SB 1292

INTRODUCER: Banking and Insurance Committee and Senator Stargel

SUBJECT: Department of Financial Services

DATE: January 24, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Billmeier	Knudson	BI	Fav/CS
2.			CF	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1292 makes various changes to statutes relating to the Department of Financial Services (DFS). The bill addresses issues at the Department of Financial Services within the Divisions of Treasury, Accounting and Auditing, Risk Management, Public Assistance Fraud, Funeral, Cemetery, and Consumer Services, Insurance Agent and Agency Services, Investigative and Forensic Services, and State Fire Marshal. The bill:

- Allows the Division of Treasury to use “electronic images” as a means of producing copies of warrants, vouchers, or checks;
- Requires transition plans of youth aging out of foster care to include financial literacy curriculum which is provided by the DFS;
- Begins the process of creating the Florida Open Financial Statement System to allow better access to financial reports filed by local governments and provides a \$500,000 appropriation;
- Amends ch. 284, F.S., directing agencies to provide risk training; report return-to-work data to the DFS; and submit information, when requested by the DFS, regarding internal risk assessments;
- Allows DFS to disclose the personal identifying information of injured employees to its contracted vendors for the purposes of carrying out its statutory responsibilities in administering workers’ compensation claims;
- Provides direction to transfer funds in excess of \$2 million from the Preeed Funeral Contract Consumer Protection Trust Fund to the Division of Funeral, Cemetery and Consumer Services’ operational trust fund to address major funding issues;

- Provides exemption from the initial application filing fee to qualifying veterans applying for licensure in areas regulated by the Division of Funeral, Cemetery, and Consumer Services;
- Eliminates the licensure requirement for managing general agents and replaces with a process where managing general agents are appointed by insurance companies;
- Extends the validity of fingerprints from 12 to 48 months for currently licensed individuals seeking other licenses within the Division of Insurance Agent and Agency Services;
- Adds arson to the list of offenses for which the DFS may provide rewards for individuals who provide information leading to the arrest and conviction of certain offenses;
- Clarifies the terms of appointment for members of the Florida Fire Safety Board;
- Clarifies the inactive status requirements for a fire equipment dealer license;
- Removes the requirements that proof of insurance for a fire equipment dealer or fire protection system contractor's license must be on a form provided by the Florida State Fire Marshal;
- Specifies roles, responsibilities, and retention requirements of individuals holding a "Special Certificate of Compliance";
- Removes outdated language requiring the Florida State Fire College to develop and implement a staffing formula for the Fire College;
- Limits the number of risks that an exchange of business appointment can write;
- Provides fingerprint exemptions to veterans of the US Armed Forces who were honorably discharged in the last 24 months; and
- Authorizes fire service providers to hire qualifying veterans who received equivalent training while in the military.

II. Present Situation:

The Department of Financial Services (DFS or department) is created by s. 20.121, F.S. The agency head for the DFS is the Chief Financial Officer (CFO).¹ The DFS has the following divisions and offices:

- Division of Accounting and Auditing;
- Division of Consumer Services;
- Division of Funeral, Cemetery, and Consumer Services;
- Division of Insurance Agent and Agency Services;
- Division of Investigative and Forensic Services;
- Division of Public Assistance Fraud;
- Division of Rehabilitation and Liquidation;
- Division of Risk Management;
- Division of State Fire Marshal;
- Division of Treasury;
- Division of Unclaimed Property;
- Division of Workers' Compensation;
- Division of Administration; and
- Office of Insurance Consumer Advocate.²

¹ Section 20.121(1), F.S.

² Section 20.121(2), F.S.

The bill deals with various divisions and programs within the DFS. The divisions and programs changed by the bill are briefly discussed as follows.

Division of the Treasury

The CFO, or Treasurer, is the state treasurer.³ The Division of the Treasury within the DFS has three bureaus:

- Bureau of Funds Management;
- Bureau of Collateral Management; and
- Bureau of Deferred Compensation.⁴

The Division of the Treasury makes photographs, microphotographs, or reproductions on film of warrants, vouchers, or checks and can destroy the warrants, vouchers, or checks after they have been photographed and filed and an audit has been completed.⁵ The copies of original documents made by the DFS are admissible in court with the same force and effect of original documents.⁶

Current law does not provide for the use of electronic images instead of or along with photographs, microphotographs, or film reproductions.

Financial Literacy

The DFS website contains a financial literacy program named “Finance Your Future.” The website may be found at <http://financemyfuture.myfloridacfo.com/>. The program contains online lessons on “Budgeting and Saving,” “Credit Cards,” “Banking,” “Your Credit Reports and Your Credit Score,” “Debt,” “Frauds and Scams,” “Insurance and Benefits,” and “Life Events.” Each lesson contains an online quiz at the end of the lesson and requires a certain passing score.

Division of Accounting and Auditing

Chapter 218, F.S., prescribes financial management and reporting requirements for local governments, which include counties, municipalities, and special districts. Local governments submit required reports to the department’s Division of Accounting and Auditing. Local governments and special districts report their annual financial reports through the Local Government Electronic Reporting (LOGGER) system. DFS maintains LOGGER as a repository of local government financial statement information and offers several report templates for users to access the information reported in LOGGER. The DFS is working to improve the collection and reporting of information to the public by addressing the limitations of LOGGER.⁷

³ Section 20.121(1), F.S.

⁴ Department of Financial Services, Division of Treasury, *Annual Report 2017* (available at <https://www.myfloridacfo.com/Division/Treasury/Reports/AnnualReports/docs/2017TreasuryAnnualReport.pdf> last visited January 18, 2018).

⁵ Section 17.64(1) and (2), F.S.

⁶ Section 17.64(1) and (3), F.S.

⁷ Email from DFS staff to Committee staff dated January 19, 2018 (on file with the Committee on Banking and Insurance).

Division of Risk Management

The Division of Risk Management is responsible for the management of claims reported by or against state agencies and universities for coverage under the self-insurance fund known as the "State Risk Management Trust Fund." The division deals with claims involving:

- Workers' Compensation;
- Property;
- Fleet Automobile Liability;
- General Liability;
- Federal Civil Rights/Employment Discrimination; and
- Court Awarded Attorney Fees.

The division also provides loss prevention services and technical assistance to state agencies and universities for managing risk.⁸

Section 440.1851, F.S., provides that the personal identifying information of an injured or deceased employee which is contained in reports, notices, records, or supporting documentation held by the DFS is confidential and exempt from disclosure pursuant to Florida's Open Government laws. The DFS can disclose the information only:

- To the injured employee, to the spouse or a dependent of the deceased employee, to the spouse or a dependent of the injured employee if authorized by the injured employee, or to the legal representative of the deceased employee's estate;
- To a party litigant, or his or her authorized representative, in matters pending before the Office of the Judges of Compensation Claims;
- To a carrier or an employer for the purpose of investigating the compensability of a claim or for the purpose of administering its anti-fraud investigative unit;
- In an aggregate reporting format that does not reveal the personal identifying information of any employee;
- Pursuant to a court order or subpoena;
- To an agency for administering its anti-fraud investigative function or in the furtherance of the agency's official duties and responsibilities; or
- To a federal governmental entity in the furtherance of the entity's official duties and responsibilities.⁹

The division uses outside vendors to help perform its duties relating to the administration of state employee workers' compensation claims. Section 440.1851, F.S., does not contain a provision allowing the division to disclose personal identifying information to its vendors. This has interfered with the division's ability to perform its functions.¹⁰

⁸ <https://www.myfloridacfo.com/division/risk/> (last visited January 19, 2018).

⁹ Section 440.1851(1)(b), F.S.

¹⁰ Department of Financial Services, *Agency Bill Analysis of SB 1292*, December 29, 2017, at p.3. (on file with the Committee on Banking and Insurance).

Division of Public Assistance Fraud

The Division of Public Assistance Fraud aids in enforcing state laws regarding program eligibility and proper use of public assistance benefits. The division works with the Department of Children and Families, the Agency for Health Care Administration, the Department of Health, and the Department of Education's Office of Early Learning to investigate fraud in programs administered by those departments. The division is responsible for investigating allegations of:

- Fraud against the Cash Assistance/Temporary Assistance for Needy Families (TANF) program;
- Fraud and trafficking involving Supplemental Nutritional Assistance Program (SNAP) formerly known as food stamps;
- Medicaid recipient fraud;
- Fraud resulting from Disaster Assistance/Emergency benefits;
- Fraud against the School Readiness and Voluntary Pre-Kindergarten programs; and
- Schemes to defraud Social Security Disability benefits.¹¹

Division of Funeral, Cemetery, and Consumer Services

The DFS licenses and regulates cemeteries, funeral directors, embalmers, burial rights brokers, and others in the death care industry. Fees for initial licensure can be significant. For example, the fee for licensure as a cemetery company is \$5,000.¹²

Section 497.456, F.S., establishes the "Preneed Funeral Contract Consumer Protection Trust Fund." The fund is used to provide restitution to consumers when a preneed licensee fails to provide promised benefits.¹³ For each delinquency proceeding initiated against a preneed licensee, up to 50 percent of the balance of the trust fund not committed to other delinquencies may be used to establish a receivership and provide restitution to preneed contract purchasers and their estates. For each preneed contract written, the licensee pays \$1.00 into the fund.¹⁴ The fund has approximately \$8,800,000. Fees collected for the fund and interest earned have ranged from \$250,000 to \$538,000 over the last 10 fiscal years while expenditures have ranged from \$60,000 to \$202,000 over the same period.¹⁵

Division of Insurance Agent and Agency Services

The DFS licenses and regulates insurance agents and insurance agencies. There are over 50 different types of licenses. Typically, obtaining a license involves completing education requirements, submitting to a criminal and professional background check, passing an examination, and paying a license fee. Some licensees must act as apprentices supervised by others when performing duties.

One of the licenses changed by this bill is the "managing general agent" (MGA) license. A 'managing general agent' is any person managing all or part of the insurance business of an

¹¹ <https://www.myfloridacfo.com/Division/PAF/> (last visited January 19, 2018).

¹² Section 497.263(1)(r), F.S.

¹³ Section 497.456(6), (7) F.S.

¹⁴ Department of Financial Services, *Agency Bill Analysis of SB 1292*, December 29, 2017, at p.4; ss. 497.456(2), (12), F.S.

¹⁵ Department of Financial Services, *Agency Bill Analysis of SB 1292*, December 29, 2017, at p. 4.

insurer, including the management of a separate division, department, or underwriting office, and acting as an agent for that insurer, whether known as a managing general agent, manager, or other similar term, who, with or without authority, separately or together with affiliates, produces directly or indirectly, or underwrites an amount of gross direct written premium equal to or more than 5 percent of the policyholder surplus as reported in the last annual statement of the insurer in any single quarter or year.”¹⁶ The MGA also does one or more of the following:

- Adjusts or pays claims.
- Negotiates reinsurance on behalf of the insurer.¹⁷

Currently, managing general agents are licensed by the DFS and appointed by insurance companies to perform MGA services.

Division of Investigative and Forensic Services

The Division of Investigative and Forensic Services encompasses all law enforcement and forensic components residing within the DFS. The division investigates a wide range of fraudulent and criminal acts including:

- Insurance Fraud Investigations;
- Workers' Compensation Fraud Investigations;
- Fire, Arson and Explosives Investigations;
- Theft/Misuse of State Funds; and
- Fire and Explosives Sample Analysis.¹⁸

Division of State Fire Marshal

The CFO serves as the state fire marshal.¹⁹ The Division of State Fire Marshal:

- Conducts fire/life safety inspections and construction plans review on all state-owned buildings;
- Regulates the fireworks and the fire sprinkler industries, inspects and licenses boilers;
- Certifies fire suppression industry workers;
- Approves firefighter training curricula;
- Offers fire service training at the Florida State Fire College; and
- Certifies that fire service members meet industry-based standards.²⁰

III. Effect of Proposed Changes:

Division of the Treasury (Section 1)

Section 1 amends s. 17.64, F.S., to allow the Division of Treasury to make electronic images of warrants, vouchers, and checks and provides those electronic images may be used to the same extent original documents can be used in court proceedings.

¹⁶ Section 626.015(16)(a), F.S.

¹⁷ *Id.*

¹⁸ <https://www.myfloridacfo.com/Division/DIFS/> (last visited January 19, 2018).

¹⁹ Section 633.104, F.S.

²⁰ <https://www.myfloridacfo.com/division/sfm/> (last visited January 19, 2018).

Organization of the DFS (Section 2)

Section 2 amends s. 20.121, F.S., to create the “Bureau of Insurance Fraud” and the “Bureau of Workers’ Compensation Fraud” within the Division of Investigative and Forensic Services. It also renames the “Bureau of Fire and Arson Investigations” as the “Bureau of Fire, Arson, and Explosives Investigations.”

Financial Literacy for Foster Youth (Sections 3, 4, and 9)

Sections 3, 4, and 9 relate to the DFS financial literacy program.

Section 39.6035, F.S., requires the creation of “transition plan” for a child in foster care during the 180-day period after the child turns 17. The plan must address specific options in obtaining services including housing, health insurance, education, a driver license, workforce support, and employment services. **Section 3** of the bill amends s. 39.6035, F.S., to require the transition plan to address financial literacy. The bill also requires the Department of Children and Families and the community-based provider to provide information for the financial literacy curriculum offered by the DFS. The child must complete the curriculum with a passing score before receiving aftercare services or continuing care services.

Section 39.6251, F.S., allows a child living in licensed care on his or her 18th birthday who has not achieved permanency to remain in licensed care under the jurisdiction of the court and the Department of Children and Families. A child is eligible to remain in licensed care if he or she is:

- Completing secondary education or a program leading to an equivalent credential;
- Enrolled in an institution that provides postsecondary or vocational education;
- Participating in a program or activity designed to promote or eliminate barriers to employment;
- Employed for at least 80 hours per month; or
- Unable to participate in the above programs or activities full time due to a physical, intellectual, emotional, or psychiatric condition that limits participation.²¹

Section 4 amends s. 39.6251(2), F.S., to provide that a child is eligible to remain in licensed care if he or she is completing the financial literacy curriculum for foster youth offered by the DFS.

Section 409.1451, F.S., provides support and services for young adults after they have left foster care. A young adult is eligible for services and support, including monetary stipends, if he or she:

- Was living in licensed care on his or her 18th birthday or is currently living in licensed care; or was at least 16 years of age and was adopted from foster care or placed with a court-approved dependency guardian after spending at least 6 months in licensed care within the 12 months immediately preceding such placement or adoption;
- Spent at least 6 months in licensed care before reaching his or her 18th birthday;
- Earned a standard high school diploma or its equivalent;
- Has been admitted for enrollment as a full-time student or its equivalent in an eligible postsecondary educational institution;

²¹ Section 39.6251(2), F.S.

- Has reached 18 years of age but is not yet 23 years of age;
- Has applied, with assistance from the young adult's caregiver and the community-based lead agency, for any other grants and scholarships for which he or she may qualify;
- Submitted a Free Application for Federal Student Aid which is complete and error free; and
- Signed an agreement to allow the department and the community-based care lead agency access to school records.

Section 9 amends s. 409.1451, F.S., to require young adults²² to complete the financial literacy curriculum for foster youth offered by the DFS as a condition for eligibility to receive postsecondary education services and support under the Road-to-Independence Program. The bill expands the definition of "aftercare services" to include the financial literacy curriculum for foster youth provided by the DFS.

Division of Accounting and Auditing (Sections 5 and 6)

Section 5 of the bill amends s. 218.32, F.S., to provide that the Legislature intends to create the Florida Open Financial Statement System. The system will be an interactive repository for governmental financial statements. The bill provides that the CFO may consult with stakeholders, including the department, the Auditor General, a representative of a municipality or county, a representative of a special district, a municipal bond investor, and an information technology professional employed in the private sector for input on the design and implementation of the system.

The bill allows the CFO to choose contractors to build one or more eXtensible Business Reporting Language (XBRL) taxonomies suitable for state, county, municipal, and special district financial filings and to create a software tool that enables financial statement filers to easily create XBRL documents consistent with the taxonomy or taxonomies. XBRL is a global standard for exchanging business information. The bill requires the CFO to recruit and select contractors through an open request for proposals process pursuant to ch. 287, F.S., and requires that all work to be completed by December 31, 2021. If the CFO deems the work products adequate, all local governmental financial statements pertaining to fiscal years ending on or after January 1, 2023, must be filed in XBRL format and must meet the validation requirements of the relevant taxonomy.

Section 6 provides a \$500,000 appropriation for development of the XBRL taxonomies.

Division of Risk Management (Sections 7 and 8)

Section 7 amends s. 284.40, F.S., to allow the DFS to disclose personal identifying information of an injured or deceased employee to a department-contracted vendor for the purpose of ascertaining a claimant's claims history to investigate the compensability of a claim or to identify and prevent fraud.

Section 284.50, F.S., requires each department of state government to have a safety coordinator. The safety coordinator is responsible for developing and implementing a loss prevention

²² Adults who have reached 18 years of age but are not yet 23 years old.

program and a comprehensive department safety program.²³ **Section 8** amends s. 284.50, F.S., to require each safety coordinator to complete safety coordinator training offered by the DFS within 1 year of appointment. The DFS offers this training to state departments upon request.

Section 284.50, F.S., also requires the DFS and all agencies that are provided workers' compensation insurance coverage by the State Risk Management Trust Fund and employ more than 3,000 full-time employees to establish and maintain return-to-work programs for employees who are receiving workers' compensation benefits. The goal of the programs is to enable injured workers to remain at work or return to work to perform job duties within the physical or mental functional limitations and restrictions established by the workers' treating physicians.²⁴ The bill requires agencies with more than 3,000 full-time employees to report return-to-work information to the DFS. The DFS is required by s. 284.42, F.S., to report on agencies' return-to-work efforts. Obtaining information from agencies will aid the DFS in completing the report each year.

The bill also requires each agency to provide risk management program information to the Division of Risk Management to support the division's mandatory evaluation and reporting requirements. Each agency is required to:

- Review information provided by the Division of Risk Management on claims and losses;
- Identify any discrepancies between the Division of Risk Management's records and the agency's records and report such discrepancies to the Division of Risk Management in writing; and
- Review and respond to communications from the Division of Risk Management identifying unsafe or inappropriate conditions, policies, procedures, trends, equipment, or actions or incidents that have led or may lead to accidents or claims involving the state.

Investigation of Public Assistance Fraud (Section 10)

Section 10 amends s. 414.411, F.S., to provide that all public assistance recipients must give to the Department of Education, rather than the Department of Economic Opportunity, written consent to make inquiry of past or present employers and records. In 2011, the Office of Early Learning housed within the Department of Education took over the school readiness functions of the Department of Economic Opportunity²⁵ so it is appropriate for recipients to give consent to the Department of Education. In 2016-2017, the Office of Early Learning referred 344 cases to the DFS for public assistance fraud investigation.²⁶

Division of Funeral, Cemetery, and Consumer Services (Sections 11 and 12)

Section 11 of the bill amends s. 497.168(3), F.S., to exempt members of the United States Armed Forces or veterans of the United States Armed Forces who were honorably discharged within 24 months before the date of application for licensure from the following initial licensure application fees:

- Burial Rights Broker

²³ Section 284.50(1), F.S.

²⁴ Section 284.50(3), F.S.

²⁵ Chapter 2011-142, Laws of Florida.

²⁶ http://www.floridaearlylearning.com/sites/www/Uploads/files/Oel%20Resources/Publications/2016-17%20OEL%20Annual%20Report_ADA.pdf (last visited on January 18, 2018).

- Embalmer
- Temporary Embalmer
- Embalmer Intern
- Embalmer Apprentice
- Funeral Director
- Provisional or Temporary Funeral Director
- Funeral Director Intern

Section 12 amends s. 497.168, F.S., to allow the DFS to use some of the money from the Preneed Funeral Contract Consumer Protection Trust Fund to upgrade the Division of Funeral, Cemetery, and Consumer Services computer systems. The division currently operates with eight standalone database systems that are not supported by the DFS's Office of Information Technology. These systems do not permit any application process to occur online. The DFS is currently working on a business analysis that will address the replacement of all standalone systems.²⁷

The bill allows the DFS on or before August 31, 2018, transfer up to \$2 million from the Preneed Funeral Contract Consumer Protection Trust Fund to the Regulatory Trust Fund for the purpose of acquiring information technology infrastructure and payment of related expenses. The bill also allows the department to transfer any interest accrued or earned from investment of the funds in the Preneed Funeral Contract Consumer Protection Trust Fund during the prior fiscal year to the Regulatory Trust Fund. The amount of interest earned in the Preneed Funeral Contract Consumer Protection Trust Fund has varied between \$93,000 and \$398,000 over the past 10 fiscal years.²⁸ The transfer of \$2 million would leave approximately \$6,800,000 in the Preneed Funeral Contract Consumer Protection Trust Fund to pay consumer claims. The fund would also lose the interest that would be transferred to the regulatory trust fund.

This provision of the bill expires on August 31, 2022.

Division of Insurance Agent and Agency Services (Sections 13-40, 48 and 49)

Section 13 amends s. 624.317, F.S., to remove references to specific types of insurance agents and uses the term "agent" to designate the types of insurance agents the department can investigate. This clarifies that the DFS investigates all agents of whom licensure is required.

The bill eliminates the managing general agent (MGA) license. Instead, **Section 20** amends s. 626.112, F.S., to provide that no one may act as a MGA without a producer license²⁹ and a MGA appointment. Currently, there are no prelicensing requirements for the MGA license. There is no formal examination to determine eligibility. The qualification requirements are to complete the application, be eligible to work in the United States, and submit fingerprints for a background evaluation. In contrast, other agent licenses require coursework and an examination.³⁰ Requiring a MGA to have a producer license will align Florida more closely with

²⁷ Department of Financial Services, *Agency Bill Analysis of SB 1292*, December 29, 2017, at p.4.

²⁸ *Id.*

²⁹ A producer is a licensed agent who sells insurance products.

³⁰ Department of Financial Services, *Agency Bill Analysis of SB 1292*, December 29, 2017, at p. 5.

the National Association of Insurance Commissioners' Managing General Agents Act, which requires MGAs to have a producer license.³¹ **Sections 14, 16, 18, 19, 21, 23, 28, 29, 30, 31, 32, 38, and 48** remove references to the MGA license from law, where appropriate, add references to an "appointed" MGA, and make conforming changes.

Section 15 amends s. 624, 4073, F.S., to provide that an officer or director of an insurer who served in that capacity within a 2-year period before prior to the date the insurer became insolvent may not thereafter serve as an officer or director of an insurer or have direct or indirect control over the selection or appointment of an officer or director unless the officer or director demonstrates that his or her personal actions or omissions were not a significant contributing cause to the insolvency.

Section 22 amends s. 626.202, F.S., to provide that fingerprints are valid for a 4-year period for persons currently licensed by the DFS and who are seeking additional licensure. The bill also allows veterans and active duty military members allowing them to be exempt from fingerprinting during their service and for 2 years after being honorably discharged. They will still be required to disclose criminal history as part of the application process.

Section 626.221, F.S., provides if an applicant for licensure as an all-lines adjuster has certain educational designations, he or she is not required to take the examination. **Section 24** provides that an applicant certified as a Claims Adjuster Certified Professional from WebCE, Inc.³² does not have to take the examination.

Section 25 removes from s. 626.451, F.S., a requirement that law enforcement agencies and state attorney's offices report to the DFS when insurance licensees are convicted or enter pleas in felony cases. This reporting is no longer necessary because the DFS works closely with clerks of the court to obtain this information.

Section 26 amends s. 626.521, F.S., relating to character and credit reports. The bill requires an "employer" to maintain credit and character reports rather than requiring specific licensees to maintain the reports. The bill also removes statutory provisions that are no longer useful.

Section 27 amends s. 626.731, F.S., to remove references to "special agent" because the license type does not exist, remove references to "managing general agents," and remove language relating to "service representatives" that could expand the scope of that license.

Sections 33 and 34 amend ss. 626.752 and 626.793, F.S., to require an insurer to report to the DFS when it receives more than four risks during a calendar year from a personal lines or life agent. Currently, the insurers must report when they receive more than 24 risks from an agent during the year. **Section 35** amends s. 626.837, F.S., to make a similar change relating to health insurance agents. This will allow the DFS and public to more easily track agent-insurer relationships. A conforming change is made in **Section 17** of the bill.

³¹ <http://www.naic.org/store/free/MDL-225.pdf> (last visited January 21, 2018).

³² <https://www.webce.com/catalog/courses/?=5374c17qML4PsK3Tp1Jm2saSs9sZcL6U7J65rqN970s5ZTKHK4ag2s6Z7sKfMqZzZnVz> (last visited January 20, 2018).

Section 36 amends s. 626.8732, F.S., and **Section 37** amends s. 626.8734, F.S., to remove requirements that public adjusters and nonresident all-lines adjusters submit annual affidavits certifying that they understand the insurance code. Current law provides for discipline against licensees if they violate the law so the annual affidavit is not necessary.

Section 39 amends s. 626.927, F.S., to remove licensure as a managing general agent or a service representative as a qualification for a surplus lines agent license. The MGA license is being removed by other sections of the bill and a service representative does not require significant training. The section also removes obsolete language relating to an examination that is no longer offered.

Section 40 amends s. 626.930(3), F.S., to allow a surplus lines agent to keep surplus lines business records in his or her general lines agency office or MGA office.

Section 49 amends s. 648.34, F.S., to provide that fingerprints for persons seeking licensure as a bail bond agent are valid for a 4-year period.

Division of Investigative and Forensic Services (Section 41)

Section 626.9892, F.S., creates the Anti-Fraud Reward Program within the DFS. The program is funded from the Insurance Regulatory Trust Fund. The program allows the DFS to provide rewards of up to \$25,000 to persons providing information leading to the arrest and conviction of persons convicted of crimes investigated by the Division of Insurance Fraud. **Section 41** amends s. 626.9892(2), F.S., to add arson to the list of crimes for which the DFS can pay rewards to persons who provides appropriate information.

Division of State Fire Marshal (Sections 42-47)

Section 42 amends s. 633.302, F.S., to clarify that once the initial terms of members of the Florida Fire Safety Board are completed, subsequent appointments are for 4 years.

Section 43 amends s. 633.304, F.S., to require an inactive status license of a fire equipment dealer must be reactivated before December 31 of each odd-numbered year. It also allows a fire equipment dealer to have franchisees that work under the dealer's license.

Section 44 amends s. 633.318(7), F.S., to allow fire protector system contractors to submit proof of insurance on forms provided by the insurer rather than requiring forms from the DFS.

Section 45 amends s. 633.408, F.S., relating to the firefighter Special Certificate of Compliance. The certificate authorizes the individual to serve as an administrative and command head of a fire service provider. The bill provides:

- An individual employed as a fire chief, fire coordinator, fire director, or fire administrator must obtain a Special Certificate of Compliance within 1 year after beginning employment; and
- Before beginning employment as a command officer or in a position directing incident outcomes, an individual must obtain a Certificate of Compliance or a Special Certificate of Compliance.

Current law does not contain requirements to retain a Special Certificate of Compliance. The bill creates requirements similar to those required to retain certification as a firefighter. In order to retain a Special Certificate of Compliance, every 4 years an individual must:

- Be active as a firefighter;
- Maintain a current and valid Fire Service Instructor Certificate, instruct at least 40 hours during the 4-year period, and provide proof of such instruction to the division, which proof must be registered in an electronic database designated by the division; or
- Within 6 months before the 4-year period expires, successfully complete a Firefighter Retention Refresher Course consisting of a minimum of 40 hours of training as prescribed by rule.

Section 46 amends s. 633.416, F.S., to allow a fire service provider to employ individuals who have received equivalent training while active in the United States Department of Defense. The standard of equivalency of training must be verified by the division before such individual's employment begins. Such individual must obtain a Firefighter Certificate of Compliance within 24 months after employment.

Section 47 amends s. 633.444(1), F.S., to remove obsolete language relating to the Florida State Fire College.

Other Provisions (Sections 50 and 51)

Section 50 of the bill reenacts s. 626.8734, F.S., for purposes of incorporating the amendment made by the bill to s. 626.221, F.S.

Section 51 provides the bill is effective July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Section 12 authorizes the transfer of up to \$2 million from the Preneed Funeral Contract Consumer Protection Trust Fund for the purpose of updating the technology infrastructure of the Division of Funeral, Cemetery, and Consumer Services. The transfer will benefit licensees that interact with the Division, but reduce the monies available to provide restitution to preneed contract purchasers in the event a delinquency proceeding is initiated against a preneed licensee.

C. Government Sector Impact:

Section 6 of the bill provides a \$500,000 appropriation for development of the XBRL taxonomies. The DFS does not otherwise anticipate a fiscal impact on state government.

Section 12 of the bill will allow the DFS to obtain funding for the Division of Funeral, Cemetery, and Consumer Services from the trust fund by shifting \$2 million from the Preneed Funeral Contract Consumer Protection Trust Fund to the Regulatory Trust Fund.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 17.64, 20.121, 39.6035, 39.6251, 218.32, 284.40, 284.50, 409.1451, 414.411, 497.168, 497.456, 624.317, 624.34, 624.4073, 624.4094, 624.501, 624.509, 625.071, 626.112, 626.171, 626.202, 626.207, 626.221, 626.451, 626.521, 626.731, 626.7351, 626.744, 626.745, 626.7451, 626.7455, 626.752, 626.793, 626.837, 626.8732, 626.8734, 626.88, 626.927, 626.930, 626.9892, 633.302, 633.304, 633.318, 633.408, 633.416, 633.444, 648.27, and 648.34.

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 January 23, 2018:

The CS:

- Expresses the intent of the Legislature to create the Florida Open Financial Statement System and allow the CFO to consult with stakeholders for input on the design and implementation of the system;
- Requires the CFO to recruit and select contractors to build suitable XBRL taxonomies for the state through an open process pursuant to ch. 287, F.S.;
- Provides a \$500,000 appropriation;

- Allows the DFS to transfer up to \$2 million from the Preneed Funeral Contract Consumer Protection Trust Fund to the Regulatory Trust Fund for the purpose of acquiring information technology infrastructure and payment of related expenses;
- Allows the department to transfer any interest accrued or earned from investment of the funds in the Preneed Funeral Contract Consumer Protection Trust Fund during the prior fiscal year to the Regulatory Trust Fund;
- Creates retention requirements in order for a firefighter to retain a Special Certificate of Compliance; and
- Makes technical changes.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/23/2018	.	
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	.	
	.	

The Committee on Banking and Insurance (Stargel) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 17.64, Florida Statutes, is amended to
read:

17.64 Division of Treasury to make reproductions of certain
warrants, records, and documents.—

(1) Electronic images, photographs, microphotographs, or
reproductions on film of warrants, vouchers, or checks are ~~shall~~



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11 ~~be~~ deemed to be original records for all purposes; and any copy
12 or reproduction thereof ~~made from such original film~~, duly
13 certified by the Division of Treasury as a true and correct copy
14 or reproduction ~~made from such film~~, is ~~shall be~~ deemed to be a
15 transcript, exemplification, or certified copy of the original
16 warrant, voucher, or check such copy represents, and must ~~shall~~
17 in all cases and in all courts and places be admitted and
18 received in evidence with the like force and effect as the
19 original thereof might be.

20 (2) The Division of Treasury may electronically ~~photograph,~~
21 ~~microphotograph, or reproduce on film~~, all records and documents
22 of the division, as the Chief Financial Officer, in his or her
23 discretion, selects; and the division may destroy any such
24 documents or records after they have been reproduced
25 electronically ~~photographed~~ and filed and after audit of the
26 division has been completed for the period embracing the dates
27 of such documents and records.

28 (3) Electronic copies ~~Photographs or microphotographs in~~
29 ~~the form of film or prints~~ of any records made in compliance
30 with ~~the provisions of~~ this section ~~shall~~ have the same force
31 and effect as the originals ~~thereof would~~ have, and must ~~shall~~
32 be treated as originals for the purpose of their admissibility
33 in evidence. Duly certified or authenticated reproductions of
34 such electronic images must ~~photographs or microphotographs~~
35 ~~shall~~ be admitted in evidence equally with the original
36 electronic images ~~photographs or microphotographs~~.

37 Section 2. Paragraph (e) of subsection (2) of section
38 20.121, Florida Statutes, is amended to read:

39 20.121 Department of Financial Services.—There is created a



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Department of Financial Services.

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

(e) The Division of Investigative and Forensic Services, which shall function as a criminal justice agency for purposes of ss. 943.045-943.08. The division may conduct investigations within or outside of this state as it deems necessary. If, during an investigation, the division has reason to believe that any criminal law of this state has or may have been violated, it shall refer any records tending to show such violation to state or federal law enforcement or prosecutorial agencies and shall provide investigative assistance to those agencies as required. The division shall include the following bureaus and office:

1. The Bureau of Forensic Services;
2. The Bureau of Fire, ~~and~~ Arson, and Explosives Investigations; ~~and~~
3. The Office of Fiscal Integrity, which shall have a separate budget; ~~and~~
4. The Bureau of Insurance Fraud; and
5. The Bureau of Workers' Compensation Fraud.

Section 3. Subsection (1) of section 39.6035, Florida Statutes, is amended to read:

39.6035 Transition plan.—

(1) During the 180-day period after a child reaches 17 years of age, the department and the community-based care provider, in collaboration with the caregiver and any other individual whom the child would like to include, shall assist the child in developing a transition plan. The required transition plan is in addition to standard case management



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requirements. The transition plan must address specific options for the child to use in obtaining services, including housing, health insurance, education, financial literacy, a driver license, and workforce support and employment services. The plan must also consider establishing and maintaining naturally occurring mentoring relationships and other personal support services. The transition plan may be as detailed as the child chooses. In developing the transition plan, the department and the community-based provider shall:

(a) Provide the child with the documentation required pursuant to s. 39.701(3); ~~and~~

(b) Coordinate the transition plan with the independent living provisions in the case plan and, for a child with disabilities, the Individuals with Disabilities Education Act transition plan; ~~and-~~

(c) Provide information for the financial literacy curriculum for foster youth offered by the Department of Financial Services, and require completion of the curriculum with a passing score before receiving aftercare services or continuing care services as attested by the child's guardian ad litem.

Section 4. Subsection (2) of section 39.6251, Florida Statutes, is amended to read:

39.6251 Continuing care for young adults.—

(2) The primary goal for a child in care is permanency. A child who is living in licensed care on his or her 18th birthday and who has not achieved permanency under s. 39.621 is eligible to remain in licensed care under the jurisdiction of the court and in the care of the department. A child is eligible to remain



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in licensed care if he or she is:

(a) Completing secondary education or a program leading to an equivalent credential;

(b) Enrolled in an institution that provides postsecondary or vocational education;

(c) Participating in a program or activity designed to promote or eliminate barriers to employment;

(d) Employed for at least 80 hours per month; ~~or~~

(e) Completing the financial literacy curriculum for foster youth offered by the Department of Financial Services; or

(f) ~~(e)~~ Unable to participate in programs or activities listed in paragraphs (a)-(e) ~~(a)-(d)~~ full time due to a physical, intellectual, emotional, or psychiatric condition that limits participation. Any such barrier to participation must be supported by documentation in the child's case file or school or medical records of a physical, intellectual, or psychiatric condition that impairs the child's ability to perform one or more life activities.

Section 5. Section 218.32, Florida Statutes, is amended to read:

218.32 Annual financial reports; local governmental entities; Florida Open Financial Statement System.—

(1)(a) Each local governmental entity that is determined to be a reporting entity, as defined by generally accepted accounting principles, and each independent special district as defined in s. 189.012, shall submit to the department a copy of its annual financial report for the previous fiscal year in a format prescribed by the department. The annual financial report must include a list of each local governmental entity included



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in the report and each local governmental entity that failed to provide financial information as required by paragraph (b). The chair of the governing body and the chief financial officer of each local governmental entity shall sign the annual financial report submitted pursuant to this subsection attesting to the accuracy of the information included in the report. The county annual financial report must be a single document that covers each county agency.

(b) Each component unit, as defined by generally accepted accounting principles, of a local governmental entity shall provide the local governmental entity, within a reasonable time period as established by the local governmental entity, with financial information necessary to comply with the reporting requirements contained in this section.

(c) Each regional planning council created under s. 186.504, each local government finance commission, board, or council, and each municipal power corporation created as a separate legal or administrative entity by interlocal agreement under s. 163.01(7) shall submit to the department a copy of its audit report and an annual financial report for the previous fiscal year in a format prescribed by the department.

(d) Each local governmental entity that is required to provide for an audit under s. 218.39(1) must submit a copy of the audit report and annual financial report to the department within 45 days after the completion of the audit report but no later than 9 months after the end of the fiscal year.

(e) Each local governmental entity that is not required to provide for an audit under s. 218.39 must submit the annual financial report to the department no later than 9 months after



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the end of the fiscal year. The department shall consult with the Auditor General in the development of the format of annual financial reports submitted pursuant to this paragraph. The format must include balance sheet information used by the Auditor General pursuant to s. 11.45(7)(f). The department must forward the financial information contained within the annual financial reports to the Auditor General in electronic form. This paragraph does not apply to housing authorities created under chapter 421.

(f) If the department does not receive a completed annual financial report from a local governmental entity within the required period, it shall notify the Legislative Auditing Committee and the Special District Accountability Program of the Department of Economic Opportunity of the entity's failure to comply with the reporting requirements.

(g) Each local governmental entity's website must provide a link to the department's website to view the entity's annual financial report submitted to the department pursuant to this section. If the local governmental entity does not have an official website, the county government's website must provide the required link for the local governmental entity.

(h) It is the intent of the Legislature to create the Florida Open Financial Statement System, an interactive repository for governmental financial statements.

1. The Chief Financial Officer may consult with stakeholders, including the department, the Auditor General, a representative of a municipality or county, a representative of a special district, a municipal bond investor, and an information technology professional employed in the private



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sector, for input on the design and implementation of the
Florida Open Financial Statement System.

2. The Chief Financial Officer may choose contractors to
build one or more eXtensible Business Reporting Language (XBRL)
taxonomies suitable for state, county, municipal, and special
district financial filings and to create a software tool that
enables financial statement filers to easily create XBRL
documents consistent with the taxonomy or taxonomies. The Chief
Financial Officer shall recruit and select contractors through
an open request for proposals process pursuant to chapter 287.

3. The Chief Financial Officer shall require all work to be
completed no later than December 31, 2021.

4. If the Chief Financial Officer deems the work products
adequate, all local governmental financial statements pertaining
to fiscal years ending on or after January 1, 2023, must be
filed in XBRL format and must meet the validation requirements
of the relevant taxonomy.

5. A local government that commences filing in XBRL format
may not be required to make filings in Portable Document Format.

(2) The department shall annually by December 1 file a
verified report with the Governor, the Legislature, the Auditor
General, and the Special District Accountability Program of the
Department of Economic Opportunity showing the revenues, both
locally derived and derived from intergovernmental transfers,
and the expenditures of each local governmental entity, regional
planning council, local government finance commission, and
municipal power corporation that is required to submit an annual
financial report. The report must include, but is not limited
to:



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(a) The total revenues and expenditures of each local governmental entity that is a component unit included in the annual financial report of the reporting entity.

(b) The amount of outstanding long-term debt by each local governmental entity. For purposes of this paragraph, the term "long-term debt" means any agreement or series of agreements to pay money, which, at inception, contemplate terms of payment exceeding 1 year in duration.

(3) The department shall notify the President of the Senate and the Speaker of the House of Representatives of any municipality that has not reported any financial activity for the last 4 fiscal years. Such notice must be sufficient to initiate dissolution procedures as described in s. 165.051(1)(a). Any special law authorizing the incorporation or creation of the municipality must be included within the notification.

Section 6. For the 2018-2019 fiscal year, the sum of \$500,000 is appropriated from the General Revenue Fund to the Chief Financial Officer for the development of XBRL taxonomies for state, county, municipal, and special district financial filings.

Section 7. Section 284.40, Florida Statutes, is amended to read:

284.40 Division of Risk Management; disclosure of certain workers' compensation-related information by the Department of Financial Services.—

(1) It shall be the responsibility of the Division of Risk Management of the Department of Financial Services to administer this part and the provisions of s. 287.131.



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(2) The claim files maintained by the Division of Risk Management shall be confidential, shall be only for the usage by the Department of Financial Services in fulfilling its duties and responsibilities under this part, and shall be exempt from the provisions of s. 119.07(1).

(3) Upon certification by the division director or his or her designee to the custodian of any records maintained by the Department of Children and Families, Department of Health, Agency for Health Care Administration, or Department of Elderly Affairs that such records are necessary to investigate a claim against the Department of Children and Families, Department of Health, Agency for Health Care Administration, or Department of Elderly Affairs being handled by the Division of Risk Management, the records shall be released to the division subject to the provisions of subsection (2), any conflicting provisions as to the confidentiality of such records notwithstanding.

(4) Notwithstanding s. 440.1851, the Department of Financial Services may disclose the personal identifying information of an injured or deceased employee to a department-contracted vendor for the purpose of ascertaining a claimant's claims history to investigate the compensability of a claim or to identify and prevent fraud.

Section 8. Section 284.50, Florida Statutes, is amended to read:

284.50 Loss prevention program; safety coordinators; Interagency Advisory Council on Loss Prevention; employee recognition program; return-to-work programs; risk management programs.—



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(1) The head of each department of state government, except the Legislature, shall designate a safety coordinator. Such safety coordinator must be an employee of the department and must hold a position which has responsibilities comparable to those of an employee in the Senior Management System. The Department of Financial Services shall provide appropriate training to the safety coordinators to permit them to effectively perform their duties within their respective departments. Within 1 year after being appointed by his or her department head, the safety coordinator shall complete safety coordinator training offered by the Department of Financial Services. Each safety coordinator shall, at the direction of his or her department head:

(a) Develop and implement the loss prevention program, a comprehensive departmental safety program which shall include a statement of safety policy and responsibility.

(b) Provide for regular and periodic facility and equipment inspections.

(c) Investigate job-related employee accidents of his or her department.

(d) Establish a program to promote increased safety awareness among employees.

(2) There shall be an Interagency Advisory Council on Loss Prevention composed of the safety coordinators from each department and representatives designated by the Division of State Fire Marshal and the Division of Risk Management. The chair of the council is ~~shall be~~ the Director of the Division of Risk Management or his or her designee. The council shall meet at least quarterly to discuss safety problems within state



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government, to attempt to find solutions for these problems, and, when possible, to assist in the implementation of the solutions. If the safety coordinator of a department or office is unable to attend a council meeting, an alternate, selected by the department head or his or her designee, shall attend the meeting to represent and provide input for that department or office on the council. The council is further authorized to provide for the recognition of employees, agents, and volunteers who make exceptional contributions to the reduction and control of employment-related accidents. The necessary expenses for the administration of this program of recognition shall be considered an authorized administrative expense payable from the State Risk Management Trust Fund.

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



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mandatory reporting requirements on agency return-to-work efforts under s. 284.42(1)(b).

(4) The Division of Risk Management shall evaluate each agency's risk management programs, including, but not limited to, return-to-work, safety, and loss prevention programs, at least once every 5 years. Reports, including, but not limited to, any recommended corrective action, resulting from such evaluations must ~~shall~~ be provided to the head of the agency being evaluated, the Chief Financial Officer, and the director of the Division of Risk Management. The agency head must provide to the Division of Risk Management a response to all report recommendations within 45 days and a plan to implement any corrective action to be taken as part of the response. If the agency disagrees with any final report recommendations, including, but not limited to, any recommended corrective action, or if the agency fails to implement any recommended corrective action within a reasonable time, the division shall submit the evaluation report to the legislative appropriations committees. Each agency shall provide risk management program information to the Division of Risk Management to support the Division of Risk Management's mandatory evaluation and reporting requirements in this subsection.

(5) Each agency shall:

(a) Review information provided by the Division of Risk Management on claims and losses;

(b) Identify any discrepancies between the Division of Risk Management's records and the agency's records and report such discrepancies to the Division of Risk Management in writing; and

(c) Review and respond to communications from the Division



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of Risk Management identifying unsafe or inappropriate conditions, policies, procedures, trends, equipment, or actions or incidents that have led or may lead to accidents or claims involving the state.

Section 9. Paragraph (a) of subsection (2) and paragraph (b) of subsection (3) of section 409.1451, Florida Statutes, are amended to read:

409.1451 The Road-to-Independence Program.—

(2) POSTSECONDARY EDUCATION SERVICES AND SUPPORT.—

(a) A young adult is eligible for services and support under this subsection if he or she:

1. Was living in licensed care on his or her 18th birthday or is currently living in licensed care; or was at least 16 years of age and was adopted from foster care or placed with a court-approved dependency guardian after spending at least 6 months in licensed care within the 12 months immediately preceding such placement or adoption;

2. Spent at least 6 months in licensed care before reaching his or her 18th birthday;

3. Earned a standard high school diploma pursuant to s. 1002.3105(5), s. 1003.4281, or s. 1003.4282, or its equivalent pursuant to s. 1003.435;

4. Has been admitted for enrollment as a full-time student or its equivalent in an eligible postsecondary educational institution as provided in s. 1009.533. For purposes of this section, the term "full-time" means 9 credit hours or the vocational school equivalent. A student may enroll part-time if he or she has a recognized disability or is faced with another challenge or circumstance that would prevent full-time



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attendance. A student needing to enroll part-time for any reason other than having a recognized disability must get approval from his or her academic advisor;

5. Has reached 18 years of age but is not yet 23 years of age;

6. Has applied, with assistance from the young adult's caregiver and the community-based lead agency, for any other grants and scholarships for which he or she may qualify;

7. Submitted a Free Application for Federal Student Aid which is complete and error free; ~~and~~

8. Signed an agreement to allow the department and the community-based care lead agency access to school records; ~~and-~~

9. Has completed with a passing score the financial literacy curriculum for foster youth offered by the Department of Financial Services.

(3) AFTERCARE SERVICES.—

(b) Aftercare services include, but are not limited to, the following:

1. Mentoring and tutoring.

2. Mental health services and substance abuse counseling.

3. Life skills classes, including credit management and preventive health activities.

4. Parenting classes.

5. Job and career skills training.

6. Counselor consultations.

7. Temporary financial assistance for necessities, including, but not limited to, education supplies, transportation expenses, security deposits for rent and utilities, furnishings, household goods, and other basic living



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expenses.

8. Financial literacy skills training pursuant to s.
39.6035(1)(c).

The specific services to be provided under this paragraph shall be determined by an assessment of the young adult and may be provided by the community-based care provider or through referrals in the community.

Section 10. Subsections (1) and (3) of section 414.411, Florida Statutes, are amended to read:

414.411 Public assistance fraud.—

(1) The Department of Financial Services shall investigate all public assistance provided to residents of the state or provided to others by the state. In the course of such investigation the department shall examine all records, including electronic benefits transfer records and make inquiry of all persons who may have knowledge as to any irregularity incidental to the disbursement of public moneys, food assistance, or other items or benefits authorizations to recipients. All public assistance recipients, as a condition precedent to qualification for public assistance under chapter 409, chapter 411, or this chapter, must first give in writing, to the Agency for Health Care Administration, the Department of Health, the Department of Education ~~Economic Opportunity~~, and the Department of Children and Families, as appropriate, and to the Department of Financial Services, consent to make inquiry of past or present employers and records, financial or otherwise.

(3) The results of such investigation shall be reported by the Department of Financial Services to the appropriate



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legislative committees, the Agency for Health Care Administration, the Department of Health, the Department of Education ~~Economic Opportunity~~, and the Department of Children and Families, and to such others as the department may determine.

Section 11. Subsection (3) is added to section 497.168, Florida Statutes, to read:

497.168 Members of Armed Forces in good standing with administrative boards.—

(3) A member of the United States Armed Forces or a veteran of the United States Armed Forces who was honorably discharged within the 24-month period before the date of an initial application for licensure is exempt from the initial application filing fees under ss. 497.281(1), 497.368(1)(a), 497.369(1)(a), 497.369(5), 497.370(1), 497.371, 497.373(1)(a), 497.373(3), 497.374(1)(a), 497.374(5), and 497.375(1)(a).

Section 12. Subsection (14) is added to section 497.456, Florida Statutes, to read:

497.456 Preneed Funeral Contract Consumer Protection Trust Fund.—

(14)(a) On or before August 31, 2018, the department may transfer up to \$2 million from the Preneed Funeral Contract Consumer Protection Trust Fund to the Regulatory Trust Fund for the purpose of acquiring information technology infrastructure and payment of related expenses of the licensing authority in carrying out its responsibilities under this chapter and as prescribed by rule.

(b) On or before August 31 of each year, the department may transfer any interest accrued or earned from investment of the



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funds in the Preneed Funeral Contract Consumer Protection Trust Fund during the prior fiscal year of the state, as defined in s. 216.011(1)(o), to the Regulatory Trust Fund for the purpose of providing for the payment of expenses of the licensing authority in carrying out its responsibilities under this chapter and as prescribed by rule.

(c) This subsection expires on August 31, 2022.

Section 13. Subsection (1) of section 624.317, Florida Statutes, is amended to read:

624.317 Investigation of agents, adjusters, administrators, service companies, and others.—If it has reason to believe that any person has violated or is violating any provision of this code, or upon the written complaint signed by any interested person indicating that any such violation may exist:

(1) The department shall conduct such investigation as it deems necessary of the accounts, records, documents, and transactions pertaining to or affecting the insurance affairs of any ~~general agent, surplus lines agent,~~ adjuster, ~~managing general agent, insurance agent,~~ insurance agency, customer representative, service representative, or other person subject to its jurisdiction, subject to the requirements of s. 626.601.

Section 14. Subsection (2) of section 624.34, Florida Statutes, is amended to read:

624.34 Authority of Department of Law Enforcement to accept fingerprints of, and exchange criminal history records with respect to, certain persons.—

(2) The Department of Law Enforcement may accept fingerprints of individuals who apply for a license as an agent, customer representative, adjuster, service representative, or



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navigator, ~~or managing general agent~~ or the fingerprints of the majority owner, sole proprietor, partners, officers, and directors of a corporation or other legal entity that applies for licensure with the department or office under the Florida Insurance Code.

Section 15. Section 624.4073, Florida Statutes, is amended to read:

624.4073 Officers and directors of insolvent insurers.—Any person who was an officer or director of an insurer doing business in this state and who served in that capacity within the 2-year period before ~~prior to~~ the date the insurer became insolvent, for any insolvency that occurs on or after July 1, 2002, may not thereafter serve as an officer or director of an insurer authorized in this state or have direct or indirect control over the selection or appointment of an officer or director through contract, trust, or by operation of law, unless the officer or director demonstrates that his or her personal actions or omissions were not a significant contributing cause to the insolvency.

Section 16. Subsection (1) of section 624.4094, Florida Statutes, is amended to read:

624.4094 Bail bond premiums.—

(1) The Legislature finds that a significant portion of bail bond premiums is retained by the licensed bail bond agents or appointed ~~licensed~~ managing general agents. For purposes of reporting in financial statements required to be filed with the office pursuant to s. 624.424, direct written premiums for bail bonds by a domestic insurer in this state shall be reported net of any amounts retained by licensed bail bond agents or



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533 appointed ~~licensed~~ managing general agents. However, in no case
534 shall the direct written premiums for bail bonds be less than
535 6.5 percent of the total consideration received by the agent for
536 all bail bonds written by the agent. This subsection also
537 applies to any determination of compliance with s. 624.4095.

538 Section 17. Paragraph (e) of subsection (19) of section
539 624.501, Florida Statutes, is amended to read:

540 624.501 Filing, license, appointment, and miscellaneous
541 fees.—The department, commission, or office, as appropriate,
542 shall collect in advance, and persons so served shall pay to it
543 in advance, fees, licenses, and miscellaneous charges as
544 follows:

545 (19) Miscellaneous services:

546 (e) Insurer's registration fee for agent exchanging
547 business more than four 24 times in a calendar year under s.
548 626.752, s. 626.793, or s. 626.837, registration fee per agent
549 per year.....\$30.00

550 Section 18. Subsection (1) of section 624.509, Florida
551 Statutes, is amended to read:

552 624.509 Premium tax; rate and computation.—

553 (1) In addition to the license taxes provided for in this
554 chapter, each insurer shall also annually, and on or before
555 March 1 in each year, except as to wet marine and transportation
556 insurance taxed under s. 624.510, pay to the Department of
557 Revenue a tax on insurance premiums, premiums for title
558 insurance, or assessments, including membership fees and policy
559 fees and gross deposits received from subscribers to reciprocal
560 or interinsurance agreements, and on annuity premiums or
561 considerations, received during the preceding calendar year, the



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amounts thereof to be determined as set forth in this section,
to wit:

(a) An amount equal to 1.75 percent of the gross amount of such receipts on account of life and health insurance policies covering persons resident in this state and on account of all other types of policies and contracts, except annuity policies or contracts taxable under paragraph (b) and bail bond policies or contracts taxable under paragraph (c), covering property, subjects, or risks located, resident, or to be performed in this state, omitting premiums on reinsurance accepted, and less return premiums or assessments, but without deductions:

1. For reinsurance ceded to other insurers;
2. For moneys paid upon surrender of policies or certificates for cash surrender value;
3. For discounts or refunds for direct or prompt payment of premiums or assessments; and
4. On account of dividends of any nature or amount paid and credited or allowed to holders of insurance policies; certificates; or surety, indemnity, reciprocal, or interinsurance contracts or agreements;

(b) An amount equal to 1 percent of the gross receipts on annuity policies or contracts paid by holders thereof in this state; and

(c) An amount equal to 1.75 percent of the direct written premiums for bail bonds, excluding any amounts retained by licensed bail bond agents or appointed ~~licensed~~ managing general agents.

Section 19. Section 625.071, Florida Statutes, is amended to read:



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625.071 Special reserve for bail and judicial bonds.—In lieu of the unearned premium reserve required on surety bonds under s. 625.051, the office may require any surety insurer or limited surety insurer to set up and maintain a reserve on all bail bonds or other single-premium bonds without definite expiration date, furnished in judicial proceedings, equal to the lesser of 35 percent of the bail premiums in force or \$7 per \$1,000 of bail liability. Such reserve shall be reported as a liability in financial statements required to be filed with the office. Each insurer shall file a supplementary schedule showing bail premiums in force and bail liability and the associated special reserve for bail and judicial bonds with financial statements required by s. 624.424. Bail premiums in force do not include amounts retained by licensed bail bond agents or appointed ~~licensed~~ managing general agents, but may not be less than 6.5 percent of the total consideration received for all bail bonds in force.

Section 20. Subsection (5) of section 626.112, Florida Statutes, is amended to read:

626.112 License and appointment required; agents, customer representatives, adjusters, insurance agencies, service representatives, managing general agents.—

(5) A ~~No~~ person may not ~~shall~~ be, act as, or represent or hold himself or herself out to be a managing general agent unless he or she then holds a currently effective producer license and a managing general agent ~~license and~~ appointment.

Section 21. Section 626.171, Florida Statutes, is amended to read:

626.171 Application for license as an agent, customer



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representative, adjuster, service representative, ~~managing~~
~~general agent~~, or reinsurance intermediary.—

(1) The department may not issue a license as agent,
customer representative, adjuster, service representative,
~~managing general agent~~, or reinsurance intermediary to any
person except upon written application filed with the
department, meeting the qualifications for the license applied
for as determined by the department, and payment in advance of
all applicable fees. The application must be made under the oath
of the applicant and be signed by the applicant. An applicant
may permit a third party to complete, submit, and sign an
application on the applicant's behalf, but is responsible for
ensuring that the information on the application is true and
correct and is accountable for any misstatements or
misrepresentations. The department shall accept the uniform
application for nonresident agent licensing. The department may
adopt revised versions of the uniform application by rule.

(2) In the application, the applicant shall set forth:

(a) His or her full name, age, social security number,
residence address, business address, mailing address, contact
telephone numbers, including a business telephone number, and e-
mail address.

(b) A statement indicating the method the applicant used or
is using to meet any required prelicensing education, knowledge,
experience, or instructional requirements for the type of
license applied for.

(c) Whether he or she has been refused or has voluntarily
surrendered or has had suspended or revoked a license to solicit
insurance by the department or by the supervising officials of



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any state.

(d) Whether any insurer or any managing general agent claims the applicant is indebted under any agency contract or otherwise and, if so, the name of the claimant, the nature of the claim, and the applicant's defense thereto, if any.

(e) Proof that the applicant meets the requirements for the type of license for which he or she is applying.

(f) The applicant's gender (male or female).

(g) The applicant's native language.

(h) The highest level of education achieved by the applicant.

(i) The applicant's race or ethnicity (African American, white, American Indian, Asian, Hispanic, or other).

(j) Such other or additional information as the department may deem proper to enable it to determine the character, experience, ability, and other qualifications of the applicant to hold himself or herself out to the public as an insurance representative.

However, the application must contain a statement that an applicant is not required to disclose his or her race or ethnicity, gender, or native language, that he or she will not be penalized for not doing so, and that the department will use this information exclusively for research and statistical purposes and to improve the quality and fairness of the examinations.

(3) Each application must ~~shall~~ be accompanied by payment of any applicable fee.

(4) An applicant for a license as an agent, customer



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representative, adjuster, service representative, ~~managing~~
~~general agent~~, or reinsurance intermediary must submit a set of
the individual applicant's fingerprints, or, if the applicant is
not an individual, a set of the fingerprints of the sole
proprietor, majority owner, partners, officers, and directors,
to the department and must pay the fingerprint processing fee
set forth in s. 624.501. Fingerprints must ~~shall~~ be used to
investigate the applicant's qualifications pursuant to s.
626.201. The fingerprints must ~~shall~~ be taken by a law
enforcement agency, designated examination center, or other
department-approved entity. The department shall require all
designated examination centers to have fingerprinting equipment
and to take fingerprints from any applicant or prospective
applicant who pays the applicable fee. The department may not
approve an application for licensure as an agent, customer
service representative, adjuster, service representative,
~~managing general agent~~, or reinsurance intermediary if
fingerprints have not been submitted.

(5) The application for license filing fee prescribed in s.
624.501 is not subject to refund.

(6) Members of the United States Armed Forces and their
spouses, and veterans of the United States Armed Forces who have
retired within 24 months before application for licensure, are
exempt from the application filing fee prescribed in s. 624.501.
Qualified individuals must provide a copy of a military
identification card, military dependent identification card,
military service record, military personnel file, veteran
record, discharge paper, ~~or separation document~~, or a separation
document that indicates such members of the United States Armed



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Forces are currently in good standing or were honorably discharged.

(7) Pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, each party is required to provide his or her social security number in accordance with this section. Disclosure of social security numbers obtained through this requirement must ~~shall~~ be limited to the purpose of administration of the Title IV-D program for child support enforcement.

Section 22. Section 626.202, Florida Statutes, is amended to read:

626.202 Fingerprinting requirements.—

(1) The requirements for completion and submission of fingerprints under this chapter are deemed to be met when an individual currently licensed under this chapter seeks additional licensure and has previously submitted fingerprints to the department within the past 48 months. However, the department may require the individual to file fingerprints if it has reason to believe that an applicant or licensee has been found guilty of, or pleaded guilty or nolo contendere to, a felony or a crime related to the business of insurance in this state or any other state or jurisdiction.

(2) The requirements for completion and submission of fingerprints under this chapter are waived for members of the United States Armed Forces and veterans of the United States Armed Forces who were honorably discharged within the 24-month period before the date of an application for licensure. A qualified individual shall provide a copy of a military identification card, military service record, military personnel



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file, veteran record, Form DD-214, NGB Form 22, or separation document that indicates such member or veteran of the United States Armed Forces is currently in good standing or was honorably discharged.

(3) If there is a change in ownership or control of any entity licensed under this chapter, or if a new partner, officer, or director is employed or appointed, a set of fingerprints of the new owner, partner, officer, or director must be filed with the department or office within 30 days after the change. The acquisition of 10 percent or more of the voting securities of a licensed entity is considered a change of ownership or control. The fingerprints must be taken by a law enforcement agency or other department-approved entity and be accompanied by the fingerprint processing fee in s. 624.501.

Section 23. Subsection (9) of section 626.207, Florida Statutes, is amended to read:

626.207 Disqualification of applicants and licensees; penalties against licensees; rulemaking authority.—

(9) Section 112.011 does not apply to any applicants for licensure under the Florida Insurance Code, including, but not limited to, agents, agencies, adjusters, adjusting firms, or customer representatives, ~~or managing general agents.~~

Section 24. Paragraph (j) of subsection (2) of section 626.221, Florida Statutes, is amended to read:

626.221 Examination requirement; exemptions.—

(2) However, an examination is not necessary for any of the following:

(j) An applicant for license as an all-lines adjuster who has the designation of Accredited Claims Adjuster (ACA) from a



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regionally accredited postsecondary institution in this state, Associate in Claims (AIC) from the Insurance Institute of America, Professional Claims Adjuster (PCA) from the Professional Career Institute, Professional Property Insurance Adjuster (PPIA) from the HurriClaim Training Academy, Certified Adjuster (CA) from ALL LINES Training, Certified Claims Adjuster (CCA) from AE21 Incorporated, Claims Adjuster Certified Professional (CACP) from WebCE, Inc., or Universal Claims Certification (UCC) from Claims and Litigation Management Alliance (CLM) whose curriculum has been approved by the department and which includes comprehensive analysis of basic property and casualty lines of insurance and testing at least equal to that of standard department testing for the all-lines adjuster license. The department shall adopt rules establishing standards for the approval of curriculum.

Section 25. Present subsections (6) and (7) of section 626.451, Florida Statutes, are redesignated as subsections (5) and (6), respectively, and subsections (1) and (5) and present subsection (6) of that section are amended, to read:

626.451 Appointment of agent or other representative.—

(1) Each appointing entity or person designated by the department to administer the appointment process appointing an agent, adjuster, service representative, customer representative, or managing general agent in this state shall file the appointment with the department or office and, at the same time, pay the applicable appointment fee and taxes. Every appointment is ~~shall be~~ subject to the prior issuance of the appropriate agent's, adjuster's, service representative's, or customer representative's, ~~or managing general agent's~~ license.



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~~(5) Any law enforcement agency or state attorney's office that is aware that an agent, adjuster, service representative, customer representative, or managing general agent has pleaded guilty or nolo contendere to or has been found guilty of a felony shall notify the department or office of such fact.~~

~~(5)(6)~~ Upon the filing of an information or indictment against an agent, adjuster, service representative, or customer representative, ~~or managing general agent~~, the state attorney shall immediately furnish the department or office a certified copy of the information or indictment.

Section 26. Section 626.521, Florida Statutes, is amended to read:

626.521 ~~Character~~, Credit and character reports.—

(1) Before appointing ~~As to each applicant who~~ for the first time in this state an ~~is applying and qualifying for a license as~~ agent, adjuster, service representative, customer representative, or managing general agent, the appointing insurer or employer shall ~~its manager or general agent in this state, in the case of agents, or the appointing general lines agent, in the case of customer representatives, or the employer, in the case of service representatives and of adjusters who are not to be self-employed, shall coincidentally with such appointment or employment~~ secure and thereafter keep on file a full detailed credit and character report ~~made by an established and reputable independent reporting service~~, relative to the individual so appointed ~~or employed~~. This subsection does not apply to licensees who self-appoint pursuant to s. 624.501.

(2) If requested by the department, the insurer, ~~manager, general agent, general lines agent~~, or employer, as the case may



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be, must ~~shall~~ furnish to the department, ~~on a form adopted and furnished by the department,~~ such information as it reasonably requires relative to such individual and investigation.

~~(3) As to an applicant for an adjuster's or reinsurance intermediary's license who is to be self-employed, the department may secure, at the cost of the applicant, a full detailed credit and character report made by an established and reputable independent reporting service relative to the applicant.~~

~~(4) Each person who for the first time in this state is applying and qualifying for a license as a reinsurance intermediary shall file with her or his application for license a full, detailed credit and character report for the 5-year period immediately prior to the date of application for license, made by an established and reputable independent reporting service, relative to the individual if a partnership or sole proprietorship, or the officers if a corporation or other legal entity.~~

~~(3)-(5)~~ Information contained in credit or character reports furnished to or secured by the department under this section is confidential and exempt from ~~the provisions of~~ s. 119.07(1).

Section 27. Paragraph (f) of subsection (1) of section 626.731, Florida Statutes, is amended to read:

626.731 Qualifications for general lines agent's license.—

(1) The department shall not grant or issue a license as general lines agent to any individual found by it to be untrustworthy or incompetent or who does not meet each of the following qualifications:

~~(f) The applicant is not a service representative, a~~



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~~managing general agent in this state, or a special agent or similar service representative of a health insurer which also transacts property, casualty, or surety insurance; except that the president, vice president, secretary, or treasurer, including a member of the board of directors, of a corporate insurer, if otherwise qualified under and meeting the requirements of this part, may be licensed and appointed as a local resident agent.~~

Section 28. Subsection (6) of section 626.7351, Florida Statutes, is amended to read:

626.7351 Qualifications for customer representative's license.—The department shall not grant or issue a license as customer representative to any individual found by it to be untrustworthy or incompetent, or who does not meet each of the following qualifications:

(6) Upon the issuance of the license applied for, the applicant is not an agent or, ~~a service representative, or a managing general agent.~~

Section 29. Section 626.744, Florida Statutes, is amended to read:

626.744 Service representatives, ~~managing general agents;~~ application for license.—The application for a license as service representative must ~~or the application for a license as managing general agent shall~~ show the applicant's name, residence address, name of employer, position or title, type of work to be performed by the applicant in this state, and any additional information which the department may reasonably require.

Section 30. Section 626.745, Florida Statutes, is amended



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to read:

626.745 Service representatives, managing general agents; managers; activities.—Individuals employed by insurers or their managers, general agents, or representatives as service representatives, and as managing general agents employed for the purpose of or engaged in assisting agents in negotiating and effecting contracts of insurance, shall engage in such activities ~~when, and only when~~ licensed as or, accompanied by a general lines ~~an~~ agent duly licensed and appointed ~~as a resident licensee and appointee~~ under this code.

Section 31. Subsection (11) of section 626.7451, Florida Statutes, is amended to read:

626.7451 Managing general agents; required contract provisions.—No person acting in the capacity of a managing general agent shall place business with an insurer unless there is in force a written contract between the parties which sets forth the responsibility for a particular function, specifies the division of responsibilities, and contains the following minimum provisions:

(11) An appointed ~~A licensed~~ managing general agent, when placing business with an insurer under this code, may charge a per-policy fee not to exceed \$25. ~~In no instance shall~~ The aggregate of per-policy fees for a placement of business authorized under this section, when combined with any other per-policy fee charged by the insurer, may not result in per-policy fees that ~~which~~ exceed the aggregate amount of \$25. The per-policy fee must ~~shall~~ be a component of the insurer's rate filing and must ~~shall~~ be fully earned.



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For the purposes of this section and ss. 626.7453 and 626.7454, the term "controlling person" or "controlling" has the meaning set forth in s. 625.012(5)(b)1., and the term "controlled person" or "controlled" has the meaning set forth in s. 625.012(5)(b)2.

Section 32. Subsection (1) of section 626.7455, Florida Statutes, is amended to read:

626.7455 Managing general agent; responsibility of insurer.—

(1) An insurer may not ~~No insurer shall~~ enter into an agreement with any person to manage the business written in this state by the general lines agents appointed by the insurer or appointed by the managing general agent on behalf of the insurer unless the person is properly licensed as an agent and appointed as a managing general agent in this state. An insurer is ~~shall~~ be responsible for the acts of its managing general agent when the agent acts within the scope of his or her authority.

Section 33. Paragraph (e) of subsection (3) and subsection (5) of section 626.752, Florida Statutes, are amended to read:

626.752 Exchange of business.—

(3)

(e) The brokering agent shall maintain an appropriate and permanent Brokering Agent's Register, which must ~~shall~~ be a permanent record of ~~bound journal in which~~ chronologically numbered transactions that are entered no later than the day in which the brokering agent's application bearing the same number is signed by the applicant. The numbers must ~~shall~~ reflect an annual aggregate through numerical sequence and be preceded by the last two digits of the current year. The initial entry must



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939 ~~shall~~ contain the number of the transaction, date, time, date of
940 binder, date on which coverage commences, name and address of
941 applicant, type of coverage desired, name of insurer binding the
942 risk or to whom the application is to be submitted, and the
943 amount of any premium collected therefor. By no later than the
944 date following policy delivery, the policy number and coverage
945 expiration date must ~~shall~~ be added to the register.

946 (5) Within 15 days after the last day of each month, any
947 insurer accepting business under this section shall report to
948 the department the name, address, telephone number, and social
949 security number of each agent from which the insurer received
950 more than four ~~24~~ personal lines risks during the calendar year,
951 except for risks being removed from the Citizens Property
952 Insurance Corporation and placed with that insurer by a
953 brokering agent. Once the insurer has reported pursuant to this
954 subsection an agent's name to the department, additional reports
955 on the same agent shall not be required. However, the fee set
956 forth in s. 624.501 must ~~shall~~ be paid for the agent by the
957 insurer for each year until the insurer notifies the department
958 that the insurer is no longer accepting business from the agent
959 pursuant to this section. The insurer may require that the agent
960 reimburse the insurer for the fee.

961 Section 34. Subsection (4) of section 626.793, Florida
962 Statutes, is amended to read:

963 626.793 Excess or rejected business.—

964 (4) Within 15 days after the last day of each month, any
965 insurer accepting business under this section shall report to
966 the department the name, address, telephone number, and social
967 security number of each agent from which the insurer received



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more than four ~~24~~ risks during the calendar year. Once the insurer has reported an agent's name to the department pursuant to this subsection, additional reports on the same agent shall not be required. However, the fee set forth in s. 624.501 must ~~shall~~ be paid for the agent by the insurer for each year until the insurer notifies the department that the insurer is no longer accepting business from the agent pursuant to this section. The insurer may require that the agent reimburse the insurer for the fee.

Section 35. Subsection (5) of section 626.837, Florida Statutes, is amended to read:

626.837 Excess or rejected business.—

(5) Within 15 days after the last day of each month, any insurer accepting business under this section shall report to the department the name, address, telephone number, and social security number of each agent from which the insurer received more than four ~~24~~ risks during the calendar year. Once the insurer has reported pursuant to this subsection an agent's name to the department, additional reports on the same agent shall not be required. However, the fee set forth in s. 624.501 must ~~shall~~ be paid for the agent by the insurer for each year until the insurer notifies the department that the insurer is no longer accepting business from the agent pursuant to this section. The insurer may require that the agent reimburse the insurer for the fee.

Section 36. Subsection (5) of section 626.8732, Florida Statutes, is amended to read:

626.8732 Nonresident public adjuster's qualifications, bond.—



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~~(5) After licensure as a nonresident public adjuster, as a condition of doing business in this state, the licensee must annually on or before January 1, on a form prescribed by the department, submit an affidavit certifying that the licensee is familiar with and understands the insurance code and rules adopted thereunder and the provisions of the contracts negotiated or to be negotiated. Compliance with this filing requirement is a condition precedent to the issuance, continuation, reinstatement, or renewal of a nonresident public adjuster's appointment.~~

Section 37. Subsection (4) of section 626.8734, Florida Statutes, is amended to read:

626.8734 Nonresident all-lines adjuster license qualifications.—

~~(4) As a condition of doing business in this state as a nonresident independent adjuster, the appointee must submit an affidavit to the department certifying that the licensee is familiar with and understands the insurance laws and administrative rules of this state and the provisions of the contracts negotiated or to be negotiated. Compliance with this filing requirement is a condition precedent to the issuance, continuation, reinstatement, or renewal of a nonresident independent adjuster's appointment.~~

Section 38. Paragraph (h) of subsection (1) of section 626.88, Florida Statutes, is amended to read:

626.88 Definitions.—For the purposes of this part, the term:

(1) "Administrator" is any person who directly or indirectly solicits or effects coverage of, collects charges or



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premiums from, or adjusts or settles claims on residents of this state in connection with authorized commercial self-insurance funds or with insured or self-insured programs which provide life or health insurance coverage or coverage of any other expenses described in s. 624.33(1) or any person who, through a health care risk contract as defined in s. 641.234 with an insurer or health maintenance organization, provides billing and collection services to health insurers and health maintenance organizations on behalf of health care providers, other than any of the following persons:

(h) A person appointed ~~licensed~~ as a managing general agent in this state, whose activities are limited exclusively to the scope of activities conveyed under such appointment ~~license~~.

A person who provides billing and collection services to health insurers and health maintenance organizations on behalf of health care providers shall comply with the provisions of ss. 627.6131, 641.3155, and 641.51(4).

Section 39. Subsection (2) of section 626.927, Florida Statutes, is amended to read:

626.927 Licensing of surplus lines agent.—

(2) Any individual, while licensed ~~as and appointed as a managing general agent as defined in s. 626.015, or service representative as defined in s. 626.015, and who otherwise possesses all of the other qualifications of a general lines agent under this code, and who has a minimum of 1 year of year's~~ experience working for a licensed surplus lines agent or who has successfully completed 60 class hours in surplus and excess lines in a course approved by the department, may, upon taking



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and successfully passing a written examination as to surplus lines, as given by the department, be licensed as a surplus lines agent solely for the purpose of placing with surplus lines insurers property, marine, casualty, or surety coverages originated by general lines agents; ~~except that no examination as for a general lines agent's license shall be required of any managing general agent or service representative who held a Florida surplus lines agent's license as of January 1, 1959.~~

Section 40. Subsection (3) of section 626.930, Florida Statutes, is amended to read:

626.930 Records of surplus lines agent.—

(3) Each surplus lines agent shall maintain all surplus lines business records in his or her general lines agency office, ~~if licensed as a general lines agent, or in his or her managing general agency office, if licensed as a managing general agent or the full-time salaried employee of such general agent.~~

Section 41. Subsection (2) of section 626.9892, Florida Statutes, is amended to read:

626.9892 Anti-Fraud Reward Program; reporting of insurance fraud.—

(2) The department may pay rewards of up to \$25,000 to persons providing information leading to the arrest and conviction of persons committing crimes investigated by the department arising from violations of s. 440.105, s. 624.15, s. 626.9541, s. 626.989, s. 790.164, s. 790.165, s. 790.166, s. 806.01, s. 806.031, s. 806.10, s. 806.111, s. 817.233, or s. 817.234.

Section 42. Subsection (3) of section 633.302, Florida



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Statutes, is amended to read:

633.302 Florida Fire Safety Board; membership; duties; meetings; officers; quorum; compensation; seal.—

(3) The State Fire Marshal's term on the board, or that of her or his designee, must ~~shall~~ coincide with the State Fire Marshal's term of office. ~~Of the other six members of the board, one member shall be appointed for a term of 1 year, one member for a term of 2 years, two members for terms of 3 years, and two members for terms of 4 years.~~ All other terms are 4 years and expire on June 30 of the last year of the term. When the term of a member expires, the State Fire Marshal shall appoint a member to fill the vacancy for a term of 4 years. The State Fire Marshal may remove any appointed member for cause. A vacancy in the membership of the board for any cause must ~~shall~~ be filled by appointment by the State Fire Marshal for the balance of the unexpired term.

Section 43. Subsection (2), paragraph (a) of subsection (3), and paragraphs (b), (c), and (d) of subsection (4) of section 633.304, Florida Statutes, are amended to read:

633.304 Fire suppression equipment; license to install or maintain.—

(2) A person who holds a valid fire equipment dealer license may maintain such license in an inactive status during which time he or she may not engage in any work under the definition of the license held. An inactive status license is ~~shall be void after 4 years or when the license is renewed, whichever comes first.~~ However, an inactive status license must be reactivated before December 31 of each odd-numbered year. An inactive status license may not be reactivated unless the



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continuing education requirements of this chapter have been fulfilled.

(3) Each individual actually performing the work of servicing, recharging, repairing, hydrotesting, installing, testing, or inspecting fire extinguishers or preengineered systems must possess a valid and subsisting permit issued by the division. Permittees are limited as to specific type of work performed to allow work no more extensive than the class of license held by the licensee under whom the permittee is working. Permits will be issued by the division as follows:

(a) Portable permit: "Portable permittee" means a person who is limited to performing work no more extensive than the employing or contractually related licensee in the servicing, recharging, repairing, installing, or inspecting all types of portable fire extinguishers.

Any fire equipment permittee licensed pursuant to this subsection who does not want to engage in servicing, inspecting, recharging, repairing, hydrotesting, or installing halon equipment must file an affidavit on a form provided by the division so stating. Permits will be issued by the division to show the work authorized thereunder. It is unlawful, unlicensed activity for a person or firm to falsely hold himself or herself out to perform any service, inspection, recharge, repair, hydrotest, or installation except as specifically described in the permit.

(4)

(b) After initial licensure, each licensee or permittee must successfully complete a course or courses of continuing



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education for fire equipment technicians of at least 16 hours. A license or permit may not be renewed unless the licensee or permittee produces documentation of the completion of at least 16 hours of continuing education for fire equipment technicians during the biennial licensure period. A person who is both a licensee and a permittee shall ~~be required to~~ complete 16 hours of continuing education during each renewal period. Each licensee shall ensure that all permittees in his or her employment or through a contractual agreement meet their continuing education requirements. The State Fire Marshal shall adopt rules describing the continuing education requirements and shall have the authority upon reasonable belief, to audit a fire equipment dealer to determine compliance with continuing education requirements.

(c) The forms of such licenses and permits and applications therefor must ~~shall~~ be prescribed by the State Fire Marshal; in addition to such other information and data as that officer determines is appropriate and required for such forms, there must ~~shall~~ be included in such forms the following matters. Each such application must be in such form as to provide that the data and other information set forth therein shall be sworn to by the applicant or, if a corporation, by an officer thereof. An application for a permit must include the name of the licensee employing, or contractually related to, such permittee, and the permit issued in pursuance of such application must also set forth the name of such licensee. A permit is valid solely for use by the holder thereof in his or her employment by, or contractual relationship with, the licensee named in the permit.

(d) A license of any class may not be issued or renewed by



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the division and a license of any class does not remain operative unless:

1. The applicant has submitted to the State Fire Marshal evidence of registration as a Florida corporation or evidence of compliance with s. 865.09.

2. The State Fire Marshal or his or her designee has by inspection determined that the applicant possesses the equipment required for the class of license sought. The State Fire Marshal shall give an applicant a reasonable opportunity to correct any deficiencies discovered by inspection. To obtain such inspection, an applicant with facilities located outside this state must:

a. Provide a notarized statement from a professional engineer licensed by the applicant's state of domicile certifying that the applicant possesses the equipment required for the class of license sought and that all such equipment is operable; or

b. Allow the State Fire Marshal or her or his designee to inspect the facility. All costs associated with the State Fire Marshal's inspection must ~~shall~~ be paid by the applicant. The State Fire Marshal, in accordance with s. 120.54, may adopt rules to establish standards for the calculation and establishment of the amount of costs associated with any inspection conducted by the State Fire Marshal under this section. Such rules must ~~shall~~ include procedures for invoicing and receiving funds in advance of the inspection.

3. The applicant has submitted to the State Fire Marshal proof of insurance providing coverage for comprehensive general liability for bodily injury and property damage, products



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liability, completed operations, and contractual liability. The State Fire Marshal shall adopt rules providing for the amounts of such coverage, but such amounts may not be less than \$300,000 for Class A or Class D licenses, \$200,000 for Class B licenses, and \$100,000 for Class C licenses; and the total coverage for any class of license held in conjunction with a Class D license may not be less than \$300,000. The State Fire Marshal may, at any time after the issuance of a license or its renewal, require upon demand, and in no event more than 30 days after notice of such demand, the licensee to provide proof of insurance, on the insurer's a form ~~provided by the State Fire Marshal~~, containing confirmation of insurance coverage as required by this chapter. Failure, for any length of time, to provide proof of insurance coverage as required must ~~shall~~ result in the immediate suspension of the license until proof of proper insurance is provided to the State Fire Marshal. An insurer that ~~which~~ provides such coverage shall notify the State Fire Marshal of any change in coverage or of any termination, cancellation, or nonrenewal of any coverage.

4. The applicant applies to the State Fire Marshal, provides proof of experience, and successfully completes a prescribed training course offered by the State Fire College or an equivalent course approved by the State Fire Marshal. This subparagraph does not apply to any holder of or applicant for a permit under paragraph (g) or to a business organization or a governmental entity seeking initial licensure or renewal of an existing license solely for the purpose of inspecting, servicing, repairing, marking, recharging, and maintaining fire extinguishers used and located on the premises of and owned by



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such organization or entity.

5. The applicant has a current retestor identification number that is appropriate for the license for which the applicant is applying and that is listed with the United States Department of Transportation.

6. The applicant has passed, with a grade of at least 70 percent, a written examination testing his or her knowledge of the rules and statutes governing the activities authorized by the license and demonstrating his or her knowledge and ability to perform those tasks in a competent, lawful, and safe manner. Such examination must ~~shall~~ be developed and administered by the State Fire Marshal, or his or her designee in accordance with policies and procedures of the State Fire Marshal. An applicant shall pay a nonrefundable examination fee of \$50 for each examination or reexamination scheduled. A reexamination may not be scheduled sooner than 30 days after any administration of an examination to an applicant. An applicant may not be permitted to take an examination for any level of license more than a total of four times during 1 year, regardless of the number of applications submitted. As a prerequisite to licensure of the applicant, he or she:

a. Must be at least 18 years of age.

b. Must have 4 years of proven experience as a fire equipment permittee at a level equal to or greater than the level of license applied for or have a combination of education and experience determined to be equivalent thereto by the State Fire Marshal. Having held a permit at the appropriate level for the required period constitutes the required experience.

c. Must not have been convicted of a felony or a crime



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punishable by imprisonment of 1 year or more under the law of the United States or of any state thereof or under the law of any other country. "Convicted" means a finding of guilt or the acceptance of a plea of guilty or nolo contendere in any federal or state court or a court in any other country, without regard to whether a judgment of conviction has been entered by the court having jurisdiction of the case. If an applicant has been convicted of any such felony, the applicant is ~~shall be~~ excluded from licensure for a period of 4 years after expiration of sentence or final release by the Florida Commission on Offender Review unless the applicant, before the expiration of the 4-year period, has received a full pardon or has had her or his civil rights restored.

This subparagraph does not apply to any holder of or applicant for a permit under paragraph (g) or to a business organization or a governmental entity seeking initial licensure or renewal of an existing license solely for the purpose of inspecting, servicing, repairing, marking, recharging, hydrotesting, and maintaining fire extinguishers used and located on the premises of and owned by such organization or entity.

Section 44. Subsection (7) of section 633.318, Florida Statutes, is amended to read:

633.318 Certificate application and issuance; permit issuance; examination and investigation of applicant.—

(7) The State Fire Marshal may, at any time subsequent to the issuance of the certificate or its renewal, require, upon demand and in no event more than 30 days after notice of the demand, the certificateholder to provide proof of insurance



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coverage on the insurer's ~~a form provided by the State Fire Marshal~~ containing confirmation of insurance coverage as required by this chapter. Failure to provide proof of insurance coverage as required, for any length of time, shall result in the immediate suspension of the certificate until proof of insurance is provided to the State Fire Marshal.

Section 45. Paragraph (b) of subsection (6) of section 633.408, Florida Statutes, is amended, and paragraph (c) is added to that subsection, to read:

633.408 Firefighter and volunteer firefighter training and certification.—

(6)

(b) A Special Certificate of Compliance only authorizes an individual to serve as an administrative and command head of a fire service provider.

1. An individual employed as a fire chief, fire coordinator, fire director, or fire administrator must obtain a Special Certificate of Compliance within 1 year after beginning employment.

2. Before beginning employment as a command officer or in a position directing incident outcomes, an individual must obtain a Certificate of Compliance or a Special Certificate of Compliance.

(c) In order to retain a Special Certificate of Compliance, every 4 years an individual must:

1. Be active as a firefighter;

2. Maintain a current and valid Fire Service Instructor Certificate, instruct at least 40 hours during the 4-year period, and provide proof of such instruction to the division,



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which proof must be registered in an electronic database
designated by the division; or

3. Within 6 months before the 4-year period expires,
successfully complete a Firefighter Retention Refresher Course
consisting of a minimum of 40 hours of training as prescribed by
rule.

Section 46. Subsection (1) of section 633.416, Florida
Statutes, is amended, present subsections (7) and (8) of that
section are redesignated as subsections (8) and (9),
respectively, and a new subsection (7) is added to that section,
to read:

633.416 Firefighter employment and volunteer firefighter
service; saving clause.—

(1) A fire service provider may not employ an individual
to:

(a) Extinguish fires for the protection of life or property
or to supervise individuals who perform such services unless the
individual holds a current and valid Firefighter Certificate of
Compliance; or

(b) Serve as the administrative and command head of a fire
service provider for a period in excess of 1 year unless the
individual holds a current and valid Firefighter Certificate of
Compliance or Special Certificate of Compliance pursuant to s.
633.408.

(7) A fire service provider may employ veterans who were
honorably discharged and who received Florida-equivalent
training. The standard of equivalency of training must be
verified by the division before such an individual's employment
begins. Such individual must obtain a Firefighter Certificate of



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Compliance within 24 months after employment.

Section 47. Paragraph (e) of subsection (1) of section 633.444, Florida Statutes, is amended to read:

633.444 Division powers and duties; Florida State Fire College.—

(1) The division, in performing its duties related to the Florida State Fire College, specified in this part, shall:

~~(e) Develop a staffing and funding formula for the Florida State Fire College. The formula must include differential funding levels for various types of programs, must be based on the number of full-time equivalent students and information obtained from scheduled attendance counts taken the first day of each program, and must provide the basis for the legislative budget request. As used in this section, a full-time equivalent student is equal to a minimum of 900 hours in a technical certificate program and 400 hours in a degree-seeking program. The funding formula must be as prescribed pursuant to s. 1011.62, must include procedures to document daily attendance, and must require that attendance records be retained for audit purposes.~~

Section 48. Subsection (8) of section 648.27, Florida Statutes, is amended to read:

648.27 Licenses and appointments; general.—

~~(8) An application for a managing general agent's license must be made by an insurer who proposes to employ or appoint an individual, partnership, association, or corporation as a managing general agent. Such application shall contain the information required by s. 626.744, and the applicant shall pay the same fee as a managing general agent licensed pursuant to~~



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~~that section.~~ An individual who is appointed as a managing
general agent to supervise or manage bail bond business written
in this state must also be licensed as a bail bond agent. In the
case of an entity, at least one owner, officer, or director at
each office location must be licensed as a bail bond agent.

Section 49. Present subsection (6) of section 648.34,
Florida Statutes, is redesignated as subsection (7), and a new
subsection (6) is added to that section, to read:

648.34 Bail bond agents; qualifications.—

(6) The requirements for completion and submission of
fingerprints under this chapter are deemed to be met when an
individual currently licensed under this chapter seeks
additional licensure and has previously submitted fingerprints
to the department in support of an application for licensure
under this chapter within the past 48 months. However, the
department may require the individual to file fingerprints if it
has reason to believe that an applicant or licensee has been
found guilty of, or pleaded guilty or nolo contendere to, a
felony or a crime related to the business of insurance in this
or any other state or jurisdiction.

Section 50. For the purpose of incorporating the amendment
made by this act to section 626.221, Florida Statutes, in a
reference thereto, paragraph (b) of subsection (1) of section
626.8734, Florida Statutes, is reenacted to read:

626.8734 Nonresident all-lines adjuster license
qualifications.—

(1) The department shall issue a license to an applicant
for a nonresident all-lines adjuster license upon determining
that the applicant has paid the applicable license fees required



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under s. 624.501 and:

(b) Has passed to the satisfaction of the department a written Florida all-lines adjuster examination of the scope prescribed in s. 626.241(6); however, the requirement for the examination does not apply to:

1. An applicant who is licensed as an all-lines adjuster in his or her home state if that state has entered into a reciprocal agreement with the department;

2. An applicant who is licensed as a nonresident all-lines adjuster in a state other than his or her home state and a reciprocal agreement with the appropriate official of the state of licensure has been entered into with the department; or

3. An applicant who holds a certification set forth in s. 626.221(2)(j).

Section 51. This act shall take effect July 1, 2018.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to the Department of Financial Services; amending s. 17.64, F.S.; providing that electronic images of warrants, vouchers, or checks in the Division of Treasury are deemed to be original records; revising the applicable medium, from film or print to electronic, in provisions relating to copies and reproductions of records and documents of the division; amending s. 20.121, F.S.; renaming the



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1432 Bureau of Fire and Arson Investigations within the
1433 Division of Investigative and Forensic Services as the
1434 Bureau of Fire, Arson, and Explosives Investigations;
1435 creating the Bureau of Insurance Fraud and the Bureau
1436 of Workers' Compensation Fraud within the division;
1437 amending s. 39.6035, F.S.; requiring certain child
1438 transition plans to address financial literacy;
1439 specifying requirements for the Department of Children
1440 and Families and community-based providers relating to
1441 a certain financial literacy curriculum offered by the
1442 department; amending s. 39.6251, F.S.; revising
1443 conditions under which certain children are eligible
1444 to remain in licensed care; amending s. 218.32, F.S.;
1445 providing legislative intent relating to the creation
1446 of the Florida Open Financial Statement System;
1447 authorizing the Chief Financial Officer to consult
1448 with certain stakeholders for input on the design and
1449 implementation of the system; specifying requirements
1450 and procedures for the Chief Financial Officer in
1451 selecting and recruiting contractors for certain
1452 purposes; requiring the Chief Financial Officer to
1453 require completion of all work by a specified date;
1454 providing that if the Chief Financial Officer deems
1455 work products adequate, all local governmental
1456 financial statements pertaining to fiscal years ending
1457 on or after a specified date must meet certain
1458 requirements; providing construction; providing an
1459 appropriation; amending s. 284.40, F.S.; authorizing
1460 the department to disclose certain personal



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1461 identifying information of injured or deceased
1462 employees which is exempt from disclosure under the
1463 Workers' Compensation Law to department-contracted
1464 vendors for certain purposes; amending s. 284.50,
1465 F.S.; requiring safety coordinators of state
1466 governmental departments to complete, within a certain
1467 timeframe, safety coordinator training offered by the
1468 department; requiring certain agencies to report
1469 certain return-to-work information to the department;
1470 requiring agencies to provide certain risk management
1471 program information to the Division of Risk Management
1472 for certain purposes; specifying requirements for
1473 agencies in reviewing and responding to certain
1474 information and communications provided by the
1475 division; amending s. 409.1451, F.S.; revising
1476 conditions under which a young adult is eligible for
1477 postsecondary education services and support under the
1478 Road-to-Independence Program; conforming a provision
1479 to changes made by the act; amending s. 414.411, F.S.;
1480 replacing the Department of Economic Opportunity with
1481 the Department of Education in a list of entities to
1482 which a public assistance recipient may be required to
1483 provide written consent for certain investigative
1484 inquiries and to which the department must report
1485 investigation results; amending s. 497.168, F.S.;
1486 providing an exemption from specified application fees
1487 for members and certain veterans of the United States
1488 Armed Forces; amending s. 497.456, F.S.; authorizing
1489 the department, on or before a specified date, to



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1490 transfer up to a specified amount from the Preneed
1491 Funeral Contract Consumer Protection Trust Fund to the
1492 Regulatory Trust Fund for a certain purpose;
1493 authorizing the department to annually transfer earned
1494 or accrued interest from the Preneed Funeral Contract
1495 Consumer Protection Trust Fund to the Regulatory Trust
1496 Fund for a certain purpose; providing for expiration;
1497 amending s. 624.317, F.S.; authorizing the department
1498 to conduct investigations of any, rather than
1499 specified, agents subject to its jurisdiction;
1500 amending s. 624.34, F.S.; conforming a provision to
1501 changes made by the act; amending s. 624.4073, F.S.;
1502 prohibiting certain officers or directors of insolvent
1503 insurers from having direct or indirect control over
1504 certain selection or appointment of officers or
1505 directors, except under certain circumstances;
1506 amending ss. 624.4094, 624.501, 624.509, and 625.071,
1507 F.S.; conforming provisions to changes made by the
1508 act; amending s. 626.112, F.S.; requiring a managing
1509 general agent to hold a currently effective producer
1510 license rather than a managing general agent license;
1511 amending s. 626.171, F.S.; deleting applicability of
1512 licensing provisions as to managing general agents;
1513 making a technical change; amending s. 626.202, F.S.;
1514 providing that certain applicants are not required to
1515 resubmit fingerprints to the department under certain
1516 circumstances; authorizing the department to require
1517 these applicants to file fingerprints under certain
1518 circumstances; providing an exemption from



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1519 fingerprinting requirements for members and certain
1520 veterans of the United States Armed Forces; requiring
1521 such members and veterans to provide certain
1522 documentation of good standing or honorable discharge;
1523 amending s. 626.207, F.S.; conforming a provision to
1524 changes made by the act; amending s. 626.221, F.S.;
1525 adding a designation that exempts applicants for
1526 licensure as an all-lines adjuster from an examination
1527 requirement; amending s. 626.451, F.S.; deleting a
1528 requirement for law enforcement agencies and state
1529 attorney's offices to notify the department or the
1530 Office of Insurance Regulation of certain felony
1531 dispositions; deleting a requirement for the state
1532 attorney to provide the department or office a
1533 certified copy of an information or indictment against
1534 a managing general agent; conforming a provision to
1535 changes made by the act; amending s. 626.521, F.S.;
1536 revising requirements for credit and character reports
1537 secured and kept by insurers or employers appointing
1538 certain insurance representatives; providing
1539 applicability; amending s. 626.731, F.S.; deleting a
1540 certain qualification for licensure as a general lines
1541 agent; amending s. 626.7351, F.S.; revising a
1542 qualification for licensure as a customer
1543 representative; amending s. 626.744, F.S.; conforming
1544 a provision to changes made by the act; amending s.
1545 626.745, F.S.; revising conditions under which service
1546 representatives and managing general agents may engage
1547 in certain activities; amending ss. 626.7451 and



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1548 626.7455, F.S.; conforming provisions to changes made
1549 by the act; amending s. 626.752, F.S.; revising a
1550 requirement for the Brokering Agent's Register
1551 maintained by brokering agents; revising the limit on
1552 certain personal lines risks an insurer may receive
1553 from an agent within a specified timeframe before the
1554 insurer must comply with certain reporting
1555 requirements for that agent; amending s. 626.793,
1556 F.S.; revising the limit on certain risks that certain
1557 insurers may receive from a life agent within a
1558 specified timeframe before the insurer must comply
1559 with certain reporting requirements for that agent;
1560 amending s. 626.837, F.S.; revising the limit on
1561 certain risks that certain insurers may receive from a
1562 health agent within a specified timeframe before the
1563 insurer must comply with certain reporting
1564 requirements for that agent; amending s. 626.8732,
1565 F.S.; deleting a requirement for a licensed
1566 nonresident public adjuster to submit a certain annual
1567 affidavit to the department; amending s. 626.8734,
1568 F.S.; deleting a requirement for a nonresident
1569 independent adjuster to submit a certain annual
1570 affidavit to the department; amending s. 626.88, F.S.;
1571 conforming a provision to changes made by the act;
1572 amending s. 626.927, F.S.; revising conditions under
1573 which an individual may be licensed as a surplus lines
1574 agent solely for the purpose of placing certain
1575 coverages with surplus lines insurers; amending s.
1576 626.930, F.S.; revising a requirement relating to the



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1577 location of a surplus lines agent's surplus lines
1578 business records; amending s. 626.9892, F.S.;
1579 authorizing the department to pay up a specified
1580 amount of rewards under the Anti-Fraud Reward Program
1581 for information leading to the arrest and conviction
1582 of persons guilty of arson; amending s. 633.302, F.S.;
1583 revising the term duration of certain members of the
1584 Florida Fire Safety Board; amending s. 633.304, F.S.;
1585 revising circumstances under which an inactive fire
1586 equipment dealer license is void; specifying the
1587 timeframe when an inactive license must be
1588 reactivated; specifying that permittees performing
1589 certain work on fire equipment may be contracted
1590 rather than employed; revising a requirement for a
1591 certain proof-of-insurance form to be provided by the
1592 insurer rather than the State Fire Marshal; amending
1593 s. 633.318, F.S.; revising a requirement for a certain
1594 proof-of-insurance form to be provided by the insurer
1595 rather than the State Fire Marshal; amending s.
1596 633.408, F.S.; specifying firefighter certification
1597 requirements for certain individuals employed in
1598 administrative and command positions of a fire service
1599 provider; specifying conditions for an individual to
1600 retain a Special Certificate of Compliance; amending
1601 s. 633.416, F.S.; authorizing fire service providers
1602 to employ honorably discharged veterans who received
1603 Florida-equivalent training; requiring the Division of
1604 State Fire Marshal to verify the equivalency of such
1605 training before the individual begins employment;



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1606 requiring such individual to obtain a Firefighter
1607 Certificate of Compliance within a specified
1608 timeframe; making a technical change; amending s.
1609 633.444, F.S.; deleting a requirement for the Division
1610 of State Fire Marshal to develop a staffing and
1611 funding formula for the Florida State Fire College;
1612 amending s. 648.27, F.S.; revising conditions under
1613 which a managing general agent must also be licensed
1614 as a bail bond agent; conforming a provision to
1615 changes made by the act; amending s. 648.34, F.S.;
1616 providing that certain individuals applying for bail
1617 bond agent licensure are not required to resubmit
1618 fingerprints to the department under certain
1619 circumstances; authorizing the department to require
1620 such individuals to file fingerprints under certain
1621 circumstances; reenacting s. 626.8734(1)(b), F.S.,
1622 relating to nonresident all-lines adjuster license
1623 qualifications, to incorporate the amendment made to
1624 s. 626.221, F.S., in a reference thereto; providing an
1625 effective date.

By Senator Stargel

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1 A bill to be entitled
 2 An act relating to the Department of Financial
 3 Services; amending s. 17.64, F.S.; providing that
 4 electronic images of warrants, vouchers, or checks in
 5 the Division of Treasury are deemed to be original
 6 records; revising the applicable medium, from film or
 7 print to electronic, in provisions relating to copies
 8 and reproductions of records and documents of the
 9 division; amending s. 20.121, F.S.; renaming the
 10 Bureau of Fire and Arson Investigations within the
 11 Division of Investigative and Forensic Services as the
 12 Bureau of Fire, Arson, and Explosives Investigations;
 13 creating the Bureau of Insurance Fraud and the Bureau
 14 of Workers' Compensation Fraud within the division;
 15 amending s. 39.6035, F.S.; requiring certain child
 16 transition plans to address financial literacy;
 17 specifying requirements for the Department of Children
 18 and Families and community-based providers relating to
 19 a certain financial literacy curriculum offered by the
 20 department; amending s. 39.6251, F.S.; revising
 21 conditions under which certain children are eligible
 22 to remain in licensed care; amending s. 284.50, F.S.;
 23 requiring safety coordinators of state governmental
 24 departments to complete, within a certain timeframe,
 25 safety coordinator training offered by the department;
 26 requiring certain agencies to report certain return-
 27 to-work information to the department; authorizing the
 28 department to disclose certain personal identifying
 29 information of injured or deceased employees which is

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30 exempt from disclosure under the Workers' Compensation
 31 Law to department-contracted vendors for certain
 32 purposes; requiring agencies to provide certain risk
 33 management program information to the Division of Risk
 34 Management for certain purposes; specifying
 35 requirements for agencies in reviewing and responding
 36 to certain information and communications provided by
 37 the division; amending s. 409.1451, F.S.; revising
 38 conditions under which a young adult is eligible for
 39 postsecondary education services and support under the
 40 Road-to-Independence Program; amending s. 414.411,
 41 F.S.; replacing the Department of Economic Opportunity
 42 with the Department of Education in a list of entities
 43 to which a public assistance recipient may be required
 44 to provide written consent for certain investigative
 45 inquiries; amending s. 497.168, F.S.; providing an
 46 exemption from specified application fees for members
 47 and certain veterans of the United States Armed
 48 Forces; requiring such members and veterans to provide
 49 certain documentation of good standing or honorable
 50 discharge; amending s. 497.456, F.S.; specifying the
 51 date before when the department must annually review
 52 the status of the Preneed Funeral Contract Consumer
 53 Protection Trust Fund; requiring the department to
 54 transfer, for certain purposes, trust fund sums in
 55 excess of a specified amount to the Regulatory Trust
 56 Fund each year; amending s. 624.317, F.S.; authorizing
 57 the department to conduct investigations of any,
 58 rather than specified, agents subject to its

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59 jurisdiction; amending ss. 624.34, 624.4094, 624.501,
 60 624.509, and 625.071, F.S.; conforming provisions to
 61 changes made by the act; amending s. 626.112, F.S.;
 62 requiring a managing general agent to hold a currently
 63 effective producer license rather than a managing
 64 general agent license; amending s. 626.171, F.S.;
 65 deleting applicability of licensing provisions as to
 66 managing general agents; making a technical change;
 67 amending s. 626.202, F.S.; providing that certain
 68 applicants are not required to resubmit fingerprints
 69 to the department under certain circumstances;
 70 authorizing the department to require these applicants
 71 to file fingerprints under certain circumstances;
 72 providing an exemption from fingerprinting
 73 requirements for members and certain veterans of the
 74 United States Armed Forces; requiring such members and
 75 veterans to provide certain documentation of good
 76 standing or honorable discharge; amending s. 626.207,
 77 F.S.; conforming a provision to changes made by the
 78 act; amending s. 626.221, F.S.; adding a designation
 79 that exempts applicants for licensure as an all-lines
 80 adjuster from an examination requirement; amending s.
 81 626.451, F.S.; deleting a requirement for law
 82 enforcement agencies and state attorney's offices to
 83 notify the department or the Office of Insurance
 84 Regulation of certain felony dispositions; deleting a
 85 requirement for the state attorney to provide the
 86 department or office a certified copy of an
 87 information or indictment against a managing general

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88 agent; conforming a provision to changes made by the
 89 act; amending s. 626.521, F.S.; revising requirements
 90 for credit and character reports secured and kept by
 91 insurers or employers appointing certain insurance
 92 representatives; amending s. 626.731, F.S.; deleting a
 93 certain qualification for licensure as a general lines
 94 agent; amending s. 626.7351, F.S.; revising a
 95 qualification for licensure as a customer
 96 representative; amending s. 626.744, F.S.; conforming
 97 a provision to changes made by the act; amending s.
 98 626.745, F.S.; revising conditions under which service
 99 representatives and managing general agents may engage
 100 in certain activities; amending ss. 626.7451 and
 101 626.7455, F.S.; conforming provisions to changes made
 102 by the act; amending s. 626.752, F.S.; revising a
 103 requirement for the Brokering Agent's Register
 104 maintained by brokering agents; revising the limit on
 105 certain personal lines risks an insurer may receive
 106 from an agent within a specified timeframe before the
 107 insurer must comply with certain reporting
 108 requirements for that agent; amending s. 626.793,
 109 F.S.; revising the limit on certain risks that certain
 110 insurers may receive from a life agent within a
 111 specified timeframe before the insurer must comply
 112 with certain reporting requirements for that agent;
 113 amending s. 626.837, F.S.; revising the limit on
 114 certain risks that certain insurers may receive from a
 115 health agent within a specified timeframe before the
 116 insurer must comply with certain reporting

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117 requirements for that agent; amending s. 626.8732,
 118 F.S.; deleting a requirement for a licensed
 119 nonresident public adjuster to submit a certain annual
 120 affidavit to the department; amending s. 626.8734,
 121 F.S.; deleting a requirement for a nonresident
 122 independent adjuster to submit a certain annual
 123 affidavit to the department; amending s. 626.88, F.S.;
 124 conforming a provision to changes made by the act;
 125 amending s. 626.927, F.S.; revising conditions under
 126 which an individual may be licensed as a surplus lines
 127 agent solely for the purpose of placing certain
 128 coverages with surplus lines insurers; amending s.
 129 626.929, F.S.; revising a condition under which a
 130 managing general agent may accept and place certain
 131 surplus lines business and compensate certain agents;
 132 amending s. 626.930, F.S.; revising a requirement
 133 relating to the location of a surplus lines agent's
 134 surplus lines business records; amending s. 626.9892,
 135 F.S.; authorizing the department to pay up a specified
 136 amount of rewards under the Anti-Fraud Reward Program
 137 for information leading to the arrest and conviction
 138 of persons guilty of arson; amending s. 633.302, F.S.;
 139 providing for an additional 4-year term for members of
 140 the Florida Fire Safety Board after their initial
 141 terms; amending s. 633.304, F.S.; revising
 142 circumstances under which an inactive fire equipment
 143 dealer license is void; specifying the timeframe when
 144 an inactive license must be reactivated; specifying
 145 that permittees performing certain work on fire

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146 equipment may be contracted rather than employed;
 147 revising a requirement for a certain proof-of-
 148 insurance form to be provided by the insurer rather
 149 than the State Fire Marshal; amending s. 633.318,
 150 F.S.; revising a requirement for a certain proof-of-
 151 insurance form to be provided by the insurer rather
 152 than the State Fire Marshal; amending s. 633.408,
 153 F.S.; specifying prerequisites and retention
 154 requirements for a Special Certificate of Compliance
 155 that authorizes an individual to serve as an
 156 administrative and command head of a fire service
 157 provider; amending s. 633.416, F.S.; authorizing fire
 158 service providers to employ individuals who received
 159 equivalent training while active in the United States
 160 Department of Defense; requiring the Division of State
 161 Fire Marshal to verify the equivalency of such
 162 training before the individual begins employment;
 163 requiring such individual to obtain a Firefighter
 164 Certificate of Compliance within a specified
 165 timeframe; making a technical change; amending s.
 166 633.444, F.S.; deleting a requirement for the Division
 167 of State Fire Marshal to develop a staffing and
 168 funding formula for the Florida State Fire College;
 169 amending s. 648.27, F.S.; revising conditions under
 170 which a managing general agent must also be licensed
 171 as a bail bond agent; conforming a provision to
 172 changes made by the act; amending s. 648.34, F.S.;
 173 providing that individuals applying for bail bond
 174 agent licensure are not required to resubmit

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175 fingerprints to the department under certain
 176 circumstances; authorizing the department to require
 177 such individuals to file fingerprints under certain
 178 circumstances; reenacting s. 626.8734(1)(b), F.S.,
 179 relating to nonresident all-lines adjuster license
 180 qualifications, to incorporate the amendment made to
 181 s. 626.221, F.S., in a reference thereto; providing an
 182 effective date.

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

186 Section 1. Section 17.64, Florida Statutes, is amended to
 187 read:

188 17.64 Division of Treasury to make reproductions of certain
 189 warrants, records, and documents.—

190 (1) Electronic images, photographs, microphotographs, or
 191 reproductions on film of warrants, vouchers, or checks are ~~shall~~
 192 ~~be~~ deemed to be original records for all purposes; and any copy
 193 or reproduction thereof ~~made from such original film~~, duly
 194 certified by the Division of Treasury as a true and correct copy
 195 or reproduction ~~made from such film~~, is ~~shall be~~ deemed to be a
 196 transcript, exemplification, or certified copy of the original
 197 warrant, voucher, or check such copy represents, and must ~~shall~~
 198 in all cases and in all courts and places be admitted and
 199 received in evidence with the like force and effect as the
 200 original thereof might be.

201 (2) The Division of Treasury may electronically photograph,
 202 ~~microphotograph, or reproduce on film~~, all records and documents
 203 of the division, as the Chief Financial Officer, in his or her

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204 discretion, selects; and the division may destroy any such
 205 documents or records after they have been reproduced
 206 electronically photographed and filed and after audit of the
 207 division has been completed for the period embracing the dates
 208 of such documents and records.

209 (3) Electronic copies ~~Photographs or microphotographs in~~
 210 ~~the form of film or prints~~ of any records made in compliance
 211 with ~~the provisions of~~ this section ~~shall~~ have the same force
 212 and effect as the originals ~~thereof would have~~, and must ~~shall~~
 213 be treated as originals for the purpose of their admissibility
 214 in evidence. Duly certified or authenticated reproductions of
 215 such electronic images must ~~photographs or microphotographs~~
 216 ~~shall~~ be admitted in evidence equally with the original
 217 electronic images ~~photographs or microphotographs~~.

218 Section 2. Paragraph (e) of subsection (2) of section
 219 20.121, Florida Statutes, is amended to read:

220 20.121 Department of Financial Services.—There is created a
 221 Department of Financial Services.

222 (2) DIVISIONS.—The Department of Financial Services shall
 223 consist of the following divisions and office:

224 (e) The Division of Investigative and Forensic Services,
 225 which shall function as a criminal justice agency for purposes
 226 of ss. 943.045-943.08. The division may conduct investigations
 227 within or outside of this state as it deems necessary. If,
 228 during an investigation, the division has reason to believe that
 229 any criminal law of this state has or may have been violated, it
 230 shall refer any records tending to show such violation to state
 231 or federal law enforcement or prosecutorial agencies and shall
 232 provide investigative assistance to those agencies as required.

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The division shall include the following bureaus and office:

1. The Bureau of Forensic Services;
2. The Bureau of Fire, ~~and~~ Arson, and Explosives

Investigations; ~~and~~

3. The Office of Fiscal Integrity, which shall have a separate budget; ~~-~~

4. The Bureau of Insurance Fraud; and
5. The Bureau of Workers' Compensation Fraud.

Section 3. Subsection (1) of section 39.6035, Florida Statutes, is amended to read:

39.6035 Transition plan.—

(1) During the 180-day period after a child reaches 17 years of age, the department and the community-based care provider, in collaboration with the caregiver and any other individual whom the child would like to include, shall assist the child in developing a transition plan. The required transition plan is in addition to standard case management requirements. The transition plan must address specific options for the child to use in obtaining services, including housing, health insurance, education, financial literacy, a driver license, and workforce support and employment services. The plan must also consider establishing and maintaining naturally occurring mentoring relationships and other personal support services. The transition plan may be as detailed as the child chooses. In developing the transition plan, the department and the community-based provider shall:

- (a) Provide the child with the documentation required pursuant to s. 39.701(3); ~~and~~
- (b) Coordinate the transition plan with the independent

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living provisions in the case plan and, for a child with disabilities, the Individuals with Disabilities Education Act transition plan; ~~and-~~

(c) Provide information for the financial literacy curriculum for foster youth offered by the Department of Financial Services, and require completion of the curriculum with a passing score before receiving aftercare services or before leaving care as attested by the child's guardian ad litem.

Section 4. Subsection (2) of section 39.6251, Florida Statutes, is amended to read:

39.6251 Continuing care for young adults.—

(2) The primary goal for a child in care is permanency. A child who is living in licensed care on his or her 18th birthday and who has not achieved permanency under s. 39.621 is eligible to remain in licensed care under the jurisdiction of the court and in the care of the department. A child is eligible to remain in licensed care if he or she ~~is~~:

- (a) Is completing secondary education or a program leading to an equivalent credential;
- (b) Is enrolled in an institution that provides postsecondary or vocational education;
- (c) Is participating in a program or activity designed to promote or eliminate barriers to employment;
- (d) Is employed for at least 80 hours per month; ~~or~~
- (e) Has completed the financial literacy curriculum for foster youth offered by the Department of Financial Services with a passing score; or
- (f) ~~(e)~~ Is unable to participate in programs or activities

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291 listed in paragraphs (a)-(d) full time due to a physical,
 292 intellectual, emotional, or psychiatric condition that limits
 293 participation. Any such barrier to participation must be
 294 supported by documentation in the child's case file or school or
 295 medical records of a physical, intellectual, or psychiatric
 296 condition that impairs the child's ability to perform one or
 297 more life activities.

298 Section 5. Section 284.50, Florida Statutes, is amended to
 299 read:

300 284.50 Loss prevention program; safety coordinators;
 301 Interagency Advisory Council on Loss Prevention; employee
 302 recognition program; return-to-work programs; disclosure of
 303 certain workers' compensation-related information by the
 304 Department of Financial Services; risk management programs.—

305 (1) The head of each department of state government, except
 306 the Legislature, shall designate a safety coordinator. Such
 307 safety coordinator must be an employee of the department and
 308 must hold a position which has responsibilities comparable to
 309 those of an employee in the Senior Management System. The
 310 Department of Financial Services shall provide appropriate
 311 training to the safety coordinators to permit them to
 312 effectively perform their duties within their respective
 313 departments. Within 1 year after being appointed by his or her
 314 department head, the safety coordinator shall complete safety
 315 coordinator training offered by the Department of Financial
 316 Services. Each safety coordinator shall, at the direction of his
 317 or her department head:

318 (a) Develop and implement the loss prevention program, a
 319 comprehensive departmental safety program which shall include a

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320 statement of safety policy and responsibility.

321 (b) Provide for regular and periodic facility and equipment
 322 inspections.

323 (c) Investigate job-related employee accidents of his or
 324 her department.

325 (d) Establish a program to promote increased safety
 326 awareness among employees.

327 (2) There shall be an Interagency Advisory Council on Loss
 328 Prevention composed of the safety coordinators from each
 329 department and representatives designated by the Division of
 330 State Fire Marshal and the Division of Risk Management. The
 331 chair of the council ~~is~~ shall be the Director of the Division of
 332 Risk Management or his or her designee. The council shall meet
 333 at least quarterly to discuss safety problems within state
 334 government, to attempt to find solutions for these problems,
 335 and, when possible, to assist in the implementation of the
 336 solutions. If the safety coordinator of a department or office
 337 is unable to attend a council meeting, an alternate, selected by
 338 the department head or his or her designee, shall attend the
 339 meeting to represent and provide input for that department or
 340 office on the council. The council is further authorized to
 341 provide for the recognition of employees, agents, and volunteers
 342 who make exceptional contributions to the reduction and control
 343 of employment-related accidents. The necessary expenses for the
 344 administration of this program of recognition shall be
 345 considered an authorized administrative expense payable from the
 346 State Risk Management Trust Fund.

347 (3) The Department of Financial Services and all agencies
 348 that are provided workers' compensation insurance coverage by

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the State Risk Management Trust Fund and employ more than 3,000 full-time employees shall establish and maintain return-to-work programs for employees who are receiving workers' compensation benefits. The programs ~~must shall~~ have the primary goal of enabling injured workers to remain at work or return to work to perform job duties within the physical or mental functional limitations and restrictions established by the workers' treating physicians. If no limitation or restriction is established in writing by a worker's treating physician, the worker ~~is shall be~~ deemed to be able to fully perform the same work duties he or she performed before the injury. Agencies employing more than 3,000 full-time employees shall report return-to-work information to the Department of Financial Services to support the Department of Financial Services' mandatory reporting requirements on agency return-to-work efforts under s. 284.42(1)(b).

(4) Notwithstanding s. 440.1851, the Department of Financial Services may disclose the personal identifying information of an injured or deceased employee to a department-contracted vendor for the purpose of ascertaining a claimant's claims history to investigate the compensability of a claim or to identify and prevent fraud.

(5)(4) The Division of Risk Management shall evaluate each agency's risk management programs, including, but not limited to, return-to-work, safety, and loss prevention programs, at least once every 5 years. Reports, including, but not limited to, any recommended corrective action, resulting from such evaluations ~~must shall~~ be provided to the head of the agency being evaluated, the Chief Financial Officer, and the director

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of the Division of Risk Management. The agency head must provide to the Division of Risk Management a response to all report recommendations within 45 days and a plan to implement any corrective action to be taken as part of the response. If the agency disagrees with any final report recommendations, including, but not limited to, any recommended corrective action, or if the agency fails to implement any recommended corrective action within a reasonable time, the division shall submit the evaluation report to the legislative appropriations committees. Each agency shall provide risk management program information to the Division of Risk Management to support the Division of Risk Management's mandatory evaluation and reporting requirements in this subsection.

(6) Each agency shall:

(a) Review information provided by the Division of Risk Management on claims and losses;

(b) Identify any discrepancies between the Division of Risk Management's records and the agency's records and report such discrepancies to the Division of Risk Management in writing; and

(c) Review and respond to communications from the Division of Risk Management identifying unsafe or inappropriate conditions, policies, procedures, trends, equipment, or actions or incidents that have led or may lead to accidents or claims involving the state.

Section 6. Paragraph (a) of subsection (2) of section 409.1451, Florida Statutes, is amended to read:

409.1451 The Road-to-Independence Program.—

(2) POSTSECONDARY EDUCATION SERVICES AND SUPPORT.—

(A) A young adult is eligible for services and support

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under this subsection if he or she:

1. Was living in licensed care on his or her 18th birthday or is currently living in licensed care; or was at least 16 years of age and was adopted from foster care or placed with a court-approved dependency guardian after spending at least 6 months in licensed care within the 12 months immediately preceding such placement or adoption;
2. Spent at least 6 months in licensed care before reaching his or her 18th birthday;
3. Earned a standard high school diploma pursuant to s. 1002.3105(5), s. 1003.4281, or s. 1003.4282, or its equivalent pursuant to s. 1003.435;
4. Has been admitted for enrollment as a full-time student or its equivalent in an eligible postsecondary educational institution as provided in s. 1009.533. For purposes of this section, the term "full-time" means 9 credit hours or the vocational school equivalent. A student may enroll part-time if he or she has a recognized disability or is faced with another challenge or circumstance that would prevent full-time attendance. A student needing to enroll part-time for any reason other than having a recognized disability must get approval from his or her academic advisor;
5. Has reached 18 years of age but is not yet 23 years of age;
6. Has applied, with assistance from the young adult's caregiver and the community-based lead agency, for any other grants and scholarships for which he or she may qualify;
7. Submitted a Free Application for Federal Student Aid which is complete and error free; ~~and~~

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8. Signed an agreement to allow the department and the community-based care lead agency access to school records; ~~and-~~
9. Has completed with a passing score the financial literacy curriculum for foster youth offered by the Department of Financial Services.

Section 7. Subsection (1) of section 414.411, Florida Statutes, is amended to read:

414.411 Public assistance fraud.—

(1) The Department of Financial Services shall investigate all public assistance provided to residents of the state or provided to others by the state. In the course of such investigation the department shall examine all records, including electronic benefits transfer records and make inquiry of all persons who may have knowledge as to any irregularity incidental to the disbursement of public moneys, food assistance, or other items or benefits authorizations to recipients. All public assistance recipients, as a condition precedent to qualification for public assistance under chapter 409, chapter 411, or this chapter, must first give in writing, to the Agency for Health Care Administration, the Department of Health, the Department of Education Economic Opportunity, and the Department of Children and Families, as appropriate, and to the Department of Financial Services, consent to make inquiry of past or present employers and records, financial or otherwise.

Section 8. Subsection (3) is added to section 497.168, Florida Statutes, to read:

497.168 Members of Armed Forces in good standing with administrative boards.—

(3) A member of the United States Armed Forces or a veteran

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465 of the United States Armed Forces who was honorably discharged
 466 within the 24-month period before the date of an application for
 467 licensure is exempt from the initial application filing fees
 468 under ss. 497.263(2)(r), 497.281(1), 497.368(1), 497.369(1),
 469 497.370(1), 497.371, 497.373(1), 497.374(1), and 497.375(1)(a).
 470 A qualified individual shall provide a copy of a military
 471 identification card, military dependent identification card,
 472 military service record, military personnel file, veteran
 473 record, Form DD-214, NGB Form 22, or separation document that
 474 indicates such member or veteran of the United States Armed
 475 Forces is currently in good standing or was honorably
 476 discharged.

477 Section 9. Subsection (12) of section 497.456, Florida
 478 Statutes, is amended to read:
 479 497.456 Preneed Funeral Contract Consumer Protection Trust
 480 Fund.—

481 (12) Notwithstanding the fee structure in subsection (2),
 482 the department shall review the status of the trust fund on or
 483 before August 31 of each year annually, and if it determines
 484 that the amount in the trust fund exceeds \$5 million, the
 485 department must transfer any funds in excess of this amount to
 486 the Regulatory Trust Fund for the purpose of providing for the
 487 payment of expenses of the licensing authority in carrying out
 488 its responsibilities under this chapter and as prescribed by
 489 rule. Additionally, if the department determines that the
 490 uncommitted trust fund balance exceeds \$1 million, the licensing
 491 authority may by rule lower the required payments to the trust
 492 fund to an amount not less than \$1 per preneed contract.

493 Section 10. Subsection (1) of section 624.317, Florida

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494 Statutes, is amended to read:

495 624.317 Investigation of agents, adjusters, administrators,
 496 service companies, and others.—If it has reason to believe that
 497 any person has violated or is violating any provision of this
 498 code, or upon the written complaint signed by any interested
 499 person indicating that any such violation may exist:

500 (1) The department shall conduct such investigation as it
 501 deems necessary of the accounts, records, documents, and
 502 transactions pertaining to or affecting the insurance affairs of
 503 any ~~general agent, surplus lines agent,~~ adjuster, ~~managing~~
 504 ~~general agent, insurance agent,~~ insurance agency, customer
 505 representative, service representative, or other person subject
 506 to its jurisdiction, subject to the requirements of s. 626.601.

507 Section 11. Subsection (2) of section 624.34, Florida
 508 Statutes, is amended to read:

509 624.34 Authority of Department of Law Enforcement to accept
 510 fingerprints of, and exchange criminal history records with
 511 respect to, certain persons.—

512 (2) The Department of Law Enforcement may accept
 513 fingerprints of individuals who apply for a license as an agent,
 514 customer representative, adjuster, service representative, or
 515 ~~navigator, or managing general agent~~ or the fingerprints of the
 516 majority owner, sole proprietor, partners, officers, and
 517 directors of a corporation or other legal entity that applies
 518 for licensure with the department or office under the Florida
 519 Insurance Code.

520 Section 12. Subsection (1) of section 624.4094, Florida
 521 Statutes, is amended to read:

522 624.4094 Bail bond premiums.—

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(1) The Legislature finds that a significant portion of bail bond premiums is retained by the licensed bail bond agents or ~~appointed licensed~~ managing general agents. For purposes of reporting in financial statements required to be filed with the office pursuant to s. 624.424, direct written premiums for bail bonds by a domestic insurer in this state shall be reported net of any amounts retained by licensed bail bond agents or appointed ~~licensed~~ managing general agents. However, in no case shall the direct written premiums for bail bonds be less than 6.5 percent of the total consideration received by the agent for all bail bonds written by the agent. This subsection also applies to any determination of compliance with s. 624.4095.

Section 13. Paragraph (e) of subsection (19) of section 624.501, Florida Statutes, is amended to read:

624.501 Filing, license, appointment, and miscellaneous fees.—The department, commission, or office, as appropriate, shall collect in advance, and persons so served shall pay to it in advance, fees, licenses, and miscellaneous charges as follows:

(19) Miscellaneous services:

(e) Insurer's registration fee for agent exchanging business more than four 24 times in a calendar year under s. 626.752, s. 626.793, or s. 626.837, registration fee per agent per year.....\$30.00

Section 14. Subsection (1) of section 624.509, Florida Statutes, is amended to read:

624.509 Premium tax; rate and computation.—

(1) In addition to the license taxes provided for in this chapter, each insurer shall also annually, and on or before

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March 1 in each year, except as to wet marine and transportation insurance taxed under s. 624.510, pay to the Department of Revenue a tax on insurance premiums, premiums for title insurance, or assessments, including membership fees and policy fees and gross deposits received from subscribers to reciprocal or interinsurance agreements, and on annuity premiums or considerations, received during the preceding calendar year, the amounts thereof to be determined as set forth in this section, to wit:

(a) An amount equal to 1.75 percent of the gross amount of such receipts on account of life and health insurance policies covering persons resident in this state and on account of all other types of policies and contracts, except annuity policies or contracts taxable under paragraph (b) and bail bond policies or contracts taxable under paragraph (c), covering property, subjects, or risks located, resident, or to be performed in this state, omitting premiums on reinsurance accepted, and less return premiums or assessments, but without deductions:

1. For reinsurance ceded to other insurers;
2. For moneys paid upon surrender of policies or certificates for cash surrender value;
3. For discounts or refunds for direct or prompt payment of premiums or assessments; and
4. On account of dividends of any nature or amount paid and credited or allowed to holders of insurance policies; certificates; or surety, indemnity, reciprocal, or interinsurance contracts or agreements;

(b) An amount equal to 1 percent of the gross receipts on annuity policies or contracts paid by holders thereof in this

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581 state; and

582 (c) An amount equal to 1.75 percent of the direct written
583 premiums for bail bonds, excluding any amounts retained by
584 licensed bail bond agents or appointed ~~licensed~~ managing general
585 agents.

586 Section 15. Section 625.071, Florida Statutes, is amended
587 to read:

588 625.071 Special reserve for bail and judicial bonds.—In
589 lieu of the unearned premium reserve required on surety bonds
590 under s. 625.051, the office may require any surety insurer or
591 limited surety insurer to set up and maintain a reserve on all
592 bail bonds or other single-premium bonds without definite
593 expiration date, furnished in judicial proceedings, equal to the
594 lesser of 35 percent of the bail premiums in force or \$7 per
595 \$1,000 of bail liability. Such reserve shall be reported as a
596 liability in financial statements required to be filed with the
597 office. Each insurer shall file a supplementary schedule showing
598 bail premiums in force and bail liability and the associated
599 special reserve for bail and judicial bonds with financial
600 statements required by s. 624.424. Bail premiums in force do not
601 include amounts retained by licensed bail bond agents or
602 appointed ~~licensed~~ managing general agents, but may not be less
603 than 6.5 percent of the total consideration received for all
604 bail bonds in force.

605 Section 16. Subsection (5) of section 626.112, Florida
606 Statutes, is amended to read:

607 626.112 License and appointment required; agents, customer
608 representatives, adjusters, insurance agencies, service
609 representatives, managing general agents.—

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610 (5) A ~~No~~ person may not ~~shall~~ be, act as, or represent or
611 hold himself or herself out to be a managing general agent
612 unless he or she then holds a currently effective producer
613 license and a managing general agent ~~license and~~ appointment.

614 Section 17. Section 626.171, Florida Statutes, is amended
615 to read:

616 626.171 Application for license as an agent, customer
617 representative, adjuster, service representative, ~~managing~~
618 ~~general agent~~, or reinsurance intermediary.—

619 (1) The department may not issue a license as agent,
620 customer representative, adjuster, service representative,
621 ~~managing general agent~~, or reinsurance intermediary to any
622 person except upon written application filed with the
623 department, meeting the qualifications for the license applied
624 for as determined by the department, and payment in advance of
625 all applicable fees. The application must be made under the oath
626 of the applicant and be signed by the applicant. An applicant
627 may permit a third party to complete, submit, and sign an
628 application on the applicant's behalf, but is responsible for
629 ensuring that the information on the application is true and
630 correct and is accountable for any misstatements or
631 misrepresentations. The department shall accept the uniform
632 application for nonresident agent licensing. The department may
633 adopt revised versions of the uniform application by rule.

634 (2) In the application, the applicant shall set forth:

635 (a) His or her full name, age, social security number,
636 residence address, business address, mailing address, contact
637 telephone numbers, including a business telephone number, and e-
638 mail address.

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(b) A statement indicating the method the applicant used or is using to meet any required prelicensing education, knowledge, experience, or instructional requirements for the type of license applied for.

(c) Whether he or she has been refused or has voluntarily surrendered or has had suspended or revoked a license to solicit insurance by the department or by the supervising officials of any state.

(d) Whether any insurer or any managing general agent claims the applicant is indebted under any agency contract or otherwise and, if so, the name of the claimant, the nature of the claim, and the applicant's defense thereto, if any.

(e) Proof that the applicant meets the requirements for the type of license for which he or she is applying.

(f) The applicant's gender (male or female).

(g) The applicant's native language.

(h) The highest level of education achieved by the applicant.

(i) The applicant's race or ethnicity (African American, white, American Indian, Asian, Hispanic, or other).

(j) Such other or additional information as the department may deem proper to enable it to determine the character, experience, ability, and other qualifications of the applicant to hold himself or herself out to the public as an insurance representative.

However, the application must contain a statement that an applicant is not required to disclose his or her race or ethnicity, gender, or native language, that he or she will not

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be penalized for not doing so, and that the department will use this information exclusively for research and statistical purposes and to improve the quality and fairness of the examinations.

(3) Each application must ~~shall~~ be accompanied by payment of any applicable fee.

(4) An applicant for a license as an agent, customer representative, adjuster, service representative, ~~managing general agent~~, or reinsurance intermediary must submit a set of the individual applicant's fingerprints, or, if the applicant is not an individual, a set of the fingerprints of the sole proprietor, majority owner, partners, officers, and directors, to the department and must pay the fingerprint processing fee set forth in s. 624.501. Fingerprints must ~~shall~~ be used to investigate the applicant's qualifications pursuant to s. 626.201. The fingerprints must ~~shall~~ be taken by a law enforcement agency, designated examination center, or other department-approved entity. The department shall require all designated examination centers to have fingerprinting equipment and to take fingerprints from any applicant or prospective applicant who pays the applicable fee. The department may not approve an application for licensure as an agent, customer service representative, adjuster, service representative, ~~managing general agent~~, or reinsurance intermediary if fingerprints have not been submitted.

(5) The application for license filing fee prescribed in s. 624.501 is not subject to refund.

(6) Members of the United States Armed Forces and their spouses, and veterans of the United States Armed Forces who have

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retired within 24 months before application for licensure, are exempt from the application filing fee prescribed in s. 624.501. Qualified individuals must provide a copy of a military identification card, military dependent identification card, military service record, military personnel file, veteran record, discharge paper, ~~or separation document~~, or a separation document that indicates such members of the United States Armed Forces are currently in good standing or were honorably discharged.

(7) Pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, each party is required to provide his or her social security number in accordance with this section. Disclosure of social security numbers obtained through this requirement must ~~shall~~ be limited to the purpose of administration of the Title IV-D program for child support enforcement.

Section 18. Section 626.202, Florida Statutes, is amended to read:

626.202 Fingerprinting requirements.—

(1) The requirements for completion and submission of fingerprints under this chapter are deemed to be met when an individual currently licensed under this chapter seeks additional licensure and has previously submitted fingerprints to the department within the past 48 months. However, the department may require the individual to file fingerprints if it has reason to believe that an applicant or licensee has been found guilty of, or pleaded guilty or nolo contendere to, a felony or a crime related to the business of insurance in this state or any other state or jurisdiction.

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(2) The requirements for completion and submission of fingerprints under this chapter are waived for members of the United States Armed Forces and veterans of the United States Armed Forces who were honorably discharged within the 24-month period before the date of an application for licensure. A qualified individual shall provide a copy of a military identification card, military service record, military personnel file, veteran record, Form DD-214, NGB Form 22, or separation document that indicates such member or veteran of the United States Armed Forces is currently in good standing or was honorably discharged.

(3) If there is a change in ownership or control of any entity licensed under this chapter, or if a new partner, officer, or director is employed or appointed, a set of fingerprints of the new owner, partner, officer, or director must be filed with the department or office within 30 days after the change. The acquisition of 10 percent or more of the voting securities of a licensed entity is considered a change of ownership or control. The fingerprints must be taken by a law enforcement agency or other department-approved entity and be accompanied by the fingerprint processing fee in s. 624.501.

Section 19. Subsection (9) of section 626.207, Florida Statutes, is amended to read:

626.207 Disqualification of applicants and licensees; penalties against licensees; rulemaking authority.—

(9) Section 112.011 does not apply to any applicants for licensure under the Florida Insurance Code, including, but not limited to, agents, agencies, adjusters, adjusting firms, or customer representatives, ~~or managing general agents.~~

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Section 20. Paragraph (j) of subsection (2) of section 626.221, Florida Statutes, is amended to read:

626.221 Examination requirement; exemptions.—

(2) However, an examination is not necessary for any of the following:

(j) An applicant for license as an all-lines adjuster who has the designation of Accredited Claims Adjuster (ACA) from a regionally accredited postsecondary institution in this state, Associate in Claims (AIC) from the Insurance Institute of America, Professional Claims Adjuster (PCA) from the Professional Career Institute, Professional Property Insurance Adjuster (PPIA) from the HurriClaim Training Academy, Certified Adjuster (CA) from ALL LINES Training, Certified Claims Adjuster (CCA) from AE21 Incorporated, Claims Adjuster Certified Professional (CACP) from WebCE, Inc., or Universal Claims Certification (UCC) from Claims and Litigation Management Alliance (CLM) whose curriculum has been approved by the department and which includes comprehensive analysis of basic property and casualty lines of insurance and testing at least equal to that of standard department testing for the all-lines adjuster license. The department shall adopt rules establishing standards for the approval of curriculum.

Section 21. Present subsections (6) and (7) of section 626.451, Florida Statutes, are redesignated as subsections (5) and (6), respectively, and subsections (1) and (5) and present subsection (6) of that section are amended, to read:

626.451 Appointment of agent or other representative.—

(1) Each appointing entity or person designated by the department to administer the appointment process appointing an

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agent, adjuster, service representative, customer representative, or managing general agent in this state shall file the appointment with the department or office and, at the same time, pay the applicable appointment fee and taxes. Every appointment ~~is shall be~~ subject to the prior issuance of the appropriate agent's, adjuster's, service representative's, or customer representative's, ~~or managing general agent's~~ license.

~~(5) Any law enforcement agency or state attorney's office that is aware that an agent, adjuster, service representative, customer representative, or managing general agent has pleaded guilty or nolo contendere to or has been found guilty of a felony shall notify the department or office of such fact.~~

(5)(6) Upon the filing of an information or indictment against an agent, adjuster, service representative, or customer representative, ~~or managing general agent~~, the state attorney shall immediately furnish the department or office a certified copy of the information or indictment.

Section 22. Section 626.521, Florida Statutes, is amended to read:

626.521 ~~Character,~~ Credit and character reports.—

(1) Before appointing ~~As to each applicant who~~ for the first time in this state ~~an is applying and qualifying for a license as~~ agent, adjuster, service representative, customer representative, or managing general agent, the appointing insurer or employer shall its manager or general agent in this state, in the case of agents, or the appointing general lines agent, in the case of customer representatives, or the employer, in the case of service representatives and of adjusters who are not to be self-employed, shall coincidentally with such

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813 ~~appointment or employment~~ secure and thereafter keep on file a
 814 full detailed credit and character report ~~made by an established~~
 815 ~~and reputable independent reporting service,~~ relative to the
 816 individual so appointed ~~or employed~~.

817 (2) If requested by the department, the insurer, ~~manager,~~
 818 ~~general agent, general lines agent,~~ or employer, as the case may
 819 be, must shall furnish to the department, ~~on a form adopted and~~
 820 ~~furnished by the department,~~ such information as it reasonably
 821 requires relative to such individual and investigation.

822 (3) ~~As to an applicant for an adjuster's or reinsurance~~
 823 ~~intermediary's license who is to be self-employed, the~~
 824 ~~department may secure, at the cost of the applicant, a full~~
 825 ~~detailed credit and character report made by an established and~~
 826 ~~reputable independent reporting service relative to the~~
 827 ~~applicant.~~

828 (4) ~~Each person who for the first time in this state is~~
 829 ~~applying and qualifying for a license as a reinsurance~~
 830 ~~intermediary shall file with her or his application for license~~
 831 ~~a full, detailed credit and character report for the 5-year~~
 832 ~~period immediately prior to the date of application for license,~~
 833 ~~made by an established and reputable independent reporting~~
 834 ~~service, relative to the individual if a partnership or sole~~
 835 ~~proprietorship, or the officers if a corporation or other legal~~
 836 ~~entity.~~

837 (3)(5) Information contained in credit or character reports
 838 furnished to or secured by the department under this section is
 839 confidential and exempt from ~~the provisions of~~ s. 119.07(1).

840 Section 23. Paragraph (f) of subsection (1) of section
 841 626.731, Florida Statutes, is amended to read:

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842 626.731 Qualifications for general lines agent's license.-

843 (1) The department shall not grant or issue a license as
 844 general lines agent to any individual found by it to be
 845 untrustworthy or incompetent or who does not meet each of the
 846 following qualifications:

847 ~~(f) The applicant is not a service representative, a~~
 848 ~~managing general agent in this state, or a special agent or~~
 849 ~~similar service representative of a health insurer which also~~
 850 ~~transacts property, casualty, or surety insurance; except that~~
 851 ~~the president, vice president, secretary, or treasurer,~~
 852 ~~including a member of the board of directors, of a corporate~~
 853 ~~insurer, if otherwise qualified under and meeting the~~
 854 ~~requirements of this part, may be licensed and appointed as a~~
 855 ~~local resident agent.~~

856 Section 24. Subsection (6) of section 626.7351, Florida
 857 Statutes, is amended to read:

858 626.7351 Qualifications for customer representative's
 859 license.-The department shall not grant or issue a license as
 860 customer representative to any individual found by it to be
 861 untrustworthy or incompetent, or who does not meet each of the
 862 following qualifications:

863 (6) Upon the issuance of the license applied for, the
 864 applicant is not an agent or, a service representative, ~~or a~~
 865 ~~managing general agent.~~

866 Section 25. Section 626.744, Florida Statutes, is amended
 867 to read:

868 626.744 Service representatives, ~~managing general agents;~~
 869 application for license.-The application for a license as
 870 service representative must ~~or the application for a license as~~

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871 ~~managing general agent shall~~ show the applicant's name,
 872 residence address, name of employer, position or title, type of
 873 work to be performed by the applicant in this state, and any
 874 additional information which the department may reasonably
 875 require.

876 Section 26. Section 626.745, Florida Statutes, is amended
 877 to read:

878 626.745 Service representatives, managing general agents;
 879 managers; activities.—Individuals employed by insurers or their
 880 managers, general agents, or representatives as service
 881 representatives, and as managing general agents employed for the
 882 purpose of or engaged in assisting agents in negotiating and
 883 effecting contracts of insurance, shall engage in such
 884 activities ~~when, and only when~~ licensed as or, accompanied by a
 885 general lines ~~an~~ agent duly licensed and appointed ~~as a resident~~
 886 ~~licensee and appointee~~ under this code.

887 Section 27. Subsection (11) of section 626.7451, Florida
 888 Statutes, is amended to read:

889 626.7451 Managing general agents; required contract
 890 provisions.—No person acting in the capacity of a managing
 891 general agent shall place business with an insurer unless there
 892 is in force a written contract between the parties which sets
 893 forth the responsibility for a particular function, specifies
 894 the division of responsibilities, and contains the following
 895 minimum provisions:

896 (11) An appointed A-licensed ~~A-licensed~~ managing general agent, when
 897 placing business with an insurer under this code, may charge a
 898 per-policy fee not to exceed \$25. ~~In no instance shall~~ The
 899 aggregate of per-policy fees for a placement of business

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900 authorized under this section, when combined with any other per-
 901 policy fee charged by the insurer, may not result in per-policy
 902 fees ~~that which~~ exceed the aggregate amount of \$25. The per-
 903 policy fee must ~~shall~~ be a component of the insurer's rate
 904 filing and must ~~shall~~ be fully earned.

906 For the purposes of this section and ss. 626.7453 and 626.7454,
 907 the term "controlling person" or "controlling" has the meaning
 908 set forth in s. 625.012(5)(b)1., and the term "controlled
 909 person" or "controlled" has the meaning set forth in s.
 910 625.012(5)(b)2.

911 Section 28. Subsection (1) of section 626.7455, Florida
 912 Statutes, is amended to read:

913 626.7455 Managing general agent; responsibility of
 914 insurer.—

915 (1) An insurer may not ~~No insurer shall~~ enter into an
 916 agreement with any person to manage the business written in this
 917 state by the general lines agents appointed by the insurer or
 918 appointed by the managing general agent on behalf of the insurer
 919 unless the person is properly licensed as an agent and appointed
 920 as a managing general agent in this state. An insurer is ~~shall~~
 921 ~~be~~ responsible for the acts of its managing general agent when
 922 the agent acts within the scope of his or her authority.

923 Section 29. Paragraph (e) of subsection (3) and subsection
 924 (5) of section 626.752, Florida Statutes, are amended to read:

925 626.752 Exchange of business.—

926 (3)

927 (e) The brokering agent shall maintain an appropriate and
 928 permanent Brokering Agent's Register, which must ~~shall~~ be a

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929 ~~permanent record of bound journal in which~~ chronologically
 930 numbered transactions ~~that~~ are entered no later than the day in
 931 which the brokering agent's application bearing the same number
 932 is signed by the applicant. The numbers must ~~shall~~ reflect an
 933 annual aggregate through numerical sequence and be preceded by
 934 the last two digits of the current year. The initial entry must
 935 ~~shall~~ contain the number of the transaction, date, time, date of
 936 binder, date on which coverage commences, name and address of
 937 applicant, type of coverage desired, name of insurer binding the
 938 risk or to whom the application is to be submitted, and the
 939 amount of any premium collected therefor. By no later than the
 940 date following policy delivery, the policy number and coverage
 941 expiration date must ~~shall~~ be added to the register.

942 (5) Within 15 days after the last day of each month, any
 943 insurer accepting business under this section shall report to
 944 the department the name, address, telephone number, and social
 945 security number of each agent from which the insurer received
 946 more than four 24 personal lines risks during the calendar year,
 947 except for risks being removed from the Citizens Property
 948 Insurance Corporation and placed with that insurer by a
 949 brokering agent. Once the insurer has reported pursuant to this
 950 subsection an agent's name to the department, additional reports
 951 on the same agent shall not be required. However, the fee set
 952 forth in s. 624.501 must ~~shall~~ be paid for the agent by the
 953 insurer for each year until the insurer notifies the department
 954 that the insurer is no longer accepting business from the agent
 955 pursuant to this section. The insurer may require that the agent
 956 reimburse the insurer for the fee.

957 Section 30. Subsection (4) of section 626.793, Florida

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958 Statutes, is amended to read:

959 626.793 Excess or rejected business.—

960 (4) Within 15 days after the last day of each month, any
 961 insurer accepting business under this section shall report to
 962 the department the name, address, telephone number, and social
 963 security number of each agent from which the insurer received
 964 more than four 24 risks during the calendar year. Once the
 965 insurer has reported an agent's name to the department pursuant
 966 to this subsection, additional reports on the same agent shall
 967 not be required. However, the fee set forth in s. 624.501 must
 968 ~~shall~~ be paid for the agent by the insurer for each year until
 969 the insurer notifies the department that the insurer is no
 970 longer accepting business from the agent pursuant to this
 971 section. The insurer may require that the agent reimburse the
 972 insurer for the fee.

973 Section 31. Subsection (5) of section 626.837, Florida
 974 Statutes, is amended to read:

975 626.837 Excess or rejected business.—

976 (5) Within 15 days after the last day of each month, any
 977 insurer accepting business under this section shall report to
 978 the department the name, address, telephone number, and social
 979 security number of each agent from which the insurer received
 980 more than four 24 risks during the calendar year. Once the
 981 insurer has reported pursuant to this subsection an agent's name
 982 to the department, additional reports on the same agent shall
 983 not be required. However, the fee set forth in s. 624.501 must
 984 ~~shall~~ be paid for the agent by the insurer for each year until
 985 the insurer notifies the department that the insurer is no
 986 longer accepting business from the agent pursuant to this

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987 section. The insurer may require that the agent reimburse the
988 insurer for the fee.

989 Section 32. Subsection (5) of section 626.8732, Florida
990 Statutes, is amended to read:

991 626.8732 Nonresident public adjuster's qualifications,
992 bond.—

993 ~~(5) After licensure as a nonresident public adjuster, as a~~
994 ~~condition of doing business in this state, the licensee must~~
995 ~~annually on or before January 1, on a form prescribed by the~~
996 ~~department, submit an affidavit certifying that the licensee is~~
997 ~~familiar with and understands the insurance code and rules~~
998 ~~adopted thereunder and the provisions of the contracts~~
999 ~~negotiated or to be negotiated. Compliance with this filing~~
1000 ~~requirement is a condition precedent to the issuance,~~
1001 ~~continuation, reinstatement, or renewal of a nonresident public~~
1002 ~~adjuster's appointment.~~

1003 Section 33. Subsection (4) of section 626.8734, Florida
1004 Statutes, is amended to read:

1005 626.8734 Nonresident all-lines adjuster license
1006 qualifications.—

1007 ~~(4) As a condition of doing business in this state as a~~
1008 ~~nonresident independent adjuster, the appointee must submit an~~
1009 ~~affidavit to the department certifying that the licensee is~~
1010 ~~familiar with and understands the insurance laws and~~
1011 ~~administrative rules of this state and the provisions of the~~
1012 ~~contracts negotiated or to be negotiated. Compliance with this~~
1013 ~~filing requirement is a condition precedent to the issuance,~~
1014 ~~continuation, reinstatement, or renewal of a nonresident~~
1015 ~~independent adjuster's appointment.~~

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1016 Section 34. Paragraph (h) of subsection (1) of section
1017 626.88, Florida Statutes, is amended to read:

1018 626.88 Definitions.—For the purposes of this part, the
1019 term:

1020 (1) "Administrator" is any person who directly or
1021 indirectly solicits or effects coverage of, collects charges or
1022 premiums from, or adjusts or settles claims on residents of this
1023 state in connection with authorized commercial self-insurance
1024 funds or with insured or self-insured programs which provide
1025 life or health insurance coverage or coverage of any other
1026 expenses described in s. 624.33(1) or any person who, through a
1027 health care risk contract as defined in s. 641.234 with an
1028 insurer or health maintenance organization, provides billing and
1029 collection services to health insurers and health maintenance
1030 organizations on behalf of health care providers, other than any
1031 of the following persons:

1032 (h) A person appointed ~~licensed~~ as a managing general agent
1033 in this state, whose activities are limited exclusively to the
1034 scope of activities conveyed under such appointment ~~license~~.

1035
1036 A person who provides billing and collection services to health
1037 insurers and health maintenance organizations on behalf of
1038 health care providers shall comply with the provisions of ss.
1039 627.6131, 641.3155, and 641.51(4).

1040 Section 35. Subsection (2) of section 626.927, Florida
1041 Statutes, is amended to read:

1042 626.927 Licensing of surplus lines agent.—

1043 (2) Any individual, while licensed as ~~and appointed as a~~
1044 ~~managing general agent as defined in s. 626.015,~~ or service

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representative as defined in s. 626.015, and who otherwise possesses all of the other qualifications of a general lines agent under this code, and who has a minimum of 1 year of year's experience working for a licensed surplus lines agent or who has successfully completed 60 class hours in surplus and excess lines in a course approved by the department, may, upon taking and successfully passing a written examination as to surplus lines, as given by the department, be licensed as a surplus lines agent solely for the purpose of placing with surplus lines insurers property, marine, casualty, or surety coverages originated by general lines agents; ~~except that no examination as for a general lines agent's license shall be required of any managing general agent or service representative who held a Florida surplus lines agent's license as of January 1, 1959.~~

Section 36. Subsection (2) of section 626.929, Florida Statutes, is amended to read:

626.929 Origination, acceptance, placement of surplus lines business.—

(2) A managing general agent, while also licensed and appointed as a surplus lines agent under this part, may accept and place solely such surplus lines business as is originated by a Florida-licensed general lines agent appointed and licensed as to the kinds of insurance involved and may compensate such agent therefor.

Section 37. Subsection (3) of section 626.930, Florida Statutes, is amended to read:

626.930 Records of surplus lines agent.—

(3) Each surplus lines agent shall maintain all surplus lines business records in his or her general lines agency

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office, ~~if licensed as a general lines agent, or in his or her managing general agency office, if licensed as a managing general agent or the full-time salaried employee of such general agent.~~

Section 38. Subsection (2) of section 626.9892, Florida Statutes, is amended to read:

626.9892 Anti-Fraud Reward Program; reporting of insurance fraud.—

(2) The department may pay rewards of up to \$25,000 to persons providing information leading to the arrest and conviction of persons committing crimes investigated by the department arising from violations of s. 440.105, s. 624.15, s. 626.9541, s. 626.989, s. 790.164, s. 790.165, s. 790.166, s. 806.01, s. 806.031, s. 806.10, s. 806.111, s. 817.233, or s. 817.234.

Section 39. Subsection (3) of section 633.302, Florida Statutes, is amended to read:

633.302 Florida Fire Safety Board; membership; duties; meetings; officers; quorum; compensation; seal.—

(3) The State Fire Marshal's term on the board, or that of her or his designee, must ~~shall~~ coincide with the State Fire Marshal's term of office. Of the other six members of the board, one member must ~~shall~~ be appointed for an initial ~~a~~ term of 1 year, one member for an initial ~~a~~ term of 2 years, two members for initial terms of 3 years, and two members for initial terms of 4 years. After the initial term, each member will have a 4-year term. All terms expire on June 30 of the last year of the term. When the term of a member expires, the State Fire Marshal shall appoint a member to fill the vacancy for a term of 4

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years. The State Fire Marshal may remove any appointed member for cause. A vacancy in the membership of the board for any cause ~~must shall~~ be filled by appointment by the State Fire Marshal for the balance of the unexpired term.

Section 40. Subsection (2), paragraph (a) of subsection (3), and paragraphs (b), (c), and (d) of subsection (4) of section 633.304, Florida Statutes, are amended to read:

633.304 Fire suppression equipment; license to install or maintain.—

(2) A person who holds a valid fire equipment dealer license may maintain such license in an inactive status during which time he or she may not engage in any work under the definition of the license held. An inactive status license is ~~shall be void after 4 years or when the license is renewed, whichever comes first.~~ However, an inactive status license must be reactivated before December 31 of each odd-numbered year. An inactive status license may not be reactivated unless the continuing education requirements of this chapter have been fulfilled.

(3) Each individual actually performing the work of servicing, recharging, repairing, hydrotesting, installing, testing, or inspecting fire extinguishers or preengineered systems must possess a valid and subsisting permit issued by the division. Permittees are limited as to specific type of work performed to allow work no more extensive than the class of license held by the licensee under whom the permittee is working. Permits will be issued by the division as follows:

(a) Portable permit: "Portable permittee" means a person who is limited to performing work no more extensive than the

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employing or contractually related licensee in the servicing, recharging, repairing, installing, or inspecting all types of portable fire extinguishers.

Any fire equipment permittee licensed pursuant to this subsection who does not want to engage in servicing, inspecting, recharging, repairing, hydrotesting, or installing halon equipment must file an affidavit on a form provided by the division so stating. Permits will be issued by the division to show the work authorized thereunder. It is unlawful, unlicensed activity for a person or firm to falsely hold himself or herself out to perform any service, inspection, recharge, repair, hydrotest, or installation except as specifically described in the permit.

(4)

(b) After initial licensure, each licensee or permittee must successfully complete a course or courses of continuing education for fire equipment technicians of at least 16 hours. A license or permit may not be renewed unless the licensee or permittee produces documentation of the completion of at least 16 hours of continuing education for fire equipment technicians during the biennial licensure period. A person who is both a licensee and a permittee shall ~~be required to~~ complete 16 hours of continuing education during each renewal period. Each licensee shall ensure that all permittees in his or her employment or through a contractual agreement meet their continuing education requirements. The State Fire Marshal shall adopt rules describing the continuing education requirements and shall have the authority upon reasonable belief, to audit a fire

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equipment dealer to determine compliance with continuing education requirements.

(c) The forms of such licenses and permits and applications therefor ~~must shall~~ be prescribed by the State Fire Marshal; in addition to such other information and data as that officer determines is appropriate and required for such forms, there ~~must shall~~ be included in such forms the following matters. Each such application must be in such form as to provide that the data and other information set forth therein shall be sworn to by the applicant or, if a corporation, by an officer thereof. An application for a permit must include the name of the licensee employing, or contractually related to, such permittee, and the permit issued in pursuance of such application must also set forth the name of such licensee. A permit is valid solely for use by the holder thereof in his or her employment by, or contractual relationship with, the licensee named in the permit.

(d) A license of any class may not be issued or renewed by the division and a license of any class does not remain operative unless:

1. The applicant has submitted to the State Fire Marshal evidence of registration as a Florida corporation or evidence of compliance with s. 865.09.

2. The State Fire Marshal or his or her designee has by inspection determined that the applicant possesses the equipment required for the class of license sought. The State Fire Marshal shall give an applicant a reasonable opportunity to correct any deficiencies discovered by inspection. To obtain such inspection, an applicant with facilities located outside this state must:

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a. Provide a notarized statement from a professional engineer licensed by the applicant's state of domicile certifying that the applicant possesses the equipment required for the class of license sought and that all such equipment is operable; or

b. Allow the State Fire Marshal or her or his designee to inspect the facility. All costs associated with the State Fire Marshal's inspection ~~must shall~~ be paid by the applicant. The State Fire Marshal, in accordance with s. 120.54, may adopt rules to establish standards for the calculation and establishment of the amount of costs associated with any inspection conducted by the State Fire Marshal under this section. Such rules ~~must shall~~ include procedures for invoicing and receiving funds in advance of the inspection.

3. The applicant has submitted to the State Fire Marshal proof of insurance providing coverage for comprehensive general liability for bodily injury and property damage, products liability, completed operations, and contractual liability. The State Fire Marshal shall adopt rules providing for the amounts of such coverage, but such amounts may not be less than \$300,000 for Class A or Class D licenses, \$200,000 for Class B licenses, and \$100,000 for Class C licenses; and the total coverage for any class of license held in conjunction with a Class D license may not be less than \$300,000. The State Fire Marshal may, at any time after the issuance of a license or its renewal, require upon demand, and in no event more than 30 days after notice of such demand, the licensee to provide proof of insurance, on the insurer's ~~a form provided by the State Fire Marshal~~, containing confirmation of insurance coverage as required by this chapter.

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Failure, for any length of time, to provide proof of insurance coverage as required ~~must shall~~ result in the immediate suspension of the license until proof of proper insurance is provided to the State Fire Marshal. An insurer ~~that which~~ provides such coverage shall notify the State Fire Marshal of any change in coverage or of any termination, cancellation, or nonrenewal of any coverage.

4. The applicant applies to the State Fire Marshal, provides proof of experience, and successfully completes a prescribed training course offered by the State Fire College or an equivalent course approved by the State Fire Marshal. This subparagraph does not apply to any holder of or applicant for a permit under paragraph (g) or to a business organization or a governmental entity seeking initial licensure or renewal of an existing license solely for the purpose of inspecting, servicing, repairing, marking, recharging, and maintaining fire extinguishers used and located on the premises of and owned by such organization or entity.

5. The applicant has a current retestor identification number that is appropriate for the license for which the applicant is applying and that is listed with the United States Department of Transportation.

6. The applicant has passed, with a grade of at least 70 percent, a written examination testing his or her knowledge of the rules and statutes governing the activities authorized by the license and demonstrating his or her knowledge and ability to perform those tasks in a competent, lawful, and safe manner. Such examination ~~must shall~~ be developed and administered by the State Fire Marshal, or his or her designee in accordance with

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policies and procedures of the State Fire Marshal. An applicant shall pay a nonrefundable examination fee of \$50 for each examination or reexamination scheduled. A reexamination may not be scheduled sooner than 30 days after any administration of an examination to an applicant. An applicant may not be permitted to take an examination for any level of license more than a total of four times during 1 year, regardless of the number of applications submitted. As a prerequisite to licensure of the applicant, he or she:

a. Must be at least 18 years of age.

b. Must have 4 years of proven experience as a fire equipment permittee at a level equal to or greater than the level of license applied for or have a combination of education and experience determined to be equivalent thereto by the State Fire Marshal. Having held a permit at the appropriate level for the required period constitutes the required experience.

c. Must not have been convicted of a felony or a crime punishable by imprisonment of 1 year or more under the law of the United States or of any state thereof or under the law of any other country. "Convicted" means a finding of guilt or the acceptance of a plea of guilty or nolo contendere in any federal or state court or a court in any other country, without regard to whether a judgment of conviction has been entered by the court having jurisdiction of the case. If an applicant has been convicted of any such felony, the applicant is ~~shall be~~ excluded from licensure for a period of 4 years after expiration of sentence or final release by the Florida Commission on Offender Review unless the applicant, before the expiration of the 4-year period, has received a full pardon or has had her or his civil

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rights restored.

This subparagraph does not apply to any holder of or applicant for a permit under paragraph (g) or to a business organization or a governmental entity seeking initial licensure or renewal of an existing license solely for the purpose of inspecting, servicing, repairing, marking, recharging, hydrotesting, and maintaining fire extinguishers used and located on the premises of and owned by such organization or entity.

Section 41. Subsection (7) of section 633.318, Florida Statutes, is amended to read:

633.318 Certificate application and issuance; permit issuance; examination and investigation of applicant.—

(7) The State Fire Marshal may, at any time subsequent to the issuance of the certificate or its renewal, require, upon demand and in no event more than 30 days after notice of the demand, the certificateholder to provide proof of insurance coverage on the insurer's a form provided by the State Fire Marshal containing confirmation of insurance coverage as required by this chapter. Failure to provide proof of insurance coverage as required, for any length of time, shall result in the immediate suspension of the certificate until proof of insurance is provided to the State Fire Marshal.

Section 42. Paragraph (b) of subsection (6) of section 633.408, Florida Statutes, is amended to read:

633.408 Firefighter and volunteer firefighter training and certification.—

(6)

(b) A Special Certificate of Compliance only authorizes an

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individual to serve as an administrative and command head of a fire service provider.

1. An individual desiring to obtain a Special Certificate of Compliance may not be employed as a fire chief, fire coordinator, fire director, or fire administrator for a period of more than 1 year without obtaining certification.

2. An individual desiring to obtain a Special Certificate of Compliance may not serve as a command officer or function in a position dictating incident outcomes or objectives before achieving certification.

3. Retention requirements for a Special Certificate of Compliance must be similar to those provided in s. 633.414.

Section 43. Subsection (1) of section 633.416, Florida Statutes, is amended, present subsections (7) and (8) of that section are redesignated as subsections (8) and (9), respectively, and a new subsection (7) is added to that section, to read:

633.416 Firefighter employment and volunteer firefighter service; saving clause.—

(1) A fire service provider may not employ an individual to:

(a) Extinguish fires for the protection of life or property or to supervise individuals who perform such services unless the individual holds a current and valid Firefighter Certificate of Compliance; or

(b) Serve as the administrative and command head of a fire service provider for a period in excess of 1 year unless the individual holds a current and valid Firefighter Certificate of Compliance or Special Certificate of Compliance pursuant to s.

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633.408.

(7) A fire service provider may employ individuals who have received equivalent training while active in the United States Department of Defense. The standard of equivalency of training must be verified by the division before such an individual's employment begins. Such individual must obtain a Firefighter Certificate of Compliance within 24 months after employment.

Section 44. Paragraph (e) of subsection (1) of section 633.444, Florida Statutes, is amended to read:

633.444 Division powers and duties; Florida State Fire College.—

(1) The division, in performing its duties related to the Florida State Fire College, specified in this part, shall:

~~(e) Develop a staffing and funding formula for the Florida State Fire College. The formula must include differential funding levels for various types of programs, must be based on the number of full-time equivalent students and information obtained from scheduled attendance counts taken the first day of each program, and must provide the basis for the legislative budget request. As used in this section, a full-time equivalent student is equal to a minimum of 900 hours in a technical certificate program and 400 hours in a degree-seeking program. The funding formula must be as prescribed pursuant to s. 1011.62, must include procedures to document daily attendance, and must require that attendance records be retained for audit purposes.~~

Section 45. Subsection (8) of section 648.27, Florida Statutes, is amended to read:

648.27 Licenses and appointments; general.—

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~~(8) An application for a managing general agent's license must be made by an insurer who proposes to employ or appoint an individual, partnership, association, or corporation as a managing general agent. Such application shall contain the information required by s. 626.744, and the applicant shall pay the same fee as a managing general agent licensed pursuant to that section.~~ An individual who is appointed as a managing general agent to supervise or manage bail bond business written in this state must also be licensed as a bail bond agent. In the case of an entity, at least one owner, officer, or director at each office location must be licensed as a bail bond agent.

Section 46. Present subsection (6) of section 648.34, Florida Statutes, is redesignated as subsection (7), and a new subsection (6) is added to that section, to read:

648.34 Bail bond agents; qualifications.—

(6) The completion and submission of fingerprints as required by this chapter are deemed to be met when an individual has previously submitted fingerprints to the department in support of an application for licensure under this chapter within the past 48 months. However, the department may require the individual to file fingerprints if it has reason to believe that an applicant or licensee has been found guilty of, or pleaded guilty or nolo contendere to, a felony or a crime related to the business of insurance in this or any other state or jurisdiction.

Section 47. For the purpose of incorporating the amendment made by this act to section 626.221, Florida Statutes, in a reference thereto, paragraph (b) of subsection (1) of section 626.8734, Florida Statutes, is reenacted to read:

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1393 626.8734 Nonresident all-lines adjuster license
1394 qualifications.—

1395 (1) The department shall issue a license to an applicant
1396 for a nonresident all-lines adjuster license upon determining
1397 that the applicant has paid the applicable license fees required
1398 under s. 624.501 and:

1399 (b) Has passed to the satisfaction of the department a
1400 written Florida all-lines adjuster examination of the scope
1401 prescribed in s. 626.241(6); however, the requirement for the
1402 examination does not apply to:

1403 1. An applicant who is licensed as an all-lines adjuster in
1404 his or her home state if that state has entered into a
1405 reciprocal agreement with the department;

1406 2. An applicant who is licensed as a nonresident all-lines
1407 adjuster in a state other than his or her home state and a
1408 reciprocal agreement with the appropriate official of the state
1409 of licensure has been entered into with the department; or

1410 3. An applicant who holds a certification set forth in s.
1411 626.221(2)(j).

1412 Section 48. This act shall take effect July 1, 2018.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Subcommittee on Finance and Tax, *Chair*
Appropriations Subcommittee on Health and Human Services, *Vice Chair*
Appropriations
Appropriations Subcommittee on Transportation, Tourism, and Economic Development
Children, Families, and Elder Affairs
Communications, Energy, and Public Utilities
Governmental Oversight and Accountability
Military and Veterans Affairs, Space, and Domestic Security

SENATOR KELLI STARGEL

Deputy Majority Leader
22nd District

January 16, 2018

The Honorable Anitere Flores
Senate Banking and Insurance Committee, Chair
320 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399

Dear Chair Flores:

I respectfully request that SB 1292, related to *Department of Financial Services*, be placed on the committee agenda at your earliest convenience.

Thank you for your consideration and please do not hesitate to contact me should you have any questions.

Sincerely,

A handwritten signature in dark ink that reads "Kelli Stargel". The signature is fluid and cursive, with a large loop at the end.

Kelli Stargel
State Senator, District 22

Cc: James Knudson/ Staff Director
Sheri Green/ AA

REPLY TO:

- ☐ 2033 East Edgewood Drive, Suite 1, Lakeland, Florida 33803 (863) 668-3028
- ☐ 322 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5022

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

1/23/18

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

1292

Meeting Date

Bill Number (if applicable)

Topic Department of Financial Services

Amendment Barcode (if applicable)

Name BG Murphy

Job Title Legislative Affairs Director

Address 200 E. Gaines Street

Phone 850-413-2890

Street

Tallahassee

FL

32303

City

State

Zip

Email bg.murphy@myfloridacfo.com

Speaking: ☒ For ☐ Against ☐ InformationWaive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Department of Financial Services

Appearing at request of Chair: ☐ Yes ☒ NoLobbyist 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)

APPEARANCE RECORD

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

Meeting Date

Bill Number (if applicable)

Topic DFS

Amendment Barcode (if applicable)

Name Corinne Mixon

Job Title Gov. Consultant

Address 119 S. Monroe

Phone 766 - 5795

Street

City

State

Zip

Email corinnemixon@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Independent Funeral Directors of Florida

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)

1/23
Meeting Date

1292
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable) _____

Name Clark Smith

Job Title _____

Address 123 S. Adams

Phone _____

Street

City

State

Zip

Tallahassee

FL

32301

Email _____

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Dignity Memorial

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)

1/23/18

Meeting Date

1292

Bill Number (if applicable)

Topic SUPPORT OF STRIKE ALL AMENDMENT

STRIKE ALL

Amendment Barcode (if applicable)

Name JOHN RICCO

Job Title EXECUTIVE DIRECTOR

Address 325 JOHN KNOX RD., L-103

Phone 800.226.3332

Street

TALLAHASSEE

FL

City

State

32303

Zip

Email _____

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FL CEMETERY CREMATION + FUNERAL ASSOC.

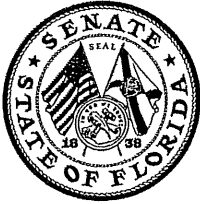
Appearing at request of Chair: ☐ Yes ☒ No

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

Tallahassee, Florida 32399-1100

SENATOR ROB BRADLEY
5th District

COMMITTEES:
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Environmental Preservation and
Conservation, *Chair*
Appropriations Subcommittee on Higher
Education
Appropriations Subcommittee on
Transportation, Tourism, and Economic
Development
Banking and Insurance
Criminal Justice
Judiciary
Rules

JOINT COMMITTEE:
Joint Legislative Budget Commission,
Alternating Chair

MEMORANDUM

To: Chair Flores: Senate Committee on Banking and Insurance
From: Senator Rob Bradley
Subject: Missed Votes **RB**
Date: January 23, 2018

Please show me voting affirmative for the following bills heard today in the Senate Committee on Banking and Insurance:

- SB 746: Senator Bean/Fl. Fire Prevention
- SB 762: Senator Mayfield/Permissible Insurance Act

Thanks so very much for the consideration you have given to my request.

Cc: Mr. James Knudson
Staff Director Senate Committee on Banking and Insurance

REPLY TO:

- ☐ 1279 Kingsley Avenue, Suite 107, Orange Park, Florida 32073 (904) 278-2085
- ☐ 414 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5005

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JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore