CS/SB 564 by **BI, Richter**; (Similar to H 7009) Security for Public Deposits

SB 928 by **GO (CO-INTRODUCERS) Soto, Sobel**; (Compare to 1ST ENG/H 7073) State Technology

345612	A	S	L	RCS	AGG, Bradley	Delete L.121:	03/05 01:52 PM
210956	A	S	L	RCS	AGG, Bradley	Delete L.276:	03/05 01:52 PM
781544	A	S	L	RCS	AGG, Bradley	Delete L.365 - 378:	03/05 01:52 PM
582054	A	S	L	RCS	AGG, Bradley	Delete L.480 - 499:	03/05 01:52 PM
881210	A	S	L	RCS	AGG, Bradley	Delete L.1397 - 1399:	03/05 01:52 PM
647678	A	S	L	RCS	AGG, Bradley	Delete L.1608 - 1617:	03/05 01:52 PM

CS/SB 416 by **BI, Simpson**; (Similar to CS/H 0129) Sinkhole Coverage

430014	A	S		RCS	AGG, Simpson	Delete L.199:	03/13 08:27 AM
615890	A	S		RCS	AGG, Simpson	Delete L.224:	03/13 08:27 AM
973154	A	S	L	RCS	AGG, Simpson	Delete L.137 - 139:	03/13 08:27 AM
673232	A	S	L	WD	AGG, Simpson	Delete L.166 - 205:	03/13 08:27 AM
429040	A	S	L	RCS	AGG, Simpson	btw L.265 - 266:	03/13 08:27 AM
448318	A	S	L	RCS	AGG, Simpson	btw L.265 - 266:	03/13 08:27 AM
120980	A	S	L	RCS	AGG, Simpson	Delete L.140 - 148:	03/13 08:27 AM
146858	A	S	L	RS	AGG, Latvala	Delete L.52 - 287:	03/13 08:27 AM
952730	SA	S	L	RCS	AGG, Bradley	Delete L.225 - 233:	03/13 08:27 AM
336794	A	S	L	RCS	AGG, Simpson	Delete L.165 - 205:	03/13 08:27 AM

SB 666 by **Detert**; (Similar to CS/CS/H 0631) Loan Originators, Mortgage Brokers, and Mortgage Lenders

956228	D	S		RCS	AGG, Detert	Delete everything after	03/05 02:14 PM
281846	AA	S		RCS	AGG, Detert	Delete L.48 - 63:	03/05 02:14 PM

The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

APPROPRIATIONS SUBCOMMITTEE ON GENERAL GOVERNMENT
Senator Hays, Chair
Senator Thompson, Vice Chair

MEETING DATE: Wednesday, March 5, 2014
TIME: 11:00 a.m.—12:30 p.m.
PLACE: *Toni Jennings Committee Room,* 110 Senate Office Building

MEMBERS: Senator Hays, Chair; Senator Thompson, Vice Chair; Senators Bradley, Braynon, Bullard, Dean, Detert, Joyner, Latvala, Legg, Simpson, Soto, and Stargel

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	**CS/SB 564** Banking and Insurance / Richter (Similar H 7009)	Security for Public Deposits; Clarifying provisions relating to public deposits that are exempt from state security requirements; providing that a notice of the default or insolvency of a qualified public depository is not required if the Florida public deposits are acquired by a bank, savings bank, or savings association; providing that a bank, savings bank, or savings association that is not a qualified public depository and acquires Florida public deposits is subject to certain requirements; providing that a protection from loss is effective when a public depositor does not comply with certain provisions under specified circumstances, etc. BI 02/11/2014 Fav/CS AGG 03/05/2014 Favorable AP	Favorable Yeas 13 Nays 0
2	**SB 928** Governmental Oversight and Accountability (Compare H 7073, S 222)	State Technology; Repealing provisions relating to the Agency for Enterprise Information Technology within the Executive Office of the Governor; creating the Agency for State Technology within the Department of Management Services; providing for a state data center and the duties of the center; deleting duties for the Agency for Enterprise Information Technology, etc. AGG 03/05/2014 Fav/CS AP	Fav/CS Yeas 13 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	**CS/SB 416** Banking and Insurance / Simpson (Compare H 129)	Sinkhole Coverage; Requiring Citizens Property Insurance Corporation to submit a biannual report on the number of residential sinkhole policies requested, issued, and declined; prohibiting the corporation from requiring a policyholder to advance payment for stabilization repairs provided under the program; providing requirements and procedures for selecting stabilization repair contractors to conduct stabilization repairs; specifying additional parameters with respect to the program, including provision for resolving disputes between the corporation and a policyholder, etc. BI 01/14/2014 Temporarily Postponed BI 02/04/2014 Fav/CS AGG 03/05/2014 AP	Amendments Adopted - Temporarily Postponed
4	**SB 666** Detert (Similar CS/H 631)	Loan Originators, Mortgage Brokers, and Mortgage Lenders; Authorizing the Office of Financial Regulation to conduct joint or concurrent examinations with other state or federal regulatory agencies; providing additional grounds for disciplinary action against a licensee or person required to be licensed based on certain violations of the Nationwide Mortgage Licensing System and Registry's Rules of Conduct for Test Takers; deleting certain disclosure requirements relating to mortgage broker agreements; providing additional requirements, fees, and consequences for failing to renew a mortgage lender license that is not submitted by a certain date, etc. BI 02/18/2014 Favorable AGG 03/05/2014 Fav/CS AP	Fav/CS Yeas 13 Nays 0
5	Presentation on Northwest Florida Water Management District Fiscal Year 2014-2015 Preliminary Budget		Presented
	Other Related Meeting Documents		

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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

BILL: CS/SB 564

INTRODUCER: Banking and Insurance Committee and Senator Richter

SUBJECT: Security for Public Deposits

DATE: February 26, 2014 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Knudson	BI	**Fav/CS**
2.	Betta	DeLoach	AGG	**Favorable**
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 564 amends the Florida Security for Public Deposits Act (act), which authorizes local and state governmental units (public depositors) to place public deposits in qualified public depositories (QPD). Public deposits are funds in excess of amounts required to meet disbursement needs or expenses, and QPDs are banks, savings banks, or savings associations that meet specific criteria under the act. The QPDs must secure public deposits in accordance with the act and the collateral requirements and pledging levels established rule of the Chief Financial Officer. The bill provides the following changes to the act:

- Reduces and streamlines reporting requirements.
- Reduces the two highest collateral-pledging levels for public deposits, which would ease the regulatory burden for small and moderate sized QPDs.
- Provides protection from loss for a public depositor that fails to comply with a ministerial reporting requirement if the defaulting or insolvent QPD had classified, reported, and collateralized their account as public deposits.
- Repeals the Qualified Public Depository Oversight Board which has been inactive since holding an initial meeting in December 2001.
- Revises and updates terminology and practices.

The bill has no fiscal impact to state funds.

II. Present Situation:

Public Deposit Program

The Florida Security for Public Deposits Act (act) provides the framework for the protection of public deposits.[1] Under the act, the Chief Financial Officer (CFO)[2] of the State of Florida is responsible for designating financial institutions as qualified public depositories (QPD).[3] Unless exempted by the act, all public deposits must be placed in a QPD.[4] Public deposits include, but are not limited to, time deposit accounts, demand deposit accounts, and nonnegotiable certificates of deposit.[5] To provide protection of public deposits, each QPD is required to pledge collateral at a level commensurate with the amount of public deposits held and a measure of its financial stability, as determined by the CFO. Eligible collateral includes securities, Federal Home Loan Bank letters of credit, and cash.[6]

On a monthly basis, the QPDs provide the CFO with reports regarding the public deposits held.[7] The CFO determines the financial stability of each QPD based on nationally recognized financial rating services information and established performance guidelines. The most financially stable depositories, as determined through these measures, are required to pledge collateral equal to 25 percent of the public deposits held.[8] The CFO has the authority to require a 125 percent collateral-pledge level for any QPD with a decreased capital account, a violation of the act, or evidence of factors such as unsound management practices or unstable market conditions that may affect the QPD's solvency. The least financially stable QPDs must withdraw from the public deposits program and return public deposits in an orderly fashion, or enter into an alternative deposit agreement and deposit collateral amounts equal to 200 percent of public deposits held into an account designated by the CFO and restrict its public deposits. The Department of Financial Services (DFS) rules set forth collateral requirements and numerical parameters (a quarterly average financial ranking scale of 0 to 100) for the entry, withdrawal, and collateral pledging levels.[9]

The CFO may demand payment under a letter of credit or direct a custodian to deposit or transfer collateral and proceeds of securities not previously credited upon the occurrence of one or more triggering events, such as a QPD's insolvency or a determination by the CFO that an immediate danger to public health, safety, or welfare exists.[10] When the CFO has determined that a default or insolvency has occurred, the CFO must notify all public depositors and provide instructions

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[1] Chapter 280, F.S.
[2] The CFO is the agency head of the Department of Financial Services (s. 20.121, F.S.)
[3] A qualified public depository is a bank, savings bank, or savings association that is organized under the laws of the United States or any state or territory of the United States, has a principal place of business or branch office in this state authorized to receive deposits, has federally-insured deposits, has procedures and practices that accurately report and collateralize public deposits, meets the requirements of the act, and has been designated as a qualified public depository by the CFO. (see s. 280.02(26), F.S.)
[4] Section 280.03, F.S.
[5] Section 280.02(23), F.S
[6] Section 280.13, F.S.
[7] Section 280.16, F.S.
[8] Section 280.04, F.S.
[9] See also Rules 69C-2.006 and 69C-2.024, F.A.C.
[10] For a complete list of events that may trigger a demand of payment, see s. 280.041(6), F.S.

on the filing of claims.[11] The losses are satisfied initially through any applicable deposit insurance and then through demanding payment under letters of credit or the sale of collateral pledged or deposited by the defaulting QPD. The CFO covers any remaining losses by assessment against other QPDs.

Recordkeeping and Reporting Requirements

Public depositors and QPDs are subject to recordkeeping and reporting requirements. In addition to the monthly report to the CFO regarding deposits held, each QPD must submit federal Call or Thrift Financial Reports and an annual report to the CFO. Each QPD is also required to provide each public depositor specified information to allow a reconciliation of account information.[12]

For each public deposit account, a public depositor is required to execute a form prescribed by the CFO for identification of each public deposit account and obtain acknowledgment of receipt on the form from the QPD at the inception of the account. The public depositor is required to maintain the current public deposit identification and acknowledgment form because the form is mandatory for filing a claim with the CFO upon default or insolvency of a QPD. If a public depositor does not comply with the requirements of governmental units on each public deposit account, the protection form loss provided in s. 280.18, Florida Statutes, is not effective as to that public deposit account. Each public depositor must confirm annually that public deposit information has been provided by each qualified public depository and reconciles with the public depositor's records.[13]

Qualified Public Depository Oversight Board

In 2001, the Legislature created the Qualified Public Depository Oversight Board (board).[14] The purpose of the six-member board is to represent the interests of all QPDs in safeguarding the integrity of the program and preventing loss assessments that could be imposed upon the default or insolvency of a QPD.[15] The CFO is required to initiate the selection of board representation on July 31 of each year and as vacancies occur.[16]

III. Effect of Proposed Changes:

Definitions

The bill removes the word "immediately" from the definition of "alternative participation agreement" in s. 280.02(2), F.S. Currently, a QPD with a financial condition ranking of 15 or less must either "immediately" withdraw from the public deposits program or enter into a restricted alternative participation agreement. In practice, however, a QPD can take several

[11] Section 280.085, F.S.
[12] Section 280.16(1), F.S.
[13] Section 280.17(5), F.S.
[14] Chapter 2001-230, Laws of Fla.
[15] Section 280.071, F.S.
[16] After categorizing QPDs into three groups according to asset size, the CFO is to identify two QPDs in each grouping that have the greatest shares of contingent liability and notify the six identified QPDs. Each of the six QPDs is to provide to the CFO within 30 days a board member and alternate selection, or if declined, the CFO must notify the Florida Bankers Association, which shall select a member and alternate.

months or longer to withdraw from the program depending on the time needed for certificates of deposits to mature or other contractually required banking services for a public depositor. The CFO also publishes notice in the Florida Administrative Register the names of any QPD that elects to withdraw from the program as a safeguard to allow any unidentified public depositors of such QPD to withdraw their public deposits.[17]

The bill amends the definition of the term, "average monthly balance" in s. 280.02(4), F.S., to remove the qualifier "before deducting deposit insurance" from the calculation of a QPD's average monthly balance of public deposits held during any 12-calendar months. Currently, a QPD's collateral requirement involves several factors, but is typically a function of its average daily balance, or uninsured public deposits multiplied by its collateral pledging level. [18] However, the most financially stable QPDs, while only required to pledge 25 percent of their "average monthly balance" of public deposits, must include deposit insurance in their collateral calculation. Accordingly, this requirement may negatively affect QPDs with public deposits that are covered by Federal Deposit Insurance Corporation (FDIC) deposit insurance.[19] For example, a QPD that has averaged $4 million in gross public deposits (with all such deposits covered by FDIC insurance), has a collateral requirement of $1 million (i.e., $4 million average monthly balance times 25 percent, instead of the act's minimum collateral requirement of $100,000.[20]

The bill amends the term, "capital account," in s. 280.02(6), F.S., to add "tangible equity capital" as an alternative term to reflect the current bank regulatory environment more accurately. Tangible equity reflects the total equity capital of a QPD, minus intangible assets such as goodwill, and is calculated from an institution's quarterly call report (also known as reports of condition and income). The bill also amends the term, "capital account," to remove a reference to the Thrift Financial Report, which was filed previously by savings banks and savings and loan associations. With the enactment of the federal Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, the Office of Thrift Supervision (formerly the primary federal regulator for savings banks and savings and loans associations), was merged into other federal banking agencies on July 21, 2011.[21] Subsequently, the Office of the Comptroller of the Currency has assumed primary federal regulatory responsibility over savings banks and savings and loans associations, as well as nationally chartered banks. In addition, effective with the first quarterly report of 2012, savings banks or savings and loans associations no longer use the Thrift Financial Report.[22] Instead, these institutions file the same Consolidated Reports of Condition and Income (call report) referenced in s. 280.16(6), F.S., and filed by all insured commercial banks.

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[17] Section 280.11, F.S.
[18] See the act's definition of "average daily balance" in s. 280.02(3), F.S., which excludes deposit insurance in determining collateral amounts at the 125 percent pledging level for newer or less financially stable QPDs.
[19] The FDIC insurance covers all deposit accounts, including checking and savings accounts, money market deposit accounts and certificates of deposit. The standard insurance amount is $250,000 per depositor, per insured bank, for each account ownership category. The FDIC regulations (12 C.F.R. s. 330.15) govern the insurance coverage of public unit accounts. For deposit insurance purposes, the term "public unit" includes a state, county, municipality, or any "political subdivision" of the public unit.
[20] Section 280.04(2)(e), F.S.
[21] 12 U.S.C. s 5412-5413.
[22] Agency Information Collection Activities; Submission for OMB Review; Joint Comment Request, 76 FR 39,981 (July 7, 2011).

The bill eliminates a clause within the definition of "public deposit" regarding a requirement of banks, savings banks, and savings association to maintain reserves. Reserve requirements are the amount of funds that a depository institution must hold in reserve against specified deposit liabilities, and are determined in the definition of "public deposit," as the Federal Reserve no longer requires depository institutions to maintain reserves against certain types of bank accounts, whether such accounts involve public deposits or not. Since December 27, 1990, the reserve requirement for "nonpersonal time deposits" has been 0 percent. Nonpersonal time deposits are defined, in part, as "[a] time deposit, including a money market deposit accounts (MMDA) or any other savings deposit, representing funds in which any beneficial interest is held by a depositor which is not a natural person."[23] Governmental units are not considered to be natural persons by the Federal Reserve, [24] so a QPD has a 0 percent reserve requirement for a governmental unit's certificates of deposit (CD), savings accounts, or MMDA. The elimination of the reserve requirement provides consistency with the act's current definition of "public deposit," which includes nonnegotiable CDs, as well as clarity that it includes public moneys held in savings accounts and MMDAs.

Exemptions from Chapter 280, F.S.

Current law exempts a number of moneys and public deposits from the requirements and protections of the act. One exemption involves public deposits "which are fully secured under federal regulations."[25] In 1998, this exemption was added to address public deposit accounts of a Florida governmental unit that was required to be collateralized under both state law and federal regulation.[26] However, the U.S. Department of Housing and Urban Development (HUD) requires public housing authorities to collateralize their public deposits with HUD-approved investments, which generally only allow certain eligible collateral such as U.S. Treasury and agency securities.[27] This has resulted in some QPDs having to collateralize local housing authorities' public deposits under both Florida and federal programs. This 1998 provision has created ambiguity among the industry about whether depositing public funds with any depository institution, whether a QPD or not, with FDIC deposit insurance (a matter of federal regulation) was sufficient to qualify for this exemption. Accordingly, the DFS has expressed that adding the phrase "pursuant to a collateral requirement" would provide clarification as to the actual intent of the exemption.

Collateral Pledge Levels

The bill reduces the numerical parameters for the current 125 percent and 200 percent pledge levels to 110 percent and 150 percent, respectively, in s. 280.04, F.S. The DFS indicates that if these adjustments are adopted, Florida would still have the highest pledge level (150 percent) among the states with centrally administered public deposit programs, thus ensuring the safety of

[23] See also 12 C.F.R. s. 204.2(f).
[24] Board of Governors of the Federal Reserve Requirements, Regulation D, defines "natural person" as either an individual or a sole proprietorship, and does not include a corporation owned by an individual, a partnership or other association. 12 C.F.R. §204.2(g).
[25] Section 280.03(3)(e), F.S.
[26] Chapter 1998-409, Laws of Fla.
[27] See HUD Public and Indian Housing Notice 02-13; see also Notice PIH 96-33.

public deposits.[28] The DFS recommendation to reduce the program's two highest collateral pledging levels (125 percent and 150 percent) is in response to concerns of the Office of Financial Regulation (OFR) and a number of small and moderate-sized QPDs impacted by these two pledge levels. According to the DFS, the OFR has indicated that the 200 percent pledge level may magnify the difficulties for a struggling bank by either forcing it to return some or all public deposits to its governmental unit customers or by adversely impacting a bank's liquidity. Additionally, the experience of the DFS with QPD failures throughout the public deposit program's history has been that the collateral valuations for failed QPDs has not been impacted by such failures themselves, and that there have not been material, concurrent collateral valuation declines due to any broader financial market disruptions.

The bill amends s. 280.051, F.S., to make conforming changes to the current definition of "capital accounts" (which the bill renames as "tangible equity capital") and clarifies that failure to execute a "collateral control agreement" prior to the use of a custodian is a grounds for suspension or disqualification. Currently, this section and the DFS rule use the term "public depository pledge agreement,"[29] but the DFS renamed this form to "Collateral Control Agreement" in 2001.[30]

Current law requires the CFO to notify all public depositors (who have complied with s. 280.17, F.S.) in the event of a QPD's default or insolvency. The bill provides an exception to this notice requirement in s. 280.085, F.S., if another bank, savings bank, or savings association acquires a defaulting or insolvent QPD's public deposits.

The bill also provides that any bank, savings bank, or savings association that acquires some or all of a defaulted or insolvent QPD is subject to s. 280.10(1), F.S. This change provides certainty that any non-QPD bank that acquires a failed QPD would automatically be subject to the act. Current law provides that in the event that a QPD is merged into, acquired by, or consolidated with a non-QPD bank, savings bank, or savings association, the resulting institution automatically becomes a QPD, and assumes the former institution's contingent liability and public deposits, and must provide notice to the CFO regarding its decision to remain or withdraw in the program.

Reporting Requirements

The bill also removes the call reporting requirement in s. 280.16(1)(e), F.S. Currently, depository institutions are required under federal law to submit their call reports to the Federal Financial

[28] Email from Logan McFaddin, Director of Legislative Affairs, Department of Financial Services, (February 3, 2014) (on file with Senate Committee on Banking and Insurance).
[29] Rule 69C-2.009(1)(b), F.A.C.; Public Depository Pledge Agreement - Form DI4-1001 (revised March 1997).
[30] Form DFS-J1-1001, Revised June 2001. DFS Collateral Management, at https://apps8.fldfs.com/CAP_Web/PublicDeposits/intro_definitions.aspx (last visited February 7, 2014).

Institutions Examination Council (FFIEC)[31], and these reports are available at the FFIEC's website.[32]

The bill streamlines certain annual reporting requirements for public depositors. The bill eliminates the requirement in s. 280.17(5), F.S., for public depositors to obtain confirmation directly from their QPDs for purposes of preparing annual reports to the CFO.

The bill revises s. 280.17, F.S., by creating an exception to the requirements a public depositor must comply with to maintain protection from loss due to a failed QPD. The bill allows a public depositor that fails to comply with form reporting requirements to be eligible for protection from loss from a failed QPD if the QPD classified, reported, and collateralized the account as public deposits. Currently, public depositors are required to submit annually to the CFO a public deposit identification and deposit form, which s. 280.17(8), F.S., currently requires as a condition for protection from loss to public depositors. In the event of a QPD's default or insolvency, the DFS is required to coordinate with the OFR or the receiver of the QPD (generally, the FDIC) to "ascertain the amount of funds of each public depositor on deposit at such depository and the amount of deposit insurance applicable to such deposits."[33] Additionally, the act provides that the CFO must validate claims on public deposits accounts. However, the current form requirement may lead to situations where a governmental unit is denied access to the program's protection simply due to an inadvertent form filing oversight.

Qualified Public Depository Oversight Board

The bill repeals the Qualified Public Depository Oversight Board and provides technical, conforming changes relating to the repeal. According to a recent report issued by the Auditor General, the board has been largely inactive since its creation.[34] The report notes that while a board was appointed and an initial meeting was held in December 2001, the DFS staff stated that the board members had questioned the liability of the represented QPDs in carrying out decisions affecting competitor QPDs and voiced their reluctance to participate in making recommendations as part of their responsibility. Subsequent to this initial meeting, no further board meetings have taken place.

The effective date of the bill is July 1, 2014.

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[31] 12 U.S.C. § 324 (State member banks); 12 U.S.C. §1817 (State nonmember banks); 12 U.S.C. §161 (National banks); and 12 U.S.C. §1464 (Savings associations). The FFIEC is a formal interagency body empowered to prescribe uniform principles, standards, and report forms for the federal examination of financial institutions by the Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration (NCUA), the Office of the Comptroller, of the Currency (OCC), and the Consumer Financial Protection Bureau (CFPB), along with advisory state agency representatives.

[32] The FFIEC Central Data Repository's Public Data Distribution Website at https://cdr.ffiec.gov/public/ (last visited February 8, 2014).

[33] Section 280.08, F.S.

[34] Office of the Auditor General, *Operational Audit of the Department of Financial Services Public Deposit Program*, Report No. 2010-049 (Nov. 2009).

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 reduction of the two highest collateral pledge levels may have a positive impact on small and moderate sized qualified-public depositories. Additionally, the streamlining and clarification of reporting and other compliance requirements may result in an indeterminate, minor reduction in administrative costs.

C. Government Sector Impact:

Public depositors that fail to comply with the reporting requirements for identification of their money as public deposits would not lose their protection from loss if a failed qualified public depository had nonetheless classified, reported, and collateralized the money as public deposits.

Local governments and other units of Florida government that are subject to the act would no longer be required to request bank account confirmation data from their qualified public depositories. The estimated administrative cost of such requests is negligible.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 280.02, 280.03, 280.04, 280.05, 280.051, 280.085, 280.10, 280.11, 280.16, and 280.17.

This bill repeals section 280.071 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS by Banking and Insurance on February 11, 2014:
The CS provides technical changes.

B. Amendments:

None.

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

By the Committee on Banking and Insurance; and Senator Richter

A bill to be entitled

An act relating to security for public deposits; amending s. 280.02, F.S.; revising definitions; amending s. 280.03, F.S.; clarifying provisions relating to public deposits that are exempt from state security requirements; amending s. 280.04, F.S.; lowering the collateral-pledging level for public deposits; amending s. 280.05, F.S.; conforming provisions to changes made by the act; amending s. 280.051, F.S.; updating terms; repealing s. 280.071, F.S., relating to the qualified public depository oversight board; amending s. 280.085, F.S.; providing that a notice of the default or insolvency of a qualified public depository is not required if the Florida public deposits are acquired by a bank, savings bank, or savings association; amending s. 280.10, F.S.; providing that a bank, savings bank, or savings association that is not a qualified public depository and acquires Florida public deposits is subject to certain requirements; amending s. 280.11, F.S.; conforming provisions to changes made by the act; amending s. 280.16, F.S.; deleting obsolete provisions; revising provisions relating to required reports and forms; amending s. 280.17, F.S.; deleting obsolete provisions; deleting a provision requiring public depositories to request confirmation information from qualified public depositories by a certain date; providing that a protection from loss is effective when a public depositor does not comply with

certain provisions under specified circumstances; providing an effective date.

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

Section 1. Section 280.02, Florida Statutes, is reordered and amended to read:

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

(1) "Affiliate" means an entity that is related through a parent corporation's controlling interest. The term also includes a ~~any~~ financial institution holding company or a ~~any~~ subsidiary or service corporation of such holding company.

(2) "Alternative participation agreement" means an agreement of restrictions that a qualified public depository completes as an alternative to ~~immediately~~ withdrawing from the public deposits program due to financial condition.

(3) "Average daily balance" means the average daily balance of public deposits held during the reported month. The average daily balance shall ~~must~~ be determined by totaling, by account, the daily balances held by the depositor and ~~then~~ dividing the total by the number of calendar days in the month. Deposit insurance is then deducted from each account balance and the resulting amounts are totaled to obtain the average daily balance.

(4) "Average monthly balance" means the average monthly balance of public deposits held~~, before deducting deposit insurance,~~ by the depository during any 12 calendar months. The average monthly balance of the previous 12 calendar months shall ~~must~~ be determined by adding the average daily balance ~~before~~

59 ~~deducting deposit insurance~~ for the reported month and the
60 average daily balances ~~before deducting deposit insurance~~ for
61 the 11 months preceding that month and dividing the total by 12.
62 (5) "Book-entry form" means that securities are not
63 represented by a paper certificate but represented by an account
64 entry on the records of a depository trust clearing system or,
65 in the case of United States Government securities, a Federal
66 Reserve Bank.
67 (26) ~~(6)~~ "Tangible equity capital" ~~"Capital account"~~ means
68 total equity capital, as defined on the balance-sheet portion of
69 the Consolidated Reports of Condition and Income or ~~(~~call
70 report~~) or the Thrift Financial Report~~, less intangible assets,
71 as submitted to the regulatory banking authority.
72 (7) "Collateral-pledging level~~,~~" ~~for qualified public~~
73 ~~depositories,~~ means the percentage of collateral required to be
74 pledged by a qualified public depository as provided under ~~in~~ s.
75 280.04 ~~by a financial institution~~.
76 (8) "Current month" means the month immediately following
77 the month for which the monthly report is due from qualified
78 public depositories.
79 (9) "Custodian" means the Chief Financial Officer or a ~~any~~
80 bank, savings association, or trust company that:
81 (a) Is organized and existing under the laws of this state,
82 any other state, or the United States;
83 (b) Has executed all forms required under this chapter or
84 any rule adopted hereunder;
85 (c) Agrees to be subject to the jurisdiction of the courts
86 of this state, or of the courts of the United States which are
87 located within this state, for the purpose of any litigation

88 arising out of this chapter; and
89 (d) Has been approved by the Chief Financial Officer to act
90 as a custodian.
91 (10) "Default or insolvency" includes, without limitation,
92 the failure or refusal of a qualified public depository to pay a
93 ~~any~~ check or warrant drawn upon sufficient and collected funds
94 by a ~~any~~ public depositor or to return a ~~any~~ deposit on demand
95 or at maturity together with interest as agreed; the issuance of
96 an order by a ~~any~~ supervisory authority restraining such
97 depository from making payments of deposit liabilities; or the
98 appointment of a receiver for such depository.
99 ~~(11) "Effective date of notice of withdrawal or order of~~
100 ~~discontinuance" pursuant to s. 280.11(3) means that date which~~
101 ~~is set out as such in any notice of withdrawal or order of~~
102 ~~discontinuance from the Chief Financial Officer.~~
103 (11) ~~(12)~~ "Eligible collateral" means securities, Federal
104 Home Loan Bank letters of credit, and cash, as designated in s.
105 280.13.
106 (12) ~~(13)~~ "Financial institution" means, including, but not
107 limited to, an association, bank, brokerage firm, credit union,
108 industrial savings bank, savings and loan association, trust
109 company, or other type of financial institution organized under
110 the laws of this state or any other state of the United States
111 and doing business in this state or any other state, in the
112 general nature of the business conducted by banks and savings
113 associations.
114 (13) ~~(14)~~ "Governmental unit" means the state or any county,
115 school district, community college district, state university,
116 special district, metropolitan government, or municipality,

117 including any agency, board, bureau, commission, and institution
118 of any of such entities, or any court.
119 (14) ~~(15)~~ "Loss to public depositors" means loss of all
120 principal and all interest or other earnings on the principal
121 accrued or accruing as of the date the qualified public
122 depository was declared in default or insolvent.
123 (15) ~~(16)~~ "Market value" means the value of collateral
124 calculated pursuant to s. 280.04.
125 (16) ~~(17)~~ "Operating subsidiary" means the qualified public
126 depository's 100 percent ~~100-percent~~ owned corporation that has
127 ownership of pledged collateral. The operating subsidiary may
128 not have ~~no~~ powers beyond those that its parent qualified public
129 depository may itself exercise. The use of an operating
130 subsidiary is at the discretion of the qualified public
131 depository and must meet the Chief Financial Officer's
132 requirements.
133 ~~(18) "Oversight board" means the qualified public~~
134 ~~depository oversight board created in s. 280.071 for the purpose~~
135 ~~of safeguarding the integrity of the public deposits program and~~
136 ~~preventing the realization of loss assessments through~~
137 ~~standards, policies, and recommendations for actions to the~~
138 ~~Chief Financial Officer.~~
139 (17) ~~(19)~~ "Pledged collateral" means securities or cash held
140 separately and distinctly by an eligible custodian for the
141 benefit of the Chief Financial Officer to be used as security
142 for Florida public deposits. This includes maturity and call
143 proceeds.
144 (18) ~~(20)~~ "Pledgor" means the qualified public depository
145 and, if one is used, operating subsidiary.

146 (19) ~~(21)~~ "Pool figure" means the total average monthly
147 balances of public deposits held by all qualified public
148 depositories during the immediately preceding 12-month period.
149 ~~(22) "Previous month" means the month or months immediately~~
150 ~~preceding the month for which a monthly report is due from~~
151 ~~qualified public depositories.~~
152 (20) ~~(23)~~ "Public deposit" means the moneys of a
153 governmental unit ~~the state or of any state university, county,~~
154 ~~school district, community college district, special district,~~
155 ~~metropolitan government, or municipality, including agencies,~~
156 ~~boards, bureaus, commissions, and institutions of any of the~~
157 ~~foregoing, or of any court,~~ and includes the moneys of all
158 county officers, including constitutional officers, which ~~that~~
159 are placed on deposit in a bank, savings bank, or savings
160 association ~~and for which the bank, savings bank, or savings~~
161 ~~association is required to maintain reserves~~. This includes, but
162 is not limited to, time deposit accounts, demand deposit
163 accounts, and nonnegotiable certificates of deposit. Moneys in
164 deposit notes and in other nondeposit accounts such as
165 repurchase or reverse repurchase operations are not public
166 deposits. Securities, mutual funds, and similar types of
167 investments are not ~~considered~~ public deposits and are ~~shall~~ not
168 ~~be~~ subject to ~~the provisions of~~ this chapter.
169 (21) ~~(24)~~ "Public depositor" means the official custodian of
170 funds for a governmental unit who is responsible for handling
171 public deposits.
172 (22) ~~(25)~~ "Public deposits program" means the Florida
173 Security for Public Deposits Act contained in this chapter and
174 any rule adopted under this chapter.

175 (23)~~(26)~~ "Qualified public depository" means a ~~any~~ bank,
176 savings bank, or savings association that:
177 (a) Is organized and exists under the laws of the United
178 States or~~,~~ the laws of this state or any other state or
179 territory of the United States.
180 (b) Has its principal place of business in this state or
181 has a branch office in this state which is authorized under the
182 laws of this state or of the United States to receive deposits
183 in this state.
184 (c) Has deposit insurance pursuant to ~~under the provision~~
185 ~~of~~ the Federal Deposit Insurance Act, as amended, 12 U.S.C. ss.
186 1811 et seq.
187 (d) Has procedures and practices for accurate
188 identification, classification, reporting, and collateralization
189 of public deposits.
190 (e) Meets all the requirements of this chapter.
191 (f) Has been designated by the Chief Financial Officer as a
192 qualified public depository.
193 (24)~~(27)~~ "Reported month" means the month for which a
194 monthly report is due from qualified public depositories.
195 (25)~~(28)~~ "Required collateral" of a qualified public
196 depository means eligible collateral having a market value equal
197 to or in excess of the amount required under ~~pursuant to~~ s.
198 280.04.
199 (6)~~(29)~~ "Chief Financial Officer's custody" is a collateral
200 arrangement governed by a contract between a designated Chief
201 Financial Officer's custodian and the Chief Financial Officer.
202 This arrangement requires that collateral ~~to~~ be in the Chief
203 Financial Officer's name in order to perfect the security

204 interest.
205 (27)~~(30)~~ "Triggering events" are events set out in s.
206 280.041 which give the Chief Financial Officer the right to:
207 (a) Instruct the custodian to transfer securities pledged,
208 interest payments, and other proceeds of pledged collateral not
209 previously credited to the pledgor.
210 (b) Demand payment under letters of credit.
211 Section 2. Paragraph (e) of subsection (3) of section
212 280.03, Florida Statutes, is amended to read:
213 280.03 Public deposits to be secured; prohibitions;
214 exemptions.—
215 (3) The following are exempt from the requirements of, and
216 protection under, this chapter:
217 (e) Public deposits that ~~which~~ are fully secured pursuant
218 to a collateral requirement under federal regulations.
219 Section 3. Subsections (1) and (2) of section 280.04,
220 Florida Statutes, are amended to read:
221 280.04 Collateral for public deposits; general provisions.—
222 (1) The Chief Financial Officer shall determine the
223 collateral requirements and collateral-pledging ~~collateral~~
224 ~~pledging~~ level for each qualified public depository following
225 procedures established by rule. These procedures must ~~shall~~
226 include numerical parameters for 25 percent, 50 percent, 110
227 percent, and 150 percent ~~25-percent, 50-percent, 125-percent,~~
228 ~~and 200-percent~~ pledge levels based on nationally recognized
229 financial rating services information and established financial
230 performance guidelines.
231 (2) A qualified public depository may not accept or retain
232 any public deposit ~~which is~~ required to be secured unless it

233 deposits ~~has deposited~~ with the Chief Financial Officer eligible
234 collateral at least equal to the greater of:
235 (a) The average daily balance of public deposits which ~~that~~
236 does not exceed the lesser of its tangible equity capital
237 ~~account~~ or 20 percent of the pool figure multiplied by the
238 depository's collateral-pledging level, plus the greater of:
239 1. One hundred ten ~~twenty-five~~ percent of the average daily
240 balance of public deposits in excess of its tangible equity
241 capital ~~accounts~~; or
242 2. One hundred ten ~~twenty-five~~ percent of the average daily
243 balance of public deposits in excess of 20 percent of the pool
244 figure.
245 (b) Twenty-five percent of the average monthly balance of
246 public deposits.
247 (c) One hundred ten ~~twenty-five~~ percent of the average
248 daily balance of public deposits if the qualified public
249 depository:
250 1. Has been established for less than 3 years;
251 2. Has experienced material decreases in its tangible
252 equity capital ~~accounts~~; or
253 3. Has an overall financial condition that is materially
254 deteriorating.
255 (d) One ~~Two~~ hundred fifty percent of an established maximum
256 amount of public deposits which ~~that~~ has been mutually agreed
257 upon by and between the Chief Financial Officer and the
258 qualified public depository.
259 (e) Minimum required collateral of $100,000.
260 (f) An amount as required in special instructions from the
261 Chief Financial Officer to protect the integrity of the public

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262 deposits program.
263 Section 4. Subsections (1), (2), (3), and (16) of section
264 280.05, Florida Statutes, are amended to read:
265 280.05 Powers and duties of the Chief Financial Officer.—In
266 fulfilling the requirements of this act, the Chief Financial
267 Officer has the power to take the following actions he or she
268 deems necessary to protect the integrity of the public deposits
269 program:
270 ~~(1) Identify representative qualified public depositories~~
271 ~~and furnish notification for the qualified public depository~~
272 ~~oversight board selection pursuant to s. 280.071.~~
273 ~~(2) Provide data for the qualified public depository~~
274 ~~oversight board duties pursuant to s. 280.071 regarding:~~
275 ~~(a) Establishing standards for qualified public~~
276 ~~depositories and custodians.~~
277 ~~(b) Evaluating requests for exceptions to standards and~~
278 ~~alternative participation agreements.~~
279 ~~(c) Reviewing and recommending action for qualified public~~
280 ~~depository or custodian violations.~~
281 ~~(3) Review, implement, monitor, evaluate, and modify all or~~
282 ~~any part of the standards, policies, or recommendations of the~~
283 ~~qualified public depository oversight board.~~
284 (13) ~~(16)~~ Require the filing of the following reports, which
285 the Chief Financial Officer shall process as provided:
286 (a) Qualified public depository monthly reports and
287 schedules. The Chief Financial Officer shall review the reports
288 of each qualified public depository for material changes in
289 tangible equity capital ~~accounts~~ or changes in name, address, or
290 type of institution; record the average daily balances of public

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291 deposits held; and monitor the collateral-pledging levels and
292 required collateral.
293 (b) Quarterly regulatory reports from qualified public
294 depositories. The Chief Financial Officer shall analyze
295 qualified public depositories ranked in the lowest category
296 based on established financial condition criteria.
297 (c) Qualified public depository annual reports and public
298 depositor annual reports. The Chief Financial Officer shall
299 compare public deposit information reported by qualified public
300 depositories and public depositors. Such comparison shall be
301 conducted for qualified public depositories that ~~which~~ are
302 ranked in the lowest category based on established financial
303 condition criteria of record on September 30. Additional
304 comparison processes may be performed as public deposits program
305 resources permit.
306 (d) Any related documents, reports, records, or other
307 information deemed necessary by the Chief Financial Officer in
308 order to ascertain compliance with this chapter.
309 Section 5. Subsections (2), (6), and (12) of section
310 280.051, Florida Statutes, are amended to read:
311 280.051 Grounds for suspension or disqualification of a
312 qualified public depository.—A qualified public depository may
313 be suspended or disqualified or both if the Chief Financial
314 Officer determines that the qualified public depository has:
315 (2) Submitted reports containing inaccurate or incomplete
316 information regarding public deposits or collateral for such
317 deposits, tangible equity capital ~~accounts~~, or the calculation
318 of required collateral.
319 (6) Failed to furnish the Chief Financial Officer with

320 prompt and accurate information, or failed to allow inspection
321 and verification of any information, dealing with public
322 deposits or dealing with the exact status of its tangible equity
323 capital ~~accounts~~, or ~~any~~ other financial information that the
324 Chief Financial Officer deems ~~determines~~ necessary to verify
325 compliance with this chapter or any rule adopted pursuant to
326 this chapter.
327 (12) Failed to execute or have the custodian execute a
328 collateral control ~~public depository pledge~~ agreement before
329 ~~prior to~~ using a custodian.
330 Section 6. Section 280.071, Florida Statutes, is repealed.
331 Section 7. Section 280.085, Florida Statutes, is amended to
332 read:
333 280.085 Notice to claimants.—
334 (1) Upon determining the default or insolvency of a
335 qualified public depository, the Chief Financial Officer shall
336 notify, by first-class mail, all public depositors that have
337 complied with s. 280.17 of such default or insolvency. The
338 notice must ~~shall~~ direct all public depositors having claims or
339 demands against the Public Deposits Trust Fund occasioned by the
340 default or insolvency to file their claims with the Chief
341 Financial Officer within 30 days after the date of the notice.
342 (a) ~~(2)~~ A ~~No~~ claim against the Public Deposits Trust Fund is
343 binding on the fund only if ~~unless~~ presented within 30 days
344 after the date of the notice.
345 (b) The notice is not required if the default or insolvency
346 is resolved in a manner whereby all Florida public deposits are
347 acquired by a bank, savings bank, or savings association.
348 (2) ~~(3)~~ This section does not affect any proceeding to:

349 (a) Enforce any real property mortgage, chattel mortgage,
350 security interest, or other lien on property of a qualified
351 public depository that is in default or insolvency; or
352 (b) Establish liability of a qualified public depository
353 that is in default or insolvency to the limits of any federal or
354 other casualty insurance protection.
355 Section 8. Present subsections (3) through (6) of section
356 280.10, Florida Statutes, are redesignated as subsections (4)
357 through (7), respectively, and a new subsection (3) is added to
358 that section, to read:
359 280.10 Effect of merger, acquisition, or consolidation;
360 change of name or address.—
361 (3) If the default or insolvency of a qualified public
362 depository results in the acquisition of all or part of its
363 Florida public deposits by a bank, savings bank, or savings
364 association that is not a qualified public depository, such
365 bank, savings bank, or savings association is subject to
366 subsection (1).
367 Section 9. Subsection (3) of section 280.11, Florida
368 Statutes, is amended to read:
369 280.11 Withdrawal from public deposits program; return of
370 pledged collateral.—
371 (3) A qualified public depository that ~~which~~ is required to
372 withdraw from the public deposits program pursuant to s.
373 280.05(17) may ~~s. 280.05(1)(b) shall~~ not receive or retain
374 public deposits after the effective date of withdrawal. The
375 contingent liability, required collateral, and reporting
376 requirements of the withdrawing depository shall continue until
377 the effective date of withdrawal. The effective date of

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378 withdrawal means the date set out as such in a notice of
379 withdrawal or ~~(~~order of discontinuance~~)~~ from the Chief Financial
380 Officer which is ~~shall be~~ mailed to the qualified public
381 depository by registered or certified mail. Penalties incurred
382 because of withdrawal from the public deposits program are ~~shall~~
383 ~~be~~ the responsibility of the withdrawing depository.
384 Section 10. Subsection (1) of section 280.16, Florida
385 Statutes, is amended to read:
386 280.16 Requirements of qualified public depositories;
387 confidentiality.—
388 (1) In addition to any other requirements specified in this
389 chapter, qualified public depositories shall:
390 (a) Take the following actions for each public deposit
391 account:
392 1. Identify the account as a "Florida public deposit" on
393 the deposit account record with the name of the public depositor
394 or provide a unique code for the account for such designation.
395 2. When the form prescribed by the Chief Financial Officer
396 for acknowledgment of receipt of each public deposit account is
397 presented to the qualified public depository by the public
398 depositor opening an account, the qualified public depository
399 shall execute and return the completed form to the public
400 depositor.
401 3. When the acknowledgment of receipt form is presented to
402 the qualified public depository by the public depositor due to a
403 change of account name, account number, or qualified public
404 depository name on an existing public deposit account, the
405 qualified public depository shall execute and return the
406 completed form to the public depositor within 45 calendar days

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407 after such presentation.
408 ~~4. When the acknowledgment of receipt form is presented to~~
409 ~~the qualified public depository by the public depositor on an~~
410 ~~account existing before July 1, 1998, the qualified public~~
411 ~~depository shall execute and return the completed form to the~~
412 ~~public depositor within 45 calendar days after such~~
413 ~~presentation.~~
414 (b) Within 15 days after the end of each calendar month, or
415 when requested by the Chief Financial Officer, submit to the
416 Chief Financial Officer a written report, under oath, indicating
417 the average daily balance of all public deposits held by it
418 during the reported month, required collateral, a detailed
419 schedule of all securities pledged as collateral, selected
420 financial information, and any other information ~~that~~ the Chief
421 Financial Officer deems ~~determines~~ necessary to administer this
422 chapter.
423 (c) Provide to each public depositor annually by~~, not later~~
424 ~~than~~ October 30~~,~~ the following information on all open accounts
425 identified as a "Florida public deposit" for that public
426 depositor as of September 30, to be used for confirmation
427 purposes: the federal employer identification number of the
428 qualified public depository, the name on the deposit account
429 record, the federal employer identification number on the
430 deposit account record, and the account number, account type,
431 and actual account balance on deposit. Any discrepancy found in
432 the confirmation process must ~~shall~~ be reconciled before
433 November 30.
434 (d) Submit to the Chief Financial Officer annually by~~, not~~
435 ~~later than~~ November 30~~,~~ a report of all public deposits held for

436 the credit of all public depositors at the close of business on
437 September 30. Such annual report must ~~shall~~ consist of public
438 deposit information in a report format prescribed by the Chief
439 Financial Officer. The manner of required filing may be as a
440 signed writing or electronic data transmission, at the
441 discretion of the Chief Financial Officer.
442 ~~(c) Submit to the Chief Financial Officer not later than~~
443 ~~the date required to be filed with the federal agency:~~
444 ~~1. A copy of the quarterly Consolidated Reports of~~
445 ~~Condition and Income, and any amended reports, required by the~~
446 ~~Federal Deposit Insurance Act, 12 U.S.C. ss. 1811 et seq., if~~
447 ~~such depository is a bank; or~~
448 ~~2. A copy of the Thrift Financial Report, and any amended~~
449 ~~reports, required to be filed with the Office of Thrift~~
450 ~~Supervision if such depository is a savings and loan~~
451 ~~association.~~
452 Section 11. Subsections (2), (5), and (8) of section
453 280.17, Florida Statutes, are amended to read:
454 280.17 Requirements for public depositors; notice to public
455 depositors and governmental units; loss of protection.—In
456 addition to any other requirement specified in this chapter,
457 public depositors shall comply with the following:
458 (2) ~~Beginning July 1, 1998, Each public depositor shall~~
459 ~~take the following actions~~ For each public deposit account, the
460 public depositor shall:
461 (a) Ensure that the name of the public depositor is on the
462 account or certificate or other form provided to the public
463 depositor by the qualified public depository in a manner
464 sufficient to identify that the account is a Florida public

465 deposit.
466 (b) Execute a form prescribed by the Chief Financial
467 Officer for identification of each public deposit account and
468 obtain acknowledgment of receipt on the form from the qualified
469 public depository at the time of opening the account. Such
470 public deposit identification and acknowledgment form shall be
471 replaced with a current form as required in subsection (3). ~~A~~
472 ~~public deposit account existing before July 1, 1998, must have a~~
473 ~~form completed before September 30, 1998.~~
474 (c) Maintain the current public deposit identification and
475 acknowledgment form as a valuable record. Such form is mandatory
476 for filing a claim with the Chief Financial Officer upon the
477 default or insolvency of a qualified public depository.
478 (5) Each public depositor shall ~~confirm~~ annually confirm
479 that public deposit information as of the close of business on
480 September 30 has been provided by each qualified public
481 depository and is in agreement with public depositor records.
482 Such confirmation must ~~shall~~ include the federal employer
483 identification number of the qualified public depository, the
484 name on the deposit account record, the federal employer
485 identification number on the deposit account record, and the
486 account number, account type, and actual account balance on
487 deposit. ~~Public depositors shall request such confirmation~~
488 ~~information from qualified public depositories on or before the~~
489 ~~fifth calendar day of October and shall allow until October 31~~
490 ~~to receive such information.~~ Any discrepancy found in the
491 confirmation process must ~~shall~~ be resolved ~~reconciled~~ before
492 November 30.
493 (8) If a public depositor does not comply with this section

494 with respect to ~~on~~ each public deposit account, the protection
495 from loss provided under ~~in~~ s. 280.18 is not effective as to
496 that public deposit account. However, if a public depositor
497 fails to present the form prescribed by the Chief Financial
498 Officer for identifying public deposit accounts, the protection
499 from loss provided under s. 280.18 is effective if the Chief
500 Financial Officer determines that the defaulting depository has
501 classified, reported, and collateralized the account as public
502 deposits.
503 Section 12. This act shall take effect July 1, 2014.

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/9/14
Meeting Date

Topic: SB 564

Bill Number: SB 564 *(if applicable)*

Name: Logan McFaddin

Amendment Barcode: *(if applicable)*

Job Title: Director, Legislative affairs

Address: 400 N Monroe St
Street

Tallahassee FL 32399
City *State* *Zip*

Phone: 850-413-2829

E-mail: Logan.McFaddin@myfloridacfo.com

Speaking: [x] For [ ] Against [ ] Information

Representing: CFO's office

Appearing at request of Chair: [ ] Yes [x] No

Lobbyist registered with Legislature: [x] 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

Committee Agenda Request

To: Senator Alan Hays, Chair
Appropriations Subcommittee on General Government

Subject: Committee Agenda Request

Date: February 12, 2014

I respectfully request that **Senate Bill #564**, relating to Security for Public Deposits, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Senator Garrett Richter
Florida Senate, District 23

File signed original with committee office

S-020 (03/2004)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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

BILL: CS/SB 928

INTRODUCER: Appropriations Subcommittee on General Government and Governmental Oversight and Accountability Committee

SUBJECT: State Technology

DATE: March 5, 2014 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	McKay	McVaney		**GO SPB 7024 as introduced**
1.	Wilson	DeLoach	AGG	**Fav/CS**
2.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 928 substantially revises how the state establishes information technology (IT) policy and procedures. The bill creates the Agency for State Technology (AST), administratively housed in the Department of Management Services. The defunct Agency for Enterprise Information Technology is abolished by the bill, and its duties are transferred to the AST. The AST is given extensive authority to set state technology policy and perform project oversight of large IT projects. The Northwood and Southwood shared resource centers are transferred to the AST.

For the 2014-2015 fiscal year, $2,865,108 in recurring general revenue funds, $2,134,892 in nonrecurring general revenue funds, and 25 full time equivalent positions with associated salary rate of 2,010,951 are appropriated to the AST, in this bill.

Except as otherwise provided, the bill is effective July 1, 2014.

II. Present Situation:

Agency for Enterprise Information Technology

Duties

In 2007, the Florida Legislature created the Agency for Enterprise Information Technology (AEIT) to oversee policies for the design, planning, project management, and implementation of

enterprise information technology services, to include information technology security.[1] The AEIT is administratively housed within the Executive Office of the Governor, with the Governor and Cabinet as the head of the agency.

The AEIT is required to[2]:

- Submit an annual work plan for approval by the Governor and Cabinet;
- Monitor the implementation, delivery, and management of the enterprise information technology services established in law;
- Make recommendations to the agency head and Legislature concerning other information technology services that should be designed, delivered, and managed as enterprise information technology services;
- Plan and establish policies for managing proposed statutorily authorized enterprise information technology services;
- Biennially publish a long-term strategic enterprise information technology plan;
- Perform duties related to enterprise information technology services including the state data center system, information technology security, and the statewide e-mail service;
- Coordinate with the Division of Purchasing in the DMS on the planning and acquisition of information technology products and work with the division in the establishment of best practices for procuring such products;
- Develop information technology standards;
- Submit a comprehensive transition plan for the consolidation of agency data centers into a primary data center; and
- Annually provide the Legislature with recommendations for consolidating the purchase of information technology commodities and contractual services.

Part I of Chapter 282, F.S., specifies the duties of the AEIT and state agencies regarding IT management. Section 282.0041(1), F.S., defines "agency" the same as ins. 216.011(1)(qq), F.S.:

> "state agency" or "agency" as any official, officer, commission, board, authority, council, committee, or department of the executive branch of state government. For purposes of chapter 216 and chapter 215, "state agency" or "agency" includes, but is not limited to, state attorneys, public defenders, criminal conflict and civil regional counsel, capital collateral regional counsel, the Justice Administrative Commission, the Florida Housing Finance Corporation, and the Florida Public Service Commission.

In 2008, specific duties and responsibilities pertaining to information technology security were assigned to the AEIT,[3] but the Office of Information Security was housed within the DMS. In 2009, the Office of Information Security was created within the AEIT,[4] and 8 full-time equivalents (FTE) were transferred from the DMS budget to the AEIT in the Fiscal Year 2009-2010 General Appropriations Act.

---

[1] Chapter 2007-105, Laws of Florida.
[2] Section 14.204, Florida Statutes.
[3] Chapter 2008-116, Laws of Florida.
[4] Chapter 2009-80, Laws of Florida.

Administrative Rules

The AEIT was authorized to adopt rules to carry out its statutory duties[5] and to specifically adopt rules relating to:

- Information security;[6] and
- State data center system.[7]

The AEIT adopted 34 administrative rules under the following chapters:

- Chapter 71-1, Florida Administrative Code, *Confirmation and Delegation of Authority*, effective July 13, 2009;
- Chapter 71A-1, Florida Administrative Code, *Florida Information Technology Resource Security Policies and Standards*, effective November 15, 2010; and
- Chapter 71A-2, Florida Administrative Code, *Florida Information Resource Security Policies and Standards*, effective August 10, 2004. These rules were promulgated by the Department of Management Services State Technology Office division.

The AEIT initiated, but never completed, the rule adoption process for two sets of rules:

- Chapter 71B-1, Florida Administrative Code, *Enterprise E-mail Service*; and
- Chapter 71B-2, Florida Administrative Code, *Data Center System*.

Defunding the AEIT

In 2012, the Governor vetoed HB 5011, legislation that abolished the AEIT and transferred some of AEIT's duties to a new agency created in that bill. Because HB 5011 transferred the salary and positions from the AEIT to the new agency, the effect of the veto was the elimination of funding for AEIT, though some of its duties still exist in statute.

Primary Data Centers and Data Center Consolidation

The state data center system was created by the Legislature in 2008.[8] The system is composed of primary data centers (Southwood Shared Resource Center, Northwood Shared Resource Center, and the Northwest Regional Data Center), other nonprimary data centers, and computing facilities serving state agencies. A "primary data center" is a data center that is a recipient entity for consolidation of nonprimary data centers and computing facilities and that is established by law.[9] A "computing facility" is an agency space containing fewer than 10 servers, any of which supports a strategic or nonstrategic information technology service, as described in budget instructions developed pursuant to s. 216.023, F.S., but excludes single-server installations that exclusively perform a utility function such as file and print servers.[10] The AEIT is responsible for developing policies for the system.[11]

[5] Section 14.204(7), F.S.
[6] Section 282.318(6), F.S.
[7] Section 282.201(2)(e), F.S.
[8] Chapter 2008-116, L.O.F.
[9] Section 282.0041(17), F.S.
[10] Section 282.0041(7), F.S.
[11] Section 282.201(2), F.S.

As defined by law, Wave 1 of data center consolidation was initiated in 2009 with proviso included in the Fiscal Year 2009-2010 General Appropriations Act that required the:

- Florida Parole Commission to transfer its information technology services, to include its data center functions, to the Department of Corrections by July 1, 2009;
- Department of Juvenile Justice to consolidate its data center functions into the Northwood Shared Resource Center (NSRC) by July 1, 2010; and
- Department of Business and Professional Regulation to consolidate its data center functions into the NSRC by November 30, 2010.

Beginning in 2009, on October 1st of each calendar year, the AEIT is required to recommend to the Governor and Legislature at least two agency data centers or computing facilities for consolidation into a primary data center.[12] The AEIT submitted its recommendations on September 30, 2009,[13] for the Wave 2 consolidations and the Legislature directed, via proviso in the Fiscal Year 2010-2011 General Appropriations Act, the following consolidations:

- To the Northwood Shared Resource Center (NSRC)
  - Department of Juvenile Justice by July 1, 2010;
  - Department of Business and Professional Regulation by November 30, 2010;
  - Department of Children and Families' Winewood Office Complex by June 30, 2012; and
  - Department of Transportation's Motor Carrier Compliance Office by July 1, 2011.
- To the Southwood Shared Resource Center (SSRC)
  - Department of Transportation Burns Office Building by March 31, 2012; and
  - Department of Transportation Survey and Mapping Office by March 31, 2012.
- To the Northwest Regional Data Center (NWRDC)
  - Department of Education by December 31, 2011;
  - College Center for Library Automation by December 31, 2011; and
  - Florida Center for Library Automation by December 31, 2011.
- To the NSRC or SSRC
  - Agency for Health Care Administration by June 30, 2012; and
  - Department of Highway Safety and Motor Vehicles by December 31, 2011.

On December 23, 2010, the AEIT submitted a report "*Recommendation of Non-primary Data Centers for Consolidation into Primary Data Centers by 2019.*" The report provides recommendations for the consolidation of the remaining agency data centers and computing facilities after Wave 2. In 2011, the Legislature codified in statute the recommendations included in AEIT's December 23, 2010, report identifying the agencies required to consolidate into a primary data center within that fiscal year.[14]

In 2012, the Legislature amended the data center consolidation schedule as follows:[15]

- To the NSRC:
  - Department of Highway Safety and Motor Vehicles' Office of Motor Carrier Compliance by July 1, 2012;

[12] s. 282.201(2), F.S.
[13] *Recommendation of Non-primary Data Centers for Consolidation into Primary Data Centers.* Agency for Enterprise Information Technology, September 30, 2009.
[14] Chapter 2011-50, L.O.F.
[15] Chapter 2012-142, L.O.F.

  - Department of Highway Safety and Motor Vehicles by August 31, 2012;
  - Department of Health's Test and Development Lab and all remaining data center resources located at the Capital Circle Office Complex by December 31, 2012;
  - Department of Veterans' Affairs by July 1, 2013;
  - Department of Legal Affairs by December 31, 2013; and
  - Department of Agriculture and Consumer Services' Agriculture Management Information Center in the Mayo Building and the Division of Licensing by March 31, 2014.
- To the SSRC:
  - Fish and Wildlife Conservation Commission, except for the commission's Fish and Wildlife Research Institute in St. Petersburg, by July 1, 2013;
  - Department of Economic Opportunity by October 31, 2013;
  - Executive Office of the Governor, to include the Division of Emergency Management except for the Emergency Operation Center's management system in Tallahassee and the Camp Blanding Emergency Operations Center in Starke, by December 31, 2013; and
  - Department of Elderly Affairs by March 31, 2014.
- To the NWRDC:
  - Department of Revenue's Carlton Building and Imaging Center locations by September 30, 2012.

The following entities are exempted from data center consolidation:
- Florida Department of Law Enforcement;
- Department of Lottery's Gaming System and the department's Backup Data Center in Orlando;
- Systems Design and Development in the Office of Policy and Budget;
- State Board of Administration;
- State Attorneys;
- Public Defenders Office;
- Criminal Conflict and Civil Regional Counsel;
- Capital Collateral Regional Counsel;
- Florida Clerks of Court Operations Corporation; and
- Florida Housing Finance Corporation

The Department of Financial Services must consolidate in Fiscal Year 2015-2016.

The Implementing Bill for the 2013-2014 General Appropriations Act[16] modified the consolidation schedule in s. 282.201(4), F.S., to require that the Fish and Wildlife Conservation Commission, except for the commission's Fish and Wildlife Research Institute in St. Petersburg, be consolidated into the NSRC by October 30, 2013. The bill also deleted the consolidation schedule for the Department of Veterans' Affairs, the Department of Legal Affairs, and the Department of Agriculture and Consumer Services' Agriculture Management Information Center.[17]

[16] Senate Bill 1502, section 47.
[17] Pursuant to section 48 of SB 1502, this amendment expires July 1, 2014, and the text of s. 282.201(4), F.S., reverts to the text in effect on June 30, 2013.

Each agency identified for consolidation into a primary data center must submit with its respective legislative budget request the specific recurring and nonrecurring budget adjustments of resources by appropriation category into the appropriate data processing category pursuant to the legislative budget request instructions in s. 216.023, F.S.

The Financial Management Information System Act[18]

The Florida Financial Management Information System (FFMIS) Act, authorized in ss. 215.90 through 215.96, F.S., was established to plan, implement, and manage a unified information system which provides fiscal, management, and accounting information. The FFMIS Act established the Florida Management Information Board (FMIB) and the FFMIS Coordinating Council. The FMIB is comprised of the Governor and Cabinet and has overall responsibility for managing and overseeing the development of Florida Financial Management Information System pursuant to s. 215.95, F.S., including establishing financial management policies and procedures for executive branch agencies. The Council is comprised of the members of the Cabinet, the secretary of the Department of Management Services, and the director of the Governor's Office of Policy and Budget. Among other duties, the Council is to approve all FFMIS subsystem designs and modifications prior to implementation and to make recommendations to the FMIB on policy alternatives to ensure coordination between the subsystems, as defined in ss. 215.93 and 215.96, F.S.

There are five FFMIS subsystems which must be designed, implemented, and operated pursuant to the act. Each has a statutorily-identified functional owner as well as additional statutory requirements as follows:

- Planning and Budgeting – The Executive Office of the Governor is the functional owner. The system must also be designed, implemented, and operated pursuant to ch. 216, F.S;
- Florida Accounting Information Resource (FLAIR) – The Department of Financial Services is the functional owner. The system must also be designed, implemented, and operated pursuant to ss. 17.03, 215.86, 216.141, and 216.151, F.S.;
- Cash Management System (CMS) – The Chief Financial Officer is the functional owner;
- Purchasing (MyFloridaMarketplace) – The Department of Management Services is the functional owner;
- Personnel Information (PeopleFirst) – The Department of Management Services is the functional owner. The system must also be designed, implemented, and operated pursuant to s. 110.116, F.S.

The FFMIS Act identifies each subsystem's general functional requirements but allows each functional owner to establish additional functions unless they are specifically prohibited by the FFMIS Act. Functional owners may not establish or maintain additional subsystems which duplicate any of the FFMIS subsystems.

The FMIB approved a strategic plan on March 14, 2000, that authorized the replacement of the FFMIS subsystems with an enterprise-wide financial management system that integrates financial information and standardizes policies and information. This system has never been

[18] All the information in this section comes from Florida Senate Issue Brief 2009-321, *Florida Financial Management Information System (FFMIS) Act*, pp. 2-3.

implemented. The FMIB has not made any decisions relating to policy or the FFMIS subsystems since February 2001 when it modified the strategic plan to allow the use of outsourcing as a means to replace or enhance the functionality of the FFMIS subsystems. No subsystem designs or modifications have been brought to the FMIB for review or approval since that time. As a result, the overall governance and management of each FFMIS subsystem has been "unofficially delegated" to each functional owner and each functional owner has autonomously pursued an independent path for development and enhancement of its subsystem. The FMIB has been inactive since February 2005.

Method of Reorganization for the Executive Branch

Pursuant to s. 20.06, F.S., the executive branch of state government must be reorganized by transferring the specified agencies, programs, and functions to other specified departments, commissions, or offices. Such a transfer does not affect the validity of any judicial or administrative proceeding pending on the day of the transfer, and any agency or department to which are transferred the powers, duties, and functions relating to the pending proceeding must be substituted as a party in interest for the proceeding.

A type one transfer is the transferring intact of an existing agency or department so that the agency or department becomes a unit of another agency or a department. Any agency or department transferred to another agency or department by a type one transfer will exercise its powers, duties, and functions as prescribed by law, subject to review and approval by, and under the direct supervision of, the head of the agency or department to which the transfer is made, unless otherwise provided by law. Any agency or department transferred by a type one transfer has all its statutory powers, duties, and functions, and its records, personnel, property, and unexpended balances of appropriations, allocations, or other funds, transferred to the agency or department to which it is transferred. Unless otherwise provided by law, the administrative rules of any agency or department involved in the transfer which are in effect immediately before the transfer remain in effect until specifically changed in the manner provided by law.

A type two transfer is the merging into another agency or department of an existing agency or department or a program, activity, or function thereof or, if certain identifiable units or subunits, programs, activities, or functions are removed from the existing agency or department, or are abolished, it is the merging into an agency or department of the existing agency or department with the certain identifiable units or subunits, programs, activities, or functions removed therefrom or abolished. Any agency or department or a program, activity, or function transferred by a type two transfer has all its statutory powers, duties, and functions, and its records, personnel, property, and unexpended balances of appropriations, allocations, or other funds, except those transferred elsewhere or abolished, transferred to the agency or department to which it is transferred, unless otherwise provided. Unless otherwise provided, the head of the agency or department to which an existing agency or department or a program, activity, or function thereof is transferred is authorized to establish units or subunits to which the agency or department is assigned, and to assign administrative authority for identifiable programs, activities, or functions. Unless otherwise provided, the administrative rules of any agency or department involved in the transfer which are in effect immediately before the transfer remain in effect until specifically changed in the manner provided by law.

III. Effect of Proposed Changes:

Section 1 repeals s. 14.204, F.S., which creates and provides the duties for the now-defunct Agency for Enterprise Information Technology (AEIT).

Section 2 creates in s. 20.61, F.S., the Agency for State Technology (AST) within the Department of Management Services (DMS) for administrative purposes only. The AST must develop, implement, and manage state enterprise information technology services. The executive director of the AST, who will be the state's Chief Information Officer (CIO), must be appointed by the Governor, and confirmed by the Senate.

The bill creates a Technology Advisory Council to make recommendations to the executive director on enterprise information technology policy and standards. The council must comply with the code of ethics for public officers, and each member must file statements of financial interests.

Section 3 amends the definitions in s. 282.0041, F.S., by modifying, adding, and deleting some definitions, and changing references from the AEIT to the AST.

The bill creates a new definition for "state agency" to mean any official, officer, commission, board, authority, council, committee, or department of the executive branch of state government, and the Justice Administration Commission and the Public Service Commission. This new definition of "state agency" is not linked to the definition in Chapter 216, F.S., to avoid conflicting interpretations on whether state attorneys, public defenders, criminal conflict and civil regional counsel, and capital collateral regional counsel are to be subject to the authority of the AST. If these entities are not executive branch entities, they are not subject to the authority of the AST.

Section 4 creates s. 282.0051, F.S., to specify the duties and functions of the AST. Specific duties and functions of the AST are as follows:

- Develop state technology policy for the management of state information technology (IT) services;
- Establish architecture standards for the state's technology infrastructure;
- Establish project management and project oversight standards for IT projects;
- Provide project oversight for all technology projects exceeding $10 million;
- Identify opportunities for standardizing and consolidating IT services;
- Collaborate with the DMS in establishing best practices for the procurement of IT products and services;
- Collaborate with the DMS in conducting procurement negotiations for IT products and services;
- Encourage state agencies to use public-private partnerships;
- Establish standards for state agency IT reporting;
- Assist state agencies with legislative budget requests, upon request;
- Conduct annual assessments of state agencies for compliance with statewide IT standards;
- Manage the state data center;
- Recommend other IT services that should be managed at the enterprise level;

- Recommend any further data center consolidations into the state data center;
- Propose methodology for collecting current and planned state agency IT expenditure data;
- Provide alternatives for state agencies where compliance with AST standards, policies or requirements risk loss of federal funding; and
- Adopt rules.

The Department of Financial Services, Department of Legal Affairs, and Department of Agriculture and Consumer Services are not subject to the standards, services, and functions established by the AST, but each of these agencies may contract separately with AST to perform any of those services and functions. However, these three agencies must adopt the AST standards with regard to IT architecture standards, project management standards, and IT reporting, or adopt alternative standards based on industry best practices in these three areas. If the three agencies implement a technology project with a total cost of $25 million or more that affects another state agency, they are also subject to the oversight IT architecture standards, project management standards, and IT reporting standards of the AST. If an IT project administered by an agency subject to the authority of the AST will interface with an IT system administered by the Department of Financial Services, Department of Legal Affairs, or Department of Agriculture and Consumer Services, the AST must consult on the project with those three agencies.

Sections 5 and 6 repeal ss. 282.0055 and 282.0056, F.S., which specified AEIT duties with regards to the assignment of information technology resources, and development of a work plan, respectively.

Section 7 amends s. 282.201, F.S., relating to the state data center system, by deleting duties of AEIT, and creating within AST the state data center, consisting of the Northwood Shared Resource Center (NSRC) and the Southwood Shared Resource Center (SSRC). The state data center must:

- Offer and support the services and applications provided to customer entities;
- Maintain the performance of the state data center;
- Develop a business continuity plan and a disaster recovery plan;
- Enter into service level agreements with customer entities, which must contain certain provisions;
- Be the custodian of resources and equipment that are located, operated, supported, and managed by the state data center; and
- Assume administrative access rights to the resources and equipment, such as servers, network components, and other devices that are consolidated into the state data center.

The bill repeals the current schedule for consolidation of agency data centers, and specifies that the Department of Financial Services, Department of Legal Affairs, Department of Agriculture and Consumer Services, the regional traffic management centers, and the Office of Toll Operations of the Department of Transportation are exempt from data center consolidation.

The bill removes an existing exemption from data center consolidation for state attorneys, public defenders, criminal conflict and civil regional counsel, capital collateral regional counsel, the Florida Clerks of Court Operations Corporation, and the Florida Housing Finance Corporation.

Any of these entities that are part of the executive branch are subject to the authority of the AST by operation of the definition of "state agency" in the bill; for entities that are not part of the executive branch, the exemption is no longer needed.

Sections 8, 9, and 10 repeal ss. 282.203, 282.204, and 282.205, F.S., relating to primary data centers, the NSRC, and the SSRC, respectively. The duties under these sections will be subsumed within the duties specified in section 7 of the bill.

Section 11 amends s. 282.318, F.S., relating to enterprise IT security. The bill generally replaces AEIT with AST in regards to existing enterprise IT security duties. The bill supplements existing duties to require AST to publish an information technology security framework for use by state agencies, to include a risk assessment methodology, protection procedures, threat detection, data recovery, procedures for limiting unauthorized access to IT resources, and establishing asset management procedures. The bill also requires AST to train state agency IT security managers in collaboration with the Cybercrime Office in the Department of Law Enforcement.

State agencies must:

- Designate an information security manager who reports to the agency head;
- Submit security plans which include performance metrics;
- Conduct risk assessments consistent with AST risk assessment methodology;
- Develop procedures for reporting IT security incidents to the Cybercrime Office in the Department of Law Enforcement and, for those agencies under the jurisdiction of the Governor, to the Chief Inspector General;
- Require state agency employees to complete security awareness training offered by AST; and
- Report IT security incidents to the Cybercrime Office and AST.

Sections 12 and 13 repeal ss. 282.33 and 282.34, F.S., respectively, relating to energy efficiency standards for data centers, and the implementation of a statewide email service.

Section 14 amends s. 17.0315, F.S., to make terminology changes consistent with shifting duties from AEIT to AST.

Section 15 amends s. 20.055, F.S., to add the AST into the definition of "state agency," which has the effect of clarifying that the AST must have an Office of Inspector General.

Sections 16 and 17 amend ss. 110.205 and 215.322, F.S., respectively, to make terminology changes.

Section 18 amends s. 215.96 F.S., to add the executive director of the AST to the FMIS coordinating council.

Section 19 amends s. 216.023, F.S., to require that for legislative budget requests for IT projects over $10 million in total cost, the governance structure must incorporate the applicable project management and oversight standards established by the AST.

Sections 20 through 23 amend ss. 287.057, 445.011, 445.045, and 668.50, F.S., respectively, to change terminology to reflect the transfer of technology duties from the AEIT to the AST.

Section 24 amends s. 943.0415, F.S., to task the Cybercrime Office within the Department of Law Enforcement with the following additional duties:

- Monitor IT resources and provide analysis on information technology security incidents;
- Investigate violations of state law pertaining to IT security incidents, threats, or breaches;
- Provide security awareness training and information to state agency employees; and
- Consult with the AST in the adoption of rules relating to IT security.

Section 25 amends s. 1004.649, F.S., to clarify that the cost-allocation methodology used at the Northwest Regional Data Center at Florida State University must comply with applicable state and federal requirements. The bill also requires that service level agreements between the Northwest Regional Data Center and its state agency customers must:

- Prohibit the transfer of computing services between the Northwest Regional Data Center and the state data center without at least 180 days' notice of service cancellation;
- Identify the products or services to be delivered with sufficient specificity to permit an external financial or performance audit; and
- Provide that the service-level agreement may be terminated by either party for cause only after giving notice to the other party.

Section 26 transfers the AEIT to the AST by a type two transfer. The only rules transferred are chapters 71A-1 and 71A-2 of the Florida Administrative Code, both relating to IT security policies; all other rules adopted by the AEIT are nullified.

Sections 27 and 28 transfer the NSRC and the SSRC to the AST by type two transfer without Legislative Budget Commission approval.

Section 29 requires the AST to complete a feasibility study that provides recommendations for managing state government data in a manner that promotes its interoperability and openness and ensures that such data is available to the public if legally permissible and not cost prohibitive. The study must include a clear description of which state government data should be public information, recommended standards for the data, a plan for implementing a single internet website that contains the public information or links to it, and a recommended governance structure. The study must be submitted to legislative leaders and the Executive Office of the Governor by June 1, 2015.

Section 30 creates a State Data Center Task Force comprised of the members of the boards of trustees of the NSRC and SSRC as of June 30, 2014, for the purpose of assisting in the transition of the NSRC and SSRC into the state data center.

Section 31 appropriates, for the 2014-2015 fiscal year, $2,865,108 in recurring general revenue funds and $2,134,892 in nonrecurring general revenue funds, and authorizes 25 full time equivalent positions with associated salary rate of $2,010,951 to the AST.

Except as otherwise provided, the bill takes effect July 1, 2014.

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.

C. Government Sector Impact:

For the 2014-2015 fiscal year, $2,865,108 in recurring general revenue funds, $2,134,892 in nonrecurring general revenue funds, and 25 full time equivalent positions with associated salary rate of 2,010,951 are appropriated to the AST.

Department of Management Services Administrative Costs

Currently, the Southwood Shared Resource Center and the Northwood Shared Resource Center are assessed charges for the services they receive from the Department of Management Services. The assessments paid by the centers in the current year are roughly $100,000.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Absent clarification on the requirement that the executive director of the AST must be a “proven, effective” administrator, the requirement may be subject to differing interpretations.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 17.0315, 20.055, 110.205, 215.322, 215.96, 216.023, 282.0041, 282.201, 282.318, 287.057, 445.011, 445.045, 668.50, 943.0415, and 1004.649.

This bill creates the following sections of the Florida Statutes: 20.61 and 282.0051.

This bill repeals the following sections of the Florida Statutes: 14.204, 282.0055, 282.0056, 282.203, 282.204, 282.205, 282.33, and 282.34.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

Recommended CS by Appropriations Subcommittee on General Government on March 5, 2014:

The CS:

- Clarifies the definition of "State Data Center".
- Provides for AST to work with and provide alternative standards for any state agency that may have a conflict with the AST requirements and federal regulations that impact federal funding.
- Provides AST oversight responsibilities and requires compliance with some AST standards on information technology projects with a total cost over $25 million implemented by the Department of Legal Affairs, the Department of Financial Services, and the Department of Agriculture and Consumer Services that affect executive agencies.
- Changes one appointment to the Technology Advisory Council from the Cabinet to the Chief Financial Officer in consultation with the Attorney General and the Commissioner of Agriculture.
- Clarifies the responsibilities of the AST as related to the procurement of information technology products and services.
- Clarifies the Type 2 transfer of the Northwood and Southwood Shared Resource Centers do not require Legislative Budget Commission approval.

B. Amendments:

None.

345612

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/05/2014	.	
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Appropriations Subcommittee on General Government (Bradley) recommended the following:

1 **Senate Amendment**
2
3 Delete line 121
4 and insert:
5 member shall be appointed by the Chief Financial Officer in
6 consultation with the Attorney General and the Commissioner of
7 Agriculture; and one member each

210956

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/05/2014	.	
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Appropriations Subcommittee on General Government (Bradley) recommended the following:

1 **Senate Amendment**
2
3 Delete line 276
4 and insert:
5 reviews, and maintains data center services that are hosted on
6 premises or externally through a third-party provider as an
7 enterprise information technology service which improve

781544

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/05/2014	.	
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Appropriations Subcommittee on General Government (Bradley) recommended the following:

1 **Senate Amendment**
2
3 Delete lines 365 - 378
4 and insert:
5 (f) The department shall incorporate standards established
6 by the agency which are designed to reduce costs, increase
7 productivity, or improve services into the requirements for
8 procuring information technology products and services. The
9 agency shall review all information technology purchases made by
10 state agencies which have a total cost of $250,000 or more,

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11 unless a purchase is specifically mandated by the Legislature,
12 for compliance with the standards established pursuant to this
13 section.
14 (g) The agency shall participate as an evaluator or
15 negotiator and collaborate with the department in conducting
16 procurements for information technology products and services
17 that will be used by multiple state agencies, and collaborate
18 with the department in information technology resource
19 acquisition planning.

582054

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/05/2014	.	
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Appropriations Subcommittee on General Government (Bradley) recommended the following:

1 **Senate Amendment**
2
3
4 Delete lines 480 - 499
5 and insert:
6 (p) If adherence to the standards or policies adopted or to
7 the requirements established pursuant to this section conflicts
8 with federal regulations or requirements imposed on the state
9 agency and results in adverse action against the state agency or

582054

10 federal funding, the agency shall work with the state agency to
11 provide alternative standards, policies, or requirements that do
12 not conflict with the federal regulations or requirements. Such
13 alternatives shall be reported annually, starting July 1, 2015,
14 to the Governor, the President of the Senate, and the Speaker of
15 the House of Representatives.
16 (q) Adopting rules to administer this section.
17 (2) Except as provided in subsection (3), the Department of
18 Financial Services, the Department of Legal Affairs, and the
19 Department of Agriculture and Consumer Services are not subject
20 to the powers, duties, and functions of the Agency for State
21 Technology established under this section. Each of those
22 departments shall adopt the standards established in paragraphs
23 (1)(b), (1)(c), and (1)(i) or adopt alternative standards based
24 on best practices or industry standards and may contract
25 separately with the Agency for State Technology to provide and
26 perform any of the services and functions for those departments.
27 (3)(a) An information technology project administered or
28 implemented by the Department of Financial Services, the
29 Department of Legal Affairs, or the Department of Agriculture
30 and Consumer Services is subject to project oversight as
31 established in paragraph (1)(d), architecture standards as
32 established in paragraph (1)(b), project management standards as
33 established in paragraph (1)(c), and reporting standards as
34 established in paragraph (1)(i) by the Agency for State
35 Technology if the project is expected to have a total project
36 cost of $25 million or more and if the project directly affects
37 another state agency or another information technology project
38 that is subject to the powers, duties, and functions of the

582054

39 Agency for State Technology.

881210

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/05/2014	.	
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Appropriations Subcommittee on General Government (Bradley) recommended the following:

1 **Senate Amendment**
2
3 Delete lines 1397 - 1399
4 and insert:
5 (a) The department, in consultation with the Agency for
6 State Technology and in compliance with the standards and
7 policies of the agency, may contract for equipment and services
8 necessary to develop and implement online procurement.

647678

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/05/2014	.	
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Appropriations Subcommittee on General Government (Bradley) recommended the following:

1 **Senate Amendment**
2
3 Delete lines 1608 - 1617
4 and insert:
5 Section 27. The Northwood Shared Resource Center in the
6 Department of Management Services is transferred by a type two
7 transfer, pursuant to s. 20.06, Florida Statutes, to the Agency
8 for State Technology established pursuant to s. 20.61, Florida
9 Statutes. This transfer does not require and is not subject to
10 Legislative Budget Commission approval.

647678

11 Section 28. The Southwood Shared Resource Center in the
12 Department of Management Services is transferred by a type two
13 transfer, pursuant to s. 20.06, Florida Statutes, to the Agency
14 for State Technology established pursuant to s. 20.61, Florida
15 Statutes. This transfer does not require and is not subject to
16 Legislative Budget Commission approval.

By the Committee on Governmental Oversight and Accountability

585-01669-14 2014928__

A bill to be entitled

An act relating to state technology; repealing s. 14.204, F.S., relating to the Agency for Enterprise Information Technology within the Executive Office of the Governor; creating s. 20.61, F.S.; creating the Agency for State Technology within the Department of Management Services; providing for an executive director and other permanent positions; creating a Technology Advisory Council and providing for membership; amending s. 282.0041, F.S.; revising and defining terms used in the Enterprise Information Technology Services Management Act; creating s. 282.0051, F.S.; providing the powers, duties, and functions of the Agency for State Technology; authorizing the agency to adopt rules; providing exceptions for certain departments; repealing s. 282.0055, F.S., relating to the assignment of information technology resource and service responsibilities; repealing s. 282.0056, F.S., relating to the development of an annual work plan, the development of implementation plans, and policy recommendations relating to enterprise information technology services; amending s. 282.201, F.S.; providing for a state data center and the duties of the center; deleting duties for the Agency for Enterprise Information Technology; revising the schedule for consolidating agency data centers and deleting obsolete provisions; revising the limitations on state agencies; repealing s. 282.203, F.S.,

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

585-01669-14 2014928__

relating to primary data centers; repealing s. 282.204, F.S., relating to the Northwood Shared Resource Center; repealing s. 282.205, F.S., relating to the Southwood Shared Resource Center; amending s. 282.318, F.S.; conforming provisions to changes made by the act; revising the duties of the state agencies with respect to information technology security; repealing s. 282.33, F.S., relating to objective standards for data center energy efficiency; repealing s. 282.34, F.S., relating to statewide e-mail service; amending ss. 17.0315, 20.055, 110.205, 215.322, and 215.96, F.S.; conforming provisions to changes made by the act; amending s. 216.023, F.S.; requiring the governance structure of information technology projects to incorporate certain standards; amending s. 287.057, F.S.; requiring the Department of Management Services to consult with the agency with respect to the online procurement of commodities; amending ss. 445.011, 445.045, and 668.50, F.S.; conforming provisions to changes made by the act; amending s. 943.0415, F.S.; providing additional duties for the Cybercrime Office in the Department of Law Enforcement relating to cyber security; requiring the office to provide cyber security training to state agency employees; requiring the office to consult with the agency; amending s. 1004.649, F.S.; revising provisions relating to the Northwest Regional Data Center; revising the center’s duties and the content of service-level agreements with state agency

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

59 customers; transferring the components of the Agency
60 for Enterprise Information Technology to the Agency
61 for State Technology; providing that certain rules
62 adopted by the Agency for Enterprise Information
63 Technology are nullified; transferring the Northwood
64 Shared Resource Center and the Southwood Shared
65 Resource Center to the Agency for State Technology;
66 requiring the Agency for State Technology to complete
67 a feasibility study relating to managing state
68 government data; specifying the components of the
69 study; requiring the study to be submitted to the
70 Governor and Legislature by a certain date; creating
71 the State Data Center Task Force; specifying the
72 membership and purpose of the task force; providing
73 for expiration; providing an appropriation; providing
74 effective dates.
75
76 Be It Enacted by the Legislature of the State of Florida:
77
78 Section 1. Section 14.204, Florida Statutes, is repealed.
79 Section 2. Section 20.61, Florida Statutes, is created to
80 read:
81 20.61 Agency for State Technology.—The Agency for State
82 Technology is created within the Department of Management
83 Services.
84 (1) The agency is a separate budget entity and is not
85 subject to control, supervision, or direction by the department,
86 including, but not limited to, purchasing, transactions
87 involving real or personal property, personnel, or budgetary

88 matters.
89 (2) The agency shall be headed by an executive director
90 appointed by the Governor and subject to the confirmation of the
91 Senate. The executive director shall be the State Chief
92 Information Officer.
93 (a) The executive director must be a proven, effective
94 administrator who preferably has executive-level experience in
95 both the public and private sectors.
96 (b) The Governor shall conduct a thorough search to find
97 the most qualified candidate and in conducting such a search,
98 the Governor shall place emphasis on the development and
99 implementation of information technology strategic planning;
100 management of enterprise information technology projects,
101 particularly management of large-scale consolidation projects;
102 and development and implementation of fiscal and substantive
103 information technology policy.
104 (3) The following positions are established within the
105 agency, all of which shall be appointed by the executive
106 director:
107 (a) A Deputy State Chief Information Officer.
108 (b) A Chief Planning Officer and six Strategic Planning
109 Coordinators with one coordinator assigned to each of the
110 following major program areas: health and human services,
111 education, government operations, criminal and civil justice,
112 agriculture and natural resources, and transportation and
113 economic development.
114 (c) A Chief Operations Officer.
115 (d) A Chief Information Security Officer.
116 (e) A Chief Technology Officer.

(4) The Technology Advisory Council, consisting of seven members, is established and shall be maintained within the agency pursuant to s. 20.052. Four members, two of whom must be from the private sector, shall be appointed by the Governor; one member shall be appointed by the Cabinet; and one member each shall be appointed by the President of the Senate and the Speaker of the House of Representatives. Upon initial establishment of the council, two of the Governor's appointments shall be for 2-year terms. Thereafter all appointments shall be for 4-year terms.

(a) The council shall consider and make recommendations to the executive director of the agency on such matters as enterprise information technology policies, standards, services, and architecture.

(b) The executive director of the agency shall consult with the council with regard to executing the duties and responsibilities of the agency related to statewide information technology strategic planning and policy.

(c) The council shall be governed by the code of ethics for public officers and employees as set forth in part III of chapter 112 and each member must file a statement of financial interests pursuant to s. 112.3145.

Section 3. Section 282.0041, Florida Statutes, is amended to read:

282.0041 Definitions.—As used in this chapter, the term:

~~(1) "Agency" has the same meaning as in s. 216.011(1)(qq), except that for purposes of this chapter, "agency" does not include university boards of trustees or state universities.~~

~~(2) "Agency for Enterprise Information Technology" means~~

~~the agency created in s. 14.204.~~

~~(3) "Agency information technology service" means a service that directly helps an agency fulfill its statutory or constitutional responsibilities and policy objectives and is usually associated with the agency's primary or core business functions.~~

~~(4) "Annual budget meeting" means a meeting of the board of trustees of a primary data center to review data center usage to determine the apportionment of board members for the following fiscal year, review rates for each service provided, and determine any other required changes.~~

(1)~~(5)~~ "Breach" has the same meaning as in s. 817.5681(4).

(2)~~(6)~~ "Business continuity plan" means a collection of procedures and information used to maintain an agency's critical operations during a period of displacement or interruption of normal operations ~~plan for disaster recovery which provides for the continued functioning of a primary data center during and after a disaster~~.

(3)~~(7)~~ "Computing facility" means agency space containing fewer than a total of 10 physical or logical servers, any of which supports a strategic or nonstrategic information technology service, as described in budget instructions developed pursuant to s. 216.023, but excluding single, logical-server installations that exclusively perform a utility function such as file and print servers.

(4)~~(8)~~ "Customer entity" means an entity that obtains services from a state ~~primary~~ data center.

(5)~~(9)~~ "Data center" means agency space containing 10 or more physical or logical servers any of which supports a

175 strategic or nonstrategic information technology service, as
176 described in budget instructions developed pursuant to s.
177 216.023.
178 (6) ~~(10)~~ "Department" means the Department of Management
179 Services.
180 (7) "Disaster recovery" means the processes, policies,
181 procedures, and infrastructure that relate to preparing for and
182 implementing recovery or continuation of an organization's vital
183 technology infrastructure after a natural or human-induced
184 disaster.
185 (8) ~~(11)~~ "Enterprise information technology service" means
186 an information technology service that is used in all agencies
187 or a subset of agencies and is established in law to be
188 designed, delivered, and managed at the enterprise level.
189 ~~(12) "E-mail, messaging, and calendaring service" means the~~
190 ~~enterprise information technology service that enables users to~~
191 ~~send, receive, file, store, manage, and retrieve electronic~~
192 ~~messages, attachments, appointments, and addresses. The e-mail,~~
193 ~~messaging, and calendaring service must include e-mail account~~
194 ~~management; help desk; technical support and user provisioning~~
195 ~~services; disaster recovery and backup and restore capabilities;~~
196 ~~antispam and antivirus capabilities; archiving and e-discovery;~~
197 ~~and remote access and mobile messaging capabilities.~~
198 (9) "Event" means an observable occurrence in a system or
199 network.
200 (10) "Incident" means a violation or imminent threat of
201 violation of computer security policies, acceptable use
202 policies, or standard security practices. An imminent threat of
203 violation exists when a state agency has a factual basis for

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204 believing that a specific incident is about to occur.
205 ~~(13) "Information-system utility" means a full-service~~
206 ~~information-processing facility offering hardware, software,~~
207 ~~operations, integration, networking, and consulting services.~~
208 (11) ~~(14)~~ "Information technology" means equipment,
209 hardware, software, firmware, programs, systems, networks,
210 infrastructure, media, and related material used to
211 automatically, electronically, and wirelessly collect, receive,
212 access, transmit, display, store, record, retrieve, analyze,
213 evaluate, process, classify, manipulate, manage, assimilate,
214 control, communicate, exchange, convert, converge, interface,
215 switch, or disseminate information of any kind or form.
216 (12) ~~(15)~~ "Information technology policy" means a specific
217 course or method of action selected from among alternatives that
218 guide and determine present and future decisions ~~statements that~~
219 ~~describe clear choices for how information technology will~~
220 ~~deliver effective and efficient government services to residents~~
221 ~~and improve state agency operations~~. ~~A policy may relate to~~
222 ~~investments, business applications, architecture, or~~
223 ~~infrastructure. A policy describes its rationale, implications~~
224 ~~of compliance or noncompliance, the timeline for implementation,~~
225 ~~metrics for determining compliance, and the accountable~~
226 ~~structure responsible for its implementation.~~
227 (13) "Information technology resources" has the same
228 meaning as in s. 119.011.
229 (14) "Information technology security" means the protection
230 afforded to an automated information system in order to attain
231 the applicable objectives of preserving the integrity,
232 availability, and confidentiality of data, information, and

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233 information technology resources.
234 (15) ~~(16)~~ "Performance metrics" means the measures of an
235 organization's activities and performance.
236 (16) ~~(17)~~ "Primary data center" means a data center that is
237 a recipient entity for consolidation of state agency ~~nonprimary~~
238 data centers and computing facilities and that is established by
239 law.
240 (17) ~~(18)~~ "Project" means an endeavor that has a defined
241 start and end point; is undertaken to create or modify a unique
242 product, service, or result; and has specific objectives that,
243 when attained, signify completion.
244 (18) "Project oversight" means an independent review and
245 analysis of an information technology project in order to
246 provide information on the project's scope, completion
247 timeframes, and budget and should identify and quantify any
248 issues or risks affecting the successful and timely completion
249 of the project.
250 (19) "Risk assessment ~~analysis~~" means the process of
251 identifying security risks, determining their magnitude, and
252 identifying areas needing safeguards.
253 (20) "Service level" means the key performance indicators
254 ~~(KPI)~~ of an organization or service which must be regularly
255 performed, monitored, and achieved.
256 (21) "Service-level agreement" means a written contract
257 between a data center and a customer entity which specifies the
258 scope of services provided, service level, the duration of the
259 agreement, the responsible parties, and service costs. A
260 service-level agreement is not a rule pursuant to chapter 120.
261 (22) "Stakeholder" means an individual, group,

262 organization, or state agency involved in or affected by a
263 course of action.
264 (23) ~~(22)~~ "Standards" means required practices, controls,
265 components, or configurations established by an authority.
266 (24) "State Agency" means any official, officer,
267 commission, board, authority, council, committee, or department
268 of the executive branch of state government, and the Justice
269 Administration Commission and the Public Service Commission. For
270 the purpose of this chapter, "agency" does not include
271 university boards of trustees or state universities.
272 (25) "State data center" means an enterprise information
273 technology service provider that is the recipient entity for the
274 consolidation of state agency data centers and computing
275 facilities and that establishes, implements, operates, monitors,
276 reviews, maintains, and physically or virtually improves
277 information technology services designated by the Agency for
278 State Technology in compliance with the operating guidelines and
279 procedures set forth by the agency pursuant to s. 282.0051(11).
280 (26) ~~(23)~~ "SUNCOM Network" means the state enterprise
281 telecommunications system that provides all methods of
282 electronic or optical telecommunications beyond a single
283 building or contiguous building complex and used by entities
284 authorized as network users under this part.
285 (27) ~~(24)~~ "Telecommunications" means the science and
286 technology of communication at a distance, including electronic
287 systems used in the transmission or reception of information.
288 (28) ~~(25)~~ "Threat" means any circumstance or event that has
289 the potential to adversely affect a state agency's operation or
290 assets through an information system by means of unauthorized

291 access, destruction, disclosure, modification of information, or
292 denial of service ~~may cause harm to the integrity, availability,~~
293 ~~or confidentiality of information technology resources~~.
294 (29) "Variance" means a calculated value that illustrates a
295 positive or negative deviation from a projection measured
296 against documented estimations within a project plan.
297 ~~(26) "Total cost" means all costs associated with~~
298 ~~information technology projects or initiatives, including, but~~
299 ~~not limited to, value of hardware, software, service,~~
300 ~~maintenance, incremental personnel, and facilities. Total cost~~
301 ~~of a loan or gift of information technology resources to an~~
302 ~~agency includes the fair market value of the resources.~~
303 ~~(27) "Usage" means the billing amount charged by the~~
304 ~~primary data center, less any pass-through charges, to the~~
305 ~~customer entity.~~
306 ~~(28) "Usage rate" means a customer entity's usage or~~
307 ~~billing amount as a percentage of total usage.~~
308 Section 4. Section 282.0051, Florida Statutes, is created
309 to read:
310 282.0051 Agency for State Technology; powers, duties, and
311 functions.—
312 (1) The Agency for State Technology has the following
313 powers, duties, and functions:
314 (a) Developing and publishing information technology policy
315 for the management of the state's information technology
316 resources.
317 (b) Establishing and publishing information technology
318 architecture standards to achieve the most efficient use of the
319 state's information technology resources and to ensure

320 compatibility and alignment with the needs of state agencies.
321 The agency shall assist state agencies in complying with such
322 standards.
323 (c) By June 30, 2015, establishing project management and
324 project oversight standards that state agencies must comply with
325 while implementing information technology projects. The Agency
326 for State Technology shall provide training opportunities to
327 state agencies to assist in the adoption of the project
328 management and oversight standards. To support data-driven
329 decisionmaking, such standards must include, but are not limited
330 to:
331 1. Performance measurements and metrics that objectively
332 reflect the status of an information technology project based on
333 the defined and documented project scope, cost, and schedule.
334 2. Methodologies for calculating acceptable variance ranges
335 in the projected versus actual scope, schedule, or cost of an
336 information technology project.
337 3. Reporting requirements that provide project visibility
338 to all identified stakeholders, including instances in which an
339 information technology project exceeds the acceptable variance
340 ranges as defined and documented in the project plan.
341 4. The content, format, and frequency of project updates.
342 (d) Beginning January 1, 2015, performing project oversight
343 on all information technology projects that have total project
344 costs of $10 million or more and that are funded in the General
345 Appropriations Act or under state law. The agency shall report
346 at least quarterly to the Executive Office of the Governor, the
347 President of the Senate, and the Speaker of the House of
348 Representatives on any information technology project the agency

349 identifies as being a high-risk project that may exceed the
350 acceptable variance ranges as defined and documented in the
351 project plan. The report must include an assessment of the risk
352 levels, including fiscal risks, associated with proceeding to
353 the next stage of the project and a recommendation for requiring
354 corrective action, which includes suspending or terminating the
355 project.
356 (e) By October 15, 2015, and biennially thereafter,
357 identifying opportunities for standardizing and consolidating
358 information technology services that support business functions
359 and operations, including administrative functions such as
360 purchasing, accounting and reporting, cash management, and
361 personnel, which are common across state agencies, and providing
362 recommendations for such standardization and consolidation to
363 the Executive Office of the Governor, the President of the
364 Senate, and the Speaker of the House of Representatives.
365 (f) In collaboration with the department, establishing best
366 practices for the procurement of information technology products
367 and services in order to reduce costs, increase productivity, or
368 improve services. Such practices must include a provision that
369 requires the agency to review all information technology
370 purchases made by state agencies which have a total cost of
371 $250,000 or more, unless a purchase is specifically mandated by
372 the Legislature, for compliance with the standards established
373 pursuant to this section.
374 (g) Advising and collaborating with the department in
375 conducting procurement negotiations for information technology
376 products and services that will be used by multiple state
377 agencies, and collaborating with the department in information

378 technology resource acquisition planning.
379 (h) Encouraging state agencies, when considering technology
380 infrastructure priorities, to actively seek out and identify
381 opportunities that potentially fit into the public-private
382 partnership model, and develop sustainable partnerships between
383 private entities and units of government in order to accelerate
384 project delivery and provide a source of new or increased
385 funding for other infrastructure needs.
386 (i) Establishing standards for information technology
387 reports and updates for use by state agencies which include, but
388 are not limited to, operational work plans, project spending
389 plans, and project status reports.
390 (j) Upon request, assisting state agencies in the
391 development of their information technology-related legislative
392 budget requests.
393 (k) Conducting annual assessments of state agencies to
394 determine their compliance with information technology standards
395 and guidelines developed and published by the Agency for State
396 Technology and provide results of the assessments to the
397 Executive Office of the Governor, the President of the Senate,
398 and the Speaker of the House of Representatives.
399 (l) Providing operational management and oversight of the
400 state data center established pursuant to s. 282.201, which
401 includes:
402 1. Implementing industry standards and best practices for
403 the state data center's facilities, operations, maintenance,
404 planning, and management processes.
405 2. Developing and implementing cost-recovery mechanisms
406 that recover the full cost of services, including direct and

407 indirect costs, through charges to applicable customer entities.
408 Such mechanisms must comply with applicable state and federal
409 requirements relating to the distribution and use of such funds
410 and must ensure that for any fiscal year a service or customer
411 entity is not subsidizing another service or customer entity.
412 3. Establishing operating guidelines and procedures
413 necessary for the state data center to perform its duties
414 pursuant to s. 282.201 which comply with applicable state and
415 federal laws, rules, and policies and are in accordance with
416 generally accepted governmental accounting and auditing
417 standards. Such guidelines and procedures must include, but need
418 not be limited to:
419 a. Implementing a consolidated administrative support
420 structure that is responsible for the provision of financial
421 management, procurement, transactions involving real or personal
422 property, human resources, and operational support.
423 b. Implementing an annual reconciliation process to ensure
424 that each customer entity is paying for the full direct and
425 indirect cost of each service as determined by the customer
426 entity's use of each service.
427 c. Providing rebates, which may be credited against future
428 billings, to customer entities when revenues exceed costs.
429 d. Requiring a customer entity to validate that sufficient
430 funds are in or will be transferred into the appropriate data
431 processing appropriation category before implementing a customer
432 entity's request for a change in the type or level of service if
433 such change results in a net increase to the customer entity's
434 costs for that fiscal year.
435 e. Providing to each customer entity's agency head by

436 September 1 of each year the projected costs to provide data
437 center services for the following fiscal year.
438 f. Providing a plan for consideration by the Legislative
439 Budget Commission if the cost of a service is increased for a
440 reason other than a customer entity's request pursuant to
441 subparagraph 4. which results in a net increase to the customer
442 entity for that fiscal year.
443 g. Standardizing and consolidating procurement and
444 contracting practices.
445 4. In collaboration with the Department of Law Enforcement,
446 developing and implementing a process for detecting, reporting,
447 and responding to information technology security incidents,
448 breaches, or threats.
449 5. Adopting rules relating to the operation of the state
450 data center, which include, but are not limited to, its
451 budgeting and accounting procedures, cost-recovery
452 methodologies, and operating procedures.
453 6. Consolidating contract practices and coordinating
454 software, hardware, or other technology-related procurements.
455 7. Annually conducting a market analysis to determine if
456 the state's approach to the provision of data center services is
457 the most effective and efficient manner by which its customer
458 entities can acquire such services based on federal, state, and
459 local government trends, best practices in service provision,
460 and the acquisition of new and emerging technologies. The
461 results of the market analysis should assist the state data
462 center in making any necessary adjustments to its data center
463 service offerings.
464 (m) Recommending other information technology services that

465 should be designed, delivered, and managed as enterprise
466 information technology services. Such recommendations should
467 include the identification of any existing information
468 technology resources associated with such services which would
469 need to be transferred as a result of such services being
470 delivered and managed as enterprise information technology
471 services.
472 (n) Recommending any further agency computing facility or
473 data center consolidations into the state data center
474 established pursuant to s. 282.201. Such recommendations should
475 include the proposed timeline for the consolidation.
476 (o) In consultation with state agencies, proposing
477 methodology and approaches for identifying and collecting both
478 current and planned information technology expenditure data at
479 the state agency level.
480 (p) Adopting rules to administer this section.
481 (2) Except as provided in subsection (3), the Department of
482 Financial Services, the Department of Legal Affairs, the
483 Department of Agriculture and Consumer Services are not subject
484 to the powers, duties and functions of the Agency for State
485 Technology established under this section. Each of those
486 departments shall adopt the standards established in paragraphs
487 (1)(b), (1)(c), and (1)(i) or adopt alternative standards based
488 on best practices or industry standards and may contract
489 separately with the Agency for State Technology to provide and
490 perform any of the services and functions for those departments.
491 (3)(a) An information technology project administered or
492 implemented by the Department of Financial Services, the
493 Department of Legal Affairs, or the Department of Agriculture

494 and Consumer Services is subject to the powers, duties, and
495 functions of the Agency for State Technology if such project is
496 expected to have a total project cost of $50 million or more,
497 and the project directly affects another state agency or another
498 information technology project that is subject to the powers,
499 duties, and functions of the Agency for State Technology.
500 (b) If an information technology project administered by a
501 state agency subject to the powers, duties, and functions of the
502 Agency for State Technology must be connected to or otherwise
503 accommodated by an information technology system administered by
504 the Department of Financial Services, the Department of Legal
505 Affairs or the Department of Agriculture and Consumer Services,
506 the Agency for State Technology shall consult with those
507 departments regarding the risks and other effects of such
508 projects on those departments' information technology systems
509 and shall work cooperatively with those departments regarding
510 the connections, interfaces, timing, or accommodation required
511 to implement such projects.
512 Section 5. Section 282.0055, Florida Statutes, is repealed.
513 Section 6. Section 282.0056, Florida Statutes, is repealed.
514 Section 7. Section 282.201, Florida Statutes, is amended to
515 read:
516 282.201 State data center ~~system; agency duties and~~
517 ~~limitations.~~ The ~~A~~ state data center ~~system that includes all~~
518 ~~primary data centers, other nonprimary data centers, and~~
519 ~~computing facilities, and that provides an enterprise~~
520 ~~information technology service as defined in s. 282.0041,~~ is
521 established as a primary data center within the Agency for State
522 Technology and includes the facilities formerly known as the

523 Northwood Shared Resource Center and the Southwood Shared
524 Resource Center.
525 (1) INTENT.—The Legislature finds that the most efficient
526 and effective means of providing quality utility data processing
527 services to state agencies requires that computing resources be
528 concentrated in quality facilities that provide the proper
529 security, disaster recovery, infrastructure, and staff resources
530 to ensure that the state's data is maintained reliably and
531 safely, and is recoverable in the event of a disaster.
532 ~~Efficiencies resulting from such consolidation include the~~
533 ~~increased ability to leverage technological expertise and~~
534 ~~hardware and software capabilities; increased savings through~~
535 ~~consolidated purchasing decisions; and the enhanced ability to~~
536 ~~deploy technology improvements and implement new policies~~
537 ~~consistently throughout the consolidated organization.~~ Unless
538 otherwise exempt by law, it is the intent of the Legislature
539 that all agency data centers and computing facilities be
540 consolidated into the state ~~a primary~~ data center ~~by 2019~~.
541 (2) STATE DATA CENTER DUTIES.—The state data center shall:
542 (a) Offer, develop, and support the services and
543 applications as provided in the service-level agreements
544 executed with its customer entities.
545 (b) Maintain the performance of the state data center,
546 which includes ensuring proper data backup, data backup
547 recovery, a disaster recovery plan, appropriate security, power,
548 cooling, fire suppression, and capacity.
549 (c) Develop a business continuity plan and a disaster
550 recovery plan, and conduct a live exercise of these plans at
551 least annually.

552 (d) Enter into a service level agreement with each customer
553 entity to provide the required type and level of service or
554 services. If a customer entity fails to execute an agreement
555 within 60 days after the commencement of a service, the state
556 data center may cease service. A service level agreement may not
557 have a term exceeding 3 years and at a minimum must:
558 1. Identify the parties and their roles, duties, and
559 responsibilities under the agreement.
560 2. State the duration of the contractual term and specify
561 the conditions for renewal.
562 3. Identify the scope of work.
563 4. Identify the products or services to be delivered with
564 sufficient specificity to permit an external financial or
565 performance audit.
566 5. Establish the services to be provided, the business
567 standards that must be met for each service, the cost of each
568 service, and the metrics and processes by which the business
569 standards for each service are to be objectively measured and
570 reported.
571 6. Provide a timely billing methodology for recovering the
572 cost of services provided to the customer entity pursuant to s.
573 215.422.
574 7. Provide a procedure for modifying the service level
575 agreement based on changes in the type, level, and cost of a
576 service.
577 8. Include a right-to-audit clause to ensure that the
578 parties to the agreement have access to records for audit
579 purposes during the term of the service level agreement.
580 9. Provide that a service level agreement may be terminated

581 by either party for cause only after giving the other party and
582 the Agency for State Technology notice in writing of the cause
583 for termination and an opportunity for the other party to
584 resolve the identified cause within a reasonable period.
585 10. Provide for the mediation of disputes by the Division
586 of Administrative Hearings pursuant to s. 120.573.
587 (e) Be the custodian of resources and equipment that are
588 located, operated, supported, and managed by the state data
589 center for the purposes of chapter 273.
590 (f) Assume administrative access rights to the resources
591 and equipment, such as servers, network components, and other
592 devices that are consolidated into the state data center.
593 1. On the date of each consolidation specified in this
594 section, the General Appropriations Act, or the Laws of Florida,
595 each state agency shall relinquish all administrative rights to
596 such resources and equipment. State agencies required to comply
597 with federal security regulations and policies shall retain
598 administrative access rights sufficient to comply with the
599 management control provisions of those regulations and policies;
600 however, the state data center shall have the appropriate type
601 or level of rights to allow the center to comply with its duties
602 pursuant to this section. The Department of Law Enforcement
603 shall serve as the arbiter of any disputes which may arise
604 regarding the appropriate type and level of administrative
605 access rights relating to the provision of management control in
606 accordance with federal criminal justice information guidelines.
607 2. The state data center shall provide its customer
608 entities with access to applications, servers, network
609 components, and other devices necessary for state agencies to

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610 perform business activities and functions, and as defined and
611 documented in the service level agreement.
612 ~~(2) AGENCY FOR ENTERPRISE INFORMATION TECHNOLOGY DUTIES.—~~
613 ~~The Agency for Enterprise Information Technology shall:~~
614 ~~(a) Collect and maintain information necessary for~~
615 ~~developing policies relating to the data center system,~~
616 ~~including, but not limited to, an inventory of facilities.~~
617 ~~(b) Annually approve cost-recovery mechanisms and rate~~
618 ~~structures for primary data centers which recover costs through~~
619 ~~charges to customer entities.~~
620 ~~(c) By September 30 of each year, submit to the~~
621 ~~Legislature, the Executive Office of the Governor, and the~~
622 ~~primary data centers recommendations to improve the efficiency~~
623 ~~and cost-effectiveness of computing services provided by state~~
624 ~~data center system facilities. Such recommendations must~~
625 ~~include, but need not be limited to:~~
626 ~~1. Policies for improving the cost-effectiveness and~~
627 ~~efficiency of the state data center system, which includes the~~
628 ~~primary data centers being transferred to a shared, virtualized~~
629 ~~server environment, and the associated cost savings resulting~~
630 ~~from the implementation of such policies.~~
631 ~~2. Infrastructure improvements supporting the consolidation~~
632 ~~of facilities or preempting the need to create additional data~~
633 ~~centers or computing facilities.~~
634 ~~3. Uniform disaster recovery standards.~~
635 ~~4. Standards for primary data centers which provide cost-~~
636 ~~effective services and transparent financial data to user~~
637 ~~agencies.~~
638 ~~5. Consolidation of contract practices or coordination of~~

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639 ~~software, hardware, or other technology-related procurements and~~
640 ~~the associated cost savings.~~
641 ~~6. Improvements to data center governance structures.~~
642 ~~(d) By October 1 of each year, provide recommendations to~~
643 ~~the Governor and Legislature relating to changes to the schedule~~
644 ~~for the consolidations of state agency data centers as provided~~
645 ~~in subsection (4).~~
646 ~~1. The recommendations must be based on the goal of~~
647 ~~maximizing current and future cost savings by:~~
648 ~~a. Consolidating purchase decisions.~~
649 ~~b. Leveraging expertise and other resources to gain~~
650 ~~economies of scale.~~
651 ~~c. Implementing state information technology policies more~~
652 ~~effectively.~~
653 ~~d. Maintaining or improving the level of service provision~~
654 ~~to customer entities.~~
655 ~~2. The agency shall establish workgroups as necessary to~~
656 ~~ensure participation by affected agencies in the development of~~
657 ~~recommendations related to consolidations.~~
658 ~~(e) Develop and establish rules relating to the operation~~
659 ~~of the state data center system which comply with applicable~~
660 ~~federal regulations, including 2 C.F.R. part 225 and 45 C.F.R.~~
661 ~~The rules must address:~~
662 ~~1. Ensuring that financial information is captured and~~
663 ~~reported consistently and accurately.~~
664 ~~2. Identifying standards for hardware, including standards~~
665 ~~for a shared, virtualized server environment, and operations~~
666 ~~system software and other operational software, including~~
667 ~~security and network infrastructure, for the primary data~~

668 ~~centers; requiring compliance with such standards in order to~~
669 ~~enable the efficient consolidation of the agency data centers or~~
670 ~~computing facilities; and providing an exemption process from~~
671 ~~compliance with such standards, which must be consistent with~~
672 ~~paragraph (5)(b).~~
673 ~~3. Requiring annual full cost recovery on an equitable~~
674 ~~rational basis. The cost-recovery methodology must ensure that~~
675 ~~no service is subsidizing another service and may include~~
676 ~~adjusting the subsequent year's rates as a means to recover~~
677 ~~deficits or refund surpluses from a prior year.~~
678 ~~4. Requiring that any special assessment imposed to fund~~
679 ~~expansion is based on a methodology that apportions the~~
680 ~~assessment according to the proportional benefit to each~~
681 ~~customer entity.~~
682 ~~5. Requiring that rebates be given when revenues have~~
683 ~~exceeded costs, that rebates be applied to offset charges to~~
684 ~~those customer entities that have subsidized the costs of other~~
685 ~~customer entities, and that such rebates may be in the form of~~
686 ~~credits against future billings.~~
687 ~~6. Requiring that all service-level agreements have a~~
688 ~~contract term of up to 3 years, but may include an option to~~
689 ~~renew for up to 3 additional years contingent on approval by the~~
690 ~~board, and require at least a 180-day notice of termination.~~
691 (3) STATE AGENCY DUTIES.—
692 (a) ~~For the purpose of completing the work activities~~
693 ~~described in subsections (1) and (2),~~ Each state agency shall
694 provide to the Agency for State ~~Enterprise~~ Information
695 Technology all requested information relating to its data
696 centers and computing facilities and any other information

697 relevant to the effective ~~agency's ability to effectively~~
698 transition of a state agency data center or computing facility
699 ~~its computer services~~ into the state ~~a primary~~ data center. ~~The~~
700 ~~agency shall also participate as required in workgroups relating~~
701 ~~to specific consolidation planning and implementation tasks as~~
702 ~~assigned by the Agency for Enterprise Information Technology and~~
703 ~~determined necessary to accomplish consolidation goals.~~
704 (b) Each state agency customer of the state ~~a primary~~ data
705 center shall notify the state data center, by May 31 and
706 November 30 of each year, of any significant changes in
707 anticipated use ~~utilization~~ of data center services pursuant to
708 requirements established by the state ~~boards of trustees of each~~
709 ~~primary~~ data center.
710 (4) SCHEDULE FOR CONSOLIDATIONS OF AGENCY DATA CENTERS.—
711 (a) Consolidations of agency data centers and computing
712 facilities shall be made by the date and to the specified state
713 ~~primary~~ data center facility as provided in this section and in
714 accordance with budget adjustments contained in the General
715 Appropriations Act.
716 ~~(b) By December 31, 2011, the following shall be~~
717 ~~consolidated into the Northwest Regional Data Center:~~
718 ~~1. The Department of Education's Knott Data Center in the~~
719 ~~Turlington Building.~~
720 ~~2. The Department of Education's Division of Vocational~~
721 ~~Rehabilitation.~~
722 ~~3. The Department of Education's Division of Blind~~
723 ~~Services, except for the division's disaster recovery site in~~
724 ~~Daytona Beach.~~
725 ~~4. The FCAT Explorer.~~

726 ~~(c) During the 2011-2012 fiscal year, the following shall~~
727 ~~be consolidated into the Southwood Shared Resource Center:~~
728 ~~1. By September 30, 2011, the Department of Corrections.~~
729 ~~2. By March 31, 2012, the Department of Transportation's~~
730 ~~Burns Building.~~
731 ~~3. By March 31, 2012, the Department of Transportation's~~
732 ~~Survey & Mapping Office.~~
733 ~~(d) By July 1, 2012, the Department of Highway Safety and~~
734 ~~Motor Vehicles' Office of Commercial Vehicle Enforcement shall~~
735 ~~be consolidated into the Northwood Shared Resource Center.~~
736 ~~(e) By September 30, 2012, the Department of Revenue's~~
737 ~~Carlton Building and Imaging Center locations shall be~~
738 ~~consolidated into the Northwest Regional Data Center.~~
739 ~~(f) During the 2012-2013 fiscal year, the following shall~~
740 ~~be consolidated into the Northwood Shared Resource Center:~~
741 ~~1. By July 1, 2012, the Agency for Health Care~~
742 ~~Administration.~~
743 ~~2. By August 31, 2012, the Department of Highway Safety and~~
744 ~~Motor Vehicles.~~
745 ~~3. By December 31, 2012, the Department of Environmental~~
746 ~~Protection's Palmetto Commons.~~
747 ~~4. By December 31, 2012, the Department of Health's Test~~
748 ~~and Development Lab and all remaining data center resources~~
749 ~~located at the Capital Circle Office Complex.~~
750 ~~(g) During the 2013-2014 fiscal year, the following shall~~
751 ~~be consolidated into the Southwood Shared Resource Center:~~
752 ~~1. By October 31, 2013, the Department of Economic~~
753 ~~Opportunity.~~
754 ~~2. By December 31, 2013, the Executive Office of the~~

755 ~~Governor, to include the Division of Emergency Management except~~
756 ~~for the Emergency Operation Center's management system in~~
757 ~~Tallahassee and the Camp Blanding Emergency Operations Center in~~
758 ~~Starke.~~
759 ~~3. By March 31, 2014, the Department of Elderly Affairs.~~
760 ~~(h) By October 30, 2013, the Fish and Wildlife Conservation~~
761 ~~Commission, except for the commission's Fish and Wildlife~~
762 ~~Research Institute in St. Petersburg, shall be consolidated into~~
763 ~~the Northwood Shared Resource Center.~~
764 ~~(i) During the 2014-2015 fiscal year, the following~~
765 ~~agencies shall work with the Agency for Enterprise Information~~
766 ~~Technology to begin preliminary planning for consolidation into~~
767 ~~a primary data center:~~
768 ~~1. The Department of Health's Jacksonville Lab Data Center.~~
769 ~~2. The Department of Transportation's district offices,~~
770 ~~toll offices, and the District Materials Office.~~
771 ~~3. The Department of Military Affairs' Camp Blanding Joint~~
772 ~~Training Center in Starke.~~
773 ~~4. The Camp Blanding Emergency Operations Center in Starke.~~
774 ~~5. The Department of Education's Division of Blind Services~~
775 ~~disaster recovery site in Daytona Beach.~~
776 ~~6. The Department of Education's disaster recovery site at~~
777 ~~Santa Fe College.~~
778 ~~7. The Fish and Wildlife Conservation Commission's Fish and~~
779 ~~Wildlife Research Institute in St. Petersburg.~~
780 ~~8. The Department of Children and Family Services' Suncoast~~
781 ~~Data Center in Tampa.~~
782 ~~9. The Department of Children and Family Services' Florida~~
783 ~~State Hospital in Chattahoochee.~~

784 ~~(j) During the 2015-2016 fiscal year, all computing~~
785 ~~resources remaining within an agency data center or computing~~
786 ~~facility, to include the Department of Financial Services'~~
787 ~~Hartman, Larson, and Fletcher Buildings data centers, shall be~~
788 ~~transferred to a primary data center for consolidation unless~~
789 ~~otherwise required to remain in the agency for specified~~
790 ~~financial, technical, or business reasons that must be justified~~
791 ~~in writing and approved by the Agency for Enterprise Information~~
792 ~~Technology. Such data centers, computing facilities, and~~
793 ~~resources must be identified by the Agency for Enterprise~~
794 ~~Information Technology by October 1, 2014.~~
795 (b) ~~(k)~~ The Department of Financial Services, the Department
796 of Legal Affairs, the Department of Agriculture and Consumer
797 Services, the Department of Law Enforcement, the Department of
798 the Lottery's Gaming System, Systems Design and Development in
799 the Office of Policy and Budget, the regional traffic management
800 centers and the Office of Toll Operations of the Department of
801 Transportation, and the State Board of Administration~~, state~~
802 ~~attorneys, public defenders, criminal conflict and civil~~
803 ~~regional counsel, capital collateral regional counsel, the~~
804 ~~Florida Clerks of Court Operations Corporation, and the Florida~~
805 ~~Housing Finance Corporation~~ are exempt from data center
806 consolidation under this section.
807 (c) ~~(l)~~ A state ~~Any~~ agency that is consolidating its agency
808 data center or computing facility ~~centers~~ into the state ~~a~~
809 ~~primary~~ data center must execute a new or update an existing
810 service-level agreement within 60 days after the commencement of
811 service ~~specified consolidation date~~, as required by s.
812 282.201(2) ~~s. 282.203~~, in order to specify the services and

813 levels of service it is to receive from the state ~~primary~~ data
814 center as a result of the consolidation. If the state ~~an~~ agency
815 and the state ~~primary~~ data center are unable to execute a
816 service-level agreement by that date, the agency ~~and the primary~~
817 ~~data center~~ shall submit a report to the Executive Office of the
818 Governor ~~and to the chairs of the legislative appropriations~~
819 ~~committees~~ within 5 working days after that date which explains
820 the specific issues preventing execution and describing the plan
821 and schedule for resolving those issues.
822 ~~(m) Beginning September 1, 2011, and every 6 months~~
823 ~~thereafter until data center consolidations are complete, the~~
824 ~~Agency for Enterprise Information Technology shall provide a~~
825 ~~status report on the implementation of the consolidations that~~
826 ~~must be completed during the fiscal year. The report shall be~~
827 ~~submitted to the Executive Office of the Governor and the chairs~~
828 ~~of the legislative appropriations committees. The report must,~~
829 ~~at a minimum, describe:~~
830 ~~1. Whether the consolidation is on schedule, including~~
831 ~~progress on achieving the milestones necessary for successful~~
832 ~~and timely consolidation of scheduled agency data centers and~~
833 ~~computing facilities.~~
834 ~~2. The risks that may affect the progress or outcome of the~~
835 ~~consolidation and how these risks are being addressed,~~
836 ~~mitigated, or managed.~~
837 (d) ~~(n)~~ Each state agency scheduled ~~identified in this~~
838 ~~subsection~~ for consolidation into the state ~~a primary~~ data
839 center shall submit a transition plan to the Agency for State
840 Technology ~~appropriate primary data center~~ by July 1 of the
841 fiscal year before the fiscal year in which the scheduled

842 consolidation will occur. Transition plans shall be developed in
843 consultation with the state ~~appropriate primary~~ data center
844 ~~centers and the Agency for Enterprise Information Technology,~~
845 and must include:
846 1. An inventory of the state agency data center's resources
847 being consolidated, including all hardware and its associated
848 life cycle replacement schedule, software, staff, contracted
849 services, and facility resources performing data center
850 management and operations, security, backup and recovery,
851 disaster recovery, system administration, database
852 administration, system programming, job control, production
853 control, print, storage, technical support, help desk, and
854 managed services, but excluding application development, and the
855 state agency's costs supporting these resources.
856 2. A list of contracts in effect, including, but not
857 limited to, contracts for hardware, software, and maintenance,
858 which identifies the expiration date, the contract parties, and
859 the cost of each contract.
860 3. A detailed description of the level of services needed
861 to meet the technical and operational requirements of the
862 platforms being consolidated.
863 ~~4. A description of resources for computing services~~
864 ~~proposed to remain in the department.~~
865 4. ~~5.~~ A timetable with significant milestones for the
866 completion of the consolidation.
867 ~~(o) Each primary data center shall develop a transition~~
868 ~~plan for absorbing the transfer of agency data center resources~~
869 ~~based upon the timetables for transition as provided in this~~
870 ~~subsection. The plan shall be submitted to the Agency for~~

871 ~~Enterprise Information Technology, the Executive Office of the~~
872 ~~Governor, and the chairs of the legislative appropriations~~
873 ~~committees by September 1 of the fiscal year before the fiscal~~
874 ~~year in which the scheduled consolidations will occur. Each plan~~
875 ~~must include:~~
876 ~~1. The projected cost to provide data center services for~~
877 ~~each agency scheduled for consolidation.~~
878 ~~2. A staffing plan that identifies the projected staffing~~
879 ~~needs and requirements based on the estimated workload~~
880 ~~identified in the agency transition plan.~~
881 ~~3. The fiscal year adjustments to budget categories in~~
882 ~~order to absorb the transfer of agency data center resources~~
883 ~~pursuant to the legislative budget request instructions provided~~
884 ~~in s. 216.023.~~
885 ~~4. An analysis of the cost effects resulting from the~~
886 ~~planned consolidations on existing agency customers.~~
887 ~~5. A description of any issues that must be resolved in~~
888 ~~order to accomplish as efficiently and effectively as possible~~
889 ~~all consolidations required during the fiscal year.~~
890 (e) ~~(p)~~ Each state agency scheduled ~~identified in this~~
891 ~~subsection~~ for consolidation into the state ~~a primary~~ data
892 center shall submit with its respective legislative budget
893 request the specific recurring and nonrecurring budget
894 adjustments of resources by appropriation category into the
895 appropriate data processing category pursuant to the legislative
896 budget request instructions in s. 216.023.
897 (5) AGENCY LIMITATIONS.—
898 (a) Unless exempt from state data center consolidation
899 pursuant to this section, authorized by the Legislature, or as

900 provided in paragraph ~~paragraphs~~ (b) ~~and (c)~~, a state agency may
901 not:
902 1. Create a new computing facility or data center, or
903 expand the capability to support additional computer equipment
904 in an existing state agency computing facility or ~~nonprimary~~
905 data center;
906 2. Spend funds before the state agency's scheduled
907 consolidation into the state ~~a primary~~ data center to purchase
908 or modify hardware or operations software that does not comply
909 with ~~hardware and software~~ standards established by the Agency
910 for State ~~Enterprise Information~~ Technology ~~pursuant to~~
911 ~~paragraph (2)(e) for the efficient consolidation of the agency~~
912 ~~data centers or computing facilities~~;
913 3. Transfer existing computer services to any data center
914 other than the state ~~a primary~~ data center;
915 4. Terminate services with the state ~~a primary~~ data center
916 ~~or transfer services between primary data centers~~ without giving
917 written notice of intent to terminate ~~or transfer services~~ 180
918 days before such termination ~~or transfer~~; or
919 5. Initiate a new computer service except with the state ~~a~~
920 ~~primary~~ data center.
921 (b) Exceptions to the limitations in subparagraphs (a)1.,
922 2., 3., and 5. may be granted by the Agency for State ~~Enterprise~~
923 ~~Information~~ Technology if there is insufficient capacity in the
924 state ~~a primary~~ data center to absorb the workload associated
925 with agency computing services, if expenditures are compatible
926 with ~~the scheduled consolidation and~~ the standards established
927 pursuant to s. 282.0051 ~~paragraph (2)(e)~~, or if the equipment or
928 resources are needed to meet a critical agency business need

929 that cannot be satisfied by ~~from surplus equipment or resources~~
930 ~~of~~ the state ~~primary~~ data center ~~until the agency data center is~~
931 ~~consolidated~~. The Agency for State Technology shall develop and
932 publish the guidelines and required documentation that a state
933 agency must comply with when requesting an exception. The
934 agency's decision regarding the exception request is not subject
935 to chapter 120.
936 ~~1. A request for an exception must be submitted in writing~~
937 ~~to the Agency for Enterprise Information Technology. The agency~~
938 ~~must accept, accept with conditions, or deny the request within~~
939 ~~60 days after receipt of the written request. The agency's~~
940 ~~decision is not subject to chapter 120.~~
941 ~~2. At a minimum, the agency may not approve a request~~
942 ~~unless it includes:~~
943 ~~a. Documentation approved by the primary data center's~~
944 ~~board of trustees which confirms that the center cannot meet the~~
945 ~~capacity requirements of the agency requesting the exception~~
946 ~~within the current fiscal year.~~
947 ~~b. A description of the capacity requirements of the agency~~
948 ~~requesting the exception.~~
949 ~~c. Documentation from the agency demonstrating why it is~~
950 ~~critical to the agency's mission that the expansion or transfer~~
951 ~~must be completed within the fiscal year rather than when~~
952 ~~capacity is established at a primary data center.~~
953 ~~(c) Exceptions to subparagraph (a)4. may be granted by the~~
954 ~~board of trustees of the primary data center if the termination~~
955 ~~or transfer of services can be absorbed within the current cost-~~
956 ~~allocation plan.~~
957 ~~(d) Upon the termination of or transfer of agency computing~~

958 ~~services from the primary data center, the primary data center~~
959 ~~shall require information sufficient to determine compliance~~
960 ~~with this section. If a primary data center determines that an~~
961 ~~agency is in violation of this section, it shall report the~~
962 ~~violation to the Agency for Enterprise Information Technology.~~
963 ~~(6) RULES.—The Agency for Enterprise Information Technology~~
964 ~~may adopt rules to administer this part relating to the state~~
965 ~~data center system including the primary data centers.~~
966 Section 8. Section 282.203, Florida Statutes, is repealed.
967 Section 9. Section 282.204, Florida Statutes, is repealed.
968 Section 10. Section 282.205, Florida Statutes, is repealed.
969 Section 11. Section 282.318, Florida Statutes, is amended
970 to read:
971 282.318 Enterprise security of data and information
972 technology.—
973 (1) This section may be cited as the "Enterprise Security
974 of Data and Information Technology Act."
975 ~~(2) Information technology security is established as an~~
976 ~~enterprise information technology service as defined in s.~~
977 ~~282.0041.~~
978 (2) ~~(3)~~ The Agency for State ~~Enterprise Information~~
979 Technology is responsible for establishing standards,
980 guidelines, and processes by rule which are consistent with
981 generally accepted best practices for information technology
982 security, and adopting rules that safeguard an agency's data,
983 information, and information technology resources to ensure its
984 availability, confidentiality, and integrity ~~rules and~~
985 ~~publishing guidelines for ensuring an appropriate level of~~
986 ~~security for all data and information technology resources for~~

987 ~~executive branch agencies~~. The agency shall also ~~perform the~~
988 ~~following duties and responsibilities~~:
989 (a) By June 30, 2015, develop~~,~~ and annually update a
990 statewide ~~by February 1, an enterprise~~ information technology
991 security strategic plan that includes security goals and
992 objectives for the strategic issues of information technology
993 security policy, risk management, training, incident management,
994 and disaster recovery ~~survivability~~ planning.
995 (b) Develop and publish an information technology security
996 framework for use by state agencies which, at a minimum,
997 includes guidelines and processes ~~enterprise security rules and~~
998 ~~published guidelines~~ for:
999 1. Developing and using a risk assessment methodology that
1000 will apply to state agencies to identify the priorities,
1001 constraints, risk tolerance, and assumptions.
1002 2.~~1.~~ Completing comprehensive risk assessments ~~analyses~~ and
1003 information technology security audits. Such assessments and
1004 audits shall be conducted by state agencies and reviewed by the
1005 Agency for State Technology ~~conducted by state agencies~~.
1006 3. Identifying protection procedures to manage the
1007 protection of a state agency's information, data, and
1008 information technology resources.
1009 4. Detecting threats through proactive monitoring of
1010 events, continuous security monitoring, and specified detection
1011 processes.
1012 5.~~2.~~ Responding to ~~suspected or confirmed~~ information
1013 technology security incidents, including ~~suspected or confirmed~~
1014 breaches of personal information containing confidential or
1015 exempt data.

1016 6.~~3.~~ Developing state agency strategic and operational
1017 information technology security plans required under this
1018 section~~, including strategic security plans and security program~~
1019 ~~plans~~.
1020 7.~~4.~~ Recovering ~~The recovery of~~ information technology and
1021 data in response to an information technology security incident
1022 ~~following a disaster~~. The recovery may include recommended
1023 improvements to the processes, policies, or guidelines.
1024 8.~~5.~~ Establishing ~~The~~ managerial, operational, and
1025 technical safeguards for protecting state government data and
1026 information technology resources which align with state agency
1027 risk management strategies for protecting the confidentiality,
1028 integrity, and availability of information technology and data.
1029 9. Establishing procedures for accessing information
1030 technology resources and data in order to limit authorized
1031 users, processes, or devices to authorized activities and
1032 transactions to ensure the confidentiality, integrity, and
1033 availability of such information and data.
1034 10. Establishing asset management procedures to ensure that
1035 information technology resources are identified and consistently
1036 managed with their relative importance to business objectives.
1037 (c) Assist state agencies in complying with ~~the provisions~~
1038 ~~of~~ this section.
1039 ~~(d) Pursue appropriate funding for the purpose of enhancing~~
1040 ~~domestic security.~~
1041 (d)~~(e)~~ In collaboration with the Cybercrime Office in the
1042 Department of Law Enforcement, provide training for state agency
1043 information security managers.
1044 (e)~~(f)~~ Annually review the strategic and operational

1045 information technology security plans of state ~~executive branch~~
1046 agencies.
1047 (3)~~(4) To assist the Agency for Enterprise Information~~
1048 ~~Technology in carrying out its responsibilities,~~ Each state
1049 agency head shall, at a minimum:
1050 (a) Designate an information security manager who, for the
1051 purposes of his or her information technology security duties,
1052 shall report to the agency head and shall ~~to~~ administer the
1053 information technology security program of the agency ~~for its~~
1054 ~~data and information technology resources~~. This designation must
1055 be provided annually in writing to the Agency for State
1056 ~~Enterprise Information~~ Technology by January 1.
1057 (b) Submit annually to the Agency for State ~~Enterprise~~
1058 ~~Information~~ Technology ~~annually~~ by July 31, the state agency's
1059 strategic and operational information technology security plans
1060 developed pursuant to the rules and guidelines established by
1061 the Agency for State ~~Enterprise Information~~ Technology.
1062 1. The state agency strategic information technology
1063 security plan must cover a 3-year period and, at a minimum,
1064 define security goals, intermediate objectives, and projected
1065 agency costs for the strategic issues of agency information
1066 security policy, risk management, security training, security
1067 incident response, and disaster recovery ~~survivability~~. The plan
1068 must be based on the statewide ~~enterprise strategic~~ information
1069 security strategic plan created by the Agency for State
1070 ~~Enterprise Information~~ Technology and include performance
1071 metrics that can be objectively measured in order to gauge the
1072 state agency's progress in meeting the security goals and
1073 objectives identified in the strategic information technology

1074 security plan. ~~Additional issues may be included.~~
1075 2. The state agency operational information technology
1076 security plan must include a progress report that objectively
1077 measures progress made toward ~~for~~ the prior operational
1078 information technology security plan and a project plan that
1079 includes activities, timelines, and deliverables for security
1080 objectives that~~, subject to current resources,~~ the state agency
1081 will implement during the current fiscal year. ~~The cost of~~
1082 ~~implementing the portions of the plan which cannot be funded~~
1083 ~~from current resources must be identified in the plan.~~
1084 (c) Conduct, and update every 3 years, a comprehensive risk
1085 assessment ~~analysis~~ to determine the security threats to the
1086 data, information, and information technology resources of the
1087 state agency. The risk assessment must comply with the risk
1088 assessment methodology developed by the Agency for State
1089 Technology. The risk assessment ~~analysis information~~ is
1090 confidential and exempt from ~~the provisions of~~ s. 119.07(1),
1091 except that such information shall be available to the Auditor
1092 General, ~~and~~ the Agency for State ~~Enterprise Information~~
1093 Technology, and the Cybercrime Office in the Department of Law
1094 Enforcement ~~for performing postauditing duties~~.
1095 (d) Develop, and periodically update, written internal
1096 policies and procedures~~, which include procedures~~ for reporting
1097 information technology security incidents and breaches to the
1098 Cybercrime Office in the Department of Law Enforcement and
1099 ~~notifying~~ the Agency for State ~~Enterprise Information~~
1100 Technology, and for those agencies under the jurisdiction of the
1101 Governor, to the Chief Inspector General ~~when a suspected or~~
1102 ~~confirmed breach, or an information security incident, occurs~~.

1103 Such policies and procedures must be consistent with the rules,
1104 ~~and~~ guidelines, and processes established by the Agency for
1105 State ~~Enterprise Information~~ Technology to ensure the security
1106 of the data, information, and information technology resources
1107 of the state agency. The internal policies and procedures that,
1108 if disclosed, could facilitate the unauthorized modification,
1109 disclosure, or destruction of data or information technology
1110 resources are confidential information and exempt from s.
1111 119.07(1), except that such information shall be available to
1112 the Auditor General, the Cybercrime Office in the Department of
1113 Law Enforcement, and the Agency for State ~~Enterprise Information~~
1114 Technology, and for those agencies under the jurisdiction of the
1115 Governor, to the Chief Inspector General ~~for performing~~
1116 ~~postauditing duties~~.
1117 (e) Implement the managerial, operational, and technical
1118 ~~appropriate cost-effective~~ safeguards established by the Agency
1119 for State Technology to address identified risks to the data,
1120 information, and information technology resources of the agency.
1121 (f) Ensure that periodic internal audits and evaluations of
1122 the agency's information technology security program for the
1123 data, information, and information technology resources of the
1124 agency are conducted. The results of such audits and evaluations
1125 are confidential ~~information~~ and exempt from s. 119.07(1),
1126 except that such information shall be available to the Auditor
1127 General, the Cybercrime Office in the Department of Law
1128 Enforcement, and the Agency for State ~~Enterprise Information~~
1129 Technology ~~for performing postauditing duties~~.
1130 (g) Include appropriate information technology security
1131 requirements in the written specifications for the solicitation

1132 of information technology and information technology resources
1133 and services, which are consistent with the rules and guidelines
1134 established by the Agency for State ~~Enterprise Information~~
1135 Technology in collaboration with the department.
1136 (h) Require that state agency employees complete the
1137 security awareness training offered by the Agency for State
1138 Technology in collaboration with the Cybercrime Office in the
1139 Department of Law Enforcement. Coordinate with state agencies to
1140 provide agency-specific security training aligned with the
1141 agency operational information technology security plan. ~~Provide~~
1142 ~~security awareness training to employees and users of the~~
1143 ~~agency's communication and information resources concerning~~
1144 ~~information security risks and the responsibility of employees~~
1145 ~~and users to comply with policies, standards, guidelines, and~~
1146 ~~operating procedures adopted by the agency to reduce those~~
1147 ~~risks.~~
1148 (i) Develop processes ~~a process~~ for detecting, reporting,
1149 and responding to information technology ~~suspected or confirmed~~
1150 security threats or breaches or information technology security
1151 incidents which are~~, including suspected or confirmed breaches~~
1152 consistent with the security rules, ~~and~~ guidelines, and
1153 processes established by the Agency for State ~~Enterprise~~
1154 ~~Information~~ Technology.
1155 1. All ~~Suspected or confirmed~~ information technology
1156 security incidents and breaches must be ~~immediately~~ reported to
1157 the Cybercrime Office in the Department of Law Enforcement and
1158 the Agency for State ~~Enterprise Information~~ Technology.
1159 2. For information technology security ~~incidents involving~~
1160 breaches, agencies shall provide notice in accordance with s.

1161 817.5681 ~~and to the Agency for Enterprise Information Technology~~
1162 ~~in accordance with this subsection~~.
1163 ~~(5) Each state agency shall include appropriate security~~
1164 ~~requirements in the specifications for the solicitation of~~
1165 ~~contracts for procuring information technology or information~~
1166 ~~technology resources or services which are consistent with the~~
1167 ~~rules and guidelines established by the Agency for Enterprise~~
1168 ~~Information Technology.~~
1169 (4) ~~(6)~~ The Agency for State ~~Enterprise Information~~
1170 Technology may adopt rules relating to information technology
1171 security and to administer ~~the provisions of~~ this section.
1172 Section 12. Section 282.33, Florida Statutes, is repealed.
1173 Section 13. Effective upon this act becoming a law, section
1174 282.34, Florida Statutes, is repealed.
1175 Section 14. Subsections (1) and (2) of section 17.0315,
1176 Florida Statutes, are amended to read:
1177 17.0315 Financial and cash management system; task force.—
1178 (1) The Chief Financial Officer, as the constitutional
1179 officer responsible for settling and approving accounts against
1180 the state and keeping all state funds pursuant to s. 4, Art. IV
1181 of the State Constitution, is ~~shall be~~ the head of and shall
1182 appoint members to a task force established to develop a
1183 strategic business plan for a successor financial and cash
1184 management system. The task force shall include the executive
1185 director of the Agency for State ~~Enterprise Information~~
1186 Technology and the director of the Office of Policy and Budget
1187 in the Executive Office of the Governor. Any member of the task
1188 force may appoint a designee.
1189 (2) The strategic business plan for a successor financial

1190 and cash management system must:
1191 (a) Permit proper disbursement and auditing controls
1192 consistent with the respective constitutional duties of the
1193 Chief Financial Officer and the Legislature;
1194 (b) Promote transparency in the accounting of public funds;
1195 (c) Provide timely and accurate recording of financial
1196 transactions by agencies and their professional staffs;
1197 (d) Support executive reporting and data analysis
1198 requirements;
1199 (e) Be capable of interfacing with other systems providing
1200 human resource services, procuring goods and services, and
1201 providing other enterprise functions;
1202 (f) Be capable of interfacing with the existing legislative
1203 appropriations, planning, and budgeting systems;
1204 (g) Be coordinated with the information technology strategy
1205 development efforts of the Agency for State ~~Enterprise~~
1206 ~~Information~~ Technology;
1207 (h) Be coordinated with the revenue estimating conference
1208 process as supported by the Office of Economic and Demographic
1209 Research; and
1210 (i) Address other such issues as the Chief Financial
1211 Officer identifies.
1212 Section 15. Subsection (1) of section 20.055, Florida
1213 Statutes, is reordered and amended to read:
1214 20.055 Agency inspectors general.—
1215 (1) As used in ~~For the purposes of~~ this section, the term:
1216 (d) ~~(a)~~ "State agency" means each department created
1217 pursuant to this chapter~~,~~ and ~~also includes~~ the Executive Office
1218 of the Governor, the Department of Military Affairs, the Fish

1219 and Wildlife Conservation Commission, the Office of Insurance
1220 Regulation of the Financial Services Commission, the Office of
1221 Financial Regulation of the Financial Services Commission, the
1222 Public Service Commission, the Board of Governors of the State
1223 University System, the Florida Housing Finance Corporation, the
1224 Agency for State Technology, and the state courts system.
1225 (a) ~~(b)~~ "Agency head" means the Governor, a Cabinet officer,
1226 a secretary ~~as defined in s. 20.03(5),~~ or ~~an~~ executive director
1227 as those terms are defined in s. 20.03, ~~20.03(6). It also~~
1228 ~~includes~~ the chair of the Public Service Commission, the
1229 Director of the Office of Insurance Regulation of the Financial
1230 Services Commission, the Director of the Office of Financial
1231 Regulation of the Financial Services Commission, the board of
1232 directors of the Florida Housing Finance Corporation, and the
1233 Chief Justice of the State Supreme Court.
1234 (c) "Individuals substantially affected" means natural
1235 persons who have established a real and sufficiently immediate
1236 injury in fact due to the findings, conclusions, or
1237 recommendations of a final report of a state agency inspector
1238 general, who are the subject of the audit or investigation, and
1239 who do not have or are not currently afforded an existing right
1240 to an independent review process. The term does not apply to
1241 employees of the state, including career service, probationary,
1242 other personal service, Selected Exempt Service, and Senior
1243 Management Service employees; ~~, are not covered by this~~
1244 ~~definition. This definition also does not cover~~ former employees
1245 of the state if the final report of the state agency inspector
1246 general relates to matters arising during a former employee's
1247 term of state employment; or ~~. This definition does not apply to~~

1248 persons who are the subject of audits or investigations
1249 conducted pursuant to ss. 112.3187-112.31895 or s. 409.913 or
1250 which are otherwise confidential and exempt under s. 119.07.
1251 (b) ~~(d)~~ "Entities contracting with the state" means for-
1252 profit and not-for-profit organizations or businesses that have
1253 ~~having~~ a legal existence, such as corporations or partnerships,
1254 as opposed to natural persons, which have entered into a
1255 relationship with a state agency ~~as defined in paragraph (a)~~ to
1256 provide for consideration certain goods or services to the state
1257 agency or on behalf of the state agency. The relationship may be
1258 evidenced by payment by warrant or purchasing card, contract,
1259 purchase order, provider agreement, or other such mutually
1260 agreed upon relationship. The term ~~This definition~~ does not
1261 apply to entities that ~~which~~ are the subject of audits or
1262 investigations conducted pursuant to ss. 112.3187-112.31895 or
1263 s. 409.913 or which are otherwise confidential and exempt under
1264 s. 119.07.
1265 Section 16. Paragraph (e) of subsection (2) of section
1266 110.205, Florida Statutes, is amended to read:
1267 110.205 Career service; exemptions.—
1268 (2) EXEMPT POSITIONS.—The exempt positions that are not
1269 covered by this part include the following:
1270 (e) The Chief Information Officer in the Agency for State
1271 ~~Enterprise Information~~ Technology. Unless otherwise fixed by
1272 law, the Agency for State ~~Enterprise Information~~ Technology
1273 shall set the salary and benefits of this position in accordance
1274 with the rules of the Senior Management Service.
1275 Section 17. Subsections (2) and (9) of section 215.322,
1276 Florida Statutes, are amended to read:

1277 215.322 Acceptance of credit cards, charge cards, debit
1278 cards, or electronic funds transfers by state agencies, units of
1279 local government, and the judicial branch.—
1280 (2) A state agency as defined in s. 216.011, or the
1281 judicial branch, may accept credit cards, charge cards, debit
1282 cards, or electronic funds transfers in payment for goods and
1283 services with the prior approval of the Chief Financial Officer.
1284 If the Internet or other related electronic methods are to be
1285 used as the collection medium, the Agency for State ~~Enterprise~~
1286 ~~Information~~ Technology shall review and recommend to the Chief
1287 Financial Officer whether to approve the request with regard to
1288 the process or procedure to be used.
1289 (9) For payment programs in which credit cards, charge
1290 cards, or debit cards are accepted by state agencies, the
1291 judicial branch, or units of local government, the Chief
1292 Financial Officer, in consultation with the Agency for State
1293 ~~Enterprise Information~~ Technology, may adopt rules to establish
1294 uniform security safeguards for cardholder data and to ensure
1295 compliance with the Payment Card Industry Data Security
1296 Standards.
1297 Section 18. Subsection (2) of section 215.96, Florida
1298 Statutes, is amended to read:
1299 215.96 Coordinating council and design and coordination
1300 staff.—
1301 (2) The coordinating council shall consist of the Chief
1302 Financial Officer; the Commissioner of Agriculture; the Attorney
1303 General; the secretary of the Department of Management Services;
1304 the executive director of the Agency for State Technology ~~the~~
1305 ~~Attorney General~~; and the Director of Planning and Budgeting,

1306 Executive Office of the Governor, or their designees. The Chief
1307 Financial Officer, or his or her designee, shall be chair of the
1308 ~~coordinating~~ council, and the design and coordination staff
1309 shall provide administrative and clerical support to the council
1310 and the board. The design and coordination staff shall maintain
1311 the minutes of each meeting and ~~shall~~ make such minutes
1312 available to any interested person. The Auditor General, the
1313 State Courts Administrator, an executive officer of the Florida
1314 Association of State Agency Administrative Services Directors,
1315 and an executive officer of the Florida Association of State
1316 Budget Officers, or their designees, shall serve without voting
1317 rights as ex officio members of ~~on~~ the ~~coordinating~~ council. The
1318 chair may call meetings of the ~~coordinating~~ council as often as
1319 necessary to transact business; however, the ~~coordinating~~
1320 council must ~~shall~~ meet at least annually ~~once a year~~. Action of
1321 the ~~coordinating~~ council shall be by motion, duly made, seconded
1322 and passed by a majority of the ~~coordinating~~ council voting in
1323 the affirmative for approval of items that are to be recommended
1324 for approval to the Financial Management Information Board.
1325 Section 19. Paragraph (a) of subsection (4) of section
1326 216.023, Florida Statutes, is amended to read:
1327 216.023 Legislative budget requests to be furnished to
1328 Legislature by agencies.—
1329 (4)(a) The legislative budget request ~~must contain~~ for each
1330 program must contain:
1331 1. The constitutional or statutory authority for a program,
1332 a brief purpose statement, and approved program components.
1333 2. Information on expenditures for 3 fiscal years (actual
1334 prior-year expenditures, current-year estimated expenditures,

1335 and agency budget requested expenditures for the next fiscal
1336 year) by appropriation category.
1337 3. Details on trust funds and fees.
1338 4. The total number of positions (authorized, fixed, and
1339 requested).
1340 5. An issue narrative describing and justifying changes in
1341 amounts and positions requested for current and proposed
1342 programs for the next fiscal year.
1343 6. Information resource requests.
1344 7. Supporting information, including applicable cost-
1345 benefit analyses, business case analyses, performance
1346 contracting procedures, service comparisons, and impacts on
1347 performance standards for any request to outsource or privatize
1348 agency functions. The cost-benefit and business case analyses
1349 must include an assessment of the impact on each affected
1350 activity from those identified in accordance with paragraph (b).
1351 Performance standards must include standards for each affected
1352 activity and be expressed in terms of the associated unit of
1353 activity.
1354 8. An evaluation of ~~any~~ major outsourcing and privatization
1355 initiatives undertaken during the last 5 fiscal years having
1356 aggregate expenditures exceeding $10 million during the term of
1357 the contract. The evaluation must ~~shall~~ include an assessment of
1358 contractor performance, a comparison of anticipated service
1359 levels to actual service levels, and a comparison of estimated
1360 savings to actual savings achieved. Consolidated reports issued
1361 by the Department of Management Services may be used to satisfy
1362 this requirement.
1363 9. Supporting information for any proposed consolidated

1364 financing of deferred-payment commodity contracts including
1365 guaranteed energy performance savings contracts. Supporting
1366 information must also include narrative describing and
1367 justifying the need, baseline for current costs, estimated cost
1368 savings, projected equipment purchases, estimated contract
1369 costs, and return on investment calculation.
1370 10. For projects that exceed $10 million in total cost, the
1371 statutory reference of the existing policy or the proposed
1372 substantive policy that establishes and defines the project's
1373 governance structure, planned scope, main business objectives
1374 that must be achieved, and estimated completion timeframes. The
1375 governance structure for information technology-related projects
1376 requested by a state agency must incorporate the applicable
1377 project management and oversight standards established under s.
1378 282.0051. Information technology budget requests for the
1379 continuance of existing hardware and software maintenance
1380 agreements, renewal of existing software licensing agreements,
1381 or the replacement of desktop units with new technology that is
1382 similar to the technology currently in use are exempt from this
1383 requirement.
1384 Section 20. Subsection (22) of section 287.057, Florida
1385 Statutes, is amended to read:
1386 287.057 Procurement of commodities or contractual
1387 services.—
1388 (22) The department, in consultation with the Chief
1389 Financial Officer and the Agency for State Technology, shall
1390 maintain a program for the online procurement of commodities and
1391 contractual services. To enable the state to promote open
1392 competition and leverage its buying power, agencies shall

1393 participate in the online procurement program, and eligible
1394 users may participate in the program. Only vendors prequalified
1395 as meeting mandatory requirements and qualifications criteria
1396 may participate in online procurement.
1397 (a) The department, in consultation with the Agency for
1398 State Technology, may contract for equipment and services
1399 necessary to develop and implement online procurement.
1400 (b) The department shall adopt rules to administer the
1401 program for online procurement. The rules must include, but not
1402 be limited to:
1403 1. Determining the requirements and qualification criteria
1404 for prequalifying vendors.
1405 2. Establishing the procedures for conducting online
1406 procurement.
1407 3. Establishing the criteria for eligible commodities and
1408 contractual services.
1409 4. Establishing the procedures for providing access to
1410 online procurement.
1411 5. Determining the criteria warranting ~~any~~ exceptions to
1412 participation in the online procurement program.
1413 (c) The department may impose and shall collect all fees
1414 for the use of the online procurement systems.
1415 1. The fees may be imposed on an individual transaction
1416 basis or as a fixed percentage of the cost savings generated. At
1417 a minimum, the fees must be set in an amount sufficient to cover
1418 the projected costs of the services, including administrative
1419 and project service costs in accordance with the policies of the
1420 department.
1421 2. If the department contracts with a provider for online

1422 procurement, the department, pursuant to appropriation, shall
1423 compensate the provider from the fees after the department has
1424 satisfied all ongoing costs. The provider shall report
1425 transaction data to the department each month so that the
1426 department may determine the amount due and payable to the
1427 department from each vendor.
1428 3. All fees that are due and payable to the state on a
1429 transactional basis or as a fixed percentage of the cost savings
1430 generated are subject to s. 215.31 and must be remitted within
1431 40 days after receipt of payment for which the fees are due. For
1432 fees that are not remitted within 40 days, the vendor shall pay
1433 interest at the rate established under s. 55.03(1) on the unpaid
1434 balance from the expiration of the 40-day period until the fees
1435 are remitted.
1436 4. All fees and surcharges collected under this paragraph
1437 shall be deposited in the Operating Trust Fund as provided by
1438 law.
1439 Section 21. Subsection (4) of section 445.011, Florida
1440 Statutes, is amended to read:
1441 445.011 Workforce information systems.—
1442 (4) Workforce Florida, Inc., shall coordinate development
1443 and implementation of workforce information systems with the
1444 executive director of the Agency for State ~~Enterprise~~
1445 ~~Information~~ Technology to ensure compatibility with the state's
1446 information system strategy and enterprise architecture.
1447 Section 22. Subsections (2) and (4) of section 445.045,
1448 Florida Statutes, are amended to read:
1449 445.045 Development of an Internet-based system for
1450 information technology industry promotion and workforce

1451 recruitment.—
1452 (2) Workforce Florida, Inc., shall coordinate with the
1453 Agency for State ~~Enterprise Information~~ Technology and the
1454 Department of Economic Opportunity to ensure links, where
1455 feasible and appropriate, to existing job information websites
1456 maintained by the state and state agencies and ~~to ensure~~ that
1457 information technology positions offered by the state and state
1458 agencies are posted on the information technology website.
1459 (4)(a) Workforce Florida, Inc., shall coordinate
1460 development and maintenance of the website under this section
1461 with the executive director of the Agency for State ~~Enterprise~~
1462 ~~Information~~ Technology to ensure compatibility with the state's
1463 information system strategy and enterprise architecture.
1464 (b) Workforce Florida, Inc., may enter into an agreement
1465 with the Agency for State ~~Enterprise Information~~ Technology, the
1466 Department of Economic Opportunity, or any other public agency
1467 with the requisite information technology expertise for the
1468 provision of design, operating, or other technological services
1469 necessary to develop and maintain the website.
1470 (c) Workforce Florida, Inc., may procure services necessary
1471 to implement ~~the provisions of~~ this section~~,~~ if it employs
1472 competitive processes, including requests for proposals,
1473 competitive negotiation, and other competitive processes that ~~to~~
1474 ensure that the procurement results in the most cost-effective
1475 investment of state funds.
1476 Section 23. Paragraph (b) of subsection (18) of section
1477 668.50, Florida Statutes, is amended to read:
1478 668.50 Uniform Electronic Transaction Act.—
1479 (18) ACCEPTANCE AND DISTRIBUTION OF ELECTRONIC RECORDS BY

1480 GOVERNMENTAL AGENCIES.—
1481 (b) To the extent that a governmental agency uses
1482 electronic records and electronic signatures under paragraph
1483 (a), the Agency for State ~~Enterprise Information~~ Technology, in
1484 consultation with the governmental agency, giving due
1485 consideration to security, may specify:
1486 1. The manner and format in which the electronic records
1487 must be created, generated, sent, communicated, received, and
1488 stored and the systems established for those purposes.
1489 2. If electronic records must be signed by electronic
1490 means, the type of electronic signature required, the manner and
1491 format in which the electronic signature must be affixed to the
1492 electronic record, and the identity of, or criteria that must be
1493 met by, any third party used by a person filing a document to
1494 facilitate the process.
1495 3. Control processes and procedures as appropriate to
1496 ensure adequate preservation, disposition, integrity, security,
1497 confidentiality, and auditability of electronic records.
1498 4. Any other required attributes for electronic records
1499 which are specified for corresponding nonelectronic records or
1500 reasonably necessary under the circumstances.
1501 Section 24. Section 943.0415, Florida Statutes, is amended
1502 to read:
1503 943.0415 Cybercrime Office.—The Cybercrime Office ~~There~~ is
1504 created within the Department of Law Enforcement ~~the Cybercrime~~
1505 ~~Office~~. The office may:
1506 (1) Investigate violations of state law pertaining to the
1507 sexual exploitation of children which are facilitated by or
1508 connected to the use of any device capable of storing electronic

1509 data.
1510 (2) Monitor information technology resources and provide
1511 analysis on information technology security incidents, threats,
1512 or breaches as those terms are defined in s. 282.0041.
1513 (3) Investigate violations of state law pertaining to
1514 information technology security incidents, threats, or breaches
1515 pursuant to s. 282.0041 and assist in incident response and
1516 recovery.
1517 (4) Provide security awareness training and information to
1518 state agency employees concerning cyber security, online sexual
1519 exploitation of children, security risks, and the responsibility
1520 of employees to comply with policies, standards, guidelines, and
1521 operating procedures adopted by the Agency for State Technology.
1522 (5) Consult with the Agency for State Technology in the
1523 adoption of rules relating to the information technology
1524 security provisions of s. 282.318.
1525 Section 25. Section 1004.649, Florida Statutes, is amended
1526 to read:
1527 1004.649 Northwest Regional Data Center.—
1528 (1) For the purpose of providing data center services to
1529 ~~serving~~ its state agency customers, the Northwest Regional Data
1530 Center at Florida State University is designated as a primary
1531 data center and shall:
1532 (a) Operate under a governance structure that represents
1533 its customers proportionally.
1534 (b) Maintain an appropriate cost-allocation methodology
1535 that accurately bills state agency customers based solely on the
1536 actual direct and indirect costs of the services provided to
1537 state agency customers, and ensures that for any fiscal year a

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1538 state agency customer is not subsidizing a ~~prohibits the~~
1539 ~~subsidization of~~ nonstate agency customer or another state
1540 agency customer ~~customers' costs by state agency customers~~. Such
1541 cost-allocation methodology must comply with applicable state
1542 and federal requirements concerning the distribution and use of
1543 state and federal funds.
1544 (c) Enter into a service-level agreement with each state
1545 agency customer to provide services as defined and approved by
1546 the governing board of the center. At a minimum, such service-
1547 level agreements must:
1548 1. Identify the parties and their roles, duties, and
1549 responsibilities under the agreement;
1550 2. State the duration of the agreement term and specify the
1551 conditions for renewal;
1552 3. Identify the scope of work;
1553 4. Establish the services to be provided, the business
1554 standards that must be met for each service, the cost of each
1555 service, and the process by which the business standards for
1556 each service are to be objectively measured and reported;
1557 5. Provide a timely billing methodology for recovering the
1558 cost of services provided pursuant to s. 215.422; ~~and~~
1559 6. Provide a procedure for modifying the service-level
1560 agreement to address any changes in projected costs of service;
1561 7. Prohibit the transfer of computing services between the
1562 Northwest Regional Data Center and the state data center
1563 established under s. 282.201 without at least 180 days' notice
1564 of service cancellation;
1565 8. Identify the products or services to be delivered with
1566 sufficient specificity to permit an external financial or

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1567 performance audit; and
1568 9. Provide that the service-level agreement may be
1569 terminated by either party for cause only after giving the other
1570 party notice in writing of the cause for termination and an
1571 opportunity for the other party to resolve the identified cause
1572 within a reasonable period.
1573 (d) Provide to the Board of Governors the total annual
1574 budget by major expenditure category, including, but not limited
1575 to, salaries, expenses, operating capital outlay, contracted
1576 services, or other personnel services by July 30 each fiscal
1577 year.
1578 (e) Provide to each state agency customer its projected
1579 annual cost for providing the agreed-upon data center services
1580 by September 1 each fiscal year.
1581 (f) Provide a plan for consideration by the Legislative
1582 Budget Commission if the governing body of the center approves
1583 the use of a billing rate schedule after the start of the fiscal
1584 year that increases any state agency customer's costs for that
1585 fiscal year.
1586 (2) The Northwest Regional Data Center's designation as a
1587 primary data center for purposes of serving its state agency
1588 customers may be terminated if:
1589 (a) The center requests such termination to the Board of
1590 Governors, the Senate President, and the Speaker of the House of
1591 Representatives; or
1592 (b) The center fails to comply with ~~the provisions of~~ this
1593 section.
1594 (3) If such designation is terminated, the center shall
1595 have 1 year to provide for the transition of its state agency

1596 customers to the state data center system established under s.
1597 282.201 ~~Southwood Shared Resource Center or the Northwood Shared~~
1598 ~~Resource Center~~.
1599 Section 26. The Agency for Enterprise Information
1600 Technology in the Executive Office of the Governor is
1601 transferred by a type two transfer, pursuant to s. 20.06,
1602 Florida Statutes, to the Agency for State Technology established
1603 pursuant to s. 20.61, Florida Statutes, except that the only
1604 rules that are transferred are chapters 71A-1 and 71A-2, Florida
1605 Administrative Code. All other rules adopted by the Agency for
1606 Enterprise Information Technology are nullified and of no
1607 further force or effect.
1608 Section 27. The Northwood Shared Resource Center in the
1609 Department of Management Services is transferred by a type two
1610 transfer, pursuant to s. 20.06, Florida Statutes, to the Agency
1611 for State Technology established pursuant to s. 20.61, Florida
1612 Statutes.
1613 Section 28. The Southwood Shared Resource Center in the
1614 Department of Management Services is transferred by a type two
1615 transfer, pursuant to s. 20.06, Florida Statutes, to the Agency
1616 for State Technology established pursuant to s. 20.61, Florida
1617 Statutes.
1618 Section 29. The Agency for State Technology shall:
1619 (1) Complete a feasibility study that analyzes, evaluates,
1620 and provides recommendations for managing state government data
1621 in a manner that promotes its interoperability and openness and,
1622 if legally permissible and not cost prohibitive, ensures that
1623 such data is available to the public in ways that make the data
1624 easy to find and use, and complies with chapter 119, Florida

1625 Statutes. At a minimum, the feasibility study must include the
1626 following components:
1627 (a) A clear description of which state government data
1628 should be public information. The guiding principle for this
1629 component is a presumption of openness to the extent permitted
1630 by law but subject to valid restrictions relating to privacy,
1631 confidentiality, and security, and other fiscal and legal
1632 restrictions.
1633 (b) Recommended standards for making the format and
1634 accessibility of public information uniform and ensuring that
1635 such data is published in a nonproprietary, searchable,
1636 sortable, platform-independent, and machine-readable format. The
1637 agency should include the projected cost to state agencies of
1638 implementing and maintaining such standards.
1639 (c) A project plan for implementing a single Internet
1640 website that contains public information or links to public
1641 information. The plan should include a timeline and benchmarks
1642 for making public information available online and identify any
1643 costs associated with the development and ongoing maintenance of
1644 such a website.
1645 (d) A recommended governance structure and review and
1646 compliance process to ensure accountability on the part of those
1647 who create, maintain, manage, or store public information or
1648 post it on the single Internet website. The agency should
1649 include any associated costs to implement and maintain the
1650 recommended governance structure and the review and compliance
1651 process.
1652 (2) Submit the completed feasibility study to the Executive
1653 Office of the Governor, the President of the Senate, and the

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1654 Speaker of the House of Representatives by June 1, 2015.
1655 Section 30. The State Data Center Task Force is created.
1656 The task force shall be comprised of those individuals who were
1657 members of the boards of trustees of the Northwood and Southwood
1658 Shared Resource Centers as of June 30, 2014. The purpose of the
1659 task force is to provide assistance in the transition of the
1660 Northwood and Southwood Shared Resource Centers into the state
1661 data center established under s. 282.201, Florida Statutes. The
1662 task force shall identify any operational or fiscal issues
1663 affecting the transition and provide recommendations to the
1664 Agency for State Technology for the resolution of such issues.
1665 The task force may not make decisions regarding the state data
1666 center or the facilities formerly known as the Northwood and
1667 Southwood Shared Resource Centers and shall expire on or before
1668 June 30, 2015.
1669 Section 31. For the 2014-2015 fiscal year, the sum of
1670 $2,134,892 in nonrecurring general revenue funds, $2,865,108 in
1671 recurring general revenue funds, and 25 full-time equivalent
1672 positions and associated salary rate of 2,010,951 are
1673 appropriated to the Agency for State Technology for the purpose
1674 of implementing and administering this act.
1675 Section 32. Except as otherwise expressly provided in this
1676 act and except for this section, which shall take effect upon
1677 this act becoming a law, this act shall take effect July 1,
1678 2014.

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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)

3/5/14
Meeting Date

Topic: State technology

Bill Number: SB928 *(if applicable)*

Name: LAURA LENHART

Amendment Barcode: *(if applicable)*

Job Title: Governmental Affairs Coordinator

Address: 136 S. Bronough St
Street

Tallahassee FL 32304
City *State* *Zip*

Phone: 850-521-1292

E-mail: llenhart@flchamber.com

Speaking: [x] For [ ] Against [ ] Information

Representing: Florida Chamber of Commerce

Appearing at request of Chair: [ ] Yes [x] No

Lobbyist registered with Legislature: [x] 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)

Meeting Date: _____

928 928

Topic: IT

Bill Number: 928 (if applicable)

Name: Frank Meiners

Amendment Barcode: _____ (if applicable)

Job Title: _____

Address: PO Box 1653 (Street)

Tall (City) FL (State) 32302 (Zip)

Phone: 591-0177

E-mail: frank@chgmail.com

Speaking: [X] For [ ] Against [ ] Information

Representing: AIF

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [X] 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)

3/25/2014
Meeting Date

Topic _____

Bill Number 928 *(if applicable)*

Name Brian Pitts

Amendment Barcode _____ *(if applicable)*

Job Title Trustee

Address 1119 Newton Ave S
Street

St Petersburg FL 33705
City *State* *Zip*

Phone 727/897-9291

E-mail justice2jesus@yahoo.com

Speaking: [✓] For [ ] Against [ ] Information

Representing Justice-2-Jesus

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

Tallahassee, Florida 32399-1100

COMMITTEES:
Governmental Oversight and Accountability, *Chair*
Appropriations Subcommittee on Finance and Tax, *Vice Chair*
Appropriations
Appropriations Subcommittee on Transportation, Tourism, and Economic Development
Banking and Insurance
Commerce and Tourism
Judiciary
Rules

JOINT COMMITTEES:
Joint Legislative Auditing Committee
Joint Select Committee on Collective Bargaining

SENATOR JEREMY RING
29th District

February 11, 2014

Senator Alan Hays, Chair
Appropriations Subcommittee on General Government
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Hays,

I am writing to respectfully request your cooperation in placing Senate Bill 928, relating to state technology, on the Appropriations Subcommittee on General Government agenda at your earliest convenience. I would greatly appreciate the opportunity to discuss the bill at greater length before your committee.

Thank you in advance for your assistance. As always, please do not hesitate to contact me with any questions or comments you may have.

Very Truly Yours,

Jeremy Ring

Jeremy Ring
Senator District 29

cc: Jamie DeLoach, Staff Director
Lisa Waddell, Committee Administrative Assistant

REPLY TO:
❒ 5790 Margate Boulevard, Margate, Florida 33063 (954) 917-1392 FAX: (954) 917-1394
❒ 405 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5029

Senate's Website: *www.flsenate.gov*

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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

BILL: CS/CS/SB 416

INTRODUCER: Appropriations Subcommittee on General Government; Banking and Insurance Committee; and Senator Simpson

SUBJECT: Sinkhole Coverage

DATE: March 14, 2014 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Knudson	Knudson	BI	**Fav/CS**
2.	Betta	DeLoach	AGG	**Fav/CS**
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 416 directs the Citizens Property Insurance Corporation to establish and manage the Citizens Sinkhole Stabilization Repair Program (Program). Under the Program, stabilization repair contractors are approved by Citizens if they meet statutory requirements. The stabilization repair contractor must provide a warranty, of at least five years on repairs, which Citizens must warranty. The repair contractors warranty must be secured by an authorized insurer or risk retention group if the secured warranty can be procured for a cost equal to or less than three percent of the cost of the repairs. Citizens' liabilities under the Program are limited to the policyholder's policy limits, subject to any dual interest noted on the policy. A policyholder must use proceeds from a settlement, court judgment, or order for damages for repairs and remediation of the property within a reasonable period of time and provide notice within 45 days of completion of repairs.

All covered sinkhole loss claims made on a Citizens policy will be governed by the Program as of March 31, 2015.

The bill directs the Office of Program Policy Analysis and Government Accountability (OPPAGA) to review the Program and submit a report to the President of the Senate, Speaker of the House of Representatives, and the Governor by January 1, 2017.

The bill has no fiscal impact to state funds.

II. Present Situation:

Sinkhole Insurance

Insurers offering property insurance must make available to policyholders, for an appropriate additional premium, sinkhole coverage for losses on any structure, including personal property contents.[1] Sinkhole coverage includes repairing the home, stabilizing the underlying land, and foundation repairs.[2] Insurance companies must also provide coverage for catastrophic ground cover collapse.[3] Insurers may restrict catastrophic ground cover collapse and sinkhole loss coverage to the principal building as defined in the insurance policy.[4] An insurer may require a property inspection prior to issuing sinkhole loss coverage.[5] Residential property insurance policies may include deductibles applicable to sinkhole losses of one percent, two percent, five percent, or 10 percent of the policy dwelling limits and must provide a corresponding premium discount with each deductible amount.[6] All Citizens sinkhole loss policies, however, have a 10 percent deductible.[7]

Sinkhole coverage is payable when a "sinkhole loss" occurs.[8] A sinkhole loss is defined in statute as structural damage to the covered building, including the foundation, caused by sinkhole activity.[9] Five distinct types of damage constitute structural damage, and each type of damage is tied to standards contained in the Florida Building Code or used in the construction industry.[10] "Sinkhole activity" is the settlement or systematic weakening of the earth supporting the covered building that results from contemporaneous movement or raveling of soils, sediments, or rock into subterranean voids created by the effect of water on a limestone or similar rock formation.[11] Accordingly, in order for the policyholder to obtain policy benefits for sinkhole loss, the insured structure must sustain structural damage that is caused by sinkhole activity.

Sinkhole insurance claims increased substantially both in number and cost over the past two decades and most dramatically from 2009 to 2011.[12] According to data submitted in 2011 by 211

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[1] s. 627.706(1)(b), F.S.
[2] See s. 627.706(5), F.S. Contents coverage is also available and, if included, paid in accordance with policy terms
[3] s. 627.706(1)(a), F.S. Catastrophic ground cover collapse refers to extreme damage in which a property is essentially destroyed and uninhabitable. A catastrophic ground cover collapse occurs when geological activity causes the abrupt collapse of the ground cover, a depression in the ground cover clearly visible to the naked eye, structural damage to the covered building and its foundation, and the insured structure being condemned and ordered to be vacated by the governmental entity authorized to give such an order.
[4] s. 627.706(1)(c), F.S.
[5] s. 627.706(a)(b), F.S.
[6] *See id.*
[7] Citizens Property Insurance Corporation, *Sinkhole Loss Coverage Frequently Asked Questions for Policyholders*, pg. 5. https://www.citizensfla.com/shared/faqs/SinkholeFAQs_for_Consumers.pdf (Last accessed by Banking and Insurance Staff on January 13, 2014).
[8] See s. 627.707(5), F.S.
[9] s. 627.706(2)(j), F.S.
[10] s. 627.706(2)(k), F.S.
[11] s. 627.706(2)(i), F.S.
[12] See Office of Insurance Regulation, *Report on Review of the 2010 Sinkhole Data Call*, (Nov. 8, 2010). http://www.floir.com/siteDocuments/Sinkholes/2010_Sinkhole_Data_Call_Report.pdf (Last accessed by Banking and Insurance Staff on January 13, 2014).

property insurers to the Office of Insurance Regulation (OIR), the insurers' total reported claims increased from 2,360 in 2006 to 6,694 in 2010, totaling 24,671 claims throughout that period.[13] Total sinkhole claim costs for these insurers amounted to approximately $1.4 billion for the same period.[14]

The 2011 Legislature enacted legislation in (CS/CS/CS/SB 408) to address the large increases in sinkhole policyholder premiums and losses.[15] The 2011 reform bill changed the definition of structural damage that is used to determine if a sinkhole loss occurred, revised the process for investigating sinkhole losses, and enacted a number of reforms aimed at reducing fraud and unnecessary costs related to sinkhole loss coverage.

Investigation of Sinkhole Claims

The 2011 legislative sinkhole reforms substantially revised the statutory process for investigating sinkhole claims in s. 627.707, Florida Statutes.[16] The process requires the insurer to determine whether the building has incurred structural damage that has been caused by sinkhole activity.[17] Coverage for sinkhole loss is not available if structural damage is not present or sinkhole activity is not the cause of structural damage. This process is as follows:

Initial Inspection & Structural Damage Determination

Upon receipt of a claim for sinkhole loss, the insurer must inspect the policyholder's premises to determine if there has been structural damage which may be the result of sinkhole activity.[18] This inspection will often require the insurer to retain a professional engineer to evaluate whether the insured building has incurred structural damage as defined by statute.

Sinkhole Testing

The insurer is required to engage a professional engineer or professional geologist to conduct sinkhole testing pursuant to s. 627.7072, F.S., if the insurer confirms that structural damage exists and is either unable to identify a valid cause of the structural damage or discovers that the structural damage is consistent with sinkhole loss.[19] If coverage is excluded under the policy even if sinkhole loss is confirmed, then the insurer is not required to conduct sinkhole testing.[20]

Notice to the Policyholder

The insurer must provide written notice to the policyholder detailing what the insurer has determined to be the cause of damage (if the determination has been made) and a statement of the circumstances under which the insurer must conduct sinkhole testing.[21] The policyholder

[13] *See id*. at pg. 5.
[14] *See id.*
[15] Ch. 2001-39, L.O.F.
[16] See fn. 15.
[17] s. 627.707(1), F.S.
[18] See *id*.
[19] s. 627.707(2), F.S.
[20] See *id*.
[21] s. 627.707(3), F.S.

must also be notified of his or her right to demand sinkhole testing and the circumstances under which the policyholder may incur costs associated with testing.[22]

Authorization to Deny Sinkhole Claim

An insurer may deny a claim upon a determination that there is no sinkhole loss.[23]

Policyholder Demand for Sinkhole Testing

The policyholder may demand sinkhole testing in writing within 60 days after receiving a claim denial if the insurer denied the claim without performing sinkhole testing and coverage would be available[24] if a sinkhole loss is confirmed).[25] However, a policyholder requesting such testing must pay the insurer 50 percent of the sinkhole testing costs up to $2,500.[26] If the requested testing confirms a sinkhole loss the insurer must reimburse the testing costs to the policyholder.[27]

Payment of Sinkhole Claims

If a covered building suffers a sinkhole loss or catastrophic ground cover collapse, the insured must repair such damage in accordance with the insurer's professional engineer's recommended repairs.[28] However, if repairs cannot be completed within policy limits, the insurer has the option to either pay to complete the recommended repairs or tender policy limits without a reduction for any repair expenses already incurred.[29] The insurer may limit payment to the actual cash value of the sinkhole loss not including below-ground repair techniques until the policyholder enters into a contract for the performance of building stabilization repairs.[30]

The contract for below-ground repairs must be made in accordance with the recommendations set forth in the insurer's sinkhole report issued pursuant to s. 627.7073, F.S., and must be entered into within 90 days after the policyholder receives notice that the insurer has confirmed coverage for sinkhole loss.[31] The time period is tolled if either party invokes neutral evaluation. Stabilization and all other repairs to the structure and contents must be completed within 12 months after the policyholder enters into the contract for repairs unless the insurer and policyholder mutually agree otherwise, the claim is in litigation, or the claim is in neutral evaluation, appraisal or mediation.[32]

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[22] See *id*.
[23] s. 627.707(4)(a), F.S.
[24] The claim denial was not issued due to policy conditions or exclusions of coverage and instead was based the failure of the loss to meet the definition of sinkhole loss.
[25] s. 627.707(4)(b), F.S.
[26] s. 627.707(4)(b)2., F.S.
[27] s. 627.707(4)(b)3., F.S.
[28] s. 627.707(5), F.S.
[29] See *id*.
[30] s. 627.707(5)(a), F.S.
[31] See s. 627.707(5)(b), F.S.
[32] See *id*., and s. 627.707(5)(d), F.S.

The two most commonly recommended stabilization techniques are grouting and underpinning.[33] Under the grouting procedure, a grout mixture (either cement-based or a chemical resin that expands into foam) is injected into the ground to stabilize the subsurface soils to minimize further subsidence damage by increasing the density of the soils beneath the building as well as sealing the top of the limestone surface to minimize future raveling.[34] Underpinning consists of steel piers drilled or pushed into the ground to stabilize the building's foundation.[35] One end of the steel pipe connects to the foundation of the structure with the other end resting on solid limestone. Underpinning repairs, when performed, are usually combined with grouting.

Sinkhole Claims – Citizens Property Insurance Corporation

The number of Citizens Property Insurance Corporation (Citizens) sinkhole claims is dropping in the aftermath of the 2011 sinkhole reforms. Citizens' sinkhole claim activity had increased from 1,590 claims in 2009 to 4,605 in 2011.[36] After the legislative reforms, new Citizens sinkhole claims dropped to 2,386 in 2012 and a projected 900 claims in 2013, an estimated 80 percent drop in claims from 2011.[37]

Citizens' sinkhole claim activity from 2009 to 2013 is concentrated in Hernando, Hillsborough, Pasco, and Pinellas counties.[38] Miami-Dade, Broward, and Palm Beach counties also produced a significant number of sinkhole claims and had generally higher percentages of claims filed on sinkhole policies.[39] Approximately 90 percent of sinkhole claim litigation is from claims on properties located in Hernando, Pasco, and Hillsborough counties. A sample of 204 sinkhole claims in litigation by Citizens on August 31, 2013, indicated that over 56 percent of such claims are in litigation over issues related to Citizens efforts to repair the damaged property.

Though the costs associated with Citizens sinkhole loss claims has decreased, such claims continue to negatively affect the financial stability of Citizens and private market insurers.[40] Increased sinkhole claim losses has often made residential property insurance increasingly unaffordable or unavailable for consumers.

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[33] Citizens Property Insurance Corporation, Sinkhole Repairs: Underpinning and Grouting, (Oct. 30, 2012). https://www.citizensfla.com/shared/sinkhole/documents/GroutVersusUnderpinning.pdf (Last accessed by Banking and Insurance Staff on January 13, 2014).
[34] See *id.*
[35] See *id.*
[36] Citizens Property Insurance Corporation, *Litigation Analysis*, pg. 8. (October 2013). http://miamiherald.typepad.com/files/corrected-citizens-litigation-analysis---final---oct-11-2013.pdf (Last accessed by Banking and Insurance Staff on January 13, 2014).
[37] *See id.*
[38] The total number of sinkhole claims in these counties from January 1, 2009 to August 31, 2013 are: Hernando County (4947), Pasco County (2,817), Hillsborough (2,180), Pinellas (1,039). The percentage of sinkhole policies in each county that experienced a claim during this period is 3 percent in Hernando County, 6 percent in Pasco County, 5 percent in Hillsborough County, and 10 percent in Pinellas County.
[39] Miami-Dade had 419 sinkhole claims, but 19 percent of sinkhole policies in that county had a sinkhole claim from January 1, 2009 to August 31, 2013. Broward County had 291 claims on 14 percent of sinkhole policies and Palm Beach County had 114 claims on 10% of sinkhole policies.
[40] Citizens, in its 2014 Rate Filing Kit, detailed that the indicated rate change for sinkhole coverage was for an increase of 451 percent in Hernando County, 177 percent in Pasco County, and 235 percent in Hillsborough County. http://static-lobbytools.s3.amazonaws.com/press/59997_citizens_2014_rate_kit.pdf (Last accessed by Banking and Insurance Staff on January 13, 2014).

The Citizens Board of Governors considered the creation of a sinkhole stabilization managed repair program at its December 12, 2013, meeting.[41] The program is similar to provisions of this bill, with the primary difference being that Citizens policyholders would not be required to participate. Citizens solicited sinkhole repair contractors who would participate in the managed repair program through an initial Invitation to Bid (ITB No. 13-0020) and subsequently issued an additional Invitation to Bid (ITB No. 13-0028) for additional vendors dated January 8, 2014. Citizens' staff recommended that the Citizens' Claims Committee approve and recommend to the Board of Governors that Citizens' staff pursue contracts with vendors that would allow the implementation of a sinkhole stabilization managed repair program.[42] Such contracts would not exceed $50 million. Citizens' staff noted that the vendor contracts would not cause additional expenses because vendors will be paid through the claims indemnity process.[43]

In an effort to settle sinkhole claim disputes over the method of sinkhole repairs, Citizens began in December 2013 sending letters to hundreds of its policyholders who are disputing the repair recommendations on their sinkhole claims.[44] The letters are targeted to policyholders who have a confirmed sinkhole loss for which the professional engineer who verified a sinkhole loss has recommended grouting repairs but not underpinning. The letters encourage policyholders to have the necessary repair work completed in accordance with the engineer's recommendations. Citizens is also encouraging policyholders to resolve differing engineering opinions through the neutral evaluation process in s. 627.7074, F.S. Citizens estimates that of its 2,100 disputed sinkhole claims, 1,329 deal with disagreements over repair methods.[45]

Neutral Evaluation

Neutral evaluation is an alternative procedure in s. 627.7074, F.S., for the resolution of disputed sinkhole insurance claims for which a sinkhole testing report[46] has been issued. The neutral evaluator must have sufficient professional training and credentials to render opinions as to causation, and if applicable, the recommended method of repair and the estimated cost of such repairs.[47] Neutral evaluation is nonbinding, but the insurer and policyholder must participate if either party requests it.[48] At a minimum, neutral evaluation must determine the cause of the loss, all methods of stabilization and repair both above and below ground, the costs for stabilization

[41] Citizens Property Insurance Corporation, Action Item Summary: Sinkhole Stabilization Managed Repair Program (Dec. 13, 2013). https://www.citizensfla.com/bnc_meet/docs/500/05Ab_AI_Sinkhole_MRP_12_13_13.pdf (Last accessed by Banking and Insurance Staff on January 13, 2014).
[42] See *id*.
[43] See *id*.
[44] Citizens Property Insurance Corporation, *Citizens Chairman: Settlement Proposal Benefits Consumers*, (Press Release Dated Dec. 12, 2013). https://www.citizensfla.com/shared/press/articles/135/12.12.2013.pdf (Last accessed by Banking and Insurance Staff on January 13, 2014).
[45] See *id*.
[46] Section 627.7073, F.S., contains the statutory standards for a sinkhole report. A sinkhole report must be based on tests performed by a professional engineer and professional geologist that, as required by s. 627.7072, F.S., are sufficient to determine the presence or absence of sinkhole loss and allow the professional engineer to make recommendations regarding necessary building stabilization and foundation repair. The sinkhole report must contain the opinion of the professional engineer or professional geologist as to whether a sinkhole loss is present, and if so, the recommendation of the professional engineer of methods for stabilizing the land and repairing the foundation.
[47] See s. 627.7074(1)(a), F.S., and s. 627.7074(11), F.S.
[48] Section 627.7074(4), F.S.

and all repairs, and the information necessary to issue a report of the neutral evaluator's findings and recommendations.[49]

Neutral evaluation is an informal process in which formal rules of evidence and procedure need not be observed.[50] The insurer or the policyholder request neutral evaluation by sending written notice to the Department of Financial Services (DFS).[51] The DFS then provides a list of certified neutral evaluators to the parties who have 14 days to select a neutral evaluator.[52] If the parties cannot agree to a neutral evaluator, the department makes the selection. Once a neutral evaluator is selected, within 14 days he or she must notify the policyholder and the insurer of the date, time, and place of the neutral evaluation conference.[53]

Once a neutral evaluator has been selected by the parties or appointed by the DFS, the insurer submits the sinkhole testing report to the neutral evaluator and the policyholder submits all reports initiated by the policyholder or an agent of the policyholder that either confirm sinkhole loss or dispute the results of another report.[54] The neutral evaluator must be allowed reasonable access to the interior and exterior of the insured structures to be evaluated.[55] At the conclusion of neutral evaluation, the neutral evaluator must prepare a report describing all matters that are the subject of neutral evaluation, including whether a sinkhole loss has occurred, and, if so, the estimated costs of stabilizing the land and any covered building and other appropriate repairs.[56] The recommendation of the neutral evaluator and his or her testimony must be admitted in any litigation relating to the insurance claim.[57] If the insurer timely complies with the recommendation of the neutral evaluator, the insurer is not liable for extra-contractual damages related to issues determined under neutral evaluation.[58]

III. Effect of Proposed Changes:

Citizens Sinkhole Stabilization Repair Program [s. 627.351(6)(ff), F.S.]

Section 1 establishes the Citizens Sinkhole Stabilization Repair Program (Program). The bill states that creating the Program safeguards the public's health, safety, and welfare and that it is in the public interest that sinkhole loss claims be resolved through the performance of sinkhole repairs. All covered sinkhole loss claims made on a Citizens Property Insurance Corporation (Citizens) policy will be governed by the Program as of March 31, 2015. The Program must be managed by Citizens.

Under the Program, stabilization repair contractors are approved by Citizens if they meet statutory requirements. Approved stabilization repair contractors must contract with Citizens to

[49] s. 627.7074(2), F.S.
[50] s. 627.7074(5), F.S.
[51] s. 627.7074(4), F.S.
[52] s. 627.7074(7), F.S.
[53] See *id*.
[54] See s. 627.7074(2) and (5), F.S.
[55] s. 627.7074(5), F.S.
[56] s. 627.7074(12), F.S.
[57] s. 627.7074(13), F.S.
[58] s. 627.7074(15), F.S.

perform stabilization repairs based on line-item prices developed by Citizens that reflect market prices for sinkhole stabilization activities.

Each covered sinkhole loss claim is submitted to the approved stabilization contractors, who have the opportunity to submit itemized offers to Citizens to perform the stabilization repairs recommended in the engineering report. Citizens then provides a list of all contractors that submitted a bid to the policyholder. The policyholder has 30 days to select a listed contractor. If the policyholder does not make a selection within 30 days, Citizens shall select the contractor based on quality, cost-effectiveness, and other criteria. If no approved stabilization repair contractor submits an offer to perform the repairs or an approved stabilization repair contractor does not offer to perform repairs within policy limits, Citizens may resubmit the loss to the Program two additional times or pay up to the policy limits to the policyholder, subject to any dual interest noted on the policy.

Repairs must be warranted by the stabilization repair contractor for at least five years after completion of repairs. Contractor warranties must be secured by an authorized insurer or risk retention group if the cost to procure the secured warranty is equal to or less than three percent of the cost of repairs. Citizens must also provide a warranty for repairs if the contractor is unable to honor its warranty.

Citizens must pay for repairs to the structure and contents not governed by the Program (repairs other than sinkhole stabilization repairs such as grouting or underpinning) in accordance with the terms of the insurance policy.

The following provides a detailed explanation of the provisions of the Program:

Prohibition against Requiring Citizens Policyholders to Advance Sinkhole Repair Costs [s. 627.351(6)(ff)2.a., F.S.]

Citizens is prohibited from requiring a policyholder from advancing the cost of sinkhole repairs.

Stabilization Repair Contractor - Qualification Requirements [s. 627.351(6)(ff)2.b., F.S.]

Each stabilization repair contractor approved by Citizens must be qualified based on the following criteria:

- *Experience* - Experience in stabilizing sinkhole activity pursuant to requirements established by Citizens;
- *Certification* - Certification as a contractor under s. 489.113(1), F.S.;
- *Bonding* - Demonstrating the capacity to be bonded and actually providing required performance, surety, or other bonds, which may be supplemented by additional requirements;
- *Insurance* - Demonstrating the ability to meet insurance coverage required by Citizens, including commercial general liability and workers' compensation insurance;
- *Drug-Free* - Maintaining a valid drug-free workplace program; and
- Other requirements established by Citizens.

Performance of Repairs Under Contract; Contractor Responsibility [s. 627.351(6)(ff)2.c., F.S.]

Stabilization contractors must conduct repairs under a contract with Citizens that is not subject to the procurement requirements of s. 287.057 and s. 627.351(6)(e), F.S. The contractor is solely responsible for the performance of all necessary stabilization repairs specified in the engineering report.

Stabilization Repair Contract [s. 627.351(6)(ff)2.d., F.S.]

Citizens must develop a standard stabilization repair contract that requires:

- *Payment Terms* - Payment of the stabilization repair contractor based on line-item prices developed by Citizens that reasonably reflect actual market prices for sinkhole stabilization activities.
- *Bonding Requirements* - The stabilization repair contractor to post a payment bond in favor of Citizens for each project assigned and to post a performance bond in favor of Citizens in the amount of the total cost of all fixed-price repairs annually awarded to the contractor.
- *Warranty Requirements* - The stabilization repair contractor must provide a warranty of at least five years to the policyholder, which must be secured by an authorized insurer or registered risk retention group if the secured warranty can be procured for a cost equal to or less than three percent of the cost of the repairs. Citizens must serve as the guarantor of the contractor's work if a secured warranty cannot be procured for that cost. Additionally, Citizens must provide the policyholder a warranty that covers repairs provided by the stabilization repair contractor for at least five years if the contractor is unable to provide a remedy required under the warranty it provided the policyholder.
- *Engineer Monitoring of Repairs* - The engineer must monitor the performance of stabilization repairs and confirm their completion and that no further repairs are required.
- *Performance of Additional Needed Repairs* - The stabilization repair contract must perform any additional repairs found necessary by the engineer. If repairs can be completed within policy limits, the contractor must complete the repairs and will be reimbursed pursuant to Citizens' line-item pricing.

Process for Selection of Stabilization Repair Contractors [s. 627.351(c)(ff)2.e., F.S.]

Citizens must establish a process for the selection of a stabilization repair contractor that includes:

- *Contractors Offers to Perform Repairs* - An opportunity for all stabilization repair contractors within the Citizens stabilization repair pool to submit an offer to perform the repairs recommended in the engineering report. The offer must include an itemized statement of work.
- *List of Contractors Offering to Repair* - Citizens must review the contractors' offers and provide the policyholder with a list of all stabilization repair contractors that submitted an offer.
- *Selection of the Contractor* - The policyholder has 30 days to select a stabilization repair contractor. If the policyholder does not select a contractor within 30 days Citizens does based on quality, cost-effectiveness, and other criteria.

- *Resubmission of Property to Program* - If no contractors offer to perform stabilization repairs or all such offers exceed the policy limit, Citizens may resubmit the property to the repair process. If the property is entered into the selection process three times and no stabilization repair contractor submits an offer to repair within policy limits, Citizens must pay for repairs that cost greater than the policy limit or may pay the policyholder an amount up to the policy limits on the structure.

Citizens Liability under the Sinkhole Stabilization Repair Program [s. 627.351(6)(ff)3. 4. and 5., F.S.]

The bill limits Citizens' legal responsibilities under the Program. Citizens is not responsible for serving as a stabilization repair contractor. Citizens' obligations under the Program are not an election to repair by Citizens and do not create a new contractual relationship between a policyholder and Citizens.

Citizens is not obligated to the policyholder for more than the policy limits.

Sinkhole Loss Repairs Other Than Stabilization Repairs [s. 627.351(6)(ff)5., F.S.]

Citizens must pay for repairs other than stabilization repairs to the structure and contents in accordance with the terms of the insurance policy. All repairs other than stabilizing the land and structure and repairing the damaged structure will be governed by this provision.

Sinkhole Stabilization Repairs in Excess of Policy Limits [s. 627.351(6)(ff)6., F.S.]

If the professional engineer retained by Citizens determines that stabilization repairs cannot be conducted within policy limits, Citizens must either pay for such repairs or tender the policy limits to the policyholder.

Repairs and Remediation [s. 627.351(6)(ff)7., F.S.]

Requires the policyholder to use proceeds from a settlement, court judgment, or order for damages for repairs and remediation of the property within a reasonable period of time. Furthermore, the bill requires property owners to provide notice within 45 days of completion of repairs.

Repairs Other Than Sinkhole Stabilization [s. 627.351(6)(ff)5. and 9., F.S.]

Citizens must pay for repairs other than sinkhole stabilization to the structure and contents in accordance with the terms of the policyholder's insurance policy. The Program statute does not prohibit Citizens from establishing managed repair programs for other repairs to the structure in accordance with the terms of the insurance policy.

The Program Supersedes the Statutory Process for the Investigation and Payment of Sinkhole Loss Claims [s. 627.351(6)(ff)11., F.S.]

The Program statute supersedes the provisions of s. 627.707(5)(a)-(d), F.S., which contain the statutory criteria for the investigation and payment of sinkhole loss claims.

Neutral Evaluation [s. 627.351(6)(ff)8. and 10., F.S.]

The bill specifies that neutral evaluation is available under the program when Citizens denies a sinkhole loss claim. The scope of neutral evaluation under the program is limited, however, to whether sinkhole activity is present on the property and whether a sinkhole loss has occurred. Under current law, the neutral evaluator is tasked with determining the cause of the loss as well as the proper method of repair and the costs for stabilization and all repairs.

As under current law, neutral evaluation is mandatory if requested by either party to the insurance contract, but the report of the neutral evaluator is not binding on the parties. The bill specifies that the neutral evaluator may not participate in the repairs related to the insurance claim and may not have a financial interest in the claim or in any business involved in repairs for the claim.

Citizens Reports on Residential Sinkhole Loss Coverage [s. 627.351(6)(ee), F.S.]

Citizens must submit a report to the OIR detailing the requests it receives for residential sinkhole loss coverage. The report must be submitted at least once every six months. Citizens must report the number of requests for residential sinkhole loss coverage received, the number of sinkhole loss coverage requests accepted or declined, and Citizens' reasons for declining requests for residential sinkhole coverage.

OPPAGA Analysis of Program

Section 2 requires OPPAGA to review the Program and submit a report to the Governor, the Chief Financial Officer, the President of the Senate, and the Speaker of the House of Representatives. The report must:

- Analyze policyholder satisfaction with the Program and the sufficiency of consumer protections.
- Analyze the timeliness of stabilization repairs and compare Citizens' sinkhole-related loss costs under the program with loss costs prior to the Program.
- Evaluate whether disputes between stabilization repair contractors and policyholders are resolved in an effective and timely manner.
- Evaluate whether litigation of sinkhole claims and associated costs are increasing or decreasing, and the causes of such litigation.
- Evaluate the cost-effectiveness of allowing a third-party administrator to manage the program.

Effective Date

Section 3 provides an effective date of July 1, 2014.

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:

Under CS/CS/SB 416, Citizens Property Insurance Corporation (Citizens) policyholders' may proceed with stabilization repairs pursuant to the Citizens Sinkhole Stabilization Repair Program (Program). Citizens' policyholders may benefit from the quick performance of repairs. If sinkhole loss costs are reduced by the Program, premium increases for Citizens' sinkhole insurance may be reduced.

C. Government Sector Impact:

Citizens' staff has recommended to the Citizens Board of Governors to retain vendors to serve as sinkhole repair contractors for the purpose of establishing a sinkhole stabilization managed repair program. Vendors would be paid through the claim indemnity process (i.e. for repairs performed) and are part of the normal course of resolving claims and, therefore, the bill has no fiscal impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 627.351 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

Recommended CS/CS by Appropriations Subcommittee on General Government on March 12, 2014:

- Requires the contractor warranty to be secured by an authorized insurer or risk retention group if the cost of such can be procured equal to or less than three percent of the cost of the repairs.
- Deletes the provision requiring the sole remedy of the policyholder in cases of dispute to proceed with stabilization repairs through the program.
- Requires the policyholder to use proceeds from a settlement, court judgment, or order for damages for repairs and remediation of the property within a reasonable period of time and requires property owners to provide notice within 45 days of completion of repairs.

CS by Banking and Insurance on February 4, 2014:

- Requires approved contractors to perform repairs based on line-item prices developed by Citizens that reasonably reflect market prices instead of on a fixed price bid submitted by the contractor.
- Requires Citizens to provide a five year warranty to the policyholder for stabilization repairs that is payable if the contractor is unable to honor its five year warranty to the policyholder.
- Requires Citizens to pay to perform necessary repairs that exceed policy limits or tender the policy limit without reduction for incomplete repairs that have already been performed.
- Allows the policyholder to select a contractor from among all qualified contractors that offer to perform the repair, rather than permitting Citizens to determine which bids are submitted to the policyholder.
- Specifies that neutral evaluation is available under the Program when Citizens denies a claim for sinkhole loss. Limits the issue to be determined under neutral evaluation to whether a sinkhole loss has occurred. Under current law, neutral evaluation is available to contest causation or the method of repair, and the neutral evaluator must make a recommendation as to the proper method of repair when a sinkhole loss is present.
- Requires OPPAGA to submit a report evaluating the Program to the Governor, Chief Financial Officer, President of the Senate, and Speaker of the House of Representatives by January 1, 2017.

B. Amendments:

None.

430014

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/13/2014	.	
	.	
	.	
	.	

Appropriations Subcommittee on General Government (Simpson) recommended the following:

1 **Senate Amendment**
2
3 Delete line 199
4 and insert:
5 policy limits on the structure, subject to any dual interest
6 noted on the policy. If the property is entered into

615890

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/13/2014	.	
	.	
	.	
	.	

Appropriations Subcommittee on General Government (Simpson) recommended the following:

1 **Senate Amendment**
2
3 Delete line 224
4 and insert:
5 policyholder, subject to any dual interest noted on the policy.

973154

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/13/2014	.	
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	.	

Appropriations Subcommittee on General Government (Simpson) recommended the following:

1 **Senate Amendment**
2
3 Delete lines 137 - 139
4 and insert:
5 party surety, in favor of the corporation as obligee.

673232

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/13/2014	.	
	.	
	.	
	.	

Appropriations Subcommittee on General Government (Simpson) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Delete lines 166 - 205
4 and insert:
5 qualified stabilization repair contractors to perform repairs.
6
7 ========== T I T L E A M E N D M E N T ==========
8 And the title is amended as follows:
9 Delete lines 11 - 14
10 and insert:

673232

11 repairs provided under the program; providing
12 requirements and

429040

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/13/2014	.	
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	.	

Appropriations Subcommittee on General Government (Simpson) recommended the following:

1 **Senate Amendment (with directory and title amendments)**
2
3 Between lines 265 and 266
4 insert:
5 (gg) As a component of the stabilization repair program set
6 forth in paragraph (ff), a policy for residential property
7 insurance issued by the corporation must include a deductible
8 applicable to sinkhole losses which shall be offered in amounts
9 equal to 2 percent, 5 percent, and 10 percent of the policy
10 dwelling limits, with appropriate premium discounts offered with

429040

11 each deductible amount. However, for the purposes of determining
12 eligibility pursuant sub-subparagraphs (c)5.a. and b. and s.
13 627.3518(5), the term "comparable coverage" for sinkhole losses
14 means a 10 percent deductible regardless of the deductible
15 selected by a corporation policyholder.
16
17 ====== D I R E C T O R Y C L A U S E A M E N D M E N T ======
18 And the directory clause is amended as follows:
19 Delete lines 31 - 32
20 and insert:
21 (hh) through (jj), respectively, and new paragraphs (ff) and
22 (gg) are added to that subsection, to read:
23
24 ================ T I T L E A M E N D M E N T ================
25 And the title is amended as follows:
26 Delete line 19
27 and insert:
28 policyholder; providing applicability; requiring the
29 corporation to offer specified deductible amounts for
30 sinkhole loss coverage; requiring the

448318

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/13/2014	.	
	.	
	.	
	.	

Appropriations Subcommittee on General Government (Simpson) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Between lines 265 and 266
4 insert:
5 Section 2. Paragraph (f) of subsection (2) of section
6 627.706, Florida Statutes, is amended to read:
7 627.706 Sinkhole insurance; catastrophic ground cover
8 collapse; definitions.—
9 (2) As used in ss. 627.706-627.7074, and as used in
10 connection with any policy providing coverage for a catastrophic

448318

11 ground cover collapse or for sinkhole losses, the term:
12 (f) “Professional engineer” means an engineer ~~a person~~, as
13 defined in s. 471.005, who has a bachelor’s degree ~~or higher~~ in
14 engineering. A professional engineer must also have experience
15 and expertise in the identification of sinkhole activity or ~~as~~
16 ~~well as~~ other potential causes of structural damage.
17
18 ========== T I T L E A M E N D M E N T ==========
19 And the title is amended as follows:
20 Delete line 19
21 and insert:
22 policyholder; providing applicability; amending s.
23 627.706, F.S.; revising the definition of
24 “professional engineer”; requiring the

120980

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/13/2014	.	
	.	
	.	
	.	

Appropriations Subcommittee on General Government (Simpson) recommended the following:

1 **Senate Amendment**
2
3 Delete lines 140 - 148
4 and insert:
5 (III) The stabilization repair contractor to provide a
6 warranty to the policyholder, secured by an authorized insurer
7 or registered risk retention group, which covers all repairs
8 provided by the stabilization repair contractor for at least 5
9 years after completion of the stabilization repairs. If, for any
10 contract, the stabilization repair contractor demonstrates that

120980

11 a warranty that is secured by an authorized insurer or
12 registered risk retention group cannot be procured, or that such
13 warranty cannot be procured for a cost equal to or less than 3
14 percent of the stabilization repair contract amount, the
15 corporation shall serve as the guarantor of the work performed
16 by the contractor. The corporation shall also provide a warranty
17 to the policyholder which covers all repairs provided by the
18 stabilization repair contractor for at least 5 years if the
19 stabilization repair contractor is unable to provide a remedy
20 required under the warranty it provided to the policyholder.

146858

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
03/13/2014	.	
	.	
	.	
	.	

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

1 **Senate Amendment (with directory and title amendments)**
2
3 Delete lines 52 - 287
4 and insert:
5 (ff) Once a sinkhole property damage claim has been
6 settled, or a court judgment or order for damages obtained, the
7 property owner must use the proceeds from such settlement or
8 court decision to repair and remediate the property within a
9 reasonable period of time. Property owners must provide notice
10 within 45 days after completion of the repairs.

146858

11 (gg) To facilitate timely repairs and remediation, the
12 corporation shall disburse claim settlement proceeds and court-
13 ordered judgments made payable to the property owner, and if
14 there is a mortgage balance, to both the property owner and
15 financial lender as co-payees.
16
17 ====== D I R E C T O R Y C L A U S E A M E N D M E N T ======
18 And the directory clause is amended as follows:
19 Delete lines 28 - 32
20 and insert:
21 Section 1. Paragraph (ee) of subsection (6) of section
22 627.351, Florida Statutes, is amended, present paragraphs (ff)
23 through (hh) of that subsection are redesignated as paragraphs
24 (hh) through (jj), respectively, and new paragraphs (ff) and
25 (gg) are added to that subsection, to read:
26
27 ================ T I T L E A M E N D M E N T ================
28 And the title is amended as follows:
29 Delete lines 6 - 23
30 and insert:
31 and declined; requiring a property owner to use the
32 proceeds from a sinkhole property damage claim within
33 a reasonable period of time; requiring the corporation
34 to disburse claim settlement proceeds and court-
35 ordered judgments to the property owner and to the
36 financial lender if there is a mortgage balance;
37 providing an effective

952730

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/13/2014	.	
	.	
	.	
	.	

Appropriations Subcommittee on General Government (Bradley) recommended the following:

1 **Senate Substitute for Amendment (146858)**
2
3 Delete lines 225 - 233
4 and insert:
5 7. Once a sinkhole property damage claim has been settled,
6 or a court judgment or order for damages obtained, the property
7 owner must use the proceeds from such settlement or court
8 decision to repair and remediate the property within a
9 reasonable period of time. Property owners must provide notice
10 within 45 days after completion of the repairs. To facilitate

952730

11 timely repairs and remediation, the corporation shall disburse
12 claim settlement proceeds and court-ordered judgments made
13 payable to the property owner, and if there is a mortgage
14 balance, to both the property owner and financial lender as co-
15 payees.

336794

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/13/2014	.	
	.	
	.	
	.	

Appropriations Subcommittee on General Government (Simpson) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Delete lines 165 - 205
4 and insert:
5 e. The corporation shall enter into contracts with
6 qualified stabilization repair contractors to perform repairs.
7 The policyholder shall have up to 30 days to select a
8 stabilization repair contractor from the pool. If the
9 policyholder fails to make a selection within 30 days, the

336794

10 corporation shall make a selection.
11
12 ========== T I T L E A M E N D M E N T ==========
13 And the title is amended as follows:
14 Delete lines 14 - 16
15 and insert:
16 stabilization repairs; requiring the policyholder to
17 select a contractor from the pool within a certain
18 time period; specifying additional parameters with

By the Committee on Banking and Insurance; and Senator Simpson

A bill to be entitled

An act relating to sinkhole coverage; amending s. 627.351, F.S.; requiring Citizens Property Insurance Corporation to submit a biannual report on the number of residential sinkhole policies requested, issued, and declined; providing legislative intent and establishing a Citizens Sinkhole Stabilization Repair Program for sinkhole claims; defining terms; prohibiting the corporation from requiring a policyholder to advance payment for stabilization repairs provided under the program; providing requirements and procedures for selecting stabilization repair contractors to conduct stabilization repairs; providing requirements and terms for contracts between the corporation and such contractors; specifying additional parameters with respect to the program, including provision for resolving disputes between the corporation and a policyholder; providing applicability; requiring the Office of Program Policy Analysis and Government Accountability to conduct a study of the program and submit a report to the Governor, the Chief Financial Officer, and the Legislature; providing an effective date.

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

Section 1. Paragraph (ee) of subsection (6) of section 627.351, Florida Statutes, is amended, present paragraphs (ff)

through (hh) of that subsection are redesignated as paragraphs (gg) through (ii), respectively, and new paragraphs (ff) is added to that subsection, to read:

627.351 Insurance risk apportionment plans.—

(6) CITIZENS PROPERTY INSURANCE CORPORATION.—

(ee) At least once every 6 months, the corporation shall submit a report to the office disclosing:

1. The total number of requests received for residential sinkhole loss coverage;

2. The total number of policies issued for residential sinkhole loss coverage;

3. The total number of requests declined for residential sinkhole loss coverage; and

4. The reasons for declining requests for residential sinkhole loss coverage ~~The office may establish a pilot program to offer optional sinkhole coverage in one or more counties or other territories of the corporation for the purpose of implementing s. 627.706, as amended by s. 30, chapter 2007-1, Laws of Florida. Under the pilot program, the corporation is not required to issue a notice of nonrenewal to exclude sinkhole coverage upon the renewal of existing policies, but may exclude such coverage using a notice of coverage change.~~

(ff) The Legislature finds that providing a program to repair property damaged by sinkholes safeguards the public's health, safety, and welfare and that it is in the public's interest for sinkhole loss claims to be resolved by stabilizing the land and structure and repairing the foundation of the damaged structure. The Legislature further finds that, in the past, many homeowners who obtained payouts from the corporation

59 for a sinkhole claim did not use the funds to repair or
60 remediate the claimed damage, thereby harming the real estate
61 marketability of their homes and the valuation of other homes in
62 the area. Therefore, the corporation shall establish a Citizens
63 Sinkhole Stabilization Repair Program to promote the repair and
64 remediation of sinkhole damage to homes. By March 31, 2015, any
65 claim against a corporation policy that covers residential
66 sinkhole loss for which it is determined that a covered sinkhole
67 loss has occurred must be included in and governed by the repair
68 program for the purpose of making stabilization repairs. The
69 determination of whether a policyholder has a covered sinkhole
70 loss will be made by the corporation or through neutral
71 evaluation, judicial decree, or final judgment.
72 1. As used in this paragraph, the term:
73 a. "Engineering report" means the report issued pursuant to
74 s. 627.7073(1).
75 b. "Neutral evaluation" and "neutral evaluator" have the
76 same meanings as provided in s. 627.706(2).
77 c. "Recommendation of the engineer" means the
78 recommendation of the professional engineer engaged by the
79 corporation and included in the report pursuant to s.
80 627.7073(1)(a)5.
81 d. "Sinkhole loss" has the same meaning as provided in s.
82 627.706(2).
83 e. "Stabilization repair" means stabilizing the land and
84 structure caused by sinkhole activity and repairing the damaged
85 structure.
86 f. "Stabilization repair contractor" means a contractor who
87 makes stabilization repairs.

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

88 2. The repair program shall be managed by the corporation
89 and must include the following components:
90 a. The policyholder may not be required to advance payment
91 for stabilization repairs.
92 b. Stabilization repairs must be conducted by a
93 stabilization repair contractor selected from an approved
94 stabilization repair contractor pool procured by the corporation
95 pursuant to an open and transparent process. Each contractor
96 within the pool must be qualified and approved by the
97 corporation based on criteria that include the following
98 requirements:
99 (I) The stabilization repair contractor corporate entity
100 must demonstrate experience in the stabilization of sinkhole
101 activity pursuant to requirements established by the
102 corporation.
103 (II) The stabilization repair contractor must be certified
104 as a contractor pursuant to s. 489.113(1).
105 (III) The stabilization repair contractor must demonstrate
106 capacity to be bonded and provide performance, surety, or other
107 bonds as described in this section, which may be supplemented by
108 additional requirements as determined by the corporation.
109 (IV) The stabilization repair contractor must demonstrate
110 that it meets insurance coverage requirements, including, but
111 not limited to, commercial general liability and workers'
112 compensation, established by the corporation.
113 (V) The stabilization repair contractor must maintain a
114 valid drug-free workplace program.
115 (VI) Such other requirements as may be established by the
116 corporation.

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

117 c. Stabilization repair contractors selected from the
118 approved stabilization repair contractor pool shall conduct
119 stabilization repairs pursuant to a contract between the
120 contractor and the corporation. Such contract is not subject to
121 paragraph (e) or s. 287.057. Pursuant to the terms of the
122 contract, the selected contractor is solely responsible for the
123 performance of all necessary stabilization repairs specified in
124 the engineering report and the recommendations of the engineer.
125 d. The corporation shall develop a standard stabilization
126 repair contract for the purpose of conducting stabilization
127 repairs on all properties within the repair program. At a
128 minimum, the contract must require:
129 (I) The assigned stabilization repair contractor to
130 complete all stabilization repairs identified in the engineering
131 report based on line-item prices developed by the corporation
132 which reasonably reflect actual market prices for sinkhole
133 stabilization activities.
134 (II) Each stabilization repair contractor to post a payment
135 bond in favor of the corporation as obligee for each project
136 assigned and to post a performance bond, secured by a third-
137 party surety, in favor of the corporation as obligee, in a
138 principal amount equal to the total cost of all contracts
139 annually awarded to that contractor.
140 (III) The stabilization repair contractor to provide a
141 warranty to the policyholder which covers all repairs provided
142 by the stabilization repair contractor for at least 5 years
143 after completion of the stabilization repairs. The corporation
144 shall also provide a warranty to the policyholder which covers
145 all repairs provided by the stabilization repair contractor for

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

146 at least 5 years if the stabilization repair contractor is
147 unable to provide a remedy required under the warranty it
148 provided to the policyholder.
149 (IV) That, throughout the course of the stabilization
150 repairs performed by the contractor, the engineer monitor the
151 property and confirm that stabilization has been satisfactorily
152 completed and that no further stabilization is necessary to
153 remedy the damage identified in the engineering report and the
154 recommendations of the engineer.
155 (V) That the stabilization repair contractor notify the
156 corporation if the engineer concludes that additional
157 stabilization repairs are necessary to complete the repairs
158 specified in the engineering report and the recommendations of
159 the engineer. If repairs can be completed within policy limits,
160 the stabilization repair contractor shall complete the
161 additional repairs based on the line-item prices developed by
162 the corporation. The contract must also contain provisions
163 specifying the remedy and sanctions for failing to perform the
164 additional repairs.
165 e. The corporation shall enter into contracts with
166 qualified stabilization repair contractors to perform repairs
167 pursuant to a process that requires all of the following
168 components:
169 (I) Within 30 days after the completion of the engineering
170 report, the report must be posted on a list that is made
171 available to all stabilization repair contractors within the
172 pool.
173 (II) The corporation shall select a stabilization repair
174 contractor from the pool pursuant to a selection process

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

175 established by the corporation for assigning a stabilization
176 repair contractor to perform stabilization repairs for each
177 property within the program. The selection process must include
178 all of the following:
179 (A) All stabilization repair contractors within the pool
180 are provided an opportunity to submit an offer to perform the
181 stabilization repairs recommended in the engineering report.
182 Such offer must include an itemized statement of work based on
183 line-item prices developed by the corporation.
184 (B) The corporation shall review the offers and provide the
185 policyholder with a list of all stabilization repair contractors
186 that submit an offer under sub-sub-sub-subparagraph (A).
187 (C) The policyholder has up to 30 days to select a
188 stabilization repair contractor from the list. If the
189 policyholder fails to make a selection within 30 days, the
190 corporation shall make the selection. The corporation may
191 reserve the right to select a stabilization repair contractor on
192 the list based upon quality, cost-effectiveness, and such other
193 criteria as the corporation determines appropriate.
194 (D) If no stabilization repair contractor submits an offer
195 to perform the stabilization repairs for a property within the
196 program or if all offers are above the policyholder's policy
197 limit, the corporation may enter the property into the selection
198 process again or may pay the policyholder an amount up to the
199 policy limits on the structure. If the property is entered into
200 the selection process three times and no stabilization repair
201 contractor submits an offer to repair the property or all offers
202 are above the policyholder's policy limit, the corporation shall
203 elect to pay for stabilization repairs above the policyholder's

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

204 policy limit or pay the policyholder an amount up to the policy
205 limits on the structure.
206 3. The corporation is not responsible for serving as a
207 stabilization repair contractor. The corporation's obligations
208 under the repair program are not an election to repair by the
209 corporation and therefore do not imply or create a new
210 contractual relationship with the policyholder.
211 4. The corporation's liability related to stabilization
212 repair activity pursuant to the repair program and all other
213 repairs to the structure conducted in accordance with the terms
214 of the policy may not be greater than the policy limits on the
215 structure.
216 5. The corporation shall pay for other repairs to the
217 structure and contents in accordance with the terms of the
218 policy.
219 6. If the professional engineer engaged by the corporation
220 determines that the stabilization repair cannot be completed
221 within policy limits, the corporation must pay to complete the
222 stabilization repair recommended by the corporation's
223 professional engineer or tender the policy limits to the
224 policyholder.
225 7. If a dispute arises between the corporation and the
226 policyholder under this paragraph, under the policy, or under s.
227 627.707 relating to the nature or extent of stabilization
228 repairs to be conducted under the repair program, the sole
229 remedy for resolving such dispute shall be to proceed with the
230 necessary stabilization repairs through the repair program
231 established under this paragraph, regardless of whether the
232 claim, judgment, or decree is for breach of contract,

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

233 declaratory relief, or specific performance.
234 8. If the corporation denies a policyholder's claim for
235 sinkhole loss, the corporation or the policyholder may invoke
236 neutral evaluation by filing a request with the department
237 pursuant to s. 627.7074(7). Neutral evaluation is mandatory if
238 requested by the corporation or the policyholder.
239 a. The neutral evaluator may not directly or indirectly
240 participate in the remediation, repair, or restoration of the
241 damaged property that is the subject of the claim, have a
242 financial interest in the remediation, repair, or restoration of
243 the damaged property that is the subject of the claim, or have a
244 financial interest in any business entity that is involved in
245 the remediation, repair, or restoration of the damaged property
246 that is the subject of the claim.
247 b. The only issues to be determined by the neutral
248 evaluator, pursuant to state law and the applicable policy, are
249 whether there is sinkhole activity present as determined by a
250 qualified professional geologist and, if so, whether there is
251 sinkhole loss as determined by a qualified professional
252 engineer. If the neutral evaluator determines that sinkhole loss
253 exists, the sinkhole damage shall be included in and governed by
254 the repair program.
255 c. Filing a request for neutral evaluation tolls the
256 applicable time requirements for filing suit for 60 days
257 following the conclusion of the neutral evaluation process or
258 the time prescribed in s. 95.11, whichever is later.
259 9. This paragraph does not prohibit the corporation from
260 establishing a managed repair program for other repairs to the
261 structure in accordance with the terms of the policy.

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

262 10. This paragraph supersedes s. 627.7074(4) and applies
263 only to the corporation and its policyholders and does not apply
264 to any other insurer.
265 11. This paragraph supersedes s. 627.707(5)(a)-(d).
266 Section 2. By January 1, 2017, the Office of Program Policy
267 Analysis and Government Accountability shall review the Citizens
268 Sinkhole Stabilization Repair Program and submit a report to the
269 Governor, the Chief Financial Officer, the President of the
270 Senate, and the Speaker of the House of Representatives. The
271 report must:
272 (1) Analyze policyholder satisfaction with stabilization
273 repairs received through the program and the sufficiency of
274 consumer protections provided by the program.
275 (2) Analyze the timeliness of stabilization repairs, in
276 comparison with industry averages and practices. The report
277 shall evaluate the loss costs associated with sinkhole claims
278 under the program, comparing them with corporation's loss costs
279 before the program's creation.
280 (3) Evaluate whether disputes between stabilization repair
281 contractors and policyholders are resolved in an effective and
282 timely manner.
283 (4) Evaluate whether litigation of sinkhole claims and
284 associated costs are increasing or decreasing under the program,
285 and the causes of such litigation.
286 (5) Evaluate the cost-effectiveness of allowing the program
287 to be managed by a third-party administrator.
288 Section 3. This act shall take effect July 1, 2014.

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

03/05/14
Meeting Date

Topic: Citizens - Sinkhole Coverage

Bill Number: SB 1110 *(if applicable)*

Name: Christine Ashburn

Amendment Barcode: *(if applicable)*

Job Title: Vice President, Communications, Legislative + External Affairs

Address: 2312 Killearn Center Blvd - Bldg A
Street

Tallahassee, FL
City *State* *Zip*

Phone:

E-mail: christine.ashburn@citizensfla.com

Speaking: ☐ For ☐ Against ☐ Information

Representing: Citizens Property Ins. 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.

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)

3-5-14
Meeting Date

Topic: SINKHOLE REPAIR WARRANTIES

Bill Number: 416 *(if applicable)*

*Name: PAUL THOMAS

Amendment Barcode: *(if applicable)*

Job Title: NATIONAL RISK MANAGER

*Address: 10375 E. HARVARD AVE.
Street

DENVER, CO 80231
City *State* *Zip*

*Phone: 720-747-6000

E-mail: PTHOMAS@2-10.COM

Speaking: [✓] For [ ] Against [ ] Information

Representing: 2-10 HOME BUYERS WARRANTY

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)

3/5/14
Meeting Date

Topic _____

Bill Number 486 (if applicable)

Name Frank Meiners

Amendment Barcode _____ (if applicable)

Job Title _____

Address Box 1655
Street

Tallahassee FL 32302
City State Zip

Phone _____

E-mail _____

Speaking: [X] For [ ] Against [ ] Information

Representing AIF

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [X] 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)

03/05/2014
Meeting Date

Topic: CITIZENS - SINKHOLE

Bill Number: CS/SB 426 *(if applicable)*

Name: DON BROWN

Amendment Barcode: *(if applicable)*

Job Title:

Address: PO B 866
Street

DFS, FL
City *State* *Zip*

Phone: 850-865-9280

E-mail: DON@DONBROWNFLORIDA.COM

Speaking: [✓] For [ ] Against [ ] Information

Representing: AIF

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)

3/5/14
Meeting Date

Topic: Sinkhole Coverage

Bill Number: SB416 *(if applicable)*

Name: LAURA LENHART

Amendment Barcode: *(if applicable)*

Job Title: Governmental Affairs Coordinator

Address: 136 S. Broough
Street

Tallahassee, FL 32304
City *State* *Zip*

Phone: 850 521-1292

E-mail: llenhart@flchamber.com

Speaking: [x] For [ ] Against [ ] Information

Representing: Florida Chamber of Commerce

Appearing at request of Chair: [ ] Yes [x] No

Lobbyist registered with Legislature: [x] 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)

3-5-14
Meeting Date

Topic: SINKHOLE

Bill Number: 416 (if applicable)

Name: GARY FARMER

Amendment Barcode: — (if applicable)

Job Title: ATTORNEY

Address: 425 N. ANDREWS AVE.
Street

FT. LAUDERDALE FL 33067
City State Zip

Phone: 954-524-2820

E-mail: GARY@PATHTOJUSTICE.COM

Speaking: ☐ For ☒ Against ☐ Information

Representing: FLORIDA JUSTICE ASS'N

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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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)

3/5/14
Meeting Date

Topic: Sinkhole

Bill Number: 416 (if applicable)

Name: Greg Armstrong

Amendment Barcode: (if applicable)

Job Title: Real Estate Broker

Address: 9251 Alcott Way
Street

Trinity, FL 34655
City, State, Zip

Phone: 727-495-2424

E-mail: armgreg@verizon.net

Speaking: [X] For [ ] Against [ ] Information

Representing: Florida Realtors

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [ ] Yes [X] No

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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)

3/5/2014
Meeting Date

Topic _____

Bill Number H16 *(if applicable)*

Name Brian Pitts

Amendment Barcode _____ *(if applicable)*

Job Title Trustee

Address 1119 Newton Ave S.
Street

St Petersburg FL 33705
City *State* *Zip*

Phone 727/897-9291

E-mail justice2jesus@yahoo.com

Speaking: ☐ For ☐ Against ☑ Information

Representing Justice-2-Jesus

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

Tallahassee, Florida 32399-1100

SENATOR WILTON SIMPSON
18th District

COMMITTEES:
Community Affairs, *Chair*
Appropriations Subcommittee on General Government
Appropriations Subcommittee on Transportation, Tourism, and Economic Development
Commerce and Tourism
Communications, Energy, and Public Utilities
Environmental Preservation and Conservation

JOINT COMMITTEE:
Joint Legislative Auditing Committee

February 5, 2014

Senator Alan Hays, Chairman
Appropriations Subcommittee on General Government
201 The Capitol
404 S. Monroe Street
Tallahassee, FL 32399

Senator Hays,

Please place Senate Bill 416 relating to sinkhole coverage, on the next Appropriations Subcommittee on General Government agenda.

Please contact my office with any questions.

Wilton Simpson
Senator, 18th District

REPLY TO:
☐ 322 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5018
☐ Post Office Box 938, Brooksville, Florida 34605
☐ Post Office Box 787, New Port Richey, Florida 34656-0787 (727) 816-1120 FAX: (888) 263-4821

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DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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

BILL: CS/SB 666

INTRODUCER: Appropriations Subcommittee on General Government and Senator Detert

SUBJECT: Loan Originators, Mortgage Brokers, and Mortgage Lenders

DATE: March 5, 2014 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Knudson	BI	**Favorable**
2.	Davis	DeLoach	AGG	**Fav/CS**
3.			AP	

I. Summary:

CS/SB 666 revises provisions governing non-depository loan originators, mortgage brokers, and lender businesses subject to regulation by the Office of Financial Regulation (OFR) under ch. 494, F.S. The bill:

- Provides licensees an additional two months to renew their license; however, such licensees are subject to a reinstatement fee in addition to the registry fees due December 31 of each year.
- Revises provisions that conflict with the federal Dodd-Frank Act and the Consumer Financial Protection Bureau (CFPB) regulations.
- Repeals provisions that are duplicative or redundant with federal provisions.
- Authorizes the OFR to conduct joint or concurrent examinations with any state or federal regulatory agency and to share examination reports with those regulators.
- Makes technical and clarifying changes.

The bill has an indeterminate fiscal impact on state revenue and expenditures, as the number of licensees that would use the late renewal and reactivation capability is unknown. Based on historical license renewal data, the OFR anticipates that existing resources will be sufficient for expenditures and workload related to this bill.

The bill has an effective date of July 1, 2014.

II. Present Situation:

Federal Regulation

Secure and Fair Enforcement for Mortgage Licensing Act of 2008

On July 30, 2008, the federal Housing and Economic Recovery Act of 2008 was enacted.[1] Title V of this act is titled the "Secure and Fair Enforcement for Mortgage Licensing Act of 2008" or the "S.A.F.E. Mortgage Licensing Act of 2008." (S.A.F.E.) The act requires all states to adopt a system of licensure meeting national definitions and minimum standards for mortgage loan originators by August 1, 2009, or be subject to federal regulation. The act establishes regulatory requirements for individuals, rather than businesses, licensed or registered as mortgage brokers and lenders, collectively known as loan originators.

Pursuant to S.A.F.E., states are required to participate in a national licensing registry, the Nationwide Mortgage Licensing System and Registry (registry), which contains employment history as well as disciplinary and enforcement actions against loan originators. The registry was created by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators and began operations in January 2008. The registry provides an internet-based licensing platform for the mortgage industry and regulators. The registry is the sole system of licensure for mortgage companies for 54 state agencies and the sole system of licensure for loan originators for 58 state and territorial agencies. The registry itself does not grant or deny license authority. Applicants are subject to licensure by the state regulator.[2]

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

In 2010, the federal Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act) created the federal CFPB and provided sweeping changes to the regulation of financial services, including changes to federal mortgage loan origination and lending laws.[3] The Dodd-Frank Act authorizes the CFPB to have rulemaking, enforcement, and supervisory powers over many consumer financial products and services, as well as the entities that sell them. These consumer laws include the Truth in Lending Act (TILA)[4] and the Real Estate Settlement Procedures Act (RESPA)[5]. The CFPB was granted rulemaking authority pursuant to the Mortgage Reform and Anti-Predatory Lending Act, which revises provisions relating to loan origination and lending standards.[6] Regulations adopted by the CFPB relating to loan origination and lending have resulted in several inconsistencies with ch. 494, F.S., relating to loan originators and mortgage brokers.

The Dodd-Frank Act provides that for purposes of residential mortgages, creditors must make a reasonable and good faith determination based on verified and documented information that the consumer has a reasonable ability to repay the loan and establishes certain protections from

[1] Public Law 110-289.
[2] NLMS Resource Center, at http://mortgage.nationwidelicensingsystem.org/about/Pages/default.aspx (last visited February 14, 2014).
[3] Public Law 111-203.
[4] 15 U.S.C. s. 1601, *et. seq*.
[5] 15 U.S.C. s. 2601, *et. seq*.
[6] Enacted as Title XIV of the Dodd-Frank Act s. 1400.

liability under the requirement for "qualified mortgages." The rule, amending Regulation Z, establishes product-feature prerequisites and affordability underwriting requirements for qualified mortgages and provides a safe harbor for loans that satisfy the definition of a qualified mortgage and are not higher-priced mortgages.[7] The rule implements the statutory criteria, which generally prohibits loans with negative amortization, interest-only payments, balloon payments, or terms exceeding 30 years from being qualified mortgages. Finally, a loan generally cannot be a qualified mortgage if the points and fees paid by the consumer exceed three percent of the total loan amount, with exceptions. This rule is effective January 1, 2014.

The Real Estate Settlement Procedures Act of 1974 (RESPA)[8] requires lenders, mortgage brokers, or servicers of home loans to provide borrowers with pertinent and timely disclosures regarding the nature and costs of the real estate settlement process. It also prohibits specific practices, such as kickbacks, and places limitations upon the use of escrow accounts. In 2013, the CFPB issued rules, effective January 2014, amending Regulation X,[9] that include new provisions related to escrow payments, force-placed insurance, general servicing policies, procedures, and requirements, early intervention, continuity of contact, and loss mitigation.

The Home Ownership and Equity Protection Act (HOEPA) was enacted in 1994 as an amendment to TILA to address abusive practices in refinances and closed-end home equity loans with high interest rates or high fees. Since HOEPA's enactment, refinances or home equity mortgage loans meeting any of HOEPA's high-cost coverage tests have been subject to special disclosure requirements and restrictions on loan terms, and consumers with high-cost mortgages have had enhanced remedies for violations of the law. In 2010, the Dodd-Frank Act amended TILA by expanding the scope of HOEPA coverage to include purchase-money mortgages and open-end credit plans (i.e., home equity lines of credit) and amended HOEPA's coverage tests. The Dodd-Frank Act also added new protections for high-cost mortgages, including a requirement that consumers receive homeownership counseling before obtaining a high-cost mortgage.

Florida Regulation

The OFR regulates a wide range of financial enterprises, such as state-chartered banks, credit unions, and non-depository loan originators, mortgage brokers and mortgage lenders. In 2009, the Florida Legislature implemented the minimum standards of S.A.F.E., which increased licensure requirements and required licensure through the registry.[10] Pursuant to s. 494.00255(1)(m), F.S., the OFR may take disciplinary action against a person licensed or subject to licensure under ch. 494, F.S., if the person violates any provision of RESPA, TILA, or any regulations adopted under such acts, during the course of any mortgage transaction.

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

Licensure as a loan originator is required for an individual who, directly or indirectly:

- Solicits or offers to solicit a mortgage loan;

[7] 24 C.F.R. Part 1026. Regulation Z implements TILA.
[8] 12 U.S.C. s. 2601, *et. seq.*
[9] 24 C.F.R. Part 1024. Regulation X implements RESPA.
[10] Chapter 2009-241, Laws of Fla.

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

The term, "loan originator," includes an individual who is required to be licensed as a loan originator under S.A.F.E. The term does not include an employee of a mortgage broker or mortgage lender whose duties are limited to physically handling a completed application form or transmitting a completed application form to a lender on behalf of a prospective borrower.[11]

Each individual is required to apply for a loan originator license through the registry and submit registry fees of $329.50. An applicant also must meet certain education and testing requirements. An applicant must complete 20 hours of registry approved pre-licensure education courses and have a passing score on the standard test.

A mortgage broker license is required for an entity conducting loan originator activities through one or more licensed loan originators employed by the mortgage broker or as an independent contractor to the mortgage broker.[12] A branch office license is required for mortgage broker licensees who conduct business at locations other than their principal place of business. A business is required to submit $680.50 in registry fees plus a credit report fee of $15 for each control person. The registry fee for each branch office is $245.

A mortgage lender license is required for an entity making a mortgage loan for compensation or gain, directly or indirectly, or selling or offering to sell a mortgage loan to a noninstitutional investor.[13] "Making a mortgage loan" means closing a mortgage loan in a person's name, advancing funds, offering to advance funds, or making a commitment to advance funds to an applicant for a mortgage loan.[14] The registry fee for each mortgage lender or mortgage-servicer branch office is $245. A mortgage lender-servicing license is required for any mortgage lender licensee who services a mortgage loan. The term, "servicing a mortgage loan" means to receive, cause to be received, or transferred for another, installment payments of principal, interest, or other payments pursuant to a mortgage loan.[15] Each mortgage lender or mortgage servicer business is required to remit a registry fee of $755.50 and a credit report fee of $15 for each control person.

III. Effect of Proposed Changes:

Licensure Renewals (Loan Originator, Mortgage Broker, and Mortgage Lender)

The bill provides an additional two months (January 1 through the end of February) for all license types to renew their annual licenses if they are unable to renew by the deadline of December 31. If the licensee fails to meet the renewal requirements by December 31, the

[11] Section 494.001(16), F.S.
[12] Section 494.001(21), F.S.
[13] Section 494.001(22), F.S.
[14] *See* Section 494.001(19), F.S.
[15] *See* Section 494.001(34), F.S.

licensee would have a status as "fails to renew" pending review by the OFR. If a licensee fails to renew by March 1 and pay the applicable reinstatement fee, the license expires and the applicant must apply for a new license and comply with the applicable licensing requirements for the license category.

The reinstatement fees for licenses renewed after the December 31 deadline and before March 1 are $150 for loan originators, $250 for mortgage brokers, $225 for branch offices of mortgage brokers or mortgage lenders, and $475 for mortgage lenders. The reinstatement fee would be in addition to the annual registry fees applicable for the respective licensure category.

Fees and Disclosures

The bill eliminates certain requirements relating to mortgage broker agreements, currently provided in ss. 494.0038 and 494.004, F.S. Licensees are subject to these disclosures under RESPA and the CFPB regulations, and these provisions in ch. 494, F.S., are redundant and inconsistent with federal regulations. Specifically, the bill deletes provisions related to the written disclosure of loan origination fees and other disclosures between a borrower to a mortgage broker; the requirement for a written mortgage broker agreement describing the services to be provided by the broker; and the execution requirements for such an agreement. Rules currently prescribe the form of disclosure used. This section also removes the requirement that a written disclosure must be provided at the time an adjustable rate mortgage loan is offered to the borrower, and when the terms of the adjustable rate mortgage loan offered materially changes prior to closing. Current law prohibits the payment of a loan origination fee except pursuant to a written agreement between a borrower and a mortgage broker. Current law requires a mortgage broker to disclose any payment from the mortgage lender in a written agreement within three days of such notification. The bill also amends s. 494.004, F.S., by removing certain notification requirements relating to mortgage loan transactions; specifically, it removes the requirement that each mortgage broker must notify a borrower of any material change in the terms of a loan previously offered to the borrower within three business days of being made aware of the change by the mortgage lender. The bill also removes a provision authorizing the borrower the ability to waive the right to receive such a notice under certain circumstances.

The bill repeals s. 494.00421, F.S., relating to mortgage broker fees earned upon obtaining a bona fide commitment. New federal laws and regulations do not allow most fees before closing to be charged or collected from the borrower, including a commitment fee. Industry advocates support the removal of the requirement for a mortgage broker to issue a mortgage broker agreement to a borrower. They note that under TILA's requirements for the compensation of a loan originator, a mortgage broker is not allowed to receive a fee for services rendered prior to the culmination of a transaction. Due to this statutory requirement, advocates of the bill contend that a contract between a mortgage broker and a borrower is weakened since federal requirements do not permit fees to be obtained if a transaction fails to close.[16]

The bill amends s. 494.0067, F.S., relating to requirements of mortgage lenders, to remove language that is required under federal regulations (24 C.F.R. s. 3500.7 and 12 C.F.R.

[16] Florida Association of Mortgage Professionals, *Analysis of Ch. 494, F.S. Changes*, (on file with Senate Committee on Banking and Insurance).

s. 1026.19). The bill removes the requirement that a mortgage lender provide an applicant for a mortgage loan a good faith estimate of the costs the applicant can expect to pay in obtaining a mortgage loan and the delivery requirements of the documents associated with this estimate. The bill removes the requirement that a disclosure relating to an adjustable rate mortgage loan and any changes associated with the terms of such loan occurring prior to closing be provided to the applicant by the mortgage lender, as well as the process for which such notification is furnished by the lender. The bill also removes the requirement that a mortgage lender, in every mortgage transaction, notify the borrower of any material changes in the terms of a mortgage loan previously offered to the borrower as well as the process for which such notification is furnished. The bill removes the requirement that a licensee bears the burden of proof that a notification was provided to and accepted by the borrower. The bill also removes the right of a borrower to waive receipt of the notice of a material change.

The bill repeals s. 494.0068, F.S., relating to loan application process, which sets forth required disclosures for mortgage lenders. Mandatory disclosures are required under Regulation X.

The bill amends s. 494.007, F.S., relating to the commitment process. The bill removes a provision related to the amount of the commitment fee from the written disclosure a mortgage lender must issue if a commitment is issued. This change would align with the federal requirements.

Examinations

The bill authorizes the OFR to conduct a joint or concurrent examination with any state or federal regulatory agency and to share examinations with an appropriate regulator if the recipient agrees to abide by the confidentiality provisions of chs. 119 and 494, F.S. The OFR is also authorized to accept an examination from an appropriate regulator.

Violations of Chapter 494, F.S.

The bill authorizes the OFR to take disciplinary action against a person licensed or subject to licensure under part II or III ch. 494, F.S., if the person is found to be in violation, pursuant to an investigation by the Mortgage Testing and Education Board, of the registry Rules of Conduct in connection with a pre-licensing test. Currently, all loan originator applicants seeking licensure must abide by the registry Rules of Conduct for Test Takers, which prohibits misconduct, assistance, and the use of study materials during pre-licensure examinations.[17] This provision will clarify the OFR's authority to deny applicants who have been found to be cheating on the pre-licensing examination.

Re-enactment

The bill re-enacts s. 494.00255(1)(m), F.S., which provides the OFR the authority to enforce the RESPA and TILA and federal regulations adopted thereunder. Re-enactment allows the OFR to

[17] Registry Rules of Conduct for Test Takers, at http://mortgage.nationwidelicensingsystem.org/profreq/Documents/Test%20Taker%20Rules%20of%20Conduct.pdf (last accessed February 14, 2014).

enforce the federal changes that have been adopted since the prior re-enactment of s. 494.00255(1)(m), F.S.

Definitions

The bill creates a definition of "indirect owner" to mean 25 percent or more ownership. Pursuant to s. 494.001(6), F.S., a "control person" must meet a 10 percent indirect or direct ownership threshold. The registry requires a disclosure by an applicant of all "indirect owners of 25 percent or more of an entity, regardless of the applicant's business structure. However, ch. 494, F.S., does not define the term, "indirect owner." This change clarifies the term, "indirect owners," for purposes of completing the registry application and complying with regulatory requirements.

The bill revises the definition of the term, "loan origination fee," to exclude any payment for processing mortgage loan applications.[18] The Dodd-Frank Act and CFPB regulations prohibit loan originators from receiving compensation that varies based on the terms of a loan (other than the amount of principal), and provides for certain exceptions.[19] This provision is intended to prohibit yield spread premiums or other similar compensation based on terms (including rate) that would cause a loan originator to "steer" borrowers to particular mortgage products.

The Dodd-Frank Act defines a "qualified mortgage" as a loan for which, among other things, the total points and fees do not exceed three percent of the total loan amount. Due to Florida's current requirement for the processing fee to be part of the origination fee, mortgage broker businesses must include this fee toward the three percent cap. According to industry proponents,[20] if this processing fee was not required to be part of the origination fee, it would not have to be included unless the processing company being used was affiliated with the creditor and/or mortgage broker. The industry advocates suggest that the inclusion of processing fees, more than likely from contract processing companies, may result in mortgage broker businesses no longer utilizing the services of a contract processor and attempting to process files on their own. The unintended consequence of this decision may result in a loss of checks and balances on a file and potential harm to the consumer. A consumer advocacy group suggests that the removal of the requirement to include the payment of processing a loan in the fee potentially increases the fee charged to the consumers, in some instances.

Mortgage Call Reports

The bill authorizes the Financial Services Commission to adopt by rule the deadline for mortgage brokers and mortgage lenders to file a report of condition also known as the registry's Mortgage Call Report. This provision would give the OFR flexibility to change the filing deadline in the event the registry revises the deadline. All state mortgage licensees are required to submit a mortgage call report, which includes financial condition information and loan activity, to the registry within 45 days of the end of every calendar quarter.

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[18] Section 494.001(15), F.S.
[19] Section 1403 of the Dodd-Frank Act, effective January 1, 2014.
[20] Florida Association of Mortgage Professionals, *Analysis of Ch. 494 Changes*, (on file with Senate Committee on Banking and Insurance).

Mortgage Lender Loan Application Requirements

The bill repeals s. 494.0068, F.S., relating to the loan application process. This provision is required under federal regulation (12 CFR s. 1026.4).

Florida Fair Lending Act

The bill repeals part IV, ch. 494, F.S., entitled "The Florida Fair Lending Act (act)" which places restrictions on high-cost home loans. The act imposes requirements on high cost mortgage loans that mirror the requirements of the federal Home Ownership and Equity Protection Act (HOEPA), but adds other restrictions and enforcement provisions. The Office of Financial Regulation is responsible for enforcing this part. Subsequent to the enactment of this act, the Dodd-Frank Act amended TILA by expanding the scope of HOEPA coverage to include purchase-money mortgages and open-end credit plans (i.e., home equity lines of credit) and amended HOEPA's coverage tests. The Dodd-Frank Act also added new protections for high-cost mortgages, including a requirement that consumers receive homeownership counseling before obtaining a high-cost mortgage.[21] Advocates of the bill contend that the Dodd-Frank Act and the implementing regulations are more restrictive than Florida's law and, therefore, this act would no longer be used.

Loans Under Florida Uniform Land Sales Practices Law

The bill repeals part V, of ch. 494, F.S., entitled "Loans Under Florida Uniform Land Sales Practices Law," which prescribes terms and conditions for mortgage loans of $35,000 or less that are secured by vacant land and sold to a mortgagee, excluding a financial institution. The statutory cite for penalties, s. 494.05, F.S., was repealed in 1986.[22]

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Constitutional Issues:

Currently, s. 494.00255(1)(m), F.S., provides the OFR the authority to enforce the federal RESPA and TILA and regulations adopted thereunder. However, in light of the significant changes to these federal laws, reenactment of this provision is necessary for

[21] 15 U.S.C. s. 1639.
[22] Chapter 86-68, s. 9, Laws of Fla.

the OFR to enforce these federal changes that have been adopted after the last time the Florida Legislature reenacted s. 494.00255(1)(m), F.S.[23]

As a general rule, a cross-reference to a specific statute incorporates the language of the referenced statute as it existed *at the time* the reference was enacted, unaffected by any subsequent amendments to or repeal of the incorporated statute.[24] The Legislature may adopt provisions of federal statutes and administrative rules made by a federal administrative body "that are in existence and in effect at the time the legislature acts, but it would be an unconstitutional delegation of legislative power for the legislature to adopt in advance any federal act or the ruling of any federal administrative body that Congress or such administrative body might see fit to adopt in the future."[25]

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

CS/SB 666 allows licensees to renew late if they submit a reinstatement fee for the applicable licensure category and comply with other statutory requirements. This fee would be in addition to the current, statutory renewal fee.

The reinstatement fees for licenses renewed after the December 31 deadline and before March 1 are as follows:

- $150 for loan originators,
- $250 for mortgage brokers,
- $225 for mortgage brokers branch offices,
- $225 for mortgage lenders branch offices, and
- $475 for mortgage lenders.

B. Private Sector Impact:

Licensees who fail to renew on or before the December 31 deadline will have an additional two months to renew. However, the licensee must pay the reinstatement fee and registry fees, meet other statutory requirements, and obtain approval by the OFR. Currently, if a licensee fails to renew by December 31, the licensee must file an application and remit fees for a new license to obtain licensure approval from the OFR. According to the OFR, an exact fiscal impact is indeterminate at this time as OFR cannot project how many licensees will use this reactivation option.[26]

The bill's allowance for late license renewals and regulatory streamlining may be beneficial to the residential, non-depository mortgage industry.

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[23] It appears that the last time the Act readopted RESPA and TILA was in the 2011 legislative session (s. 14 of ch. 2011-071, L.O.F.).

[24] See *Overstreet v. Blum*, 227 So. 2d 197 (Fla. 1969); *Hecht v. Shaw*, 151 So. 333 (1933).

[25] *Florida Industrial Commission v. State*, 155 Fla. 772, 21 So.2d 599 (1945). *See also Freimuth v. State*, 272 So.2d 473 (Fla.1972); *State v. Camil*, 279 So.2d 832 (Fla.1973).

[26] OFR's analysis of SB 666 (dated January 21, 2014), on file with the Appropriations Subcommittee on General Government.

A consumer advocacy group has suggested that the removal of the requirement under s. 494.001(15), F.S., which provides any payment for processing mortgage loan applications must be included in the fee, potentially increases the fee charged to the consumer in some instances.[27] According to the proponents[28] of this bill, if this fee were required to be part of the origination fee, it would not have to be included unless the processing company was affiliated with the creditor and/or mortgage broker. The inclusion of processing fees, more than likely from contract processing companies, may result in mortgage broker businesses no longer utilizing the services of a contract processor and attempting to process files on their own. The unintended consequence of this decision may result in a loss of checks and balances on a file and potential harm to the consumer.

C. Government Sector Impact:

Additional revenues and expenditures are possible based on license reactivations after December 31 every year. Since the number of such reactivations is unknown, the fiscal impact is indeterminate.[29] According to the OFR, the additional expenditures and workload can be handled with existing resources.

Mortgage licensure renewal rates for 2013:[30]

	Eligible	Renewing	
Mortgage Loan Originators	17,593	14,269	81%
Mortgage Broker & Lender Businesses	1,925	1,740	90%
Mortgage Broker & Lender Branches	1,460	1,204	82%
Total	20,978	17,213	82%

In addition, the bill will require minimal configuration changes to the OFR's Regulatory Enforcement and Licensing System. The changes can be accommodated within their current operations and maintenance contract.[31]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

[27] Florida Alliance for Consumer Protection, *White Paper: HB 631/SB 666 Loan Originators, Mortgage Brokers, and Mortgage Lenders* February 2014) (on file with the Senate Committee on Banking and Insurance)
[28] Florida Association of Mortgage Professionals, *FS 494 Changes* (January 29, 2014) on file with Senate Committee on Banking and Insurance.
[29] OFR's analysis of SB 666 (dated January 21, 2014), on file with the Appropriations Subcommittee on General Government.
[30] *Id*.
[31] OFR's analysis of similar HB 631 (dated January 27, 2014), on file with the Appropriations Subcommittee on General Government.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 494.001, 494.0012, 494.00255, 494.00313, 494.00322, 494.0036, 494.0038, 494.004, 494.0042, 494.00611, 494.00612, 494.0066, 494.0067, 494.007, and 494.0073.

This bill repeals the following sections of the Florida Statutes: 494.00421, 494.0068, 494.0078, 494.0079, 494.00791, 494.00792, 494.00793, 494.00794, 494.00795, 494.00796, 494.00797, and 494.008.

This bill re-enacts section 494.00255(1)(m), of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

Recommended CS by Appropriations Subcommittee on General Government on March 5, 2014:

- Provides a deadline (before March 1) for late license renewals for all license types subject to regulation under ch. 494, F.S., in order to align with dates established by the National Mortgage Licensing System and Registry;
- Clarifies the OFR's administrative authority over applicants found to be engaging in pre-licensure examination misconduct;
- Re-enacts and updates the OFR's authority to enforce the federal Real Estate Settlement Procedures Act, the Truth in Lending Act, and related federal regulations due to the recent significant changes to those federal laws and regulations; and
- Removes the repeal of s. 494.0028, F.S., relating to arbitration.

B. Amendments:

None.

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

956228

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/05/2014	.	
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Appropriations Subcommittee on General Government (Detert) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Delete everything after the enacting clause
4 and insert:
5 Section 1. Present subsections (12) through (36) of section
6 494.001, Florida Statutes, are redesignated as subsections (13)
7 through (37), respectively, a new subsection (12) is added to
8 that section, and present subsection (15) of that section is
9 amended, to read:
10 494.001 Definitions.—As used in ss. 494.001-494.0077, the

956228

11 term:
12 (12) "Indirect owner" means, with respect to direct and
13 indirect owners in a multilayered organization:
14 (a) If an owner is a corporation, each of its shareholders
15 that beneficially owns, has the right to vote, or has the power
16 to sell or direct the sale of 25 percent or more of voting
17 security of the corporation.
18 (b) If an owner is a partnership, all general partners and
19 those limited and special partners that have the right to
20 receive upon dissolution, or have contributed, 25 percent or
21 more of the partnership's capital.
22 (c) If an owner is a trust, the trust and each trustee.
23 (d) If an owner is a limited liability company:
24 1. Those members that have the right to receive upon
25 dissolution, or have contributed, 25 percent or more of the
26 limited liability corporation's capital; and
27 2. If managed by elected managers or appointed managers,
28 all elected or appointed managers.
29 (e) If an indirect owner, the parent owners of 25 percent
30 or more of their subsidiary.
31 (16) ~~(15)~~ "Loan origination fee" means the total
32 compensation from any source received by a mortgage broker
33 acting as a loan originator. ~~Any payment for processing mortgage~~
34 ~~loan applications must be included in the fee and must be paid~~
35 ~~to the mortgage broker.~~
36 Section 2. Subsection (4) is added to section 494.0012,
37 Florida Statutes, to read:
38 494.0012 Investigations; complaints; examinations.—
39 (4) In order to reduce the burden on persons subject to

956228

40 regulation under this chapter, the office may conduct a joint or
41 concurrent examination with any state or federal regulatory
42 agency and may furnish a copy of all examinations to an
43 appropriate regulator if the regulator agrees to abide by the
44 confidentiality requirements applicable to such examinations,
45 which are provided pursuant to chapter 119 and this chapter. The
46 office may also accept an examination from an appropriate
47 regulator.
48 Section 3. Present paragraphs (m) through (x) of subsection
49 (1) of section 494.00255, Florida Statutes, are redesignated as
50 paragraphs (n) through (y), respectively, and new paragraphs (m)
51 and (z) are added to that subsection, to read:
52 494.00255 Administrative penalties and fines; license
53 violations.—
54 (1) Each of the following acts constitutes a ground for
55 which the disciplinary actions specified in subsection (2) may
56 be taken against a person licensed or required to be licensed
57 under part II or part III of this chapter:
58 (m) In any mortgage transaction, violating any provision of
59 the federal Real Estate Settlement Procedures Act, as amended,
60 12 U.S.C. ss. 2601 et seq.; the federal Truth in Lending Act, as
61 amended, 15 U.S.C. ss. 1601 et seq.; or any regulations adopted
62 under such acts.
63 (z) Pursuant to an investigation by the Mortgage Testing
64 and Education Board acting on behalf of the registry, being
65 found in violation of the Nationwide Mortgage Licensing System
66 and Registry Rules of Conduct.
67 Section 4. Section 494.00313, Florida Statutes, is amended
68 to read:

956228

69 494.00313 Loan originator license renewal.—
70 (1) In order to annually renew a loan originator license, a
71 loan originator must, by December 31:
72 (a) Submit a completed license renewal form as prescribed
73 by commission rule.
74 (b) Submit a nonrefundable renewal fee of $150, the $20
75 nonrefundable fee if required by s. 494.00172, and nonrefundable
76 fees to cover the cost of further fingerprint processing and
77 retention as prescribed by ~~set forth in~~ commission rule.
78 (c) Provide documentation of completion of at least 8 hours
79 of continuing education in courses reviewed and approved by the
80 registry.
81 (d) Authorize the registry to obtain an independent credit
82 report on the licensee from a consumer reporting agency, and
83 transmit or provide access to the report to the office. The cost
84 of the credit report shall be borne by the licensee.
85 (e) Submit any additional information or documentation
86 requested by the office and required by rule concerning the
87 licensee. Additional information may include documentation of
88 pending and prior disciplinary and criminal history events,
89 including arrest reports and certified copies of charging
90 documents, plea agreements, judgments and sentencing documents,
91 documents relating to pretrial intervention, orders terminating
92 probation or supervised release, final administrative agency
93 orders, or other comparable documents that may provide the
94 office with the appropriate information to determine eligibility
95 for renewal of licensure.
96 (2) The office may not renew a loan originator license
97 unless the loan originator continues to meet the minimum

956228

98 requirements for initial licensure pursuant to s. 494.00312 and
99 adopted rule.
100 (3) A licensed loan originator who fails to meet the
101 requirements under this section for annual license renewal on or
102 before December 31, but who meets such requirements after
103 December 31 but before March 1, shall have such license status
104 changed to "failed to renew" pending review and renewal by the
105 office. A nonrefundable reinstatement fee of $150 shall be
106 charged in addition to and apart from any registry fees. The
107 license status may not be changed until the requirements of this
108 section have been met and all fees have been paid. If the
109 licensee fails to submit the required information and pay the
110 required fees by March 1, such license is expired and such
111 individual must apply for a new loan originator license under s.
112 494.00312.
113 Section 5. Section 494.00322, Florida Statutes, is amended
114 to read:
115 494.00322 Mortgage broker license renewal.—
116 (1) In order to annually renew a mortgage broker license, a
117 mortgage broker must, by December 31:
118 (a) Submit a completed license renewal form as prescribed
119 by commission rule.
120 (b) Submit a nonrefundable renewal fee of $375, the $100
121 nonrefundable fee if required by s. 494.00172, and nonrefundable
122 fees to cover the cost of further fingerprint processing and
123 retention as prescribed by ~~set forth in~~ commission rule.
124 (c) Submit fingerprints in accordance with s.
125 494.00321(2)(d) for any new control persons who have not been
126 screened.

956228

127 (d) Authorize the registry to obtain an independent credit
128 report on each of the licensee's control persons from a consumer
129 reporting agency, and transmit or provide access to the report
130 to the office. The cost of the credit report shall be borne by
131 the licensee.
132 (e) Submit any additional information or documentation
133 requested by the office and required by rule concerning the
134 licensee or a control person of the licensee. Additional
135 information may include documentation of pending and prior
136 disciplinary and criminal history events, including arrest
137 reports and certified copies of charging documents, plea
138 agreements, judgments and sentencing documents, documents
139 relating to pretrial intervention, orders terminating probation
140 or supervised release, final administrative agency orders, or
141 other comparable documents that may provide the office with the
142 appropriate information to determine eligibility for renewal of
143 licensure.
144 (2) The office may not renew a mortgage broker license
145 unless the licensee continues to meet the minimum requirements
146 for initial licensure pursuant to s. 494.00321 and adopted rule.
147 (3) A licensed mortgage broker that fails to meet the
148 requirements under this section for annual license renewal on or
149 before December 31, but that meets such requirements after
150 December 31 but before March 1, shall have such license status
151 changed to "failed to renew" pending review and renewal by the
152 office. A nonrefundable reinstatement fee of $250 shall be
153 charged in addition to and apart from any registry fees. The
154 license status may not be changed until the requirements of this
155 section have been met and all fees have been paid. If the

956228

156 licensee fails to submit the required information and pay the
157 required fees by March 1, such license is expired and such
158 person must apply for a new mortgage broker license under s.
159 494.00321.
160 Section 6. Section 494.0036, Florida Statutes, is amended
161 to read:
162 494.0036 Mortgage broker branch office license and license
163 renewal.—
164 (1) Each branch office of a mortgage broker must be
165 licensed under this section.
166 (2) The office shall issue a mortgage broker branch office
167 license to a mortgage broker licensee after the office
168 determines that the licensee has submitted a completed
169 application for a branch office in a form prescribed by
170 commission rule and payment of an initial nonrefundable branch
171 office license fee of $225 per branch office. Application fees
172 may not be prorated for partial years of licensure. The branch
173 office license shall be issued in the name of the mortgage
174 broker that maintains the branch office. An application is
175 considered received for purposes of s. 120.60 upon receipt of a
176 completed application form as prescribed by commission rule, and
177 the required fees.
178 (3) A mortgage broker branch office license must be renewed
179 annually at the time of renewing the mortgage broker license
180 under s. 494.00322.
181 (a) In order to renew a branch office license, a mortgage
182 broker must, by December 31:
183 1. Submit a completed license renewal form as prescribed by
184 commission rule.

956228

185 2. Submit a nonrefundable branch renewal fee of $225 per
186 branch office ~~must be submitted at the time of renewal~~.
187 3. Submit additional information or documentation requested
188 by the office and required by rule concerning the licensee.
189 Additional information may include documents that may assist the
190 office in determining the applicant's eligibility for licensure
191 renewal.
192 (b) The office may not renew a branch office license unless
193 the mortgage broker continues to meet the minimum requirements
194 for initial licensure pursuant to subsection (2) and commission
195 rule.
196 (c) A licensed branch office that fails to meet the
197 requirements under this section for annual license renewal on or
198 before December 31, but that meets such requirements after
199 December 31 but before March 1, shall have such license status
200 changed to "failed to renew" pending review and renewal by the
201 office. A nonrefundable reinstatement fee of $225 shall be
202 charged in addition to and apart from any registry fees. The
203 license status may not be changed until the requirements of this
204 section have been met and all fees have been paid. If the
205 licensee fails to submit the required information and pay the
206 required fees by March 1, such license is expired and the
207 mortgage broker licensee must apply for a new mortgage broker
208 branch office license under subsection (2).
209 Section 7. Section 494.0038, Florida Statutes, is amended
210 to read:
211 494.0038 ~~Loan origination and~~ Mortgage broker fees and
212 commissions ~~disclosures~~.—
213 ~~(1) A loan origination fee may not be paid except pursuant~~

956228

214 ~~to a written mortgage broker agreement between the mortgage~~
215 ~~broker and the borrower which is signed and dated by the~~
216 ~~principal loan originator or branch manager, and the borrower.~~
217 ~~The unique registry identifier of each loan originator~~
218 ~~responsible for providing loan originator services must be~~
219 ~~printed on the mortgage broker agreement.~~
220 ~~(a) The written mortgage broker agreement must describe the~~
221 ~~services to be provided by the mortgage broker and specify the~~
222 ~~amount and terms of the loan origination fee that the mortgage~~
223 ~~broker is to receive.~~
224 ~~1. Except for application and third-party fees, all fees~~
225 ~~received by a mortgage broker from a borrower must be identified~~
226 ~~as a loan origination fee.~~
227 ~~2. All fees on the mortgage broker agreement must be~~
228 ~~disclosed in dollar amounts.~~
229 ~~3. All loan origination fees must be paid to a mortgage~~
230 ~~broker.~~
231 ~~(b) The agreement must be executed within 3 business days~~
232 ~~after a mortgage loan application is accepted if the borrower is~~
233 ~~present when the mortgage loan application is accepted. If the~~
234 ~~borrower is not present, the licensee shall forward the~~
235 ~~agreement to the borrower within 3 business days after the~~
236 ~~licensee's acceptance of the application and the licensee bears~~
237 ~~the burden of proving that the borrower received and approved~~
238 ~~the agreement.~~
239 ~~(2) If the mortgage broker is to receive any payment of any~~
240 ~~kind from the mortgage lender, the maximum total dollar amount~~
241 ~~of the payment must be disclosed to the borrower in the written~~
242 ~~mortgage broker agreement as described in paragraph (1)(a). The~~

956228

243 ~~commission may prescribe by rule an acceptable form for~~
244 ~~disclosure of brokerage fees received from the lender. The~~
245 ~~agreement must state the nature of the relationship with the~~
246 ~~lender, describe how compensation is paid by the lender, and~~
247 ~~describe how the mortgage interest rate affects the compensation~~
248 ~~paid to the mortgage broker.~~
249 ~~(a) The exact amount of any payment of any kind by the~~
250 ~~lender to the mortgage broker must be disclosed in writing to~~
251 ~~the borrower within 3 business days after the mortgage broker is~~
252 ~~made aware of the exact amount of the payment from the lender~~
253 ~~but not less than 3 business days before the execution of the~~
254 ~~closing or settlement statement. The licensee bears the burden~~
255 ~~of proving such notification was provided to the borrower.~~
256 ~~Notification is waived if the exact amount of the payment is~~
257 ~~accurately disclosed in the written mortgage broker agreement.~~
258 ~~(b) The commission may prescribe by rule the form of~~
259 ~~disclosure of brokerage fees.~~
260 ~~(3) At the time a written mortgage broker agreement is~~
261 ~~signed by the borrower or forwarded to the borrower for~~
262 ~~signature, or at the time the mortgage broker business accepts~~
263 ~~an application fee, credit report fee, property appraisal fee,~~
264 ~~or any other third-party fee, but at least 3 business days~~
265 ~~before execution of the closing or settlement statement, the~~
266 ~~mortgage broker shall disclose in writing to any applicant for a~~
267 ~~mortgage loan the following information:~~
268 ~~(a) That the mortgage broker may not make mortgage loans or~~
269 ~~commitments. The mortgage broker may make a commitment and may~~
270 ~~furnish a lock-in of the rate and program on behalf of the~~
271 ~~lender if the mortgage broker has obtained a written commitment~~

956228

272 ~~or lock-in for the loan from the lender on behalf of the~~
273 ~~borrower for the loan. The commitment must be in the same form~~
274 ~~and substance as issued by the lender.~~
275 ~~(b) That the mortgage broker cannot guarantee acceptance~~
276 ~~into any particular loan program or promise any specific loan~~
277 ~~terms or conditions.~~
278 ~~(c) A good faith estimate that discloses settlement charges~~
279 ~~and loan terms.~~
280 ~~1. Any amount collected in excess of the actual cost shall~~
281 ~~be returned within 60 days after rejection, withdrawal, or~~
282 ~~closing.~~
283 ~~2. At the time a good faith estimate is provided to the~~
284 ~~borrower, the loan originator must identify in writing an~~
285 ~~itemized list that provides the recipient of all payments~~
286 ~~charged the borrower, which, except for all fees to be received~~
287 ~~by the mortgage broker, may be disclosed in generic terms, such~~
288 ~~as, but not limited to, paid to lender, appraiser, officials,~~
289 ~~title company, or any other third-party service provider. This~~
290 ~~requirement does not supplant or is not a substitute for the~~
291 ~~written mortgage broker agreement described in subsection (1).~~
292 ~~The disclosure required under this subparagraph must be signed~~
293 ~~and dated by the borrower.~~
294 ~~(4) The disclosures required by this subsection must be~~
295 ~~furnished in writing at the time an adjustable rate mortgage~~
296 ~~loan is offered to the borrower and whenever the terms of the~~
297 ~~adjustable rate mortgage loan offered materially change prior to~~
298 ~~closing. The mortgage broker shall furnish the disclosures~~
299 ~~relating to adjustable rate mortgages in a format prescribed by~~
300 ~~ss. 226.18 and 226.19 of Regulation Z of the Board of Governors~~

956228

301 ~~of the Federal Reserve System, as amended; its commentary, as~~
302 ~~amended; and the federal Truth in Lending Act, 15 U.S.C. ss.~~
303 ~~1601 et seq., as amended; together with the Consumer Handbook on~~
304 ~~Adjustable Rate Mortgages, as amended; published by the Federal~~
305 ~~Reserve Board and the Federal Home Loan Bank Board. The licensee~~
306 ~~bears the burden of proving such disclosures were provided to~~
307 ~~the borrower.~~
308 ~~(5) If the mortgage broker agreement includes a~~
309 ~~nonrefundable application fee, the following requirements are~~
310 ~~applicable:~~
311 ~~(a) The amount of the application fee, which must be~~
312 ~~clearly denominated as such, must be clearly disclosed.~~
313 ~~(b) The specific services that will be performed in~~
314 ~~consideration for the application fee must be disclosed.~~
315 ~~(c) The application fee must be reasonably related to the~~
316 ~~services to be performed and may not be based upon a percentage~~
317 ~~of the principal amount of the loan or the amount financed.~~
318 ~~(6) A mortgage broker may not accept any fee in connection~~
319 ~~with a mortgage loan other than an application fee, credit~~
320 ~~report fee, property appraisal fee, or other third-party fee~~
321 ~~before obtaining a written commitment from a qualified lender.~~
322 (1) ~~(7)~~ A ~~Any~~ third-party fee entrusted to a mortgage broker
323 must immediately, upon receipt, be placed into a segregated
324 account with a financial institution located in the state the
325 accounts of which are insured by the Federal Government. Such
326 funds shall be held in trust for the payor and shall be kept in
327 the account until disbursement. Such funds may be placed in one
328 account if adequate accounting measures are taken to identify
329 the source of the funds.

956228

330 (2) ~~(8)~~ A mortgage broker may not pay a commission to a ~~any~~
331 person not licensed pursuant to this chapter.
332 (3) ~~(9)~~ This section does not prohibit a mortgage broker
333 from offering products and services, in addition to those
334 offered in conjunction with the loan origination process, for a
335 fee or commission.
336 Section 8. Subsections (2), (3), and (4) of section
337 494.004, Florida Statutes, are amended to read:
338 494.004 Requirements of licensees.—
339 ~~(2) In every mortgage loan transaction, each licensee under~~
340 ~~this part must notify a borrower of any material changes in the~~
341 ~~terms of a mortgage loan previously offered to the borrower~~
342 ~~within 3 business days after being made aware of such changes by~~
343 ~~the mortgage lender but at least 3 business days before the~~
344 ~~signing of the settlement or closing statement. The licensee~~
345 ~~bears the burden of proving such notification was provided and~~
346 ~~accepted by the borrower. A borrower may waive the right to~~
347 ~~receive notice of a material change if the borrower determines~~
348 ~~that the extension of credit is needed to meet a bona fide~~
349 ~~personal financial emergency and the right to receive notice~~
350 ~~would delay the closing of the mortgage loan. The imminent sale~~
351 ~~of the borrower's home at foreclosure during the 3-day period~~
352 ~~before the signing of the settlement or closing statement is an~~
353 ~~example of a bona fide personal financial emergency. In order to~~
354 ~~waive the borrower's right to receive notice, the borrower must~~
355 ~~provide the licensee with a dated written statement that~~
356 ~~describes the personal financial emergency, waives the right to~~
357 ~~receive the notice, bears the borrower's signature, and is not~~
358 ~~on a printed form prepared by the licensee for the purpose of~~

956228

359 ~~such a waiver.~~
360 (2) ~~(3)~~ Each mortgage broker shall submit to the registry
361 reports of condition, which must be in such form and ~~shall~~
362 contain such information as the registry may require. The
363 commission may prescribe by rule the deadline by which a
364 mortgage broker must file a report of condition. For purposes of
365 this section, the report of condition is synonymous with the
366 registry's Mortgage Call Report.
367 (3) ~~(4)~~ A license issued under this part is not transferable
368 or assignable.
369 Section 9. Subsection (3) of section 494.0042, Florida
370 Statutes, is amended to read:
371 494.0042 Loan origination fees.—
372 (3) At the time of accepting a mortgage loan application, a
373 mortgage broker may receive from the borrower a nonrefundable
374 application fee. If the mortgage loan is funded, the
375 nonrefundable application fee shall be credited against the
376 amount owed as a result of the loan being funded. A person may
377 not receive any form of compensation for acting as a loan
378 originator other than a nonrefundable application fee or~~,~~ a fee
379 based on the mortgage amount being funded~~, or a fee which~~
380 ~~complies with s. 494.00421~~.
381 Section 10. Section 494.00421, Florida Statutes, is
382 repealed.
383 Section 11. Paragraph (b) of subsection (2) of section
384 494.00611, Florida Statutes, is amended to read:
385 494.00611 Mortgage lender license.—
386 (2) In order to apply for a mortgage lender license, an
387 applicant must:

956228

388 (b) Designate a qualified principal loan originator who
389 meets the requirements of s. 494.00665 ~~s.494.0035~~ on the
390 application form.
391 Section 12. Section 494.00612, Florida Statutes, is amended
392 to read:
393 494.00612 Mortgage lender license renewal.—
394 (1) In order to annually renew a mortgage lender license, a
395 mortgage lender must, by December 31:
396 (a) Submit a completed license renewal form as prescribed
397 by commission rule.
398 (b) Submit a nonrefundable renewal fee of $475, the $100
399 nonrefundable fee if required by s. 494.00172, and nonrefundable
400 fees to cover the cost of further fingerprint processing and
401 retention as prescribed by ~~set forth in~~ commission rule.
402 (c) Submit fingerprints in accordance with s.
403 494.00611(2)(d) for any new control persons who have not been
404 screened.
405 (d) Provide proof that the mortgage lender continues to
406 meet the applicable net worth requirement in a form prescribed
407 by commission rule.
408 (e) Authorize the registry to obtain an independent credit
409 report on each of the mortgage lender's control persons from a
410 consumer reporting agency, and transmit or provide access to the
411 report to the office. The cost of the credit report shall be
412 borne by the licensee.
413 (f) Submit any additional information or documentation
414 requested by the office and required by rule concerning the
415 licensee. Additional information may include documentation of
416 pending and prior disciplinary and criminal history events,

956228

417 including arrest reports and certified copies of charging
418 documents, plea agreements, judgments and sentencing documents,
419 documents relating to pretrial intervention, orders terminating
420 probation or supervised release, final administrative agency
421 orders, or other comparable documents that may provide the
422 office with the appropriate information to determine eligibility
423 for renewal of licensure.
424 (2) The office may not renew a mortgage lender license
425 unless the mortgage lender continues to meet the minimum
426 requirements for initial licensure pursuant to s. 494.00611 and
427 adopted rule.
428 (3) A licensed mortgage lender that fails to meet the
429 requirements under this section for annual license renewal on or
430 before December 31, but that meets such requirements after
431 December 31 but before March 1, shall have such license status
432 changed to "failed to renew" pending review and renewal by the
433 office. A nonrefundable reinstatement fee of $475 shall be
434 charged in addition to and apart from any registry fees. The
435 license status may not be changed until the requirements of this
436 section have been met and all fees have been paid. If the
437 licensee fails to submit the required information and pay the
438 required fees by March 1, such license is expired and such
439 person must apply for a new mortgage lender license under s.
440 494.00611.
441 Section 13. Section 494.0066, Florida Statutes, is amended
442 to read:
443 494.0066 Mortgage lender branch office license and license
444 renewal ~~offices~~.—
445 (1) Each branch office of a mortgage lender must be

956228

446 licensed under this section.
447 (2) The office shall issue a mortgage lender branch office
448 license to a mortgage lender licensee after the office
449 determines that the mortgage lender has submitted a completed
450 branch office application form as prescribed by commission rule
451 ~~by the commission~~ and an initial nonrefundable branch office
452 license fee of $225 per branch office. Application fees may not
453 be prorated for partial years of licensure. The branch office
454 application must include the name and license number of the
455 mortgage lender under this part, the name of the branch manager
456 in charge of the branch office, and the address of the branch
457 office. The branch office license shall be issued in the name of
458 the mortgage lender and must be renewed in conjunction with the
459 license renewal. An application is considered received for
460 purposes of s. 120.60 upon receipt of a completed branch office
461 renewal form, as prescribed by commission rule, and the required
462 fees.
463 (3) A mortgage lender branch office license must be renewed
464 annually at the time of renewing the mortgage lender license.
465 (a) In order to renew a branch office license, a mortgage
466 lender must, by December 31:
467 1. Submit a completed license renewal form as prescribed by
468 commission rule.
469 2. Submit a nonrefundable fee of $225 per branch office
470 ~~must be submitted at the time of renewal~~.
471 3. Submit additional information or documentation requested
472 by the office and required by rule concerning the licensee.
473 Additional information may include documents that may provide
474 the office with the appropriate information to determine

956228

475 eligibility for licensure renewal.
476 (b) The office may not renew a branch office license unless
477 the mortgage lender licensee continues to meet the minimum
478 requirements for initial licensure pursuant to this section and
479 adopted rule.
480 (c) A licensed branch office that fails to meet the
481 requirements under this section for annual license renewal on or
482 before December 31, but that meets such requirements after
483 December 31 but before March 1, shall have such license status
484 changed to "failed to renew" pending review and renewal by the
485 office. A nonrefundable reinstatement fee of $225 shall be
486 charged in addition to and apart from any registry fees. The
487 license status may not be changed until the requirements of this
488 section have been met and all fees have been paid. If the
489 licensee fails to submit the required information and pay the
490 required fees by March 1, such license is expired and the
491 mortgage lender licensee must apply for a new mortgage lender
492 branch office license under subsection (2).
493 Section 14. Subsections (8) through (13) of section
494 494.0067, Florida Statutes, are amended to read:
495 494.0067 Requirements of mortgage lenders.—
496 ~~(8) Each mortgage lender shall provide an applicant for a~~
497 ~~mortgage loan a good faith estimate of the costs the applicant~~
498 ~~can reasonably expect to pay in obtaining a mortgage loan. The~~
499 ~~good faith estimate of costs must be mailed or delivered to the~~
500 ~~applicant within 3 business days after the licensee receives a~~
501 ~~written loan application from the applicant. The estimate of~~
502 ~~costs may be provided to the applicant by a person other than~~
503 ~~the licensee making the loan. The good faith estimate must~~

956228

504 ~~identify the recipient of all payments charged to the borrower~~
505 ~~and, except for all fees to be received by the mortgage broker~~
506 ~~and the mortgage lender, may be disclosed in generic terms, such~~
507 ~~as, but not limited to, paid to appraiser, officials, title~~
508 ~~company, or any other third-party service provider. The licensee~~
509 ~~bears the burden of proving such disclosures were provided to~~
510 ~~the borrower. The commission may adopt rules that set forth the~~
511 ~~disclosure requirements of this section.~~
512 ~~(9) The disclosures in this subsection must be furnished in~~
513 ~~writing at the time an adjustable rate mortgage loan is offered~~
514 ~~to the borrower and whenever the terms of the adjustable rate~~
515 ~~mortgage loan offered have a material change prior to closing.~~
516 ~~The lender shall furnish the disclosures relating to adjustable~~
517 ~~rate mortgages in a format prescribed by ss. 226.18 and 226.19~~
518 ~~of Regulation Z of the Board of Governors of the Federal Reserve~~
519 ~~System, as amended; its commentary, as amended; and the federal~~
520 ~~Truth in Lending Act, 15 U.S.C. ss. 1601 et seq., as amended;~~
521 ~~together with the Consumer Handbook on Adjustable Rate~~
522 ~~Mortgages, as amended; published by the Federal Reserve Board~~
523 ~~and the Federal Home Loan Bank Board. The licensee bears the~~
524 ~~burden of proving such disclosures were provided to the~~
525 ~~borrower.~~
526 ~~(10) In every mortgage loan transaction, each mortgage~~
527 ~~lender shall notify a borrower of any material changes in the~~
528 ~~terms of a mortgage loan previously offered to the borrower~~
529 ~~within 3 business days after being made aware of such changes by~~
530 ~~the lender but at least 3 business days before signing the~~
531 ~~settlement or closing statement. The licensee bears the burden~~
532 ~~of proving such notification was provided and accepted by the~~

956228

533 ~~borrower. A borrower may waive the right to receive notice of a~~
534 ~~material change if the borrower determines that the extension of~~
535 ~~credit is needed to meet a bona fide personal financial~~
536 ~~emergency and the right to receive notice would delay the~~
537 ~~closing of the mortgage loan. The imminent sale of the~~
538 ~~borrower's home at foreclosure during the 3-day period before~~
539 ~~the signing of the settlement or closing statement constitutes~~
540 ~~an example of a bona fide personal financial emergency. In order~~
541 ~~to waive the borrower's right to receive notice, the borrower~~
542 ~~must provide the licensee with a dated written statement that~~
543 ~~describes the personal financial emergency, waives the right to~~
544 ~~receive the notice, bears the borrower's signature, and is not~~
545 ~~on a printed form prepared by the licensee for the purpose of~~
546 ~~such a waiver.~~
547 (8) ~~(11)~~ A mortgage lender may close loans in its own name
548 but may not service the loan for more than 4 months unless the
549 lender has a servicing endorsement. Only a mortgage lender who
550 continuously maintains a net worth of at least $250,000 may
551 obtain a servicing endorsement.
552 (9) ~~(12)~~ A mortgage lender must report to the office the
553 failure to meet the applicable net worth requirements of s.
554 494.00611 within 2 days after the mortgage lender's knowledge of
555 such failure or after the mortgage lender should have known of
556 such failure.
557 (10) ~~(13)~~ Each mortgage lender shall submit to the registry
558 reports of condition which are in a form and which contain such
559 information as the registry may require. The commission may
560 prescribe by rule the deadline by which a mortgage lender must
561 file a report of condition. For purposes of this section, the

956228

562 report of condition is synonymous with the registry's Mortgage
563 Call Report.
564 Section 15. Section 494.0068, Florida Statutes, is
565 repealed.
566 Section 16. Subsection (1) of section 494.007, Florida
567 Statutes, is amended to read:
568 494.007 Commitment process.—
569 (1) If a commitment is issued, the mortgage lender shall
570 disclose in writing:
571 (a) The expiration date of the commitment;
572 (b) The mortgage amount, meaning the face amount of credit
573 provided to the borrower or in the borrower's behalf;
574 (c) If the interest rate or other terms are subject to
575 change before expiration of the commitment:
576 1. The basis, index, or method, if any, which will be used
577 to determine the rate at closing. Such basis, index, or method
578 shall be established and disclosed with direct reference to the
579 movement of an interest rate index or of a national or regional
580 index that is available to and verifiable by the borrower and
581 beyond the control of the lender; or
582 2. The following statement, in at least 10-point bold type:
583 "The interest rate will be the rate established by the lender in
584 its discretion as its prevailing rate . . . days before
585 closing."; and
586 ~~(d) The amount of the commitment fee, if any, and whether~~
587 ~~and under what circumstances the commitment fee is refundable;~~
588 ~~and~~
589 (d) ~~(e)~~ The time, if any, within which the commitment must
590 be accepted by the borrower.

956228

591 Section 17. Section 494.0073, Florida Statutes, is amended
592 to read:
593 494.0073 Mortgage lender when acting as a mortgage broker.—
594 The provisions of this part do not prohibit a mortgage lender
595 from acting as a mortgage broker. However, in mortgage
596 transactions in which a mortgage lender acts as a mortgage
597 broker, the provisions of ss. 494.0038, ~~494.004(2),~~ 494.0042,
598 and 494.0043(1), (2), and (3) apply.
599 Section 18. Sections 494.0078, 494.0079, 494.00791,
600 494.00792, 494.00793, 494.00794, 494.00795, 494.00796, and
601 494.00797, Florida Statutes, are repealed.
602 Section 19. Section 494.008, Florida Statutes, is repealed.
603 Section 20. This act shall take effect July 1, 2014.
604
605 ========== T I T L E A M E N D M E N T ==========
606 And the title is amended as follows:
607 Delete everything before the enacting clause
608 and insert:
609 A bill to be entitled
610 An act relating to loan originators, mortgage brokers,
611 and mortgage lenders; amending s. 494.001, F.S.;
612 adding and revising definitions; amending s. 494.0012,
613 F.S.; authorizing the Office of Financial Regulation
614 to conduct joint or concurrent examinations with other
615 state or federal regulatory agencies; amending s.
616 494.00255, F.S.; providing additional grounds for
617 disciplinary action against a licensee or person
618 required to be licensed; amending s. 494.00313, F.S.;
619 providing additional requirements, fees, and

956228

620 consequences for failing to renew a loan originator
621 license by a certain date; amending s. 494.00322,
622 F.S.; providing additional requirements, fees, and
623 consequences for a mortgage broker license renewal
624 that is not submitted by a certain date; amending s.
625 494.0036, F.S.; specifying requirements for the
626 renewal of a mortgage broker branch office license;
627 providing additional requirements, fees, and
628 consequences for failing to renew a branch office
629 license that is not submitted by a certain date;
630 amending s. 494.0038, F.S.; deleting certain
631 disclosure requirements relating to mortgage broker
632 agreements; amending s. 494.004, F.S.; deleting
633 certain notification requirements relating to mortgage
634 loan transactions; authorizing the Financial Service
635 Commission to specify a deadline for submitting
636 reports of condition to the registry; amending s.
637 494.0042, F.S.; deleting a cross-reference; repealing
638 s. 494.00421, F.S., relating to fee disclosure
639 requirements in a mortgage broker agreement; amending
640 s. 494.00611, F.S.; correcting a cross-reference;
641 amending s. 494.00612, F.S.; providing additional
642 requirements, fees, and consequences for failing to
643 renew a mortgage lender license that is not submitted
644 by a certain date; amending s. 494.0066, F.S.;
645 specifying mortgage lender branch office license
646 renewal requirements; amending s. 494.0067, F.S.;
647 deleting disclosure requirements relating to the
648 provision of costs estimates for a mortgage loan;

956228

649 repealing s. 494.0068, F.S., relating to disclosure
650 requirements in the loan application process; amending
651 s. 494.007, F.S.; deleting a disclosure requirement
652 relating to commitment fees; amending s. 494.0073,
653 F.S.; deleting a cross-reference; repealing ss.
654 494.0078, 494.0079, 494.00791, 494.00792, 494.00793,
655 494.00794, 494.00795, 494.00796, and 494.00797, F.S.,
656 relating to the Florida Fair Lending Act; repealing s.
657 494.008, F.S., relating to Loans under Florida Uniform
658 Land Sales Practices Law; providing an effective date.

281846

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/05/2014	.	
	.	
	.	
	.	

Appropriations Subcommittee on General Government (Detert) recommended the following:

1 **Senate Amendment to Amendment (956228) (with title**
2 **amendment)**
3
4 Delete lines 48 - 63
5 and insert:
6 Section 3. Paragraph (m) of subsection (1) of section
7 494.00255, Florida Statutes, is reeenacted and paragraph (y) is
8 added to that subsection, to read:
9 494.00255 Administrative penalties and fines; license
10 violations.—

281846

11 (1) Each of the following acts constitutes a ground for
12 which the disciplinary actions specified in subsection (2) may
13 be taken against a person licensed or required to be licensed
14 under part II or part III of this chapter:
15 (m) In any mortgage transaction, violating any provision of
16 the federal Real Estate Settlement Procedures Act, as amended,
17 12 U.S.C. ss. 2601 et seq.; the federal Truth in Lending Act, as
18 amended, 15 U.S.C. ss. 1601 et seq.; or any regulations adopted
19 under such acts.
20 (y) Pursuant to an investigation by the Mortgage Testing
21
22 ========== T I T L E A M E N D M E N T ==========
23 And the title is amended as follows:
24 Delete line 615
25 and insert:
26 state or federal regulatory agencies; reenacting and
27 amending s.

By Senator Detert

28-00629-14 2014666__

A bill to be entitled

An act relating to loan originators, mortgage brokers, and mortgage lenders; amending s. 494.001, F.S.; adding and revising definitions; amending s. 494.0012, F.S.; authorizing the Office of Financial Regulation to conduct joint or concurrent examinations with other state or federal regulatory agencies; amending s. 494.00255, F.S.; providing additional grounds for disciplinary action against a licensee or person required to be licensed based on certain violations of the Nationwide Mortgage Licensing System and Registry's Rules of Conduct for Test Takers; repealing s. 494.0028, F.S., relating to arbitration requirements included in certain agreements or applications; amending s. 494.00313, F.S.; providing additional requirements, fees, and consequences for failing to renew a loan originator license by a certain date; amending s. 494.00322, F.S.; providing additional requirements, fees, and consequences for a mortgage broker license renewal that is not submitted by a certain date; amending s. 494.0036, F.S.; specifying requirements for the renewal of a mortgage broker branch office license; providing additional requirements, fees, and consequences for failing to renew a branch office license that is not submitted by a certain date; amending s. 494.0038, F.S.; deleting certain disclosure requirements relating to mortgage broker agreements; amending s. 494.004, F.S.; deleting certain notification requirements relating to mortgage

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28-00629-14 2014666__

loan transactions; authorizing the Financial Service Commission to specify a deadline for submitting reports of condition to the registry; amending s. 494.0042, F.S.; deleting a cross-reference; repealing s. 494.00421, F.S., relating to fee disclosure requirements in a mortgage broker agreement; amending s. 494.00611, F.S.; correcting a cross-reference; amending s. 494.00612, F.S.; providing additional requirements, fees, and consequences for failing to renew a mortgage lender license that is not submitted by a certain date; amending s. 494.0066, F.S.; specifying mortgage lender branch office license renewal requirements; amending s. 494.0067, F.S.; deleting disclosure requirements relating to the provision of costs estimates for a mortgage loan; repealing s. 494.0068, F.S., relating to disclosure requirements in the loan application process; amending s. 494.007, F.S.; deleting a disclosure requirement relating to commitment fees; amending s. 494.0073, F.S.; deleting a cross-reference; repealing ss. 494.0078, 494.0079, 494.00791, 494.00792, 494.00793, 494.00794, 494.00795, 494.00796, and 494.00797, F.S., relating to the Florida Fair Lending Act; repealing s. 494.008, F.S., relating to Loans under Florida Uniform Land Sales Practices Law; providing an effective date.

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

Section 1. Present subsections (12) through (36) of section

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494.001, Florida Statutes, are redesignated as subsections (13) through (37), respectively, a new subsection (12) is added to that section, and present subsection (15) of that section is amended, to read:

494.001 Definitions.—As used in ss. 494.001-494.0077, the term:

(12) "Indirect owner" means, with respect to direct and indirect owners in a multilayered organization:

(a) If an owner is a corporation, each of its shareholders that beneficially owns, has the right to vote, or has the power to sell or direct the sale of 25 percent or more of voting security of the corporation.

(b) If an owner is a partnership, all general partners and those limited and special partners that have the right to receive upon dissolution, or have contributed, 25 percent or more of the partnership's capital.

(c) If an owner is a trust, the trust and each trustee.

(d) If an owner is a limited liability company:

1. Those members that have the right to receive upon dissolution, or have contributed, 25 percent or more of the limited liability corporation's capital; and

2. If managed by elected managers or appointed managers, all elected or appointed managers.

(e) If an indirect owner, the parent owners of 25 percent or more of their subsidiary.

(16) ~~(15)~~ "Loan origination fee" means the total compensation from any source received by a mortgage broker acting as a loan originator. ~~Any payment for processing mortgage loan applications must be included in the fee and must be paid~~

~~to the mortgage broker.~~

Section 2. Subsection (4) is added to section 494.0012, Florida Statutes, to read:

494.0012 Investigations; complaints; examinations.—

(4) In order to reduce the burden on persons subject to regulation under this chapter, the office may conduct a joint or concurrent examination with any state or federal regulatory agency and may furnish a copy of all examinations to an appropriate regulator if the regulator agrees to abide by the confidentiality requirements applicable to such examinations, which are provided pursuant to chapter 119 and this chapter. The office may also accept an examination from an appropriate regulator.

Section 3. Paragraph (y) is added to subsection (1) of section 494.00255, Florida Statutes, to read:

494.00255 Administrative penalties and fines; license violations.—

(1) Each of the following acts constitutes a ground for which the disciplinary actions specified in subsection (2) may be taken against a person licensed or required to be licensed under part II or part III of this chapter:

(y) Violating the registry's Rules of Conduct for Test Takers in connection with a prelicensing test.

Section 4. Section 494.0028, Florida Statutes, is repealed.

Section 5. Section 494.00313, Florida Statutes, is amended to read:

494.00313 Loan originator license renewal.—

(1) In order to annually renew a loan originator license, a loan originator must, by December 31:

117 (a) Submit a completed license renewal form as prescribed
118 by commission rule.
119 (b) Submit a nonrefundable renewal fee of $150, the $20
120 nonrefundable fee if required by s. 494.00172, and nonrefundable
121 fees to cover the cost of further fingerprint processing and
122 retention as prescribed by ~~set forth in~~ commission rule.
123 (c) Provide documentation of completion of at least 8 hours
124 of continuing education in courses reviewed and approved by the
125 registry.
126 (d) Authorize the registry to obtain an independent credit
127 report on the licensee from a consumer reporting agency, and
128 transmit or provide access to the report to the office. The cost
129 of the credit report shall be borne by the licensee.
130 (e) Submit any additional information or documentation
131 requested by the office and required by rule concerning the
132 licensee. Additional information may include documentation of
133 pending and prior disciplinary and criminal history events,
134 including arrest reports and certified copies of charging
135 documents, plea agreements, judgments and sentencing documents,
136 documents relating to pretrial intervention, orders terminating
137 probation or supervised release, final administrative agency
138 orders, or other comparable documents that may provide the
139 office with the appropriate information to determine eligibility
140 for renewal of licensure.
141 (2) The office may not renew a loan originator license
142 unless the loan originator continues to meet the minimum
143 requirements for initial licensure pursuant to s. 494.00312 and
144 adopted rule.
145 (3) A licensed loan originator who fails to meet the

146 requirements under this section for annual license renewal on or
147 before December 31, but who meets such requirements after
148 December 31 but before February 28, shall have such license
149 status changed to "failed to renew" pending review and renewal
150 by the office. A nonrefundable reinstatement fee of $150 shall
151 be charged in addition to and apart from any registry fees. The
152 license status may not be changed until the requirements of this
153 section have been met and all fees have been paid. If the
154 licensee fails to submit the required information and pay the
155 required fees by February 28, such license is expired and such
156 individual must apply for a new loan originator license under s.
157 494.00312.
158 Section 6. Section 494.00322, Florida Statutes, is amended
159 to read:
160 494.00322 Mortgage broker license renewal.—
161 (1) In order to annually renew a mortgage broker license, a
162 mortgage broker must, by December 31:
163 (a) Submit a completed license renewal form as prescribed
164 by commission rule.
165 (b) Submit a nonrefundable renewal fee of $375, the $100
166 nonrefundable fee if required by s. 494.00172, and nonrefundable
167 fees to cover the cost of further fingerprint processing and
168 retention as prescribed by ~~set forth in~~ commission rule.
169 (c) Submit fingerprints in accordance with s.
170 494.00321(2)(d) for any new control persons who have not been
171 screened.
172 (d) Authorize the registry to obtain an independent credit
173 report on each of the licensee's control persons from a consumer
174 reporting agency, and transmit or provide access to the report

175 to the office. The cost of the credit report shall be borne by
176 the licensee.
177 (e) Submit any additional information or documentation
178 requested by the office and required by rule concerning the
179 licensee or a control person of the licensee. Additional
180 information may include documentation of pending and prior
181 disciplinary and criminal history events, including arrest
182 reports and certified copies of charging documents, plea
183 agreements, judgments and sentencing documents, documents
184 relating to pretrial intervention, orders terminating probation
185 or supervised release, final administrative agency orders, or
186 other comparable documents that may provide the office with the
187 appropriate information to determine eligibility for renewal of
188 licensure.
189 (2) The office may not renew a mortgage broker license
190 unless the licensee continues to meet the minimum requirements
191 for initial licensure pursuant to s. 494.00321 and adopted rule.
192 (3) A licensed mortgage broker that fails to meet the
193 requirements under this section for annual license renewal on or
194 before December 31, but that meets such requirements after
195 December 31 but before February 28, shall have such license
196 status changed to "failed to renew" pending review and renewal
197 by the office. A nonrefundable reinstatement fee of $250 shall
198 be charged in addition to and apart from any registry fees. The
199 license status may not be changed until the requirements of this
200 section have been met and all fees have been paid. If the
201 licensee fails to submit the required information and pay the
202 required fees by February 28, such license is expired and such
203 person must apply for a new mortgage broker license under s.

204 494.00321.
205 Section 7. Section 494.0036, Florida Statutes, is amended
206 to read:
207 494.0036 Mortgage broker branch office license and license
208 renewal.—
209 (1) Each branch office of a mortgage broker must be
210 licensed under this section.
211 (2) The office shall issue a mortgage broker branch office
212 license to a mortgage broker licensee after the office
213 determines that the licensee has submitted a completed
214 application for a branch office in a form prescribed by
215 commission rule and payment of an initial nonrefundable branch
216 office license fee of $225 per branch office. Application fees
217 may not be prorated for partial years of licensure. The branch
218 office license shall be issued in the name of the mortgage
219 broker that maintains the branch office. An application is
220 considered received for purposes of s. 120.60 upon receipt of a
221 completed application form as prescribed by commission rule, and
222 the required fees.
223 (3) A mortgage broker branch office license must be renewed
224 annually at the time of renewing the mortgage broker license
225 under s. 494.00322.
226 (a) In order to renew a branch office license, a mortgage
227 broker must, by December 31:
228 1. Submit a completed license renewal form as prescribed by
229 commission rule.
230 2. Submit a nonrefundable branch renewal fee of $225 per
231 branch office ~~must be submitted at the time of renewal~~.
232 3. Submit additional information or documentation requested

233 by the office and required by rule concerning the licensee.
234 Additional information may include documents that may assist the
235 office in determining the applicant's eligibility for licensure
236 renewal.
237 (b) The office may not renew a branch office license unless
238 the mortgage broker continues to meet the minimum requirements
239 for initial licensure pursuant to subsection (2) and commission
240 rule.
241 (c) A licensed branch office that fails to meet the
242 requirements under this section for annual license renewal on or
243 before December 31, but that meets such requirements after
244 December 31 but before February 28, shall have such license
245 status changed to "failed to renew" pending review and renewal
246 by the office. A nonrefundable reinstatement fee of $225 shall
247 be charged in addition to and apart from any registry fees. The
248 license status may not be changed until the requirements of this
249 section have been met and all fees have been paid. If the
250 licensee fails to submit the required information and pay the
251 required fees by February 28, such license is expired and the
252 mortgage broker licensee must apply for a new mortgage broker
253 branch office license under subsection (2).
254 Section 8. Section 494.0038, Florida Statutes, is amended
255 to read:
256 494.0038 ~~Loan origination and~~ Mortgage broker fees and
257 commissions ~~disclosures~~.—
258 ~~(1) A loan origination fee may not be paid except pursuant~~
259 ~~to a written mortgage broker agreement between the mortgage~~
260 ~~broker and the borrower which is signed and dated by the~~
261 ~~principal loan originator or branch manager, and the borrower.~~

262 ~~The unique registry identifier of each loan originator~~
263 ~~responsible for providing loan originator services must be~~
264 ~~printed on the mortgage broker agreement.~~
265 ~~(a) The written mortgage broker agreement must describe the~~
266 ~~services to be provided by the mortgage broker and specify the~~
267 ~~amount and terms of the loan origination fee that the mortgage~~
268 ~~broker is to receive.~~
269 ~~1. Except for application and third-party fees, all fees~~
270 ~~received by a mortgage broker from a borrower must be identified~~
271 ~~as a loan origination fee.~~
272 ~~2. All fees on the mortgage broker agreement must be~~
273 ~~disclosed in dollar amounts.~~
274 ~~3. All loan origination fees must be paid to a mortgage~~
275 ~~broker.~~
276 ~~(b) The agreement must be executed within 3 business days~~
277 ~~after a mortgage loan application is accepted if the borrower is~~
278 ~~present when the mortgage loan application is accepted. If the~~
279 ~~borrower is not present, the licensee shall forward the~~
280 ~~agreement to the borrower within 3 business days after the~~
281 ~~licensee's acceptance of the application and the licensee bears~~
282 ~~the burden of proving that the borrower received and approved~~
283 ~~the agreement.~~
284 ~~(2) If the mortgage broker is to receive any payment of any~~
285 ~~kind from the mortgage lender, the maximum total dollar amount~~
286 ~~of the payment must be disclosed to the borrower in the written~~
287 ~~mortgage broker agreement as described in paragraph (1)(a). The~~
288 ~~commission may prescribe by rule an acceptable form for~~
289 ~~disclosure of brokerage fees received from the lender. The~~
290 ~~agreement must state the nature of the relationship with the~~

291 ~~lender, describe how compensation is paid by the lender, and~~
292 ~~describe how the mortgage interest rate affects the compensation~~
293 ~~paid to the mortgage broker.~~
294 ~~(a) The exact amount of any payment of any kind by the~~
295 ~~lender to the mortgage broker must be disclosed in writing to~~
296 ~~the borrower within 3 business days after the mortgage broker is~~
297 ~~made aware of the exact amount of the payment from the lender~~
298 ~~but not less than 3 business days before the execution of the~~
299 ~~closing or settlement statement. The licensee bears the burden~~
300 ~~of proving such notification was provided to the borrower.~~
301 ~~Notification is waived if the exact amount of the payment is~~
302 ~~accurately disclosed in the written mortgage broker agreement.~~
303 ~~(b) The commission may prescribe by rule the form of~~
304 ~~disclosure of brokerage fees.~~
305 ~~(3) At the time a written mortgage broker agreement is~~
306 ~~signed by the borrower or forwarded to the borrower for~~
307 ~~signature, or at the time the mortgage broker business accepts~~
308 ~~an application fee, credit report fee, property appraisal fee,~~
309 ~~or any other third-party fee, but at least 3 business days~~
310 ~~before execution of the closing or settlement statement, the~~
311 ~~mortgage broker shall disclose in writing to any applicant for a~~
312 ~~mortgage loan the following information:~~
313 ~~(a) That the mortgage broker may not make mortgage loans or~~
314 ~~commitments. The mortgage broker may make a commitment and may~~
315 ~~furnish a lock-in of the rate and program on behalf of the~~
316 ~~lender if the mortgage broker has obtained a written commitment~~
317 ~~or lock-in for the loan from the lender on behalf of the~~
318 ~~borrower for the loan. The commitment must be in the same form~~
319 ~~and substance as issued by the lender.~~

320 ~~(b) That the mortgage broker cannot guarantee acceptance~~
321 ~~into any particular loan program or promise any specific loan~~
322 ~~terms or conditions.~~
323 ~~(c) A good faith estimate that discloses settlement charges~~
324 ~~and loan terms.~~
325 ~~1. Any amount collected in excess of the actual cost shall~~
326 ~~be returned within 60 days after rejection, withdrawal, or~~
327 ~~closing.~~
328 ~~2. At the time a good faith estimate is provided to the~~
329 ~~borrower, the loan originator must identify in writing an~~
330 ~~itemized list that provides the recipient of all payments~~
331 ~~charged the borrower, which, except for all fees to be received~~
332 ~~by the mortgage broker, may be disclosed in generic terms, such~~
333 ~~as, but not limited to, paid to lender, appraiser, officials,~~
334 ~~title company, or any other third-party service provider. This~~
335 ~~requirement does not supplant or is not a substitute for the~~
336 ~~written mortgage broker agreement described in subsection (1).~~
337 ~~The disclosure required under this subparagraph must be signed~~
338 ~~and dated by the borrower.~~
339 ~~(4) The disclosures required by this subsection must be~~
340 ~~furnished in writing at the time an adjustable rate mortgage~~
341 ~~loan is offered to the borrower and whenever the terms of the~~
342 ~~adjustable rate mortgage loan offered materially change prior to~~
343 ~~closing. The mortgage broker shall furnish the disclosures~~
344 ~~relating to adjustable rate mortgages in a format prescribed by~~
345 ~~ss. 226.18 and 226.19 of Regulation Z of the Board of Governors~~
346 ~~of the Federal Reserve System, as amended; its commentary, as~~
347 ~~amended; and the federal Truth in Lending Act, 15 U.S.C. ss.~~
348 ~~1601 et seq., as amended; together with the Consumer Handbook on~~

349 ~~Adjustable Rate Mortgages, as amended; published by the Federal~~
350 ~~Reserve Board and the Federal Home Loan Bank Board. The licensee~~
351 ~~bears the burden of proving such disclosures were provided to~~
352 ~~the borrower.~~
353 ~~(5) If the mortgage broker agreement includes a~~
354 ~~nonrefundable application fee, the following requirements are~~
355 ~~applicable:~~
356 ~~(a) The amount of the application fee, which must be~~
357 ~~clearly denominated as such, must be clearly disclosed.~~
358 ~~(b) The specific services that will be performed in~~
359 ~~consideration for the application fee must be disclosed.~~
360 ~~(c) The application fee must be reasonably related to the~~
361 ~~services to be performed and may not be based upon a percentage~~
362 ~~of the principal amount of the loan or the amount financed.~~
363 ~~(6) A mortgage broker may not accept any fee in connection~~
364 ~~with a mortgage loan other than an application fee, credit~~
365 ~~report fee, property appraisal fee, or other third-party fee~~
366 ~~before obtaining a written commitment from a qualified lender.~~
367 (1) ~~(7)~~ A ~~Any~~ third-party fee entrusted to a mortgage broker
368 must immediately, upon receipt, be placed into a segregated
369 account with a financial institution located in the state the
370 accounts of which are insured by the Federal Government. Such
371 funds shall be held in trust for the payor and shall be kept in
372 the account until disbursement. Such funds may be placed in one
373 account if adequate accounting measures are taken to identify
374 the source of the funds.
375 (2) ~~(8)~~ A mortgage broker may not pay a commission to a ~~any~~
376 person not licensed pursuant to this chapter.
377 (3) ~~(9)~~ This section does not prohibit a mortgage broker

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378 from offering products and services, in addition to those
379 offered in conjunction with the loan origination process, for a
380 fee or commission.
381 Section 9. Subsections (2), (3), and (4) of section
382 494.004, Florida Statutes, are amended to read:
383 494.004 Requirements of licensees.—
384 ~~(2) In every mortgage loan transaction, each licensee under~~
385 ~~this part must notify a borrower of any material changes in the~~
386 ~~terms of a mortgage loan previously offered to the borrower~~
387 ~~within 3 business days after being made aware of such changes by~~
388 ~~the mortgage lender but at least 3 business days before the~~
389 ~~signing of the settlement or closing statement. The licensee~~
390 ~~bears the burden of proving such notification was provided and~~
391 ~~accepted by the borrower. A borrower may waive the right to~~
392 ~~receive notice of a material change if the borrower determines~~
393 ~~that the extension of credit is needed to meet a bona fide~~
394 ~~personal financial emergency and the right to receive notice~~
395 ~~would delay the closing of the mortgage loan. The imminent sale~~
396 ~~of the borrower's home at foreclosure during the 3-day period~~
397 ~~before the signing of the settlement or closing statement is an~~
398 ~~example of a bona fide personal financial emergency. In order to~~
399 ~~waive the borrower's right to receive notice, the borrower must~~
400 ~~provide the licensee with a dated written statement that~~
401 ~~describes the personal financial emergency, waives the right to~~
402 ~~receive the notice, bears the borrower's signature, and is not~~
403 ~~on a printed form prepared by the licensee for the purpose of~~
404 ~~such a waiver.~~
405 (2) ~~(3)~~ Each mortgage broker shall submit to the registry
406 reports of condition, which must be in such form and ~~shall~~

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

407 contain such information as the registry may require. The
408 commission may prescribe by rule the deadline by which a
409 mortgage broker must file a report of condition. For purposes of
410 this section, the report of condition is synonymous with the
411 registry's Mortgage Call Report.
412 (3) ~~(4)~~ A license issued under this part is not transferable
413 or assignable.
414 Section 10. Subsection (3) of section 494.0042, Florida
415 Statutes, is amended to read:
416 494.0042 Loan origination fees.—
417 (3) At the time of accepting a mortgage loan application, a
418 mortgage broker may receive from the borrower a nonrefundable
419 application fee. If the mortgage loan is funded, the
420 nonrefundable application fee shall be credited against the
421 amount owed as a result of the loan being funded. A person may
422 not receive any form of compensation for acting as a loan
423 originator other than a nonrefundable application fee or~~,~~ a fee
424 based on the mortgage amount being funded~~, or a fee which~~
425 ~~complies with s. 494.00421~~.
426 Section 11. Section 494.00421, Florida Statutes, is
427 repealed.
428 Section 12. Paragraph (b) of subsection (2) of section
429 494.00611, Florida Statutes, is amended to read:
430 494.00611 Mortgage lender license.—
431 (2) In order to apply for a mortgage lender license, an
432 applicant must:
433 (b) Designate a qualified principal loan originator who
434 meets the requirements of s. 494.00665 ~~s.494.0035~~ on the
435 application form.

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

436 Section 13. Section 494.00612, Florida Statutes, is amended
437 to read:
438 494.00612 Mortgage lender license renewal.—
439 (1) In order to annually renew a mortgage lender license, a
440 mortgage lender must, by December 31:
441 (a) Submit a completed license renewal form as prescribed
442 by commission rule.
443 (b) Submit a nonrefundable renewal fee of $475, the $100
444 nonrefundable fee if required by s. 494.00172, and nonrefundable
445 fees to cover the cost of further fingerprint processing and
446 retention as prescribed by ~~set forth in~~ commission rule.
447 (c) Submit fingerprints in accordance with s.
448 494.00611(2)(d) for any new control persons who have not been
449 screened.
450 (d) Provide proof that the mortgage lender continues to
451 meet the applicable net worth requirement in a form prescribed
452 by commission rule.
453 (e) Authorize the registry to obtain an independent credit
454 report on each of the mortgage lender's control persons from a
455 consumer reporting agency, and transmit or provide access to the
456 report to the office. The cost of the credit report shall be
457 borne by the licensee.
458 (f) Submit any additional information or documentation
459 requested by the office and required by rule concerning the
460 licensee. Additional information may include documentation of
461 pending and prior disciplinary and criminal history events,
462 including arrest reports and certified copies of charging
463 documents, plea agreements, judgments and sentencing documents,
464 documents relating to pretrial intervention, orders terminating

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465 probation or supervised release, final administrative agency
466 orders, or other comparable documents that may provide the
467 office with the appropriate information to determine eligibility
468 for renewal of licensure.
469 (2) The office may not renew a mortgage lender license
470 unless the mortgage lender continues to meet the minimum
471 requirements for initial licensure pursuant to s. 494.00611 and
472 adopted rule.
473 (3) A licensed mortgage lender that fails to meet the
474 requirements under this section for annual license renewal on or
475 before December 31, but that meets such requirements after
476 December 31 but before February 28, shall have such license
477 status changed to "failed to renew" pending review and renewal
478 by the office. A nonrefundable reinstatement fee of $475 shall
479 be charged in addition to and apart from any registry fees. The
480 license status may not be changed until the requirements of this
481 section have been met and all fees have been paid. If the
482 licensee fails to submit the required information and pay the
483 required fees by February 28, such license is expired and such
484 person must apply for a new mortgage lender license under s.
485 494.00611.
486 Section 14. Section 494.0066, Florida Statutes, is amended
487 to read:
488 494.0066 Mortgage lender branch office license and license
489 renewal ~~offices~~.—
490 (1) Each branch office of a mortgage lender must be
491 licensed under this section.
492 (2) The office shall issue a mortgage lender branch office
493 license to a mortgage lender licensee after the office

494 determines that the mortgage lender has submitted a completed
495 branch office application form as prescribed by commission rule
496 ~~by the commission~~ and an initial nonrefundable branch office
497 license fee of $225 per branch office. Application fees may not
498 be prorated for partial years of licensure. The branch office
499 application must include the name and license number of the
500 mortgage lender under this part, the name of the branch manager
501 in charge of the branch office, and the address of the branch
502 office. The branch office license shall be issued in the name of
503 the mortgage lender and must be renewed in conjunction with the
504 license renewal. An application is considered received for
505 purposes of s. 120.60 upon receipt of a completed branch office
506 renewal form, as prescribed by commission rule, and the required
507 fees.
508 (3) A mortgage lender branch office license must be renewed
509 annually at the time of renewing the mortgage lender license.
510 (a) In order to renew a branch office license, a mortgage
511 lender must, by December 31:
512 1. Submit a completed license renewal form as prescribed by
513 commission rule.
514 2. Submit a nonrefundable fee of $225 per branch office
515 ~~must be submitted at the time of renewal~~.
516 3. Submit additional information or documentation requested
517 by the office and required by rule concerning the licensee.
518 Additional information may include documents that may provide
519 the office with the appropriate information to determine
520 eligibility for licensure renewal.
521 (b) The office may not renew a branch office license unless
522 the mortgage lender licensee continues to meet the minimum

523 requirements for initial licensure pursuant to this section and
524 adopted rule.
525 (c) A licensed branch office that fails to meet the
526 requirements under this section for annual license renewal on or
527 before December 31, but that meets such requirements after
528 December 31 but before February 28, shall have such license
529 status changed to "failed to renew" pending review and renewal
530 by the office. A nonrefundable reinstatement fee of $225 shall
531 be charged in addition to and apart from any registry fees. The
532 license status may not be changed until the requirements of this
533 section have been met and all fees have been paid. If the
534 licensee fails to submit the required information and pay the
535 required fees by February 28, such license is expired and the
536 mortgage lender licensee must apply for a new mortgage lender
537 branch office license under subsection (2).
538 Section 15. Subsections (8) through (13) of section
539 494.0067, Florida Statutes, are amended to read:
540 494.0067 Requirements of mortgage lenders.—
541 ~~(8) Each mortgage lender shall provide an applicant for a~~
542 ~~mortgage loan a good faith estimate of the costs the applicant~~
543 ~~can reasonably expect to pay in obtaining a mortgage loan. The~~
544 ~~good faith estimate of costs must be mailed or delivered to the~~
545 ~~applicant within 3 business days after the licensee receives a~~
546 ~~written loan application from the applicant. The estimate of~~
547 ~~costs may be provided to the applicant by a person other than~~
548 ~~the licensee making the loan. The good faith estimate must~~
549 ~~identify the recipient of all payments charged to the borrower~~
550 ~~and, except for all fees to be received by the mortgage broker~~
551 ~~and the mortgage lender, may be disclosed in generic terms, such~~

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552 ~~as, but not limited to, paid to appraiser, officials, title~~
553 ~~company, or any other third-party service provider. The licensee~~
554 ~~bears the burden of proving such disclosures were provided to~~
555 ~~the borrower. The commission may adopt rules that set forth the~~
556 ~~disclosure requirements of this section.~~
557 ~~(9) The disclosures in this subsection must be furnished in~~
558 ~~writing at the time an adjustable rate mortgage loan is offered~~
559 ~~to the borrower and whenever the terms of the adjustable rate~~
560 ~~mortgage loan offered have a material change prior to closing.~~
561 ~~The lender shall furnish the disclosures relating to adjustable~~
562 ~~rate mortgages in a format prescribed by ss. 226.18 and 226.19~~
563 ~~of Regulation Z of the Board of Governors of the Federal Reserve~~
564 ~~System, as amended; its commentary, as amended; and the federal~~
565 ~~Truth in Lending Act, 15 U.S.C. ss. 1601 et seq., as amended;~~
566 ~~together with the Consumer Handbook on Adjustable Rate~~
567 ~~Mortgages, as amended; published by the Federal Reserve Board~~
568 ~~and the Federal Home Loan Bank Board. The licensee bears the~~
569 ~~burden of proving such disclosures were provided to the~~
570 ~~borrower.~~
571 ~~(10) In every mortgage loan transaction, each mortgage~~
572 ~~lender shall notify a borrower of any material changes in the~~
573 ~~terms of a mortgage loan previously offered to the borrower~~
574 ~~within 3 business days after being made aware of such changes by~~
575 ~~the lender but at least 3 business days before signing the~~
576 ~~settlement or closing statement. The licensee bears the burden~~
577 ~~of proving such notification was provided and accepted by the~~
578 ~~borrower. A borrower may waive the right to receive notice of a~~
579 ~~material change if the borrower determines that the extension of~~
580 ~~credit is needed to meet a bona fide personal financial~~

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581 ~~emergency and the right to receive notice would delay the~~
582 ~~closing of the mortgage loan. The imminent sale of the~~
583 ~~borrower's home at foreclosure during the 3-day period before~~
584 ~~the signing of the settlement or closing statement constitutes~~
585 ~~an example of a bona fide personal financial emergency. In order~~
586 ~~to waive the borrower's right to receive notice, the borrower~~
587 ~~must provide the licensee with a dated written statement that~~
588 ~~describes the personal financial emergency, waives the right to~~
589 ~~receive the notice, bears the borrower's signature, and is not~~
590 ~~on a printed form prepared by the licensee for the purpose of~~
591 ~~such a waiver.~~
592 (8) ~~(11)~~ A mortgage lender may close loans in its own name
593 but may not service the loan for more than 4 months unless the
594 lender has a servicing endorsement. Only a mortgage lender who
595 continuously maintains a net worth of at least $250,000 may
596 obtain a servicing endorsement.
597 (9) ~~(12)~~ A mortgage lender must report to the office the
598 failure to meet the applicable net worth requirements of s.
599 494.00611 within 2 days after the mortgage lender's knowledge of
600 such failure or after the mortgage lender should have known of
601 such failure.
602 (10) ~~(13)~~ Each mortgage lender shall submit to the registry
603 reports of condition which are in a form and which contain such
604 information as the registry may require. The commission may
605 prescribe by rule the deadline by which a mortgage lender must
606 file a report of condition. For purposes of this section, the
607 report of condition is synonymous with the registry's Mortgage
608 Call Report.
609 Section 16. Section 494.0068, Florida Statutes, is

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610 repealed.
611 Section 17. Subsection (1) of section 494.007, Florida
612 Statutes, is amended to read:
613 494.007 Commitment process.—
614 (1) If a commitment is issued, the mortgage lender shall
615 disclose in writing:
616 (a) The expiration date of the commitment;
617 (b) The mortgage amount, meaning the face amount of credit
618 provided to the borrower or in the borrower's behalf;
619 (c) If the interest rate or other terms are subject to
620 change before expiration of the commitment:
621 1. The basis, index, or method, if any, which will be used
622 to determine the rate at closing. Such basis, index, or method
623 shall be established and disclosed with direct reference to the
624 movement of an interest rate index or of a national or regional
625 index that is available to and verifiable by the borrower and
626 beyond the control of the lender; or
627 2. The following statement, in at least 10-point bold type:
628 "The interest rate will be the rate established by the lender in
629 its discretion as its prevailing rate . . . days before
630 closing."; and
631 ~~(d) The amount of the commitment fee, if any, and whether~~
632 ~~and under what circumstances the commitment fee is refundable;~~
633 ~~and~~
634 (d) ~~(e)~~ The time, if any, within which the commitment must
635 be accepted by the borrower.
636 Section 18. Section 494.0073, Florida Statutes, is amended
637 to read:
638 494.0073 Mortgage lender when acting as a mortgage broker.—

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639 The provisions of this part do not prohibit a mortgage lender
640 from acting as a mortgage broker. However, in mortgage
641 transactions in which a mortgage lender acts as a mortgage
642 broker, the provisions of ss. 494.0038, ~~494.004(2),~~ 494.0042,
643 and 494.0043(1), (2), and (3) apply.
644 Section 19. Sections 494.0078, 494.0079, 494.00791,
645 494.00792, 494.00793, 494.00794, 494.00795, 494.00796, and
646 494.00797, Florida Statutes, are repealed.
647 Section 20. Section 494.008, Florida Statutes, is repealed.
648 Section 21. This act shall take effect July 1, 2014.

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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)

3/5/2014
Meeting Date

Topic: Mortgage Loan Originator

Bill Number: 666 (if applicable)

Name: Frank Cicione

Amendment Barcode: (if applicable)

Job Title: Exec. Director

Address: 1242 Cedar Center Dr.
Street

Tallahassee FL 32301
City State Zip

Phone: 850-942-6411

E-mail: frank@famb.org

Speaking: [x] For [ ] Against [ ] Information

Representing: Florida Assoc. of Mtge Professionals

Appearing at request of Chair: [ ] Yes [x] 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)

3/5/14
Meeting Date

Topic: MDAN Originators, Mtge Brokers, Mtge Lenders

Bill Number: 666 *(if applicable)*

Name: Alice Vickers

Amendment Barcode: *(if applicable)*

Job Title: Attorney

Address: 623 Beard St.
Street

Tallahassee, FL 32303
City *State* *Zip*

Phone: 850 556-3121

E-mail: alice@fcan.org

Speaking: ☐ For ☑ Against ☐ Information

Representing: FL Alliance for Consumer Protection

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)

666
Meeting Date

Topic _____

Bill Number 666 *(if applicable)*

Name BRIAN PITTS

Amendment Barcode _____ *(if applicable)*

Job Title Trustee

Address 1119 Newton Ave S.
Street

St Petersburg FL 33705
City *State* *Zip*

Phone 727/897-9291

E-mail justice2jesus@yahoo.com

Speaking: ☐ For ☐ Against ☑ Information

Representing Justice-2-Jesus

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

Committee Agenda Request

To: Senator Alan Hays, Chair
Appropriations Subcommittee on General Government

Subject: Committee Agenda Request

Date: February 19, 2014

I respectfully request that **Senate Bill #666**, relating to Loan Originators, Mortgage Brokers, and Mortgage Lenders, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Senator Nancy C. Detert
Florida Senate, District 28

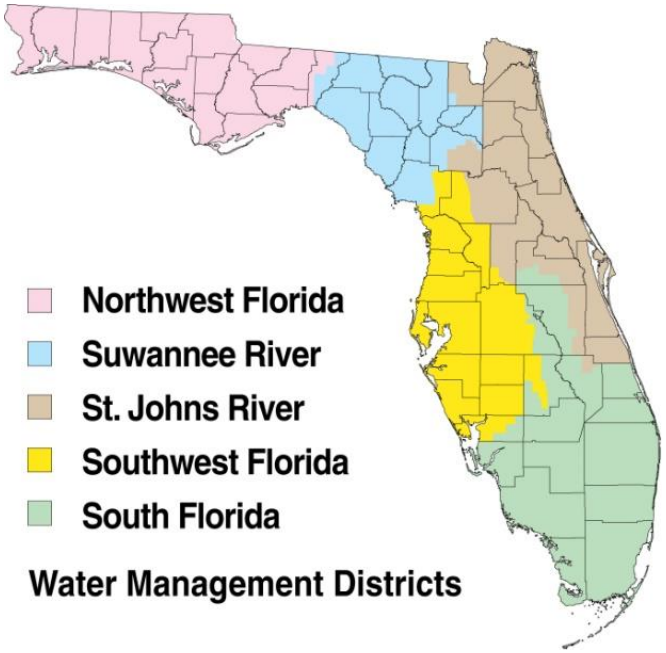
File signed original with committee office

S-020 (03/2004)

Fiscal Year 2014-2015 Preliminary Budget

Senate Appropriations Subcommittee on General Government

March 5, 2014



Jonathan P. Steverson, Executive Director
Jon.Steverson@nwfmwd.state.fl.us
Brett Cyphers, Assistant Executive Director
Brett.Cyphers@nwfwmd.state.fl.us
Jean Whitten, Director of Administration
Jean.Whitten@nwfwmd.state.fl.us

Presentation Agenda

- Budget in Brief
- Key Criteria for Budget Development
- Proposed Budget - Revenues and Expenditures
- Projected Utilization of Fund Balance
- Questions
- Additional Information
  - Program Budgets
  - Workforce

Budget in Brief

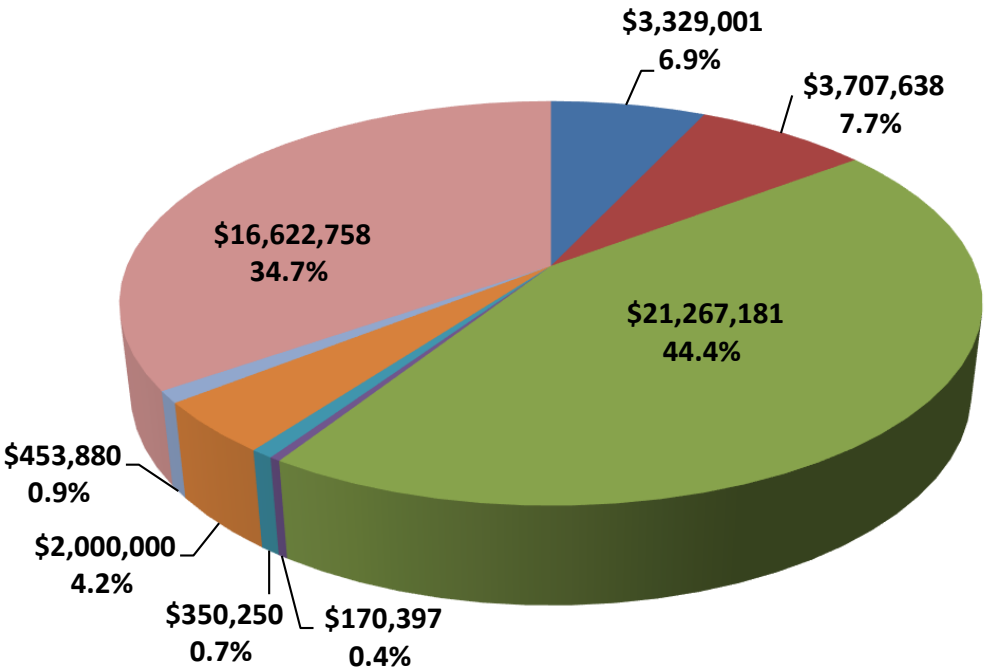
- **Proposed FY 2014-15 budget of $44.6 million, down $3.3 million**
- **Revenues:**
  - Ad valorem revenue is estimated to remain constant ($3.3 million)
  - $13.6 million received or appropriated in previous years
  - $19.1 million in fund balance
  - $11.9 million in new revenue
- **Expenditures:**
  - Operating Expenses decreased $0.8 million (23.1%)
  - Contracted Services increased $1.1 million (13.9%)
  - Salaries and Benefits decreased $0.03 million (0.4%)
  - Budget priorities:
    - $11.8 million - Enhanced water supply development grant program
    - $5.5 million - Cooperative alternative water supply projects
    - $3.3 million - Apalachicola River and Bay watershed protection and restoration
    - $2.3 million - Minimum Flows and Levels program including $0.7 million for long-term MFL springs protection
    - $2.3 million - St. Andrews Bay watershed protection and restoration
    - $1.4 million - Springs restoration and protection

Key Budget Criteria - Revenues

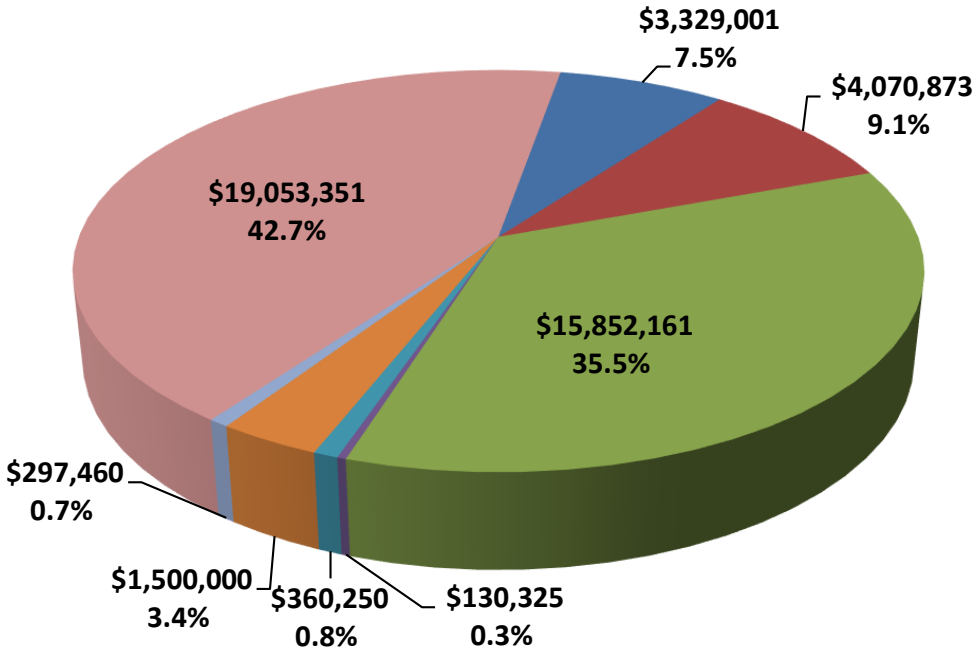
- **Ad valorem tax:**
  - Millage rate .04 mill ($3,329,001)
  - Accounts for 13% of total revenue and 7.5% of total budget
- **Funding source:**
  - $11.9 million in new revenue:
    - $3.3 million - Ad valorem
    - $4.1 million - Federal revenue
    - $2.2 million - Water Management Lands Trust Fund
    - $1.5 million - Timber sales
  - $13.6 million in state revenue appropriated or received in prior years:
    - $3.3 million - Ecosystem Trust Fund
    - $5.5 million - Water Protection & Sustainability Trust Fund
    - $2.2 million - Water Management Lands Trust Fund
    - $2.2 million - DOT mitigation funds
    - $0.4 million - Florida Forever Trust Fund
  - $19.1 million from Fund Balance

Revenues

FY 2013-2014 Budget ($47.9 million)



FY 2014-2015 Preliminary Budget ($44.6 million)



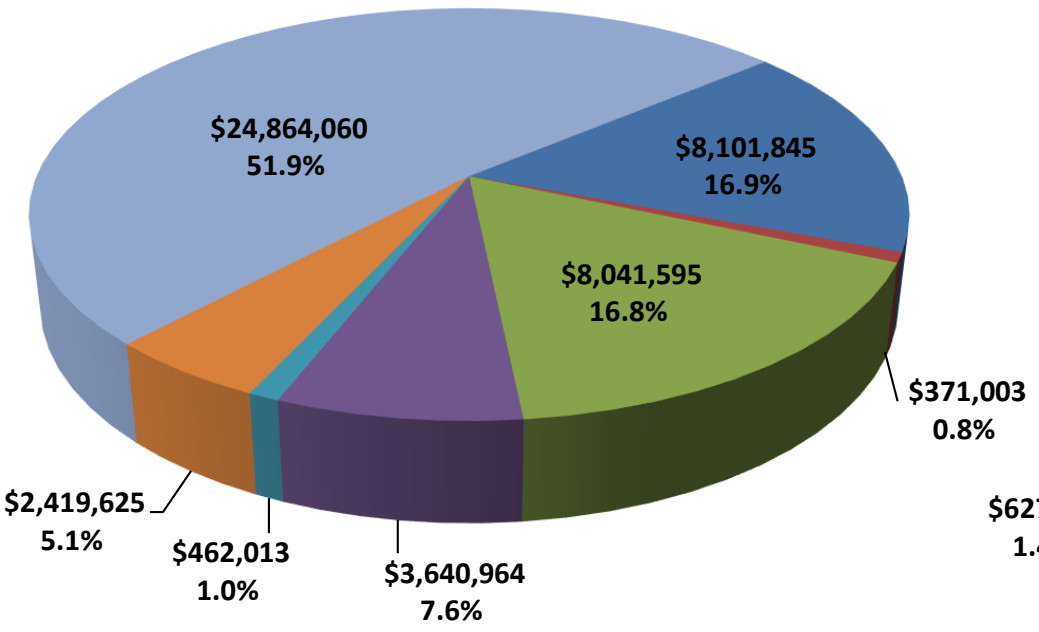
Ad Valorem Tax | Federal | State | Local Revenues | Permit Fees | Timber Sales | Miscellaneous | Fund Balance

Key Budget Criteria - Expenditures

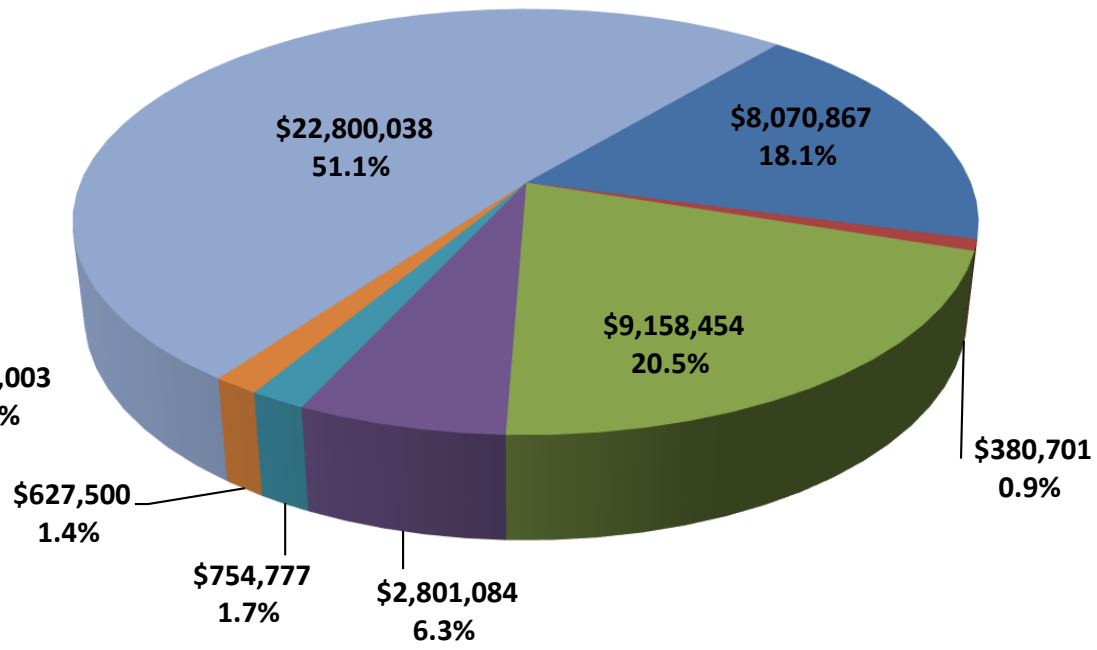
- **Focus on expenditures with direct benefit to communities and the resource**
  - Springs restoration and protection
  - Apalachicola River and Bay restoration and protection
  - Minimum Flows and Levels (MFLs)
  - Water resource and supply development grants
- **Enhance the tools that help us better serve taxpayers**
  - Expansion of water resource monitoring network
  - IT enhancements, including complete website reconstruction
- **Work bigger without getting bigger**
  - No proposed changes in staffing levels

Expenditures by Category

FY 2013-2014 Budget ($47.9 million)



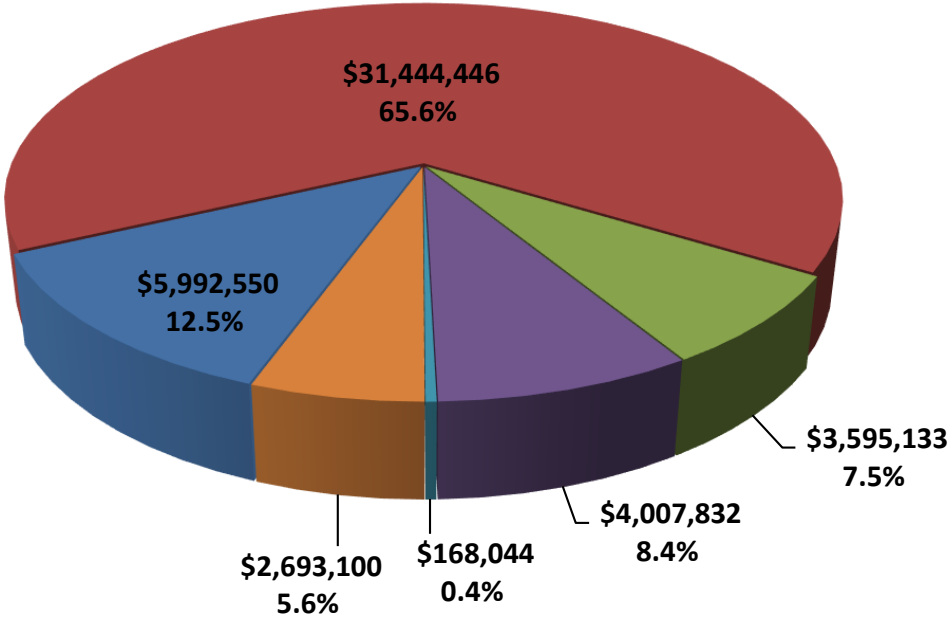
FY 2014-2015 Preliminary Budget ($44.6 million)



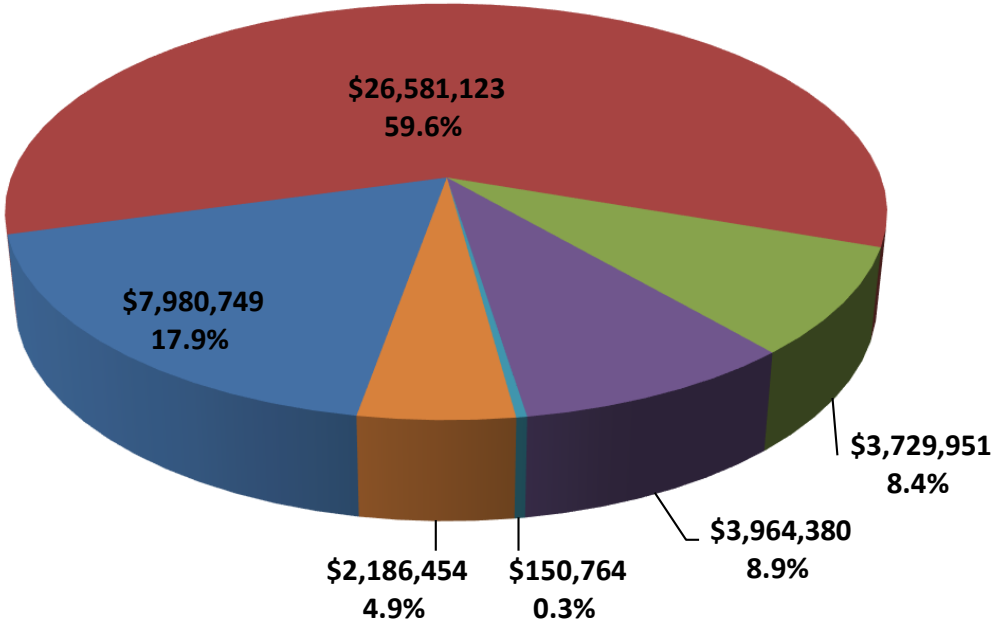
Salaries & Benefits | OPS Salaries & Benefits | Contractual Services | Operating Expense | Operating Capital Outlay | Fixed Capital Outlay | Interagency Exp/Grants

Expenditures by Program

FY 2013-2014 Budget ($47.9 million)



FY 2014-2015 Preliminary Budget ($44.6 million)



- Water Resource Plan/Monitoring
- Acq/Restoration/Public Works
- Operations & Maint Land & Works
- Regulation
- Outreach
- District Management & Admin

*** The combined Outreach and District Management & Administration programs represent 5.2% of the total FY 14-15 budget**

Projected Utilization of Fund Balance

Proposed Preliminary Budget Fiscal Year 2014-15

		Five Year Utilization Schedule					
Designations (Description of Restrictions)	Total Projected Designated Amounts at September 30, 2014	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	Remaining Balance
	0	0	0	0	0	0	0
NONSPENDABLE SUBTOTAL	0	0	0	0	0	0	0
Mitigation - Interest and Other Misc Revenue	1,409,870	0	0	0	0	0	1,409,870
Regulation - WMLTF ERP	762,120	241,945	0	0	0	0	520,175
Water Supply Development Assistance Grants Under Contract	7,000,000	7,000,000	0	0	0	0	0
RESTRICTED SUBTOTAL	9,171,990	7,241,945	0	0	0	0	1,930,045
Lands Management Fund	5,548,327	2,329,968	1,700,000	1,518,359	0	0	0
Capital Improvement Projects (Cap Improv & Land Acq TF)	79,338	46,594	32,744	0	0	0	0
Water Resource & Supply Projects (General Fund)	4,754,183	4,754,183	0	0	0	0	0
Economic Stabilization Fund (General Fund)	3,492,371	0	0	0	0	0	3,492,371
COMMITTED SUBTOTAL	13,874,219	7,130,745	1,732,744	1,518,359	0	0	3,492,371
MFLs, Planning & Other Resource Management Activities	10,607,603	3,651,975	3,477,814	3,477,814	0	0	0
General Fund Deficiences	437,291	0	0	0	0	0	437,291
Non-recurring IT and Building Repairs & Maintenance	1,028,686	1,028,686	0	0	0	0	0
ASSIGNED SUBTOTAL	12,073,580	4,680,661	3,477,814	3,477,814	0	0	437,291
	0	0	0	0	0	0	0
UNASSIGNED SUBTOTAL	0	0	0	0	0	0	0
	35,119,788	**19,053,351**	**5,210,558**	**4,996,173**	**0**	**0**	**5,859,706**
	Remaining Fund Balance at Fiscal Year End	**16,066,437**	**10,855,879**	**5,859,706**	**5,859,706**	**5,859,706**	**5,859,706**

Discussion

Projects and Partners

Spring	Contract Status	WMD & Partners	DEP contribution	WMD contribution	Partner and local contribution	Total Project Cost
Silver Spring - City of Ocala	Executed	SJR, City of Ocala	$1,920,000	$1,920,000	$8,304,000	$12,144,000
Silver Spring - Marion County	Executed	SJR, Marion Co.	$1,596,000	$1,596,000	$5,031,738	$8,223,738
Ichetucknee Springs	Executed	SR, Lake City, Columbia Co.	$3,900,000	$400,000	$300,000	$4,600,000
Wekiva Springs System	Executed	SJR, City of Apopka	$700,704	$700,704	$2,102,112	$3,503,520
Suwannee River Springs	Executed	SR, Dixie Co.	$1,548,000	$277,000	$75,000	$1,900,000
Kings Bay - Hunters Cove and Three Sisters	Executed	SWF, Hunters Cove, Friends of Three Sisters	$350,000	$600,000	$50,000	$1,000,000
Kings Bay - Citrus County	Executed	Citrus Co.	$1,000,000	$0	$1,000,000	$2,000,000
Rainbow, Kings Bay, Homosassa, Chassahowitzka , Weeki Wachee	Executed	SWF, Local Growers	$0	$750,000	$250,000	$1,000,000
Jackson Blue Spring	Executed	NWF, Area Producers, FDACS, NRCS	$752,000	$72,000	$429,711	$1,253,711
Williford Spring	Executed	NWF, FWCC, Washington Co.	$377,000	$1,401,652	$69,800	$1,848,452
Total			**$12,143,704**	**$7,717,356**	**$17,612,361**	**$37,473,421**

Jackson Blue Spring

Jackson Blue Spring, Mobile Irrigation Lab / Pivot Irrigation System Retrofit Program

Provide funding assistance to farmers for irrigation, fertilizer & pesticide application improvements

Total Project Cost	$1,253,711
DEP Contribution	$752,000
NWFWMD	$72,000
Area Producers, FDACS, NRCS	$429,711

Results

- estimated reduction of ~12,000 pounds per year of nitrogen for the average farm through improved fertilizer and pesticide application practices.
- estimated water savings of ~240 gal/ acre/day by retrofitting center-pivot irrigation systems and other water savings measures.

Williford Springs

Williford Springs, Washington County (2nd Mag. Spring)

Restore springbank vegetation & increase stormwater treatment areas

Total Project Cost	$1,848,452
DEP Contribution	$377,000
NWFWMD	$1,401,652
Fish & Wildlife Conservation Commission & Washington County	$69,800

Results

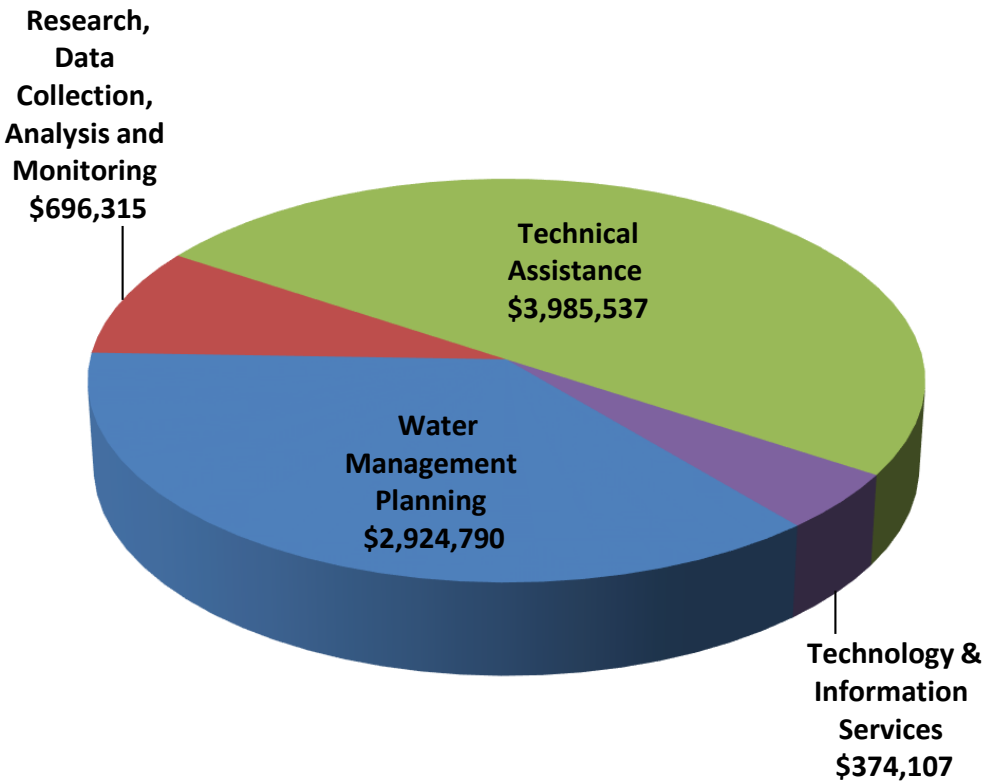
- estimated 50-60 % reduction of sediment and other stormwater pollutants from entering the spring.

Additional Information

Program Budgets

Workforce

Water Resources Planning and Monitoring Program
$8.0 million



Water Management Planning ($2.9 million)

- Includes Minimum Flows and Levels (MFLs), monitoring and technical assessments for springs and aquifer, including the St. Marks River Rise in Leon County and the Floridan Aquifer in coastal Franklin County
- Data collection for other priorities, including the Wakulla/Spring Creek complex
- MFL Hydrologic monitoring (water levels, discharge and rainfall) – 38 sites across the Panhandle

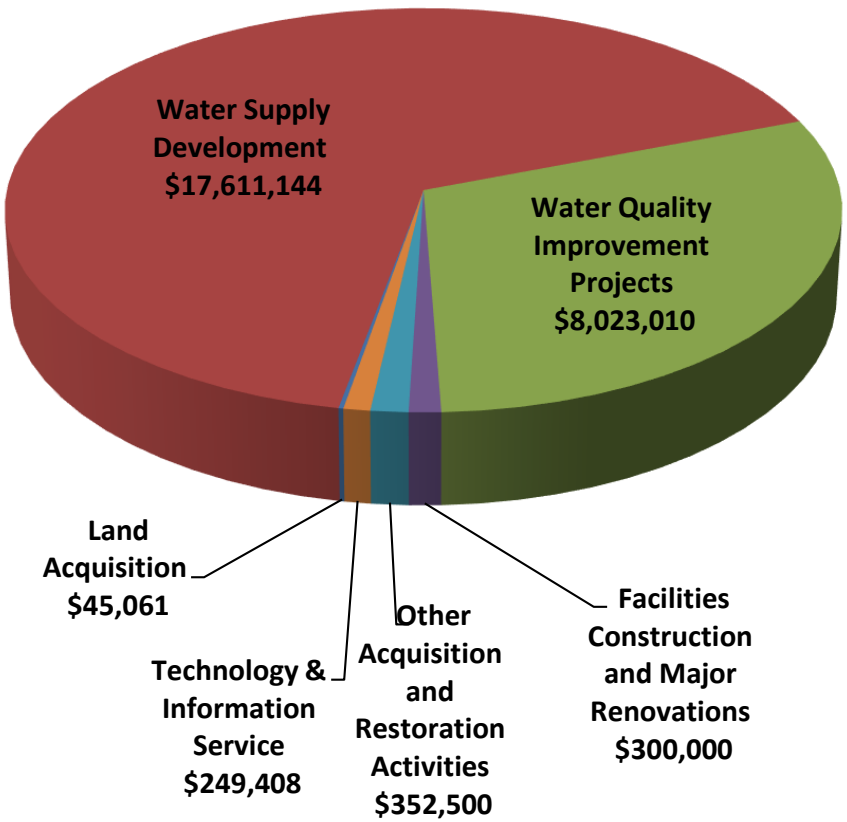
Research, Data Collection, Analysis and Monitoring ($0.7 million)

- Hydrologic monitoring (water levels, discharge and rainfall) – 310 sites
- Water quality monitoring (surface water, groundwater and springs) – 160 sites

Technical Assistance ($4.0 million)

- FEMA flood insurance rate map (FIRM) program, inland and coastal floodplain analysis and map updates
- FEMA Risk MAP initiative to define and improve public awareness of flood risk
- Detailed floodplain information provided online to the public through the District's new Flood Information Portal
- New Public LiDAR data server with detailed elevation data available online

Acquisition, Restoration and Public Works Program
$26.6 million



Water Supply Development Projects ($17.6 million)

- Local grant funding initiative for cooperative water supply development assistance
- Implementation of alternative water supply development projects

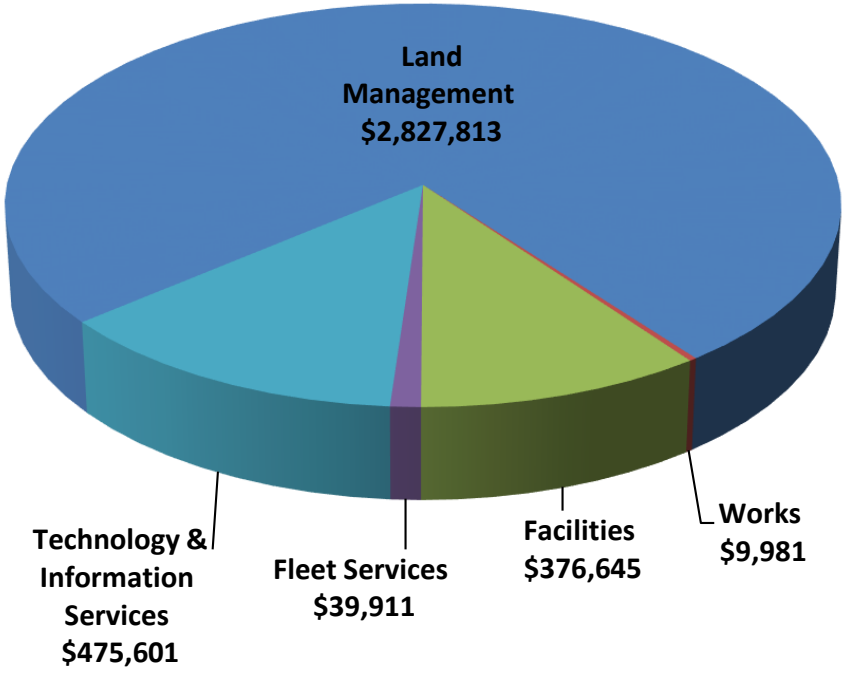
Surface Water Projects ($8.0 million)

- Stormwater retrofit projects and project development for Apalachicola Bay, including projects funded with new Legislative appropriations
- Stormwater retrofit projects for St. Andrew Bay, as well as spring restoration in the St. Andrew Bay watershed and stormwater treatment within the Choctawhatchee Bay watershed
- Cooperative agriculture water conservation and water quality improvement projects in Jackson Blue Spring
- Construction and long-term maintenance of current FDOT Mitigation projects

Other Acquisition and Restoration Activities ($0.4M)

- Complete construction of Williford Spring restoration and protection project

Operation and Maintenance of Lands and Works
$3.7 million



Land Management and Use ($2.8 million)

- 212,368 acres managed by District
- 12,403 acres in Conservation Easements (less-than-fee simple)

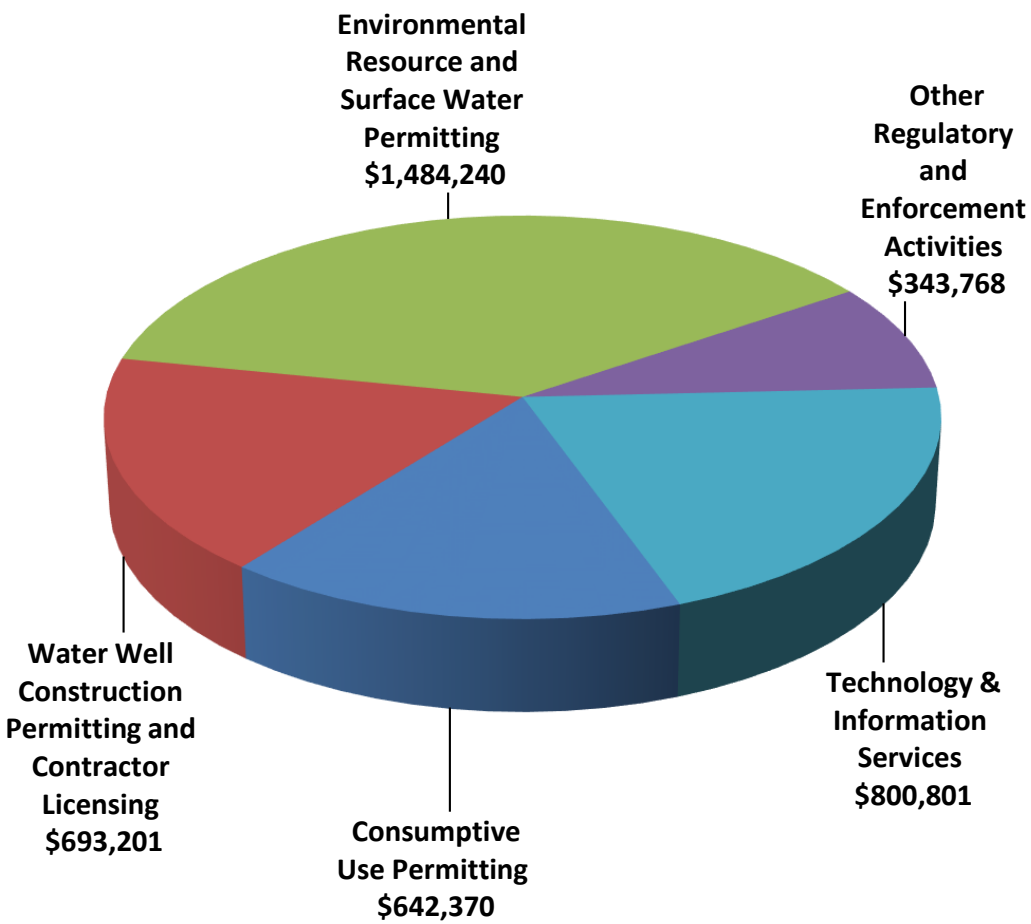
Facility Operation and Maintenance ($0.4 million)

- Operate and maintain six District-owned and leased office sites: Midway, Tallahassee (Carr Building), Crestview, Marianna, Econfina and Milton

Technology and Information Services ($0.5 million)

- Development of new database to improve forestry management and other land management responsibilities

Regulation Program
$4.0 million



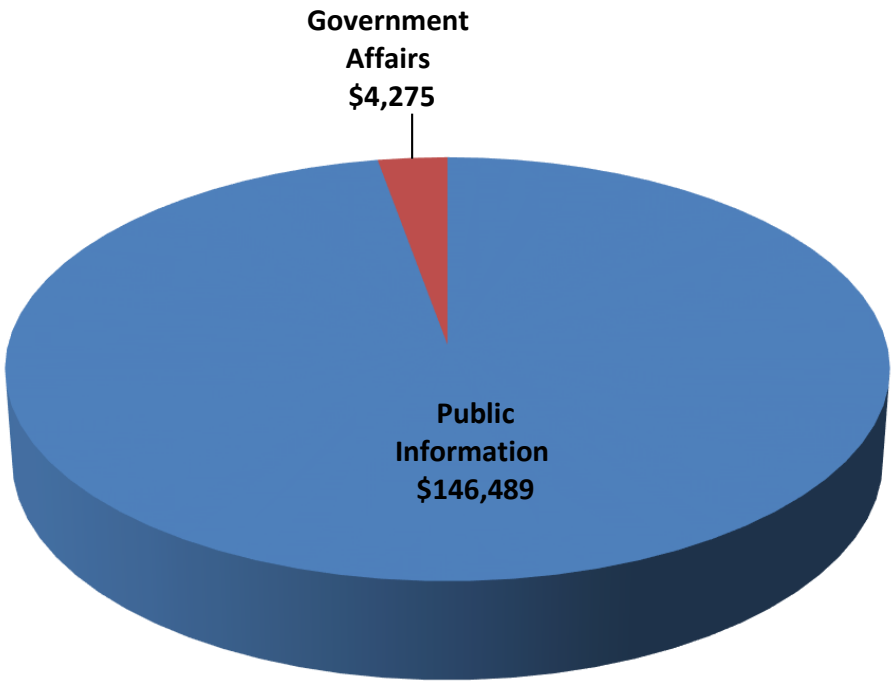
Consumptive Use Permitting ($0.6 million)
- Permits the allocation of water from surface and groundwater sources
- Statewide Consumptive Use Permitting consistency (CUPCon) rule development

Water Well Construction Permitting and Contractor Licensing ($0.7 million)
- Ensures proper well siting and construction to protect applicants, communities, and natural resources
- Online well permitting

Environmental Resource and Surface Water Permitting ($1.5 million)
- Regulation of most surface water systems
- Statewide ERP rulemaking

Technology and Information Services ($0.8 million)
- IT coordination for rule changes affecting ePermitting
- Technology initiatives to provide efficiencies in customer service and staff productivity

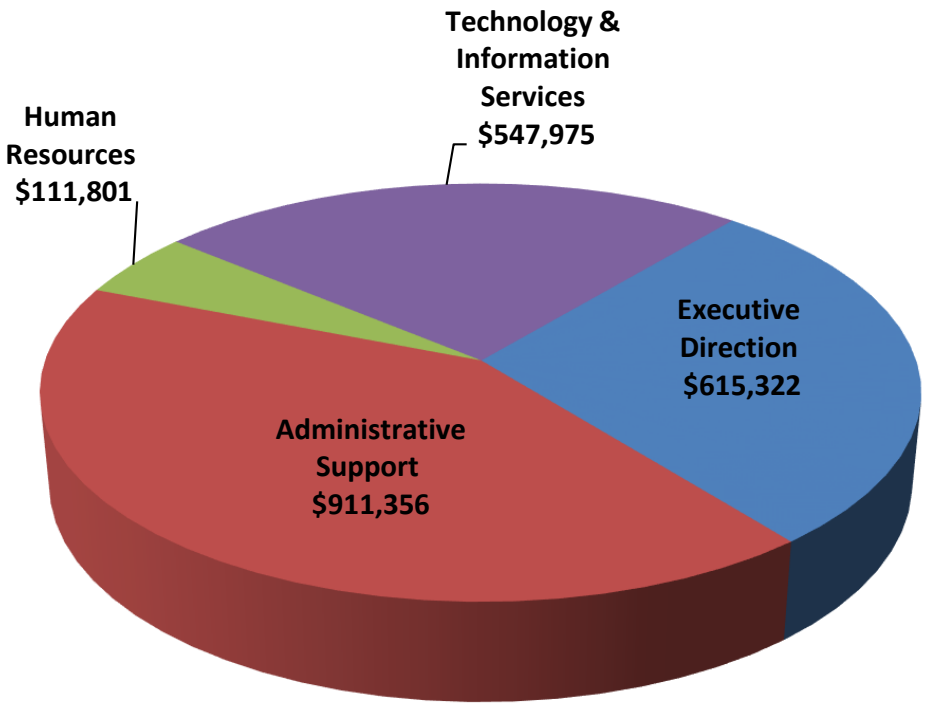
Outreach Program
$150,764



Public Information

- Encompasses District's education, public relations and public information activities
- Ensures timely and accurate information is provided to the media and the public
- Represents .3% of the total budget

District Management and Administration
$2.2 million

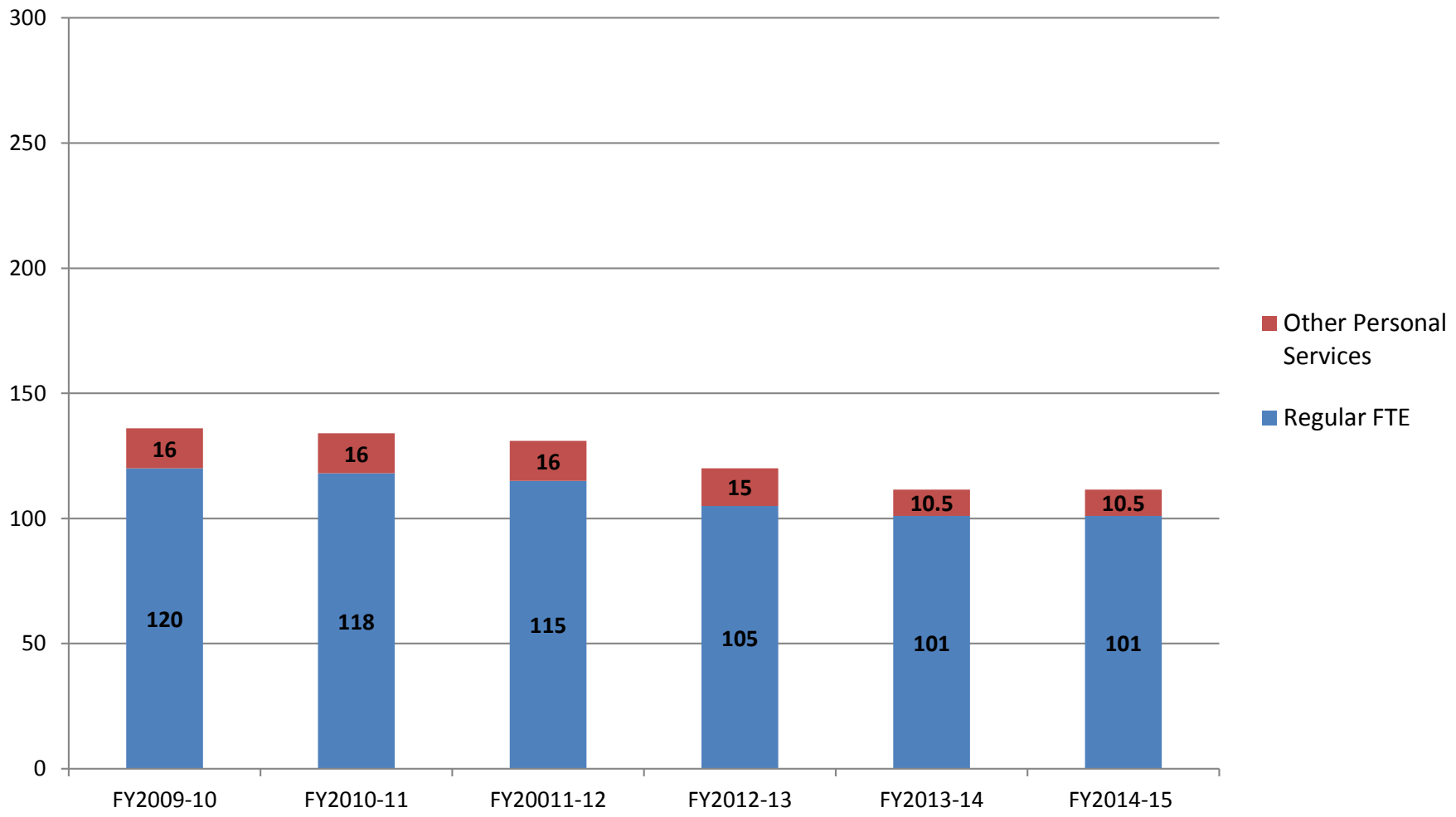


Administration & Operations Support

- Represents 4.9% of the total budget
- Executive and Board Support
- General Counsel & Inspector General (contractual)
- Human Resources
- Administration
- Information Technology

Total Workforce

(FYs 2009-2010 –2013-2014 Adopted and FY 2014-2015 Preliminary)



THE FLORIDA SENATE

APPEARANCE RECORD

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

3/5/2014
Meeting Date

Topic: WMD Budget

Bill Number: _____ *(if applicable)*

Name: Brett Cyphers

Amendment Barcode: _____ *(if applicable)*

Job Title: Asst. Executive Director

Address: _____
Street

_____
City *State* *Zip*

Phone: _____

E-mail: _____

Speaking: ☐ For ☐ Against ☑ Information

Representing: NORTHWEST FLORIDA WMD

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)

CourtSmart Tag Report

Room: EL 110 **Case:** **Type:**
Caption: Senate Appropriations Subcommittee on General Government **Judge:**

Started: 3/5/2014 11:02:03 AM
Ends: 3/5/2014 12:29:44 PM **Length: 01:27:42**

11:02:05 AM	Sen. Hays (Chair)
11:02:55 AM	TAB 2 - SB 928, State Technology
11:03:11 AM	Sen. Ring
11:05:30 AM	Sen Hays
11:05:34 AM	Am. 345612
11:05:52 AM	Sen. Ring
11:06:02 AM	Sen. Hays
11:06:23 AM	Am. 210956
11:06:35 AM	Sen. Ring
11:06:38 AM	Sen. Hays
11:06:54 AM	Am. 781544
11:07:12 AM	Sen. Ring
11:07:22 AM	Sen. Hays
11:07:37 AM	Am. 582540
11:07:44 AM	Sen. Ring
11:08:01 AM	Sen. Hays
11:08:13 AM	Am. 881210
11:08:26 AM	Sen. Ring
11:08:31 AM	Sen. Hays
11:08:35 AM	Sen. Soto
11:08:53 AM	Sen. Ring
11:09:31 AM	Sen. Soto
11:09:44 AM	Sen. Ring
11:10:32 AM	Sen. Detert
11:11:15 AM	Sen. Ring
11:12:13 AM	Sen. Detert
11:12:37 AM	Sen. Ring
11:12:49 AM	Sen. Hays
11:12:57 AM	Sen. Joyner
11:14:20 AM	Sen. Hays
11:14:37 AM	Am. 647678
11:14:51 AM	Sen. Ring
11:15:01 AM	Sen. Hays
11:15:19 AM	SB 928
11:15:37 AM	Sen. Ring
11:17:26 AM	Sen Hays
11:18:07 AM	Sen Hays
11:18:37 AM	TAB 1 - SB 564
11:18:42 AM	Sen. Richter
11:19:38 AM	Sen. Hays
11:19:42 AM	Sen. Braynon
11:19:50 AM	Sen. Richter
11:20:36 AM	Sen. Hays
11:20:45 AM	Sen. Thompson
11:20:58 AM	Sen. Richter
11:21:49 AM	Sen. Joyner
11:22:17 AM	Sen. Richter
11:22:52 AM	Sen. Joyner
11:23:00 AM	Sen. Richter
11:23:27 AM	Sen. Joyner
11:24:02 AM	Sen. Richter
11:24:19 AM	Sen. Joyner

11:24:31 AM Sen. Richter
11:25:05 AM Sen. Joyner
11:25:15 AM Sen. Richter
11:25:33 AM Sen. Joyner
11:25:57 AM Sen. Hays
11:26:57 AM Sen. Bradley
11:27:04 AM Sen. Hays
11:27:11 AM TAB 5 - Presentation on Northwest Florida Water Management District Fiscal Year 2014-2015 Preliminary Budget
11:27:48 AM Brett Cyphers, Assistant Executive Director, Northwest Florida Water Management District
11:33:09 AM Sen. Hays
11:34:23 AM TAB 4 - SB 666
11:34:37 AM Sen. Detert
11:36:52 AM Sen. Hays
11:36:56 AM Am 956228
11:37:02 AM Sen. Detert
11:37:30 AM Sen. Hays
11:37:42 AM Am. 281846
11:37:51 AM Sen. Detert
11:37:53 AM Sen. Hays
11:38:09 AM Am. 956228
11:38:17 AM SB. 666
11:38:32 AM Sen. Soto
11:38:39 AM Sen. Detert
11:40:14 AM Sen. Soto
11:40:22 AM Sen. Detert
11:40:27 AM Sen. Hays
11:40:29 AM Sen. Thompson
11:40:46 AM Sen. Detert
11:41:39 AM Sen. Thompson
11:41:59 AM Sen. Detert
11:42:33 AM Frank Cicione, Executive Director, Florida Association of Mortgage Professionals
11:44:13 AM Sen. Detert
11:44:21 AM F. Cicione
11:44:40 AM Sen. Thompson
11:44:49 AM F. Cicione
11:45:21 AM Sen. Hays
11:45:26 AM Sen. Joyner
11:46:17 AM F. Cicione
11:46:19 AM Sen. Detert
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11:48:22 AM Sen. Joyner
11:52:13 AM F. Cicione
11:52:28 AM Sen. Detert
11:53:48 AM Sen Hays
11:53:53 AM Alice Vickers, Attorney, Florida Alliance for Consumer Protection
11:55:10 AM Sen Hays
11:55:18 AM Brian Pitts, Trustee, Justice -2- Jesus
11:57:37 AM Sen. Hays
11:57:49 AM Sen. Joyner
11:58:16 AM Sen. Hays
11:58:21 AM Sen. Detert
11:59:01 AM Sen. Hays
11:59:42 AM TAB 3- SB 416
11:59:55 AM Sen. Simpson
12:00:27 PM Am. 973154
12:00:49 PM Sen. Hays
12:01:24 PM Sen. Joyner
12:01:35 PM Sen. Simpson
12:01:47 PM Sen. Joyner
12:01:54 PM Sen. Simpson

12:03:14 PM	Sen. Hays
12:03:25 PM	Am. 673232
12:03:40 PM	Sen. Simpson
12:03:44 PM	Sen. Hays
12:03:49 PM	Am. 429040
12:03:56 PM	Sen. Simpson
12:04:04 PM	Sen. Hays
12:04:15 PM	Sen. Soto
12:04:23 PM	Sen. Simpson
12:04:41 PM	Sen. Hays
12:04:43 PM	Sen. Latvala
12:05:13 PM	Sen. Simpson
12:05:40 PM	Sen. Hays
12:05:56 PM	SB 416
12:06:06 PM	Sen. Simpson
12:06:34 PM	Sen. Joyner
12:10:43 PM	Sen. Detert
12:11:09 PM	Sen. Simpson
12:12:30 PM	Sen. Detert
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12:13:28 PM	Sen. Dean
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12:17:18 PM	Sen. Soto
12:17:27 PM	Sen. Simpson
12:17:35 PM	Sen. Latvala
12:18:08 PM	Sen. Simpson
12:18:28 PM	Sen. Latvala
12:18:33 PM	Sen. Simpson
12:18:49 PM	Sen. Latvala
12:19:54 PM	Christine Ashburn, Citizens
12:21:28 PM	Sen. Latvala
12:21:58 PM	C. Ashburn
12:22:54 PM	Sen. Latvala
12:23:06 PM	C. Ashburn
12:23:38 PM	Sen. Latvala
12:23:49 PM	C. Ashburn
12:24:19 PM	Sen. Latvala
12:25:58 PM	Sen. Hays
12:27:12 PM	Paul Thomas, National Risk Manager, 2-10 Home Buyers Warranty
12:29:10 PM	Sen. Hays