

THE FLORIDA SENATE
2017 SUMMARY OF LEGISLATION PASSED
Committee on Banking and Insurance

CS/CS/HB 837 — Insurer Insolvency

by Commerce Committee; Insurance and Banking Subcommittee; and Rep. Raburn (CS/CS/SB 730 by Rules Committee; Banking and Insurance Committee; and Senator Passidomo)

The bill amends Florida’s Insurers Rehabilitation and Liquidation Act to include various provisions from the National Association of Insurance Commissioners’ “Insurer Receivership

Model Act.” The bill:

- Provides that notices of hearings pertaining to the insolvency of a member insurer shall be delivered to the Florida Health Maintenance Organization Consumer Assistance Plan;
- Provides exclusive jurisdiction to the circuit court in Leon County over all assets and property of an insurer in receivership, whether or not such assets or property are located outside of Florida;
- Creates deadlines for written responses from an insurer subject to an order to show cause and establishes a deadline for commencement of a hearing to determine whether cause exists for the Department of Financial Services (DFS) to be appointed receiver;
- Exempts the Office of Insurance Regulation from the automatic stay provisions;
- Provides that the DFS may assume or reject unexpired leases or executory contracts of an insurer and pay expenses during the pendency of a receivership under contracts, leases, and other arrangements entered by insurers before commencement of the receivership;
- Provides that officers, directors, and managers, of a liquidated insurer are discharged of authority except as may be delegated by the DFS;
- Limits certain defenses which may be raised by third parties in actions brought by or against the DFS in its capacity as receiver;
- Limits third parties from asserting or raising obligations, claims, and defenses which were not recorded in the records of the insurer in receivership, with certain exceptions;
- Allows the court more flexibility in approving procedures for the “deemed filing” of claims, or claims where the DFS deems a claim filed and can distribute funds, such as a refund of unearned premium, to the claimant without the need of a formal claim;
- Allows the court to set a deadline for the filing of claims;
- Disallows claims for post-judgment interest accrued after the liquidation date;
- Creates a process for administering large deductible workers’ compensation policies and the collateral for large deductible workers’ compensation policies;
- Adds all costs and expenses related to administrative supervision to Class 1 of the priority of claims to be paid in distribution;
- Adds claims related to healthcare coverage by physicians, hospitals, and other providers of a health insurer or HMO and claims of residents which arise out of a continuing care contract to Class 2 of the priority of claims to be paid in a distribution; and
- Removes certain notice requirements related to early access distributions to guaranty associations.

If approved by the Governor, these provisions take effect July 1, 2017.

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Vote: Senate 36-0; House 117-0

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