

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Banking and Insurance

BILL: SB 1704

INTRODUCER: Senator Wright

SUBJECT: Department of Financial Services

DATE: March 22, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Billmeier	Knudson	BI	Pre-meeting
2.			IT	
3.			RC	

I. Summary:

SB 1704 is the agency bill for the Department of Financial Services.

The bill allows the Division of Treasury to maintain warrants paid rather than turning them over to the Division of Auditing and Accounting and extending the retention period from 5 to 10 years.

The bill amends Florida Funeral, Cemetery, and Consumer Services Act to:

- Allow a funeral director in charge to supervise up to four facilities, provided they are within a specified distance from one another;
- Authorize out of state trust companies to service a funeral or cemetery's care and maintenance trust fund;
- Provide criteria for internship programs for a joint funeral director and embalmer license applicant; and
- Allow out of state trust companies to receive funds from a preneed contract without obtaining a preneed license.

The bill amends various licensing statutes administered by the Division of Agent and Agency Services. The bill:

- Creates a temporary license for personal lines agents similar to the temporary license existing in other lines;
- Provides that licenses for industrial fire or burglary agents will no longer be issued but allows current license holders to maintain their licenses;
- Eliminates examination requirements for industrial fire insurance and burglary insurance agents as well as crop hail and multiple-peril crop insurance agents; and

- Provides the DFS the discretion to deny an application for an insurance agency license on the grounds that another jurisdiction has taken an adverse action against a professional license held by that person.

The bill amends the DFS property insurance mediation program to require an insurer to report a settlement through mediation to all parties within 10 days after the conclusion of the mediation. The report must include the settlement amount.

The bill amends statutes relating to the State Fire Marshal to provide that identification of state-owned and leased buildings will no longer be determined by the U.S. National Grid Coordinate System and to direct the Division of State Fire Marshal to develop employer best practices for firefighter cancer prevention.

The bill amends the Disposition of Unclaimed Property Act to increase the amount retained in the Unclaimed Property Trust Fund from \$15 million to \$30 million, to facilitate timely claims payments. It also allows the DFS to automatically disburse certain unclaimed property accounts to verified claimants.

II. Present Situation:

The Department of Financial Services (DFS) is created by s. 20.121, F.S. The agency head for the DFS is the Chief Financial Officer (CFO).¹ The DFS has the following divisions and offices:

- Division of Accounting and Auditing;
- Division of Consumer Services;
- Division of Funeral, Cemetery, and Consumer Services;
- Division of Insurance Agent and Agency Services;
- Division of Investigative and Forensic Services;
- Division of Public Assistance Fraud;
- Division of Rehabilitation and Liquidation;
- Division of Risk Management;
- Division of State Fire Marshal;
- Division of Treasury;
- Division of Unclaimed Property;
- Division of Workers' Compensation;
- Division of Administration; and
- Office of Insurance Consumer Advocate.²

The bill deals with various divisions and programs within the DFS. The divisions and programs changed by the bill are briefly discussed as follows.

¹ Section 20.121(1), F.S.

² Section 20.121(2), F.S.

Division of the Treasury

The CFO, or Treasurer, is the state treasurer.³ The Division of the Treasury within the DFS has three bureaus:

- Bureau of Funds Management;
- Bureau of Collateral Management; and
- Bureau of Deferred Compensation.⁴

Section 17.56, F.S., requires the Division of Treasury to turn over to the Division of Accounting and Auditing all warrants drawn by the Chief Financial Officer or the Comptroller and paid by the Division of Treasury. The warrants shall be turned over as soon as the Division of Treasury shall have recorded such warrants and charged the same against the accounts upon which such warrants are drawn. The DFS reports that this requirement was created with the divisions were housed in separate agencies.⁵

Joint Legislative Auditing Committee and the Department of the Lottery

Section 24.123, F.S., requires the Legislative Auditing Committee to contract with a certified public accountant for an annual financial audit of the Department of the Lottery. The certified public accountant shall present an audit report no later than 7 months after the end of the fiscal year. The Auditor General may at any time conduct an audit of any phase of the operations of the state lottery and shall receive a copy of the yearly independent financial audit.⁶ A copy of any audit performed is submitted to the secretary of the Department of the Lottery, the Governor, the President of the Senate, the Speaker of the House of Representatives, and members of the Legislative Auditing Committee.⁷ These reports have been prepared in recent years by the Legislature's Office of Program Policy Analysis and Government Accountability⁸ and the Auditor General.⁹

State Board of Administration

The State Board of Administration (SBA) was created by the Florida Constitution and is governed by a three-member Board of Trustees (Trustees), comprised of the Governor as Chair, the Chief Financial Officer and the Attorney General.¹⁰ The SBA is required to invest assets and discharge its duties in accordance with Florida law and in compliance with fiduciary standards of

³ Section 20.121(1), F.S.

⁴ Department of Financial Services, Division of Treasury, *Annual Report 2018* (available at <https://www.myfloridacfo.com/Division/Treasury/Reports/AnnualReports/docs/2018TreasuryAnnualReport.pdf> last visited March 17, 2019).

⁵ See Department of Financial Services, *SB 1704 Legislative Bill Analysis* (March 12, 2019) (on file with the Senate Committee on Banking and Insurance).

⁶ Section 24.123(2), F.S.

⁷ Section 24.123(3), F.S.

⁸ Reports by OPPAGA may be found here: <http://www.oppaga.state.fl.us/ReportsByTopic.aspx?topic=Lottery> (last visited March 17, 2019).

⁹ The most recent report by the Auditor General may be found here: https://flauditor.gov/pages/pdf_files/2019-090.pdf (last visited March 17, 2019).

¹⁰ See Article IV, section (4)(a), Fla. Const.; s. 215.44, F.S.

care.¹¹ Section 215.44(2)(d), F.S., requires the SBA to produce a set of financial statements for the Florida Retirement System on an annual basis, which shall be reported to the Legislature and audited by a commercial independent third-party audit firm.¹²

Section 215.80, F.S., requires the Division of Bond Finance or the State Board of Administration to annually report on all debt service or other sinking funds for any bonds issued by the division for the state or any state agencies and the status of all such funds and accounts. Section 215.98, F.S., requires the Division of Bond Finance to conduct a debt affordability analysis each year. Proposed capital projects that require funding by the issuance of additional state debt shall be evaluated on the basis of the analysis to assist the Governor and the Legislature in setting priorities among capital projects and related appropriations. The Division of Bond Finance is required to annually prepare a debt affordability report, to be presented to the governing board of the Division of Bond Finance,¹³ the President of the Senate, the Speaker of the House of Representatives, and the chair of each appropriations committee by December 15 of each year.

Division of Funeral, Cemetery, and Consumer Services

Regulation of Licensees

The Board of Funeral, Cemetery, and Consumer Services, within the DFS, licenses and regulates cemeteries, funeral directors, embalmers, burial rights brokers, and others in the death care industry. The Board of Funeral, Cemetery, and Consumer Services licenses:

- Embalmer apprentices
- Embalmer interns
- Funeral director interns
- Funeral directors
- Funeral director and embalmers
- Direct disposers
- Monument establishment sales agents
- Preneed sales agents

Current law generally requires each establishment have a licensed funeral director, embalmer, or direct disposer in charge at that establishment. Section 497.380, F.S., provides that each licensed funeral establishment to have one full-time funeral director in charge. Since October 1, 2010, the full-time funeral director in charge must hold an active, valid embalmer license or combination license as a funeral director and an embalmer under most circumstances. The full-time funeral director may not be the full-time funeral director in charge of any other funeral establishment or of any other direct disposal establishment. Section 497.385, F.S., requires each licensed centralized embalming facility to have at least one full-time embalmer in charge. The full-time embalmer in charge may not be the full-time embalmer in charge, full-time funeral director in charge, or full-time direct disposer in charge of any other establishment licensed under ch. 497, F.S. Section 497.606, F.S., Each incinerator facility is required to have one full-time licensed

¹¹ See <https://www.sbafla.com/fsb/> (last visited March 17, 2019).

¹² See <https://www.sbafla.com/fsb/Trustees,CouncilsCommittees/AuditCommittee/AuditedFinancialStatements.aspx> (last visited March 17, 2019).

¹³ The governing board of the Division of Bond Finance is the Governor, Attorney General, and CFO. See s. 215.62, F.S.

direct disposer or licensed funeral director in charge for that facility. Such person may be in charge of only one facility.

Section 497.476, F.S., allows persons to be licensed as both a funeral director and an embalmer. Persons holding a combination license as a funeral director and an embalmer are subject to regulation both as a funeral director and an embalmer.

Preneed Contracts

A “preneed contract” is any arrangement or method, of which the provider of funeral merchandise or services has actual knowledge, whereby any person agrees to furnish funeral merchandise or service in the future.¹⁴ Persons who sell preneed contracts are licensed by the Board of Funeral, Cemetery, and Consumer Services.¹⁵ Section 497.458, F.S., requires any person who receives funds under a preneed contract for funeral services or merchandise or burial services or merchandise to deposit certain percentages of the amounts received with a trust company operating pursuant to ch. 660, F.S., with a national or state bank holding trust powers, or with a federal or state savings and loan association holding trust powers. Trust companies operating under ch. 660, F.S., are domiciled in Florida.

Care and Maintenance Trust Funds

A cemetery company has a duty to ensure that the grounds, structures, and other improvements of the cemetery are well cared for and maintained in a proper and dignified condition.¹⁶ The cemetery company must establish a “care and maintenance” trust fund with a trust company operating under ch. 660, F.S.

Division of Agent and Agency Services

The DFS licenses and regulates insurance agents, insurance agencies, and insurance adjusters. There are over 50 different types of licenses. Typically, obtaining a license involves completing education requirements, submitting to a criminal and professional background check, passing an examination, and paying a license fee. Some licensees must act as apprentices supervised by others when performing duties. This bill makes changes to various agent licensing provisions. Each change is discussed in Section III, Effect of Proposed Changes.

DFS Property Insurance Mediation Program

Section 627.7015, F.S., creates a property insurance mediation program through the DFS. It is available for claims under personal lines and commercial residential policies before commencing the appraisal process, or before commencing litigation.¹⁷ An insurer must notify the policyholder of the right to participate in mediation at the time of the claim.¹⁸ Mediation is nonbinding. However, if a written settlement is reached, the policyholder has 3 business days within which the policyholder may rescind the settlement unless the policyholder has cashed or deposited any

¹⁴ Section 497.005(61), F.S.

¹⁵ Section 497.453, F.S.

¹⁶ Section 497.262, F.S.

¹⁷ Section 627.7015(1), F.S.

¹⁸ Section 627.7015(2), F.S.

check or draft disbursed to the policyholder for the disputed matters as a result of the conference. If a settlement agreement is reached and is not rescinded, it is binding and acts as a release of all specific claims that were presented in that mediation conference.¹⁹

Division of State Fire Marshal

The CFO serves as the State Fire Marshal.²⁰ The Division of State Fire Marshal:

- Conducts fire/life safety inspections and construction plans review on all state-owned buildings;
- Regulates the fireworks and the fire sprinkler industries, inspects and licenses boilers;
- Certifies fire suppression industry workers;
- Approves firefighter training curricula;
- Offers fire service training at the Florida State Fire College; and
- Certifies that fire service members meet industry-based standards.²¹

Division of Unclaimed Property

The DFS administers the Florida Disposition of Unclaimed Property Act. Unclaimed property is any funds or other property, tangible or intangible, that has remained unclaimed by the owner for a certain number of years. Unclaimed property may include savings and checking accounts, money orders, travelers' checks, uncashed payroll or cashiers' checks, stocks, bonds, other securities, insurance policy payments, refunds, security and utility deposits, and contents of safe deposit boxes.²² The DFS Division of Unclaimed Property is responsible for receiving property, attempting to locate the rightful owners, and returning the property or proceeds to them. There is no statute of limitations and persons may claim their property at any time and at no cost.

III. Effect of Proposed Changes:

Financial Records and Reporting of Audits

Section 1 amends s. 17.56, F.S., to require the Division of Treasury to maintain all warrants drawn by the CFO for a period of 10 years from the date the warrant was presented for payment. It removes the requirement that the Division of Treasury turn over the warrants to the Division of Accounting and Auditing.

Section 2 amends s. 24.123, F.S., to require the annual audit of the Department of the Lottery to be submitted by November 30 rather than 7 months after the end of the fiscal year. Staff from the Office of Program Policy Analysis and Government Accountability expressed concern that the earlier deadline will preclude use of consistently used data sources so some of the findings will be based on older data.²³ The bill also requires that a copy of the annual audit be provided to the CFO.

¹⁹ Section 627.7015(6), F.S.

²⁰ Section 633.104, F.S.

²¹ See <https://www.myfloridacfo.com/division/sfm/> (last visited March 19, 2019).

²² Sections 717.104-717.116, F.S.

²³ Email from Office of Program Policy Analysis and Government Accountability staff to Senate Banking and Insurance Committee Staff dated March 15, 2019 (on file with the Committee on Banking and Insurance).

Section 3 amends s. 215.44, F.S., to require the SBA to publish the audited financial statements of the Florida Retirement System by November 30 of each year. This requirement begins for fiscal years beginning on or after July 1, 2020.

Section 4 amends s. 215.80, F.S., to require the Division of Bond Finance or the SBA to report on all debt service or other sinking funds for any bonds issued by the division for the state or any state agencies and the status of all such funds and accounts by November 30 of each year. This requirement begins for fiscal years beginning on or after July 1, 2020.

Section 5 amends s. 215.98, F.S., to require the Division of Bond Finance to prepare the debt affordability report by November 15 of each year and to provide a copy to the CFO.

Division of Funeral, Cemetery, and Consumer Services

Regulation of Licensees

Section 6 creates s. 497.173, F.S. It provides that each licensed location shall have a full-time licensee in charge. The provision applies to funeral directors, embalmers, and direct disposers. The licensee in charge shall have an active license and may serve as the licensee in charge of no more than four licensed locations, provided the two furthest locations are no more than 75 miles apart as measured in a straight line. Current law generally only allows funeral directors, embalmers, and direct disposers to be in charge of one establishment. **Section 11** makes conforming changes to s. 497.380, F.S.

The bill makes changes to the combination license for funeral directors and embalmers.

Section 9 requires an applicant for a combination license as a funeral director and an embalmer to hold the educational credentials required for licensure as a funeral director, which are:

- An associate in arts degree, associate in science degree, or an associate in applied science degree in mortuary science approved by the licensing authority; or
- An associate degree or higher from a college or university accredited by a regional accrediting agency recognized by the United States Department of Education and is a graduate of a course of study in mortuary science or funeral service arts approved by the licensing authority from a college or university accredited by the American Board of Funeral Service Education.

Section 10 amends s. 497.377, F.S., relating to internship requirements for combined licensure as a funeral director and embalmer. The bill allows the internship requirement for licensure as funeral director and the internship requirement for licensure as an embalmer to be served concurrently.

The bill provides that an applicant who has not completed the educational credentials required for a combination license as funeral director and embalmer is eligible for licensure as a combination funeral director and embalmer intern if the applicant:

- Is currently enrolled in and attending a college accredited by the American Board of Funeral Service Education in an accredited course of study in mortuary science;
- Has completed at least 75 percent of the course of study in mortuary science, as certified by the college in which the applicant is currently enrolled; and

- Has taken and received a passing grade in a college credit course in mortuary law or funeral service law and has taken and received a passing grade in a college credit course in ethics.

The bill requires an application for internship for a combination funeral director and embalmer license to include the name and address of the funeral director and the embalmer who will supervise the intern and the name of the licensed funeral establishment where the training will be conducted.

The bill provides that a combination funeral director and embalmer intern may perform only the tasks, functions, and duties relating to funeral directing and embalming which are performed under the direct supervision of a licensed funeral director or an embalmer. “Direct supervision” means supervision by a licensed:

- Funeral director who provides initial direction and periodic inspection of the arrangements and who is physically present or on the premises of the funeral establishment at all times when the tasks, functions, and duties relating to funeral directing are performed; or
- Embalmer who provides initial direction and instruction regarding the preservation of a dead human body in its entirety or in part and who is physically present or on the premises of the funeral establishment or embalming facility at all times when the tasks, functions, and duties relating to embalming are performed.²⁴

The bill creates an exception to the direct supervision requirement upon the intern’s graduation from an accredited college with an appropriate degree and the intern’s passage of the laws and rules examination required by the Board of Funeral, Cemetery, and Consumer Services. If the intern meets those conditions and the funeral director in charge of the internship training agency certifies to the Board of Funeral, Cemetery, and Consumer Services that the intern is competent to complete the internship under general supervision, the intern may complete the internship under general supervision. “General supervision” means supervision by a licensed:

- Funeral director who is reasonably available and in a position to provide direction and guidance by being physically present, being on the premises of the funeral establishment, or being in proximity to the funeral establishment and available telephonically or by electronic communication at all times when the tasks, functions, and duties relating to funeral directing are performed; or
- Embalmer who is reasonably available and in a position to provide direction and guidance by being physically present, being on the premises of the funeral establishment or embalming facility, or being in proximity to the funeral establishment or embalming facility and available telephonically or by electronic communication at all times when the tasks, functions, and duties relating to embalming are performed.²⁵

The bill provides that a combination funeral director and embalmer intern license expires 1 year after issuance. The bill allows the Board of Funeral, Cemetery, and Consumer Services to adopt rules that allow a combination funeral director and embalmer intern to renew her or his funeral director and embalmer intern license for an additional 1-year period if the combination funeral director and embalmer intern demonstrates her or his failure to complete the internship before expiration of the license due to illness, personal injury, or other substantial hardship beyond her

²⁴ Section 497.002(29), F.S.

²⁵ Section 497.002(39), F.S.

or his reasonable control or demonstrates that she or he has completed the requirements for licensure as a combination funeral director and embalmer but is awaiting the results of a licensure examination.

Section 11 amends s. 497.380, F.S., to remove language holding the funeral director in charge responsible for ensuring that the facility, its operations, and its employees comply with state and federal law. It provides that a funeral director who does not have an embalmer license or a combination funeral director and embalmer license may be the funeral director in charge if the facility does not have an embalming room or refrigeration onsite.

Preneed Contracts

Sections 7, 8, and 12 allows licensees to use national trust companies for care and maintenance trust funds and preneed trust funds. The bill eliminates the requirement that trust companies must be operating pursuant to ch. 660, F.S.

Section 497.453, F.S., requires preneed licensees to file an annual report on the activities of any trust established pursuant to the Florida Funeral, Cemetery, and Consumer Services Act.

Section 13 requires preneed licensees which sold 15,000 or more preneed contracts in a year to file additional reports. The bill defines “Year 1” as a year in which a preneed licensee sells, or a group of preneed licensees under common control sells in aggregate, 15,000 or more preneed contracts in this state. The bill defines “Year 2” as the year immediately after Year 1. In Year 2, the bill requires the licensee or licensees to prepare a report of Florida preneed operations in Year 1 on a form prescribed by rule. The licensee must cause and pay for such report to be audited by an independent certified public accounting firm concerning the accuracy and fairness of the presentation of the data provided in the report. By December 31 of Year 2, the licensee must provide the report to the Division of Funeral, Cemetery, and Consumer Services along with a written and signed opinion of the certified public accounting firm concerning the accuracy and fairness of the presentation of the data reported in the report.

The report must be prepared and submitted using forms and procedures specified by DFS rule. The bill provides that the DFS may adopt rules specifying the format of the report and the information to be reported.

Division of Agent and Agency Services

The bill creates temporary licenses for personal lines agents, abolishes licenses as industrial fire insurance or burglary insurance agents, and provides that certain notices from insurers to appointed agents may be provided by e-mail. It repeals statutes relating to temporary licenses as a customer representative and credit and character reports. The bill changes adjuster qualification requirements and makes technical changes.

Section 626.175, F.S., allows the DFS to issue temporary licenses as certain types of insurance agents. For example, the DFS may issue a temporary license as a general lines agent so a person can wind up the business affairs of another agent.²⁶ Personal lines agents are limited to transacting business related to property and casualty insurance sold to individuals and families

²⁶ See s. 626.175, F.S., and <https://www.myfloridacfo.com/Division/Agents/Licensure/General/docs/T02-20.htm> (last visited March 19, 2019).

for noncommercial purposes.²⁷ There is no provision in s. 626.175, F.S., allowing temporary licenses as personal lines agents. **Section 15** allows the DFS to issue a temporary license as personal lines agent:

- To the executor or administrator of the estate of a deceased individual who was licensed and appointed as a personal lines agent at the time of his or her death;
- To a surviving next of kin of the deceased individual if no administrator or executor has been appointed and qualified; or
- To an individual otherwise qualified to be licensed as an agent, who has completed the educational or training requirements, and who is appointed to represent an insurer of the industrial²⁸ or ordinary-combination class²⁹ solely for the purpose of collecting premiums and servicing in-force policies.

The bill removes industrial fire and burglary agents from the temporary license statute because the license types are being eliminated by the bill. **Section 23** makes a conforming change to s. 626.729, F.S.

The bill removes the requirement that a temporary life agent has sat for the life agent examination prior to the termination of the temporary appointment. The temporary life agent must be appointed to represent an insurer of the industrial or ordinary-combination class solely for the purpose of collecting premiums and servicing in-force policies.

Section 16 amends s. 626.221, F.S., to provide that an applicant for an all-lines adjuster license who has been licensed as an all-lines adjuster and appointed as an independent adjuster or company employee adjuster is exempt from the examination if an application for licensure is filed within 48 months following the date of cancellation or expiration of the prior appointment.

Section 626.2815, F.S., mandates continuing education for insurance agents and insurance adjusters. **Section 17** removes continuing education requirement for license types that have been eliminated in recent years or are being eliminated by this bill.

²⁷ See ss. 626.015(17), 626.311, F.S.

²⁸ Section 626.782, F.S., defines an “industrial class insurer” is an insurer writing industrial life insurance and as to such insurance operates under a system of collecting a debit by its agent. Section 627.502, F.S., defines “industrial life insurance” as that form of life insurance written under policies under which premiums are payable monthly or more often, bearing the words “industrial policy” or “weekly premium policy” or words of similar import imprinted upon the policies as part of the descriptive matter, and issued by an insurer which, as to such industrial life insurance, is operating under a system of collecting a debit by its agent.

²⁹ An “ordinary-combination class insurer” is an insurer writing both ordinary class insurance and industrial class insurance. See s. 626.783, F.S.

Section 18 provides that no new or additional licenses to transact industrial fire insurance or burglary insurance³⁰ will be issued after July 1, 2019. There are approximately 100 of those licenses still active.³¹ Current licensees will be allowed to renew their licenses and appointments.

The bill eliminates the examination requirement for crop hail and multiple peril crop insurance.

An appointment is the authority given by an insurer or employer to a licensee to transact insurance or adjust claims on behalf of an insurer or employer.³² Section 626.471, F.S., provides that an appointing entity, such as an insurance company, may terminate an appointee's, such as an insurance agent, appointment at any time subject to any contract rights. The appointing entity must give the appointee 60 days' notice prior to termination and provide the notice by mail or by delivery in person. **Section 19** allows the appointing entity to give notice via email.

Section 20 repeals s. 626.521, F.S. Section 626.521, F.S., requires an appointing insurer to secure a full detailed credit and character report before appointing an agent, adjuster, service representative, customer representative, or managing general agent. The bill allows insurers to require credit or character reports as a condition of appointment but leaves the decision with the insurer. **Section 14** amends s. 626.025, F.S., to make a conforming change.

Section 21 amends s. 626.536, F.S., to remove unnecessary language. An "insurance agency" is a licensee so referring to both is redundant.

Section 626.6215, F.S., provides that the DFS may refuse to issue a license or suspend or revoke an insurance agency license under certain circumstances. **Section 22** provides for discretionary refusal, suspension or revocation when a licensee has had a denial, suspension, or revocation of, or any other adverse administrative action against, a license to practice or conduct any regulated profession, business, or vocation by this state, any other state, any nation, any possession or district of the United States, any court, or any lawful agency thereof. Similar language already exists in s. 626.621, F.S., for insurance agents.

Section 24 repeals s. 626.7355, F.S., creating temporary license as a customer representative. Customer representatives obtain licensure by meeting education and background check requirements so the temporary license is obsolete.

Sections 25 and 26 makes technical changes to ss. 626.8437 and 626.844, F.S.

Section 626.865, F.S., provides qualifications for licensure as a public adjuster. One of the qualifications is that the applicant has been licensed in this state as an all-lines adjuster, and has

³⁰ Section 626.729, F.S., provides "industrial fire insurance" is insurance against loss by fire of either buildings and other structures or contents, which may include extended coverage; windstorm insurance; basic limits owners, landlords, or tenants liability insurance with single limits of \$25,000; comprehensive personal liability insurance with a single limit of \$25,000; or burglary insurance, under which the premiums are collected quarterly or more often and the face amount of the insurance provided by the policy on one risk is not more than \$50,000, including the contents of such buildings and other structures, and the insurer issuing such policy is operating under a system of collecting a debit by its agents.

³¹ See Department of Financial Services, *SB 1704 Legislative Bill Analysis* (March 15, 2019) (on file with the Senate Committee on Banking and Insurance).

³² Section 626.015(4), F.S.

been appointed on a continual basis for the previous 6 months as a public adjuster apprentice, as an independent adjuster, or as a company employee adjuster.³³ Section 626.8732, F.S., has a similar requirement for nonresident adjusters except they must have been employed for a year. **Section 27** creates the same 6 month employment requirement for nonresident adjusters as current law has for resident adjusters.

Section 31 amends s. 648.49, F.S., to require a bail bond agent whose license or appointment has been suspended to file an application for reinstatement with the DFS before the license or appointment can be reinstated. This revision makes the bail bond statute consistent with other DFS licensing statutes.

DFS Property Insurance Mediation Program

Section 28 amends s. 627.7015, F.S., to require an insurer to report a settlement through mediation pursuant to the DFS property insurance mediation program to all parties within 10 days after the conclusion of the mediation. The report must include the settlement amount.

Division of State Fire Marshal

Section 633.218, F.S., requires the State Fire Marshal to inspect, or have inspected, each state-owned building on a recurring basis. A state-owned building or state-leased building or space must be identified through use of the United States National Grid Coordinate System.³⁴ **Section 29** removes that requirement.

Section 633.520, F.S., requires every firefighter employer to furnish and use safety devices and safeguards, adopt and use methods and processes reasonably adequate to render such an employment and place of employment safe, and do every other thing reasonably necessary to protect the lives, health, and safety of such firefighter employees. **Section 30** requires the Division of State Fire Marshal to adopt rules to establish employer cancer prevention best practices relating to personal protective equipment, decontamination, fire suppression, and fire stations.

Division of Unclaimed Property

Section 717.123, F.S., provides that all funds received under the Florida Disposition of Unclaimed Property Act, including the proceeds from the sale of unclaimed property, are deposited by the DFS in the Unclaimed Property Trust Fund. The DFS retains \$15 million to make prompt payment of claims and to pay the costs incurred in administering and enforcing the unclaimed property program. All remaining funds are deposited into the State School Fund. **Section 32** increases the amount that the DFS retains in the Unclaimed Property Trust Fund from \$15 million to \$30 million. The DFS reports that increasing the amount in the Unclaimed

³³ Section 626.8732, F.S.

³⁴ Section 633.218(1)(f), F.S. The National Grid may be found here:

<https://www.arcgis.com/home/item.html?id=dc352c5f18854d82b32bce92c0b6656b> (last visited March 21, 2019).

Property Trust Fund will reduce the necessity of borrowing from other trust funds and repaying those funds during the fiscal year.³⁵

Current law in s. 717.124, F.S., allows an apparent owner to electronically submit a claim for unclaimed property to the DFS. If a claim is submitted electronically for \$1,000 or less, the DFS may use a method of identity verification other than a copy of a valid driver license, other government-issued photographic identification, or a sworn notarized statement.³⁶ **Section 33** changes the claim amount from \$1,000 to \$5,000.

The bill contains provisions allowing the DFS to be more active in attempting to return property to owners. The bill provides that the DFS may develop and implement an identification verification and disbursement process for accounts valued at less than \$2,000. After the DFS receives the property and adds the property to the database, the account may be disbursed to an apparent owner after the DFS has verified that the apparent owner is living and has verified the apparent owner's correct, current address. The DFS must include with the payment a notification and an explanation of the dollar amount, source, and property type of each account included in the disbursement. The bill also allows the DFS to develop and implement a verification and disbursement process for accounts which the apparent owner is a government entity. The bill provides rulemaking authority to administer this program.

The bill provides that the DFS may develop a process by which a registered claimant's representative may electronically submit to the DFS electronic images of completed claims and claim-related documents, including limited powers of attorney and purchase agreements that have been personally signed and dated by a claimant or by a seller after the original documents provided by the claimant or by the seller to the claimant's representative are physically received and in the claimant's representative's possession for any respective claim.

Each claim filed by a registered claimant's representative must include a statement by the claimant's representative or buyer accurately attesting that all documents are true copies of the original documents and that all original documents are physically in the possession of the claimant's representative or buyer. All original documents must be kept in original form, by claim number, under the secure control of the claimant's representative or buyer and must be made available for inspection by the DFS.

The bill provides rulemaking authority to administer these programs.

Effective Date

Section 34 provides an effective date of July 1, 2019.

³⁵ See Department of Financial Services, *SB 1704 Legislative Bill Analysis* (March 15, 2019) (on file with the Senate Committee on Banking and Insurance).

³⁶ Section 717.124(7), F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Article III, section 6, of the Florida Constitution provides that “every law shall embrace but one subject and matter properly connected therewith, and the subject shall be briefly expressed in the title.”

Section 2 of this bill amends s. 24.123, F.S. Section 24.123, F.S., requires the Joint Legislative Auditing Committee to contract with a certified public accountant to conduct an annual audit of the Department of the Lottery. The bill changes the due date for the audit from 7 months after the end of the fiscal year to November 30. The bill also requires a copy of the audits to be furnished to the CFO. It is arguable that a bill changing a due date for an annual audit performed on the Department of the Lottery by the Legislature is a different subject than a bill titled and relating to the Department of Financial Services.

Section 3 requires the SBA to publish the audited financial statements of the Florida Retirement System by November 30 of each year. **Section 4** requires the Division of Bond Finance or the SBA to report on all debt service or other sinking funds for any bonds issued by the division for the state or any state agencies and the status of all such funds and accounts by November 30 of each year. **Section 5** requires the Division of Bond Finance to prepare the debt affordability report by November 15 of each year and to provide a copy to the CFO. It could be argued that provisions requiring the SBA or one of its divisions to take actions is a different subject than a bill titled and relating to the Department of Financial Services.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

Section 5 requires the Division of Bond Finance to provide a copy of the annual debt affordability report to the CFO. Section 215.62, F.S., names the CFO as a member of the governing board of the Division of Bond Finance. Section 215.98, F.S., already requires the Division of Bond Finance to provide the debt affordability report to the governing board. Therefore, the bill's requirement that the report be provided to the CFO is already contained in law.

Section 6 allows a licensee to be in charge of up to four licensed locations. This provision appears to apply to funeral directors, embalmers, and direct disposers. The bill does not amend sections 497.385 and 497.606, F.S., to make conforming changes to those statutes.

Section 20 of the bill repeals s. 626.521, F.S. The bill does not remove a reference to s. 626.521, F.S., in s. 626.022, F.S.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 17.56, 24.123, 215.44, 215.80, 215.98, 497.263, 497.266, 497.376, 497.377, 497.380, 497.452, 497.453, 626.025, 626.175, 626.221, 626.2815, 626.321, 626.471, 626.536, 626.6215, 626.729, 626.8437, 626.844, 626.8732, 627.7015, 633.218, 633.520, 648.49, 717.123, and 717.124.

This bill creates section 497.173 of the Florida Statutes.

This bill repeals the following sections of the Florida Statutes: 626.521 and 626.7355.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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