

**CS/SB 804** by **EP, EP (CO-INTRODUCERS) Evers**; (Compare to CS/H 7025) Fish and Wildlife Conservation

869770	A	S	RCS	BGA, Benacquisto	btw L.25 - 26:	01/26 11:22 AM
817782	A	S	RCS	BGA, Latvala	btw L.56 - 57:	01/26 11:22 AM

**SB 998** by **Negron (CO-INTRODUCERS) Norman, Evers**; (Similar to CS/1ST ENG/H 0463) Concealed Weapons or Firearms

**SB 1094** by **Hays**; (Compare to CS/H 0789) Workers' Compensation

232974	A	S		BGA, Hays	Delete L.17 - 22:	02/27 11:05 AM
711530	A	S L		BGA, Hays	btw L.26 - 27:	02/27 01:10 PM

**SB 1220** by **Garcia**; (Identical to H 4139) Repeal of Health Insurance Provisions

**SB 1346** by **Oelrich (CO-INTRODUCERS) Lynn**; (Identical to H 1127) Citizens Property Insurance Corporation

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**  
**BUDGET SUBCOMMITTEE ON GENERAL GOVERNMENT**  
**APPROPRIATIONS**  
**Senator Hays, Chair**  
**Senator Benacquisto, Vice Chair**

**MEETING DATE:** Thursday, January 26, 2012

**TIME:** 8:30 —10:00 a.m.

**PLACE:** James E. "Jim" King, Jr. Committee Room, 401 Senate Office Building

**MEMBERS:** Senator Hays, Chair; Senator Benacquisto, Vice Chair; Senators Braynon, Bullard, Diaz de la Portilla, Gibson, Jones, and Latvala

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>CS/SB 804</b> Environmental Preservation and Conservation / Environmental Preservation and Conservation (Compare H 7025)	Fish and Wildlife Conservation; Changing a funding source of the Marine Resources Conservation Trust Fund from excise taxes to vessel registration fees; removing the provision requiring that undistributed funds be carried over to the next fiscal year; repealing provisions relating to the publication of the Florida Wildlife Magazine and the Florida Wildlife Magazine Advisory Council; deleting provisions that restrict the special authorization to hunt under supervision to 1 year and that prohibit issuing the special authorization to the same person more than once; reducing the fee for soft-shell blue crab endorsements; adding to the offense severity ranking chart, to be used with the Criminal Punishment Code for sentence score, willful molestation of a commercial harvester's spiny lobster trap, line, or buoy or the unauthorized possession or removal of trap contents or trap gear, etc.  EP 12/06/2011 Fav/CS CJ 01/19/2012 Favorable BGA 01/26/2012 Fav/CS BC	Fav/CS Yeas 6 Nays 0
2	<b>SB 998</b> Negrón (Identical CS/H 463)	Concealed Weapons or Firearms; Providing for otherwise qualified members and veterans of the United States Armed Forces to be issued a concealed weapon or firearm license regardless of age or United States residency in certain circumstances; providing additional methods for the taking of fingerprints from such license applicants; providing for members and veterans of the United States Armed Forces to be granted reciprocity regardless of age, etc.  MS 01/09/2012 Favorable CJ 01/19/2012 Favorable BGA 01/26/2012 Favorable BC	Favorable Yeas 6 Nays 0
3	<b>SB 1094</b> Hays (Compare CS/H 789)	Workers' Compensation; Revising penalties applicable to employers who fail to secure the payment of workers' compensation as required, etc.  BI 01/19/2012 Favorable BGA 01/26/2012 Temporarily Postponed BC	Temporarily Postponed

**COMMITTEE MEETING EXPANDED AGENDA**Budget Subcommittee on General Government Appropriations  
Thursday, January 26, 2012, 8:30 —10:00 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	<b>SB 1220</b> Garcia (Identical H 4139)	Repeal of Health Insurance Provisions; Deleting a requirement that the Florida Health Insurance Plan's board of directors annually report to the Governor and the Legislature concerning the Florida Health Insurance Plan; deleting redundant provisions making the implementation of the plan by the board contingent upon certain appropriations; deleting a requirement that the Office of Insurance Regulation of the Department of Financial Services annually report to the Governor and the Legislature concerning the Small Employers Access Program, etc.  BI 01/19/2012 Favorable BGA 01/26/2012 Favorable BC	Favorable Yeas 6 Nays 0
5	<b>SB 1346</b> Oelrich (Identical H 1127)	Citizens Property Insurance Corporation; Reducing to 2 percent from 6 percent the amount of the projected deficit in the coastal account for the prior calendar year which is recovered through regular assessments; requiring that remaining projected deficits in personal and commercial lines accounts be recovered through emergency assessments after accounting for the Citizens policyholder surcharge; requiring the Office of Insurance Regulation of the Financial Services Commission to notify assessable insurers and the Florida Surplus Lines Service Office of the dates assessable insurers shall collect and pay emergency assessments, etc.  BI 01/19/2012 Favorable BGA 01/26/2012 Favorable BC	Favorable Yeas 6 Nays 0
6	Presentation on Florida State Owned Lands and Records Information System (FL-SOLARIS)		Presented
7	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 Budget Subcommittee on General Government Appropriations

BILL: CS/CS/SB 804

INTRODUCER: Budget Subcommittee on General Government Appropriations; Environmental Preservation and Conservation Committee; and Senator Evers

SUBJECT: Fish and Wildlife Conservation

DATE: January 26, 2012      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Wiggins</u>	<u>Yeatman</u>	<u>EP</u>	<u>Fav/CS</u>
2.	<u>Erickson</u>	<u>Cannon</u>	<u>CJ</u>	<u>Favorable</u>
3.	<u>DeLoach</u>	<u>DeLoach</u>	<u>BGA</u>	<u>Fav/CS</u>
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**Please see Section VIII. for Additional Information:**

- |                              |                                     |   |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

The bill does the following:

- Revises the distribution of the Florida panther license plate annual use fee by removing the Florida Communities Trust Fund as a recipient.
- Removes outdated references to documentary stamp tax appropriations for marine mammal care and provides for permissive use for vessel registration fees. Marine mammal care is now funded by vessel registration fees and documentary stamp taxes no longer fund marine mammal care appropriations.
- Removes the provision requiring that undistributed funds be carried over to the next fiscal year.
- Repeals the law requiring a printed version of the *Florida Wildlife* magazine, as well as dissolves the Florida Wildlife Magazine Advisory Council (Council), a seven-member group whose role is to provide advice to the Fish and Wildlife Conservation Commission (FWC) on the publication *Florida Wildlife*.

- Exempts a scuba diver who is engaged in taking or attempting to take saltwater products from having an individual fishing license if the operator of a vessel carrying the scuba diver is appropriately licensed. This provision clarifies the current practice of the FWC.
- Modifies the mentor option of the hunter safety education course, deletes the one-year deferral, and allows individuals to hunt under supervision, indefinitely, without taking the course.
- Reduces the fee for a commercial blue crab soft shell endorsement by one-half, from \$250 to \$125 for each endorsement. This will make the endorsements the same for all trap fisheries: spiny lobster, stone crab, soft shell blue crab, and hard shell blue crab.
- Ranks two third degree felony offenses in Level 5 of the offense severity ranking chart of the Criminal Punishment Code: willful molestation of a commercial harvester's spiny lobster trap, line, or buoy; and willful molestation or unauthorized possession or removal of a commercial harvester's spiny lobster trap contents or trap gear (currently these offenses are not ranked in the chart and default to a Level 1 ranking pursuant to s. 921.0023, F.S., based on the ranking assigned under that statute to a third degree felony that is not ranked in the chart). This change would allow judges to impose a sentence within the full range of sentencing for a third degree felony (up to 5 years in state prison).

This bill amends sections 320.08058, 379.208, 379.354, 379.3581, 379.366, 380.511, and 921.0022, Florida Statutes, and repeals section 379.2342(2), Florida Statutes.

## II. Present Situation:

### **Florida Panther License Plate Fee**

In 1990, the Department of Environmental Protection (DEP) was charged with developing a Florida Panther license plate. At that time, 50 percent of the proceeds from the license plate were distributed to the Florida Panther Research and Management Trust Fund in the Game and Fresh Water Fish Commission (now the FWC), and 25 percent were distributed into the Florida Communities Trust Fund within the Department of Community Affairs (DCA) to fund the administration of the Florida Communities Trust program.

In 1993, the distribution of the license plate proceeds was changed from 50 percent to 45 percent for the Florida Panther Research and Management Trust Fund and 15 percent, but not less than \$300,000, for the Florida Communities Trust Fund. Subsequently, in 1996 the distribution was changed again to 85 percent for the Florida Panther Research and Management Trust Fund; however, the distribution for the Florida Communities Trust Fund did not change.

During the 2011 Legislative Session, the legislature created the Department of Economic Opportunity, Chapter 2011-142, L.O.F., to replace the DCA, and transferred the Florida Communities Trust program from the DCA to the DEP. According to DEP, these funds are no longer necessary to administer the Florida Communities Trust program.

### **Marine Resources Conservation Trust Fund**

During the 2000 Session, the Legislature passed SB 186 which provides a fixed amount of \$2 million from documentary stamp taxes to support marine mammal care. The revenue was

appropriated on a recurring basis providing \$1.15 million for manatee rehabilitation, \$810,000 for University of Florida marine mammal veterinary training and \$40,000 for program administration. The sections of law that were modified in SB 186 (2000) were s. 201.15, F.S., pertaining to distributions of documentary stamp revenues, and s. 370.0603, F.S., pertaining to the Marine Resources Conservation Trust Fund.

In 2008, with the passage of SB 1882, the Legislature changed the fixed amount of documentary stamp revenues to a percentage of documentary stamp revenues with a \$2 million cap. The recurring appropriation remained the same (\$2 million) with the intent that when documentary stamp tax revenues dipped below \$2 million, the difference would be supported from vessel registration fees. The sections of law that were modified in SB 1882 (2008) were s. 201.15(1)(c)5, F.S., pertaining to distributions of documentary stamp revenues, and s. 370.0603, F.S., pertaining to the Marine Resources Conservation Trust Fund.

In 2009, the Legislature passed SB 1750, which eliminated the provision of documentary stamp taxes for marine mammal care. The recurring appropriation was left to be supported entirely from vessel registration fees. SB 1750 (2009) repealed s. 201.15(1)(c)5, F.S., pertaining to distributions of documentary stamp revenues; however, the residual language in s. 379.208, F.S., pertaining to the Marine Resources Trust Fund (the successor statute to s. 370.0603, F.S.), which references how those documentary stamp taxes were to be used in the Marine Resources Conservation Trust Fund, was not updated.<sup>1</sup>

### **Florida Wildlife Magazine Repeal**

The Game and Fresh Water Fish Commission, the predecessor to the FWC, first published *Florida Wildlife* magazine in 1947. It began as a monthly magazine, switching to a bi-monthly schedule in the 1970s. As the official magazine of the FWC, the goal of *Florida Wildlife* is to promote the heritage of hunting, fishing and nature-based recreation in Florida and to encourage wise stewardship of the state's fish and wildlife resources.

During the 2003 Session, the Florida Legislature concurred with the FWC's potential reductions submission to eliminate the magazine's budget and positions. There were approximately 15,000 paid subscribers at the time, and the magazine ceased accepting new and renewal subscriptions. After *Florida Wildlife* published its final issue in November-December 2003, the FWC processed approximately \$84,000 in refunds for the approximately 6,000 remaining subscribers.

During the 2004 Session, the Legislature reinstated the funding of the magazine and included statutory provisions that allowed the sale of advertising and established a seven-member Florida Wildlife Magazine Advisory Council. The Council's role was to provide advice and guidance regarding the editorial and advertising content of the magazine, as well as strategies to increase circulation and reduce costs. The first issue of the re-established *Florida Wildlife* was published in April 2005. The Council has been inactive since 2006.

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<sup>1</sup> Analysis of SB 804, Florida Fish and Wildlife Conservation Commission, dated December 2, 2011 (on file with the Committee on Environmental Preservation and Conservation). Further cited as "FWC Analysis."

During the 2011 Session, the Legislature concurred with the FWC's potential reductions submissions to eliminate the printed publication of the *Florida Wildlife* magazine. Beginning July 1, 2011, the budget for the *Florida Wildlife* magazine was permanently cut by \$240,000. Section 41 of the Implementing bill (SB 2002) states: "notwithstanding the provisions of s. 379.2342(2), F.S., for the 2011-2012 fiscal year only, the FWC shall suspend the publication of a printed version of the *Florida Wildlife* magazine and the operations of the Florida Wildlife Magazine Advisory Council." The implementing bill is tied to the annual General Appropriations Act and is, therefore, limited to adjusting statutory requirements for one year only. The 2011-12 General Appropriations Act, however, reduced the funding permanently. A statutory change is needed for the FWC to carry out the legislative intent of the permanent cut to the funding of the printed version, and to repeal the authorization of the Council.

The number of paid subscriptions to *Florida Wildlife* was approximately 4,900, as of May 2011. Those 4,900 subscribers are eligible for refunds totaling approximately \$68,000.

### **Hunter Safety**

Section 379.3581, F.S., covers the hunter safety course, requirements, and penalties. The statute covering hunter safety became law in 1991. This statute requires everyone born after June 1, 1975, to successfully complete a hunter safety course before purchasing a hunting license. Since a hunting license is required once you turn 16 years of age, it is necessary for students to take the course before turning 16-years-old.

According to the FWC, for those who fail to take the course before turning 16 years of age, it is important for them to take the course before hunting season begins in the fall when all the volunteer instructors are hunting and not teaching hunter safety courses. Over the years, there became an ever increasing number of individuals who were over 16 years of age who wanted to hunt, but waited until after hunting season started to try to purchase a license. When they discovered the hunter safety requirement, the lack of course offerings during hunting season hindered their ability to participate.<sup>2</sup>

In 2006, the hunter safety statute was amended to allow the FWC to defer the hunter safety course requirement for one year and issue a hunting license to a person allowing for only supervised hunting under certain circumstances. Anyone 16 years or older and born after May 31, 1975, can hunt under the supervision of a licensed hunter, 21 or older, without having to complete the state's hunter safety certification. The newly established "Hunter Safety Mentoring Exemption" enables those persons to purchase a Florida hunting license and hunt during a one-year trial basis. The new mentoring exemption was passed by the Legislature to help persuade more people to experience hunting. It is designed to encourage experienced hunters to teach novice hunters about safety, ethics, wildlife, hunting skills and respect for Florida's outdoors. Those who use this exemption are only eligible for this deferral for one year. After that, individuals taking advantage of this would have to take and pass a hunter safety class to be eligible to purchase a hunting license and hunt the following year.<sup>3</sup>

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<sup>2</sup> FWC Analysis.

<sup>3</sup> Florida Fish and Wildlife Conservation Commission, Hunting, Hunter Safety Mentoring Exemption, <http://myfwc.com/hunting/safety-education/mentoring/> (last visited Dec. 5, 2011).

### **Commercial Blue Crab Soft Shell Endorsement Fee**

A Saltwater Products License (SPL) is the fishing license for commercial fishermen harvesting in Florida's state waters. The SPL authorizes the licensee to fish for commercial quantities of fish, rather than recreational bag limits. Anyone may purchase an SPL. The price of the SPL is \$50 for Florida residents, \$100 for nonresidents, and \$150 for aliens.<sup>4</sup>

An endorsement is required for some fisheries in addition to the SPL. As used by the FWC, an "endorsement" gives permission to the commercial fisherman to legally harvest and/or use specific methods of commercial harvest in a particular fishery, and may be based on qualifying criteria.

During the 1998 Legislative Session, concerns about the rapidly increasing number of traps in the blue crab fishery and the resulting stress on marine natural resources resulted in a moratorium on the issuance of new blue crab endorsements. The moratorium was established to allow for the completion and adoption of a blue crab effort management program. The moratorium was extended two times and lasted until July 1, 2007.

In 2003, the FWC assembled an ad hoc 15 member industry advisory board made up of blue crab harvesters and wholesale dealers to develop an effort management program. Included in the management program would be management of the blue crab fishery, trap retrieval, research, enforcement, public education activities, and issuance of licenses, endorsements, and trap tags. The ad hoc Blue Crab Advisory Board endorsed the adoption of an effort management program that would limit the total number of participants in the fishery, and allow for an equal number of trap tags available for each endorsement issued. They further recommended separating the hard shell blue crab fishery from the soft shell blue crab fishery and the creation of a distinct endorsement for each fishery.

In order to qualify for a hard shell crab endorsement, an applicant had to demonstrate reported hard shell blue crab landings of 500 pounds on their SPL during any one of the qualifying years (license years 2000-2001, 2001-2002, or 2002-2003). In order to qualify for additional hard shell crab endorsements, applicants had to demonstrate reported landings of at least 7,500 pounds on any of their SPLs during any one of the qualifying years. Each qualified hard shell crab endorsement is allotted 600 trap tags, which can be used anywhere, and an additional 400 trap tags to be used only in offshore waters of the Gulf of Mexico.

In order to qualify for a soft shell crab endorsement, applicants had to demonstrate reported soft shell (or peeler) blue crab landings of 750 crabs on their SPL during any one of the same qualifying years (license years 2000-2001, 2001-2002, or 2002-2003). In order to qualify for an additional soft shell crab endorsement on one additional SPL, an applicant had to demonstrate reported landings of 2,500 soft shell crabs. Each qualified soft shell crab endorsement is allotted 400 trap tags with an additional 250 trap tags for a subsequent qualified endorsement. After the initial allotment, endorsements could be traded or sold between participants.

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<sup>4</sup> An "alien" is defined as a person who does not have documentation from the Immigration and Naturalization Service showing permanent residency status in the United States.

In addition to the ad hoc Blue Crab Advisory Board recommendation, the FWC elected to allow qualified commercial fishermen affected by the Net Limitation Amendment to be issued a non-transferable blue crab endorsement that is allotted 100 trap tags.

The hard and soft shell endorsements must be re-qualified every three years. To re-qualify endorsements, the holder must document crab landings in one of the three previous years. The re-qualifying amounts are the same as the amounts that qualified the applicant to obtain an endorsement originally. If the endorsement holder does not re-qualify, the endorsement is not renewed the next year and is required to be forfeited.

The FWC also addressed commercial fisheries (such as shrimp and stone crab) in which blue crab harvest is permitted as a bycatch. In the years prior to the moratorium, blue crab endorsements were provided to these commercial fisheries at no additional cost and were renewed over the years as additional fishery options. The FWC has permitted a blue crab bycatch in shrimp trawls (200 pounds per day) since 1993, and nominal amounts of blue crabs have historically been landed as bycatch from stone crab traps. Therefore, the FWC established an incidental take endorsement to allow the incidental harvest, possession, and sale of 200 pounds of blue crabs from shrimp trawls and stone crab traps.

The endorsement fees were set by the Legislature, at the recommendation of the FWC and the ad hoc Blue Crab Advisory Board, at \$125 for the hard shell crab and net limitation endorsements, \$250 for the soft shell crab endorsement, and \$25 for the incidental take endorsement. The original fee for the soft shell crab endorsement was set higher because the market value of soft shell crabs is higher and therefore the value of the endorsement to the crabber was greater. To illustrate, in 2010, the price per pound of hardshell crabs averaged \$1.16 while the price per pound of soft shell crabs was \$8.34.

In 2007, at the beginning of the current limited endorsement program, there were 152 qualified crabbers that purchased and were issued a soft shell crab endorsement, as opposed to 1,016 hard shell crab endorsements. The effort management program stipulates that only endorsements that were issued in the 2007-2008 license year can be eligible for renewal, thereby capping the number of available endorsements. Additionally, if an endorsement is not renewed by September 30 each year, the endorsement is forfeited and is removed from the fishery. Because of the cap on the fishery and the forfeiture of non-renewed licenses, the number of soft shell crab endorsements has dropped from 152 the first year of the program to 83 available to be issued for the 2012 license year. If endorsement holders wish to leave the fishery, they are able to sell or transfer their endorsement(s) to another commercial harvester; however, many have not renewed or sold their endorsements, therefore permanently reducing the number of available soft shell crab endorsements.

Once the management plan was adopted by the FWC and the Legislature passed the endorsement fees and penalties for violations, a Blue Crab Advisory Board was formally established to make recommendations on the fishery. Due to the significantly reduced number of soft shell crab endorsements, the Blue Crab Advisory Board voted unanimously in 2009 to recommend that the FWC reduce the fee for the soft shell crab endorsement from \$250 to \$125 annually.

Industry representatives from the Organized Fisherman of Florida and the Southeastern Fisheries Association, Inc., are also in favor of reducing the price of the soft shell crab endorsement.

Currently, the fees for all other commercial fishing license endorsements that allow the use of traps, spiny lobster and stone crab are set at \$125.

Section 379.366(3)(d), F.S., directs moneys generated from the sale of all blue crab endorsements (soft shell, hard shell, net limitation, and incidental take), trap tags, replacement tags, and from the assessment of administrative penalties into the Marine Resources Conservation Trust Fund (Trust Fund). Revenues are to be used for management of the fishery, trap retrieval, research, law enforcement, and public education. In Fiscal Year 2010-11, \$244,179.50 was deposited into the Trust Fund from the purchase of blue crab endorsements and blue crab trap tags.

### **Modification of the Lobster Trap Theft Penalty**

A lobster trap theft violation, including the theft of the contents or the trap itself, is a third degree felony.<sup>5</sup> The penalty for a third degree felony is up to 5 years in prison and/or up to a \$5,000 fine.<sup>6</sup> However, “[i]f a defendant is sentenced for an offense committed on or after July 1, 2009, which is a third degree felony but not a forcible felony as defined in s. 776.08, and excluding any third degree felony violation under chapter 810, and if the total sentence points pursuant to s. 921.0024 are 22 points or fewer, the court must sentence the offender to a nonstate prison sanction.”<sup>7</sup> A prison sentence can only be imposed if the court makes written findings that a nonstate prison sanction could present a danger to the public.<sup>8</sup>

A lobster trap violation would not be considered a forcible felony.

The Criminal Punishment Code is Florida’s general framework or mechanism for establishing the lowest permissible sentence.<sup>9</sup> Each noncapital felony offense is assigned an offense severity ranking level either by placement in a particular level (Levels 1-10) in the offense severity ranking chart<sup>10</sup> or based on felony degree if not ranked in the chart.<sup>11</sup> A specific number of sentence points accrue for the primary offense and any additional offense or prior offense based on ranking level. Points may also accrue for other factors. These sentence points are relevant to establishing the lowest permissible sentence.

The lobster trap violations relevant to the bill are not specifically ranked in the chart. A third degree felony not ranked in the chart is a Level 1 offense,<sup>12</sup> so the relevant lobster trap violations are Level 1 offenses. A Level 1 offense only accrues 4 sentence points.<sup>13</sup> Therefore, a prison

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<sup>5</sup> See ss. 379.367 and 379.3671, F.S.

<sup>6</sup> Sections 775.082 and 775.083, F.S.

<sup>7</sup> Section 775.082(10), F.S.

<sup>8</sup> *Id.*

<sup>9</sup> Section 921.0024, F.S.

<sup>10</sup> Section 921.0022, F.S.

<sup>11</sup> Section 921.0023, F.S.

<sup>12</sup> *Id.*

<sup>13</sup> Section 921.0024, F.S.

sentence is not available absent the exception previously noted or a significant number of additional and/or prior offenses that would allow for the judge to impose a prison sentence.

Commercial fishermen have estimated that in the 2009-2010 season the loss revenues due to trap theft or molestations were approximately \$2.7 million dollars. The Florida Keys Commercial Fishermen's Association has estimated that trap theft annual losses to fisherman represents about 8-10 percent of the total annual harvest. According to the FWC, it is difficult to apprehend/charge trap robbing offenders and sophisticated trap robbing efforts are not deterred by the current penalties.<sup>14</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 320.08058, F.S., deleting the distribution to the Florida Communities Trust Fund and directing all proceeds from the Florida Panther license plate to the Florida Panther Research and Management Trust Fund in the FWC.

**Section 2** amends s. 379.208, F.S., and removes outdated references to documentary stamp tax appropriations for marine mammal care and provides for permissive use for vessel registration fees. Vessel registration fees now fund marine mammal care and documentary stamp taxes no longer fund marine mammal care appropriations.

**Section 3** repeals s. 379.2342(2), F.S., requiring a printed version of the *Florida Wildlife* magazine, and dissolves the Florida Wildlife Magazine Advisory Council. It is the FWC's intent to provide the majority of the magazine's content on their website at no cost.

**Section 4** amends s. 379.354 (7)(a), F.S., to exempt scuba divers that engage in taking or attempting to take saltwater products from obtaining a fishing license if the operator of a vessel carrying the scuba diver is appropriately licensed.

**Section 5** amends s. 379.3581, F.S., of the hunter safety course one-year deferral, and allows individuals to hunt under supervision, indefinitely, without taking the course.

**Section 6** amends s. 379.366, F.S., to reduce the fee for a soft shell crab endorsement by one-half, from \$250 to \$125 for each endorsement, making the fee for endorsements for all trap fisheries the same. This change would take effect at the beginning of the 2012 blue crab license year, and mostly affect soft shell crab trap fishermen who operate as small businesses.

**Section 7** amends s. 380.511, F.S., to provide conforming changes made by the bill.

**Section 8** amends s. 921.0022, F.S., to rank two third degree felony offenses in Level 5 of the offense severity ranking chart of the Criminal Punishment Code: willful molestation of a commercial harvester's spiny lobster trap, line, or buoy; and willful molestation or unauthorized possession or removal of a commercial harvester's spiny lobster trap contents or trap gear (currently these offenses are not ranked in the chart and default to a Level 1 ranking pursuant to s. 921.0023, F.S., based on the ranking assigned under that statute to a third degree felony that is

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<sup>14</sup> FWC Analysis.

not ranked in the chart). This change would allow judges to impose a sentence within the full range of sentencing for a third degree felony (up to 5 years in state prison).

**Section 9** provides that, except as otherwise provided in the act, the act takes effect July 1, 2012. The amendments to s. 379.366(3)(a), F.S., by Section 4 of the bill are effective upon commencement of the 2012-2013 blue crab license year.

#### **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:

The members of the public who currently have subscriptions to Florida Wildlife will not receive all printed volumes to which they subscribed and will receive refunds. This change will provide the public with free access to magazine content in an electronic format where previously they had to pay a subscription fee for the printed magazine.

The bill would have a positive fiscal impact for commercial soft shell blue crabbers in Florida. Each commercial soft shell blue crabber would see a reduction in licensing fees of \$125 per endorsement, of which they can hold two.

The ranking of two third degree felonies involving lobster trap theft penalty will allow judges to impose a prison sanction. This change may decrease trap theft, which could reduce lost revenue related to trap theft for commercial fisherman.

C. Government Sector Impact:

The bill has a positive fiscal impact to the FWC in that it directs all proceeds from the Florida panther license plate fee to the Florida Panther Research and Management Trust Fund. Currently, 15 percent, or no less than \$300,000, of the proceeds are deposited in the Florida Communities Trust Fund in the Department of Environmental Protection

(DEP) and used to administer the Florida Communities Trust program. According to DEP the proceeds are no longer needed to administer the Florida Communities Trust program.

The bill would eliminate annual Florida Wildlife magazine subscription fees to the FWC of \$38,000. The changes the bill makes would result in a slight reduction of revenues to the State Game Trust Fund.

There are 83 current soft shell crab endorsements in the fishery. If all 83 endorsements are renewed for Fiscal Year 2011-2012, at a cost of \$125 rather than \$250, the reduction of revenue to the Marine Resources Conservation Trust Fund would be \$10,375 (4.25 percent of the monies generated from blue crab regulation). All of the blue crab revenues in the fund support the FWC's Division of Marine Fisheries Management, Fish and Wildlife Research Institute, Division of Law Enforcement, and the Office of Licensing and Permitting. The small reduction of revenue resulting from the bill would be absorbed by these entities. The cost of administrating the soft shell crab endorsement is the same as the hard shell crab and net limitation endorsements. Therefore, reducing the fee of the soft shell crab endorsement to the same price as the other two endorsements should still adequately fund the soft shell portion of the blue crab management program.

The bill ranks two lobster trap theft offenses in Level 5 of the offense severity ranking chart of the Criminal Punishment Code. The sentence points accrued for a Level 5 primary offense would allow, but not require, a prison sentence. The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation has reviewed CS/SB 804 and estimates that the bill will have an insignificant prison bed impact.

According to staff of the State Attorney's Office in Munroe County, the county which would most likely have the highest volume of prosecutions of the lobster trap theft offenses, prior to the enactment of s. 775.082(10), F.S., which limited the courts' ability to impose a prison sentence on those who commit these offenses, there was one defendant sentenced to a 3-year prison term for a theft violation.<sup>15</sup> State Attorney staff believe this was the only individual in the last five years who has served a prison term. (There were two other defendants the court sentenced to a prison term in that case but the court suspended that sentence and they will only be required to serve that term if they violate their conditions of probation.) State Attorney staff estimate that, on average, they have five to ten trap molesting cases a year and that does not necessarily mean these offenders necessarily warrant a prison sentence.

## **VI. Technical Deficiencies:**

None.

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<sup>15</sup> Information in this paragraph is from an e-mail, dated January 12, 2012, from staff of the Munroe County State Attorney's Office to staff of the House Agriculture & Natural Resources Appropriations Subcommittee (on file with the Committee on Criminal Justice).

**VII. Related Issues:**

None.

**VIII. Additional Information:**

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

**CS/CS by Budget Subcommittee on General Government Appropriations on January 26, 2012:**

- Directs all proceeds from the Florida panther license plate fee be deposited in the Florida Panther Research and Management Trust Fund in FWC.
- Provides conforming changes to the Florida Communities Trust Fund.
- Clarifies an exemption for a scuba diver who is engaged in taking or attempting to take saltwater products from having an individual fishing license if the operator of a vessel carrying the scuba diver is appropriately licensed.

**CS by Environmental Preservation and Conservation on December 6, 2011:**

The CS provides a technical fix to the Marine Resources Conservation Trust Fund. It also modifies the hunter safety education course mentor option to allow individuals to hunt under supervision, indefinitely, without taking the course. Finally, it ranks two lobster trap theft offenses, which are third degree felonies, in Level 5 of the offense severity ranking chart of the Criminal Punishment Code, which would allow judges to impose a sentence within the full range of sentencing for a third degree felony (up to 5 years in state prison).

- B. **Amendments:**

None.



869770

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/26/2012	.	
	.	
	.	
	.	

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The Committee on Budget Subcommittee on General Government Appropriations (Benacquisto) recommended the following:

**Senate Amendment (with title amendment)**

Between lines 25 and 26  
insert:

Section 1. Paragraph (b) of subsection (5) of section 320.08058, Florida Statutes, is amended to read:

320.08058 Specialty license plates.-

(5) FLORIDA PANTHER LICENSE PLATES.-

(b) The ~~department shall distribute the~~ Florida panther license plate annual use fee ~~in the following manner:~~

~~1. Eighty five percent~~ must be deposited in the Florida Panther Research and Management Trust Fund in the Fish and



869770

13 Wildlife Conservation Commission to be used for education and  
14 programs to protect the endangered Florida panther, and up to 10  
15 percent of such deposit may be used to promote and market the  
16 license plate.

17 ~~2. Fifteen percent, but no less than \$300,000, must be~~  
18 ~~deposited in the Florida Communities Trust Fund to be used~~  
19 ~~pursuant to the Florida Communities Trust Act.~~

20

21 Between lines 97 and 98

22 insert:

23 Section 6. Subsection (1) of section 380.511, Florida  
24 Statutes, is amended to read:

25 380.511 Florida Communities Trust Fund.—

26 (1) There is created the Florida Communities Trust Fund as  
27 a nonlapsing, revolving fund for projects, activities,  
28 acquisitions, and operating expenses necessary to carry out this  
29 part. The fund shall be held and administered by the trust. The  
30 following shall be credited to or deposited in the Florida  
31 Communities Trust Fund:

32 (a) All moneys and revenue from the operation, management,  
33 sale, lease, or other disposition of land, water areas, related  
34 resources, and the facilities thereon acquired or constructed  
35 under this part.

36 (b) Moneys accruing to any agency for the purposes listed  
37 in this part.

38 ~~(c) Proceeds from the sale of environmental license plates~~  
39 ~~authorized in s. 320.08058(5).~~

40 (c) ~~(d)~~ Other moneys as the Legislature authorizes.

41



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42 All moneys so deposited into the Florida Communities Trust Fund  
43 shall be trust funds for the uses and purposes set forth in this  
44 section, within the meaning of s. 215.32(1)(b); and such moneys  
45 shall not become or be commingled with the General Revenue Fund  
46 of the state, as defined by s. 215.32(1)(a).

47

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

49 And the title is amended as follows:

50 Between lines 2 and 3

51 insert:

52 amending s. 320.08058, F.S.; revising the distribution  
53 of the Florida panther license plate annual use fee by  
54 removing the Florida Communities Trust Fund as a  
55 recipient;

56

57 Delete line 16

58 and insert:

59

60 endorsements; amending s. 380.511, F.S.; conforming a  
61 reference to changes made by the act; amending s.  
62 921.0022, F.S.; adding to



817782

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/26/2012	.	
	.	
	.	
	.	

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The Committee on Budget Subcommittee on General Government Appropriations (Latvala) recommended the following:

**Senate Amendment (with title amendment)**

Between lines 56 and 57  
insert:

Section 3. Paragraph (a) of subsection (7) of section 379.354, Florida Statutes, is amended, and paragraph (f) is added to that subsection, to read:

379.354 Recreational licenses, permits, and authorization numbers; fees established.—

(7) VESSEL LICENSES.—

(a) Except as provided in paragraph (f), a ~~Ne~~ person may not operate any vessel wherein a fee is paid, either directly or



817782

13 indirectly, for the purpose of taking, attempting to take, or  
14 possessing any saltwater fish for noncommercial purposes unless  
15 she or he has obtained a license for each vessel for that  
16 purpose, and has paid the license fee pursuant to paragraphs (b)  
17 and (c) for such vessel.

18 (f) If the operator of a vessel that carries scuba divers  
19 for a fee, either directly or indirectly, maintains the  
20 appropriate vessel license under this subsection based upon the  
21 number of persons the vessel is licensed to carry and any  
22 applicable permits, the individual scuba divers engaged in  
23 taking or attempting to take saltwater products are not required  
24 to obtain individual fishing licenses and permits. However, if  
25 such vessel operator does not have the appropriate license, a  
26 scuba diver engaged in taking or attempting to take saltwater  
27 products must have individual fishing licenses and any  
28 applicable permits.

29  
30 ===== T I T L E A M E N D M E N T =====

31 And the title is amended as follows:

32 Delete line 10

33 and insert:

34 Magazine Advisory Council; amending s. 379.354, F.S.;

35 exempting a scuba diver who is engaged in taking or

36 attempting to take saltwater products from having an

37 individual fishing license if the operator of a vessel

38 carrying the scuba diver meets certain conditions;

39 amending s. 379.3581, F.S.;

By the Committees on Environmental Preservation and  
Conservation; and Environmental Preservation and Conservation

592-01540-12

2012804c1

1 A bill to be entitled  
2 An act relating to fish and wildlife conservation;  
3 amending s. 379.208, F.S.; changing a funding source  
4 of the Marine Resources Conservation Trust Fund from  
5 excise taxes to vessel registration fees; removing the  
6 provision requiring that undistributed funds be  
7 carried over to the next fiscal year; repealing s.  
8 379.2342(2), F.S., relating to the publication of the  
9 Florida Wildlife Magazine and the Florida Wildlife  
10 Magazine Advisory Council; amending s. 379.3581, F.S.;  
11 deleting provisions that restrict the special  
12 authorization to hunt under supervision to 1 year and  
13 that prohibit issuing the special authorization to the  
14 same person more than once; amending s. 379.366, F.S.;  
15 reducing the fee for soft-shell blue crab  
16 endorsements; amending s. 921.0022, F.S.; adding to  
17 the offense severity ranking chart, to be used with  
18 the Criminal Punishment Code for sentence score,  
19 willful molestation of a commercial harvester's spiny  
20 lobster trap, line, or buoy or the unauthorized  
21 possession or removal of trap contents or trap gear;  
22 providing effective dates.

23  
24 Be It Enacted by the Legislature of the State of Florida:

25  
26 Section 1. Subsection (3) of section 379.208, Florida  
27 Statutes, is amended to read:

28 379.208 Marine Resources Conservation Trust Fund;  
29 purposes.—

Page 1 of 11

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

592-01540-12

2012804c1

30 (3) Funds provided to the Marine Resources Conservation  
31 Trust Fund from vessel registration fees pursuant to s. 328.76  
32 ~~may taxes distributed under s. 201.15 shall~~ be used for the  
33 following purposes:

34 (a) To reimburse the cost of activities authorized pursuant  
35 to the Fish and Wildlife Service of the United States Department  
36 of the Interior. The facilities must be involved in the actual  
37 rescue and full-time acute care veterinarian-based  
38 rehabilitation of manatees. The cost of activities includes, but  
39 is not limited to, costs associated with expansion, capital  
40 outlay, repair, maintenance, and operation related to the  
41 rescue, treatment, stabilization, maintenance, release, and  
42 monitoring of manatees. Moneys distributed through the  
43 contractual agreement to each facility for manatee  
44 rehabilitation must be proportionate to the number of manatees  
45 under acute care rehabilitation; the number of maintenance days  
46 medically necessary in the facility; and the number released  
47 during the previous fiscal year. The commission may set a cap on  
48 the total amount reimbursed per manatee per year.

49 (b) For training on the care, treatment, and rehabilitation  
50 of marine mammals at the Whitney Laboratory and the College of  
51 Veterinary Medicine at the University of Florida.

52 (c) For program administration costs of the agency.

53 ~~(d) Funds not distributed in any 1 fiscal year must be~~  
54 ~~carried over for distribution in subsequent years.~~

55 Section 2. Subsection (2) of section 379.2342, Florida  
56 Statutes, is repealed.

57 Section 3. Paragraph (b) of subsection (2) of section  
58 379.3581, Florida Statutes, is amended to read:

Page 2 of 11

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592-01540-12 2012804c1

59 379.3581 Hunter safety course; requirements; penalty.-  
60 (2)

61 (b) A person born on or after June 1, 1975, who has not  
62 successfully completed a hunter safety course may apply to the  
63 commission for a special authorization to hunt under  
64 supervision. The special authorization for supervised hunting  
65 shall be designated on any license or permit required under this  
66 chapter for a person to take game or fur-bearing animals ~~and~~  
67 ~~shall be valid for not more than 1 year. A special authorization~~  
68 ~~for supervised hunting may not be issued more than once to the~~  
69 ~~person applying for such authorization.~~ A person issued a  
70 license with a special authorization to hunt under supervision  
71 must hunt under the supervision of, and in the presence of, a  
72 person 21 years or age or older who is licensed to hunt pursuant  
73 to s. 379.354 or who is exempt from licensing requirements or  
74 eligible for a free license pursuant to s. 379.353.

75 Section 4. Effective upon the commencement of the 2012-2013  
76 blue crab license year, paragraph (a) of subsection (3) of  
77 section 379.366, Florida Statutes, is amended to read:

78 379.366 Blue crab; regulation.-

79 (3) (a) *Endorsement fees.*-

80 1. The fee for a hard-shell blue crab endorsement for the  
81 taking of hard-shell blue crabs, as authorized by rule of the  
82 commission, is \$125, \$25 of which must be used solely for the  
83 trap retrieval program authorized under s. 379.2424 and in  
84 commission rules.

85 2. The fee for a soft-shell blue crab endorsement for the  
86 taking of soft-shell blue crabs, as authorized by rule of the  
87 commission, is \$125 ~~\$250~~, \$25 of which must be used solely for

592-01540-12 2012804c1

88 the trap retrieval program authorized under s. 379.2424 and in  
89 commission rules.

90 3. The fee for a nontransferable hard-shell blue crab  
91 endorsement for the taking of hard-shell blue crabs, as  
92 authorized by rule of the commission, is \$125, \$25 of which must  
93 be used solely for the trap retrieval program authorized under  
94 s. 379.2424 and in commission rules.

95 4. The fee for an incidental take blue crab endorsement for  
96 the taking of blue crabs as bycatch in shrimp trawls and stone  
97 crab traps is \$25, as authorized in commission rules.

98 Section 5. Paragraph (e) of subsection (3) of section  
99 921.0022, Florida Statutes, is amended to read:

100 921.0022 Criminal Punishment Code; offense severity ranking  
101 chart.-

102 (3) OFFENSE SEVERITY RANKING CHART

103 (e) LEVEL 5

Florida Statute	Felony Degree	Description
316.027(1) (a)	3rd	Accidents involving personal injuries, failure to stop; leaving scene.
316.1935(4) (a)	2nd	Aggravated fleeing or eluding.
322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
327.30(5)	3rd	Vessel accidents involving personal

592-01540-12 2012804c1  
 injury; leaving scene.

108 379.367(4) 3rd Willful molestation of a commercial  
harvester's spiny lobster trap, line, or  
buoy.

109 379.3671(2)(c)3. 3rd Willful molestation or unauthorized  
possession or removal of a commercial  
harvester's spiny lobster trap contents  
or trap gear.

110 381.0041(11)(b) 3rd Donate blood, plasma, or organs knowing  
 HIV positive.

111 440.10(1)(g) 2nd Failure to obtain workers' compensation  
 coverage.

112 440.105(5) 2nd Unlawful solicitation for the purpose of  
 making workers' compensation claims.

113 440.381(2) 2nd Submission of false, misleading, or  
 incomplete information with the purpose  
 of avoiding or reducing workers'  
 compensation premiums.

114 624.401(4)(b)2. 2nd Transacting insurance without a  
 certificate or authority; premium  
 collected \$20,000 or more but less than  
 \$100,000.

Page 5 of 11

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115 626.902(1)(c) 2nd Representing an unauthorized insurer;  
 repeat offender.

116 790.01(2) 3rd Carrying a concealed firearm.

117 790.162 2nd Threat to throw or discharge destructive  
 device.

118 790.163(1) 2nd False report of deadly explosive or  
 weapon of mass destruction.

119 790.221(1) 2nd Possession of short-barreled shotgun or  
 machine gun.

120 790.23 2nd Felons in possession of firearms,  
 ammunition, or electronic weapons or  
 devices.

121 800.04(6)(c) 3rd Lewd or lascivious conduct; offender  
 less than 18 years.

122 800.04(7)(b) 2nd Lewd or lascivious exhibition; offender  
 18 years or older.

123 806.111(1) 3rd Possess, manufacture, or dispense fire  
 bomb with intent to damage any structure  
 or property.

124

Page 6 of 11

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	812.0145(2)(b)	2nd	Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.
125			
	812.015(8)	3rd	Retail theft; property stolen is valued at \$300 or more and one or more specified acts.
126			
	812.019(1)	2nd	Stolen property; dealing in or trafficking in.
127			
	812.131(2)(b)	3rd	Robbery by sudden snatching.
128			
	812.16(2)	3rd	Owning, operating, or conducting a chop shop.
129			
	817.034(4)(a)2.	2nd	Communications fraud, value \$20,000 to \$50,000.
130			
	817.234(11)(b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.
131			
	817.2341(1), (2)(a) & (3)(a)	3rd	Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.
132			
	817.568(2)(b)	2nd	Fraudulent use of personal

Page 7 of 11

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	592-01540-12		2012804c1
			identification information; value of benefit, services received, payment avoided, or amount of injury or fraud, \$5,000 or more or use of personal identification information of 10 or more individuals.
133			
	817.625(2)(b)	2nd	Second or subsequent fraudulent use of scanning device or reencoder.
134			
	825.1025(4)	3rd	Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
135			
	827.071(4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.
136			
	827.071(5)	3rd	Possess, control, or intentionally view any photographic material, motion picture, etc., which includes sexual conduct by a child.
137			
	839.13(2)(b)	2nd	Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.
138			
	843.01	3rd	Resist officer with violence to person;

Page 8 of 11

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592-01540-12 2012804c1  
 resist arrest with violence.

139 847.0135(5)(b) 2nd Lewd or lascivious exhibition using  
 computer; offender 18 years or older.

140 847.0137 3rd Transmission of pornography by  
 (2) & (3) electronic device or equipment.

141 847.0138 3rd Transmission of material harmful to  
 (2) & (3) minors to a minor by electronic device  
 or equipment.

142 874.05(2) 2nd Encouraging or recruiting another to  
 join a criminal gang; second or  
 subsequent offense.

143 893.13(1)(a)1. 2nd Sell, manufacture, or deliver cocaine  
 (or other s. 893.03(1)(a), (1)(b),  
 (1)(d), (2)(a), (2)(b), or (2)(c)4.  
 drugs).

144 893.13(1)(c)2. 2nd Sell, manufacture, or deliver cannabis  
 (or other s. 893.03(1)(c), (2)(c)1.,  
 (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,  
 (2)(c)7., (2)(c)8., (2)(c)9., (3), or  
 (4) drugs) within 1,000 feet of a child  
 care facility, school, or state, county,  
 or municipal park or publicly owned  
 recreational facility or community

592-01540-12 2012804c1  
 center.

145 893.13(1)(d)1. 1st Sell, manufacture, or deliver cocaine  
 (or other s. 893.03(1)(a), (1)(b),  
 (1)(d), (2)(a), (2)(b), or (2)(c)4.  
 drugs) within 1,000 feet of university.

146 893.13(1)(e)2. 2nd Sell, manufacture, or deliver cannabis  
 or other drug prohibited under s.  
 893.03(1)(c), (2)(c)1., (2)(c)2.,  
 (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7.,  
 (2)(c)8., (2)(c)9., (3), or (4) within  
 1,000 feet of property used for  
 religious services or a specified  
 business site.

147 893.13(1)(f)1. 1st Sell, manufacture, or deliver cocaine  
 (or other s. 893.03(1)(a), (1)(b),  
 (1)(d), or (2)(a), (2)(b), or (2)(c)4.  
 drugs) within 1,000 feet of public  
 housing facility.

148 893.13(4)(b) 2nd Deliver to minor cannabis (or other s.  
 893.03(1)(c), (2)(c)1., (2)(c)2.,  
 (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7.,  
 (2)(c)8., (2)(c)9., (3), or (4) drugs).

149 893.1351(1) 3rd Ownership, lease, or rental for  
 trafficking in or manufacturing of

592-01540-12

2012804c1

controlled substance.

150  
151  
152

Section 6. Except as otherwise expressly provided in this  
act, this act shall take effect July 1, 2012.



# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:  
Environmental Preservation and Conservation,  
*Chair*  
Criminal Justice, *Vice Chair*  
Budget - Subcommittee on Transportation, Tourism,  
and Economic Development Appropriations  
Governmental Oversight and Accountability  
Reapportionment  
Regulated Industries

SENATOR CHARLES S. DEAN, SR.  
3rd District

January 23, 2012

The Honorable Alan Hays  
324 Senate Office Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100

Dear Mr. Chairman:

I respectfully request you place the Committee Substitute for Senate Bill 804, relating to Fish and Wildlife Conservation, on your General Government Appropriations Subcommittee agenda at your earliest convenience.

If you have any concerns, please do not hesitate to contact me personally.

Sincerely,

Charles S. Dean  
State Senator District 3

cc: Jamie DeLoach, Staff Director

SENT TO: CHAIRMAN \_\_\_\_\_  
STAFF DIR. \_\_\_\_\_ STAFF \_\_\_\_\_  
12 JAN 23 AM 10:13  
SENATE APPROPRIATIONS  
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- 405 Tompkins Street, Inverness, Florida 34450 (352) 860-5175
- Post Office Box 2558, Ocala, Florida 34478-2558 (352) 873-6513
- 302 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5017

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

MIKE HARIDOPOLOS  
President of the Senate

MICHAEL S. "MIKE" BENNETT  
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/26/12

Meeting Date

Topic Budget Sub. Gen. Gov. Approp. - FWC Bill Number 804

Name ~~For & Wildlife Conservation~~ Bob Harris Amendment Barcode 817782 (if applicable)

Job Title Lobbyist/attorney

Address 2418 Centennial PL

Phone 850-222-0720

Street Tallahassee FL 32308

E-mail bharris@lawfla.com

Speaking:  For  Against  Information

Representing Diving Equipment Marketing 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.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

1/29/14  
Meeting Date

Topic FWC

Bill Number SB 984  
*(if applicable)*

Name JERRY SANSON

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title \_\_\_\_\_

Address PO Box 200

Phone 324 273-0212

COGSA, FL. 32923  
City State Zip

E-mail FISHERMAN@AOL.COM

Speaking:  For  Against  Information

Representing ORGANIZED FISHERMEN of FL.

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)

Jan 26, 2012  
Meeting Date

Topic Fish + Wildlife Conserv. Comm.

Bill Number 804  
*(if applicable)*

Name Jackie Fauls

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Legislative Affairs Director

Address 600 S. Meridian Street

Phone 487-3795

Tallahassee FL 32309  
City State Zip

E-mail jackie.fauls@myfwc.com

Speaking:  For  Against  Information

Representing Fish + Wildlife Conservation Commission

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 (10/20/11)

**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 Budget Subcommittee on General Government Appropriations

---

BILL: SB 998

INTRODUCER: Senator Negron and others

SUBJECT: Concealed Weapons or Firearms

DATE: January 23, 2012

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Fleming</u>	<u>Carter</u>	<u>MS</u>	<b>Favorable</b>
2.	<u>Cellon</u>	<u>Cannon</u>	<u>CJ</u>	<b>Favorable</b>
3.	<u>Blizzard</u>	<u>DeLoach</u>	<u>BGA</u>	<b>Favorable</b>
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

---

**I. Summary:**

Current law requires that a Florida resident must be at least 21 years of age in order to be eligible to obtain a concealed weapons license. The bill amends the concealed weapons license law to allow Florida resident military servicemembers and honorably discharged veterans who are under the age of 21, and are otherwise qualified, to be issued a concealed weapons license.

The bill also allows nonresident military servicemembers and honorably discharged veterans under the age of 21, who hold a concealed weapons license from another state which honors Florida's concealed weapons license, to exercise the same concealed weapons license rights available to Florida resident concealed weapons licensees.

The provisions of this bill may result in potential increased economic activity from sales of firearms to previously ineligible concealed weapon or firearm licensees, particularly for merchants in areas with a significant military presence. The department anticipates some increase in the volume of concealed weapon license applications, which would result in increases in hard copy applications, forms, background checks, and other variable costs. However, all such costs would be entirely satisfied by the applicable license fees.

The bill creates section 790.062 of the Florida Statutes, and amends section 790.015 of the Florida Statutes.

The bill provides that the act will take effect upon becoming law.

## II. Present Situation:

### Issuance of Concealed Weapon Licenses

The Department of Agriculture and Consumer Services (department) is statutorily authorized to issue licenses to carry concealed weapons and firearms.<sup>1</sup> Concealed weapons or concealed firearms are defined as a handgun, electronic weapon or device, tear gas gun, knife, or billie but not a machine gun for purposes of the licensure law.<sup>2</sup> An applicant must provide identifying information, including fingerprints, to the department for processing prior to the issuance of a concealed-carry license.

The department examines a number of criteria in determining whether an applicant meets the statutory conditions for issuance of a concealed carry license. The age of the applicant is among the criteria the department examines. An applicant must be 21 years of age or older in order to obtain a concealed-carry license in Florida.<sup>3</sup>

Additional statutory conditions for issuance of a concealed carry license require that an applicant:

- Be a resident of the United States and a citizen of the United States or a permanent resident alien of the United States, as determined by the United States Bureau of Citizenship and Immigration Services, or is a consular security official of a foreign government that maintains diplomatic relations and treaties of commerce, friendship, and navigation with the United States and is certified as such by the foreign government and by the appropriate embassy in this country;
- Not suffer from a physical infirmity that prevents the safe handling of a weapon or firearm;
- Not be ineligible to possess a firearm pursuant to s. 790.23, F.S., by virtue of having been convicted of a felony;
- Not have been committed for the abuse of a controlled substance or been found guilty of a crime under the provisions of ch. 893, F.S., or similar laws of any other state relating to controlled substances within a three-year period immediately preceding the date on which the application is submitted;
- Does not chronically and habitually use alcoholic beverages or other substances to the extent that his or her normal faculties are impaired. It shall be presumed that an applicant chronically and habitually uses alcoholic beverages or other substances to the extent that his or her normal faculties are impaired if the applicant has been committed under ch. 397, F.S., or under the provisions of former ch. 396, F.S., or has been convicted under s. 790.151, F.S., or has been deemed a habitual offender under s. 856.011(3), F.S., or has had two or more convictions under s. 316.193, F.S., or similar laws of any other state, within the three-year period immediately preceding the date on which the application is submitted;
- Has not been adjudicated an incapacitated person under s. 744.331, F.S., or similar laws of any other state, unless five years have elapsed since the applicant's restoration to capacity by court order;

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<sup>1</sup> s. 790.06(1), F.S.

<sup>2</sup> *Id.*

<sup>3</sup> s. 790.06(1)(b), F.S.

- Has not been committed to a mental institution under ch. 394, F.S., or similar laws of any other state, unless the applicant produces a certificate from a licensed psychiatrist that he or she has not suffered from disability for at least five years prior to the date of submission of the application;
- Has not had adjudication of guilt withheld or imposition of sentence suspended on any felony or misdemeanor crime of domestic violence unless three years have elapsed since probation or any other conditions set by the court have been fulfilled, or the record has been sealed or expunged;
- Has not been issued an injunction that is currently in force and effect and that restrains the applicant from committing acts of domestic violence or acts of repeat violence; and
- Is not prohibited from purchasing or possessing a firearm by any other provision of Florida or federal law.<sup>4</sup>

### **Concealed Carry Reciprocity**

The state of Florida practices reciprocity with 35 other states which allows concealed weapon licensees from those participating states to carry their concealed weapons in Florida.

Accordingly, those states must also recognize and honor concealed weapon licenses issued by the state of Florida.<sup>5</sup>

Section 790.015(1), F.S., provides that a U.S. resident who is a Florida nonresident may carry a concealed weapon or firearm in Florida if the nonresident:

- Is at least 21 years of age; and
- Has in his or her immediate possession a valid license to carry a concealed weapon or concealed firearm issued to the nonresident in his or her state of residence.<sup>6</sup>

The concealed carry reciprocity provisions only apply to nonresident concealed weapon or concealed firearm licensees from states that honor Florida concealed weapon or concealed firearm licenses.<sup>7</sup> Additionally, such nonresident licensees are subject to the same laws and restrictions with respect to carrying a concealed weapon or concealed firearm as a resident of Florida who is so licensed.<sup>8</sup>

### **Active Duty Military and Veterans Under 21 Years of Age**

According to data provided by the Florida Department of Military Affairs, as of November 30, 2011 there were a total of 5,608 active duty service members under the age of twenty-one assigned to units in Florida. The data for November 30, 2011 also shows that there were a total of 2,579 National Guard and Reserve members assigned to Florida units.<sup>9</sup>

Data provided by the Florida Department of Veterans' Affairs indicates that on September 30, 2010 there were an estimated 407 military veterans in Florida who were under the age of twenty

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<sup>4</sup> s. 790.06(2), F.S.

<sup>5</sup> See, [http://licgweb.doacs.state.fl.us/news/concealed\\_carry.html](http://licgweb.doacs.state.fl.us/news/concealed_carry.html) for more information on states that recognize Florida's concealed weapons license.

<sup>6</sup> s. 790.015(1), F.S.

<sup>7</sup> s. 790.015(3), F.S.

<sup>8</sup> s. 790.015(2), F.S.

<sup>9</sup> Data on file with the Senate Military Affairs, Space, and Domestic Security Committee.

and 18,036 between 20 and 24 years of age. It is not possible to determine from the data provided how many of the 20-24 year age group are 20 or 21 years old, the persons to whom the bill may apply. The veteran population numbers do not indicate how many of those veterans were honorably discharged.<sup>10</sup>

### III. Effect of Proposed Changes:

**Section 1** creates s. 790.062, F.S., to allow Florida resident military servicemembers and honorably discharged veterans who are under the age of 21, and are otherwise qualified, to be issued a concealed weapon or firearm license. The bill also requires the department to accept background check fingerprints for military concealed weapon license applicants which have been prepared by military law enforcement officials.

**Section 2** amends s. 790.015, F.S., to allow Florida nonresident military servicemembers and honorably discharged veterans under the age of 21, who hold a concealed weapon license from another state which honors Florida's concealed weapon license, to exercise the same concealed weapon license rights available to Florida resident concealed weapon licensees.

**Section 3** provides that the act shall take effect upon becoming law.

### 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:

The provisions of this bill may result in potential increased economic activity from increased sales of firearms to previously ineligible concealed weapon or firearm licensees. This would particularly be applicable for merchants in areas with a significant military presence.

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<sup>10</sup> *Id.*

**C. Government Sector Impact:**

The department anticipates some increase in the volume of concealed weapon license application revenue from 18 to 20 year old military servicemembers and honorably discharged veteran applicants based on the provisions in the bill. The amount of the increased revenue is indeterminate.<sup>11</sup>

The department also anticipates some increase in the volume of concealed weapon license applications, which would result in increases in hard copy applications, forms, background checks, and other variable costs. However, all such costs would be entirely satisfied by the applicable license fees. These increased costs are indeterminate at this time.<sup>12</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

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

None.

**B. Amendments:**

None.

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

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<sup>11</sup> Florida Department of Agriculture and Consumer Services, *Senate Bill 998 Analysis* (December 6, 2011) (on file with the Senate Military Affairs, Space, and Domestic Security Committee).

<sup>12</sup> *Id.*

By Senator Negrón

28-00934A-12

2012998

A bill to be entitled

An act relating to concealed weapons or firearms; creating s. 790.062, F.S.; providing for otherwise qualified members and veterans of the United States Armed Forces to be issued a concealed weapon or firearm license regardless of age or United States residency in certain circumstances; providing additional methods for the taking of fingerprints from such license applicants; amending s. 790.015, F.S.; providing for members and veterans of the United States Armed Forces to be granted reciprocity regardless of age; providing an effective date.

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

Section 1. Section 790.062, Florida Statutes, is created to read:

790.062 Members and veterans of United States Armed Forces; exceptions from licensure provisions.-

(1) Notwithstanding s. 790.06(2)(b), the Department of Agriculture and Consumer Services shall issue a license to carry a concealed weapon or firearm under s. 790.06 if the applicant is otherwise qualified and:

(a) Is a servicemember, as defined in s. 250.01; or

(b) Is a veteran of the United States Armed Forces who was discharged under honorable conditions.

(2) The Department of Agriculture and Consumer Services shall accept fingerprints of an applicant under this section administered by any law enforcement agency, military provost, or

28-00934A-12

2012998

other military unit charged with law enforcement duties or as otherwise provided for in 790.06(5)(c).

Section 2. Section 790.015, Florida Statutes, is amended to read:

790.015 Nonresidents who are United States citizens and hold a concealed weapons license in another state; reciprocity.-

(1) Notwithstanding s. 790.01, ~~a resident of the United States who is~~ a nonresident of Florida may carry a concealed weapon or concealed firearm while in this state if the nonresident:

(a) Is 21 years of age or older, ~~and~~

(b) Has in his or her immediate possession a valid license to carry a concealed weapon or concealed firearm issued to the nonresident in his or her state of residence.

(c) Is a resident of the United States.

(2) A nonresident is subject to the same laws and restrictions with respect to carrying a concealed weapon or concealed firearm as a resident of Florida who is so licensed.

(3) If the resident of another state who is the holder of a valid license to carry a concealed weapon or concealed firearm issued in another state establishes legal residence in this state by:

(a) Registering to vote; ~~or~~

(b) Making a statement of domicile pursuant to s. 222.17; ~~or~~

or

(c) Filing for homestead tax exemption on property in this state,

the license shall remain in effect for 90 days following the

28-00934A-12

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59 date on which the holder of the license establishes legal state  
60 residence.

61 (4) This section applies only to nonresident concealed  
62 weapon or concealed firearm licenseholders from states that  
63 honor Florida concealed weapon or concealed firearm licenses.

64 (5) The requirement of paragraph (1) (a) does not apply to a  
65 person who:

66 (a) Is a servicemember, as defined in s. 250.01; or

67 (b) Is a veteran of the United States Armed Forces who was  
68 discharged under honorable conditions.

69 Section 3. This act shall take effect upon becoming a law.

**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.)

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Prepared By: The Professional Staff of the Budget Subcommittee on General Government Appropriations

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BILL: SB 1094

INTRODUCER: Senator Hays

SUBJECT: Revising Workers' Compensation Penalties

DATE: February 27, 2012      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rubio	Burgess	BI	<b>Favorable</b>
2.	Betta	DeLoach	BGA	<b>Pre-meeting</b>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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**I. Summary:**

The Department of Financial Services (department) Division of Workers' Compensation enforces employers' compliance in procuring workers' compensation as required in ch. 440, F.S. The department may issue stop-work orders, injunctions, and penalties against non-complying employers. In addition, the department currently assesses a penalty equal to 1.5 times the amount the employer would have paid in premium within the preceding three years or \$1,000, whichever is greater. Under the bill, the department would assess a penalty equal to two times the amount the employer would have paid in premium within the preceding year or \$1,000, whichever is greater.

This bill substantially amends the following section of the Florida Statutes: 440.107.

**II. Present Situation:**

Employers within Florida are required to obtain workers' compensation coverage that meets the requirements of ch. 440, F.S., and the Florida Insurance Code. The department is responsible for investigating and enforcing compliance with workers' compensation coverage requirements and may assess stop-work orders, injunctions, and penalties against the non-complying employers. If an employer materially understates or conceals payroll, materially misrepresents or conceals employee duties so as to avoid proper classification for premium calculations, or materially misrepresents or conceals information pertinent to the computation and application of an experience rating modification factor the employer is deemed to have failed to secure payment for workers' compensation.<sup>1</sup> When the department determines that an employer has failed to

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<sup>1</sup> Section 440.107(2), F.S.

secure the required payment of workers' compensation, a stop-work order is issued within 72 hours ceasing all business operations and remains in effect until a finding that the employer has come into compliance with coverage requirements and paid any penalties.<sup>2</sup> A conditional release from the stop-work order may be issued by the department to employers who have come into compliance with the workers' compensation coverage requirements and have agreed to pay any penalties through a payment agreement schedule with the department.

In addition to stop-work orders, injunctions, or penalties, the department is required to assess against employers who have failed to secure payment of workers' compensation a penalty equal to 1.5 times the amount the employer would have paid in premium within the preceding three year period or \$1,000, whichever is greater.<sup>3</sup> In determining the amount of the penalty, the department multiplies 1.5 times the amount the employer would have paid in premium when applying approved manual rates to the employer's payroll during periods for which it failed to secure the payment of workers' compensation within the preceding three year period.

### **III. Effect of Proposed Changes:**

The bill would change the calculation of the required penalty the department must assess against employers who fail to secure payment of workers' compensation as required. The bill would increase the penalty multiplier to two times the amount the employer would have paid in premium when applying approved manual rates to the employer's payroll during periods for which it failed to secure the payment of workers' compensation. The bill will also reduce the time to determine periods of non-compliance from the preceding three year period to a one year period. The department will either assess the calculated penalty or \$1,000, whichever is greater.

Reducing the non-compliance period from three years to one year will streamline the department's penalty calculation process due to the decrease in the volume of business records that must be reviewed and analyzed.<sup>4</sup> The streamlined process will allow the department to provide employers a determination of their penalty amounts more quickly and enable employers to pay the penalties sooner.

The bill would take effect on July 1, 2012.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

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<sup>2</sup> Section 440.107(7)(a), F.S.

<sup>3</sup> Section 440.107(7)(d)(1), F.S.

<sup>4</sup> Department of Financial Services Bill Analysis and Fiscal Impact Statement, December 1, 2011.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

By reducing the non-compliance period to one year, the bill would decrease the business and payroll records retrieval and production duties currently imposed on employers. The streamlined penalty calculation and quicker penalty determination will enable employers to pay their penalties sooner and therefore return to work more quickly.<sup>5</sup>

C. Government Sector Impact:

The amount of penalties collected and deposited in the Workers' Compensation Administration Trust Fund (fund) are affected by the penalty amount, the employer's ability to pay the penalty, whether the employer elects to pay the penalty in full or enters into a periodic payment plan with the department, and the general economic environment.<sup>6</sup> Therefore the financial impact on the fund is indeterminate.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

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

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<sup>5</sup> Department of Financial Services Bill Analysis and Fiscal Impact Statement, December 1, 2011.

<sup>6</sup> Department of Financial Services Bill Analysis and Fiscal Impact Statement, December 1, 2011.



232974

LEGISLATIVE ACTION

Senate	.	House
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The Committee on Budget Subcommittee on General Government Appropriations (Hays) recommended the following:

**Senate Amendment**

Delete lines 17 - 22  
and insert:  
this chapter a penalty equal to 1.5, 1.75, or 2 times the amount the employer would have paid in premium when applying approved manual rates to the employer's payroll during periods for which it failed to secure the payment of workers' compensation required by this chapter within the preceding year ~~3-year period~~ or \$1,000, whichever is greater, as follows:

a. For employers in violation of coverage requirements for less than 30 days in total, 1.5 times such amount.



232974

13           b. For employers in violation of coverage requirements for  
14 at least 30 days but less than 1 year in total, 1.75 times such  
15 amount.

16           c. For employers in violation of coverage requirements for  
17 1 year in total, 2 times such amount.



711530

LEGISLATIVE ACTION

Senate	.	House
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The Committee on Budget Subcommittee on General Government Appropriations (Hays) recommended the following:

**Senate Amendment (with title amendment)**

Between lines 26 and 27  
insert:

Section 2. Section 627.215, Florida Statutes, is amended to read:

627.215 Excessive profits for ~~workers' compensation,~~  
~~employer's liability,~~ commercial property, and commercial  
casualty insurance prohibited.-

(1) (a) Each insurer group writing ~~workers' compensation and  
employer's liability insurance as defined in s. 624.605(1)(c),~~  
commercial property insurance as defined in s. 627.0625,



711530

13 commercial umbrella liability insurance as defined in s.  
14 627.0625, or commercial casualty insurance as defined in s.  
15 627.0625 shall annually file with the office before ~~prior to~~  
16 July 1 ~~of each year~~, on a form prescribed by the commission, the  
17 following data for the component types of such insurance as  
18 provided in the form:

- 19 1. Calendar-year earned premium.
- 20 2. Accident-year incurred losses and loss adjustment  
21 expenses.
- 22 3. The administrative and selling expenses incurred in this  
23 state or allocated to this state for the calendar year.
- 24 4. Policyholder dividends applicable to the calendar year.

25  
26 This paragraph does not ~~Nothing herein is intended to~~ prohibit  
27 an insurer from filing on a calendar-year basis.

28 (b) The data filed for the group shall be a consolidation  
29 of the data of the individual insurers of the group. However, an  
30 insurer may elect to ~~either~~ consolidate commercial umbrella  
31 liability insurance data with commercial casualty insurance data  
32 or to separately file data for commercial umbrella liability  
33 insurance. Each insurer shall elect its method of filing  
34 commercial umbrella liability insurance at the time of filing  
35 data for accident year 1987 and shall thereafter continue filing  
36 under the same method. In the case of commercial umbrella  
37 liability insurance data reported separately, a separate  
38 excessive profits test shall be applied and the test period  
39 shall be 10 years. ~~In the case of workers' compensation and~~  
40 ~~employer's liability insurance, the final report for the test~~  
41 ~~period including accident years 1984, 1985, and 1986 must be~~



711530

42 ~~filed prior to July 1, 1988. In the case of commercial property~~  
43 ~~and commercial casualty insurance, the final report for the test~~  
44 ~~period including accident years 1987, 1988, and 1989 must be~~  
45 ~~filed prior to July 1, 1991.~~

46 ~~(2) Each insurer group writing workers' compensation and~~  
47 ~~employer's liability insurance shall also file a schedule of~~  
48 ~~Florida loss and loss adjustment experience for each of the 3~~  
49 ~~years previous to the most recent accident year. The incurred~~  
50 ~~losses and loss adjustment expenses shall be valued as of~~  
51 ~~December 31 of the first year following the latest accident year~~  
52 ~~to be reported, developed to an ultimate basis, and at two 12-~~  
53 ~~month intervals thereafter, each developed to an ultimate basis,~~  
54 ~~so that a total of three evaluations will be provided for each~~  
55 ~~accident year. The first year to be so reported shall be~~  
56 ~~accident year 1984, so that the reporting of 3 accident years~~  
57 ~~under this revised evaluation will not take place until accident~~  
58 ~~years 1985 and 1986 have become available. For reporting~~  
59 ~~purposes unrelated to determining excessive profits, the loss~~  
60 ~~and loss adjustment experience of each accident year shall~~  
61 ~~continue to be reported until each accident year has been~~  
62 ~~reported at eight stages of development.~~

63 (2)~~(3)~~(a) Each insurer group writing commercial property  
64 insurance or commercial casualty insurance shall also file a  
65 schedule of Florida loss and loss adjustment experience for each  
66 of the 3 years previous to the most recent accident year. The  
67 incurred losses and loss adjustment expenses shall be valued as  
68 of December 31 of the first year following the latest accident  
69 year, developed to an ultimate basis, and at two 12-month  
70 intervals thereafter, each developed to an ultimate basis, so



711530

71 that a total of three ~~3~~ evaluations are ~~will be~~ provided for  
72 each accident year. ~~The first year to be so reported shall be~~  
73 ~~accident year 1987, which shall first be reported on or before~~  
74 ~~July 1, 1989, and the reporting of 3 accident years will not~~  
75 ~~take place until accident years 1988 and 1989 have become~~  
76 ~~available. For medical malpractice insurance, the first year to~~  
77 ~~be so reported shall be accident year 1990, which shall first be~~  
78 ~~reported on or before July 1, 1992, and the reporting of 3~~  
79 ~~accident years for full inclusion of medical malpractice~~  
80 ~~experience in commercial casualty insurance will not take place~~  
81 ~~until accident years 1991 and 1992 become available.~~  
82 ~~Accordingly, no medical malpractice insured shall be eligible~~  
83 ~~for refunds or credits until the reporting period ending with~~  
84 ~~calendar accident year 1992.~~ For reporting purposes unrelated to  
85 determining excess profits, the loss and loss adjustment  
86 experience of each accident year shall continue to be reported  
87 until each accident year has been reported at eight stages of  
88 development.

89 (b) Each insurer group writing commercial umbrella  
90 liability insurance which elects to file separate data for such  
91 insurance shall also file a schedule of Florida loss and loss  
92 adjustment experience for each of the 10 years previous to the  
93 most recent accident year. The incurred losses and loss  
94 adjustment expenses shall be valued as of December 31 of the  
95 first year following the latest accident year, developed to an  
96 ultimate basis, and at nine 12-month intervals thereafter, each  
97 developed to an ultimate basis, so that a total of 10  
98 evaluations will be provided for each accident year. ~~The first~~  
99 ~~year to be so reported shall be accident year 1987, which shall~~



711530

100 ~~first be reported on or before October 1, 1989, and the~~  
101 ~~reporting of 10 accident years will not take place until~~  
102 ~~accident year 1996 data is reported.~~

103 ~~(3)~~(4) Each insurer group's underwriting gain or loss for  
104 each calendar-accident year shall be computed as follows: The  
105 sum of the accident-year incurred losses and loss adjustment  
106 expenses as of December 31 of the year, developed to an ultimate  
107 basis, plus the administrative and selling expenses incurred in  
108 the calendar year, plus policyholder dividends applicable to the  
109 calendar year, shall be subtracted from the calendar-year earned  
110 premium to determine the underwriting gain or loss.

111 ~~(4)~~(5) For the 3 most recent calendar-accident years for  
112 which data is to be filed under this section, the underwriting  
113 gain or loss shall be compared to the anticipated underwriting  
114 profit, except in the case of separately reported commercial  
115 umbrella liability insurance for which such comparison shall be  
116 made for the 10 most recent calendar-accident years.

117 ~~(6)~~ For those insurer groups writing workers' compensation  
118 and employer's liability insurance during the years 1984, 1985,  
119 1986, 1987, and 1988, an excessive profit has been realized if  
120 underwriting gain is greater than the anticipated underwriting  
121 profit plus 5 percent of earned premiums for the 3 most recent  
122 calendar years for which data is to be filed under this section.  
123 Any excess profit of an insurance company offering workers'  
124 compensation or employer's liability insurance during this  
125 period of time, shall be returned to policyholders in the form  
126 of a cash refund or a credit toward future purchase of  
127 insurance. The excessive amount shall be refunded on a pro rata  
128 basis in relation to the final compilation year earned premiums



711530

129 ~~to the workers' compensation policyholders of record of the~~  
130 ~~insurer group on December 31 of the final compilation year.~~

131 (5)~~(7)~~ (a) With respect to the ~~Beginning with the July 1,~~  
132 ~~1991,~~ report for ~~workers' compensation insurance, employer's~~  
133 ~~liability insurance,~~ commercial property insurance, and  
134 commercial casualty insurance, an excessive profit has been  
135 realized if the combined net aggregate underwriting gain for ~~all~~  
136 these lines ~~combined~~ is greater than the net aggregate  
137 anticipated underwriting profit for these lines plus 5 percent  
138 of earned premiums for the 3 most recent calendar years for  
139 which data is to be filed under this section. For calculation  
140 purposes commercial property insurance and commercial casualty  
141 insurance shall be broken down into sublines in order to  
142 ascertain the anticipated underwriting profit factor versus the  
143 actual underwriting gain for the given subline.

144 (b) Beginning with the July 1, 1998, report for commercial  
145 umbrella liability insurance, if an insurer has elected to file  
146 data separately for such insurance, an excessive profit has been  
147 realized if the underwriting gain for such insurance is greater  
148 than the anticipated underwriting profit for such insurance plus  
149 5 percent of earned premiums for the 10 most recent calendar  
150 years for which data is to be filed under this section.

151 (6)~~(8)~~ As used in this section with respect to any 3-year  
152 period, or with respect to any 10-year period in the case of  
153 commercial umbrella liability insurance, "anticipated  
154 underwriting profit" means the sum of the dollar amounts  
155 obtained by multiplying, for each rate filing of the insurer  
156 group in effect during such period, the earned premiums  
157 applicable to such rate filing during such period by the



711530

158 percentage factor included in such rate filing for profit and  
159 contingencies, such percentage factor having been determined  
160 with due recognition to investment income from funds generated  
161 by Florida business, except that the anticipated underwriting  
162 profit for the purposes of this section shall be calculated  
163 using a profit and contingencies factor that is not less than  
164 zero. Separate calculations need not be made for consecutive  
165 rate filings containing the same percentage factor for profits  
166 and contingencies.

167 (7)~~(9)~~ If the insurer group has realized an excessive  
168 profit, the office shall order a return of the excessive amounts  
169 after affording the insurer group an opportunity for hearing and  
170 otherwise complying with the requirements of chapter 120. Such  
171 excessive amounts shall be refunded in all instances unless the  
172 insurer group affirmatively demonstrates to the office that the  
173 refund of the excessive amounts will render a member of the  
174 insurer group financially impaired or will render it insolvent  
175 under the ~~provisions of the~~ Florida Insurance Code.

176 (8)~~(10)~~ Any excess profit of an insurance company ~~as~~  
177 ~~determined on July 1, 1991, and thereafter~~ shall be returned to  
178 policyholders in the form of a cash refund or a credit toward  
179 the future purchase of insurance. The excessive amount shall be  
180 refunded on a pro rata basis in relation to the final  
181 compilation year earned premiums to the policyholders of record  
182 of the insurer group on December 31 of the final compilation  
183 year.

184 (9)~~(11)~~(a) Cash refunds to policyholders may be rounded to  
185 the nearest dollar.

186 (b) Data in required reports to the office may be rounded



711530

187 to the nearest dollar.

188 (c) Rounding, if elected by the insurer, must ~~shall~~ be  
189 applied consistently.

190 ~~(10)-(12)~~ (a) Refunds shall be completed in one of the  
191 following ways:

192 1. If the insurer group elects to make a cash refund, the  
193 refund must ~~shall~~ be completed within 60 days after ~~of~~ entry of  
194 a final order indicating that excessive profits have been  
195 realized.

196 2. If the insurer group elects to make refunds in the form  
197 of a credit to renewal policies, such credits must ~~shall~~ be  
198 applied to policy renewal premium notices that ~~which~~ are  
199 forwarded to insureds more than 60 calendar days after entry of  
200 a final order indicating that excessive profits have been  
201 realized. If an insurer group has made this election but an  
202 insured thereafter cancels her or his policy or otherwise allows  
203 the policy to terminate, the insurer group must ~~shall~~ make a  
204 cash refund within ~~not later than~~ 60 days after termination of  
205 such coverage.

206 (b) Upon completion of the renewal credits or refund  
207 payments, the insurer group shall immediately certify to the  
208 office that the refunds have been made.

209 ~~(11)-(13)~~ Any refund or renewal credit made pursuant to this  
210 section shall be treated as a policyholder dividend applicable  
211 to the year immediately succeeding the compilation period giving  
212 rise to the refund or credit, for purposes of reporting under  
213 this section for subsequent years.

214 ~~(12)-(14)~~ The application of this law to commercial property  
215 and commercial casualty insurance, which includes commercial



711530

216 umbrella liability insurance, ceases on January 1, 1997.

217 Section 3. Subsection (4) of section 628.6017, Florida  
218 Statutes, is amended to read:

219 628.6017 Converting assessable mutual insurer.—

220 (4) An assessable mutual insurer becoming a stock insurer  
221 or a nonassessable mutual insurer is ~~shall~~ not ~~be~~ subject to s.  
222 627.215 or s. 627.351(5) for 5 years following authorization of  
223 the conversion by the office. However, the converted stock  
224 insurer or nonassessable mutual insurer shall file all necessary  
225 data required by s. 627.215. Such amounts otherwise subject to  
226 s. 627.215(8) ~~627.215(10)~~ shall be maintained as surplus as to  
227 policyholders and not be available for dividends for ~~a period of~~  
228 5 years.

229  
230 ===== T I T L E A M E N D M E N T =====

231 And the title is amended as follows:

232 Delete line 5

233 and insert:

234 compensation as required; amending s. 627.215, F.S.;

235 deleting the prohibition against excessive profits for

236 workers' compensation and employer's liability

237 insurance; deleting obsolete provisions; amending s.

238 628.6017, F.S.; conforming a cross-reference;

239 providing an effective date.

By Senator Hays

20-01008-12

20121094\_\_

1                   A bill to be entitled  
2       An act relating to workers' compensation; amending s.  
3       440.107, F.S.; revising penalties applicable to  
4       employers who fail to secure the payment of workers'  
5       compensation as required; providing an effective date.  
6  
7   Be It Enacted by the Legislature of the State of Florida:  
8  
9       Section 1. Paragraph (d) of subsection (7) of section  
10   440.107, Florida Statutes, is amended to read:  
11       440.107 Department powers to enforce employer compliance  
12   with coverage requirements.-  
13       (7)  
14       (d)1. In addition to any penalty, stop-work order, or  
15   injunction, the department shall assess against any employer who  
16   has failed to secure the payment of compensation as required by  
17   this chapter a penalty equal to 2 ~~1.5~~ times the amount the  
18   employer would have paid in premium when applying approved  
19   manual rates to the employer's payroll during periods for which  
20   it failed to secure the payment of workers' compensation  
21   required by this chapter within the preceding 1-year ~~3-year~~  
22   period or \$1,000, whichever is greater.  
23       2. Any subsequent violation within 5 years after the most  
24   recent violation shall, in addition to the penalties set forth  
25   in this subsection, be deemed a knowing act within the meaning  
26   of s. 440.105.  
27       Section 2. This act shall take effect July 1, 2012.



# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:  
Budget - Subcommittee on General Government  
Appropriations, *Chair*  
Agriculture  
Banking and Insurance  
Budget  
Budget - Subcommittee on Higher Education  
Appropriations  
Criminal Justice  
Reapportionment

JOINT COMMITTEE:  
Administrative Procedures

**SENATOR D. ALAN HAYS**

20th District

January 20, 2012

Senator Alan Hays, Chair  
Budget Subcommittee on General Government Appropriations  
324 Senate Office Building  
201 The Capitol  
404 South Monroe Street  
Tallahassee, FL 32399-1100

RE: SB 1094 Relating to Workers' Compensation

Dear Chair Hays:

I respectfully request my above bill be heard before your committee. I feel this bill will benefit the citizens of our state.

Thank you in advance for your consideration, and please contact me if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "D. Alan Hays, DMD".

D. Alan Hays, DMD  
Senate District 20

CC: **Jamie DeLoach**, *Staff Director*  
**Lisa Waddell**, *Committee Administrative Assistant*

REPLY TO:

- 871 South Central Avenue, Umatilla, Florida 32784-9290 (352) 742-6441
- 324 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5014

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**MIKE HARIDOPOLOS**  
President of the Senate

**MICHAEL S. "MIKE" BENNETT**  
President Pro Tempore

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

1-26-12

Meeting Date

Topic \_\_\_\_\_

Bill Number 1034  
*(if applicable)*

Name CAREY BAKER

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title GUN SHOP OWNER

Address \_\_\_\_\_

Phone \_\_\_\_\_

Street

EUSTIS

E-mail \_\_\_\_\_

City

State

Zip

Speaking:  For  Against  Information

Representing FL SENATE

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 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

126.12  
Meeting Date

Topic WORKERS' COMP

Bill Number 1094  
*(if applicable)*

Name ASHLEY HAYES

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Dir, Leg Policy

Address Capitol - Rm 11

Phone 413-41938

Tallahassee FL  
City State Zip

E-mail ~~ashley.hayes@flcourts.com~~

Speaking:  For  Against  Information

ashley.hayes@flcourts.com  
myflcourts.com

Representing DPS

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**  
**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 Budget Subcommittee on General Government Appropriations

BILL: SB 1220

INTRODUCER: Senator Garcia

SUBJECT: Repeal of Health Insurance Provisions

DATE: January 23, 2012      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Burgess	Burgess	BI	<b>Favorable</b>
2.	Betta	DeLoach	BGA	<b>Favorable</b>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

The bill deletes s. 627.64872(6), F.S., which requires the Board of Directors of the Florida Health Insurance Plan to submit to the Governor, the President of the Senate and the Speaker of the House of Representatives, an annual report which is to include an independent actuarial study.

The bill deletes s. 627.6699(15)(l), F.S., which requires the Office of Insurance Regulation to submit to the Governor, the President of the Senate and the Speaker of the House of Representatives, an annual report which summarizes the activities of the Small Employer Access Program, including written and earned premiums, program enrollment, administrative expenses, and paid and incurred losses.

This bill substantially amends the following sections of the Florida Statutes:  
627.64872, 627.6699.

## II. Present Situation:

### Florida Health Insurance Plan (FHIP)

In 1983, the Florida Legislature created the Florida Comprehensive Health Association (FCHA), to cover individuals who were unable to purchase health insurance from the open market due to pre-existing conditions. The program is financed through premiums from the participants and assessments on insurance companies, but has been closed to new enrollment since 1991.<sup>1</sup> In 2004, the Legislature created the Florida Health Insurance Plan (FHIP),<sup>2</sup> which was intended to replace the FCHA as the state's high risk insurance pool.<sup>3</sup> The benefits provided by the FHIP are the same as the standard and basic plans for small employers. The FHIP must also provide an option for the purchase of alternative coverage, such as catastrophic coverage which includes a minimum level of primary care coverage, and a high deductible plan that meets all the requirements for a health savings account. Eligibility for the plan is limited to individuals who have received two notices of rejection for coverage from health insurers and individuals covered under the FCHA at the time the FHIP was created.<sup>4</sup>

The FHIP was created to be run by a nine person Board of Directors, chaired by the Director of the Office of Insurance Regulation (OIR). Five Board members would be appointed by the Governor and one member each would be appointed by the President of the Senate, the Speaker of the House of Representatives, and the Chief Financial Officer.<sup>5</sup> The Board is required to submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives, an annual report which is to include an independent actuarial study.

According to the OIR, funds for the start-up of the FHIP have not been appropriated, and as a result, the FHIP is not in operation. Therefore, the requirement that a report be provided that includes an independent actuarial study is moot.

### Small Employers Access Program

In 1992, the Legislature enacted the Employee Health Care Access Act (EHCAA).<sup>6</sup> The purpose of the act was to promote the availability of health insurance coverage to small employers, regardless of claims experience or their employees' health status.<sup>7</sup> In 2004, the Small Employers Access Program (Program) was created within the EHCAA.<sup>8</sup> The purpose of the Program was to provide additional health insurance options for small businesses consisting of up to 25 employees, including any municipality, county, school district, hospital located in a rural community, and any nursing home employer.<sup>9</sup> The OIR is required to submit an annual report to

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<sup>1</sup> See Department of Financial Services website: [myfloridacfo.com/Residual Markets – Florida Comprehensive Health Association](http://myfloridacfo.com/Residual%20Markets%20-%20Florida%20Comprehensive%20Health%20Association); last visited January 15, 2012.

<sup>2</sup> Section 627.64872, F.S.

<sup>3</sup> See Department of Financial Services website: [myfloridacfo.com/Residual Markets – Florida Health Insurance Plan](http://myfloridacfo.com/Residual%20Markets%20-%20Florida%20Health%20Insurance%20Plan); last visited January 15, 2012.

<sup>4</sup> Section 627.64872(9), F.S.

<sup>5</sup> Section 627.64872(3), F.S.

<sup>6</sup> Ch. 92-33, s. 117, L.O.F.

<sup>7</sup> Section 627.6699(2), F.S.

<sup>8</sup> Ch. 2004-297, s. 24, L.O.F.

<sup>9</sup> Section 627.6699(15)(b), F.S.

the Governor, the President of the Senate, and the Speaker of the House of Representatives summarizing the activities of the Program over the past year, including written and earned premiums, program enrollment, administrative expenses, and paid and incurred losses.<sup>10</sup>

According to the OIR, the Small Employers Access Program is not operational. The enacting legislation required a competitive bid for an insurer to administer the program. The OIR issued the required request for proposals (RFP) in 2004, and no insurer submitted a bid. Therefore, the annual reporting requirement contained in the section is moot.

### III. Effect of Proposed Changes:

**Section 1.** The bill deletes s. 627.64872(6), F.S., thereby eliminating the annual reporting requirement for the FHIP. The Board of Directors of the FHIP would no longer be required to submit an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

**Section 2.** The bill deletes s. 627.6699(15)(l), F.S., thereby eliminating the annual reporting requirement for the Small Employers Access Program. The OIR would no longer be required to submit an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

**Section 3.** The bill has an effective date of July 1, 2012.

### 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:

None.

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<sup>10</sup> Section 627.6699(15)(l), F.S.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

By Senator Garcia

40-01235-12

20121220\_\_

A bill to be entitled

An act relating to the repeal of health insurance provisions; amending s. 627.64872, F.S.; deleting a requirement that the Florida Health Insurance Plan's board of directors annually report to the Governor and the Legislature concerning the Florida Health Insurance Plan; deleting redundant provisions making the implementation of the plan by the board contingent upon certain appropriations; amending s. 627.6699, F.S.; deleting a requirement that the Office of Insurance Regulation of the Department of Financial Services annually report to the Governor and the Legislature concerning the Small Employers Access Program; providing an effective date.

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

Section 1. Subsections (7) through (20) of section 627.64872, Florida Statutes, are renumbered as subsections (6) through (19), respectively, and paragraph (b) of subsection (4), present subsection (6), and paragraph (a) of present subsection (20) of that section are amended to read:

627.64872 Florida Health Insurance Plan.—

(4) PLAN OF OPERATION.—The plan of operation shall:

(b) Establish procedures for selecting an administrator in accordance with subsection (10) ~~(11)~~.

~~(6) ANNUAL REPORT.—The board shall annually submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives a report that includes an independent~~

40-01235-12

20121220\_\_

~~actuarial study to determine, without limitation, the following:~~

~~(a) The effect the creation of the plan has on the small group and individual insurance market, specifically on the premiums paid by insureds, including an estimate of the total anticipated aggregate savings for all small employers in the state.~~

~~(b) The actual number of individuals covered at the current funding and benefit level, the projected number of individuals that may seek coverage in the forthcoming fiscal year, and the projected funding needed to cover anticipated increase or decrease in plan participation.~~

~~(c) A recommendation as to the best source of funding for the anticipated deficits of the pool.~~

~~(d) A summary of the activities of the plan in the preceding calendar year, including the net written and earned premiums, plan enrollment, the expense of administration, and the paid and incurred losses.~~

~~(e) A review of the operation of the plan as to whether the plan has met the intent of this section.~~

~~The board may not implement the Florida Health Insurance Plan until funds are appropriated for startup costs and any projected deficits; however, the board may complete the actuarial study authorized in this subsection.~~

(19) ~~(20)~~ COMBINING MEMBERSHIP OF THE FLORIDA COMPREHENSIVE HEALTH ASSOCIATION; ASSESSMENT.—

(a)1. Upon implementation of the Florida Health Insurance Plan, the Florida Comprehensive Health Association, as specified in s. 627.6488, is abolished as a separate nonprofit entity and

40-01235-12 20121220\_\_  
 59 shall be subsumed under the board of directors of the Florida  
 60 Health Insurance Plan. All individuals actively enrolled in the  
 61 Florida Comprehensive Health Association shall be enrolled in  
 62 the plan subject to its rules and requirements, except as  
 63 otherwise specified in this section. Maximum lifetime benefits  
 64 paid to an individual in the plan shall not exceed the amount  
 65 established under subsection (15) ~~(16)~~, and benefits previously  
 66 paid for any individual by the Florida Comprehensive Health  
 67 Association shall be used in the determination of total lifetime  
 68 benefits paid under the plan.

69 2. All persons enrolled in the Florida Comprehensive Health  
 70 Association upon implementation of the Florida Health Insurance  
 71 Plan are only eligible for the benefits authorized under  
 72 subsection (15) ~~(16)~~. Persons identified by this section shall  
 73 convert to the benefits authorized under subsection (15) ~~(16)~~ no  
 74 later than January 1, 2005.

75 3. Except as otherwise provided in this section, the  
 76 administration of the coverage of persons actively enrolled in  
 77 the Florida Comprehensive Health Association shall operate under  
 78 the existing plan of operation without modification until the  
 79 adoption of the new plan of operation for the Florida Health  
 80 Insurance Plan.

81 Section 2. Paragraph (1) of subsection (15) of section  
 82 627.6699, Florida Statutes, is amended to read:

83 627.6699 Employee Health Care Access Act.—

84 (15) SMALL EMPLOYERS ACCESS PROGRAM.—

85 ~~(1) Annual reporting. The office shall make an annual~~  
 86 ~~report to the Governor, the President of the Senate, and the~~  
 87 ~~Speaker of the House of Representatives. The report shall~~

40-01235-12 20121220\_\_  
 88 ~~summarize the activities of the program in the preceding~~  
 89 ~~calendar year, including the net written and earned premiums,~~  
 90 ~~program enrollment, the expense of administration, and the paid~~  
 91 ~~and incurred losses. The report shall be submitted no later than~~  
 92 ~~March 15 following the close of the prior calendar year.~~

93 Section 3. This act shall take effect July 1, 2012.

**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.)

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Prepared By: The Professional Staff of the Budget Subcommittee on General Government Appropriations

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BILL: SB 1346

INTRODUCER: Senator Oelrich

SUBJECT: Citizens Property Insurance Corporation Assessments

DATE: January 23, 2012      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Knudson</u>	<u>Burgess</u>	<u>BI</u>	<b>Favorable</b>
2.	<u>Betta</u>	<u>DeLoach</u>	<u>BGA</u>	<b>Favorable</b>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

---

**I. Summary:**

Senate Bill 1346 reduces the Citizens Property Insurance Corporation (Citizens) regular assessment from 6 percent per account to 2 percent for deficits in the Coastal Account and eliminates the regular assessment in the Personal Lines Account (PLA) and the Commercial Lines Account (CLA). The reduction of the regular assessment in the Coastal Account and its elimination for deficits in the PLA and CLA will not reduce the overall assessment authority of Citizens. Instead, greater levies will be imposed through emergency assessments, which are levied on all lines of property and casualty policies (except workers' compensation and medical malpractice<sup>1</sup>) in the state, including Citizens' own policies.

The bill also makes revisions designed to assist Citizens in the promulgation and collection of assessments. Citizens is authorized to levy the policyholder surcharge, a regular assessment for the Coastal Account, and emergency assessments upon a determination by the Citizens Board of Directors that a Citizens account has a projected deficit. The Office of Insurance Regulation (OIR) is authorized to assist Citizens to collect assessments in any way that the OIR deems appropriate. Assessable insurers and the Florida Surplus Lines Service Office (FSLSO) must begin collecting and paying the emergency assessments within 90 days after Citizens levies such assessments. Limited apportionment companies must also begin collecting regular assessments within 90 days of their levy by Citizens. However, the bill expands the time limited apportionment companies have to pay regular assessments in full from 12 months to 15 months after Citizens levies the assessment. The bill is effective July 1, 2012.

This bill substantially amends the following section of the Florida Statutes: 627.351.

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<sup>1</sup> Section 627.351(6)(b)3.e., F.S.

## II. Present Situation:

### Citizens Property Insurance Corporation

Citizens is a state-created, not-for-profit, tax-exempt governmental entity whose public purpose is to provide property insurance coverage to those unable to find affordable coverage in the voluntary admitted market.<sup>2</sup> Citizens is not a private insurance company,<sup>3</sup> and its book of business is divided into three statutorily separate accounts.<sup>4</sup> Each of the three Citizens accounts has separate calculations with regard to surplus and deficits. By statute, assets of each account may not be comingled or used to fund losses in another account. Citizens' three accounts are:

*Personal Lines Account (PLA)* – Multi-peril policies which consist of homeowners, mobile homeowners, dwelling fire, tenants, condominium unit owners and similar policies covering damage to property from windstorm and from other perils.

*Commercial Lines Account (CLA)* – Multi-peril policies which consist of condominium association, apartment building and homeowners' association policies covering damage to property from windstorm and from other perils, as well as Commercial Non-Residential Multi-peril policies.

*Coastal Account (Coastal)* – Wind-only and Multi-peril policies which consist of personal lines wind-only policies, commercial residential wind-only policies and commercial non-residential wind-only policies issued in limited eligible coastal areas which cover damage to property from windstorm only. It also consists of personal and commercial residential multi-peril policies in specified coastal areas (wind-only zones) issued since 2007 which cover damage to property from windstorm and from other perils. Recently some Commercial Non-Residential Multi-peril policies have been added as well.

### Assessments

In the event Citizens incurs a deficit, i.e., its obligations to pay claims exceed its capital plus reinsurance recoveries, it may levy assessments on most of Florida's property and casualty insurance policyholders in a specific sequence set by statute.<sup>5</sup> The three Citizens' accounts calculate deficits and resulting assessment needs independently:

*Citizens Policyholder Surcharges:*<sup>6</sup> Citizens will first levy surcharges on its policyholders of up to 15 percent of premium per account for a maximum total of 45 percent. This surcharge is collected over 12 months on all Citizens' policies and collected upon issuance and renewal.

*Regular Assessments:*<sup>7</sup> Upon the exhaustion of the Citizens policyholder surcharge for a particular account, Citizens may levy a regular assessment of up to 6 percent of premium or 6

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<sup>2</sup> See Section 627.351(6)(a), F.S.

<sup>3</sup> See Section 627.351(6)(a)1., F.S.

<sup>4</sup> Section 627.351(6)(b)2.a., F.S.

<sup>5</sup> Section 627.351(6)(b)3., F.S.

<sup>6</sup> Section 627.351(6)(b)3.h., F.S.

<sup>7</sup> Section 627.351(6)(b)3.a.-b., F.S.

percent of the deficit per account, for a maximum total of 18 percent. The regular assessment is levied on all lines of property and casualty policies in the state except workers' compensation and medical malpractice, but is not levied on Citizens' policies. Property and casualty insurers with policies subject to the regular assessment provide the assessment to Citizens up front and subsequently recover it from their policyholders at the issuance of a new policy or at renewal of existing policies. Citizens has usually been able to collect regular assessment funds within 30 days after being levied.

*Emergency Assessments:*<sup>8</sup> Upon the exhaustion of the Citizens' policyholder surcharge and regular assessment for a particular account, Citizens may levy an emergency assessment of up to 10 percent of premium or 10 percent of the deficit per account, for a maximum total of 30 percent. This assessment can be collected for as many years as is necessary to rectify a deficit. Emergency assessments are levied on all lines of property and casualty policies (except workers' compensation and medical malpractice) in the state, including Citizens' own policies. Initially, property and casualty insurers with policies subject to the emergency assessment collect the assessment from policyholders at the issuance of a new policy or at renewal of existing policies and then remit the assessments periodically to Citizens. Thus, Citizens will not collect funds raised by an emergency assessment immediately after the assessment is levied, but will collect funds intermittently throughout the collection period as policies are renewed and new policies are written.

### **Citizens Assessment Capacity**

Issue Brief 2012-226 by the Banking and Insurance Committee presented findings on the financial condition of Citizens and the corporation's claims resources in the event of a major hurricane event. Due to lack of storm activity for the last 5 years, the current surplus held by Citizens for all three accounts is \$5.742 billion: \$2.686 billion Coastal and \$3.056 billion PLA/CLA. Pursuant to estimates provided by Citizens to committee staff, Citizens has the following assessment capacity:

- Policyholder Surcharge – approximately \$1.172 billion: \$391 million surcharge capacity for Coastal and \$781 million surcharge capacity for PLA/CLA.
- Regular Assessment – approximately \$5.580 billion: \$1.860 billion Regular Assessment capacity for Coastal and \$3.720 billion Regular Assessment capacity for PLA/CLA.
- Emergency Assessment - Citizens Emergency Assessment capacity is unlimited. The projected 1-100 year storm Emergency Assessment estimate is \$6.468 billion for Coastal Account.

### **Reinsurance**

A direct insurance writer will often spread its risk by purchasing reinsurance coverage from a reinsurance carrier. The reinsurance contract will specify the layer of the direct writer's risk that is shifted to the reinsurer and the premium that the direct writer must pay the reinsurer to assume the risk. For the contract year 2011-2012, Citizens has purchased private reinsurance coverage totaling \$575 million for the Coastal account.

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<sup>8</sup> Section 627.351(6)(b)3.c., F.S.

### **The Florida Hurricane Catastrophe Fund (FHCF or CAT fund)**

The CAT fund is a tax-exempt state managed trust fund that reimburses (reinsures) insurers for a portion of their hurricane losses to residential property.<sup>9</sup> To access the CAT fund an insurer must have incurred losses above the retention levels calculated and set by statute. When faced with a multi-storm season, insurers must reach their full retention levels on the two largest storms of the season. The retention level is then reduced to one-third the normal amount for any other storms that season. The current retention levels for Citizens' accounts are \$1.738 billion for Coastal and \$1.19 billion for PLA/CLA. If Citizens were to incur losses above its retention levels, the CAT fund could provide Citizens with an additional \$6.591 billion in coverage: \$4.010 billion would be available for Coastal and \$2.581 billion would be available for PLA/CLA.

### **III. Effect of Proposed Changes:**

#### **Section 1.** Amends s. 627.351(6), F.S.

Reduces the Citizens regular assessment from 6 percent per account to 2 percent for deficits in the Coastal Account and eliminates the regular assessment in the Personal Lines Account (PLA) and the Commercial Lines Account (CLA). The reduction of the regular assessment in the Coastal Account and its elimination for deficits in the PLA and CLA will not reduce the overall assessment authority of Citizens. Instead, greater levies will be imposed through emergency assessments, which are levied on all lines of property and casualty policies (except workers' compensation and medical malpractice) in the state, including Citizens' own policies. In the event of a storm that requires emergency assessments, Citizens policyholders will be subject to higher assessment liabilities than under current law because regular assessments do not include such policyholders within the assessment base, but emergency assessments do. Conversely, policyholders of property and casualty lines of insurance policies subject to assessment will be subject to lower levels of assessment liability.

The bill also makes revisions designed to assist Citizens in the promulgation and collection of assessments. The bill authorizes the Citizens Board of Governors to levy surcharges and assessments upon projecting that a Citizens account will incur a deficit. Current law requires that the Citizens account actually incur a deficit prior to the levy of surcharges or assessments. Under the bill, the various surcharges and assessments may be levied upon the following determinations:

- Policyholder Surcharge – Upon a determination by the board that a Citizens account has a projected deficit.
- Regular assessments for the Coastal Account – Upon a determination by the board that a Coastal Account will have a projected deficit after accounting for the policyholder surcharge.
- Emergency assessments – Upon a determination by the board that a Citizens account will have a projected deficit after accounting for the policyholder surcharge and, for the Coastal Account, regular assessments.

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<sup>9</sup> Section 215.555, F.S.

The Office of Insurance Regulation is authorized to assist Citizens to collect assessments in any ways that the OIR deems appropriate. Assessable insurers and the Florida Surplus Lines Service Office must begin collecting and paying the emergency assessments within 90 days after Citizens levies such assessments. Limited apportionment companies must also begin collecting regular assessments within 90 days of their levy by Citizens. However, the bill expands the time limited apportionment companies have to pay regular assessments in full from 12 months to 15 months after Citizens levies the assessment.

**Section 2.** The act is effective July 1, 2012.

**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:

Representatives from multiple Florida admitted insurance companies assert that the requirement that property and casualty insurers with policies subject to the regular assessment provide the assessment to Citizens up front and subsequently recover it from their policyholders may delay the ability of some insurers to make timely claim payments to their own policyholders. These representatives have also raised the possibility that the requirement to front regular assessment liabilities could imperil the solvency of some insurers.

Representatives from the Office of Insurance Regulation report that some non-admitted property and casualty insurers have cited the requirement that insurers pre-pay the regular assessment up front to Citizens as a reason they have chosen not to write residential property insurance in the state.

C. Government Sector Impact:

Representatives from Citizens state that the bill will not have a negative impact on the corporation's ability to timely pay claims in the event of a storm that triggers emergency

assessments. Citizens' representatives assert that the ability of the corporation to issue debt will enable it to maintain sufficient funds to timely pay claims and meet its obligations in the event of a storm that requires the levy of emergency assessments. Additionally, allowing Citizens to levy surcharges and assessments upon a determination by the Board of Directors that a deficit exists in a Citizens account will allow Citizens to begin the process of collecting those levies at an earlier time than under current law.

According to the Office of Insurance Regulation, there will be an increase in workload associated with the additional regulation; however, it is unknown if there will be additional costs associated or the OIR can handle within existing resources.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

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

None.

**B. Amendments:**

None.

By Senator Oelrich

14-01193C-12

20121346\_\_

1 A bill to be entitled  
 2 An act relating to Citizens Property Insurance  
 3 Corporation; amending s. 627.351, F.S.; conforming  
 4 cross-references; reducing to 2 percent from 6 percent  
 5 the amount of the projected deficit in the coastal  
 6 account for the prior calendar year which is recovered  
 7 through regular assessments; requiring that remaining  
 8 projected deficits in personal and commercial lines  
 9 accounts be recovered through emergency assessments  
 10 after accounting for the Citizens policyholder  
 11 surcharge; requiring the Office of Insurance  
 12 Regulation of the Financial Services Commission to  
 13 notify assessable insurers and the Florida Surplus  
 14 Lines Service Office of the dates assessable insurers  
 15 shall collect and pay emergency assessments; removing  
 16 reference to recoupment of residual market deficit  
 17 assessments; requiring the board of governors to make  
 18 a determination that an account has a projected  
 19 deficit before it levies a Citizens policy holder  
 20 surcharge; requiring that a limited apportionment  
 21 company begin collecting regular assessments within 90  
 22 days and pay in full within 15 months after the  
 23 assessment is levied; authorizing the Office of  
 24 Insurance Regulation to assist the Citizens Property  
 25 Insurance Corporation in the collection of  
 26 assessments; replacing the term "market equalization  
 27 surcharge" with the term "policyholder surcharge";  
 28 providing an effective date.  
 29

Page 1 of 37

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14-01193C-12

20121346\_\_

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

31  
 32 Section 1. Paragraphs (b), (c), (q), and (w) of subsection  
 33 (6) of section 627.351, Florida Statutes, are amended to read:  
 34 627.351 Insurance risk apportionment plans.—  
 35 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—  
 36 (b)1. All insurers authorized to write one or more subject  
 37 lines of business in this state are subject to assessment by the  
 38 corporation and, for the purposes of this subsection, are  
 39 referred to collectively as "assessable insurers." Insurers  
 40 writing one or more subject lines of business in this state  
 41 pursuant to part VIII of chapter 626 are not assessable  
 42 insurers, but insureds who procure one or more subject lines of  
 43 business in this state pursuant to part VIII of chapter 626 are  
 44 subject to assessment by the corporation and are referred to  
 45 collectively as "assessable insureds." An insurer's assessment  
 46 liability begins on the first day of the calendar year following  
 47 the year in which the insurer was issued a certificate of  
 48 authority to transact insurance for subject lines of business in  
 49 this state and terminates 1 year after the end of the first  
 50 calendar year during which the insurer no longer holds a  
 51 certificate of authority to transact insurance for subject lines  
 52 of business in this state.  
 53 2.a. All revenues, assets, liabilities, losses, and  
 54 expenses of the corporation shall be divided into three separate  
 55 accounts as follows:  
 56 (I) A personal lines account for personal residential  
 57 policies issued by the corporation, or issued by the Residential  
 58 Property and Casualty Joint Underwriting Association and renewed

Page 2 of 37

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14-01193C-12 20121346  
 59 by the corporation, which provides comprehensive, multiperil  
 60 coverage on risks that are not located in areas eligible for  
 61 coverage by the Florida Windstorm Underwriting Association as  
 62 those areas were defined on January 1, 2002, and for policies  
 63 that do not provide coverage for the peril of wind on risks that  
 64 are located in such areas;

(II) A commercial lines account for commercial residential  
 66 and commercial nonresidential policies issued by the  
 67 corporation, or issued by the Residential Property and Casualty  
 68 Joint Underwriting Association and renewed by the corporation,  
 69 which provides coverage for basic property perils on risks that  
 70 are not located in areas eligible for coverage by the Florida  
 71 Windstorm Underwriting Association as those areas were defined  
 72 on January 1, 2002, and for policies that do not provide  
 73 coverage for the peril of wind on risks that are located in such  
 74 areas; and

(III) A coastal account for personal residential policies  
 76 and commercial residential and commercial nonresidential  
 77 property policies issued by the corporation, or transferred to  
 78 the corporation, which provides coverage for the peril of wind  
 79 on risks that are located in areas eligible for coverage by the  
 80 Florida Windstorm Underwriting Association as those areas were  
 81 defined on January 1, 2002. The corporation may offer policies  
 82 that provide multiperil coverage and the corporation shall  
 83 continue to offer policies that provide coverage only for the  
 84 peril of wind for risks located in areas eligible for coverage  
 85 in the coastal account. In issuing multiperil coverage, the  
 86 corporation may use its approved policy forms and rates for the  
 87 personal lines account. An applicant or insured who is eligible

14-01193C-12 20121346  
 88 to purchase a multiperil policy from the corporation may  
 89 purchase a multiperil policy from an authorized insurer without  
 90 prejudice to the applicant's or insured's eligibility to  
 91 prospectively purchase a policy that provides coverage only for  
 92 the peril of wind from the corporation. An applicant or insured  
 93 who is eligible for a corporation policy that provides coverage  
 94 only for the peril of wind may elect to purchase or retain such  
 95 policy and also purchase or retain coverage excluding wind from  
 96 an authorized insurer without prejudice to the applicant's or  
 97 insured's eligibility to prospectively purchase a policy that  
 98 provides multiperil coverage from the corporation. It is the  
 99 goal of the Legislature that there be an overall average savings  
 100 of 10 percent or more for a policyholder who currently has a  
 101 wind-only policy with the corporation, and an ex-wind policy  
 102 with a voluntary insurer or the corporation, and who obtains a  
 103 multiperil policy from the corporation. It is the intent of the  
 104 Legislature that the offer of multiperil coverage in the coastal  
 105 account be made and implemented in a manner that does not  
 106 adversely affect the tax-exempt status of the corporation or  
 107 creditworthiness of or security for currently outstanding  
 108 financing obligations or credit facilities of the coastal  
 109 account, the personal lines account, or the commercial lines  
 110 account. The coastal account must also include quota share  
 111 primary insurance under subparagraph (c)2. The area eligible for  
 112 coverage under the coastal account also includes the area within  
 113 Port Canaveral, which is bordered on the south by the City of  
 114 Cape Canaveral, bordered on the west by the Banana River, and  
 115 bordered on the north by Federal Government property.

b. The three separate accounts must be maintained as long

14-01193C-12 20121346\_\_  
 117 as financing obligations entered into by the Florida Windstorm  
 118 Underwriting Association or Residential Property and Casualty  
 119 Joint Underwriting Association are outstanding, in accordance  
 120 with the terms of the corresponding financing documents. If the  
 121 financing obligations are no longer outstanding, the corporation  
 122 may use a single account for all revenues, assets, liabilities,  
 123 losses, and expenses of the corporation. Consistent with this  
 124 subparagraph and prudent investment policies that minimize the  
 125 cost of carrying debt, the board shall exercise its best efforts  
 126 to retire existing debt or obtain the approval of necessary  
 127 parties to amend the terms of existing debt, so as to structure  
 128 the most efficient plan to consolidate the three separate  
 129 accounts into a single account.

130 c. Creditors of the Residential Property and Casualty Joint  
 131 Underwriting Association and the accounts specified in sub-sub-  
 132 subparagraphs a.(I) and (II) may have a claim against, and  
 133 recourse to, those accounts and no claim against, or recourse  
 134 to, the account referred to in sub-sub-subparagraph a.(III).  
 135 Creditors of the Florida Windstorm Underwriting Association have  
 136 a claim against, and recourse to, the account referred to in  
 137 sub-sub-subparagraph a.(III) and no claim against, or recourse  
 138 to, the accounts referred to in sub-sub-subparagraphs a.(I) and  
 139 (II).

140 d. Revenues, assets, liabilities, losses, and expenses not  
 141 attributable to particular accounts shall be prorated among the  
 142 accounts.

143 e. The Legislature finds that the revenues of the  
 144 corporation are revenues that are necessary to meet the  
 145 requirements set forth in documents authorizing the issuance of

14-01193C-12 20121346\_\_  
 146 bonds under this subsection.  
 147 f. ~~No part of~~ The income of the corporation may not inure  
 148 to the benefit of any private person.  
 149 3. With respect to a deficit in an account:  
 150 a. After accounting for the Citizens policyholder surcharge  
 151 imposed under sub-subparagraph i. h-, if the remaining projected  
 152 deficit incurred in the coastal account in a particular calendar  
 153 year:  
 154 (I) Is not greater than 2 6 percent of the aggregate  
 155 statewide direct written premium for the subject lines of  
 156 business for the prior calendar year, the entire deficit shall  
 157 be recovered through regular assessments of assessable insurers  
 158 under paragraph (q) and assessable insureds.  
 159 (II) Exceeds 2 6 percent of the aggregate statewide direct  
 160 written premium for the subject lines of business for the prior  
 161 calendar year, the corporation shall levy regular assessments on  
 162 assessable insurers under paragraph (q) and on assessable  
 163 insureds in an amount equal to the greater of 2 6 percent of the  
 164 projected deficit or 2 6 percent of the aggregate statewide  
 165 direct written premium for the subject lines of business for the  
 166 prior calendar year. Any remaining projected deficit shall be  
 167 recovered through emergency assessments under sub-subparagraph  
 168 d. e-  
 169 b. Each assessable insurer's share of the amount being  
 170 assessed under sub-subparagraph a. must be in the proportion  
 171 that the assessable insurer's direct written premium for the  
 172 subject lines of business for the year preceding the assessment  
 173 bears to the aggregate statewide direct written premium for the  
 174 subject lines of business for that year. The assessment

14-01193C-12 20121346\_\_  
 175 percentage applicable to each assessable insured is the ratio of  
 176 the amount being assessed under sub-subparagraph a. to the  
 177 aggregate statewide direct written premium for the subject lines  
 178 of business for the prior year. Assessments levied by the  
 179 corporation on assessable insurers under sub-subparagraph a.  
 180 must be paid as required by the corporation's plan of operation  
 181 and paragraph (q). Assessments levied by the corporation on  
 182 assessable insureds under sub-subparagraph a. shall be collected  
 183 by the surplus lines agent at the time the surplus lines agent  
 184 collects the surplus lines tax required by s. 626.932, and paid  
 185 to the Florida Surplus Lines Service Office at the time the  
 186 surplus lines agent pays the surplus lines tax to that office.  
 187 Upon receipt of regular assessments from surplus lines agents,  
 188 the Florida Surplus Lines Service Office shall transfer the  
 189 assessments directly to the corporation as determined by the  
 190 corporation.

191 c. After accounting for the Citizens policyholder surcharge  
 192 imposed under sub-subparagraph i., the remaining projected  
 193 deficits in the personal lines account and in the commercial  
 194 lines account in a particular calendar year shall be recovered  
 195 through emergency assessments under sub-subparagraph d.

196 ~~d.e.~~ Upon a determination by the board of governors that a  
 197 projected deficit in an account exceeds the amount that is  
 198 expected to ~~will~~ be recovered through regular assessments under  
 199 sub-subparagraph a., plus the amount that is expected to be  
 200 recovered through surcharges under sub-subparagraph i. ~~h.~~, the  
 201 board, after verification by the office, shall levy emergency  
 202 assessments for as many years as necessary to cover the  
 203 deficits, to be collected by assessable insurers and the

14-01193C-12 20121346\_\_  
 204 corporation and collected from assessable insureds upon issuance  
 205 or renewal of policies for subject lines of business, excluding  
 206 National Flood Insurance policies. The amount collected in a  
 207 particular year must be a uniform percentage of that year's  
 208 direct written premium for subject lines of business and all  
 209 accounts of the corporation, excluding National Flood Insurance  
 210 Program policy premiums, as annually determined by the board and  
 211 verified by the office. The office shall verify the arithmetic  
 212 calculations involved in the board's determination within 30  
 213 days after receipt of the information on which the determination  
 214 was based. The office shall notify assessable insurers and the  
 215 Florida Surplus Lines Service Office of the date on which  
 216 assessable insurers shall begin to collect and assessable  
 217 insureds shall begin to pay such assessment. The date may be not  
 218 less than 90 days after the date the corporation levies  
 219 emergency assessments pursuant to this sub-subparagraph.

220 Notwithstanding any other provision of law, the corporation and  
 221 each assessable insurer that writes subject lines of business  
 222 shall collect emergency assessments from its policyholders  
 223 without such obligation being affected by any credit,  
 224 limitation, exemption, or deferment. Emergency assessments  
 225 levied by the corporation on assessable insureds shall be  
 226 collected by the surplus lines agent at the time the surplus  
 227 lines agent collects the surplus lines tax required by s.  
 228 626.932 and paid to the Florida Surplus Lines Service Office at  
 229 the time the surplus lines agent pays the surplus lines tax to  
 230 that office. The emergency assessments collected shall be  
 231 transferred directly to the corporation on a periodic basis as  
 232 determined by the corporation and held by the corporation solely

14-01193C-12 20121346\_\_  
 233 in the applicable account. The aggregate amount of emergency  
 234 assessments levied for an account under this sub-subparagraph in  
 235 any calendar year may be less than but not exceed the greater of  
 236 10 percent of the amount needed to cover the deficit, plus  
 237 interest, fees, commissions, required reserves, and other costs  
 238 associated with financing the original deficit, or 10 percent of  
 239 the aggregate statewide direct written premium for subject lines  
 240 of business and all accounts of the corporation for the prior  
 241 year, plus interest, fees, commissions, required reserves, and  
 242 other costs associated with financing the deficit.

e.~~d.~~ The corporation may pledge the proceeds of  
 243 assessments, projected recoveries from the Florida Hurricane  
 244 Catastrophe Fund, other insurance and reinsurance recoverables,  
 245 policyholder surcharges and other surcharges, and other funds  
 246 available to the corporation as the source of revenue for and to  
 247 secure bonds issued under paragraph (q), bonds or other  
 248 indebtedness issued under subparagraph (c)3., or lines of credit  
 249 or other financing mechanisms issued or created under this  
 250 subsection, or to retire any other debt incurred as a result of  
 251 deficits or events giving rise to deficits, or in any other way  
 252 that the board determines will efficiently recover such  
 253 deficits. The purpose of the lines of credit or other financing  
 254 mechanisms is to provide additional resources to assist the  
 255 corporation in covering claims and expenses attributable to a  
 256 catastrophe. As used in this subsection, the term "assessments"  
 257 includes regular assessments under sub-subparagraph a. or  
 258 subparagraph (q)1. and emergency assessments under sub-  
 259 subparagraph d. Emergency assessments collected under sub-  
 260 subparagraph d. are not part of an insurer's rates, are not  
 261

14-01193C-12 20121346\_\_  
 262 premium, and are not subject to premium tax, fees, or  
 263 commissions; however, failure to pay the emergency assessment  
 264 shall be treated as failure to pay premium. The emergency  
 265 assessments under sub-subparagraph d. ~~e.~~ shall continue as long  
 266 as any bonds issued or other indebtedness incurred with respect  
 267 to a deficit for which the assessment was imposed remain  
 268 outstanding, unless adequate provision has been made for the  
 269 payment of such bonds or other indebtedness pursuant to the  
 270 documents governing such bonds or indebtedness.

f.~~e.~~ As used in this subsection for purposes of any deficit  
 271 incurred on or after January 25, 2007, the term "subject lines  
 272 of business" means insurance written by assessable insurers or  
 273 procured by assessable insureds for all property and casualty  
 274 lines of business in this state, but not including workers'  
 275 compensation or medical malpractice. As used in this sub-  
 276 subparagraph, the term "property and casualty lines of business"  
 277 includes all lines of business identified on Form 2, Exhibit of  
 278 Premiums and Losses, in the annual statement required of  
 279 authorized insurers under s. 624.424 and any rule adopted under  
 280 this section, except for those lines identified as accident and  
 281 health insurance and except for policies written under the  
 282 National Flood Insurance Program or the Federal Crop Insurance  
 283 Program. For purposes of this sub-subparagraph, the term  
 284 "workers' compensation" includes both workers' compensation  
 285 insurance and excess workers' compensation insurance.

g.~~f.~~ The Florida Surplus Lines Service Office shall  
 287 determine annually the aggregate statewide written premium in  
 288 subject lines of business procured by assessable insureds and  
 289 report that information to the corporation in a form and at a

14-01193C-12 20121346\_\_

291 time the corporation specifies to ensure that the corporation  
292 can meet the requirements of this subsection and the  
293 corporation's financing obligations.

294 ~~h.g.~~ The Florida Surplus Lines Service Office shall verify  
295 the proper application by surplus lines agents of assessment  
296 percentages for regular assessments and emergency assessments  
297 levied under this subparagraph on assessable insureds and assist  
298 the corporation in ensuring the accurate, timely collection and  
299 payment of assessments by surplus lines agents as required by  
300 the corporation.

301 ~~i.h. If a deficit is incurred in any account~~ In 2008 or  
302 thereafter, upon a determination by the board of governors that  
303 an account has a projected deficit, the board shall levy a  
304 Citizens policyholder surcharge against all policyholders of the  
305 corporation.

306 (I) The surcharge shall be levied as a uniform percentage  
307 of the premium for the policy of up to 15 percent of such  
308 premium, which funds shall be used to offset the deficit.

309 (II) The surcharge is payable upon cancellation or  
310 termination of the policy, upon renewal of the policy, or upon  
311 issuance of a new policy by the corporation within the first 12  
312 months after the date of the levy or the period of time  
313 necessary to fully collect the surcharge amount.

314 (III) The corporation may not levy any regular assessments  
315 under paragraph (q) pursuant to sub-subparagraph a. or sub-  
316 subparagraph b. with respect to a particular year's deficit  
317 until the corporation has first levied the full amount of the  
318 surcharge authorized by this sub-subparagraph.

319 (IV) The surcharge is not considered premium and is not

14-01193C-12 20121346\_\_

320 subject to commissions, fees, or premium taxes. However, failure  
321 to pay the surcharge shall be treated as failure to pay premium.

322 ~~j.i.~~ If the amount of any assessments or surcharges  
323 collected from corporation policyholders, assessable insurers or  
324 their policyholders, or assessable insureds exceeds the amount  
325 of the deficits, such excess amounts shall be remitted to and  
326 retained by the corporation in a reserve to be used by the  
327 corporation, as determined by the board of governors and  
328 approved by the office, to pay claims or reduce any past,  
329 present, or future plan-year deficits or to reduce outstanding  
330 debt.

331 (c) The corporation's plan of operation:

332 1. Must provide for adoption of residential property and  
333 casualty insurance policy forms and commercial residential and  
334 nonresidential property insurance forms, which must be approved  
335 by the office before use. The corporation shall adopt the  
336 following policy forms:

337 a. Standard personal lines policy forms that are  
338 comprehensive multiperil policies providing full coverage of a  
339 residential property equivalent to the coverage provided in the  
340 private insurance market under an HO-3, HO-4, or HO-6 policy.

341 b. Basic personal lines policy forms that are policies  
342 similar to an HO-8 policy or a dwelling fire policy that provide  
343 coverage meeting the requirements of the secondary mortgage  
344 market, but which is more limited than the coverage under a  
345 standard policy.

346 c. Commercial lines residential and nonresidential policy  
347 forms that are generally similar to the basic perils of full  
348 coverage obtainable for commercial residential structures and

14-01193C-12 20121346\_\_

349 commercial nonresidential structures in the admitted voluntary  
350 market.

351 d. Personal lines and commercial lines residential property  
352 insurance forms that cover the peril of wind only. The forms are  
353 applicable only to residential properties located in areas  
354 eligible for coverage under the coastal account referred to in  
355 sub-subparagraph (b)2.a.

356 e. Commercial lines nonresidential property insurance forms  
357 that cover the peril of wind only. The forms are applicable only  
358 to nonresidential properties located in areas eligible for  
359 coverage under the coastal account referred to in sub-  
360 subparagraph (b)2.a.

361 f. The corporation may adopt variations of the policy forms  
362 listed in sub-subparagraphs a.-e. which contain more restrictive  
363 coverage.

364 2. Must provide that the corporation adopt a program in  
365 which the corporation and authorized insurers enter into quota  
366 share primary insurance agreements for hurricane coverage, as  
367 defined in s. 627.4025(2)(a), for eligible risks, and adopt  
368 property insurance forms for eligible risks which cover the  
369 peril of wind only.

370 a. As used in this subsection, the term:

371 (I) "Quota share primary insurance" means an arrangement in  
372 which the primary hurricane coverage of an eligible risk is  
373 provided in specified percentages by the corporation and an  
374 authorized insurer. The corporation and authorized insurer are  
375 each solely responsible for a specified percentage of hurricane  
376 coverage of an eligible risk as set forth in a quota share  
377 primary insurance agreement between the corporation and an

14-01193C-12 20121346\_\_

378 authorized insurer and the insurance contract. The  
379 responsibility of the corporation or authorized insurer to pay  
380 its specified percentage of hurricane losses of an eligible  
381 risk, as set forth in the agreement, may not be altered by the  
382 inability of the other party to pay its specified percentage of  
383 losses. Eligible risks that are provided hurricane coverage  
384 through a quota share primary insurance arrangement must be  
385 provided policy forms that set forth the obligations of the  
386 corporation and authorized insurer under the arrangement,  
387 clearly specify the percentages of quota share primary insurance  
388 provided by the corporation and authorized insurer, and  
389 conspicuously and clearly state that the authorized insurer and  
390 the corporation may not be held responsible beyond their  
391 specified percentage of coverage of hurricane losses.

392 (II) "Eligible risks" means personal lines residential and  
393 commercial lines residential risks that meet the underwriting  
394 criteria of the corporation and are located in areas that were  
395 eligible for coverage by the Florida Windstorm Underwriting  
396 Association on January 1, 2002.

397 b. The corporation may enter into quota share primary  
398 insurance agreements with authorized insurers at corporation  
399 coverage levels of 90 percent and 50 percent.

400 c. If the corporation determines that additional coverage  
401 levels are necessary to maximize participation in quota share  
402 primary insurance agreements by authorized insurers, the  
403 corporation may establish additional coverage levels. However,  
404 the corporation's quota share primary insurance coverage level  
405 may not exceed 90 percent.

406 d. Any quota share primary insurance agreement entered into

14-01193C-12 20121346  
 407 between an authorized insurer and the corporation must provide  
 408 for a uniform specified percentage of coverage of hurricane  
 409 losses, by county or territory as set forth by the corporation  
 410 board, for all eligible risks of the authorized insurer covered  
 411 under the agreement.

412 e. Any quota share primary insurance agreement entered into  
 413 between an authorized insurer and the corporation is subject to  
 414 review and approval by the office. However, such agreement shall  
 415 be authorized only as to insurance contracts entered into  
 416 between an authorized insurer and an insured who is already  
 417 insured by the corporation for wind coverage.

418 f. For all eligible risks covered under quota share primary  
 419 insurance agreements, the exposure and coverage levels for both  
 420 the corporation and authorized insurers shall be reported by the  
 421 corporation to the Florida Hurricane Catastrophe Fund. For all  
 422 policies of eligible risks covered under such agreements, the  
 423 corporation and the authorized insurer must maintain complete  
 424 and accurate records for the purpose of exposure and loss  
 425 reimbursement audits as required by fund rules. The corporation  
 426 and the authorized insurer shall each maintain duplicate copies  
 427 of policy declaration pages and supporting claims documents.

428 g. The corporation board shall establish in its plan of  
 429 operation standards for quota share agreements which ensure that  
 430 there is no discriminatory application among insurers as to the  
 431 terms of the agreements, pricing of the agreements, incentive  
 432 provisions if any, and consideration paid for servicing policies  
 433 or adjusting claims.

434 h. The quota share primary insurance agreement between the  
 435 corporation and an authorized insurer must set forth the

14-01193C-12 20121346  
 436 specific terms under which coverage is provided, including, but  
 437 not limited to, the sale and servicing of policies issued under  
 438 the agreement by the insurance agent of the authorized insurer  
 439 producing the business, the reporting of information concerning  
 440 eligible risks, the payment of premium to the corporation, and  
 441 arrangements for the adjustment and payment of hurricane claims  
 442 incurred on eligible risks by the claims adjuster and personnel  
 443 of the authorized insurer. Entering into a quota sharing  
 444 insurance agreement between the corporation and an authorized  
 445 insurer is voluntary and at the discretion of the authorized  
 446 insurer.

447 3.a. May provide that the corporation may employ or  
 448 otherwise contract with individuals or other entities to provide  
 449 administrative or professional services that may be appropriate  
 450 to effectuate the plan. The corporation may borrow funds by  
 451 issuing bonds or by incurring other indebtedness, and shall have  
 452 other powers reasonably necessary to effectuate the requirements  
 453 of this subsection, including, without limitation, the power to  
 454 issue bonds and incur other indebtedness in order to refinance  
 455 outstanding bonds or other indebtedness. The corporation may  
 456 seek judicial validation of its bonds or other indebtedness  
 457 under chapter 75. The corporation may issue bonds or incur other  
 458 indebtedness, or have bonds issued on its behalf by a unit of  
 459 local government pursuant to subparagraph (q)2. in the absence  
 460 of a hurricane or other weather-related event, upon a  
 461 determination by the corporation, subject to approval by the  
 462 office, that such action would enable it to efficiently meet the  
 463 financial obligations of the corporation and that such  
 464 financings are reasonably necessary to effectuate the

14-01193C-12

20121346

465 requirements of this subsection. The corporation may take all  
 466 actions needed to facilitate tax-free status for such bonds or  
 467 indebtedness, including formation of trusts or other affiliated  
 468 entities. The corporation may pledge assessments, projected  
 469 recoveries from the Florida Hurricane Catastrophe Fund, other  
 470 reinsurance recoverables, policyholder surcharges ~~market~~  
 471 ~~equalization~~ and other surcharges, and other funds available to  
 472 the corporation as security for bonds or other indebtedness. In  
 473 recognition of s. 10, Art. I of the State Constitution,  
 474 prohibiting the impairment of obligations of contracts, it is  
 475 the intent of the Legislature that no action be taken whose  
 476 purpose is to impair any bond indenture or financing agreement  
 477 or any revenue source committed by contract to such bond or  
 478 other indebtedness.

479       b. To ensure that the corporation is operating in an  
 480 efficient and economic manner while providing quality service to  
 481 policyholders, applicants, and agents, the board shall  
 482 commission an independent third-party consultant having  
 483 expertise in insurance company management or insurance company  
 484 management consulting to prepare a report and make  
 485 recommendations on the relative costs and benefits of  
 486 outsourcing various policy issuance and service functions to  
 487 private servicing carriers or entities performing similar  
 488 functions in the private market for a fee, rather than  
 489 performing such functions in-house. In making such  
 490 recommendations, the consultant shall consider how other  
 491 residual markets, both in this state and around the country,  
 492 outsource appropriate functions or use servicing carriers to  
 493 better match expenses with revenues that fluctuate based on a

Page 17 of 37

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14-01193C-12

20121346

494 widely varying policy count. The report must be completed by  
 495 July 1, 2012. Upon receiving the report, the board shall develop  
 496 a plan to implement the report and submit the plan for review,  
 497 modification, and approval to the Financial Services Commission.  
 498 Upon the commission's approval of the plan, the board shall  
 499 begin implementing the plan by January 1, 2013.

500       4. Must require that the corporation operate subject to the  
 501 supervision and approval of a board of governors consisting of  
 502 eight individuals who are residents of this state, from  
 503 different geographical areas of this state.

504       a. The Governor, the Chief Financial Officer, the President  
 505 of the Senate, and the Speaker of the House of Representatives  
 506 shall each appoint two members of the board. At least one of the  
 507 two members appointed by each appointing officer must have  
 508 demonstrated expertise in insurance and is deemed to be within  
 509 the scope of the exemption provided in s. 112.313(7)(b). The  
 510 Chief Financial Officer shall designate one of the appointees as  
 511 chair. All board members serve at the pleasure of the appointing  
 512 officer. All members of the board are subject to removal at will  
 513 by the officers who appointed them. All board members, including  
 514 the chair, must be appointed to serve for 3-year terms beginning  
 515 annually on a date designated by the plan. However, for the  
 516 first term beginning on or after July 1, 2009, each appointing  
 517 officer shall appoint one member of the board for a 2-year term  
 518 and one member for a 3-year term. A board vacancy shall be  
 519 filled for the unexpired term by the appointing officer. The  
 520 Chief Financial Officer shall appoint a technical advisory group  
 521 to provide information and advice to the board in connection  
 522 with the board's duties under this subsection. The executive

Page 18 of 37

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14-01193C-12 20121346\_\_  
 523 director and senior managers of the corporation shall be engaged  
 524 by the board and serve at the pleasure of the board. Any  
 525 executive director appointed on or after July 1, 2006, is  
 526 subject to confirmation by the Senate. The executive director is  
 527 responsible for employing other staff as the corporation may  
 528 require, subject to review and concurrence by the board.

b. The board shall create a Market Accountability Advisory  
 530 Committee to assist the corporation in developing awareness of  
 531 its rates and its customer and agent service levels in  
 532 relationship to the voluntary market insurers writing similar  
 533 coverage.

(I) The members of the advisory committee consist of the  
 535 following 11 persons, one of whom must be elected chair by the  
 536 members of the committee: four representatives, one appointed by  
 537 the Florida Association of Insurance Agents, one by the Florida  
 538 Association of Insurance and Financial Advisors, one by the  
 539 Professional Insurance Agents of Florida, and one by the Latin  
 540 American Association of Insurance Agencies; three  
 541 representatives appointed by the insurers with the three highest  
 542 voluntary market share of residential property insurance  
 543 business in the state; one representative from the Office of  
 544 Insurance Regulation; one consumer appointed by the board who is  
 545 insured by the corporation at the time of appointment to the  
 546 committee; one representative appointed by the Florida  
 547 Association of Realtors; and one representative appointed by the  
 548 Florida Bankers Association. All members shall be appointed to  
 549 3-year terms and may serve for consecutive terms.

(II) The committee shall report to the corporation at each  
 551 board meeting on insurance market issues which may include rates

14-01193C-12 20121346\_\_  
 552 and rate competition with the voluntary market; service,  
 553 including policy issuance, claims processing, and general  
 554 responsiveness to policyholders, applicants, and agents; and  
 555 matters relating to depopulation.

5. Must provide a procedure for determining the eligibility  
 557 of a risk for coverage, as follows:

a. Subject to s. 627.3517, with respect to personal lines  
 559 residential risks, if the risk is offered coverage from an  
 560 authorized insurer at the insurer's approved rate under a  
 561 standard policy including wind coverage or, if consistent with  
 562 the insurer's underwriting rules as filed with the office, a  
 563 basic policy including wind coverage, for a new application to  
 564 the corporation for coverage, the risk is not eligible for any  
 565 policy issued by the corporation unless the premium for coverage  
 566 from the authorized insurer is more than 15 percent greater than  
 567 the premium for comparable coverage from the corporation. If the  
 568 risk is not able to obtain such offer, the risk is eligible for  
 569 a standard policy including wind coverage or a basic policy  
 570 including wind coverage issued by the corporation; however, if  
 571 the risk could not be insured under a standard policy including  
 572 wind coverage regardless of market conditions, the risk is  
 573 eligible for a basic policy including wind coverage unless  
 574 rejected under subparagraph 8. However, a policyholder of the  
 575 corporation or a policyholder removed from the corporation  
 576 through an assumption agreement until the end of the assumption  
 577 period remains eligible for coverage from the corporation  
 578 regardless of any offer of coverage from an authorized insurer  
 579 or surplus lines insurer. The corporation shall determine the  
 580 type of policy to be provided on the basis of objective

14-01193C-12 20121346\_\_

581 standards specified in the underwriting manual and based on  
582 generally accepted underwriting practices.

583 (I) If the risk accepts an offer of coverage through the  
584 market assistance plan or through a mechanism established by the  
585 corporation before a policy is issued to the risk by the  
586 corporation or during the first 30 days of coverage by the  
587 corporation, and the producing agent who submitted the  
588 application to the plan or to the corporation is not currently  
589 appointed by the insurer, the insurer shall:

590 (A) Pay to the producing agent of record of the policy for  
591 the first year, an amount that is the greater of the insurer's  
592 usual and customary commission for the type of policy written or  
593 a fee equal to the usual and customary commission of the  
594 corporation; or

595 (B) Offer to allow the producing agent of record of the  
596 policy to continue servicing the policy for at least 1 year and  
597 offer to pay the agent the greater of the insurer's or the  
598 corporation's usual and customary commission for the type of  
599 policy written.

600  
601 If the producing agent is unwilling or unable to accept  
602 appointment, the new insurer shall pay the agent in accordance  
603 with sub-sub-sub-subparagraph (A).

604 (II) If the corporation enters into a contractual agreement  
605 for a take-out plan, the producing agent of record of the  
606 corporation policy is entitled to retain any unearned commission  
607 on the policy, and the insurer shall:

608 (A) Pay to the producing agent of record, for the first  
609 year, an amount that is the greater of the insurer's usual and

14-01193C-12 20121346\_\_

610 customary commission for the type of policy written or a fee  
611 equal to the usual and customary commission of the corporation;  
612 or

613 (B) Offer to allow the producing agent of record to  
614 continue servicing the policy for at least 1 year and offer to  
615 pay the agent the greater of the insurer's or the corporation's  
616 usual and customary commission for the type of policy written.

617  
618 If the producing agent is unwilling or unable to accept  
619 appointment, the new insurer shall pay the agent in accordance  
620 with sub-sub-sub-subparagraph (A).

621 b. With respect to commercial lines residential risks, for  
622 a new application to the corporation for coverage, if the risk  
623 is offered coverage under a policy including wind coverage from  
624 an authorized insurer at its approved rate, the risk is not  
625 eligible for a policy issued by the corporation unless the  
626 premium for coverage from the authorized insurer is more than 15  
627 percent greater than the premium for comparable coverage from  
628 the corporation. If the risk is not able to obtain any such  
629 offer, the risk is eligible for a policy including wind coverage  
630 issued by the corporation. However, a policyholder of the  
631 corporation or a policyholder removed from the corporation  
632 through an assumption agreement until the end of the assumption  
633 period remains eligible for coverage from the corporation  
634 regardless of an offer of coverage from an authorized insurer or  
635 surplus lines insurer.

636 (I) If the risk accepts an offer of coverage through the  
637 market assistance plan or through a mechanism established by the  
638 corporation before a policy is issued to the risk by the

14-01193C-12 20121346\_\_

639 corporation or during the first 30 days of coverage by the  
640 corporation, and the producing agent who submitted the  
641 application to the plan or the corporation is not currently  
642 appointed by the insurer, the insurer shall:

643 (A) Pay to the producing agent of record of the policy, for  
644 the first year, an amount that is the greater of the insurer's  
645 usual and customary commission for the type of policy written or  
646 a fee equal to the usual and customary commission of the  
647 corporation; or

648 (B) Offer to allow the producing agent of record of the  
649 policy to continue servicing the policy for at least 1 year and  
650 offer to pay the agent the greater of the insurer's or the  
651 corporation's usual and customary commission for the type of  
652 policy written.

653  
654 If the producing agent is unwilling or unable to accept  
655 appointment, the new insurer shall pay the agent in accordance  
656 with sub-sub-sub-subparagraph (A).

657 (II) If the corporation enters into a contractual agreement  
658 for a take-out plan, the producing agent of record of the  
659 corporation policy is entitled to retain any unearned commission  
660 on the policy, and the insurer shall:

661 (A) Pay to the producing agent of record, for the first  
662 year, an amount that is the greater of the insurer's usual and  
663 customary commission for the type of policy written or a fee  
664 equal to the usual and customary commission of the corporation;  
665 or

666 (B) Offer to allow the producing agent of record to  
667 continue servicing the policy for at least 1 year and offer to

14-01193C-12 20121346\_\_

668 pay the agent the greater of the insurer's or the corporation's  
669 usual and customary commission for the type of policy written.

670  
671 If the producing agent is unwilling or unable to accept  
672 appointment, the new insurer shall pay the agent in accordance  
673 with sub-sub-sub-subparagraph (A).

674 c. For purposes of determining comparable coverage under  
675 sub-subparagraphs a. and b., the comparison must be based on  
676 those forms and coverages that are reasonably comparable. The  
677 corporation may rely on a determination of comparable coverage  
678 and premium made by the producing agent who submits the  
679 application to the corporation, made in the agent's capacity as  
680 the corporation's agent. A comparison may be made solely of the  
681 premium with respect to the main building or structure only on  
682 the following basis: the same coverage A or other building  
683 limits; the same percentage hurricane deductible that applies on  
684 an annual basis or that applies to each hurricane for commercial  
685 residential property; the same percentage of ordinance and law  
686 coverage, if the same limit is offered by both the corporation  
687 and the authorized insurer; the same mitigation credits, to the  
688 extent the same types of credits are offered both by the  
689 corporation and the authorized insurer; the same method for loss  
690 payment, such as replacement cost or actual cash value, if the  
691 same method is offered both by the corporation and the  
692 authorized insurer in accordance with underwriting rules; and  
693 any other form or coverage that is reasonably comparable as  
694 determined by the board. If an application is submitted to the  
695 corporation for wind-only coverage in the coastal account, the  
696 premium for the corporation's wind-only policy plus the premium

14-01193C-12 20121346\_\_  
 697 for the ex-wind policy that is offered by an authorized insurer  
 698 to the applicant must be compared to the premium for multiperil  
 699 coverage offered by an authorized insurer, subject to the  
 700 standards for comparison specified in this subparagraph. If the  
 701 corporation or the applicant requests from the authorized  
 702 insurer a breakdown of the premium of the offer by types of  
 703 coverage so that a comparison may be made by the corporation or  
 704 its agent and the authorized insurer refuses or is unable to  
 705 provide such information, the corporation may treat the offer as  
 706 not being an offer of coverage from an authorized insurer at the  
 707 insurer's approved rate.

708 6. Must include rules for classifications of risks and  
 709 rates.

710 7. Must provide that if premium and investment income for  
 711 an account attributable to a particular calendar year are in  
 712 excess of projected losses and expenses for the account  
 713 attributable to that year, such excess shall be held in surplus  
 714 in the account. Such surplus must be available to defray  
 715 deficits in that account as to future years and used for that  
 716 purpose before assessing assessable insurers and assessable  
 717 insureds as to any calendar year.

718 8. Must provide objective criteria and procedures to be  
 719 uniformly applied to all applicants in determining whether an  
 720 individual risk is so hazardous as to be uninsurable. In making  
 721 this determination and in establishing the criteria and  
 722 procedures, the following must be considered:

723 a. Whether the likelihood of a loss for the individual risk  
 724 is substantially higher than for other risks of the same class;  
 725 and

14-01193C-12 20121346\_\_  
 726 b. Whether the uncertainty associated with the individual  
 727 risk is such that an appropriate premium cannot be determined.

728  
 729 The acceptance or rejection of a risk by the corporation shall  
 730 be construed as the private placement of insurance, and the  
 731 provisions of chapter 120 do not apply.

732 9. Must provide that the corporation make its best efforts  
 733 to procure catastrophe reinsurance at reasonable rates, to cover  
 734 its projected 100-year probable maximum loss as determined by  
 735 the board of governors.

736 10. The policies issued by the corporation must provide  
 737 that if the corporation or the market assistance plan obtains an  
 738 offer from an authorized insurer to cover the risk at its  
 739 approved rates, the risk is no longer eligible for renewal  
 740 through the corporation, except as otherwise provided in this  
 741 subsection.

742 11. Corporation policies and applications must include a  
 743 notice that the corporation policy could, under this section, be  
 744 replaced with a policy issued by an authorized insurer which  
 745 does not provide coverage identical to the coverage provided by  
 746 the corporation. The notice must also specify that acceptance of  
 747 corporation coverage creates a conclusive presumption that the  
 748 applicant or policyholder is aware of this potential.

749 12. May establish, subject to approval by the office,  
 750 different eligibility requirements and operational procedures  
 751 for any line or type of coverage for any specified county or  
 752 area if the board determines that such changes are justified due  
 753 to the voluntary market being sufficiently stable and  
 754 competitive in such area or for such line or type of coverage

14-01193C-12

20121346

755 and that consumers who, in good faith, are unable to obtain  
 756 insurance through the voluntary market through ordinary methods  
 757 continue to have access to coverage from the corporation. If  
 758 coverage is sought in connection with a real property transfer,  
 759 the requirements and procedures may not provide an effective  
 760 date of coverage later than the date of the closing of the  
 761 transfer as established by the transferor, the transferee, and,  
 762 if applicable, the lender.

763 13. Must provide that, with respect to the coastal account,  
 764 any assessable insurer with a surplus as to policyholders of \$25  
 765 million or less writing 25 percent or more of its total  
 766 countrywide property insurance premiums in this state may  
 767 petition the office, within the first 90 days of each calendar  
 768 year, to qualify as a limited apportionment company. A regular  
 769 assessment levied by the corporation on a limited apportionment  
 770 company for a deficit incurred by the corporation for the  
 771 coastal account may be paid to the corporation on a monthly  
 772 basis as the assessments are collected by the limited  
 773 apportionment company from its insureds ~~pursuant to s. 627.3512,~~  
 774 but a limited apportionment company must begin collecting the  
 775 regular assessments not later than 90 days after the regular  
 776 assessments are levied by the corporation, and the regular  
 777 assessments ~~assessment~~ must be paid in full within 15 ~~12~~ months  
 778 after being levied by the corporation. A limited apportionment  
 779 company shall collect from its policyholders any emergency  
 780 assessment imposed under sub-subparagraph (b)3.d. The plan must  
 781 provide that, if the office determines that any regular  
 782 assessment will result in an impairment of the surplus of a  
 783 limited apportionment company, the office may direct that all or

Page 27 of 37

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14-01193C-12

20121346

784 part of such assessment be deferred as provided in subparagraph  
 785 (q)4. However, an emergency assessment to be collected from  
 786 policyholders under sub-subparagraph (b)3.d. may not be limited  
 787 or deferred.

788 14. Must provide that the corporation appoint as its  
 789 licensed agents only those agents who also hold an appointment  
 790 as defined in s. 626.015(3) with an insurer who at the time of  
 791 the agent's initial appointment by the corporation is authorized  
 792 to write and is actually writing personal lines residential  
 793 property coverage, commercial residential property coverage, or  
 794 commercial nonresidential property coverage within the state.

795 15. Must provide a premium payment plan option to its  
 796 policyholders which, at a minimum, allows for quarterly and  
 797 semiannual payment of premiums. A monthly payment plan may, but  
 798 is not required to, be offered.

799 16. Must limit coverage on mobile homes or manufactured  
 800 homes built before 1994 to actual cash value of the dwelling  
 801 rather than replacement costs of the dwelling.

802 17. May provide such limits of coverage as the board  
 803 determines, consistent with the requirements of this subsection.

804 18. May require commercial property to meet specified  
 805 hurricane mitigation construction features as a condition of  
 806 eligibility for coverage.

807 19. Must provide that new or renewal policies issued by the  
 808 corporation on or after January 1, 2012, which cover sinkhole  
 809 loss do not include coverage for any loss to appurtenant  
 810 structures, driveways, sidewalks, decks, or patios that are  
 811 directly or indirectly caused by sinkhole activity. The  
 812 corporation shall exclude such coverage using a notice of

Page 28 of 37

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14-01193C-12 20121346\_\_  
 813 coverage change, which may be included with the policy renewal,  
 814 and not by issuance of a notice of nonrenewal of the excluded  
 815 coverage upon renewal of the current policy.

816 20. As of January 1, 2012, must require that the agent  
 817 obtain from an applicant for coverage from the corporation an  
 818 acknowledgement signed by the applicant, which includes, at a  
 819 minimum, the following statement:

820  
 821 ACKNOWLEDGEMENT OF POTENTIAL SURCHARGE  
 822 AND ASSESSMENT LIABILITY:  
 823

824 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE  
 825 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A  
 826 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,  
 827 MY POLICY COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND  
 828 PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE  
 829 POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH AS 45 PERCENT  
 830 OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA  
 831 LEGISLATURE.

832 2. I ALSO UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY  
 833 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER  
 834 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE  
 835 FLORIDA LEGISLATURE.

836 3. I ALSO UNDERSTAND THAT CITIZENS PROPERTY INSURANCE  
 837 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE  
 838 STATE OF FLORIDA.  
 839

840 a. The corporation shall maintain, in electronic format or  
 841 otherwise, a copy of the applicant's signed acknowledgement and

14-01193C-12 20121346\_\_  
 842 provide a copy of the statement to the policyholder as part of  
 843 the first renewal after the effective date of this subparagraph.

844 b. The signed acknowledgement form creates a conclusive  
 845 presumption that the policyholder understood and accepted his or  
 846 her potential surcharge and assessment liability as a  
 847 policyholder of the corporation.

848 (q)1. The corporation shall certify to the office its needs  
 849 for annual assessments as to a particular calendar year, and for  
 850 any interim assessments that it deems to be necessary to sustain  
 851 operations as to a particular year pending the receipt of annual  
 852 assessments. Upon verification, the office shall approve such  
 853 certification, and the corporation shall levy such annual or  
 854 interim assessments. Such assessments shall be prorated as  
 855 provided in paragraph (b). The corporation shall take all  
 856 reasonable and prudent steps necessary to collect the amount of  
 857 assessments ~~assessment~~ due from each assessable insurer,  
 858 including, if prudent, filing suit to collect the assessments,  
 859 and the office may provide such assistance to the corporation it  
 860 deems appropriate ~~such assessment~~. If the corporation is unable  
 861 to collect an assessment from any assessable insurer, the  
 862 uncollected assessments shall be levied as an additional  
 863 assessment against the assessable insurers and any assessable  
 864 insurer required to pay an additional assessment as a result of  
 865 such failure to pay shall have a cause of action against such  
 866 nonpaying assessable insurer. Assessments shall be included as  
 867 an appropriate factor in the making of rates. The failure of a  
 868 surplus lines agent to collect and remit any regular or  
 869 emergency assessment levied by the corporation is considered to  
 870 be a violation of s. 626.936 and subjects the surplus lines

14-01193C-12

20121346\_\_

871 agent to the penalties provided in that section.

872       2. The governing body of any unit of local government, any  
873 residents of which are insured by the corporation, may issue  
874 bonds as defined in s. 125.013 or s. 166.101 from time to time  
875 to fund an assistance program, in conjunction with the  
876 corporation, for the purpose of defraying deficits of the  
877 corporation. In order to avoid needless and indiscriminate  
878 proliferation, duplication, and fragmentation of such assistance  
879 programs, any unit of local government, any residents of which  
880 are insured by the corporation, may provide for the payment of  
881 losses, regardless of whether or not the losses occurred within  
882 or outside of the territorial jurisdiction of the local  
883 government. Revenue bonds under this subparagraph may not be  
884 issued until validated pursuant to chapter 75, unless a state of  
885 emergency is declared by executive order or proclamation of the  
886 Governor pursuant to s. 252.36 making such findings as are  
887 necessary to determine that it is in the best interests of, and  
888 necessary for, the protection of the public health, safety, and  
889 general welfare of residents of this state and declaring it an  
890 essential public purpose to permit certain municipalities or  
891 counties to issue such bonds as will permit relief to claimants  
892 and policyholders of the corporation. Any such unit of local  
893 government may enter into such contracts with the corporation  
894 and with any other entity created pursuant to this subsection as  
895 are necessary to carry out this paragraph. Any bonds issued  
896 under this subparagraph shall be payable from and secured by  
897 moneys received by the corporation from emergency assessments  
898 under sub-subparagraph (b)3.d., and assigned and pledged to or  
899 on behalf of the unit of local government for the benefit of the

Page 31 of 37

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14-01193C-12

20121346\_\_

900 holders of such bonds. The funds, credit, property, and taxing  
901 power of the state or of the unit of local government shall not  
902 be pledged for the payment of such bonds.

903       3.a. The corporation shall adopt one or more programs  
904 subject to approval by the office for the reduction of both new  
905 and renewal writings in the corporation. Beginning January 1,  
906 2008, any program the corporation adopts for the payment of  
907 bonuses to an insurer for each risk the insurer removes from the  
908 corporation shall comply with s. 627.3511(2) and may not exceed  
909 the amount referenced in s. 627.3511(2) for each risk removed.  
910 The corporation may consider any prudent and not unfairly  
911 discriminatory approach to reducing corporation writings, and  
912 may adopt a credit against assessment liability or other  
913 liability that provides an incentive for insurers to take risks  
914 out of the corporation and to keep risks out of the corporation  
915 by maintaining or increasing voluntary writings in counties or  
916 areas in which corporation risks are highly concentrated and a  
917 program to provide a formula under which an insurer voluntarily  
918 taking risks out of the corporation by maintaining or increasing  
919 voluntary writings will be relieved wholly or partially from  
920 assessments under sub-subparagraphs (b)3.a. and b. However, any  
921 "take-out bonus" or payment to an insurer must be conditioned on  
922 the property being insured for at least 5 years by the insurer,  
923 unless canceled or nonrenewed by the policyholder. If the policy  
924 is canceled or nonrenewed by the policyholder before the end of  
925 the 5-year period, the amount of the take-out bonus must be  
926 prorated for the time period the policy was insured. When the  
927 corporation enters into a contractual agreement for a take-out  
928 plan, the producing agent of record of the corporation policy is

Page 32 of 37

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14-01193C-12 20121346

929 entitled to retain any unearned commission on such policy, and  
930 the insurer shall either:

931 (I) Pay to the producing agent of record of the policy, for  
932 the first year, an amount which is the greater of the insurer's  
933 usual and customary commission for the type of policy written or  
934 a policy fee equal to the usual and customary commission of the  
935 corporation; or

936 (II) Offer to allow the producing agent of record of the  
937 policy to continue servicing the policy for a period of not less  
938 than 1 year and offer to pay the agent the insurer's usual and  
939 customary commission for the type of policy written. If the  
940 producing agent is unwilling or unable to accept appointment by  
941 the new insurer, the new insurer shall pay the agent in  
942 accordance with sub-sub-subparagraph (I).

943 b. Any credit or exemption from regular assessments adopted  
944 under this subparagraph shall last no longer than the 3 years  
945 following the cancellation or expiration of the policy by the  
946 corporation. With the approval of the office, the board may  
947 extend such credits for an additional year if the insurer  
948 guarantees an additional year of renewability for all policies  
949 removed from the corporation, or for 2 additional years if the  
950 insurer guarantees 2 additional years of renewability for all  
951 policies so removed.

952 c. There shall be no credit, limitation, exemption, or  
953 deferment from emergency assessments to be collected from  
954 policyholders pursuant to sub-subparagraph (b)3.d.

955 4. The plan shall provide for the deferment, in whole or in  
956 part, of the assessment of an assessable insurer, other than an  
957 emergency assessment collected from policyholders pursuant to

14-01193C-12 20121346

958 sub-subparagraph (b)3.d., if the office finds that payment of  
959 the assessment would endanger or impair the solvency of the  
960 insurer. In the event an assessment against an assessable  
961 insurer is deferred in whole or in part, the amount by which  
962 such assessment is deferred may be assessed against the other  
963 assessable insurers in a manner consistent with the basis for  
964 assessments set forth in paragraph (b).

965 5. Effective July 1, 2007, in order to evaluate the costs  
966 and benefits of approved take-out plans, if the corporation pays  
967 a bonus or other payment to an insurer for an approved take-out  
968 plan, it shall maintain a record of the address or such other  
969 identifying information on the property or risk removed in order  
970 to track if and when the property or risk is later insured by  
971 the corporation.

972 6. Any policy taken out, assumed, or removed from the  
973 corporation is, as of the effective date of the take-out,  
974 assumption, or removal, direct insurance issued by the insurer  
975 and not by the corporation, even if the corporation continues to  
976 service the policies. This subparagraph applies to policies of  
977 the corporation and not policies taken out, assumed, or removed  
978 from any other entity.

979 (w) Notwithstanding any other provision of law:

980 1. The pledge or sale of, the lien upon, and the security  
981 interest in any rights, revenues, or other assets of the  
982 corporation created or purported to be created pursuant to any  
983 financing documents to secure any bonds or other indebtedness of  
984 the corporation shall be and remain valid and enforceable,  
985 notwithstanding the commencement of and during the continuation  
986 of, and after, any rehabilitation, insolvency, liquidation,

14-01193C-12 20121346\_\_

987 bankruptcy, receivership, conservatorship, reorganization, or  
988 similar proceeding against the corporation under the laws of  
989 this state.

990 2. ~~The No such proceeding does not shall~~ relieve the  
991 corporation of its obligation, or otherwise affect its ability  
992 to perform its obligation, to continue to collect, or levy and  
993 collect, assessments, policyholder surcharges ~~market~~  
994 ~~equalization~~ or other surcharges under sub-subparagraph (b)3.i.  
995 ~~subparagraph (c)10-~~, or any other rights, revenues, or other  
996 assets of the corporation pledged pursuant to any financing  
997 documents.

998 3. Each such pledge or sale of, lien upon, and security  
999 interest in, including the priority of such pledge, lien, or  
1000 security interest, any such assessments, policyholder surcharges  
1001 ~~market equalization~~ or other surcharges, or other rights,  
1002 revenues, or other assets which are collected, or levied and  
1003 collected, after the commencement of and during the pendency of,  
1004 or after, any such proceeding shall continue unaffected by such  
1005 proceeding. As used in this subsection, the term "financing  
1006 documents" means any agreement or agreements, instrument or  
1007 instruments, or other document or documents now existing or  
1008 hereafter created evidencing any bonds or other indebtedness of  
1009 the corporation or pursuant to which any such bonds or other  
1010 indebtedness has been or may be issued and pursuant to which any  
1011 rights, revenues, or other assets of the corporation are pledged  
1012 or sold to secure the repayment of such bonds or indebtedness,  
1013 together with the payment of interest on such bonds or such  
1014 indebtedness, or the payment of any other obligation or  
1015 financial product, as defined in the plan of operation of the

Page 35 of 37

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14-01193C-12 20121346\_\_

1016 corporation related to such bonds or indebtedness.

1017 4. Any such pledge or sale of assessments, revenues,  
1018 contract rights, or other rights or assets of the corporation  
1019 shall constitute a lien and security interest, or sale, as the  
1020 case may be, that is immediately effective and attaches to such  
1021 assessments, revenues, or contract rights or other rights or  
1022 assets, whether or not imposed or collected at the time the  
1023 pledge or sale is made. Any such pledge or sale is effective,  
1024 valid, binding, and enforceable against the corporation or other  
1025 entity making such pledge or sale, and valid and binding against  
1026 and superior to any competing claims or obligations owed to any  
1027 other person or entity, including policyholders in this state,  
1028 asserting rights in any such assessments, revenues, or contract  
1029 rights or other rights or assets to the extent set forth in and  
1030 in accordance with the terms of the pledge or sale contained in  
1031 the applicable financing documents, whether or not any such  
1032 person or entity has notice of such pledge or sale and without  
1033 the need for any physical delivery, recordation, filing, or  
1034 other action.

1035 5. As long as the corporation has any bonds outstanding,  
1036 the corporation may not file a voluntary petition under chapter  
1037 9 of the federal Bankruptcy Code or such corresponding chapter  
1038 or sections as may be in effect, from time to time, and a public  
1039 officer or any organization, entity, or other person may not  
1040 authorize the corporation to be or become a debtor under chapter  
1041 9 of the federal Bankruptcy Code or such corresponding chapter  
1042 or sections as may be in effect, from time to time, during any  
1043 such period.

1044 6. If ordered by a court of competent jurisdiction, the

Page 36 of 37

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

14-01193C-12

20121346\_\_

1045 corporation may assume policies or otherwise provide coverage  
1046 for policyholders of an insurer placed in liquidation under  
1047 chapter 631, under such forms, rates, terms, and conditions as  
1048 the corporation deems appropriate, subject to approval by the  
1049 office.

1050 Section 2. This act shall take effect July 1, 2012.



The Florida Senate

## Committee Agenda Request

**To:** Senator D. Alan Hays, Chair  
Committee on General Government Appropriations

**Subject:** Committee Agenda Request

**Date:** January 23, 2012

---

I respectfully request that **Senate Bill # 1346**, relating to Citizens Property Insurance, be placed on the:

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

A handwritten signature in cursive script that reads "Steve Oelrich".

---

Senator Steve Oelrich  
Florida Senate, District 14

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

1.26.12

Meeting Date

Topic INSURANCE

Bill Number 1346  
*(if applicable)*

Name Trey Goldman

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title LEGISLATIVE COUNSEL

Address 200 SOUTH MEVROZ  
*Street*

Phone 850 224-1900

TLH FL 32301  
*City State Zip*

E-mail treyg@floridarealtors.org

Speaking:  For  Against  Information

Representing FLORIDA REALTORS

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)

01/26/2012  
Meeting Date

Topic CITIZEN

Bill Number 1346  
(if applicable)

Name DON BROWN

Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title \_\_\_\_\_

Address POB 866

Phone 850-865-9288

DEFONIAK SPRINGS, FL 32435  
Street City State Zip

E-mail DON@DONBROWNFLORIDA.COM

Speaking:  For  Against  Information

Representing HEARTLAND INSTITUTE

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)

1/26/12  
Meeting Date

Topic Citizens Regular Assessments Bill Number 1346  
(if applicable)

Name Christine Ashburn Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title Dir. of legislative & external affairs

Address 101 N. Monroe St Ste 1000 Phone 513-3746  
Street

Tallahassee FL 32301 E-mail christine.ashburn@  
City State Zip citzenflo.com

Speaking:  For  Against  Information

Representing Citizens Property Insurance Corp

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)

1-26-12

Meeting Date

Topic Citizens Property Insurance

Bill Number 1346  
*(if applicable)*

Name Richard Reeves

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title \_\_\_\_\_

Address 201 S. Monroe #300  
*Street*

Phone \_\_\_\_\_

*City State Zip*

E-mail richard@scgov.com

Speaking:  For  Against  Information

Representing Fl Assn. of Insurance Agents

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 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

1/26/12  
Meeting Date

Topic Citizens

Bill Number 1346  
*(if applicable)*

Name Josh Aubuchon

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Attorney

Address 215 S. Monroe St.  
*Street*

Phone 850-222-3533

Tallahassee FL 32301  
*City State Zip*

E-mail \_\_\_\_\_

Speaking:  For  Against  Information

Representing Florida Chamber of Commerce

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.**



# Florida Department of Environmental Protection Florida Department of Management Services

## Florida State-Owned Land Records Information System Disposition of State Lands and Facilities 2011 Annual Report

Senate Budget Subcommittee on General Government Appropriations  
Senator Alan D. Hays, Chair  
January 26, 2012





# Florida State-Owned Lands and Records Information System (FL-SOLARIS)



## **Authority: Ch. 2008-229, LOF (SB 542)**

- DEP to develop inventory of all state lands purchased with *P2000* or *Florida Forever* funds
- Land Information Tracking System (LITS)

## **Authority: Ch. 2010-280, LOF (SB 1516)**

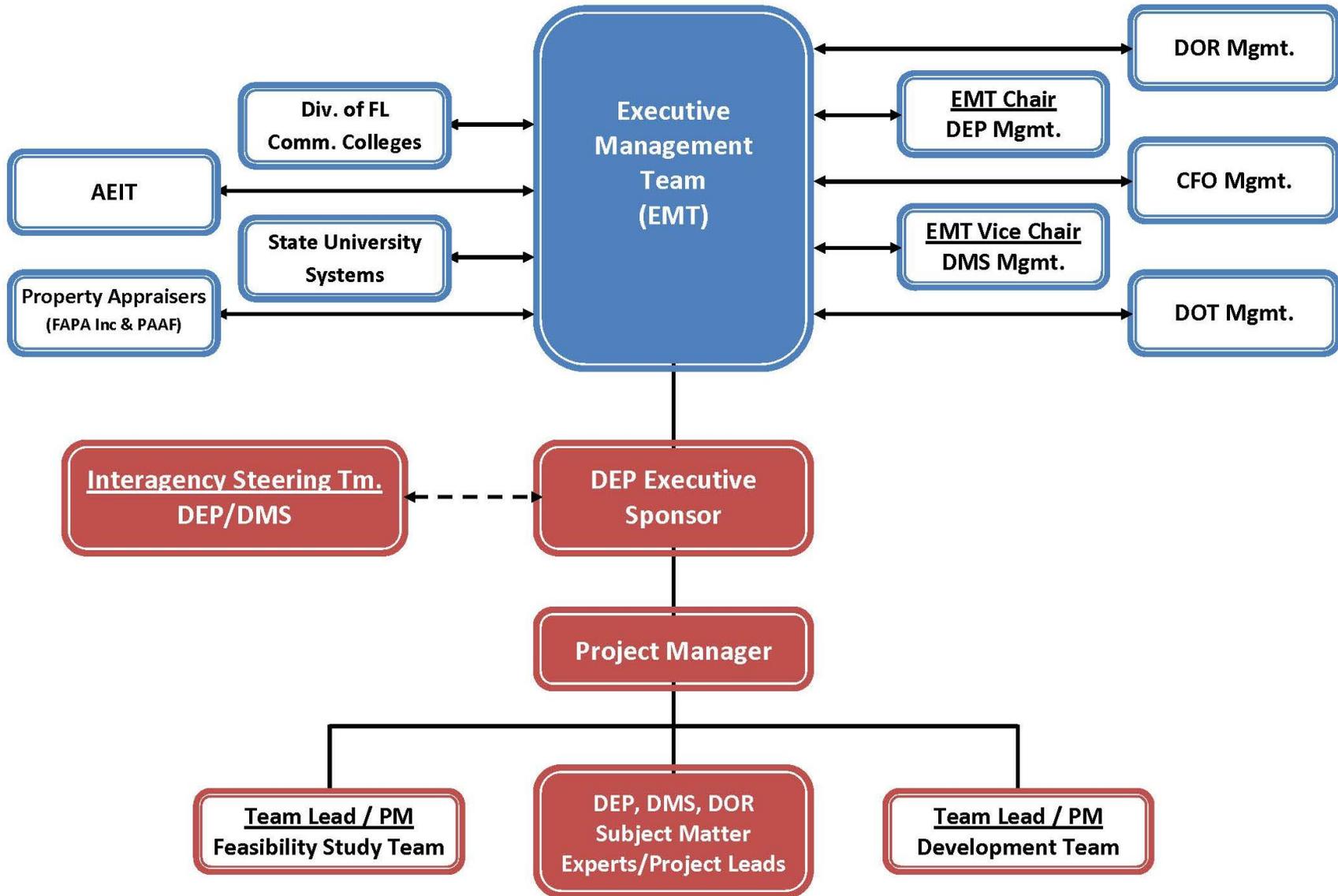
- Requires one complete inventory of all state owned lands and facilities
- LITS expanded to include facilities and public lands inventory
- Name changed to Florida State-Owned Lands and Records Information System (FL-SOLARIS)
  - LITS -- Lands Information Tracking System
  - FITS – Facilities Information Tracking System



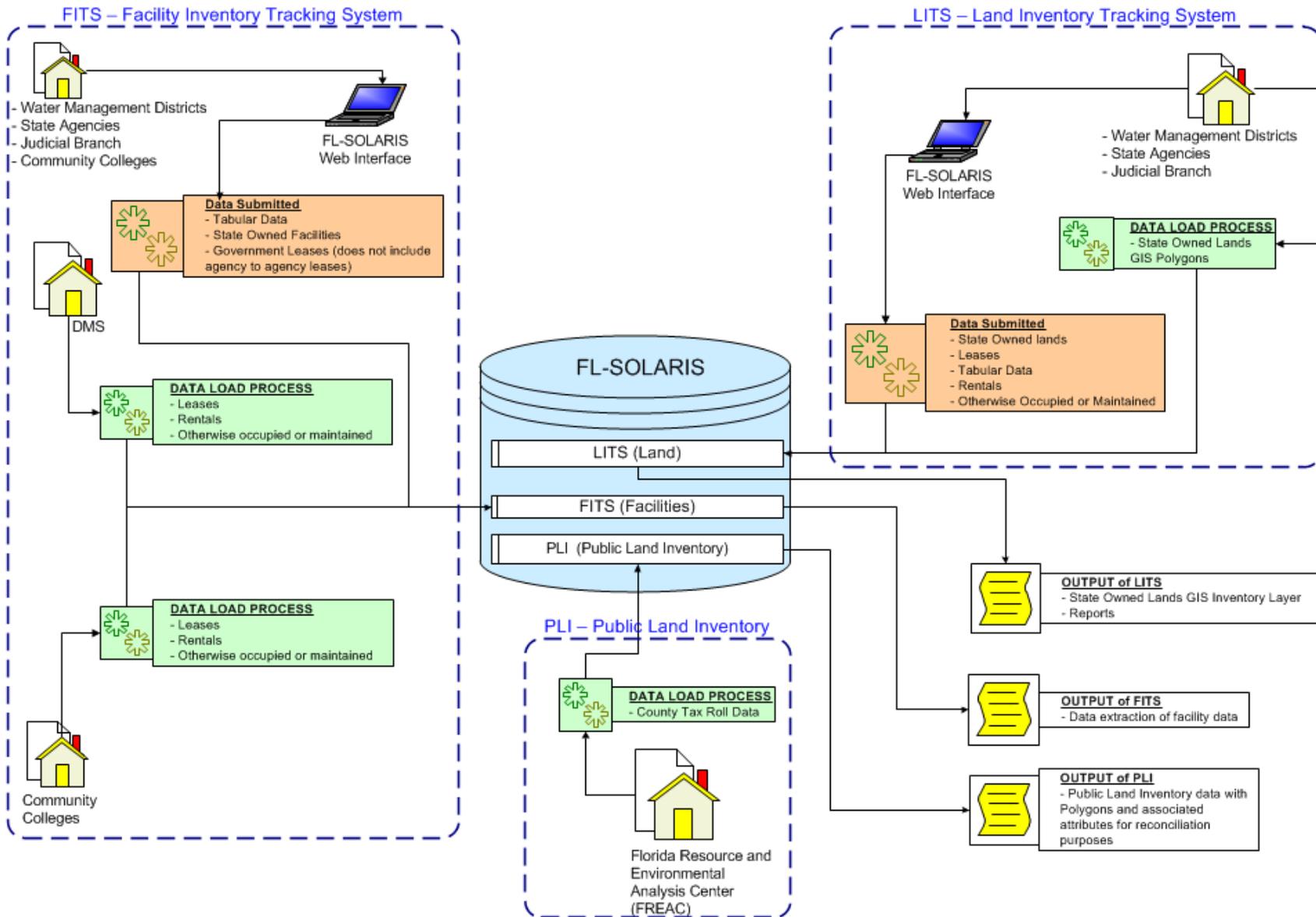
# Partnership



Bright People. Right Skills. Brilliant Solutions.



# FL-SOLARIS High Level Process Overview

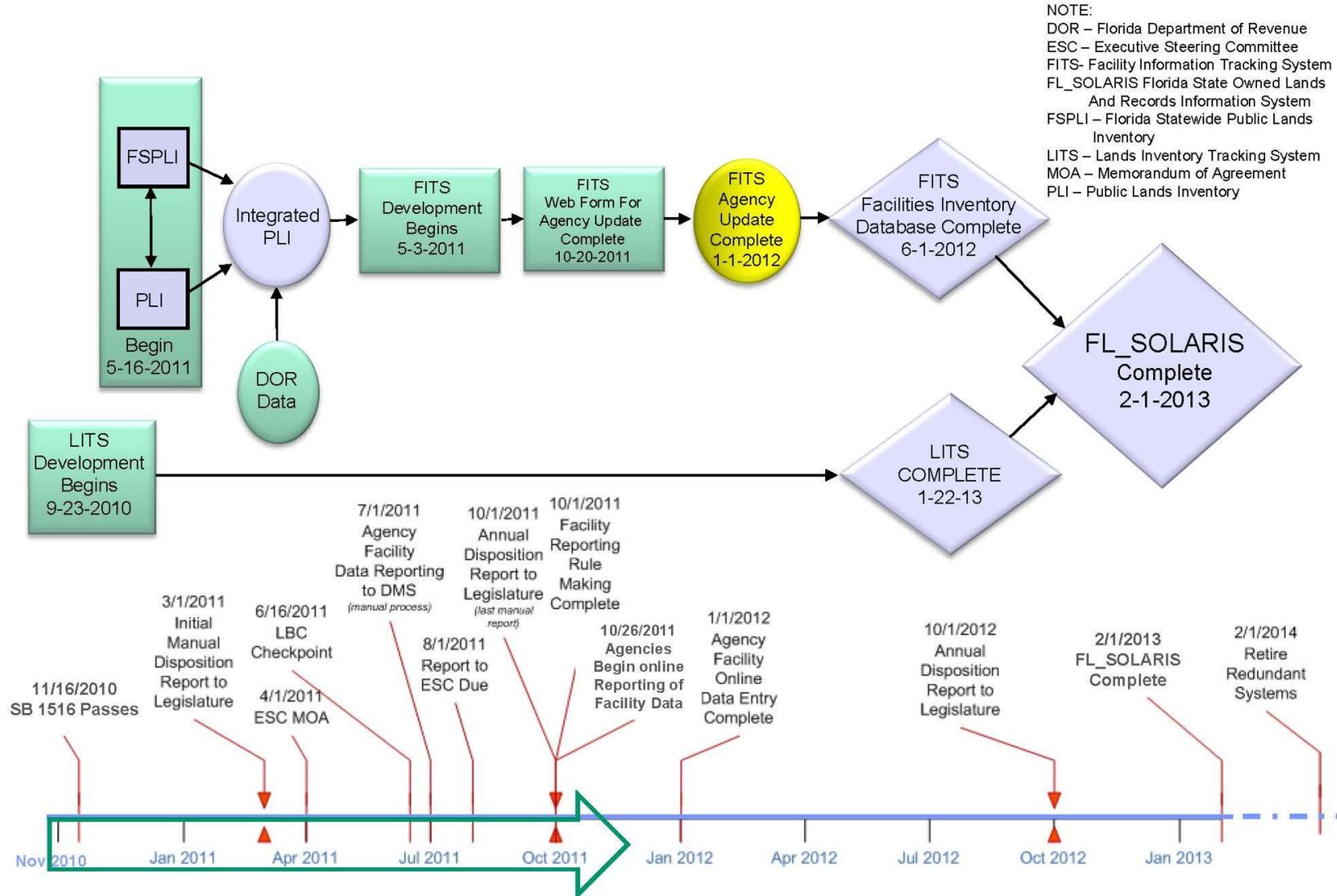


# Timeline

## Florida State Owned Lands And Records Information System Timeline

FL\_SOLARIS

November 10, 2011 v10.5



- Managing the quality of data entry by agencies
- Providing system maintenance and upkeep over time
- Managing and responding to requests for system changes/enhancements
- Determining if redundant systems exist and effecting their retirement within a year of FL-SOLARIS



# Florida State-Owned Lands



## Disposition of State Lands and Facilities 2011 Annual Report



# Property Evaluated for Surplus



Proactively review state-owned property for potential surplus or by request by governmental entities or private party

- Non-Conservation property no longer needed
- Conservation property no longer needed for conservation purposes
- Murphy Act lands
- Swamp and Overflow lands
- Lands acquired by donation or litigation
- School lands

## Conservation Lands

- Ch. 253, F.S., and Rule 18-2, F.A.C., and Article X, Section 18, Fla. Constitution
- Notice governmental entities
- Acquisition and Restoration Council (ARC) review
- Valuation
- Marketing (Sale or Bid)
- Contract
- Board of Trustees Approval

## Non-Conservation Lands

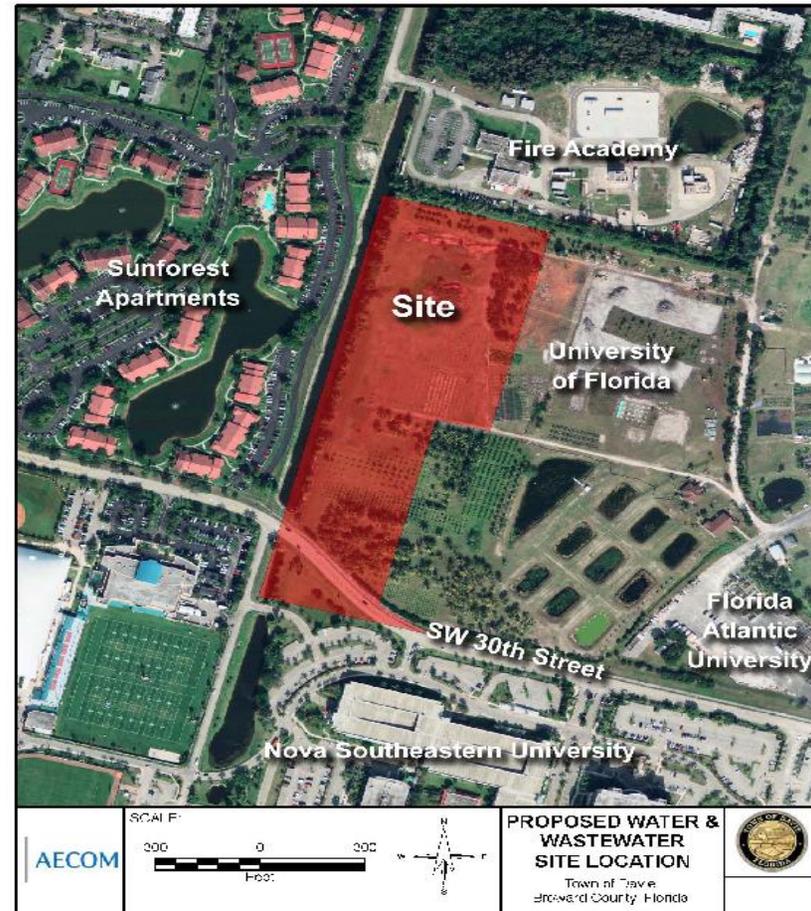
- Ch. 253, F.S., and Rule 18-2, F.A.C.
- Notice governmental entities
- ARC Review not required
- Valuation
- Marketing (Sale or Bid)
- Contract
- Board of Trustees Approval

DSL surplus lands [http://www.dep.state.fl.us/lands/buy\\_sale.htm](http://www.dep.state.fl.us/lands/buy_sale.htm)

# Surplus Properties



Currently offered for sale by  
complete bid.  
Proceeds to IITF.



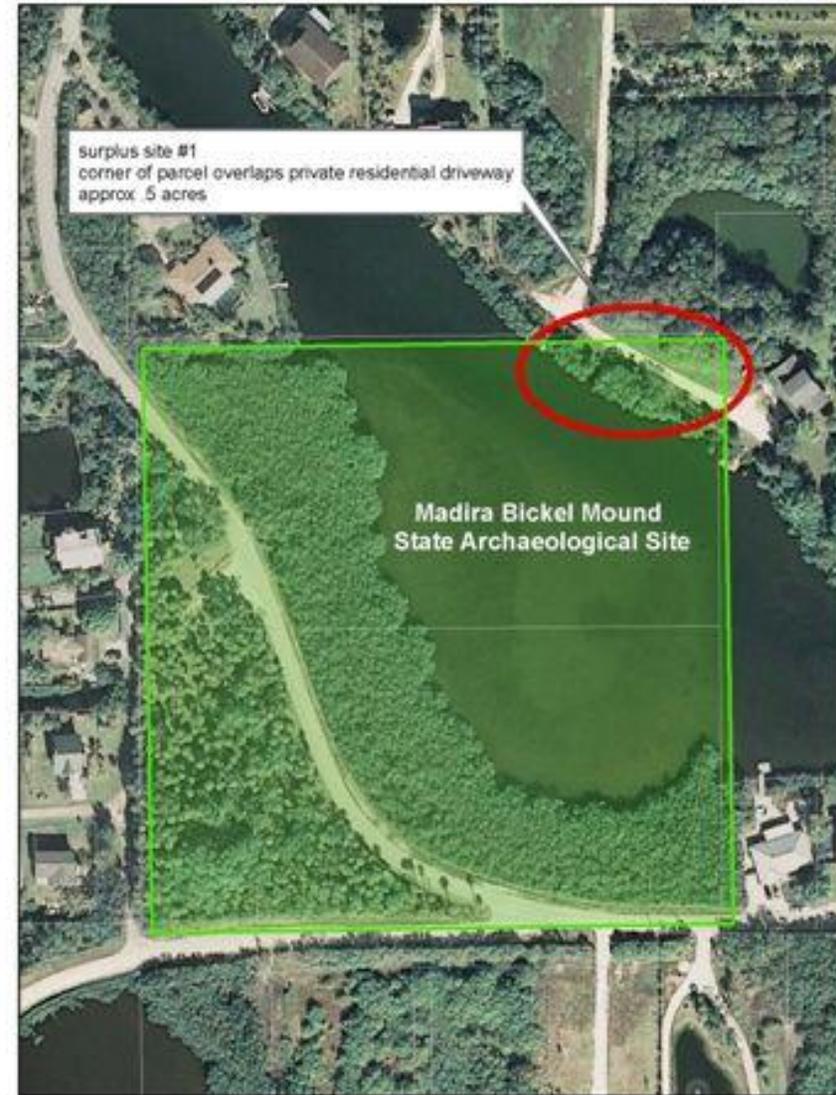
Non-Conservation property  
Parcel purchased by Town of Davie  
Proceeds to UF/IFAS

# Conservation Property Evaluated for Surplus

Atlantic Ridge Preserve State Park (DRP)



Madira Bickel Mound State Archaeological Site (DRP)



# Property Sales



Murphy Act Lands  
Ocala, Marion County  
Within and surrounded by private property



Murphy Act Lands  
Archer Community in Alachua County  
(Two red triangles)

## DMS Reached Out to 74 State Government Entities

- 5 Entities Provided Disposition Candidates
- 56 Total Disposition Candidates
- \$ 49 Million in Property Appraiser Assessed Value
- \$23.1 Million in Known Building Deficiencies
- \$3.1 Million in Operating Cost

Facilities identified as Disposition Candidates are incorporated within the DEP surplus land disposition process

- With the FL-SOLARIS FITS module now in place, DMS has started rule development.
- Between January and July, 2012, agencies will report and augment state-owned facility information within FL-SOLARIS.
- Agency leasing data from DMS is currently being integrated into the FITS search and report functionality.
- DMS is now using this data to make better “best value” leasing decisions.
- Having the inventory identified and housed in one place is one of the best tools for the state to make long term strategic real estate decisions.



# Questions?



## **Mike Long**

Assistant Director

DEP Division of State Lands

[Mike.Long@dep.state.fl.us](mailto:Mike.Long@dep.state.fl.us)

850.245.2555

## **Tom Berger**

Director

DMS Division of Real Estate

Development and Management

[Tom.Berger@dms.myflorida.com](mailto:Tom.Berger@dms.myflorida.com)

850.487.9921

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

1/27/12

Meeting Date

Topic Florida state owned lands Records Inf. System

Bill Number \_\_\_\_\_  
(if applicable)

Name Mike Long

Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title Asst. Director Div. of State Lands / DEP

Address 3900 Commonwealth Blvd  
Street

Phone 850-245-2586

Tallahassee Fl 32389  
City State Zip

E-mail mike.long@dep.state.fl.us

Speaking:  For  Against  Information

Representing DEP

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 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/26/12

Meeting Date

Topic Florida SOLARIS

Bill Number \_\_\_\_\_ (if applicable)

Name Tom Berger

Amendment Barcode \_\_\_\_\_ (if applicable)

Job Title Director of Real Estate - DMS

Address 4050 Esplanade Way

Phone 487-9921

Tallahassee FL 32399  
City State Zip

E-mail tom.berger@dms.myflorida.gov

Speaking:  For  Against  Information

Representing Dept of Management Services

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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# CourtSmart Tag Report

**Room:** SB 401

**Case:**

**Type:**

**Caption:** Budget Subcommittee on General Government Appropriations

**Judge:**

**Started:** 1/26/2012 8:32:33 AM

**Ends:** 1/26/2012 9:43:43 AM

**Length:** 01:11:11

8:32:37 AM Meeting called to order  
8:33:01 AM Senator Hays, (Chair)  
8:33:37 AM Sen. Oelrich  
8:33:58 AM SB 1346  
8:35:54 AM Sen. Hays  
8:36:02 AM Sen. Oelrich  
8:36:08 AM Trey Goldman (FI Realtors); Don Brown (Heartland Institute); Christine Ashburn (Citizens Property Insurance Corp.); Richard Reeves (FI Assn. of Insurance Agents); Josh Aubuchon (FI Chamber of Commerce)  
8:36:45 AM Sen. Oelrich  
8:37:32 AM Nicholas Abrahams, Legislative Aide, on behalf of Sen. Dean  
8:38:08 AM SB 804  
8:38:10 AM Am. 869770  
8:38:59 AM Sen. Hays  
8:39:11 AM Am.817782  
8:40:01 AM Sen. Jones  
8:41:31 AM Bob Harris, Lobbyist/Attorney, Diving Equipment Marketing Association  
8:42:33 AM Sen. Hays  
8:42:41 AM Sen Braynon  
8:43:16 AM Jerry Sansom, Organized Fishermen of Florida, waived in support  
8:43:26 AM Jackie Fauls, Legislative Affairs Director, Fish and Wildlife Conservation Commission, waived in support  
8:44:24 AM Sen. Benacquisto  
8:44:41 AM Sen. Hays  
8:44:46 AM SB 1094  
8:46:54 AM Sen Latvala  
8:48:05 AM Gino Betta, Analyst, General Government Appropriations Subcommittee, Senate Budget Committee  
8:48:44 AM Sen. Baker  
8:50:03 AM Sen. Hays  
8:50:24 AM Sen. Benacquisto  
8:50:31 AM Sen. Hays  
8:50:37 AM SB 998  
8:50:44 AM Sen. Negron  
8:52:12 AM Sen. Latvala  
8:53:08 AM SB 1220 presented by David Marin, Legislative Assistant to Senator Garcia  
8:54:44 AM Sen Hays  
8:55:47 AM Presentation on Florida State Owned Lands and Records Information System by Mike Long, Assistant Director, Division of State Lands, DEP  
9:00:40 AM Sen. Hays  
9:01:26 AM M. Long  
9:03:10 AM Sen. Hays  
9:03:15 AM M. Long  
9:03:57 AM Sen. Jones  
9:04:16 AM Tom Berger, Director, Division of Real Estate Development and Management, Department of Management Services  
9:06:01 AM Sen. Jones  
9:06:15 AM T. Berger  
9:06:45 AM Sen. Jones  
9:07:23 AM M. Long  
9:09:00 AM Sen. Hays  
9:09:11 AM Sen. Benacquisto  
9:09:48 AM T. Berger  
9:10:55 AM Sen. Benacquisto  
9:11:25 AM T. Berger

9:13:01 AM	M. Long
9:18:55 AM	Sen. Jones
9:20:02 AM	M. Long
9:20:18 AM	Sen. Jones
9:21:47 AM	T. Berger
9:25:24 AM	Sen. Hays
9:25:54 AM	T. Berger
9:26:02 AM	Sen. Hays
9:26:15 AM	Sen. Gibson
9:27:16 AM	T. Berger
9:27:45 AM	Sen. Gibson
9:28:35 AM	T. Berger
9:29:08 AM	Sen. Gibson
9:29:28 AM	T. Berger
9:31:07 AM	Sen. Gibson
9:31:54 AM	T. Berger
9:32:40 AM	Sen. Hays
9:32:49 AM	Sen. Benacquisto
9:33:34 AM	SB 1094
9:33:53 AM	Ashley Mayer, Director of Legislative Policy, DFS
9:36:11 AM	Sen. Latvala
9:36:39 AM	A. Mayer
9:38:08 AM	Sen. Hays
9:39:01 AM	A. Mayer
9:39:46 AM	Sen. Gibson
9:40:58 AM	A. Mayer
9:43:00 AM	Sen. Hays
9:43:24 AM	Sen. Benacquisto



# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:  
Agriculture, *Vice Chair*  
Education Pre-K - 12, *Vice Chair*  
Budget - Subcommittee on General Government  
Appropriations  
Budget - Subcommittee on Transportation, Tourism,  
and Economic Development Appropriations  
Military Affairs, Space, and Domestic Security  
Reapportionment  
Rules  
Transportation

**SENATOR LARCENIA J. BULLARD**

39th District

January 26, 2012

Senator Alan Hays, Chair  
Sub/Gen. Gov't Appropriations Committee  
201 The Capitol  
404 South Monroe Street  
Tallahassee, FL 32399-1100

Dear Senator:

Due to my present health challenges, I am requesting excusal from the meeting scheduled on Thursday, January 26, 2012

Sincerely,

Senator Larcenia J. Bullard, District 39

CC: Jamie DeLoach, Staff Director

SENT TO: CHAIRMAN  
STAFF DR. \_\_\_\_\_ STAFF \_\_\_\_\_  
12 JAN 26 AM 11:06  
SENATE APPROPRIATIONS  
RECEIVED

REPLY TO:

- 8603 South Dixie Highway, Suite 304, Miami, Florida 33143 (305) 668-7344
- 218 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5127

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**MIKE HARIDOPOLOS**  
President of the Senate

**MICHAEL S. "MIKE" BENNETT**  
President Pro Tempore



# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

## COMMITTEES:

Rules - Subcommittee on Ethics and Elections,  
*Chair*  
Budget - Subcommittee on General Government  
Appropriations  
Budget - Subcommittee on Transportation, Tourism,  
and Economic Development Appropriations  
Communications, Energy, and Public Utilities  
Health Regulation  
Reapportionment  
Regulated Industries

**SENATOR MIGUEL DIAZ de la PORTILLA**

36th District

January 26, 2012

The Honorable Alan Hays  
Chairman  
Budget Subcommittee on General Government

Via Email

Dear Chairman Hays:

I will be unable to attend the Budget Subcommittee on General Government Appropriations this morning.

I respectfully request that I be excused. Thank you for your consideration.

Sincerely,

Miguel Diaz de la Portilla  
State Senator

Cc: Ms. Jamie DeLoach; Ms. Lisa Waddell; Ms. Nanci Cornwell

## REPLY TO:

- 2100 Coral Way, Suite 505, Miami, Florida 33145 (305) 643-7200
- 312 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5109

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**MIKE HARIDOPOLOS**  
President of the Senate

**MICHAEL S. "MIKE" BENNETT**  
President Pro Tempore