Tab 1	**SB 514** by **Boyd**; (Similar to H 01569) Mortgage Brokering

260562	D	S	RCS	BI, Boyd	Delete everything after	01/18 10:37 AM

Tab 2	**SB 532** by **Brodeur**; (Similar to H 00311) Securities

283890	A	S	RCS	BI, Brodeur	Delete L.567 - 2552:	01/18 10:37 AM

Tab 3	**SB 556** by **Rouson**; (Similar to H 00515) Protection of Specified Adults

279272	A	S	RCS	BI, Rouson	Delete L.110 - 152:	01/18 10:37 AM

Tab 4	**SB 846** by **DiCeglie**; (Compare to CS/H 00215) Risk Retention Groups

560190	D	S	RCS	BI, DiCeglie	Delete everything after	01/18 10:37 AM

Tab 5	**SB 902** by **Boyd**; (Similar to H 00605) Motor Vehicle Retail Financial Agreements

871000	A	S	RCS	BI, Boyd	Delete L.80 - 401:	01/18 10:37 AM

Tab 6	**SB 1014** by **Perry**; (Similar to CS/H 00085) Public Records/State Banks and State Trust Companies

Tab 7	**SB 1066** by **Burton**; (Identical to H 00939) Consumer Protection

579502	A	S	RCS	BI, Burton	Delete L.57 - 566:	01/18 10:37 AM

Tab 8	**SB 1106** by **Hooper**; (Similar to H 00889) Coverage by Citizens Property Insurance Corporation

320544	A	S	RCS	BI, Hooper	Delete L.206 - 259:	01/18 10:37 AM

Tab 9	**SPB 7028** by **BI**; My Safe Florida Home Program

The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

BANKING AND INSURANCE
Senator Boyd, Chair
Senator DiCeglie, Vice Chair

MEETING DATE: Tuesday, January 16, 2024
TIME: 11:00 a.m.—1:00 p.m.
PLACE: *Pat Thomas Committee Room,* 412 Knott Building

MEMBERS: Senator Boyd, Chair; Senator DiCeglie, Vice Chair; Senators Broxson, Burton, Hutson, Ingoglia, Mayfield, Powell, Thompson, Torres, and Trumbull

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	**SB 514** Boyd (Similar H 1569)	Mortgage Brokering; Providing an exemption from regulation under parts I, II, and III of ch. 494, F.S., for bona fide nonprofit organizations and their employees, etc. BI 01/16/2024 Fav/CS FP RC	Fav/CS Yeas 10 Nays 0
2	**SB 532** Brodeur (Similar H 311)	Securities; Revising the list of securities that are exempt from registration requirements under certain provisions; revising provisions relating to a certain registration exemption for certain securities transactions; updating the federal laws or regulations with which the offer or sale of securities must be in compliance; requiring that offers and sales of securities be in accordance with certain federal laws and rules; providing that registration exemptions under certain provisions are not available to issuers for certain transactions under specified circumstances; specifying criteria for determining integration of offerings for the purpose of registration or qualifying for a registration exemption; specifying the purpose of the Securities Guaranty Fund, etc. BI 01/16/2024 Fav/CS AEG FP	Fav/CS Yeas 10 Nays 0
3	**SB 556** Rouson (Similar H 515)	Protection of Specified Adults; Authorizing financial institutions, under certain circumstances, to delay a disbursement or transaction from an account of a specified adult; requiring the financial institution to make certain information available upon request by certain entities; specifying that a delay on a disbursement or transaction expires on a certain date; authorizing the financial institution to extend the delay under certain circumstances, etc. BI 01/16/2024 Fav/CS CF RC	Fav/CS Yeas 10 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	**SB 846** DiCeglie (Compare CS/H 215)	Risk Retention Groups; Providing that certain risk retention groups are deemed to be insurance companies authorized to do business in this state, etc. BI 01/16/2024 Fav/CS AEG FP	Fav/CS Yeas 10 Nays 0
5	**SB 902** Boyd (Similar H 605)	Motor Vehicle Retail Financial Agreements; Revising the definition of the term “guaranteed asset protection product”; prohibiting certain entities from deducting more than a specified amount in administrative fees when providing a refund of a guaranteed asset protection product; creating the “Florida Vehicle Value Protection Agreements Act”; authorizing the offer, sale, or gift of vehicle value protection agreements in compliance with a certain act; requiring vehicle value protection agreements to state the terms, restrictions, or conditions governing cancellation by the provider or the contract holder, etc. BI 01/16/2024 Fav/CS CM FP	Fav/CS Yeas 10 Nays 0
6	**SB 1014** Perry (Similar CS/H 85)	Public Records/State Banks and State Trust Companies; Providing an exemption from public records requirements for certain information received by the Office of Financial Regulation relating to an application for authority to organize a new state bank or new state trust company; providing an exemption from public records requirements for certain information received by the office relating to an application for authority to organize a new state bank or new state trust company until specified conditions are met; providing for future legislative review and repeal of the exemptions; providing a statement of public necessity, etc. BI 01/16/2024 Favorable GO RC	Favorable Yeas 10 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	**SB 1066** Burton (Identical H 939)	Consumer Protection; Prohibiting certain civil actions under the Florida Disposition of Unclaimed Property Act; prohibiting state government agencies from entering into contracts and agreements with certain entities; requiring contractors to include a notice in their contracts with residential property owners under certain circumstances; defining the terms “claim” and “other agreement”; prohibiting falsely representing that an advertisement or communication originated from a bank or lending institution, etc. BI 01/16/2024 Fav/CS JU RC	Fav/CS Yeas 10 Nays 0
8	**SB 1106** Hooper (Similar H 889, Compare H 1015, H 1611, S 1622)	Coverage by Citizens Property Insurance Corporation; Revising certain minimum replacement costs as risk amounts ineligible for coverage by Citizens Property Insurance Corporation for personal lines residential structures; providing exceptions to rate increase limitations on single policies issued by the corporation; prohibiting coverage for certain dwelling structures and single condominium units under certain circumstances, etc. BI 01/16/2024 Fav/CS AEG AP	Fav/CS Yeas 10 Nays 0
	Consideration of proposed bill:		
9	**SPB 7028**	My Safe Florida Home Program; Specifying eligibility requirements for hurricane mitigation inspections under the program; authorizing an applicant to receive a home inspection under the program without being eligible for a grant or applying for a grant; specifying eligibility requirements for hurricane mitigation grants; revising the improvements for which grants may be used, etc.	Submitted and Reported Favorably as Committee Bill Yeas 10 Nays 0
	Other Related Meeting Documents		

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	CS/SB 514
INTRODUCER:	Senate Committee on Banking and Insurance and Senator Boyd
SUBJECT:	Mortgage Brokering
DATE:	January 18, 2024
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Moody	Knudson	BI	**Fav/CS**
2.			FP	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 514 expands the list of loan originators, mortgage brokers, and mortgage lenders who are exempted from regulation under ch. 494, F.S., to include a bona fide nonprofit organization and its employees in certain circumstances.

The bill provides that for an organization to be a "bona fide nonprofit organization," the Office of Financial Regulation ("OFR") must apply criteria and processes established by rule to determine whether the organization satisfies a list of factors that must be met, including that the organization that is exempt from federal income tax under s. 501(c)(3), I.R.C., promotes affordable housing or provides homeownership education or similar services, conducts its activities in a manner that serves public or charitable purposes, and that meets other specified criteria.

The OFR must determine whether the loan terms are consistent with loan origination in a public or charitable context, rather than a commercial context. The OFR must periodically examine the books and activities of the organization and revoke its status as a bona fide nonprofit organization if the specified criteria do not continue to be met.

The bill provides the Financial Services Commission ("Commission") with rulemaking authority to prescribe criteria and processes for the OFR to determine whether an organization satisfies the requirements of a bona fide nonprofit organization.

The bill is effective July 1, 2024.

II. Present Situation:

The 2008 financial crisis began when losses on mortgage-related financial assets caused large financial firms to experience financial distress, ultimately resulting in significant decreases in the value of the United States housing market and the United State economy entering into a severe recession that would ultimately be labeled the "Great Recession."[1] In response, the United States Congress enacted the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (S.A.F.E. Act) (12 U.S.C. s. 5101-5116), to reduce fraud and regulatory burden, enhance consumer protection, and increase uniformity.[2]

The S.A.F.E. Act

Enacted on July 30, 2008, the S.A.F.E. Act establishes minimum standards for the licensing and registration of state-licensed mortgage loan originators, and mandates a nationwide licensing and registration system for residential mortgage loan originators. In 2009, Florida adopted this requirement for loan originators in s. 494.00312, F.S.[3] Florida also adopted parallel requirements for persons (employers, businesses, and individuals) who are applicants for licenses as mortgage brokers and mortgage lenders, exceeding the federal requirement. States are allowed to provide for exemptions from the S.A.F.E. Act to bona fide nonprofit organization or its employees if, under criteria and pursuant to processes established by the state, the state supervisory authority determines that the organization:[4]

- Has the status of a tax-exempt organization under s. 501(c)(3) of the Internal Revenue Code of 1986;
- Promotes affordable housing or provides homeownership education, or similar services;
- Conducts its activities in a manner that serves public or charitable purposes, rather than commercial purposes;
- Receives funding and revenue and charges fees in a manner that does not incentivize it or its employees to act other than in the best interests of its clients;
- Compensates its employees in a manner that does not incentivize employees to act other than in the best interests of its clients;
- Provides or identifies for the borrower residential mortgage loans with terms favorable to the borrower[5] and comparable to mortgage loans and housing assistance provided under government housing assistance programs; and
- Meets other standards that the state determines are appropriate.

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[1] John Weinberg, *The Great Recession and Its Aftermath*, Federal Reserve History (Nov. 22, 2013). https://www.federalreservehistory.org/essays/great-recession-and-its-aftermath (last visitsed January 10, 2024).
[2] 12 U.S.C. s. 5101.
[3] *See* Ch. 2009-241, L.O.F.
[4] 18 C.F.R. s. 1008.103(e)(7)(ii).
[5] A state must determine that the terms are consistent with loan origination in a public or charitable context, rather than a commercial context, for residential mortgage loans to have terms that are favorable to the borrower. 12 C.F.R. 1008.103(e)(7)(iv).

Under the S.A.F.E. Act, the state must periodically review the books and activities of the bona fide nonprofit organization it determines is a bona fide nonprofit organization and revoke its status if the organization does not continue to meet the above criteria.[6]

State Regulation of Non-Depository Mortgage Business

The OFR regulates state-chartered banks, credit unions, other financial institutions, as well as finance companies, and the securities industry.[7] The OFR's Division of Consumer Finance licenses and regulates various aspects of the non-depository financial services industries, including individuals and businesses engaged in the mortgage business.

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

- A **loan originator**, who, directly or indirectly, solicits or offers to solicit a mortgage loan, accepts or offers to accept an application for a mortgage loan, negotiates or offers to negotiate the terms or conditions of a new or existing mortgage loan on behalf of a borrower or lender, or negotiates or offers to negotiate the sale of an existing mortgage loan to a noninstitutional investor for compensation or gain. The term includes an individual who is required to be licensed as a loan originator under the S.A.F.E. Act. The term does not include an employee of a mortgage broker or mortgage lender whose duties are limited to physically handling a completed application form or transmitting a completed application form to a lender on behalf of a prospective borrower. [8]
- A **mortgage broker**, who conducts loan originator activities through one or more licensed loan originators employed by the mortgage broker or as independent contractors to the mortgage broker.[9]
- A **mortgage lender**, who makes a mortgage loan or services a mortgage loan for others, or, for compensation or gain, directly or indirectly, sells or offers to sell a mortgage loan to a noninstitutional investor. [10] A mortgage lender may act as a mortgage broker.[11]

Exemptions

The following persons are exempt from loan originator, mortgage broker and mortgage lender regulations under ch. 494, F.S.:[12]

- Any person operating exclusively as a registered loan originator[13] in accordance with the S.A.F.E. Act.

[6] 12 C.F.R. s. 1008.103(e)(7)(iii).
[7] Section 20.121(3)(a)2. and (d), F.S. The OFR is housed within the Financial Services Commission (commission). The commission, comprised of the Governor and Cabinet, appoints the OFR Commissioner. The commission is a separate budget entity under the Department of Financial Services (DFS), and is not subject to the control or supervision by the DFS.
[8] Section 494.001(18), F.S.
[9] Section 494.001(23), F.S.
[10] Section 494.001(24), F.S.
[11] Section 494.0073, F.S.
[12] Section 494.00115(1), F.S.
[13] Section 494.001(31), F.S., defines a "registered loan originator" as "a loan originator who is employed by a depository institution, by a subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency, or by an institution regulated by the Farm Credit Administration, and who is registered with and maintains a unique identifier through the [Nationwide Mortgage Licensing System and Registry]." A registered loan originator must comply with federal registration requirements rather than the loan originator licensing requirements under ch. 494, F.S.

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

The following persons are exempt from the mortgage lender licensing requirements of ch. 494, F.S.:[14]

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

A securities dealer, investment advisor, or associated person registered under ch. 517, F.S., is exempt from regulation as a loan originator or mortgage broker under ch. 494, F.S., if specified criteria are met.[15]

There is no exemption under current Florida law for bona fide nonprofit organizations and its employees. However, there are a few jurisdictions that have adopted exemptions for nonprofit organizations.[16]

[14] Section 494.00115(3), F.S.
[15] Section 494.00115(2), F.S.
[16] Examples of other jurisdictions that have an exemption relating to nonprofit organizations include Ohio, Georgia, and Indiana. *See* Ohio Rev. Code s. 1322.01(AA)(2)(g); O.C.G.A. s. 7-1-1001(a)(18); and IN Code s. 24-4.4-1-202. Colorado exempts mortgage loan originators of self-help housing organizations, or employees or volunteers of self-help housing organizations, from licensing and other regulatory requirements. C.R.S. s. 12-10-709.

Powers and Duties of the Commission and OFR

The OFR is responsible for the administration and enforcement of ch. 494., F.S., relating to loan originators and mortgage brokers.[17] The Commission has discretion to adopt rules to administer the chapter, including, but not limited to, rules relating to compliance with specified requirements of the S.A.F.E. Mortgage Licensing Act of 2008.[18] Current law does not specifically authorize the Commission to adopt rules to prescribe the criteria and processes that must be used by the OFR to determine whether an organization is and remains a bona fide nonprofit organization.

Licensing

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

- Requirements for the maintenance of books and records relating to the licensee's compliance with the chapter, with regard to expenses paid by the licensee on behalf of the borrower, and relating to its advertisements.[19]
- Investigations and examinations by the OFR.[20]
- The OFR's enforcement authority, such as injunctions, cease and desist orders, suspension or revocation of licensure, and administrative fines.[21]

In order to obtain a license as a mortgage loan originator, an individual must:[22]

- Be at least 18 years of age and have a high school diploma or its equivalent;
- Complete a 20-hour prelicensing class;[23]
- Pass a written test;[24]
- Submit an application form;
- Submit nonrefundable application fees totaling $215;
- Submit fingerprints, the cost of which is borne by the applicant; and
- Authorize access to his or her credit report, the cost of which is borne by the applicant.

In order to obtain a license as a mortgage broker, a person must:[25]

- Submit an application form, which must designate a qualified principal loan originator;
- Submit nonrefundable application fees totaling $525;
- Submit fingerprints for each of the applicant's control persons,[26] the cost of which is borne by the person subject to the background check; and

[17] Section 494.0011(1), F.S.
[18] Section 494.0011(2), F.S.
[19] Sections 494.0016 and 494.00165(2), F.S.
[20] Section 494.0012, F.S.
[21] Sections 494.0013, 494.0014, and 494.00255, F.S.
[22] Section 494.00312, F.S.
[23] The cost of prelicensing courses may vary by course provider, but one such course provider charges $349 for the required 20-hour course. *See* MortgageEducation.com, Mortgage Loan Originator Courses, https://www.mortgage-education.com/StatePage.aspx?StateCode=FL (last visited December 20, 2023).
[24] The cost of written test is $110. *See* Nationwide Multistate Licensing System & Registry, Uniform State Test (UST) Implementation Information, Public - SAFE MLO Testing FAQ (csbs.org) (last visited December 20, 2023).
[25] Section 494.00321, F.S.
[26] "Control persons" is defined in s. 494.001(7), F.S., to mean, in part, "an individual, partnership, corporation, trust, or other organization that possesses the power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract, or otherwise."

- Authorize access to the credit reports on each of the applicant's control persons, the cost of which is borne by the applicant.

In order to obtain licensure as a mortgage lender, a person must:[27]

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

A mortgage loan originator, broker, and lender license is subject to annual renewal by December 31, and must meet specified criteria to be eligible for renewal.[28]

Examinations and Investigations

The OFR has the authority to conduct an investigation of any person who the OFR has reason to believe has violated or is about to violate ch. 494, F.S.[29] The OFR also has authority to conduct intermittent examinations of any licensee or other person under the provisions of ch. 494, F.S.

Violations

The OFR has statutory authority to impose disciplinary actions against any person who engages in specified conduct,[30] such as:

- Failure to disburse funds in compliance with agreements;[31]
- Fraud, misrepresentation, deceit, negligence, or incompetence in any mortgage financing transaction;[32] and
- Consistently and materially underestimating maximum closing costs.[33]

The disciplinary actions the OFR may take include, for instance, suspension, revocation, or denial of a license, or the imposition of a fine of up to $25,000 for each count or separate offense.[34]

[27] Section 494.00611, F.S.
[28] Sections 494.00312(7), 494.00321(7), and 494.00611(10), F.S.
[29] Section 494.0012, F.S.
[30] Section 494.00255(2), F.S.
[31] Section 494.00255(1)(c), F.S.
[32] Section 494.00255(1)(d), F.S.
[33] Section 494.00255(1)(e), F.S.
[34] Section 494.00255(2), F.S.

Any person who knowingly acts as a loan originator, mortgage broker, or mortgage lender without a current and active license issued pursuant to ch. 494, F.S., commits a felony of the third degree, punishable as provided in ss. 775.082, 775.083, or 775.084, F.S.[35]

Any person who violates any provisions of ch. 494, F.S., in which the total value of money and property unlawfully obtained exceeds $50,000 and there are five or more victims, commits a felony of the first degree, punishable as provided in ss. 775.082, 775.083, or 775.084, F.S.[36]

Habitat for Humanity, a Florida Nonprofit Organization

Habitat for Humanity of Florida ("Habitat") was incorporated in 2009 as a nonprofit organization and provides affordable housing for communities in Florida.[37] Individuals who purchase homes built through Habitat must comply with a rigorous qualification process, complete financial and homeowner education courses, contribute physically to the construction of the home, undergo background screening, and meet minimum financial requirements (e.g. monthly mortgage payments may not be greater than thirty percent of the borrower's monthly income).[38] Habitat staff are not compensated to incentivize them to refer any borrowers to lenders or loan products that are not affordable or in the borrower's best interests.[39] A summary comparing current Florida law requirements and the Habitat qualified loan originator requirements are below:[40]

State of Florida Mortgage Loan Originator	**Habitat Qualified Loan Originator**
Complete 20 hours of approved education courses, of which a minimum of 2 hours must cover the provisions of Florida law and rules.[41]	Complete 17 courses provided in partnership by Habitat, the American Bankers Association, and an additional Florida-specific course which covers Florida law and rules.
Pass national and state testing requirements.[42]	Testing not required.
Pass state and federal background checks.[43]	Pass state and federal background checks.
Authorize and pass a credit check.[44]	Authorize and pass a credit check.

On August 12, 2010, the OFR issued a nonbinding informal legal opinion to Habitat which concludes that the organization's affiliates and their staff are outside the scope of the S.A.F.E.

[35] Section 494.0018(1), F.S.
[36] Section 494.0018(2), F.S.
[37] Habitat, *Habitat for Humanity of Florida Milestones*, available at: Florida History — Habitat for Humanity Florida (habitatflorida.org) (last visited Jan. 2, 2024); Habitat, *How Habitat Works*, available at: How Habitat Works — Habitat for Humanity Florida (habitatflorida.org) (last visited Jan. 2, 2024).
[38] Habitat for Humanity of Florida White Paper, *Habitat for Humanity & the SAFE Act Exemption* (on file with the Senate Committee on Banking and Insurance).
[39] *Id.*
[40] *Id.*
[41] Section 494.00312(2)(b), F.S.
[42] Section 494.00312(2)(c), F.S.
[43] Section 494.00312(2)(f), F.S.
[44] Section 494.00312(2)(g).

Act definition of loan originator that has been codified in Florida law.[45] The OFR determined that Habitat's employees are not acting for "compensation or gain" based largely on Habitat's requirement of "no profit mortgages" and on several factors relating to its pricing and fees policies.[46]

III. Effect of Proposed Changes:

Section 2 of the bill adds s. 494.00115(g) to exempt a bona fide nonprofit organization and its employees from the regulations under ch. 494, F.S. This exemption is substantially similar to the exemption permitted under the S.A.F.E. Act except that the exemption in the bill also covers the bona fide organization (not only the employee of such organization).

The bill establishes an exemption from regulation under ch. 494, F.S., for:

- A bona fide nonprofit organization; and
- An employee of the bona fide nonprofit organization who acts as a loan originator only with respect to his or her work duties to the bona fide nonprofit organization and who acts as a loan originator only with respect to residential mortgage loans with terms that are favorable to the borrower.

For an organization to be a "bona fide nonprofit organization," the OFR must determine, pursuant to criteria and processes established by rule, whether the organization satisfies all of the following factors:

- Has the status of a tax-exempt organization under s. 501(c)(3), I.R.C.
- Promotes affordable housing or provides homeownership education or similar services.
- Conducts its activities in a manner that serves public or charitable purposes rather than commercial purposes.
- Receives funding and revenue and charges fees in a manner that does not incentivize it or its employees to act other than in the best interests of its clients.
- Compensates its employees in a manner that does not incentivize employees to act other than in the best interests of its clients.
- Provides or identifies for the borrower residential mortgage loans with terms favorable to the borrower and comparable to mortgage loans and housing assistance provided under government housing assistance programs. For residential mortgage loans to be deemed to have terms that are favorable to the borrower, the OFR must determine that the terms are consistent with loan origination in a public or charitable context, rather than a commercial context.

This exemption provides the OFR with authority to periodically examine the books and activities of an organization it determines is a bona fide nonprofit organization and allows the OFR to revoke its status as a bona fide organization if it does not continue to meet the specified criteria set out in the paragraph above.

[45] Letter from the OFR to Lori Harris, Executive Director, Habitat for Humanity of Florida, *Habitat for Humanity of Florida – Request for Legal Opinion OFR Case No. 0868-FR-3/10* (on file with the Senate Committee on Banking and Insurance).
[46] *Id.*

Section 1 of the bill expands the Commission's rulemaking authority under s. 494.0011(2)(b), F.S., relating to compliance with the S.A.F.E. Act, to prescribe criteria and processes for determining whether an organization is and remains a bona fide nonprofit organization for the purpose of determining whether the organization and its employees acting as loan originators may be exempt from regulation under ch. 494, F.S.

Section 3 of the bill provides for an effective date of July 1, 2024.

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:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Employees of entities that meet the criteria for the exemption under SB 542 should benefit financially by not having to pay costs associated with licensure requirements under ch. 494.0115, F.S. The total number of nonprofit organizations that are eligible for the exemption is unclear.

C. Government Sector Impact:

The OFR reports that it has not identified any fiscal impact that would result from the proposed legislation.[47]

[47] The OFR, *2024 Agency Legislative Bill Analysis Florida Office of Financial Regulation*, Dec. 22, 2023, (on file with the Senate Committee on Banking and Insurance).

VI. Technical Deficiencies:

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 494.0011 and 49400115.

IX. Additional Information:

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

CS by Banking and Insurance Committee on January 16, 2024:

- Conforms the provisions of the bill to the S.A.F.E. Act exemption for bona fide nonprofit organizations' employees from loan originator and mortgage broker regulation;
- Clarifies the conditions under which an employee may be exempt from the S.A.F.E. Act regulations adopted in Florida law;
- Provides that the OFR must determine whether an organization is a bona fide nonprofit organization based on specified factors;
- Requires the OFR to determine that the terms of the loan are consistent with loan origination in public or charitable context, rather than a commercial context;
- Requires the OFR to periodically examine the books and activities of the organization and revoke its status if the organization does not continue to meet the requirements; and
- Provides the Commission with rulemaking authority to prescribe criteria and processes required for the OFR to make the determinations regarding bona fide nonprofit organizations.

B. Amendments:

None.

260562

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/18/2024	.	
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	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraph (b) of subsection (2) of section 494.0011, Florida Statutes, is amended to read:

494.0011 Powers and duties of the commission and office.—

(2) The commission may adopt rules to administer parts I, II, and III of this chapter, including rules:

(b) Relating to compliance with the S.A.F.E. Mortgage

260562

Licensing Act of 2008, including rules to:

1. Require loan originators, mortgage brokers, mortgage lenders, and branch offices to register through the registry.

2. Require the use of uniform forms that have been approved by the registry, and any subsequent amendments to such forms if the forms are substantially in compliance with the provisions of this chapter. Uniform forms that the commission may adopt include, but are not limited to:

a. Uniform Mortgage Lender/Mortgage Broker Form, MU1.

b. Uniform Mortgage Biographical Statement & Consent Form, MU2.

c. Uniform Mortgage Branch Office Form, MU3.

d. Uniform Individual Mortgage License/Registration & Consent Form, MU4.

3. Require the filing of forms, documents, and fees in accordance with the requirements of the registry.

4. Prescribe requirements for amending or surrendering a license or other activities as the commission deems necessary for the office's participation in the registry.

5. Prescribe procedures that allow a licensee to challenge information contained in the registry.

6. Prescribe procedures for reporting violations of this chapter and disciplinary actions on licensees to the registry.

7. Prescribe criteria and processes for determining whether an organization is and remains a bona fide nonprofit organization for the purpose of determining whether the organization and its employees acting as loan originators may be exempt from regulation under this chapter pursuant to s. 494.00115.

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Section 2. Present subsections (3), (4), and (5) of section 494.00115, Florida Statutes, are redesignated as subsections (4), (5), and (6), respectively, and a new subsection (3) is added to that section, to read:

494.00115 Exemptions.—

(3)(a) As provided in this subsection, a bona fide nonprofit organization and an employee of a bona fide nonprofit organization who acts as a loan originator only with respect to his or her work duties to the bona fide nonprofit organization, and who acts as a loan originator only with respect to residential mortgage loans with terms that are favorable to the borrower, are exempt from regulation under this chapter.

1. For an organization to be considered a bona fide nonprofit organization under this subsection, the office must determine, pursuant to criteria and processes established by rule, that the organization satisfies all of the following criteria:

a. Has the status of a tax-exempt organization under s. 501(c)(3) of the Internal Revenue Code of 1986.

b. Promotes affordable housing or provides homeownership education or similar services.

c. Conducts its activities in a manner that serves public or charitable purposes rather than commercial purposes.

d. Receives funding and revenue and charges fees in a manner that does not incentivize it or its employees to act other than in the best interests of its clients.

e. Compensates its employees in a manner that does not incentivize employees to act other than in the best interests of its clients.

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f. Provides or identifies for the borrower residential mortgage loans with terms favorable to the borrower and comparable to mortgage loans and housing assistance provided under government housing assistance programs.

2. For residential mortgage loans to be deemed under this section to have terms that are favorable to the borrower, the office must determine that the terms are consistent with loan origination in a public or charitable context, rather than a commercial context.

(b) The office must periodically examine the books and activities of an organization that it determines is a bona fide nonprofit organization and revoke its status as a bona fide nonprofit organization if it does not continue to meet the criteria specified in paragraph (a).

Section 3. This act shall take effect July 1, 2024.

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to mortgage brokering; amending s. 494.0011, F.S.; authorizing the Financial Services Commission to adopt rules prescribing criteria and processes for determining whether an organization is a bona fide nonprofit organization for a specified purpose; amending s. 494.00115, F.S.; providing exemptions from regulation under ch. 494, F.S., for bona fide nonprofit organizations and certain


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employees of a bona fide nonprofit organization that meet specified criteria; requiring the Office of Financial Regulation to make a specified determination; requiring the office to make certain a determination related to the terms of residential mortgage loans originated by such employees; requiring the office to periodically examine the books and activities of a bona fide nonprofit organization and to revoke its status in certain circumstances; providing an effective date.

By Senator Boyd

20-00376-24 2024514__

A bill to be entitled

An act relating to mortgage brokering; amending s. 494.00115, F.S.; providing an exemption from regulation under parts I, II, and III of ch. 494, F.S., for bona fide nonprofit organizations and their employees; defining the term "bona fide nonprofit organization"; providing an effective date.

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

Section 1. Paragraph (g) is added to subsection (1) of section 494.00115, Florida Statutes, to read:

494.00115 Exemptions.—

(1) The following are exempt from regulation under this part and parts II and III of this chapter.

(g) A bona fide nonprofit organization and its employees. For the purposes of this paragraph, the term "bona fide nonprofit organization" means an organization that is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code and that does all of the following:

1. Promotes affordable housing or provides homeownership education or similar services.

2. Conducts its activities in a manner that serves public or charitable purposes rather than commercial purposes.

3. Receives funding and revenue and charges fees in a manner that does not incentivize it or its employees to act other than in the best interests of its clients.

4. Compensates its employees in a manner that does not incentivize employees to act other than in the best interests of its clients.

5. Provides or identifies for the borrower residential mortgage loans with terms favorable to the borrower and comparable to mortgage loans and housing assistance provided under government housing assistance programs.

Section 2. This act shall take effect July 1, 2024.

Florida Senate - 2024 **SB 514**

20-00376-24 2024514__

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

OFR | FLORIDA OFFICE OF FINANCIAL REGULATION
PROTECT | REGULATE | INVESTIGATE | ENFORCE

J. THOMAS CARDWELL
COMMISSIONER

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August 12, 2010

Lori Harris, Executive Director
Habitat for Humanity of Florida
P.O. Box 677453
Orlando, FL 32867

VIA ELECTRONIC MAIL: LHarris@habitatflorida.org

Re: Habitat for Humanity of Florida – Request for Legal Opinion
OFR Case No. 0868-FR-3/10

Dear Ms. Harris:

I am in receipt of your letter and attachments to the Office of Financial Regulation's (OFR) Legislative & Cabinet Affairs Director, wherein you requested the OFR's opinion whether Habitat for Humanity of Florida (HFH) and its employees are required to obtain loan originator licenses. Your letter included HFH policy documents (regarding closing and servicing, house pricing, and mortgages), a FAQ sheet about the Secure and Fair Enforcement Mortgage Licensing (S.A.F.E.) Act for HFH affiliates, and opinion letters from other states' banking officials wherein they concluded that HFH's organizational structure and lack of "compensation and gain" rendered it outside of the SAFE definition of "loan originator."

Effective **October 1, 2010,** Chapter 494, Florida Statutes, the S.A.F.E.-adopted definition of "loan originator" will replace the current "mortgage broker" definition. The new substantive requirements of loan originator licensure will also come into effect on this date. Section 494.001(14), Fla. Stat. will state:

> (14) "**Loan originator**" means an individual who, directly or indirectly, solicits or offers to solicit a mortgage loan, accepts or offers to accept an application for a mortgage loan, negotiates or offers to negotiate the terms or conditions of a new or existing mortgage loan on behalf of a borrower or lender, processes a mortgage loan application, or negotiates or offers to negotiate the sale of an existing mortgage loan to a noninstitutional investor *for compensation or gain.* The term includes the activities of a loan originator as that term is defined in the S.A.F.E. Mortgage Licensing Act of 2008, and an individual

> acting as a loan originator pursuant to that definition is acting as a loan originator for purposes of this definition. The term does not include an employee of a mortgage broker or mortgage lender who performs only administrative or clerical tasks, including quoting available interest rates, physically handling a completed application form, or transmitting a completed form to a lender on behalf of a prospective borrower (emphasis added).

As you are aware, there is no express exemption for the employees of non-profit organizations in either the federal S.A.F.E. Act or in Chapter 494, Florida Statutes. However, the OFR notes the position that licensing determinations of these groups and individuals should be left to the states to make on a case-by-case basis, and that "the non-profit status of an organization does not automatically result in exclusion of the organization's mortgage loan originators from licensing requirements." This position was advocated by several states and the Conference of State Bank Supervisors (CSBS) and American Association of Residential Mortgage Regulators (AARMR) through their February 24, 2010 comment letter to the U.S. Department of Housing and Urban Development (HUD). Perhaps most significant to this position and to HFH's inquiry, the CSBS/AARMR comment letter offered several factors for states to consider in determining whether employees of a non-profit organization meet the commercial context connotations of the "compensation and gain" element of loan originator licensure:

- the organization's funding sources;
- whether the organization has a tax-exempt status as a charitable organization;
- whether the organization is a state or local government entity and the loan origination activities are performed as a part of official duties;
- the terms and rates of mortgage loans originated;
- whether the organization's primary purpose is to serve the public through helping low to moderate income borrowers; the organization's compensation structure;
- whether the organization charges its clients fees in connection with the loan origination or other services and whether such fees are below standard commercial rates;
- whether the organization makes any profit on its loan products or services;
- whether financial literacy programs or homeownership education are provided in conjunction with the loan origination services; and
- whether the organization provides or requires training of their employees.

In addition, Representatives Barney Frank and Spencer Bachus echoed these considerations in February 24, 2010 letter to HUD, clarifying the Congressional intent of the legislation and the parameters of SAFE's usage of the language "compensation and gain." The OFR concurs with Reps. Frank and Bachus and CSBS/AARMR that the language of the S.A.F.E. Act does not support a blanket exemption for non-profit organizations, and we add that the same is true for the language of Chapter 494, Fla. Stat. Rather, a case-by-case determination specific to the non-profit organization at hand, using the guidance and factors outlined above, would preserve the state's ability and responsibility to periodically review such initial determination.

Applying these standards to the facts presented in your letter and attachments, the undersigned has determined that HFH's employees are not acting for "compensation or gain," particularly due to the requirement that HFH affiliates make "no-profit mortgages" and not include any mortgage

servicing fees that accrue to the affiliates. Additionally, the following facts from your enclosures support the conclusion that HFH is not acting for compensation or gain:

- Note 4.4 to Policy 22 [Closing & Servicing] states that "[a]dditional service fees are not an allowable cost of the house, and considered general overhead for the affiliate, rather than the cost that can be passed on to the homeowner."
- Note 2.0 to Policy 23 [House Pricing] provides permissible costs to be included into the total repayable price of a home, which must be equal to or less than the total development costs. Note 3.2 of Policy 23 also provided that up to 10% additional administrative expenses that may not be attributable to the specific house could be included (i.e., "soft" or "indirect" overhead costs). Note 3.4 to Policy 23 clearly states that any charges in addition to these costs would constitute profit and would not be allowed.
- Similarly, Policy 24 [Mortgage] provides guidelines for its mortgages. First mortgages under this policy are 0% interest, fully amortized, and include some form of equity protection. Balloon payments are prohibited.

However, if HUD renders a final rule that is inconsistent with this interpretation, the OFR reserves the right to withdraw this position in order to be in compliance with S.A.F.E.

Finally, please note that this response is the informal opinion of the undersigned and is based only on the information that has been provided, and it is not binding upon the OFR. Any additional information or specific authorities that may be relevant to this analysis is welcomed and will be taken into consideration. If you would like to request an opinion on a transaction that would be legally binding upon the OFR, please review Section 120.565, Florida Statutes, and the applicable rules from the Florida Administrative Code for the procedures to request a declaratory statement. If you have any questions regarding this opinion letter, please do not hesitate to contact me at (850) 410-9896.

Sincerely,

Jenny S. Kim
Assistant General Counsel

2024 AGENCY LEGISLATIVE BILL ANALYSIS
Florida Office of Financial Regulation

BILL INFORMATION	
BILL NUMBER:	SB 514
BILL TITLE:	An act relating to mortgage brokering
BILL SPONSOR:	Senator Boyd
EFFECTIVE DATE:	July 1, 2024

COMMITTEES OF REFERENCE
1) Banking and Insurance
2) Fiscal Policy
3) Rules
4)
5)

CURRENT COMMITTEE

SIMILAR BILLS	
BILL NUMBER:	
SPONSOR:	

IDENTICAL BILLS	
BILL NUMBER:	
SPONSOR:	

PREVIOUS LEGISLATION	
BILL NUMBER:	
SPONSOR:	
YEAR:	
LAST ACTION:	

Is this bill part of an agency package?
No

BILL ANALYSIS INFORMATION	
DATE OF ANALYSIS:	December 22, 2023
LEAD AGENCY ANALYST:	Ash Mason, Director of Legislative Affairs (850) 410-9789
ADDITIONAL ANALYST(S):	Gregory C. Oaks, Director, Division of Consumer Finance (850) 410-9601
LEGAL ANALYST:	Tony Cammarata, General Counsel (850) 410-9601
FISCAL ANALYST:	Buckley Vernon, Financial Administrator (850) 410-9673

POLICY ANALYSIS

A. EXECUTIVE SUMMARY

SB 514 exempts a bona fide nonprofit organization and its employees from regulation under chapter 494, Florida Statutes. The bill creates and defines the term “bona fide nonprofit organization.”

The bill provides an effective date of July 1, 2024.

B. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

The Office of Financial Regulation (OFR) is responsible for all activities of the Financial Services Commission relating to the regulation of banks, credit unions, other financial institutions, finance companies, and the securities industry[1]. The OFR has three divisions: the Division of Consumer Finance, the Division of Financial Institutions, and the Division of Securities. The OFR also has a Bureau of Financial Investigations, which functions as a criminal justice agency and has a separate budget.[2]

Regulation of Consumer Finance
The Office's Division of Consumer Finance is responsible for the regulation of non-depository financial services industries, including, loan originators[3], mortgage brokers, and mortgage lenders, which are licensed under chapter 494, Florida Statutes.

Loan Originators, Mortgage Brokers, and Mortgage Lenders
Under chapter 494, Florida Statutes, the Office licenses and regulates the following individuals and businesses engaged in the mortgage business:

- Loan originator[4] – An individual who, directly or indirectly, solicits or offers to solicit a mortgage loan, accepts or offers to accept an application for a mortgage loan, negotiates or offers to negotiate the terms or conditions of a new or existing mortgage loan on behalf of a borrower or lender, or negotiates or offers to negotiate the sale of an existing mortgage loan to a noninstitutional investor for compensation or gain.
- Mortgage broker[5] – A person conducting loan originator activities through one or more licensed loan originators employed by the mortgage broker or as independent contractors to the mortgage broker.
- Mortgage lender[6] – A person making a mortgage loan or servicing a mortgage loan for others, or, for compensation or gain, directly or indirectly, selling or offering to sell a mortgage loan to a noninstitutional investor. A mortgage lender may act as a mortgage broker.[7]

To obtain a loan originator license, an individual must:[8]

- Be at least 18 years of age and have a high school diploma or its equivalent;
- Complete a 20-hour prelicensing class;
- Pass a written test;
- Submit a completed license application form;
- Submit nonrefundable application fees totaling $215;
- Submit fingerprints, the cost of which is borne by the applicant;
- Authorize access to the applicant's credit report, the cost of which is borne by the applicant;
- Submit additional information or documentation requested by the office and required by rule concerning the applicant; and
- Submit any other information required by NMLS[9] for the processing of the application.

To obtain a mortgage broker license, a person must:[10]

- Submit a completed license application form;

[1] Section 20.121(3)(a)2., Florida Statutes.
[2] *Id*.
[3] Also referred to as mortgage loan originators or MLOs.
[4] Section 494.001(18), F.S.
[5] Section 494.001(23), F.S.
[6] Section 494.001(24), F.S.
[7] Section 494.0073, F.S.
[8] Section 494.00312, F.S.
[9] Acronym for the Nationwide Mortgage Licensing System and Registry. A term synonymous with the Nationwide Multistate Licensing System and Registry. It is the system of record for non-depository, financial services licensing or registration in participating state agencies.
[10] Section 494.00321, F.S.

- Designate a qualified principal loan originator[11] on the application form who meets the requirements of section 494.0035, F.S.;
- Submit nonrefundable application fees totaling $525;
- Submit fingerprints for each of the applicant's control persons[12], the cost of which is borne by the person subject to the background check;
- Authorize access to the credit reports of the applicant's control persons, the cost of which is borne by the applicant;
- Submit additional information or documentation requested by the office and required by rule concerning the applicant or a control person of the applicant; and
- Submit any other information required by the registry for the processing of the application.

To obtain a mortgage lender license, a person must:[13]

- Submit a completed application form;
- Designate a qualified principal loan originator[14] who meets the requirements of section 494.00665, F.S., on the application form;
- Submit nonrefundable application fees totaling $600;
- Submit fingerprints for each of the applicant's control persons, the cost of which is borne by the person subject to the background check;
- Indicate whether the applicant will be seeking a servicing endorsement[15] on the application form;
- Submit a copy of the applicant's financial audit report for the most recent fiscal year, pursuant to United States generally accepted accounting principles ("GAAP"). The financial audit report must document that the applicant has a bona fide and verifiable net worth, of at least $63,000 if the applicant is not seeking a servicing endorsement, or at least $250,000 if the applicant is seeking a servicing endorsement, which must be continuously maintained as a condition of licensure;
- Authorize access to the credit reports of the applicant's control persons, the cost of which is borne by the applicant;
- Submit additional information or documentation requested by the office and required by rule concerning the applicant or a control person of the applicant; and
- Submit any other information required by the registry for the processing of the application.

A loan originator, mortgage broker, or mortgage lender license is subject to annual renewal by December 31.[16]

- To renew a loan originator license, an individual must submit a renewal form submit nonrefundable renewal fees totaling $170; provide documentation of completion of at least 8 hours of continuing education courses; authorize access to his or her credit report, the cost of which is borne by the licensee; and submit any additional information or documentation requested by the Office and required by rule concerning the licensee.[17]
- To renew a mortgage broker license, a person must submit a completed license renewal form; submit nonrefundable renewal fees totaling $475; submit fingerprints for each of the licensee's new control persons who have not been screened, the cost of which is borne by the person subject to the background check; authorize access to the credit reports of the licensee's control persons, the cost of which is borne by the licensee; and submit any additional information or documentation requested by the Office and required by rule concerning the licensee or control person of the licensee.[18]
- To renew a mortgage lender license, a licensee must submit a completed license renewal form; submit nonrefundable renewal fees totaling $575; submit fingerprints for each of the licensee's new control persons who have not been screened; authorize access to the credit reports of the licensee's control persons, the cost of which

[11] A qualified principal loan originator is the licensed loan originator in charge of, and responsible for, the operation of a mortgage lender or mortgage broker, including all of the activities of the mortgage lender's or mortgage broker's loan originators, in-house loan processors, and branch managers, whether employees or independent contractors, and who meets the requirements set forth in section 494.0035, F.S. *See* Sections 494.001(30) and 494.0035, F.S.

[12] The term "control persons" is defined in Section 494.001(7), F.S., to mean, in part, "an individual, partnership, corporation, trust, or other organization that possesses the power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract, or otherwise."

[13] Section 494.00611, F.S.

[14] A qualified principal loan originator is the licensed loan originator in charge of, and responsible for, the operation of a mortgage lender or mortgage broker, including all of the activities of the mortgage lender's or mortgage broker's loan originators, in-house loan processors, and branch managers, whether employees or independent contractors, and who meets the requirements set forth in section 494.00665, F.S. *See* Sections 494.001(30) and 494.00665, F.S.

[15] The term "servicing endorsement" is defined in Section 494.001(36), F.S. to mean, "authorizing a mortgage lender to service a loan for more than 4 months."

[16] Sections 494.00312(7), 494.00321(7), and 494.00611(10), F.S.

[17] Section 494.00313, F.S.

[18] Section 494.00322, F.S.

is borne by the licensee; and submit any additional information or documentation requested by the Office and required by rule concerning the licensee.[19]

Exemptions

- The following are exempt from regulation as a loan originator, mortgage broker, and mortgage lender under chapter 494, Florida Statutes:[20]Any person operating exclusively as a registered loan originator[21] in accordance with the S.A.F.E. Mortgage Licensing Act of 2008;[22]
- A depository institution; subsidiaries that are owned and controlled by a depository institution and regulated by the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the National Credit Union Administration, or the Federal Deposit Insurance Corporation; or institutions regulated by the Farm Credit Administration;
- The Federal National Mortgage Association; the Federal Home Loan Mortgage Corporation; any agency of the Federal Government; any state, county, or municipal government; or any quasi-governmental agency that acts in such capacity under the specific authority of the laws of any state or the United States;
- An attorney licensed in this state who negotiates the terms of a mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client;
- A person involved solely in the extension of credit relating to the purchase of a timeshare plan, as that term is defined in 11 U.S.C. § 101(53D); and
- A person who performs only real estate brokerage activities and is licensed or registered in this state under part I of chapter 475, unless the person is compensated by a lender, a mortgage broker, or other loan originator or by an agent of such lender, mortgage broker, or other loan originator. The term "real estate brokerage activity" has the same meaning as in the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008.

Examinations & Investigations

Pursuant to Section 494.0012, F.S., the Office may conduct an investigation of any person whenever the Office has reason to believe that a violation of the chapter has been committed or is about to be committed. In addition, the Office may, at intermittent periods, conduct examinations of any licensee or other person under the provisions of chapter 494, F.S.

Statutory Violations

Certain violations of chapter 494, F.S., may subject a mortgage lender, loan originator, or mortgage broker to disciplinary action. Such disciplinary action includes, but is not limited to, revocation of a license, or license suspension, and/or imposition of a fine in an amount up to $25,000 for each count or separate offense.

A failure to comply with, or violation of, any provision of chapter 494, F.S., or any rule or order made or issued under chapter 494, F.S., may subject a loan originator, mortgage broker, or mortgage lender to disciplinary action. In addition, violating any provision of the federal Real Estate Settlement Procedures Act, as amended, 12 U.S.C. § § 2601 *et seq*.; the federal Truth in Lending Act, as amended, 15 U.S.C. § § 1601 *et seq*.; or any regulations adopted under such acts, in any mortgage transaction, may result in disciplinary action.

Criminal Penalties

Any person who knowingly acts as a loan originator, mortgage broker, or mortgage lender without a current and active license issued under chapter 494, F.S., commits a felony of the third degree, punishable as provided in sections 775.082, 775.083, or 775.084, F.S.[23]

Any person who violates any provision of chapter 494, F.S., in which the total value of money and property unlawfully obtained exceeds $50,000 and involves five or more victims, commits a felony of the first degree, punishable as provided in sections 775.082, 775.083, or 775.084, F.S.[24]

[19] Section 494.00612, F.S.
[20] Section 494.00115(1), F.S.
[21] A "registered loan originator" is a loan originator who is employed by a depository institution, by a subsidiary that is owned or controlled by a depository institution and regulated by a federal banking agency, or by an institution regulated by the Farm Credit Administration; and who is registered with an maintains a unique identifier through the Nationwide Mortgage Licensing System and Registry, now known as the Nationwide Multistate System and Registry. A registered loan originator must comply with federal registration requirements rather than the loan originator licensing requirements under chapter 494, F.S.
[22] The federal Secure and Fair Enforcement Mortgage Licensing Act (SAFE) was enacted in July 2008.
[23] Section 494.0018(1), F.S.
[24] Section 494.0018(2), F.S.

Remedies
Anyone aggrieved by a violation of section 494.00296, F.S., may bring an action to obtain a declaratory judgment, may enjoin a person who has violated, is violating, or is otherwise likely to violate section 494.00296, F.S., and may recover actual damages, plus attorney's fees and court costs.

Federal Law

Loan originators, mortgage brokers, and mortgage lenders must comply with federal laws (e.g., SAFE Act, Real Estate Settlement Procedures Act of 1974 (RESPA), Truth in Lending Act (TILA), etc.) regulating the mortgage industry, unless exempt.

Secure and Fair Enforcement for Mortgage Licensing ACT OF 2008 (SAFE Act)
The SAFE Act, federal law enacted in response to the subprime mortgage crisis, was designed to enhance consumer protection and reduce fraud through the setting of minimum standards for the licensing and registration of state licensed mortgage loan originators. The SAFE Act requires state-licensed mortgage loan originators to pass a written qualified test, complete prelicensure education courses, take annual continuing education courses, submit fingerprints to NMLS for submission to the FBI for a criminal background check, and authorize access to independent credit reports.

Under the SAFE Act, a state agency may exempt an employee of a bona fide nonprofit organization from licensure as a loan originator provided that the exemption is granted pursuant to criteria and processes established by the state agency and through such criteria and processes the state agency has determined that the organization:

- Has the status of a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986;
- Promotes affordable housing or provides homeownership education, or similar services;
- Conducts its activities in a manner that serves public or charitable purposes, rather than commercial purposes;
- Receives funding and revenue and charges fees in a manner that does not incentivize it or its employees to act other than in the best interests of its clients;
- Compensates its employees in a manner that does not incentivize employees to act other than in the best interests of its clients;
- Provides or identifies for the borrower residential mortgage loans with terms favorable to the borrower and comparable to mortgage loans and housing assistance provided under government housing assistance programs; and
- Meets other standards that the state determines are appropriate.

Under the SAFE Act, a state must periodically examine the books and activities of an organization it determines is a bona fide nonprofit organization and revoke its status as a bona fide nonprofit organization if it does not continue to meet the exemption criteria.

For residential mortgage loans to have terms that are favorable to the borrower, a state must determine that the terms are consistent with loan origination in a public or charitable context, rather than a commercial context.

Real Estate Settlement Procedures Act of 1974 (RESPA)

RESPA, 12 U.S.C. § 2601 *et. seq.,* is a federal statute regulated by the Consumer Financial Protection Bureau (CFPB) that governs the real estate settlement process. Under RESPA, all borrowers must be given information about real estate transactions, settlement services, relevant consumer protection laws, and mortgage servicing. RESPA prohibits kickbacks, referral fees, and unearned fees; prohibits sellers from requiring borrowers to purchase title insurance from specific companies; and prohibits loan servicers from requiring excessively large escrow accounts. RESPA covers mortgage loans on a one-to-four family residential property and applies to the majority of purchase loans, refinances, property improvement loans, and equity lines of credit.

REPSA is applicable to all "federally related mortgage loans,"[25] including mortgage loans as defined in section 494.001(25)(a), F.S., unless exempted pursuant to 12 U.S.C. § 1024.5(b). "Federally related mortgage loans" are defined, in part, as loans (other than temporary loans), including refinancings, that are secured by a first or subordinate lien on residential property.

Truth in Lending Act (TILA)

The Truth in Lending Act (TILA), 15 U.S.C. § 1601 *et. seq.*, is a federal law enacted in 1968 and is regulated by the Consumer Financial Protection Bureau. TILA was implemented by the Federal Reserve Board's Regulation Z (12 C.F.R.

[25] 12 U.S.C. § 2602(1).

Part 1026). TILA applies to most types of consumer credit, such as auto loans, mortgages, and credit cards and is designed to protect consumers from unfair and deceptive lending and servicing practices. TILA requires creditors (including lenders) to pre-disclose to borrowers certain terms, limitations, and provisions—such as the APR, duration of the loan, and the total costs—of a credit agreement or loan.

Mortgage servicers and mortgage lenders offering certain types of mortgage loans are subject to TILA's provisions.

2. EFFECT OF THE BILL:

Section 1 adds paragraph (g) to s. 494.00115(1), F.S., to exempt a bona fide nonprofit organization and by extension, its employees from regulation under parts I, II, and III of chapter 494, F.S. Paragraph (g) defines the term "bona fide nonprofit organization" to mean an organization that is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code, and that does all of the following:

- Promotes affordable housing or provides homeownership education or similar services.
- Conducts its activities in a manner that serves public or charitable purposes rather than commercial purposes.
- Receives funding and revenue and charges fees in a manner that does not incentivize it or its employees to act other than in the best interests of its clients.
- Compensates its employees in a manner that does not incentivize employees to act other than in the best interests of its clients.
- Provides or identifies for the borrower residential mortgage loans with terms favorable to the borrower and comparable to mortgage loans and housing assistance provided under government housing assistance programs.

Under the SAFE Act, an agency that opts to not require the licensing of an employee of a bona fide nonprofit organization must develop criteria and processes to determine whether the organization is exempt from the provisions of chapter 494, F.S., and must periodically examine the exempt organization to determine whether it continues to meet the exemption. Under the bill, a nonprofit organization may, without express agency authorization, exempt itself from regulation under chapter 494, F.S., by claiming that it meets the exemption criteria set forth in section 494.00115(1), F.S. Although the exemption criteria in the bill mirrors the exemption criteria set forth in the SAFE Act, any nonprofit organization claiming the exemption without express agency authorization, would be in direct conflict with the SAFE Act, which mandates that a state agency must determine whether a nonprofit organization meets the exemption criteria.

Should a bona fide nonprofit organization fall outside the scope of the exemption, the bona fide nonprofit organization and its employees would be subject to administrative action pursuant to chapter 494, F.S. In addition, any person who knowingly acts as a loan originator, mortgage broker, or mortgage lender without a current and active license issued under chapter 494, F.S., may be subject to criminal penalties.

Section 2 provides an effective date of July 1, 2024.

1. DOES THE LEGISLATION DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? Y☐ N☒

If yes, explain:	
Is the change consistent with the agency's core mission?	Y☐N☐
Rule(s) impacted (provide references to F.A.C., etc.):	

2. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

Proponents and summary of position:	Unknown
Opponents and summary of position:	Unknown

3. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? Y☐ N☒

If yes, provide a description:	
Date Due:	
Bill Section Number(s):	

4. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL? Y☐ N☒

Board:	
Board Purpose:	
Who Appoints:	
Changes:	
Bill Section Number(s):	

FISCAL ANALYSIS

1. FISCAL IMPACT TO LOCAL GOVERNMENT Y☐ N☒

Revenues:	
Expenditures:	
Does the legislation increase local taxes or fees? If yes, explain.	No
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	

2. FISCAL IMPACT TO STATE GOVERNMENT Y☐ N☒

Revenues:	
Expenditures:	
Does the legislation contain a State Government appropriation?	No
If yes, was this appropriated last year?	

3. FISCAL IMPACT TO THE PRIVATE SECTOR Y☐ N☒

Revenues:	Unknown
Expenditures:	Unknown
Other:	Unknown

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES? Y☐ N☒

If yes, explain impact.	
Bill Section Number:	

TECHNOLOGY IMPACT

1. DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)? Y☐ N☒

If yes, describe the anticipated impact to the agency including any fiscal impact.	

FEDERAL IMPACT

1. DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y☒ N☐

If yes, describe the anticipated impact including any fiscal impact.	Under the SAFE Act, an agency that opts to not require the licensing of an employee of a bona fide nonprofit organization must develop criteria and processes to determine whether the organization is exempt from the provisions of chapter 494, F.S., and must periodically examine the exempt organization to determine whether it continues to meet the exemption. Under the bill, a nonprofit organization may, without express agency authorization, exempt itself from regulation under chapter 494, F.S., by claiming that it meets the exemption criteria set forth in section 494.00115(1), F.S. Although the exemption criteria in the bill mirrors the exemption criteria set forth in the SAFE Act, any nonprofit organization claiming the exemption without express agency authorization, would be in direct conflict with the SAFE Act, which mandates that a state agency must determine whether a nonprofit organization meets the exemption criteria.

ADDITIONAL COMMENTS

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	OGC has reviewed the agency's bill analysis concerning SB 514 and the analysis sufficiently details the possible effects of the bill and the areas of impact. OGC has no additional issues, concerns, or further comments regarding the bill.

Habitat for Humanity & the SAFE Act Exemption

What is the SAFE Act?

In response to the 2008 mortgage crisis, congress passed the Secure and Fair Enforcement for Mortgage Licensing (SAFE) Act. The purpose of this law was to protect residential loan-seekers from unregulated or predatory lending practices through increased training requirements and a uniform licensing exam for mortgage loan originators. The SAFE Act also encourages states to participate in the Nationwide Mortgage Licensing System (NMLS) and Registry, and requires states to have in place, by law or regulation, a system for licensing and registering loan originators that meets the requirements of the federal law. The SAFE Act also allows states to provide exemptions from the law to "bona fide" nonprofits.

Habitat & the SAFE Act Exemption

Habitat for Humanity's nonprofit status often means that our affiliates operate on tight budgets - budgets that are better spent providing safe, decent, and affordable housing for our communities than on costly state licenses. In 2010 Habitat for Humanity of Florida explored a permanent exemption to the SAFE Act for affiliates in our state. Although we did meet with lawmakers to discuss the issue, no legislative action was taken. Instead, we received an opinion letter from the Florida Office of Financial Regulation, stating that Habitat's organizational structure and "no-profit mortgages" show a lack of "compensation and gain" on behalf of the people writing the mortgages, rendering Habitat affiliates in our state outside of the SAFE Act definition of "loan originator." However, the letter goes on to state that the opinion is not binding - if ever there is a different interpretation of Habitat's mortgage writing structure, our exemption could be removed.

State of Florida Mortgage Loan Originator	Habitat for Humanity (HFH) Qualified Loan Originator
Complete 20 hours of approved education courses, of which a minimum of 2 hours must cover the provisions of Florida Law and Rules	Complete 17 courses provided in partnership by Habitat for Humanity and the American Bankers Association AND an additional Florida-specific course which covers Florida Law and Rules
Pass national and state testing requirements	
Pass state and federal background checks	Pass state and federal background checks
Authorize and pass a credit check	Authorize and pass a credit check

Why Codify the Exemption?

Habitat for Humanity's mission in Florida is to build homes, communities and hope. The individuals and families that partner with HFH go through a rigorous qualification process, including a review of their ability to pay an affordable mortgage, financial and homeowner education courses, and "sweat equity", physically contributing to the build of a Habitat home. In addition, Habitat loan originators (LOs) become qualified by undergoing education and strict background screening requirements that are similar to what the SAFE Act requires for licensing and Habitat policy requires that they only originate mortgages that are affordable to the borrower, meaning that, at a minimum, monthly mortgage payments are no more than 30% of the borrower's monthly income at closing.

In addition, Habitat staff and volunteers are not compensated in a way that incentivizes them to refer any borrowers to lenders or loan products that are not affordable or otherwise not in the borrower's best interests. These are not the unregulated loans that the SAFE Act was established to protect against.

While the Florida Office of Financial Regulation has previously provided a written opinion that the loan originator activities of Habitat organizations and their staff and volunteers are not subject to the Florida SAFE Act licensing requirements largely because of the protections described above and because they do not engage in the type of commercial business that the SAFE Act protections are designed to regulate, Habitat organizations would benefit greatly from the certainty a legislative exemption would provide, as has been successfully done in many other jurisdictions.

Habitat for Humanity of Florida 1150 Cleveland St. Suite #301 Clearwater, FL 33755 info@habitatflorida.org

Jan 16
Meeting Date

BCI
Committee

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

514
Bill Number or Topic

Amendment Barcode (if applicable)

Name Sean Stafford Phone 727-5000

Address FLA Assn. of Mortgage Professionals Email
Street

115 Fern Park
City State Zip

Speaking: ☒ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

Florida Association of Mortgage Professionals

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

01/16/2024
Meeting Date

Banking and Insurance
Committee

SB 514
Bill Number or Topic

Amendment Barcode (if applicable)

Name Robert Stuart

Phone (321)217-6207

Address 301 S Bronough St #600
Street

Email robert.stuart@gray-robinson.com

Tallahassee | FL | 32301
City | *State* | *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
Habitat for Humanity of Florida

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

01/16/2024
Meeting Date

Banking and Insurance
Committee

SB 514
Bill Number or Topic

260562
Amendment Barcode (if applicable)

Name Robert Stuart

Phone (321)217-6207

Address 301 S Bronough St #600
Street

Email robert.stuart@gray-robinson.com

Tallahassee FL 32301
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
Habitat for Humanity of Florida

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

COMMITTEE VOTE RECORD

COMMITTEE: Banking and Insurance
ITEM: SB 514
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Tuesday, January 16, 2024
TIME: 11:00 a.m.—1:00 p.m.
PLACE: 412 Knott Building

FINAL VOTE			1/16/2024 1 Amendment 260562 adopted w/o objection Boyd					
Yea	**Nay**	**SENATORS**	**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**
X		Broxson						
X		Burton						
X		Hutson						
X		Ingoglia						
X		Mayfield						
X		Powell						
X		Thompson						
		Torres						
X		Trumbull						
X		DiCeglie, VICE CHAIR						
X		Boyd, CHAIR						
10	0	**TOTALS**	RCS	-				
Yea	**Nay**		**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered
RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment
TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call
WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	CS/SB 532
INTRODUCER:	Banking and Insurance and Senator Brodeur
SUBJECT:	Securities
DATE:	January 18, 2024
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Knudson	BI	**Fav/CS**
2.			AEG	
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 532 substantially revises ch. 517, F.S., the "Securities and Investor Protection Act" (Act). The Office of Financial Regulation (OFR) is responsible for administering the provisions of this chapter. The bill is based on the recommendations contained in the report issued by the Chapter 517 Task Force of the Business Law Section of The Florida Bar in coordination with the OFR.[1] The impetus for the task force is to increase the ability of small and developing Florida businesses to raise capital, while at the same time assuring and improving investor protections and enforcement measures to guard against abuse.[2] Since ch. 517, F.S., has not been substantially updated in many years, the bill also incorporates many small business financing provisions consistent with recently adopted federal rules or legislation adopted in other states. The SB includes the following changes:

Investor Protections

- Revises eligibility and recovery provisions relating to the Securities Guaranty Fund (Fund), which was created to provide relief to victims of securities violations under ch. 517, F.S., who are entitled to monetary damages or restitution but cannot recover the full amount of such damages or restitution from the wrongdoer.

[1] Report of the Chapter 517 Task Force of the Business Law Section of The Florida Bar, Recommendations and Analysis of Proposed Amendments to the Florida Securities and Investor Protection Act (Nov. 2023). The report is on file with the Florida Senate Committee on Banking and Insurance staff.

[2] *Id.*

    - The bill removes a requirement that an investor who has received a final judgement that is unsatisfied must make searches and inquires to ascertain the assets of the judgment debtor, which may result in delays. Further, the bill removes a two-year waiting period for payment.
        - The bill increases the amount an eligible person may recover from the Fund from $10,000 to $15,000, adds an exception allowing recovery of up to $25,000 if the person is a specified vulnerable or older adult, and increasing the aggregate limit on claims from $100,000 to $250,000.
- Eliminates a registration exemption for short-term notes of $25,000 or more, which have a maturity date of nine months or less. This type of offering is often the subject of abusive efforts by persons trying to evade registration requirements through the issuance of short-term notes to non-accredited investors. There is no comparable provision in the Uniform Securities Act and currently such notes cannot be sold under federal exemptions that preempt state registration.
- Excludes certain industrial revenue bonds and commercial development bonds issued by the United States or a state or local government from a registration exemption unless the bonds are guaranteed by a publicly traded entity. This exclusion is based on the increased risk to investors under such bonds, which depend upon revenue streams for their funding.
- Requires a person who has six or more clients, rather than 15 or more clients, to register with the OFR as an investment adviser.

Access to Capital Formation and Investment Options

- Revises the regulatory provisions relating to the intrastate crowdfunding exemption. These changes include increasing the maximum offering limit from $1 million to $5 million, which is consistent with the federal crowdfunding rules and reducing the technical and regulatory requirements for issuers.
- Creates the "Florida Invest Local Exemption," a micro-offering exemption that allows an issuer to offer up to $500,000 in securities to residents of Florida in reliance upon the exemption. An issuer may not accept more than $10,000 from any single purchaser, unless the purchaser is an accredited investor or other specified group, for which there are no sale limits. The issuer may engage in general advertising and general solicitation of the offering.
- Revises the limited offering exemption to require a disclosure regarding a purchaser's right of void the transaction within three days from the date of purchase, and to allow additional eligible purchasers that would be excluded for purposes of the 35 purchaser limit, consistent with the Securities and Exchange Commission rules.
- Creates an exemption for a nonissuer transaction with a federal covered adviser managing investments in excess of $100 million, which is consistent with the provisions of the Uniform Securities Act.

Modernization of Chapter 517, F.S.

- Adopts provisions consistent with federal rules that allow issuers to have greater access to potential investors through "demo-day" presentations and the pre-offering "testing the waters" solicitations and communications, which allows an issuer to determine whether there is any interest in a contemplated offering of exempt securities prior to incurring the expense of preparing and conducting an offering.

- Eliminates the requirement that issuers of simplified securities offerings that use the Small Company Offering Registration (SCOR) must submit annual financial reports for five years.
- Adopts provisions consistent with the integration of offering federal rule that provides offers and sales of securities will not be integrated if, based on the particular facts and circumstances, the issuer can establish that each offering either complies with the registration requirements of the Securities Act of 1933, or that an exemption from registration is available for the particular offering.
- Adopts an exemption for accredited investors, which is consistent with the North American Securities Administrators Association accredited investor exemption model. The provision exempts offers and sales from registration if the offers and sales are made only to persons in Florida who are, or the issuer reasonably believes are, accredited investors. This exemption is an important option for small businesses attempting to raise capital.
- Clarifies, consolidates, and reorganizes provisions within ch. 517, F.S., and adopts provisions consistent with the Uniform Securities Act.

State Enforcement Authority

- Authorizes the Attorney General to double the amount of fines from $10,000 to $20,000 in civil and administrative actions for securities violations targeting senior citizens, age 65 or older, and vulnerable adults.
- Increases the maximum civil and administrative penalties that can be assessed in an action by the Attorney General pursuant to s. 517.191, F.S., from $10,000 to $20,000.
- Establishes joint and several liability for any control person who is found to have violated any provision of the Act;
- Provides that a person who knowingly and recklessly provides substantial assistance to another person in violation of a provision of the Act is deemed to violate the provision to the same extent as the person to whom such assistance was provided;
- Allows OFR to issue and serve upon a person a cease and desist order if OFR has reason to believe the person violates any provision of the Act, as well as an emergency cease and desist order under certain circumstances; and
- Grants OFR the authority to impose and collect an administrative fine against any person found to have violated any provision of the Act, which must also be deposited into the Anti-Fraud Trust Fund.

The bill has no impact on local government and may have an insignificant, negative fiscal impact on state government.

II. Present Situation:

Federal Regulation of Securities

Securities Act of 1933

Following the stock market crash of 1929, the Securities Act of 1933[3] was enacted to regulate the offers and sales of securities. The Securities Act of 1933 requires that every offer and sale of

[3] Public Law 73-22, as amended through P.L. 117-268, enacted December 23, 2022.

securities be registered with the Securities and Exchange Commission (SEC), unless an exemption from registration is available. The Securities Act of 1933 requires issuers to disclose financial and other significant information regarding securities offered for public sale and prohibits deceit, misrepresentations, and other kinds of fraud in the sale of securities. The act requires issuers to disclose information deemed relevant to investors as part of the mandatory SEC registration of the securities that those companies offer for sale to the public.[4]

Registered securities offerings, often called public offerings, are available to all types of investors and have more rigorous disclosure requirements. Initial public offerings (IPOs) provide an initial pathway for companies to raise unlimited capital from the general public through a registered offering. After its IPO, the company will be a public company with ongoing public reporting requirements.[5]

By contrast, securities offerings that are exempt from SEC registration are referred to as private offerings and are mainly available to more sophisticated investors. The SEC exempts certain small offerings from registration requirements to foster capital formation by lowering the cost of offering securities to the public. Examples of exempt offerings[6] include:

- Rule 506(b) Private Placement Offerings allow companies to raise unlimited capital from investors with whom the company has a relationship and who meet certain wealth thresholds or have certain professional credentials.[7]
- Rule 506(c) of Regulation D. General Solicitation Offerings allow companies to raise unlimited capital by broadly soliciting investors who meet certain wealth thresholds or have certain professional credentials.[8]
- Rule 504 of Regulation D, Limited Offerings allow companies to raise up to $10 million in a 12-month period, in many cases from investors with whom the company has a relationship.[9]
- Regulation Crowdfunding offerings allow eligible companies to raise up to $5 million in investment capital in a 12-month period from investors via an online portal.[10]
- Intrastate offerings[11] allow companies to raise capital within a single state according to state law. Many states limit the offering to between $1 million and $5 million in a 12-month period.[12]
- Regulation A offerings allow eligible companies to raise up to $20 million in a 12-month period in a Tier I offering and up to $75 million through a similar, but less extensive registered offering.[13]

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[4] *Id.*
[5] SEC.gov | What does it mean to be a public company? (last visited Nov. 15, 2023).
[6] SEC.gov | The Laws That Govern the Securities Industry (last visited Sep. 5, 2023). Security offerings of municipal, state, and the federal government are exempt from registration.
[7] 17 C.F.R. s. 230.506(b).
[8] 17 C.F.R. s. 230.506(c).
[9] 17 C.F.R. s. 230.504.
[10] 17 C.F.R. s. 227.100. Florida's intrastate crowdfunding law, s. 517.0611, F.S., has not been updated since it was created to reflect to reflect the increase in the maximum offering from $1 million to $5 million pursuant to federal rules.
[11] Section (3)(a)(11) of the Securities Act of 1933, 17 C.F.R. s. 230.147 and 17 C.F.R. s. 230.147A
[12] SEC, Overview of Capital-Raising Exemptions, https://www.sec.gov/files/rules/final/2020/33-10884.pdf (last visited Sep. 19, 2023).
[13] 17 C.F.R. s. 230.251.

Securities and Exchange Act of 1934

The Securities and Exchange Act of 1934 created the SEC as an independent agency to enforce federal securities laws.[14] The SEC oversees federal securities laws[15] broadly aimed at protecting investors; maintaining fair, orderly, and efficient markets; and facilitating capital formation.[16] The SEC has broad regulatory authority over significant parts of the securities industry, including stock exchanges, mutual funds, investment advisers, brokerage firms, as well as securities self-regulatory organizations (SROs), such as the Financial Industry Regulatory Authority, Inc. (FINRA).[17]

Federal Crowdfunding Regulations

The Jumpstart Our Business Startups Act (the "JOBS Act"),[18] establishes a regulatory structure for startups and small businesses to raise capital through exempt crowdfunded securities offerings using a funding portal.[19] Title III of the JOBS Act created a new registration exemption from federal securities law to permit the issuance, offer, and sale of up to $1 million of crowdfunding securities per year initially, subject to specified requirements for issuers and intermediaries, and is not limited to accredited investors. However, national or interstate equity crowdfunding under Title III was not permitted until the SEC implemented Title III by final rule, which was not completed until November 16, 2015.[20] In response to the delay, a number of states, including Florida, enacted intrastate crowdfunding exemptions, which combine some elements of Title III of JOBS with s. 3(a)(11) of the Securities Act of 1933.

The final rule, Regulation Crowdfunding,[21] implements the interstate crowdfunding provisions of the JOBS Act. The regulations permit individuals to invest in securities-based crowdfunding transactions subject to certain thresholds, limits the amount of money an issuer can raise under the crowdfunding exemption at $5 million, requires issuers to disclose certain information about their offers, and creates a regulatory framework for the intermediaries that facilitate the crowdfunding transactions. Transactions must be conducted through an intermediary that is registered as either a broker-dealer or a "funding portal."[22] The rules require intermediaries to:

- Provide investors with educational materials;
- Take measures to reduce the risk of fraud;
- Make available information about the issuer and the offering;
- Provide communication channels to permit discussions about offerings on the platform; and
- Facilitate the offer and sale of crowdfunded securities.[23]

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[14] Public Law 73-291, as amended through P.L. 117-328, enacted December 29, 2022.
[15] Section 15, Securities and Exchange Act of 1934.
[16] Securities and Exchange Commission, "What We Do," at SEC.gov | What We Do (last visited Nov. 15, 2023).
[17] National securities exchanges (e.g., the New York Stock Exchange) and clearing and settlement systems may register as SROs with the SEC or CFTC, making them subject to SEC or CFTC oversight. A list of self-regulatory organizations (SROs) registered with the SEC can be found at SEC.gov | Self-Regulatory Organization Rulemaking (last visited Nov. 15, 2023).
[18] Pub. L. 112-106, *126 Stat.* 306 (2012).
[19] Title III of the JOBS Act ("Title III") added new Securities Act Section 4(a)(6), which provides an exemption from the registration requirements of Securities Act Section 5. 15 U.S.C. 77e.
[20] 80 FR 71387.
[21] 17 CFR Part 200.
[22] 17 CFR Part 227.
[23] *Id.*

In addition, Regulation Crowdfunding limits the amount a non-accredited, individual investor is allowed to invest in Regulation Crowdfunding offerings over the course of a 12-month period contingent upon the investor's net worth and annual income.[24] There are no investment limitation for accredited investors.[25]

Florida Regulation of Securities

The federal securities acts expressly allow for concurrent state regulation under blue sky laws,[26] which are designed to protect investors against fraudulent sales practices and activities. Most state laws typically require companies making offerings of securities to register their offerings before they can be sold in a particular state, unless a specific state exemption is available. The laws also license brokerage firms, their brokers, and investment adviser representatives.[27]

The Financial Services Commission is composed of the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture.[28] The commission members serve as agency head for purposes of rulemaking.[29] The Office of Financial Regulation (OFR) and the Office of Insurance Regulation are units under the commission, and each office is headed by a commissioner appointed by the commission.[30]

The scope of the OFR's jurisdiction includes the regulation and registration of the offer and sale of securities in, to, or from Florida by firms, branch offices, and individuals associated with these firms in accordance with the ch. 517, F.S.[31] The Division of Securities within the OFR is responsible for administering the Securities and Investor Protection Act (act). The act prohibits dealers, associated persons, and issuers from offering or selling securities in this state unless registered with the OFR or specifically exempted.[32] Additionally, all securities in Florida must be registered with the OFR unless they meet one of the exemptions in s. 517.051 or s. 517.061, F.S., or are federally covered (i.e., under the exclusive jurisdiction of the SEC). As of September 30, 2023, the Division had total registrants in the following categories:

- Dealers: 2,427
- Investment Advisers: 8,359
- Branches: 11,702; and

[24] See 17 C.F.R. s. 227.100(a)(2).
[25] Accredited investors may, under SEC rules, participate in investment opportunities that are generally not available to non-accredited investors, including certain investments in private companies and offerings by certain hedge funds, private equity funds, and venture capital funds. Further, the rules allow investors with reliable alternative indicators of financial sophistication to participate in such investment opportunities, while maintaining the safeguards necessary for investor protection. The definition of the term, "accredited investor," is found at 17 C.F.R. s. 230.501.
[26] The term "blue sky" derives from the characterization of baseless and broad speculative investment schemes, which such laws targeted. Cornell Law School, Blue Sky Laws https://www.law.cornell.edu/wex/blue_sky_law#:~:text=In%20the%20early%201900s%2C%20decades,schemes%20which%20such%20laws%20targeted. (last visited Sep. 18, 2023).
[27] U.S. Securities and Exchange Commission, Blue Sky Laws, http://www.sec.gov/answers/bluesky.htm (last visited Mar. 1, 2023).
[28] Section 20.121(3), F.S.
[29] Section 20.121(3)(a), F.S.
[30] Section 20.121(3)(a)2., F.S.
[31] Pursuant to s. 20.121(3), F.S. The jurisdiction of the OFR also includes state-chartered financial institutions and finance companies.
[32] Section 517.12, F.S.

- Associated Persons: 378,435[33]

Intrastate Crowdfunding

As noted earlier, in response to the delay in the adoption of federal rules implementing the JOBS Act, a number of states, including Florida, enacted intrastate crowdfunding exemption, which exempts issuers from federal registration if the issuer, purchaser, and securities offering are all contained within the same state, and meet other requirements. During the 2015 Session, the Florida Legislature enacted an intrastate crowdfunding exemption.[34] The issuer, intermediary, investor, and transaction must comply with the federal intrastate exemption requirements. The law[35] exempts an issuer and the securities offering of up to $1 million for a 12-month period, requires registration for the intermediary; and mirrors the federal investment limitations for investors at the time. The law requires issuer notice-filings and intermediary registrations with the OFR, initial and periodic disclosures to investors, an escrow agreement for investor funds, a right of rescission, and financial reporting to investors and to the OFR.

Chapter 517 Task Force of The Florida Bar Business Law Section

In 2022, the Executive Council of the Business Law Section of The Florida Bar created a Task Force to consider amendments to Chapter 517, F.S. In late 2023, the Task Force released its report in coordination with the OFR, which included recommendations and analysis of proposed changes.[36] The impetus for the reform is to improve the ability of small and developing businesses in Florida to raise capital, while at the same time both assuring and improving investor protection and enforcement measures to guard against abuse. Florida's securities statute has not been materially amended for many years. As a result, a number of measures taken both federally and by many states regarding small business financing have not been incorporated into Florida's law.[37] Substantive, as well as technical and clarifying changes were recommended by the Task Force.

Uniform Law Commission

The Uniform Law Commission (ULC, also known as the National Conference of Commissioners on Uniform State Laws), established in 1892, provides states with non-partisan uniform model acts. In 2002, the Uniform Law Commission updated the Uniform Securities Act, which provides basic investor protection from securities fraud, complementing the federal Securities and Exchange Act, and only applies to securities not regulated by the SEC.[38]

[33] Office of Financial Regulation, Analysis of SB 532 (Oct. 1, 2023). On file with Senate Banking and Insurance Committee Staff.
[34] Ch. 2015, Laws of Fla.
[35] Section 517.0611, F.S.
[36] Report of the Chapter 517 Task Force of the Business Law Section of The Florida Bar, Recommendations and Analysis of Proposed Amendments to the Florida Securities and Investor Protection Act (Nov. 2023). On file with Florida Senate Committee on Banking and Insurance Staff.
[37] *Id*.
[38] 2002-Uniform-Securities-Act.pdf (nasaa.org) last visited Dec. 23, 2023.

III. Effect of Proposed Changes:

Section 1. Amends s. 517.021, F.S., to create the following definitions:

- "Angel investor group" means a group of accredited investors who hold regular meetings and have defined processes and procedures for making investment decisions, individually or among the membership of the group, and who are not associated persons, affiliates, or agents of a dealer or investment adviser.
- "Business entity" means any corporation, partnership, limited partnership, limited liability company, proprietorship, firm, enterprise, franchise, association, self-employed individual, or trust, which may or may not be fictitiously named, doing business in this state.

The definition of "boiler room," is revised to reflect technological innovations in communications. The definition of the term, "boiler room" is amended to mean an enterprise in which two or more persons in a common scheme or enterprise solicit potential investors through telephone calls, e-mail, text messages, social media, chat rooms, or other electronic means.

The section also revises the definition of investment adviser for purposes of registration requirements. An investment advisor, is exempt from registration requirements if the person, during the preceding 12 months, has fewer than six clients instead of no more than 15 clients who are residents of this state. The term, "client," has the same meaning as provided in 17 C.F.R. s. 275.222-2. According to the Task Force report, Florida is one of three states (including California and North Carolina) that have a 15 or less client exemption. Five states (Georgia, New Jersey, New York, Pennsylvania and Tennessee) have a no more than six client exemption, and all other states require registration if an adviser has a place of business in their state regardless of how many clients the adviser has.

An exemption from the investment advisor registration is also provided for specified governmental entities and others, which is consistent with an exemption provided in section 202(b) of the Investment Advisers Act of 1940. Registration requirements do not apply to the U.S. government, state governments and their political subdivisions, and their agencies or instrumentalities, including their officers, agents, or employees acting in their official capacities.

Exempt Securities

Section 2. Amends s. 517.051, F.S., which provides exemptions based on the nature of the securities. The exemption relating to United States, state and local government securities, is revised to exclude certain industrial revenue bonds and commercial development bonds. This change is made based on the increased risk to investors holding such bonds, which are reliant upon revenue streams for their support, unless the bonds are guaranteed by a publicly traded entity described in s. 18(b)(1) of the Securities Act of 1933.

The exemption related to a security issued by a depository institution, current subsection (3), is revised to incorporate provisions found in s. 201(3)(B) of the Uniform Securities Act to provide greater clarity and specificity. The section limits the list of financial institutions to the following:

- An international bank of which the United States is a member;
- A bank organized under the laws of the United States;
- A member bank of the Federal Reserve System; or

- A depository institution when a substantial portion of the business consists or will consist of receiving deposits or share accounts that are insured to the maximum amount authorized by statute by the federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund.

The current registration exemption provided in s. 517.051(8), F.S., for notes of at least $25,000 that have a maturity period not exceeding nine months and are sold to non-accredited investors is eliminated. According to the Task Force, this exemption has been the subject of abusive efforts by persons attempting to evade registration requirements. There is no analogy to this exemption in the Uniform Securities Act.

Section 517.051, F.S., is amended to provide an exemption for all not-for-profit cooperatives. Currently, ss. 517.051(7) and 517.061, F.S., provide a registration exemption for agricultural and residential cooperatives, respectively. The residential cooperative exemption is currently a transaction exemption and is moved to new s. 517.051(8), F.S. Subsection (9) is created to provide a registration exemption for all other forms of not-for-profit cooperatives, which is consistent with the Uniform Securities Act. This provision exempts a member's or owner's interest in, or a retention certificate or like security given in lieu of a cash patronage dividend issued by, a not-for-profit membership entity operated either as a cooperative under the cooperative laws of a state or in accordance with the cooperative provisions of subchapter T of chapter 1 of subtitle A of the United States Internal Revenue Code, as amended, but not a member's or owner's interest, retention certificate, or like security sold or transferred to a person other than:

- A bona fide member of the not-for-profit membership entity; or
- A person who becomes a bona fide member of the not-for-profit membership entity at the time of or in connection with the sale or transfer.

Technical, clarifying changes are made to the section.

Exempt Securities Transactions

Sections 3. Amends s. 517.061, F.S., to reorganize and amend the section by grouping similar types of transactions together. Except as otherwise provided in subsection (11), the exemptions from the registration requirements of s. 517.07, F.S., are self-executing and do not require any filing with the OFR. However, such transactions are subject to the anti-fraud provisions of s. 517.301, F.S.

Section 517.061(1), F.S., relating to judicial approval of a securities transaction, is amended in paragraph (a) to expand the exemption to include sales effected through assignments for the benefit of creditors. New paragraph (b) exempts a transaction involving a security issued in exchange, except in a case under Title 11 of the United States Code, for one or more bona fide outstanding securities, or property interests, or partly in such exchange and partly for cash, if the terms and conditions are approved by certain governmental entities after a hearing upon the fairness of such terms and conditions. The Task Force adopted the language of the federal analog, s. 3(a)(10) of the Securities Act of 1933.

The current exemption provided in subsection (3), relating to a stock dividend or equivalent equity distribution, is amended to prohibit the giving of value by stockholders or other equity holders for the dividend or equivalent equity distribution other than the surrender of a right to a cash or property dividend in the event that each stockholder or other equity holder may elect to take the dividend or equivalent equity distribution in cash, property, or stock. The subsection is modeled after the Uniform Securities Act.

The bill expands the current exemption in subsection (4), related to a transaction involving the distribution of securities among an issuer's own security holders, to include persons that at the date of the transaction are holders of options and all types of warrants. The provision is modeled after the Uniform Securities Act.

Subsection (8) expands the current exemption relating to employer-sponsored stock option plans to include any securities, plan interests, and guarantees issued under a compensatory benefit plan or compensation contract, and requires that the employee benefit plan be contained in a record established by the issuer, its parents, its majority-owned subsidiaries, or the majority-owned subsidiaries of the issuer's parent for the participation of their employees.

Subsection (9) revises a current exemption, relating to the offer or sale of securities to a financial institution, to eliminate the limitation that the offers or sales of securities may not be for the direct or indirect promotion of any scheme or enterprise with the intent of violating or evading ch. 517, F.S. A general provision addresses this issue in s. 517.0613, F.S. The subsection eliminates the requirement that the FSC define "institutional investor." The term, "qualified institutional buyers," is defined in s. 517.021, F.S.

The limited offering exemption in subsection (10)(a) is amended to remove the provision prohibiting the payment of a commission or compensation for the sale of the securities in certain circumstances under the exemption relating to the offer or sale, by or on behalf of an issuer, of its own securities, where there are no more than 35 purchasers since the statute already precludes compensation to nondealers. The 3-day voidability provision has been revised to limit it to three days from the date of purchase. Newly created exemptions proposed in ss. 517.0611, F.S., and 517.0612, F.S., will allow general advertising and solicitation, subject to enforcement provisions for material misstatements or omissions. The section adds certain additional purchasers to the list of excluded purchasers for purposes of the 35 purchaser limit. The added provisions have been taken from the analogous SEC Rule 501 exclusions for counting purchasers.

The limited offering exemption is the current statute's primary registration exemption for capital-raising purposes. It was modeled after the SEC Rule 505 exemption which no longer exists. The exemption is principally used by issuers that limit their offers and sales to Florida residents. It has no monetary limitation on the issuer or any investor but is limited to no more than 35 non-accredited investors. A principal problem with this exemption has been the prohibition against any general advertising or solicitation, which substantially impairs the ability of smaller, developing companies to attract investors.

Subsection (11) substantially codifies the North American Securities Administrators Association[39] (NASAA) model accredited investor exemption. Sales of securities may only be made to persons who are, or the issuer reasonably believes are, accredited investors. The exemption is not available to an issuer that:

- Has an undefined business operation;
- Lacks a business plan;
- Lacks a stated investment goal for the funds being raised; or
- Plans to engage in a merger or acquisition with an unspecified business entity.

The model provides that a general announcement of the proposed offering, made by any means, may include only specified information. The issuer must file with the OFR a notice of transaction, a consent to service of process, and a copy of the general announcement within 15 days after the first sale in this state. The FSC may adopt by rule procedures for filing documents by electronic means. Dissemination of the general announcement of the proposed offering to persons who are not accredited investors does not disqualify the issuer from claiming the exemption under this rule.

Subsection (15) creates an exemption for non-issuer transactions with a federal covered adviser managing investments in excess of $100 million acting in the exercise of discretionary authority in a signed record for the accounts of others. This exemption is modeled after the Uniform Securities Act.

Subsection (16) is amended to allow the FSC to recognize by rule clearinghouses able to clear option transactions for purposes of this subsection. The subsection is also amended to require that the underlying security is purchased or sold on a recognized security exchange registered under the Securities Exchange Act of 1934 and to eliminate the possibility that the underlying security instead be quoted on the National Association of Securities Dealers Automated Quotation System.

The exemption for nonissuer transactions of securities outstanding at least 90 days in subsection (18) is revised to change the conditions for eligibility. Current law requires all conditions for this exemption must be satisfied. The section is revised to retain the mandatory conditions of (a)-(c), along with either one of (d) and (e).

Subsection (20) creates an exemption for buying and selling of securities of foreign companies through foreign brokers. Non-issuer transactions in an outstanding security by or through a dealer registered or exempt from registration are exempt if:

- The issuer is a reporting issuer in Canada or in a foreign jurisdiction designated by Commission rule and the issuer has been subject to continuous reporting requirements for not less than 180 days before the transaction; and

[39] NASAA is a nonprofit association of securities regulators in the United States, Canada, and Mexico. About - NASAA (last visited December 23, 2023). In 1997, NASAA members voted to approve "Model Accredited Investor Exemption" (the AI Exemption). NASAA, MODEL ACCREDITED INVESTOR EXEMPTION (Apr. 27, 1997) 4-27-97.PDF (nasaa.org)(last visited Jan. 10, 2023). The AI exemption exempts the offer or sale of a security by an issuer from the security registration process in a transaction meeting certain requirements including that the sale of securities is limited to accredited investors and the issuer must not be subject to disqualification. The majority of states have adopted the AI exemption.

- The security is listed on The Toronto Stock Exchange, Inc. or on a foreign jurisdiction's securities exchange that has been designated by FSC rule, or is a security of the same issuer that is of senior or substantially equal rank to the listed security or is a warrant or right to purchase or subscribe to any of the foregoing.

The OFR may revoke any designation of a securities exchange if the OFR finds that revocation is necessary or appropriate in the public interest and for the protection of investors.

Florida Limited Offering Exemption

Section 4. Amends s. 517.0611, F.S., the "Intrastate Crowdfunding Exemption." The section is substantially amended and renamed the "Florida Limited Offering Exemption" in subsection (1). Subsection (2) is amended to provide that the registration requirements of s. 517.07, F.S., do not apply to transactions conducted in accordance with this section; however, such transactions are subject to the anti-fraud provisions of s. 517.301, F.S. Currently, the section specifies that an offer or sale of a security conducted in accordance with this section is an exempt transaction under s. 517.061, F.S., and the exemption may not be used in conjunction with any other exemption under ss. 517.051 or 517.061, F.S.

Subsection (3) requires that the offer or sale of securities under this section be conducted in accordance with the requirements of the federal exemption for intrastate offerings in s. 3(a)(11) of the Securities Act of 1933, 15 U.S.C. s. 77c(a)(11), 17 CFR s. 230.147 or 17 CFR 230.147A, which is being added. In 2016, the SEC adopted Rule 147A, a new intrastate offering exemption, which is substantially identical to Rule 147 except that Rule 147A:

- Allows offers to be accessible to out-of-state residents, so long as sales are only made to in-state residents;
- Permits a company to be incorporated or organized out-of-state, so long as the company has its "principal place of business" in-state and satisfies at least one "doing business" requirement that demonstrates the in-state nature of the company's business; and
- Allows issuers to engage in general solicitation and general advertising of their offerings, using any form of mass media, including unrestricted, publicly-available Internet websites, so long as sales of securities so offered are made only to residents of the state or territory in which the issuer has its principal place of business.

Subsection (4) revises issuer requirements in the following manner:

- The issuer must be a for-profit business entity that maintains its principal place of business and derives its revenues primarily from operation in this state. Under current law, the entity is required to be formed under the laws of the state, be registered with the Secretary of State, maintain its principal place of business in the state, and derive its revenues primarily from operations in the state.
- An issuer must conduct transactions for an offering of $2.5 million or more through a dealer through a dealer or intermediary registered with the office. For an offering of less than $2.5 million, the issuer may, use such a dealer or intermediary. Under current law, an issuer must use a registered dealer or intermediary regardless of the amount of the offering.
- The issuer may not be subject to a disqualification established by the FSC or OFR or a disqualification described in s. 517.1611, F.S., or newly created s. 517.0616, F.S. Each director, officer, manager, managing member, or general partner, or person occupying a

similar status or performing a similar function, or person holding more than 20 percent of the equity interest of the issuer, is subject to this requirement. Section 517.0616, F.S., references disqualifications under 17 C.F.R. s. 230.506(d).

- The issuer must deposit all funds received from investors in an account in a federally insured financial institution authorized to do business in this state. Further, an issuer must maintain all such funds in the account until the target offering amount is reached or the offering amount has not been reached within the period specified. Currently, an issuer must execute an escrow agreement with a federally insured financial institution authorized to do business in the state for the deposit of investor funds, and ensure that all offering proceeds are provided to the issuer only when the aggregate capital raised from all investors is equal to or greater than the target offering amount.

Subsection (5) requires an issuer to file a notice of the offering with the OFR together with a nonrefundable filing fee. The disclosures required to be included in the notice form are revised in the following manner:

- Eliminates the attestation requirement. Currently, the notice must contain an attestation under oath that the issuer, its predecessors, affiliated issuers, directors, officers, and control persons, or any other person occupying a similar status or performing a similar function, are not currently and have not been within the past 10 years the subject of regulatory or criminal actions involving fraud or deceit.
- Must state the target offering amount as well as the date, not to exceed 365 days, by which the target amount must be reached in order to avoid termination of the offering.

Subsection (6) requires an issuer to amend the notice form within 10 business days instead of 30 days after any material information becomes inaccurate.

Subsection (7) authorizes an issuer to engage in general advertising and general solicitation of the offer to prospective investors. Any oral or written statements in advertising or solicitation of the offer are subject to enforcement under ch. 517, F.S. Any general advertising or other general announcement must state that the offering is limited and open only to residents of this state.

Subsection (8) is amended to require an issuer to provide a disclosure statement to the dealer or intermediary, as applicable: to the OFR at the time that the notice is filed and to each prospective investor at least three days before the investor's commitment to purchase or payment of any consideration, a disclosure statement containing material information about the issuer and the offering. The bill provides the following changes:

- The statement must also include the email address of the issuer. Currently, the name, legal status, physical address, and website address of the issuer are required.
- The disclosure of the names of the managers, managing members, and general partners are added. Currently, the names of the directors, officers, and any person occupying a similar status or performing a similar function, and the name of each person holding more than 20 percent of the issuer's equity interests are required to be disclosed.
- The regular updates of the issuer regarding the progress in meeting the target offering amount is eliminated.
- The methodology for determining the price is eliminated and the requirement that prior to the sale, the investor must receive in writing the final price and all required disclosures and have an opportunity to rescind the commitment to purchase the securities.

- A description of the ownership and capital structure of the issuer is revised to eliminate the disclosure of the name and ownership level of each existing shareholder who owns more than 20 percent of any class of the securities of the issuer; how the securities being offered are being valued, and examples of methods of how such securities may be valued by the issuer in the future; and the risks to purchasers of the securities relating to minority ownership in the issuer, the risks associated with corporate action, including additional issuances of shares, a sale of the issuer or of assets of the issuer, or transactions with related parties.
- The bill adds a statement that the security being offered is not registered under federal or state securities laws and that the securities are subject to the limitations on resale contained in SEC Rule 147 or Rule 147A.
- The bill adds a disclosure regarding any issuer plans to offer additional securities in the future.
- The bill adds a disclosure about the risks to purchasers of the securities relating to the minority ownership in the issuer.
- A description of the financial condition of the issuer.
    - The bill provides that, for offering amounts of $500,000 or less, the inclusion of financial statements of the issuer are optional. Under current law, certified financial statements and the most recent tax return filed by the issuer are longer required. Further, for offerings that within the preceding 12-month period, have target offering amounts of $100,000 or less, the description must include the most recent income tax return filed by the issuer, if any, and a financial statement that must be certified by the principal executive officer of the issuer as true and complete in all material respects.
    - The bill provides that for offering amounts of more than $500,000 but not more than $2.5 million, the description must include financial statements reviewed by a certified public accountant. Currently, for offerings that within the preceding 12-month period, have target offering amounts of $100,001 - $500,000, the description must include financial statements prepared in accordance with generally accepted accounting principles and reviewed by a certified public accountant who is independent of the issuer, using professional standards and procedures for such review or standards and procedures established by the office, by rule, for such purpose.
    - The bill provides that for offerings of more than $2.5 million, the description must include audited financial statements. Under current law, for offerings that within the preceding 12-month period, have target offering amounts of more than $500,000, the description must include audited financial statements prepared in accordance with generally accepted accounting principles by a certified public accountant who is independent of the issuer, and other requirements as the FSC may establish by rule.

The bill provides that the following additional statement must appear on the front page of the disclosure statement:

> "Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved these securities or determined if this disclosure statement is truthful or complete. Any representation to the contrary is a criminal offense."

The foregoing statement is added to the following statement which must be provided under current law. Both the previous and the following statement must appear in boldface, conspicuous type on the front page of the disclosure statement:

> "These securities are offered under, and will be sold in reliance upon, an exemption from the registration requirements of federal and Florida securities laws. Consequently, neither the Federal Government nor the State of Florida has reviewed the accuracy or completeness of any offering materials. In making an investment decision, investors must rely on their own examination of the issuer and the terms of the offering, including the merits and risks involved. These securities are subject to restrictions on transferability and resale and may not be transferred or resold except as specifically authorized by applicable federal and state securities laws. Investing in these securities involves a speculative risk, and investors should be able to bear the loss of their entire investment."

Subsection (9) is amended to increase the cap for an offering from $1 to $5 million. Offers or sales to a person owning 20 percent or more of the equity of any class or classes of securities or to an officer, director, partner, manager, managing member, general partner or trustee, or a person occupying a similar status, do not count toward this limitation.

Subsection (10) is revised to provide that sales of securities to non-accredited investors in a 12-month period may not exceed $10,000. Currently, this calculation is based on the income and net worth of a non-accredited investor.

Current subsection (11) is eliminated, which requires the issuer to file with the OFR and provide to investors free of charge an annual report of the results of operations and financial statements of the issuer within 45 days after the end of its fiscal year, until no securities under this offering are outstanding. The annual reports must meet specified requirements.

Subsection (11), authorizes the OFR to summarily suspend a notice filing if the payment for the filing is dishonored by the financial institution upon which the funds are drawn or if the issuer made a material false statement in the issuer's notice-filing. A material false statement made in the issuer's notice-filing results in a final order by the OFR revoking the notice-filing, issuing a fine and permanent bar to the issuer and all owners, officers, directors, and control persons, or any person occupying a similar status or performing a similar function of the issuer. The subsection provides technical conforming changes.

Subsection (12), relating to the duties of an intermediary, is revised, to provide that if the issuer employs the services of an intermediary, the intermediary must take measures, as established by FSC rule, to reduce the risk of fraud with respect to the offering. Under current law, the intermediary must, with respect to transactions, verify that the issuer is in compliance with the requirements of this section and, if necessary, deny an issuer access to its platform if the intermediary believes it is unable to adequately assess the risk of fraud of the issuer or its potential offering.

The subsection revises the provision relating to the information an intermediary must obtain from investors to document residency or status as an accredited investor. The bill requires an intermediary to obtain from each prospective investor a zip code or residence address, a copy of a driver license, and any other proof of residency in order for the issuer or intermediary to reasonably believe that the potential investor is a resident of this state. The FSC may adopt rules authorizing additional forms of identification and prescribing the process for verifying any identification presented by the prospective investor. The intermediary must obtain information

sufficient for the issuer or intermediary to reasonably believe that a particular prospective investor is an accredited investor.

The subsection eliminates the requirement that an intermediary must obtain an affidavit from each investor regarding their income. Currently, an intermediary must obtain an affidavit from each investor stating that the investment being made by the investor is consistent with the income requirements. The bill provides conforming changes to eliminate requirements relating to escrow funds and escrow agreements.

The subsection eliminates the following duties of an intermediary:

- Require each investor to certify in writing that the investor understands the risks of investing, the terms of the offering, and the limitations on resale.
- Require each investor to answer questions demonstrating an understanding of the level of risk generally applicable to investments in startups, emerging businesses, and small issuers, and an understanding of the risk of illiquidity.
- Implement written policies and procedures that are reasonably designed to achieve compliance with federal and state securities laws; the anti-money laundering requirements applicable to registered brokers; and privacy requirements.
- Solicit purchases, sales, or offers to buy securities offered or displayed on its website.

Subsection (14) provides that if the issuer does not employ a dealer or an intermediary for an offering created pursuant to this section, the issuer may not:

- Compensate employees, agents, or other persons for the solicitation of, or based on the sale of, securities offered or displayed on its website.
- Hold, manage, possess, or otherwise handle investor funds or securities.
- Compensate promoters, finders, or lead generators for providing personal identifying information of any potential investor.
- Engage in any other activities set forth by commission rule.

Subsection (15) provides that any sale made pursuant to the exemption created under this section is voidable by the purchaser within 3 days after the first tender of consideration is made by such purchaser to the issuer by notifying the issuer that the purchaser expressly voids the purchase. The purchaser's notice to the issuer must be sent by e-mail to the issuer's e-mail address set forth in the disclosure statement that is provided to the purchaser or purchaser's representative or by certified mail or overnight delivery service with proof of delivery to the mailing address set forth in the disclosure statement. Under current law, an investors may cancel a commitment to invest within 3 business days before the offering deadline, as stated in the disclosure statement, and issue refunds to all investors if the target offering amount is not reached by the offering deadline.

Florida Invest Local Exemption

Section 5. Creates s. 517.0612, F.S., the "Florida Invest Local Exemption," a micro-offering exemption. The section provides that the registration provisions of s. 517.07, F.S., do not apply to a securities transaction conducted in accordance with this section. However, such transactions are subject to the anti-fraud provisions of s. 517.301, F.S. The bill:

- Requires that the offer or sale of securities under this section must meet the requirements of the federal exemption for intrastate offerings in s. 3(a)(11) of the Securities Act of 1933, Securities and Exchange Commission Rule 147, or Securities and Exchange Commission Rule 147A.
- Requires the issuer to be a for-profit business entity registered with the Department of State with its principal place of business in this state. The issuer cannot be, either before or as a result of the offering:
    - An investment company as defined in the Investment Company Act of 1940, as amended;
    - Subject to the reporting requirements of the Securities and Exchange Act of 1934, as amended;
    - An organization with an undefined business operation, a company that lacks a business plan, a company that lacks a stated investment goal for the funds being raised, or a company that plans to engage in a merger or acquisition with an unspecified business entity, or
    - Subject to a disqualification pursuant to s. 517.0616, F.S.
- Provides that the sum of all cash and other consideration received for all sales of the security in reliance upon this exemption may not exceed $500,000, less the aggregate amount received for all sales of securities by the issuer within the 12 months before the first offer or sale made in reliance on this exemption.
- Provides that the issuer may not accept more than $10,000 from any single purchaser unless:
    - The issuer reasonably believes that the purchaser is an accredited investor;
    - The purchaser is an officer, director, partner, or trustee of an individual occupying a similar status or performing similar functions of the issuer; or the purchaser is an owner of 10 percent or more of the issuer's outstanding equity. Any relative, spouse, child or family relative who has the same primary residence of the purchaser shall collectively be treated as a single purchaser or any business entity of which the purchaser and any person related to the purchaser collectively owns more than 50 percent of the equity interest must be treated collectively as a single purchaser.
- Authorizes an issuer to engage in general advertising and general solicitation of the offering. Any general advertising or other general announcement must state that the offer is limited and open only to residents of the state. Written or oral statements made in the advertising or solicitation of the offer are subject to the enforcement provisions of this chapter.
- Requires a purchaser to receive, at least 3 business days prior to any binding commitment to purchase or consideration paid, a disclosure document which sets forth material information of the issuer, including but not limited to the following:
    - Issuer's name, form of entity and contact information.
    - The name and contact information of each director, officer or other manager of the issuer.
    - A description of the issuer's business.
    - A description of the security being offered and the total amount of the offering.
    - The intended use of proceeds from the sale of the securities.
    - The target amount of the offering.
    - A statement that if the target amount is not obtained in cash or the value of other tangible consideration received within a date that is no more than 180 days after the commencement of the offering, the offering will be terminated, and any funds or other consideration received from purchasers shall be promptly returned.

  - A statement that the security being offered is not registered under federal or state securities laws and that the securities are subject to the limitation on resale contained in 17 C.F.R. s. 230.147 or 17 C.F.R. s. 230.147A.
  - The names and addresses of all persons who will be involved in the offer and sale of securities on behalf of the issuer.
  - The depository institution into which investor funds will be deposited.
  - A statement in boldface type that "Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense."
- Requires that all funds received from investors must be deposited into a depository institution authorized to do business in Florida. The issuer may not withdraw any amount of the offering proceeds unless and until the target amount has been received.
- Requires the issuer to file a notice of the offering with the OFR, in writing or in electronic form, in a format prescribed by FSC rule, no less than 5 business days before the offering commences, along with the disclosure document. The issuer must, within 3 business days, file an amended notice if there are any material changes to the information previously submitted.
- Provides that an individual, entity, or entity employee who acts as an agent for the issuer in the offer or sale of securities under this exemption and is not registered as a dealer or intermediary under this chapter may not:
  - Receive compensation based upon the solicitation of purchases, sales, or offers to purchase the securities, or
  - Take custody of investor funds or securities.
- Provides that any sale, made pursuant to this exemption, is voidable by the purchaser, within 3 days after the first tender of consideration is made by such purchaser to the issuer, by notifying the issuer that the purchaser expressly voids the purchase by sending an email to the issuer's email address set forth in the disclosure document provided to purchasers or purchaser's representatives or by certified mail or overnight delivery service with proof of delivery to the mailing address set forth in such disclosure document.

Section 6. Creates s. 517.0613, F.S., relating to the failure to comply with a securities registration exemption. This provision is similar to SEC Rule 500 in Regulation D. The section clarifies that an issuer who fails to comply with any exemption from securities registration is not precluded from claiming the availability of any other applicable state or federal exemption.

Further, the section provides that ss. 517.061, 517.0611, and 517.0612, F.S., are not available to an issuer for any transaction or chain of transactions that, although in technical compliance with the applicable provisions, is part of a plan or scheme to evade the registration provision of s. 517.07, F.S., and registration under s. 517.07, F.S., is required in connection with such transaction.

Section 7. Creates s. 517.0614, F.S., a stand-alone integration provision, which is consistent with 17 CFR s. 230.152, the SEC's integration rule, and is applicable to all issuer capital raising exemptions.

SEC Rule 152 significantly reduces the threat to companies, especially smaller ones that have continuing and sporadic needs for capital, that multiple offerings will be integrated as one, with the result that otherwise distinct valid exempt offerings will be deemed in violation of the registration provisions.

SEC Rule 152 provides a framework for determining whether multiple securities transactions should be considered part of the same offering and contains four non-exclusive safe harbors from integration. Offerings may not be integrated if, based on particular facts and circumstances, the issuer can establish either that each offering complies with the registration requirements of ch. 517, F.S., or that an exemption from registration is available for the particular offering, provided that any transaction or series of transactions that, although in technical compliance with ch. 517, F.S., is part of a plan or scheme to evade the registration requirements of ch. 517, F.S., will not have the effect of avoiding integration.

For an exempt offering prohibiting general solicitation, the issuer must have a reasonable belief, based on the facts and circumstances, with respect to each purchaser in the exempt offering, that the issuer or any person acting on the issuer's behalf:

- Did not solicit such purchaser through the use of general solicitation; or
- Established a substantive relationship with such purchaser before the commencement of the exempt offering, provided that a purchaser previously solicited by general solicitation is not deemed to have been solicited through the use of general solicitation in the current offering if, during the 45 calendar days following such previous general solicitation:
    - No offer or sale of the same or similar class of securities has been made by or on behalf of the issuer, including to such purchaser; and
    - The issuer or any person acting on the issuer's behalf has not solicited such purchaser through the use of general solicitation for any other security

Communication and Solicitation of Potential Investors

Section 8. Creates s. 517.0615, F.S., relating to solicitation of interest, to authorize an issuer to solicit potential investors under limited circumstances consistent with federal rules. Subsection (1) adopts provisions consistent with the federal "Demo Day Presentations" rule.[40] The subsection provides that pre-offering communications made by an issuer in connection with a demo day presentation are not deemed to constitute general solicitation if the communications are made in connection with such an event or presentation being sponsored by a college, university, or other institution of higher education, a state or local government or instrumentality of a state or local government, a nonprofit organization, or an angel investor group, incubator, or accelerator; provided that advertising for the event does not reference any specific offering of securities by the issuer; and the sponsor of the meeting or seminar does not:

- Make investment recommendations or provide investment advice to attendees of the event.
- Engage in any investment negotiations between the issuer and investors attending the event.
- Charge attendees of the event any fees, other than reasonable administrative fees.
- Receive any compensation for making introductions between event attendees and issuers, or for investment negotiations between the parties.

[40] 17 C.F.R. s. 230.148.

- Receive any compensation with respect to the event that would require registration or notice filing under the securities laws. The sponsorship of or participation in the seminar or meeting does not by itself require registration or notice-filing under ch. 517, F.S.

Information regarding an offering of securities by the issuer which is communicated or distributed by or on behalf of the issuer in connection with a seminar or meeting is limited to a notification that the issuer is in the process of offering or planning to offer securities, the type and amount of securities being offered, the intended use of the proceeds of the offering, and the unsubscribed amount in an offering. If the event allows attendees to participate virtually, rather than in person, online participation in the seminar or meeting is limited to certain specified participants.

Subsection (2) adopts provisions consistent with SEC Rule 241,[41] which allows "testing the waters" by an issuer in advance of making any offering. An issuer or their representative may communicate orally or in writing to determine whether there is any interest in a contemplated offering of securities exempt from federal registration requirements. The rule provides an exemption only with respect to the generic solicitation of interest. This will allow issuers to gauge the feasibility and market interest in a securities offering prior to incurring the time and expense of a preparing and conducting an offering. The solicitation or acceptance of money or other consideration or commitment from any person is prohibited.

SEC Rule 241 further requires the testing-the-waters materials to provide specified disclosures notifying potential investors about the limitations of the generic solicitation. The issuer's communications must state the following:

- No money or other consideration is being solicited, and if sent in response, will not be accepted;
- No offer to buy the securities can be accepted and no part of the purchase price can be received until the issuer determines the exemption under which the offering is intended to be conducted and, where applicable, the filing, disclosure, or qualification requirements of such exemption are met; and
- A person's indication of interest involves no obligation or commitment of any kind.

Any written communication may include a means for a person to indicate interest in a potential offering and an issuer may require such indication to include the person's name, address, telephone number, or email address in any response form included in the written communication.[42] A communication in accordance with the "testing the waters" provision is not subject to s. 501.059, F.S., regarding telephone solicitations.

Section 9. Creates s. 517.0616, F.S., relating to issuer disqualifications, to provide that a registration exemption under s. 517.061(9), (10), and (11), s. 517.0611, or 517.0612, F.S., is not available to an issuer that would be disqualified under 17 C.F.R. s. 230.506(d) at the time the

[41] 17 CFR s. 230.241.
[42] SEC, Facilitating Capital Formation and Expanding Investment Opportunities by Improving Access to Capital in Private Markets, A Small Entity Compliance Guide (Mar. 10, 2021), https://www.sec.gov/corpfin/facilitating-capital-formation-secg (last visited Sep. 18, 2023).

issuer makes an offer for the sale of a security. "Bad actor" disqualifying events include, but are not limited to:

- Specified relevant criminal convictions, certain court injunctions and restraining orders, and final orders of certain state and federal regulators;
- Certain SEC (Securities and Exchange Commission) disciplinary orders;
- Certain SEC cease-and-desist orders; and
- Suspension or expulsion from membership in a self-regulatory organization (SRO), such as FINRA, or from association with an SRO member.

Section 10. Revises s. 517.081, F.S., relating to securities registration requirements. To provide greater clarity, the provisions relating to the rulemaking authority of the FSC are consolidated and revised within the section. The section eliminates the five-year annual financial reporting requirements for SCOR and the prohibition against a person using the SCOR registration method for the resale of securities, which will allow non-control persons to resell securities through a Florida-based registration process.

Under current law, the FSC must adopt a form for a simplified offering circular to register securities that are sold in offerings in which the aggregate offering price in any consecutive 12-month period does not exceed $5 million. The simplified offering circular is synonymous with a Small Company Offering Registration (SCOR) under the Securities Act of 1933.[43] To qualify for use of the simplified offering circular, the issuer must:

- File an annual financial report with OFR that contains a balance sheet as of the end of the issuer's fiscal year and a statement of income for such year (and if the issuer has more than 100 security holders at the end of a fiscal year, the financial statements must be audited); and
- File annual financial reports with OFR for each of the first 5 years following the effective date of the registration.

Section 11. Amends s. 517.101, F.S., relating to consent to service, to expand the type of persons who are eligible to sign the written consent on behalf of a business entity to include directors, managers, managing members, general partners, trustees, or officers of the issuer. The bill also expands the persons who can authorize the signer to execute the written consent to include the issuer's general partners and managing members. Under current law, an issuer is required, upon any initial application for registration under the act or upon request of OFR, to file with such application the irrevocable written consent to service. The written consent must be authenticated by the seal of said issuer (if it has a seal), and by the acknowledged signature of a member of the co-partnership or company, or by the acknowledged signature of any officer of the incorporated or unincorporated association, and such consent to service must be duly authorized by resolution of the board of directors, trustees, or managers of the corporation or association (and such resolutions must be filed as a certified copy with the written consent to service).

Securities Guaranty Fund (Sections 12 and 13)

Section 12. Amends s. 517.131, F.S., relating to the Securities Guaranty Fund, to revise eligibility requirements and provide technical changes. In subsection (1), the definition of the

[43] SCOR was designed for use by companies seeking to raise capital through a public offering of securities exempt from registration with the SEC under the Securities Act of 1933 pursuant to Rule 504 of Regulation D, Rule 147, or 147A.

term, "final judgment," is amended to also include an arbitration award confirmed by a court of competent jurisdiction. The subsection is also amended to eliminate the requirement that the wrongdoer be a dealer, investment adviser, or associated person registered under ch. 517, F.S.

Subsection (2) is amended to specify that the purpose of the Securities Guaranty Fund (Fund) is to provide monetary relief to victims of securities violations under this chapter who are entitled to monetary damages or restitution and cannot recover the full amount of such monetary damages or restitution from the wrongdoer.

Subsection (3) is amended to require that a person meet the following conditions to be eligible for payment from the Fund:

- The person holds an unsatisfied final judgment in which a wrongdoer was found to have violated s. 517.07, F.S., or s. 517.301, F.S.;
- The person has applied any amounts recovered from the judgment debtor or from any other source to the damages awarded by the court or arbitrator; and
- The person is a natural person who was a resident of this state, or is a business entity that was domiciled in this state, at the time of the violation giving rise to the claim; or is a receiver appointed pursuant to s. 517.191(2), F.S., by a court of competent jurisdiction for a wrongdoer order to pay restitution under s. 517.191(3), F.S. as a result of a violation of s. 517.07, F.S., or s. 517.301, F.S., which has requested payment from the Fund on behalf of an eligible for payment.

This section is amended to eliminate the current requirement that the act for which recovery is sought occurred on or after January 1, 1979, and to eliminate the ability of the OFR to waive certain requirements under this section. The section provides that changes in the bill relating to the Fund apply to acts for which recovery is sought occurred on or after October 1, 2024. Further, the requirement that a person make all reasonable searches and inquiries to ascertain whether the judgment debtor possesses real or personal property or other assets subject to being sold or applied in satisfaction of the judgment is eliminated. Under current law, for a person to be eligible to receive payment from the Fund, the following requirements must be met:

- The act for which recovery is sought occurred on or after January 1, 1979;
- The person has received final judgement from a court that a violation of ss. 517.07 or 517.301, F.S., occurred for which monetary damages are awarded;
- The person has made all reasonable searches and inquiries to ascertain whether the violator possesses assets that can be sold in satisfaction of the damages awarded, and in such search has discovered no or insufficient assets; and
- The person has applied any amounts recovered from the violator, or from any other source, to the damages awarded by the court.

Subsection (4) is created to prohibit a person from being eligible for payment from the Fund if the person has:

- Participated or assisted in a violation of ch. 517, F.S.;
- Attempted to commit or committed a violation of ch. 517, F.S.; or
- Profited from a violation of ch. 517, F.S.

Subsection (5) provides that an eligible person, or a receiver on behalf of an eligible person, seeking payment from the Fund must submit a written application within one year after the date of the final judgement, the date on which a restitution order has been ripe for execution, or the date of any appellate decision, and at a minimum, must contain certain specified information. The application must contain such information as the OFR may require, including, but not limited to:

- The full name, address, and contact information of the eligible person and, if applicable, the receiver.
- The person ordered to pay restitution.
- If the eligible person is a business entity, the eligible person's form and place of organization and a copy of the business entity's articles of incorporation, its articles of organization with amendments, trust agreement, or its partnership agreement.
- A copy of the final judgment.
- A copy of any restitution ordered pursuant to s. 517.191(3), F.S.
- An affidavit stating either one of the following:
  - The eligible person has made all reasonable searches and inquiries to ascertain whether the judgment debtor possesses real or personal property or other assets subject to being sold or applied in satisfaction of the final judgment and, by the eligible person's search, that the eligible person has not discovered any property or assets.
  - The eligible person has taken necessary action on the property and assets of the wrongdoers but the final judgment remains unsatisfied.
- An affidavit from the receiver stating the amount of restitution owed to the eligible person on whose behalf the claim is filed; the amount of any money, property, or assets paid to the eligible person on whose behalf the claim is filed by the person over whom the receiver is appointed; and the amount of any unsatisfied portion of any eligible person's order of restitution.
- The eligible person's residence or domicile at the time of the violation of s. 517.07, F.S., or s. 517.301, F.S., which resulted in the eligible person's monetary damages.
- The amount of any unsatisfied portion of the eligible person's final judgment.
- Whether an appeal or motion to vacate an arbitration award has been filed.

Subsection (6) provides that if the OFR finds that a person is eligible and if the person has complied with the provisions of this section, the OFR must approves a person for payment from the Fund within 90 days after the OFR’s receipt of a complete application. Each eligible person or receiver must be given written notice, personally or by mail, that the OFR intends to approve or deny, or has approved or denied, the application for payment from the Fund.

The current provision in s. 517.141(9), F.S., which requires an eligible person or receiver to assign all right, title, and interest in the final judgment or order of restitution, to the extent of such payment to the OFR upon receipt of the notice indicating the OFR’s intent to approve an application for payment from the Fund and before any disbursement, is transferred to s. 517.131, F.S.

Subsection (8) provides that the OFR will deem an application for payment from the Fund abandoned if the eligible person or receiver, or any person acting on behalf of the eligible person or receiver, fails to timely complete the application as prescribed by FSC rule. The time period to

complete an application is tolled during the pendency of an appeal or motion to vacate an arbitration award.

Section 13. Amends s. 517.141, F.S., relating to payments from the Securities Guaranty Fund. The following terms are defined:

- "Claimant" means a person determined eligible for payment under s. 517.131 that is approved by the office for payment from the Fund.
- "Specified adult" has the same meaning as in s. 517.34(1), F.S.
- "Final judgment" has the same meaning as in s. 517.131(1), F.S.

The amount that an eligible person may recover from the Fund is increased from $10,000 to $15,000, or $25,000 if the victim is a specified adult. The aggregate limit on claims is increased from $100,000 to $250,000.

All payments made from the Fund must be made by the Chief Financial Officer upon authorization by the OFR. The OFR must submit authorization within 30 days after the approval of an eligible person for payment from the Fund.

The two-year payment waiting period prior to payment is eliminated. Technical conforming changes are made to the section to include final orders of restitution in addition to final judgments.

The section provides that if a claimant knowingly and willfully files or causes to be filed an application under s. 517.131, F.S., or documents in support of the application, any of which contain false, incomplete, or misleading information in any material aspect, the claimant forfeits all payments from the Fund and that such act violates s. 517.301(1)(c), F.S.

The Department of Financial Services (DFS), instead of OFR, is authorized to institute legal proceedings to enforce compliance with s. 517.131, F.S., and to recover moneys owed to the Fund, and to recover interest, costs, and attorney's fees in any action brought pursuant to this section in which the DFS prevails.

OFR Enforcement Authority

Section 14. Amends s. 517.191, F.S., relating to enforcement by the OFR and the Attorney General.

The amount of a civil penalty against a natural person found to have violated any provision of this chapter, other than s. 517.301, F.S., is increased from $10,000 to $20,000. Further, the civil penalty must be the greater of the specified amount or the amount of any pecuniary loss to the investor or pecuniary gain to a business entity. Further, the section is amended to allow for a civil fine of twice the amount that would otherwise be imposed if a specified adult, i.e., a natural person 65 years of age or older, or a vulnerable adult, is a victim of a violation of this chapter.[44]

[44] The act defines "specified adult" as a natural person 65 years of age or older, or a natural person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired

The OFR is authorized to recover any costs and attorney fees related to the OFR's investigation or enforcement of ch. 517, F.S., in an action for injunctive relief or the OFR's enforcement of any restraining order or injunction. Any costs and attorney fees collected must be deposited in the Anti-Fraud Trust Fund.

The section authorizes the OFR apply to the court for an order directing the defendant to make restitution of those sums shown by OFR to have been obtained in violation of the Act.136 OFR may also petition the court to impose a civil penalty against the defendant in an amount not to exceed:

- $10,000 for a natural person or $25,000 for any other person, or the gross amount of pecuniary gain to such defendant for each such violation, other than a violation of s. 517.301, F.S.; or
- Plus $50,000 for a natural person or $250,000 for any other person, or the gross amount of pecuniary gain to such defendant for each violation of s. 517.301, F.S.

The OFR is authorized to hold any control person who controls any person found to have violated ch. 517, F.S., or of any rule adopted thereunder, jointly and severally liable with, and to the same extent as, such controlled person in any action brought under this section unless the control person acted in good faith and did not directly or indirectly induce the act that constitutes the violation or cause of action. This provision is found in the federal securities statutes and is also found in the Uniform Securities Act and laws in other states. The provision provides a defense for control persons who are able to show that they were not responsible for the controlled person's act that resulted in a securities law violation.

Further, the OFR is authorized to hold a person who knowingly or recklessly provides substantial assistance to another person in violation of ch. 517, F.S., or of any rule adopted thereunder, liable to the same extent as the person to whom such assistance is provided.

The section provides that the act does not limit the authority of OFR to bring an administrative action against any person that is the subject of a civil action brought pursuant to the act or limit the authority of OFR to engage in investigations or enforcement actions with the Attorney General. However, a person may not be subject to both a civil penalty described above and an administrative fine under subsection (3) as a result of the same facts. An enforcement action must be brought within 6 years after the facts giving rise to the cause of action were discovered or should have been discovered with the exercise of due diligence, but not more than 8 years after the date such violation occurred.

Private Remedies Available in Case of Unlawful Sale

Section 15. Amends s. 517.211, F.S., relating to private remedies available in case of unlawful sale. Subsection (3) allows a purchaser to hold any control person who controls any person found to have violated ss. 517.07 or 517.12(1), (3), (4), (8), (10), (12), (15), or (17), F.S., jointly and severally liable with, and to the same extent as, such controlled person in any action brought in

due to a mental, emotional, sensory, long-term physical, or developmental disability or dysfunction, or brain damage, or the infirmities of aging. See s. 517.34(1)(b), and s. 415.102(28), F.S.

action for rescission unless the control person acted in good faith and did not directly or indirectly induce the act that constitutes the violation or cause of action.

Subsection (4) clarifies that interest accrues from the date the security is purchased. Subsection (8) is created to incorporate the applicable portions of current ss. 517.241(2), and 517.241(3) F.S., as new subsection (8) and (9), respectively, and without substantive change. Technical, conforming changes are also make to the section.

Section 16. Repeals s. 517.221, F.S., relating to cease and desist orders, and transfers these provisions into s. 517.191, F.S. relating to enforcement authority of the OFR.

Section 17. Repeals s. 517.241, F.S., relating to remedies, and its applicable provisions are transferred to ss. 517.191, F.S., and 517.211, F.S., respectively.

Anti-Fraud Provisions (Sections 18-20)

Sections 517.301, 517.311, and 517.312, F.S., contain the provisions creating liabilities under ch. 517, F.S., for material misrepresentation or omissions.

Section 18. Amends s. 517.301, F.S., relating to fraudulent transactions; falsification or concealment of facts. The section provides the following changes:
- Subsection (2)(a) is amended to include transactions exempted under ss. 517.0611 and 517.0612, F.S.
- Subsection (2)(b) is amended to clarify that an offer to sell securities can be published, given publicity, or circulated through the use of any means.
- Subsection (3) is created to incorporate current s. 517.311(1), F.S. The section is amended to include transactions exempted under ss. 517.0611 and 517.0612, F.S., and to replace the term "company" with "business entity" for consistency.
- Subsection (4) is created to incorporate current s. 517.311(2), F.S. The section is amended to include persons within the purview of ss. 517.0611, 517.0612, and 517.081, F.S. and to remove gender specific pronouns.
- Subsection (5) is created to incorporate current s. 517.311(3), F.S..
- Subsection (6) is created to incorporate current s. 517.311(4), F.S.
- Subsection (7) is created to incorporate current s. 517.312(1), F.S

Section 19. Repeals s. 517.311, F.S., relating to false representations, deceptive words, and enforcement; and transfers provisions to s. 517.191, F.S., relating to enforcement.

Sections 20. Repeals s. 517.312, F.S., relating to securities, investments, boiler rooms; prohibited practices; and remedies. Provisions are transferred to s. 517.301, F.S., relating to fraudulent transactions and falsification or concealment of facts.

Technical, Conforming Changes

Section 21. Amends s. 517.072, F.S., to revise cross references.

Section 22. Amends s. 517.12, F.S., to revise cross references.

Section 23. Amends s. 517.1201, F.S., to revise cross reference.

Section 24. Amends s. 517.1202, F.S., to revise cross reference.

Section 25. Amends s. 517.302, F.S., to revise cross reference.

Effective Date

Section 26. Provides this act takes effect October 1, 2024.

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:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The implementation of the pre-offering "test the waters" provision may reduce the costs of conducting an exempt offering by providing businesses the flexibility to determine the optimal avenue for raising capital before spending thousands of dollars on legal and administrative fees.

C. Government Sector Impact:

Indeterminate. The bill requires issuers conducting an offering under the accredited investor exemption to file a notice of transaction, a consent to service of process, and a copy of the general announcement with the Office of Financial Regulation (OFR). Further, the bill requires issuers conducting an offering under Florida Invest Local Exemption to file a notice of the offering and a copy of the disclosure document with the OFR. The OFR will need to review these documents, and the bill does not provide additional funding for staff to conduct such reviews.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 517.021, 517.051, 517.061, 517.0611, 517.0612, 517.081, 517.101, 517.131, 517.141, 517.191, 517.211, 517.301, 517.072, 517.12, 517.1201, 517.1202, and 517.302 of the Florida Statutes.
This bill creates sections 517.0613, 517.0614, 517.0615, 517.0616, of the Florida Statutes:
This bill repeals sections 517.221, 517.241, 517.311, 517.312, of the Florida Statutes:

IX. Additional Information:

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

CS on January 16, 2024:
The CS provides the following changes:

- Makes the revisions to the Securities Guaranty Fund prospective to October 1, 2024.
- Clarifies the exemption for transactions conducted through alternative trading systems.
- Provides technical, conforming changes.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/18/2024	.	
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	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 567 - 2552

and insert:

(c) Family members who acquire such securities from persons described in this section through gifts or domestic relations orders.

(d) Former employees, directors, managers, managing members, general partners, officers, consultants, and advisors, if those individuals were employed by or providing services to

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the issuer when the securities were offered.

(e) Insurance agents who are exclusive insurance agents of the issuer, or of the issuer's parents or subsidiaries, or who derive more than 50 percent of their annual income from such persons.

(9) The offer or sale of securities to a bank, trust company, savings institution, insurance company, dealer, investment company as defined in the Investment Company Act of 1940, 15 U.S.C. s. 80a-3, as amended, pension or profit-sharing trust, or qualified institutional buyer, whether any of such entities is acting in its individual or fiduciary capacity.

(10)(a) The offer or sale, by or on behalf of an issuer, of its own securities if the offer or sale is part of an offering made in accordance with all of the following conditions:

1. There are no more than 35 purchasers, or the issuer reasonably believes that there are no more than 35 purchasers, of the securities of the issuer in this state during an offering made in reliance upon this subsection or, if such offering continues for a period in excess of 12 months, in any consecutive 12-month period.

2. Neither the issuer nor any person acting on behalf of the issuer offers or sells securities pursuant to this subsection by means of any form of general solicitation or general advertising in this state.

3. Before the sale, each purchaser or the purchaser's representative, if any, is provided with, or given reasonable access to, full and fair disclosure of all material information, which must include written notification of a purchaser's right to void the sale under subparagraph 4.

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4. Any sale made pursuant to this subsection is voidable by the purchaser within 3 days after the first tender of consideration is made by such purchaser to the issuer by notifying the issuer that the purchaser expressly voids the purchase. The purchaser's notice to the issuer must be sent by e-mail to the issuer's e-mail address set forth in the disclosure document provided to the purchaser or purchaser's representative or by hand delivery, courier service, or other method by which written proof of delivery to the issuer of the purchaser's election to rescind the purchase is evidenced.

(b) The following purchasers are excluded from the calculation of the number of purchasers under subparagraph (a)1.:

1. Any spouse or child of the purchaser or any related family member who has the same principal residence as such purchaser.

2. A trust or estate in which a purchaser, any of the persons related to such purchaser specified in subparagraph 1., and any business entity specified in subparagraph 3. collectively have more than 50 percent of the beneficial interest, excluding any contingent interest.

3. A business entity in which a purchaser, any of the persons related to such purchaser specified in subparagraph 1., and any trust or estate specified in subparagraph 2. collectively are beneficial owners of more than 50 percent of the equity securities or equity interest.

4. An accredited investor.

A business entity must be counted as one purchaser. However, if


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the business entity is organized for the specific purpose of acquiring the securities offered and is not an accredited investor, each beneficial owner of equity securities or equity interests in the business entity must be counted as a separate purchaser. A noncontributory employee benefit plan within the meaning of Title I of the Employee Retirement Income Security Act of 1974 must be counted as one purchaser if the trustee makes all investment decisions for the plan.

(11) Offers or sales of securities by an issuer in a transaction that meets all of the following conditions:

(a) The offers or sales of securities are made only to persons who are, or who the issuer reasonably believes are, accredited investors.

(b) The issuer is not a business entity that has an undefined business operation, lacks a business plan, lacks a stated investment goal for the funds being raised, or plans to engage in a merger or acquisition with an unspecified business entity.

(c) The issuer reasonably believes that all purchasers are purchasing for investment and not with the view to or for sale in connection with a distribution of the security. Any resale of a security sold in reliance on this exemption within 12 months after sale is presumed to be with a view to distribution and not for investment, except a resale pursuant to a registration statement effective under this chapter or pursuant to an exemption available under this chapter, the Securities Act of 1933, as amended, or the rules and regulations adopted thereunder.

(d)1. A general announcement of the proposed offering, made

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by any means, includes only the following information:

a. The name, address, and telephone number of the issuer of the securities.

b. The name, a brief description, and price, if known, of any security to be issued.

c. A brief description of the business.

d. The type, number, and aggregate amount of securities being offered.

e. The name, address, and telephone number of the person to contact for additional information.

f. A statement that:

(I) Sales will be made only to accredited investors;

(II) Money or other consideration is not being solicited and will not be accepted by way of this general announcement; and

(III) The securities have not been registered with or approved by any state securities agency or the Securities and Exchange Commission and are being offered and sold pursuant to an exemption from registration.

2. The issuer, in connection with an offer, may provide information in addition to the information provided in the general announcement as specified in subparagraph 1. if such information is delivered:

a. Through an electronic database that is restricted to persons who have been prequalified as accredited investors; or

b. After the issuer reasonably believes that the prospective purchaser is an accredited investor.

(e) The issuer does not use telephone solicitation unless, before placing the call, the issuer reasonably believes that the


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prospective purchaser to be solicited is an accredited investor.

(f) The issuer files with the office a notice of transaction, a consent to service of process, and a copy of the general announcement within 15 days after the first sale is made in this state. The commission may adopt by rule procedures for filing documents by electronic means.

(g) Dissemination of the general announcement of the proposed offering to persons who are not accredited investors does not disqualify the issuer from claiming the exemption under this subsection.

(12) The isolated sale or offer for sale of securities when made by or on behalf of a bona fide owner, not the issuer or underwriter, of the securities, who disposes of such securities for the owner's own account, and such sale is not made directly or indirectly for the benefit of the issuer or an underwriter of such securities or for the direct or indirect promotion of any scheme or enterprise with the intent of violating or evading this chapter. For purposes of this subsection, isolated offers or sales include, but are not limited to, an isolated offer or sale made by or on behalf of a bona fide owner, rather than the issuer or underwriter, of the securities if:

(a) The offer or sale of securities is in a transaction satisfying all of the conditions specified in paragraphs (10)(a) and (b); or

(b) The offer or sale of securities is in a transaction exempt under s. 4(a)(1) of the Securities Act of 1933, as amended, or under Securities and Exchange Commission rules or regulations.

(13) By or for the account of a pledgeholder, a secured


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party as defined in s. 679.1021(1)(ttt), or a mortgagee selling or offering for sale or delivery in the ordinary course of business and not for the purposes of avoiding the provisions of this chapter, to liquidate a bona fide debt, a security pledged in good faith as security for such debt.

(14) An unsolicited purchase or sale of securities on order of, and as the agent for, another solely and exclusively by a dealer registered pursuant to s. 517.12; provided that this exemption applies solely and exclusively to such registered dealers and does not authorize or permit the purchase or sale of securities at the direction of, and as agent for, another by any person other than a dealer so registered; and provided further that such purchase or sale may not be directly or indirectly for the benefit of the issuer or an underwriter of such securities or for the direct or indirect promotion of any scheme or enterprise with the intent of violating or evading this chapter.

(15) A nonissuer transaction with a federal covered adviser with investments under management in excess of $100 million acting in the exercise of discretionary authority in a signed record for the account of others.

(16) The sale by or through a registered dealer of any securities option if, at the time of the sale of the option:

(a) The performance of the terms of the option is guaranteed by any dealer registered under the Securities Exchange Act of 1934, as amended, which guaranty and dealer are in compliance with such requirements or rules as may be approved or adopted by the commission; or

(b)1. Such options transactions are cleared by the Options Clearing Corporation or any other clearinghouse recognized by

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commission rule;

2. The option is not sold by or for the benefit of the issuer of the underlying security; and

3. The underlying security may be purchased or sold on a recognized securities exchange registered under the Securities Exchange Act of 1934, as amended.

(17)(a) The offer or sale of securities, as agent or principal, by a dealer registered pursuant to s. 517.12, when such securities are offered or sold at a price reasonably related to the current market price of such securities, provided that such securities are:

1. Securities of an issuer for which reports are required to be filed by s. 13 or s. 15(d) of the Securities Exchange Act of 1934, as amended;

2. Securities of a company registered under the Investment Company Act of 1940, as amended;

3. Securities of an insurance company, as that term is defined in s. 2(a)(17) of the Investment Company Act of 1940, as amended; or

4. Securities, other than any security that is a federal covered security and is not subject to any registration or filing requirements under this chapter, that have been listed or approved for listing upon notice of issuance by a securities exchange registered under the Securities Exchange Act of 1934, as amended; and all securities senior to any securities so listed or approved for listing upon notice of issuance, or represented by subscription rights which have been so listed or approved for listing upon notice of issuance, or evidences of indebtedness guaranteed by an issuer with a class of securities

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listed or approved for listing upon notice of issuance by such securities exchange, such securities to be exempt only so long as such listings or approvals remain in effect. The exemption provided in this subparagraph does not apply when the securities are suspended from listing approval for listing or trading.

(b) The exemption provided in this subsection does not apply if the sale is made for the direct or indirect benefit of an issuer or a control person of such issuer or if such securities constitute the whole or part of an unsold allotment to, or subscription or participation by, a dealer as an underwriter of such securities.

(c) The exemption provided in this subsection is not available for any securities that have been denied registration pursuant to s. 517.111. Additionally, the office may deny this exemption with reference to any particular security, other than a federal covered security, by order published in such manner as the office finds proper.

(18) Any nonissuer transaction by a registered dealer, and any resale transaction by a sponsor of a unit investment trust registered under the Investment Company Act of 1940, as amended, in a security of a class that has been outstanding in the hands of the public for at least 90 days; provided that, at the time of the transaction, the following conditions in paragraphs (a), (b), and (c) and either paragraph (d) or (e) are met:

(a) The issuer of the security is actually engaged in business and is not in the organizational stage or in bankruptcy or receivership and is not a blank check, blind pool, or shell company whose primary plan of business is to engage in a merger or combination of the business with, or an acquisition of, an

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unidentified person.

(b) The security is sold at a price reasonably related to the current market price of the security.

(c) The security does not constitute the whole or part of an unsold allotment to, or a subscription or participation by, the dealer as an underwriter of the security.

(d) The security is listed in a nationally recognized securities manual designated by rule of the commission or a document filed with and publicly viewable through the Securities and Exchange Commission electronic data gathering and retrieval system and contains:

1. A description of the business and operations of the issuer;

2. The names of the issuer’s officers and directors, if any, or, in the case of an issuer not domiciled in the United States, the corporate equivalents of such persons in the issuer’s country of domicile;

3. An audited balance sheet of the issuer as of a date within 18 months before such transaction or, in the case of a reorganization or merger in which parties to the reorganization or merger had such audited balance sheet, a pro forma balance sheet; and

4. An audited income statement for each of the issuer’s immediately preceding 2 fiscal years, or for the period of existence of the issuer, if in existence for less than 2 years or, in the case of a reorganization or merger in which the parties to the reorganization or merger had such audited income statement, a pro forma income statement.

(e)1. The issuer of the security has a class of equity

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securities listed on a national securities exchange registered under the Securities Exchange Act of 1934, as amended;

2. The class of security is quoted, offered, purchased, or sold through an alternative trading system registered under Securities and Exchange Commission Regulation ATS, 17 C.F.R. s. 242.301, as amended, and the issuer of the security has made current information publicly available in accordance with Securities and Exchange Commission Rule 15c2-11, 17 C.F.R. s. 240.15c2-11, as amended;

3. The issuer of the security is a unit investment trust registered under the Investment Company Act of 1940, as amended;

4. The issuer of the security has been engaged in continuous business, including predecessors, for at least 3 years; or

5. The issuer of the security has total assets of at least $2 million based on an audited balance sheet as of a date within 18 months before such transaction or, in the case of a reorganization or merger in which parties to the reorganization or merger had such audited balance sheet, a pro forma balance sheet.

(19) The offer or sale of any security effected by or through a person in compliance with s. 517.12(16).

(20) A nonissuer transaction in an outstanding security by or through a dealer registered or exempt from registration under this chapter, if all of the following are true:

(a) The issuer is a reporting issuer in a foreign jurisdiction designated by this subsection or by commission rule, and the issuer has been subject to continuous reporting requirements in such foreign jurisdiction for not less than 180


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days before the transaction.

(b) The security is listed on the securities exchange designated by this subsection or by commission rule, is a security of the same issuer which is of senior or substantially equal rank to the listed security, or is a warrant or right to purchase or subscribe to any such security.

For purposes of this subsection, Canada, together with its provinces and territories, is designated as a foreign jurisdiction, and The Toronto Stock Exchange, Inc., is designated as a securities exchange. If, after an administrative hearing in compliance with ss. 120.569 and 120.57, the office finds that revocation is necessary or appropriate in furtherance of the public interest and for the protection of investors, it may revoke the designation of a securities exchange under this subsection.

(21) Other transactions exempted by commission rule upon a finding by the office that the application of s. 517.07 to a particular transaction is not necessary or appropriate in furtherance of the public interest and for the protection of investors due to the small dollar amount of the securities involved or the limited character of the offering. In conjunction with its adoption by rule of such exemptions, the commission may exempt persons selling or offering for sale securities in such a transaction from the registration requirements of s. 517.12. A rule adopted by the commission under this subsection may not have the effect of narrowing or limiting any exemption specified in this section.

Section 4. Section 517.0611, Florida Statutes, is amended


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to read:

517.0611 The Florida Limited Offering Exemption ~~Intrastate crowdfunding~~.—

(1) This section may be cited as ~~the~~ "The Florida Limited Offering ~~Intrastate Crowdfunding~~ Exemption."

(2) The registration provisions of s. 517.07 do not apply to a securities transaction conducted in accordance with this section; however, such transaction is subject to s. 517.301 ~~Notwithstanding any other provision of this chapter, an offer or sale of a security by an issuer is an exempt transaction under s. 517.061 if the offer or sale is conducted in accordance with this section. The exemption provided in this section may not be used in conjunction with any other exemption under s. 517.051 or s. 517.061~~.

(3) The offer or sale of securities under this section must be conducted in accordance with the requirements of the federal exemption for intrastate offerings in s. 3(a)(11) of the Securities Act of 1933, 15 U.S.C. s. 77c(a)(11), as amended, ~~and United States~~ Securities and Exchange Commission Rule 147, 17 C.F.R. s. 230.147, as amended, or Securities and Exchange Commission Rule 147A, 17. C.F.R. s. 230.147A, as amended ~~adopted pursuant to the Securities Act of 1933~~.

(4) An issuer ~~must~~:

(a) Must be a for-profit business entity that maintains ~~formed under the laws of the state, be registered with the Secretary of State, maintain~~ its principal place of business ~~in the state,~~ and derives ~~derive~~ its revenues primarily from operations in this ~~the~~ state.

(b) Must conduct transactions for an ~~the~~ offering of $2.5


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million or more through a dealer registered with the office or an intermediary registered under s. 517.12 ~~s. 517.12(19)~~. For an offering of less than $2.5 million, the issuer may, but is not required to, use such a dealer or intermediary.

(c) May not be, ~~either~~ before or as a result of the offering, an investment company as defined in s. 3 of the Investment Company Act of 1940, 15 U.S.C. s. 80a-3, as amended, or subject to the reporting requirements of s. 13 or s. 15(d) of the Securities Exchange Act of 1934, 15 U.S.C. s. 78m or s. 78o(d), as amended.

(d) May not be a business entity that has ~~company with~~ an undefined business operation, ~~a company that~~ lacks a business plan, ~~a company that~~ lacks a stated investment goal for the funds being raised, or ~~a company that~~ plans to engage in a merger or acquisition with an unspecified business entity.

(e) May not be subject to a disqualification established by the commission ~~or office~~ or a disqualification described in s. 517.0616 or s. 517.1611 ~~or United States Securities and Exchange Commission Rule 506(d), 17 C.F.R. 230.506(d), adopted pursuant to the Securities Act of 1933~~. Each director, officer, manager, managing member, or general partner, or person occupying a similar status or performing a similar function, or person holding more than 20 percent of the equity interest ~~shares~~ of the issuer, is subject to this paragraph ~~requirement~~.

(f) Must deposit all funds received from investors in an account in ~~Execute an escrow agreement with~~ a federally insured financial institution authorized to do business in this ~~the~~ state, and maintain all such funds in the account until the target offering amount has been reached or the offering has been

terminated or has expired. If the target offering amount has not been reached within the period specified by the issuer in the disclosure statement provided to investors, or if the offering is terminated or expires, the issuer must refund invested funds to all investors within 10 business days after such occurrence ~~for the deposit of investor funds, and ensure that all offering proceeds are provided to the issuer only when the aggregate capital raised from all investors is equal to or greater than the target offering amount~~.

(g) Must use all funds in accordance with the use of proceeds as disclosed to prospective investors ~~Allow investors to cancel a commitment to invest within 3 business days before the offering deadline, as stated in the disclosure statement, and issue refunds to all investors if the target offering amount is not reached by the offering deadline~~.

(5) The issuer must file a notice of the offering with the office, in writing or in electronic form, in a format prescribed by commission rule, together with a nonrefundable filing fee of $200. The filing fee must ~~shall~~ be deposited into the Regulatory Trust Fund of the office. The commission may adopt rules establishing procedures for the deposit of fees and the filing of documents by electronic means if the procedures provide the office with the information and data required by this section. A notice is effective upon receipt, by the office, of the completed form, filing fee, and an irrevocable written consent to service of civil process, similar to that provided for in s. 517.101. The notice may be terminated by filing with the office a notice of termination. The notice and offering expire 12 months after filing the notice with the office and are not


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eligible for renewal. The notice must:

(a) Be filed with the office at least 10 days before the issuer commences an offering of securities or the offering is displayed on a website of an intermediary in reliance upon the exemption provided by this section.

(b) Indicate that the issuer is conducting an offering in reliance upon the exemption provided by this section.

(c) Contain the name and contact information, including an e-mail address, of the issuer.

(d) Identify any predecessors, owners, officers, directors, general partners, managers, managing members, ~~and control persons~~ or any person occupying a similar status or performing a similar function of the issuer, including that person's title, ~~his or her~~ status as a partner, trustee, or sole proprietor or a similar role, and ~~his or her~~ ownership percentage.

(e) Identify the federally insured financial institution into~~, authorized to do business in the state, in~~ which investor funds will be deposited~~, in accordance with the escrow agreement~~.

(f) ~~Require an attestation under oath that the issuer, its predecessors, affiliated issuers, directors, officers, and control persons, or any other person occupying a similar status or performing a similar function, are not currently and have not been within the past 10 years the subject of regulatory or criminal actions involving fraud or deceit.~~

~~(g) Include documentation verifying that the issuer is organized under the laws of the state and authorized to do business in the state.~~

~~(h)~~ If applicable, include the intermediary's website


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address where the issuer's securities will be offered.

(g) ~~(i)~~ State ~~Include~~ the target offering amount and the date, not to exceed 365 days, by which the target amount must be reached in order to avoid termination of the offering.

(6) The issuer must amend the notice form within 10 business ~~30~~ days after any material information contained in the notice becomes inaccurate ~~for any reason~~. The commission may require, by rule, an issuer who has filed a notice under this section to file amendments with the office.

(7) The issuer may engage in general advertising and general solicitation of the offering to prospective investors. Any oral or written statements in advertising or solicitation of the offering which contain a material misstatement, or which fail to disclose material information, are subject to enforcement under this chapter. Any general advertising or other general announcement must state that the offering is limited and open only to residents of this state.

(8) The issuer must provide a disclosure statement to ~~investors and the dealer or intermediary, along with a copy to the office at the time that the notice is filed, and make available to potential investors through~~ the dealer or intermediary, as applicable; to the office at the time that the notice is filed; and to each prospective investor at least 3 days before the investor's commitment to purchase or payment of any consideration. The~~, a~~ disclosure statement must contain ~~containing~~ material information about the issuer and the offering, including all of the following:

(a) The name, legal status, physical address, e-mail address, and website address of the issuer.

(b) The names of the directors, officers, managers, managing members, and general partners and any person occupying a similar status or performing a similar function, and the name and ownership percentage of each person holding more than 20 percent of the issuer's equity interests ~~shares of the issuer~~.

(c) A description of the current business ~~of the issuer~~ and ~~the~~ anticipated business plan of the issuer.

(d) A description of the stated purpose and intended use of the proceeds of the offering.

(e) The target offering amount and~~,~~ the deadline to reach the target offering amount~~, and regular updates regarding the progress of the issuer in meeting the target offering amount~~.

(f) The price to the public of the securities ~~or the method for determining the price. However, before the sale, each investor must receive in writing the final price and all required disclosures and have an opportunity to rescind the commitment to purchase the securities~~.

(g) A description of the ownership and capital structure of the issuer, including:

1. Terms of the securities being offered and each class of security of the issuer, including how those terms may be modified, and a summary of the differences between such securities, including how the rights of the securities being offered may be materially limited, diluted, or qualified by rights of any other class of security of the issuer.

2. A description of how the exercise of the rights held by the principal equity holders ~~shareholders~~ of the issuer could negatively impact the purchasers of the securities being offered.

~~3. The name and ownership level of each existing shareholder who owns more than 20 percent of any class of the securities of the issuer.~~

~~4. How the securities being offered are being valued, and examples of methods of how such securities may be valued by the issuer in the future, including during subsequent corporate actions.~~

~~5. The risks to purchasers of the securities relating to minority ownership in the issuer, the risks associated with corporate action, including additional issuances of shares, a sale of the issuer or of assets of the issuer, or transactions with related parties.~~

(h) A statement that the security being offered is not registered under federal or state securities laws and that the securities are subject to the limitation on resale contained in Securities and Exchange Commission Rule 147 or Rule 147A.

(i) Any issuer plans, formal or informal, to offer additional securities in the future.

(j) The risks to purchasers of the securities relating to minority ownership in the issuer.

(k) ~~(h)~~ A description of the financial condition of the issuer.

1. For offerings that, in combination with all other offerings of the issuer within the preceding 12-month period, have ~~target~~ offering amounts of $500,000 ~~$100,000~~ or less, the financial statements of the issuer may be, but are not required to be, included ~~description must include the most recent income tax return filed by the issuer, if any, and a financial statement that must be certified by the principal executive~~

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~~officer of the issuer as true and complete in all material respects~~.

2. For offerings that, in combination with all other offerings of the issuer within the preceding 12-month period, have ~~target~~ offering amounts of more than $500,000 ~~$100,000~~, but not more than $2.5 million ~~$500,000~~, the description must include financial statements prepared in accordance with generally accepted accounting principles and reviewed by a certified public accountant, as defined in s. 473.302, who is independent of the issuer, using professional standards and procedures ~~for such review~~ or standards and procedures established by commission ~~the office, by~~ rule~~,~~ for such purpose.

3. For offerings that, in combination with all other offerings of the issuer within the preceding 12-month period, have ~~target~~ offering amounts of more than $2.5 million ~~$500,000~~, the description must include audited financial statements prepared in accordance with generally accepted accounting principles by a certified public accountant, as defined in s. 473.302, who is independent of the issuer, and other requirements as the commission may establish by rule.

(l)~~(i)~~ The following statement in boldface, conspicuous type on the front page of the disclosure statement:

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved these securities or determined if this disclosure statement is truthful or complete. Any representation to the contrary is a criminal offense.


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These securities are offered under, and will be sold in reliance upon, an exemption from the registration requirements of federal and Florida securities laws. ~~Consequently,~~ Neither the Federal Government nor the State of Florida has reviewed the accuracy or completeness of any offering materials. In making an investment decision, investors must rely on their own examination of the issuer and the terms of the offering, including the merits and risks involved. These securities are subject to restrictions on transferability and resale and may not be transferred or resold except as specifically authorized by applicable federal and state securities laws. Investing in these securities involves a speculative risk, and investors should be able to bear the loss of their entire investment.

~~(8) The issuer shall provide to the office a copy of the escrow agreement with a financial institution authorized to conduct business in this state. All investor funds must be deposited in the escrow account. The escrow agreement must require that all offering proceeds be released to the issuer only when the aggregate capital raised from all investors is equal to or greater than the minimum target offering amount specified in the disclosure statement as necessary to implement the business plan, and that all investors will receive a full return of their investment commitment if that target offering amount is not raised by the date stated in the disclosure statement.~~

(9) The sum of all cash and other consideration received


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for sales of a security under this section may not exceed $5 ~~$1~~ million, less the aggregate amount received for all sales of securities by the issuer within the 12 months preceding the first offer or sale made in reliance upon this exemption. Offers or sales to a person owning 20 percent or more of the outstanding equity interests ~~shares~~ of any class or classes of securities or to an officer, director, manager, managing member, general partner, or trustee, or a person occupying a similar status, do not count toward this limitation.

(10) Unless the investor is an accredited investor, or the issuer reasonably believes that the investor is an accredited investor ~~as defined by Rule 501 of Regulation D, adopted pursuant to the Securities Act of 1933~~, the aggregate amount of securities sold by an issuer to an investor ~~in transactions exempt from registration requirements under this subsection~~ in a 12-month period may not exceed $10,000~~:~~

~~(a) The greater of $2,000 or 5 percent of the annual income or net worth of such investor, if the annual income or the net worth of the investor is less than $100,000.~~

~~(b) Ten percent of the annual income or net worth of such investor, not to exceed a maximum aggregate amount sold of $100,000, if either the annual income or net worth of the investor is equal to or exceeds $100,000~~.

~~(11) The issuer shall file with the office and provide to investors free of charge an annual report of the results of operations and financial statements of the issuer within 45 days after the end of its fiscal year, until no securities under this offering are outstanding. The annual reports must meet the following requirements:~~


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~~(a) Include an analysis by management of the issuer of the business operations and the financial condition of the issuer, and disclose the compensation received by each director, executive officer, and person having an ownership interest of 20 percent or more of the issuer, including cash compensation earned since the previous report and on an annual basis, and any bonuses, stock options, other rights to receive securities of the issuer, or any affiliate of the issuer, or other compensation received.~~

~~(b) Disclose any material change to information contained in the disclosure statements which was not disclosed in a previous report.~~

(11) ~~(12)(a)~~ A notice-filing under this section must ~~shall~~ be summarily suspended by the office if:

(a) The payment for the filing is dishonored by the financial institution upon which the funds are drawn. For purposes of s. 120.60(6), failure to pay the required notice filing fee constitutes an immediate and serious danger to the public health, safety, and welfare. The office shall enter a final order revoking a notice-filing in which the payment for the filing is dishonored by the financial institution upon which the funds are drawn; or~~.~~

(b) ~~A notice-filing under this section shall be summarily suspended by the office if~~ The issuer made a material false statement in the issuer's notice-filing. The summary suspension remains ~~shall remain~~ in effect until a final order is entered by the office. For purposes of s. 120.60(6), a material false statement made in the issuer's notice-filing constitutes an immediate and serious danger to the public health, safety, and

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welfare. If an issuer made a material false statement in the issuer's notice-filing, the office must ~~shall~~ enter a final order revoking the notice-filing, issue a fine as prescribed by s. 517.191(9) ~~s. 517.221(3)~~, and issue permanent bars under s. 517.191(10) ~~s. 517.221(4)~~ to the issuer and all owners, officers, directors, general partners, and control persons, or any person occupying a similar status or performing a similar function of the issuer, including title; status as a partner, trustee, sole proprietor, or similar role; and ownership percentage.

(12) ~~(13)~~ If the issuer employs the services of an intermediary, the ~~An~~ intermediary must:

(a) Take measures, as established by commission rule, to reduce the risk of fraud with respect to the ~~transactions, including verifying that the issuer is in compliance with the requirements of this section and, if necessary, denying an issuer access to its platform if the intermediary believes it is unable to adequately assess the risk of fraud of the issuer or its potential~~ offering.

(b) Provide ~~basic~~ information on its website regarding the high risk of investment in and limitation on the resale of exempt securities and the potential for loss of an entire investment. The ~~basic~~ information must include, but need not be limited to, all of the following:

1. A description of the financial institution into which investor funds will be deposited ~~escrow agreement that the issuer has executed~~ and the conditions for the use ~~release~~ of such funds by ~~to~~ the issuer ~~in accordance with the agreement and subsection (4)~~.

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2. A description of whether financial information provided by the issuer has been audited by an independent certified public accountant, as defined in s. 473.302.

(c) Obtain from each prospective investor a zip code or residence address, a copy of a driver license, and any other proof of residency in order for the issuer or intermediary to reasonably believe that the potential investor is a resident of this state. The commission may adopt rules authorizing additional forms of identification and prescribing the process for verifying any identification presented by the prospective investor.

(d) Obtain information sufficient for the issuer or intermediary to reasonably believe that a particular prospective investor is an accredited investor

~~(c) Obtain a zip code or residence address from each potential investor who seeks to view information regarding specific investment opportunities, in order to confirm that the potential investor is a resident of the state.~~

~~(d) Obtain and verify a valid Florida driver license number or Florida identification card number from each investor before purchase of a security to confirm that the investor is a resident of the state. The commission may adopt rules authorizing additional forms of identification and prescribing the process for verifying any identification presented by the investor.~~

~~(e) Obtain an affidavit from each investor stating that the investment being made by the investor is consistent with the income requirements of subsection (10).~~

~~(f) Direct the release of investor funds in escrow in~~


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~~accordance with subsection (4).~~

~~(g) Direct investors to transmit funds directly to the financial institution designated in the escrow agreement to hold the funds for the benefit of the investor~~.

(e) ~~(h)~~ Provide a monthly update for each offering, after the first full month after the date of the offering. The update must be accessible on the intermediary's website and must display the date and amount of each sale of securities, and each cancellation of commitment to invest, in the previous calendar month.

~~(i) Require each investor to certify in writing, including as part of such certification his or her signature and his or her initials next to each paragraph of the certification, as follows:~~

~~I understand and acknowledge that:~~

~~I am investing in a high-risk, speculative business venture. I may lose all of my investment, and I can afford the loss of my investment.~~

~~This offering has not been reviewed or approved by any state or federal securities commission or other regulatory authority and no regulatory authority has confirmed the accuracy or determined the adequacy of any disclosure made to me relating to this offering.~~

~~The securities I am acquiring in this offering are illiquid and are subject to possible dilution. There is no ready market for the sale of the securities. It may be difficult or impossible for me to sell or otherwise dispose of the securities, and I may be required to hold the securities indefinitely.~~


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~~I may be subject to tax on my share of the taxable income and losses of the issuer, whether or not I have sold or otherwise disposed of my investment or received any dividends or other distributions from the issuer.~~

~~By entering into this transaction with the issuer, I am affirmatively representing myself as being a Florida resident at the time this contract is formed, and if this representation is subsequently shown to be false, the contract is void.~~

~~If I resell any of the securities I am acquiring in this offering to a person that is not a Florida resident within 9 months after the closing of the offering, my contract with the issuer for the purchase of these securities is void.~~

~~(j) Require each investor to answer questions demonstrating an understanding of the level of risk generally applicable to investments in startups, emerging businesses, and small issuers, and an understanding of the risk of illiquidity.~~

(f) ~~(k)~~ Take reasonable steps to protect personal information collected from investors, as required by s. 501.171.

(g) ~~(l)~~ Prohibit its directors, ~~and~~ officers, managers, managing members, general partners, employees, and agents from having any financial interest in the issuer using its services.

~~(m) Implement written policies and procedures that are reasonably designed to achieve compliance with federal and state securities laws; comply with the anti-money laundering requirements of 31 C.F.R. chapter X applicable to registered brokers; and comply with the privacy requirements of 17 C.F.R. part 248 relating to brokers.~~

(13) ~~(14)~~ An intermediary not registered as a dealer under s. 517.12(5) may not:

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(a) Offer investment advice or recommendations. A refusal by an intermediary to post an offering that it deems not credible or that represents a potential for fraud may not be construed as an offer of investment advice or recommendation.

(b) Solicit purchases, sales, or offers to buy securities offered or displayed on its website.

(c) Compensate employees, agents, or other persons for the solicitation of, or based on the sale of, securities offered or displayed on its website.

(d) Hold, manage, possess, or otherwise handle investor funds or securities.

(e) Compensate promoters, finders, or lead generators for providing the intermediary with the personal identifying information of any prospective ~~potential~~ investor.

(f) Engage in any other activities set forth by commission rule.

(14) If the issuer does not employ a dealer or an intermediary for an offering pursuant to the exemption created under this section, the issuer must fulfill each of the obligations specified in paragraphs (12)(c)-(f).

(15) Any sale made pursuant to the exemption created under this section is voidable by the purchaser within 3 days after the first tender of consideration is made by such purchaser to the issuer by notifying the issuer that the purchaser expressly voids the purchase. The purchaser’s notice to the issuer must be sent by e-mail to the issuer’s e-mail address set forth in the disclosure statement that is provided to the purchaser or purchaser’s representative or by certified mail or overnight delivery service with proof of delivery to the mailing address

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set forth in the disclosure statement ~~All funds received from investors must be directed to the financial institution designated in the escrow agreement to hold the funds and must be used in accordance with representations made to investors by the intermediary. If an investor cancels a commitment to invest, the intermediary must direct the financial institution designated to hold the funds to promptly refund the funds of the investor~~.

Section 5. Section 517.0612, Florida Statutes, is created to read:

517.0612 Florida Invest Local Exemption.—

(1) This section may be cited as the "Florida Invest Local Exemption."

(2) The registration provisions of s. 517.07 do not apply to a securities transaction conducted in accordance with this section; however, such transaction is subject to s. 517.301.

(3) The offer or sale of securities under this section must meet the requirements of the federal exemption for intrastate offerings in s. 3(a)(11) of the Securities Act of 1933, Securities and Exchange Commission Rule 147, or Securities and Exchange Commission Rule 147A, as amended.

(4) The issuer must be a for-profit business entity registered with the Department of State which has its principal place of business in this state. The issuer may not be, before or as a result of the offering:

(a) An investment company as defined in the Investment Company Act of 1940, as amended;

(b) Subject to the reporting requirements of the Securities and Exchange Act of 1934, as amended;

(c) A business entity that has an undefined business

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operation, lacks a business plan, lacks a stated investment goal for the funds being raised, or plans to engage in a merger or acquisition with an unspecified business entity; or

(d) Subject to a disqualification as provided in s. 517.0616.

(5) The sum of all cash and other consideration received from all sales of the securities in reliance upon the exemption under this section may not exceed $500,000, less the aggregate amount received for all sales of securities by the issuer within the 12 months before the first offer or sale made in reliance on this exemption.

(6)(a) The issuer may not accept more than $10,000 from any single purchaser unless any of the following apply:

1. The issuer reasonably believes that the purchaser is an accredited investor.

2. The purchaser is an officer, director, partner, or trustee, or an individual occupying a similar status or performing similar functions, of the issuer.

3. The purchaser is an owner of 10 percent or more of the issuer’s outstanding equity.

(b) For purposes of this subsection, the following persons must be treated collectively as a single purchaser:

1. Any spouse or child of the purchaser or any related family member who has the same primary residence as the purchaser.

2. Any business entity of which the purchaser and any person related to the purchaser as provided in subparagraph 1. collectively own more than 50 percent of the equity interest.

(7) The issuer may engage in general advertising and

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general solicitation of the offering. Any general advertising or other general announcement must state that the offer is limited and open only to residents of this state. Any oral or written statements in advertising or solicitation of the offer which contain a material misstatement, or which fail to disclose material information, are subject to enforcement under this chapter.

(8) A purchaser must receive, at least 3 business days before any binding commitment to purchase or consideration paid, a disclosure statement that provides material information regarding the issuer, including, but not limited to, all of the following information:

(a) The issuer's name, type of entity, and contact information.

(b) The name and contact information of each director, officer, or other manager of the issuer.

(c) A description of the issuer's business.

(d) A description of the security being offered.

(e) The total amount of the offering.

(f) The intended use of proceeds from the sale of the securities.

(g) The target offering amount.

(h) A statement that if the target offering amount is not obtained in cash or in the value of other tangible consideration received on a date that is no more than 180 days after the commencement of the offering, the offering will be terminated, and any funds or other consideration received from purchasers must be promptly returned.

(i) A statement that the security being offered is not

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registered under federal or state securities laws and that the securities are subject to the limitation on resale contained in Securities and Exchange Commission Rule 147 or Rule 147A.

(j) The names and addresses of all persons who will be involved in the offer and sale of securities on behalf of the issuer.

(k) The name of the bank or other depository institution into which investor funds will be deposited.

(l) The following statement in boldface, conspicuous type:

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved these securities or determined that this disclosure statement is truthful or complete. Any representation to the contrary is a criminal offense.

(9) All funds received from investors must be deposited into a bank or depository institution authorized to do business in this state. The issuer may not withdraw any amount of the offering proceeds unless the target offering amount has been received.

(10) The issuer must file a notice of the offering with the office, in writing or in electronic form, in a format prescribed by commission rule, no less than 5 business days before the offering commences, along with the disclosure statement described in subsection (8). If there are any material changes to the information previously submitted, the issuer, within 3 business days after such material change, must file an amended notice.


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(11) An individual, entity, or entity employee who acts as an agent for the issuer in the offer or sale of securities and is not registered as a dealer under this chapter may not do either of the following:

(a) Receive compensation based upon the solicitation of purchases, sales, or offers to purchase the securities.

(b) Take custody of investor funds or securities.

(12) Any sale made pursuant to the exemption created under this section is voidable by the purchaser within 3 days after the first tender of consideration is made by such purchaser to the issuer by notifying the issuer that the purchaser expressly voids the purchase. The purchaser’s notice to the issuer must be sent by e-mail to the issuer’s e-mail address set forth in the disclosure statement that is provided to a purchaser or the purchaser’s representative or by hand delivery, courier service, or other method by which written proof of delivery to the issuer of the purchaser’s election to rescind the purchase is evidenced.

Section 6. Section 517.0613, Florida Statutes, is created to read:

517.0613 Failure to comply with a securities registration exemption.—

(1) Failure to meet the requirements for any exemption from securities registration does not preclude the issuer from claiming the availability of any other applicable state or federal exemption.

(2) The exemptions created under ss. 517.061, 517.0611, and 517.0612 are not available to an issuer for any transaction or series of transactions that, although in technical compliance

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with the applicable provisions, is part of a plan or scheme to evade the registration provisions of s. 517.07, and registration under s. 517.07 is required in connection with such transactions.

Section 7. Section 517.0614, Florida Statutes, is created to read:

517.0614 Integration of offerings.—

(1) If the safe harbors in subsection (2) do not apply, in determining whether two or more offerings are to be treated as one for the purpose of registration or qualifying for an exemption from registration under this chapter, offers and sales may not be integrated if, based on the particular facts and circumstances, the issuer can establish either that each offering complies with the registration requirements of this chapter, or that an exemption from registration is available for the particular offering, provided that any transaction or series of transactions that, although in technical compliance with this chapter, is part of a plan or scheme to evade the registration requirements of this chapter will not have the effect of avoiding integration. In making this determination:

(a) For an exempt offering prohibiting general solicitation, the issuer must have a reasonable belief, based on the facts and circumstances, with respect to each purchaser in the exempt offering prohibiting general solicitation, that the issuer or any person acting on the issuer’s behalf:

1. Did not solicit such purchaser through the use of general solicitation; or

2. Established a substantive relationship with such purchaser before the commencement of the exempt offering

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prohibiting general solicitation, provided that a purchaser previously solicited through the use of general solicitation is not deemed to have been solicited through the use of general solicitation in the current offering if, during the 45 calendar days following such previous general solicitation:

a. No offer or sale of the same or similar class of securities has been made by or on behalf of the issuer, including to such purchaser; and

b. The issuer or any person acting on the issuer's behalf has not solicited such purchaser through the use of general solicitation for any other security.

(b) For two or more concurrent exempt offerings permitting general solicitation, in addition to satisfying the requirements of the particular exemption relied on, general solicitation offering materials for one offering that includes information about the material terms of a concurrent offering under another exemption may constitute an offer of securities in such other offering, and therefore the offer must comply with all the requirements for, and restrictions on, offers under the exemption being relied on for such other offering, including any legend requirements and communications restrictions.

(2) The integration analysis required by subsection (1) is not required if any of the following nonexclusive safe harbors apply:

(a) An offering commenced more than 30 calendar days before the commencement of any other offering, or more than 30 calendar days after the termination or completion of any other offering, may not be integrated with such other offering, provided that for an exempt offering for which general solicitation is not


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permitted which follows by 30 calendar days or more an offering that allows general solicitation, paragraph (1)(a) applies.

(b) Offers and sales made in compliance with any of the following provisions are not subject to integration with other offerings:

1. Section 517.051 or s. 517.061, except s. 517.061(9), (10), or (11).

2. Section 517.0611 or s. 517.0612.

Section 8. Section 517.0615, Florida Statutes, is created to read:

517.0615 Solicitations of interest.—

(1) A communication may not be deemed to constitute general solicitation or general advertising if the communication is made in connection with a seminar or meeting in which more than one issuer participates and which is sponsored by a college, a university, or another institution of higher education; a state or local government or an instrumentality thereof; a nonprofit chamber of commerce or other nonprofit organization; or an angel investor group, incubator, or accelerator, if all of the following apply:

(a) Advertising for the seminar or meeting does not reference a specific offering of securities by the issuer.

(b) The sponsor of the seminar or meeting does not do any of the following:

1. Make investment recommendations or provide investment advice to attendees of the seminar or meeting.

2. Engage in any investment negotiations between the issuer and investors attending the seminar or meeting.

3. Charge attendees of the seminar or meeting any fees,

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other than reasonable administrative fees.

4. Receive any compensation for making introductions between seminar or meeting attendees and issuers or for investment negotiations between such parties.

5. Receive any compensation with respect to the seminar or meeting, which compensation would require registration or notice-filing under this chapter, the Securities Exchange Act of 1934, 15 U.S.C. ss. 78a et seq., as amended, or the Investment Advisers Act of 1940, 15 U.S.C. s. 80b-1 et seq., as amended. The sponsorship or participation in the seminar or meeting does not by itself require registration or notice-filing under this chapter.

(c) The type of information regarding an offering of securities by the issuer which is communicated or distributed by or on behalf of the issuer in connection with the seminar or meeting is limited to a notification that the issuer is in the process of offering or planning to offer securities, the type and amount of securities being offered, the intended use of proceeds of the offering, and the unsubscribed amount in an offering.

(d) If the event allows attendees to participate virtually, rather than in person, online participation in the event is limited to:

1. Individuals that are members of, or otherwise associated with, the sponsor organization;

2. Individuals that the sponsor reasonably believes are accredited investors; or

3. Individuals that have been invited to the event by the sponsor based on industry or investment-related experience

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reasonably selected by the sponsor in good faith and disclosed in the public communications about the event.

(2) Before any offers or sales are made in connection with an offering, communications by an issuer or any person authorized to act on behalf of the issuer are not deemed to constitute general solicitation or general advertising if the communication is solely for the purpose of determining whether there is any interest in a contemplated securities offering. Requirements imposed under this chapter on written or oral statements made in the course of such communication may be enforced as provided in this chapter. The solicitation or acceptance of money or other consideration or of any commitment, binding or otherwise, from any person is prohibited.

(a) The communication must state all of the following:

1. Money or other consideration is not being solicited and, if sent in response, will not be accepted.

2. Any offer to buy the securities will not be accepted, and no part of the purchase price will be accepted.

3. A person’s indication of interest does not involve obligation or commitment of any kind.

(b) Any written communication under this subsection may include a means by which a person may indicate to the issuer that the person is interested in a potential offering. The issuer may require the name, address, telephone number, or e-mail address in any response form included in the written communication under this paragraph.

(c) A communication in accordance with this subsection is not subject to s. 501.059, regarding telephone solicitations.

Section 9. Section 517.0616, Florida Statutes, is created

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to read:

517.0616 Disqualification.—A registration exemption under s. 517.061(9), (10), and (11), s. 517.0611, or s. 517.0612 is not available to an issuer that would be disqualified under Securities and Exchange Commission Rule 506(d), 17 C.F.R. s. 230.506(d), as amended, at the time the issuer makes an offer for the sale of a security.

Section 10. Present subsections (4) through (8) of section 517.081, Florida Statutes, are redesignated as subsections (6) through (10), respectively, new subsections (4) and (5) are added to that section, and subsection (2), paragraph (g) of subsection (3), and present subsection (7) of that section are amended, to read:

517.081 Registration procedure.—

(2) The office shall receive and act upon applications for the registration of ~~to have~~ securities ~~registered, and the commission may prescribe forms on which it may require such applications to be submitted~~. Applications must ~~shall~~ be duly signed by the applicant, sworn to by any person having knowledge of the facts, and filed with the office. ~~The commission may establish, by rule, procedures for depositing fees and filing documents by electronic means provided such procedures provide the office with the information and data required by this section.~~ An application may be made either by the issuer of the securities for which registration is applied or by any registered dealer desiring to sell such securities ~~the same~~ within the state.

(3) The office may require the applicant to submit to the office the following information concerning the issuer and such


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other relevant information as the office may in its judgment deem necessary to enable it to ascertain whether such securities shall be registered pursuant to the provisions of this section:

(g)~~1.~~ A specimen copy of the securities certificate, if applicable, and a copy of any circular, prospectus, advertisement, or other description of such securities.

~~2. The commission shall adopt a form for a simplified offering circular to register, under this section, securities that are sold in offerings in which the aggregate offering price in any consecutive 12-month period does not exceed the amount provided in s. 3(b) of the Securities Act of 1933, as amended. The following issuers shall not be eligible to submit a simplified offering circular adopted pursuant to this subparagraph:~~

~~a. An issuer seeking to register securities for resale by persons other than the issuer.~~

~~b. An issuer that is subject to any of the disqualifications described in 17 C.F.R. s. 230.262, adopted pursuant to the Securities Act of 1933, as amended, or that has been or is engaged or is about to engage in an activity that would be grounds for denial, revocation, or suspension under s. 517.111. For purposes of this subparagraph, an issuer includes an issuer's director, officer, general partner, manager or managing member, trustee, or equity owner who owns at least 10 percent of the ownership interests of the issuer, promoter, or selling agent of the securities to be offered or any officer, director, partner, or manager or managing member of such selling agent.~~

~~c. An issuer that is a development-stage company that~~


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~~either has no specific business plan or purpose or has indicated that its business plan is to merge with an unidentified company or companies.~~

~~d. An issuer of offerings in which the specific business or properties cannot be described.~~

~~e. Any issuer the office determines is ineligible because the form does not provide full and fair disclosure of material information for the type of offering to be registered by the issuer.~~

~~f. Any issuer that has failed to provide the office the reports required for a previous offering registered pursuant to this subparagraph.~~

~~As a condition precedent to qualifying for use of the simplified offering circular, an issuer shall agree to provide the office with an annual financial report containing a balance sheet as of the end of the issuer's fiscal year and a statement of income for such year, prepared in accordance with United States generally accepted accounting principles and accompanied by an independent accountant's report. If the issuer has more than 100 security holders at the end of a fiscal year, the financial statements must be audited. Annual financial reports must be filed with the office within 90 days after the close of the issuer's fiscal year for each of the first 5 years following the effective date of the registration.~~

(4) The commission may, by rule:

(a) Establish criteria relating to the issuance of equity securities, debt securities, insurance company securities, real estate investment trusts, oil and gas investments, and other


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investments. In establishing these criteria, the commission may consider the rules and regulations of the Securities and Exchange Commission and statements of policy by the North American Securities Administrators Association, Inc., relating to the registration of securities offerings. The criteria must include all of the following:

1. The promoter's equity investment ratio.

2. The financial condition of the issuer.

3. The voting rights of shareholders.

4. The grant of options or warrants to underwriters and others.

5. Loans and other transactions with affiliates of the issuer.

6. The use, escrow, or refund of proceeds of the offering.

(b) Prescribe forms requiring applications for the registration of securities to be submitted to the office, including a simplified offering circular to register, under this section, securities that are sold in offerings in which the aggregate offering price in any consecutive 12-month period does not exceed the amount provided in s. 3(b) of the Securities Act of 1933, as amended.

(c) Establish procedures for depositing fees and filing documents by electronic means, provided that such procedures provide the office with the information and data required by this section.

(d) Establish requirements and standards for the filing, content, and circulation of a preliminary, final, or amended prospectus, advertisements, and other sales literature. In establishing such requirements and standards, the commission

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shall consider the rules and regulations of the Securities and Exchange Commission relating to requirements for preliminary, final, or amended or supplemented prospectuses and the rules of the Financial Industry Regulatory Authority relating to advertisements and sales literature.

(5) All of the following issuers are not eligible to submit a simplified offering circular:

(a) An issuer that is subject to any of the disqualifications described in Securities and Exchange Commission Rule 262, 17 C.F.R. s. 230.262, as amended, or that has been or is engaged or is about to engage in an activity that would be grounds for denial, revocation, or suspension under s. 517.111. For purposes of this paragraph, an issuer includes an issuer's director, officer, general partner, manager or managing member, trustee, or a person owning at least 10 percent of the ownership interests of the issuer; a promoter or selling agent of the securities to be offered; or any officer, director, partner, or manager or managing member of such selling agent.

(b) An issuer that is a development-stage company that either has no specific business plan or purpose or has indicated that its business plan is to merge with an unidentified business entity or entities.

(c) An issuer of offerings in which the specific business or properties cannot be described.

(d) An issuer that the office determines is ineligible because the simplified circular does not provide full and fair disclosure of material information for the type of offering to be registered by the issuer.

(9)(a) ~~(7)~~ The office shall record the registration of a


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security in the register of securities if, upon examination of an ~~any~~ application, it finds that all of the following requirements are met: ~~the office~~

1. The application is complete.

2. The fee imposed in subsection (8) has been paid.

3. The sale of the security would not be fraudulent and would not work or tend to work a fraud upon the purchaser.

4. The terms of the sale of such securities would be fair, just, and equitable.

5. The enterprise or business of the issuer is not based upon unsound business principles.

(b) Upon registration, the security may be sold by the issuer or any registered dealer, subject, however, to the further order of the office ~~shall find that the sale of the security referred to therein would not be fraudulent and would not work or tend to work a fraud upon the purchaser, that the terms of the sale of such securities would be fair, just, and equitable, and that the enterprise or business of the issuer is not based upon unsound business principles, it shall record the registration of such security in the register of securities; and thereupon such security so registered may be sold by any registered dealer, subject, however, to the further order of the office. In order to determine if an offering is fair, just, and equitable, the commission may by rule establish requirements and standards for the filing, content, and circulation of any preliminary, final, or amended prospectus and other sales literature and may by rule establish merit qualification criteria relating to the issuance of equity securities, debt securities, insurance company securities, real estate investment~~


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~~trusts, and other traditional and nontraditional investments, including, but not limited to, oil and gas investments. The criteria may include such elements as the promoter's equity investment ratio, the financial condition of the issuer, the voting rights of shareholders, the grant of options or warrants to underwriters and others, loans and other affiliated transaction, the use or refund of proceeds of the offering, and such other relevant criteria as the office in its judgment may deem necessary to such determination~~.

Section 11. Subsection (2) of section 517.101, Florida Statutes, is amended to read:

517.101 Consent to service.—

(2) Any such action must ~~shall~~ be brought either in the county of the plaintiff's residence or in the county in which the office has its official headquarters. The written consent must ~~shall~~ be authenticated by the seal of the ~~said~~ issuer, if it has a seal, and by the acknowledged signature of a director, manager, managing member, general partner, trustee, or officer of the issuer ~~member of the copartnership or company, or by the acknowledged signature of any officer of the incorporated or unincorporated association, if it be an incorporated or unincorporated association, duly authorized by resolution of the board of directors, trustees, or managers of the corporation or association,~~ and must ~~shall in such case~~ be accompanied by a duly certified copy of the resolution of the issuer's board of directors, trustees, managers, managing members, or general partners ~~or managers of the corporation or association,~~ authorizing the signer to execute the consent ~~officers to execute the same~~. In case any process or pleadings mentioned in

this chapter are served upon the office, service must ~~it shall~~ be by duplicate copies, one of which must ~~shall~~ be filed in the office and the other ~~another~~ immediately forwarded by the office by registered mail to the principal office of the issuer against which the ~~said~~ process or pleadings are directed.

Section 12. Section 517.131, Florida Statutes, is amended to read:

517.131 Securities Guaranty Fund.—

(1) As used in this section, the term "final judgment" includes an arbitration award confirmed by a court of competent jurisdiction.

(2)(a) The Chief Financial Officer shall establish a Securities Guaranty Fund to provide monetary relief to victims of securities violations under this chapter who are entitled to monetary damages or restitution and cannot recover the full amount of such monetary damages or restitution from the wrongdoer. An amount not exceeding 20 percent of all revenues received as assessment fees pursuant to s. 517.12(9) and (10) for dealers and investment advisers or s. 517.1201 for federal covered advisers and an amount not exceeding 10 percent of all revenues received as assessment fees pursuant to s. 517.12(9) and (10) for associated persons must ~~shall~~ be part of the regular registration license fee and must ~~shall~~ be transferred to or deposited in the Securities Guaranty Fund.

(b) If the balance in the Securities Guaranty Fund at any time exceeds $1.5 million, transfer of assessment fees to the ~~this~~ fund must ~~shall~~ be discontinued at the end of that registration ~~license~~ year, and transfer of such assessment fees may ~~shall~~ not resume ~~be resumed~~ unless the fund balance is


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reduced below $1 million by disbursement made in accordance with s. 517.141.

~~(2) The Securities Guaranty Fund shall be disbursed as provided in s. 517.141 to a person who is adjudged by a court of competent jurisdiction to have suffered monetary damages as a result of any of the following acts committed by a dealer, investment adviser, or associated person who was licensed under this chapter at the time the act was committed:~~

~~(a) A violation of s. 517.07.~~

~~(b) A violation of s. 517.301.~~

(3) A ~~Any~~ person is eligible for payment ~~to seek recovery~~ from the Securities Guaranty Fund if the person:

(a)1. Holds an unsatisfied final judgment in which a wrongdoer was found to have violated s. 517.07 or s. 517.301;

2. Has applied any amount recovered from the judgment debtor or any other source to the damages awarded by the court or arbitrator;

3. Is a natural person who was a resident of this state, or is a business entity that was domiciled in this state, at the time of the violation of s. 517.07 or s. 517.301; and

4. Is seeking recovery for an act that occurred on or after October 1, 2024; or

(b) Is a receiver appointed pursuant to s. 517.191(2) by a court of competent jurisdiction for a wrongdoer ordered to pay restitution under s. 517.191(3) as a result of a violation of s. 517.07 or s. 517.301 which has requested payment from the Securities Guaranty Fund on behalf of a person eligible for payment under paragraph (a)

~~(a) Such person has received final judgment in a court of~~


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~~competent jurisdiction in any action wherein the cause of action was based on a violation of those sections referred to in subsection (2).~~

~~(b) Such person has made all reasonable searches and inquiries to ascertain whether the judgment debtor possesses real or personal property or other assets subject to being sold or applied in satisfaction of the judgment, and by her or his search the person has discovered no property or assets; or she or he has discovered property and assets and has taken all necessary action and proceedings for the application thereof to the judgment, but the amount thereby realized was insufficient to satisfy the judgment. To verify compliance with such condition, the office may require such person to have a writ of execution be issued upon such judgment, may require a showing that no personal or real property of the judgment debtor liable to be levied upon in complete satisfaction of the judgment can be found, or may require an affidavit from the claimant setting forth the reasonable searches and inquiries undertaken and the result of those searches and inquiries.~~

~~(c) Such person has applied any amounts recovered from the judgment debtor, or from any other source, to the damages awarded by the court.~~

~~(d) The act for which recovery is sought occurred on or after January 1, 1979.~~

~~(e) The office waives compliance with the requirements of paragraph (a) or paragraph (b). The office may waive such compliance if the dealer, investment adviser, or associated person which is the subject of the claim filed with the office is the subject of any proceeding in which a receiver has been~~


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~~appointed by a court of competent jurisdiction. If the office waives such compliance, the office may, upon petition by the debtor or the court-appointed trustee, examiner, or receiver, distribute funds from the Securities Guaranty Fund up to the amount allowed under s. 517.141. Any waiver granted pursuant to this section shall be considered a judgment for purposes of complying with the requirements of this section and of s. 517.141~~.

(4) A person who has done any of the following is not eligible for payment from the Securities Guaranty Fund:

(a) Participated or assisted in a violation of this chapter.

(b) Attempted to commit or committed a violation of this chapter.

(c) Profited from a violation of this chapter.

(5) An eligible person, or a receiver on behalf of the eligible person, seeking payment from the Securities Guaranty Fund must file with the office a written application on a form that the commission may prescribe by rule. The commission may adopt by rule procedures for filing documents by electronic means, provided that such procedures provide the office with the information and data required by this section. The application must be filed with the office within 1 year after the date of the final judgment, the date on which a restitution order has been ripe for execution, or the date of any appellate decision thereon, and, at minimum, must contain all of the following information:

(a) The eligible person’s and, if applicable, the receiver’s full name, address, and contact information.

(b) The person ordered to pay restitution.

(c) If the eligible person is a business entity, the eligible person's type and place of organization and, as applicable, a copy, as amended, of its articles of incorporation, articles of organization, trust agreement, or partnership agreement.

(d) Any final judgment and a copy thereof.

(e) Any restitution order pursuant to s. 517.191(3), and a copy thereof.

(f) An affidavit from the eligible person stating either one of the following:

1. That the eligible person has made all reasonable searches and inquiries to ascertain whether the judgment debtor possesses real or personal property or other assets subject to being sold or applied in satisfaction of the final judgment and, by the eligible person's search, that the eligible person has not discovered any property or assets.

2. That the eligible person has taken necessary action on the property and assets of the wrongdoers but the final judgment remains unsatisfied.

(g) If the application is filed by the receiver, an affidavit from the receiver stating the amount of restitution owed to the eligible person on whose behalf the claim is filed; the amount of any money, property, or assets paid to the eligible person on whose behalf the claim is filed by the person over whom the receiver is appointed; and the amount of any unsatisfied portion of any eligible person's order of restitution.

(h) The eligible person's residence or domicile at the time

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of the violation of s. 517.07 or s. 517.301 which resulted in the eligible person's monetary damages.

(i) The amount of any unsatisfied portion of the eligible person's final judgment.

(j) Whether an appeal or motion to vacate an arbitration award has been filed.

(6) If the office finds that a person is eligible for payment from the Securities Guaranty Fund and if the person has complied with this section and the rules adopted under this section, the office must approve payment to such person from the fund. Within 90 days after the office's receipt of a complete application, each eligible person or receiver must be given written notice, personally or by mail, that the office intends to approve or deny, or has approved or denied, the application for payment from the Securities Guaranty Fund.

(7) Upon receipt by the eligible person or receiver of notice of the office's decision that the eligible person's or receiver's application for payment from the Securities Guaranty Fund is approved, and before any disbursement, the eligible person shall assign to the office on a form prescribed by commission rule all right, title, and interest in the final judgment or order of restitution equal to the amount of such payment.

(8) The office shall deem an application for payment from the Securities Guaranty Fund abandoned if the eligible person or receiver, or any person acting on behalf of the eligible person or receiver, fails to timely complete the application as prescribed by commission rule. The time period to complete an application must be tolled during the pendency of an appeal or


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motion to vacate an arbitration award.

~~(4) Any person who files an action that may result in the disbursement of funds from the Securities Guaranty Fund pursuant to the provisions of s. 517.141 shall give written notice by certified mail to the office as soon as practicable after such action has been filed. The failure to give such notice shall not bar a payment from the Securities Guaranty Fund if all of the conditions specified in subsection (3) are satisfied.~~

~~(5) The commission may adopt rules pursuant to ss. 120.536(1) and 120.54 specifying the procedures for complying with subsections (2), (3), and (4), including rules for the form of submission and guidelines for the sufficiency and content of submissions of notices and claims.~~

Section 13. Section 517.141, Florida Statutes, is amended to read:

517.141 Payment from the fund.—

(1) As used in this section, the term:

(a) "Claimant" means a person determined eligible for payment under s. 517.131 that is approved by the office for payment from the Securities Guaranty Fund.

(b) "Final judgment" includes an arbitration award confirmed by a court of competent jurisdiction.

(c) "Specified adult" has the same meaning as in s. 517.34(1).

(2) A claimant is entitled to disbursement from the Securities Guaranty Fund in the amount equal to the lesser of:

(a) The unsatisfied portion of the claimant's final judgment or final order of restitution, but only to the extent that the final judgment or final order of restitution reflects


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actual or compensatory damages, excluding postjudgment interest, costs, and attorney fees; or

(b)1. The sum of $15,000; or

2. If the claimant is a specified adult or if a specified adult is a beneficial owner or beneficiary of the claimant, the sum of $25,000 ~~Any person who meets all of the conditions prescribed in s. 517.131 may apply to the office for payment to be made to such person from the Securities Guaranty Fund in the amount equal to the unsatisfied portion of such person's judgment or $10,000, whichever is less, but only to the extent and amount reflected in the judgment as being actual or compensatory damages, excluding postjudgment interest, costs, and attorney's fees~~.

(3) ~~(2)~~ Regardless of the number of claims or claimants involved, payments for claims are ~~shall be~~ limited in the aggregate to $250,000 ~~$100,000~~ against any one ~~dealer, investment adviser, or associated~~ person. If the total claim filed by a receiver on behalf of multiple claimants exceeds ~~claims exceed~~ the aggregate limit of $250,000 ~~$100,000~~, the office must ~~shall~~ prorate the payment to each claimant based upon the ratio that each claimant's individual ~~the person's~~ claim bears to the total claim ~~claims~~ filed.

(4) If at any time the balance in the Securities Guaranty Fund is insufficient to satisfy a valid claim or portion of a valid claim approved by the office, the office must satisfy the unpaid claim or portion of the valid claim as soon as a sufficient amount of money has been deposited into or transferred to the Securities Guaranty Fund. If more than one unsatisfied claim is outstanding, the claims must be paid in the


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sequence in which the claims were approved by final order of the office, which final order is not subject to an appeal or other pending proceeding.

(5) All payments and disbursements made from the Securities Guaranty Fund must be made by the Chief Financial Officer, or his or her designee, upon authorization by the office. The office shall submit such authorization within 30 days after the approval of an eligible person for payment from the Securities Guaranty Fund

~~(3) No payment shall be made on any claim against any one dealer, investment adviser, or associated person before the expiration of 2 years from the date any claimant is found by the office to be eligible for recovery pursuant to this section. If during this 2-year period more than one claim is filed against the same dealer, investment adviser, or associated person, or if the office receives notice pursuant to s. 517.131(4) that an action against the same dealer, investment adviser, or associated person is pending, all such claims and notices of pending claims received during this period against the same dealer, investment adviser, or associated person may be handled by the office as provided in this section. Two years after the first claimant against that same dealer, investment adviser, or associated person applies for payment pursuant to this section:~~

~~(a) The office shall determine those persons eligible for payment or for potential payment in the event of a pending action. All such persons may be entitled to receive their pro rata shares of the fund as provided in this section.~~

~~(b) Those persons who meet all the conditions prescribed in s. 517.131 and who have applied for payment pursuant to this~~

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~~section will be entitled to receive their pro rata shares of the total disbursement.~~

~~(c) Those persons who have filed notice with the office of a pending claim pursuant to s. 517.131(4) but who are not yet eligible for payment from the fund will be entitled to receive their pro rata shares of the total disbursement once they have complied with subsection (1). However, in the event that the amounts they are eligible to receive pursuant to subsection (1) are less than their pro rata shares as determined under this section, any excess shall be distributed pro rata to those persons entitled to disbursement under this subsection whose pro rata shares of the total disbursement were less than the amounts of their claims~~.

(6)~~(4)~~ Individual claims filed by persons owning the same joint account, or claims arising ~~stemming~~ from any other type of account ~~maintained by a particular licensee~~ on which more than one name appears, must ~~shall~~ be treated as the claims of one eligible claimant with respect to payment from the Securities Guaranty Fund. If a claimant who has obtained a final judgment or final order of restitution that ~~which~~ qualifies for disbursement under s. 517.131 has maintained more than one account with the ~~dealer, investment adviser, or associated~~ person who is the subject of the claims, for purposes of disbursement of the Securities Guaranty Fund, all such accounts, whether joint or individual, must ~~shall~~ be considered as one account and ~~shall~~ entitle such claimant to only one distribution from the fund ~~not to exceed the lesser of $10,000 or the unsatisfied portion of such claimant's judgment as provided in subsection (1)~~. To the extent that a claimant obtains more than

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one final judgment or final order of restitution against a person ~~dealer, investment adviser, or one or more associated persons~~ arising out of the same transactions, occurrences, or conduct or out of such ~~the dealer's, investment adviser's, or associated~~ person's handling of the claimant's account, the final ~~such~~ judgments or final orders of restitution must ~~shall~~ be consolidated for purposes of this section and ~~shall~~ entitle the claimant to only one disbursement from the fund ~~not to exceed the lesser of $10,000 or the unsatisfied portion of such claimant's judgment as provided in subsection (1).~~

(7)~~(5)~~ If the final judgment or final order of restitution that gave rise to the claim is overturned in any appeal or in any collateral proceeding, the claimant must ~~shall~~ reimburse the Securities Guaranty Fund all amounts paid from the fund to the claimant on the claim. If the claimant satisfies the final judgment or final order of restitution ~~specified in s. 517.131(3)(a)~~, the claimant must ~~shall~~ reimburse the Securities Guaranty Fund all amounts paid from the fund to the claimant on the claim. Such reimbursement must ~~shall~~ be paid to the Department of Financial Services ~~office~~ within 60 days after the final resolution of the appellate or collateral proceedings or the satisfaction of the final judgment or order of restitution, with the 60-day period commencing on the date the final order or decision is entered in such proceedings.

(8)~~(6)~~ If a claimant receives payments in excess of that which is permitted under this chapter, the claimant must ~~shall~~ reimburse the Securities Guaranty Fund such excess within 60 days after the claimant receives such excess payment or after the payment is determined to be in excess of that permitted by


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law, whichever is later.

(9) A claimant who knowingly and willfully files or causes to be filed an application under s. 517.131 or documents supporting the application, any of which contain false, incomplete, or misleading information in any material aspect, forfeits all payments from the Securities Guaranty Fund and commits a violation of s. 517.301(1)(c).

(10) ~~(7)~~ The Department of Financial Services ~~office~~ may institute legal proceedings to enforce compliance with this section and with s. 517.131 to recover moneys owed to the Securities Guaranty Fund, and is ~~shall be~~ entitled to recover interest, costs, and attorney ~~attorney's~~ fees in any action brought pursuant to this section in which the department ~~office~~ prevails.

~~(8) If at any time the money in the Securities Guaranty Fund is insufficient to satisfy any valid claim or portion of a valid claim approved by the office, the office shall satisfy such unpaid claim or portion of such valid claim as soon as a sufficient amount of money has been deposited in or transferred to the fund. When there is more than one unsatisfied claim outstanding, such claims shall be paid in the order in which the claims were approved by final order of the office, which order is not subject to an appeal or other pending proceeding.~~

~~(9) Upon receipt by the claimant of the payment from the Securities Guaranty Fund, the claimant shall assign any additional right, title, and interest in the judgment, to the extent of such payment, to the office. If the provisions of s. 517.131(3)(e) apply, the claimant must assign to the office any right, title, and interest in the debt to the extent of any~~

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~~payment by the office from the Securities Guaranty Fund.~~

~~(10) All payments and disbursements made from the Securities Guaranty Fund shall be made by the Chief Financial Officer upon authorization signed by the director of the office, or such agent as she or he may designate.~~

Section 14. Section 517.191, Florida Statutes, is amended to read:

517.191 Enforcement by the Office of Financial Regulation ~~Injunction to restrain violations; civil penalties~~; enforcement by Attorney General.—

(1) When it appears to the office, either upon complaint or otherwise, that a person has engaged or is about to engage in any act or practice constituting a violation of this chapter or a rule or order hereunder, the office may investigate; and whenever it shall believe from evidence satisfactory to it that any such person has engaged, is engaged, or is about to engage in any act or practice constituting a violation of this chapter or a rule or order hereunder, the office may, in addition to any other remedies, bring action in the name and on behalf of the state against such person and any other person concerned in or in any way participating in or about to participate in such practices or engaging therein or doing any act or acts in furtherance thereof or in violation of this chapter to enjoin such person or persons from continuing such fraudulent practices or engaging therein or doing any act or acts in furtherance thereof or in violation of this chapter. In any such court proceedings, the office may apply for, and on due showing be entitled to have issued, the court’s subpoena requiring forthwith the appearance of any defendant and her or his


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employees, associated persons, or agents and the production of documents, books, and records that may appear necessary for the hearing of such petition, to testify or give evidence concerning the acts or conduct or things complained of in such application for injunction. In such action, the ~~equity~~ courts shall have jurisdiction of the subject matter, and a judgment may be entered awarding such injunction as may be proper.

(2) In addition to all other means provided by law for the enforcement of any temporary restraining order, temporary injunction, or permanent injunction issued in any such court proceedings, the court shall have the power and jurisdiction, upon application of the office, to impound and to appoint a receiver or administrator for the property, assets, and business of the defendant, including, but not limited to, the books, records, documents, and papers appertaining thereto. Such receiver or administrator, when appointed and qualified, shall have all powers and duties as to custody, collection, administration, winding up, and liquidation of such ~~said~~ property and business as may ~~shall from time to time~~ be conferred upon her or him by the court. In any such action, the court may issue orders and decrees staying all pending suits and enjoining any further suits affecting the receiver's or administrator's custody or possession of such ~~the said~~ property, assets, and business or, in its discretion, may with the consent of the presiding judge of the circuit require that all such suits be assigned to the circuit court judge appointing such ~~the said~~ receiver or administrator.

(3) In addition to, or in lieu of, any other remedies provided by this chapter, the office may apply to the court

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hearing the ~~this~~ matter for an order directing the defendant to make restitution of those sums shown by the office to have been obtained in violation of ~~any of the provisions of~~ this chapter. The office has standing to request such restitution on behalf of victims in cases brought by the office under this chapter, regardless of the appointment of an administrator or receiver under subsection (2) or an injunction under subsection (1). Further, such restitution must ~~shall~~, at the option of the court, be payable to the administrator or receiver appointed pursuant to this section or directly to the persons whose assets were obtained in violation of this chapter.

(4) In addition to any other remedies provided by this chapter, the office may apply to the court hearing the matter for, and the court has ~~shall have~~ jurisdiction to impose, a civil penalty against any person found to have violated ~~any provision of~~ this chapter, any rule or order adopted by the commission or the office, or any written agreement entered into with the office in an amount not to exceed any of the following:

(a) The greater of $20,000 ~~$10,000~~ for a natural person or $25,000 for a business entity ~~any other person~~, or the gross amount of any pecuniary loss to investors or pecuniary gain to a natural person or business entity ~~such defendant~~ for each such violation, other than a violation of s. 517.301, plus the greater of $50,000 for a natural person or $250,000 for a business entity ~~any other person~~, or the gross amount of any pecuniary loss to investors or pecuniary gain to a natural person or business entity ~~such defendant~~ for each violation of s. 517.301.

(b) Twice the amount of the civil penalty that would

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otherwise be imposed under this subsection if a specified adult, as defined in s. 517.34(1), is the victim of a violation of this chapter.

All civil penalties collected pursuant to this subsection must ~~shall~~ be deposited into the Anti-Fraud Trust Fund. The office may recover any costs and attorney fees related to its investigation or enforcement of this section. Notwithstanding any other law, such moneys recovered by the office must be deposited into the Anti-Fraud Trust Fund.

(5) For purposes of any action brought by the office under this section, a control person who controls any person found to have violated this chapter or any rule adopted thereunder is jointly and severally liable with, and to the same extent as, the controlled person in any action brought by the office under this section unless the control person can establish by a preponderance of the evidence that he or she acted in good faith and did not directly or indirectly induce the act that constitutes the violation or cause of action.

(6) For purposes of any action brought by the office under this section, a person who knowingly or recklessly provides substantial assistance to another person in violation of this chapter or any rule adopted thereunder is deemed to violate this chapter or the rule to the same extent as the person to whom such assistance is provided.

(7) The office may issue and serve upon a person a cease and desist order if the office has reason to believe that the person violates, has violated, or is about to violate this chapter, any commission or office rule or order, or any written

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agreement entered into with the office.

(8) If the office finds that any conduct described in subsection (7) presents an immediate danger to the public, requiring an immediate final order, the office may issue an emergency cease and desist order reciting with particularity the facts underlying such findings. The emergency cease and desist order is effective immediately upon service of a copy of the order on the respondent named in the order and remains effective for 90 days after issuance. If the office begins nonemergency cease and desist proceedings under subsection (7), the emergency cease and desist order remains effective until the conclusion of the proceedings under ss. 120.569 and 120.57.

(9) The office may impose and collect an administrative fine against any person found to have violated any provision of this chapter, any rule or order adopted by the commission or office, or any written agreement entered into with the office in an amount not to exceed the penalties provided in subsection (4). All fines collected under this subsection must be deposited into the Anti-Fraud Trust Fund.

(10) The office may bar, permanently or for a specific period of time, any person found to have violated this chapter, any rule or order adopted by the commission or office, or any written agreement entered into with the office from submitting an application or notification for a license or registration with the office.

(11) In addition to all other means provided by law for enforcing ~~any of the provisions of~~ this chapter, when the Attorney General, upon complaint or otherwise, has reason to believe that a person has engaged or is engaged in any act or


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practice constituting a violation of s. 517.275 or~~,~~ s. 517.301, ~~s. 517.311, or s. 517.312,~~ or any rule or order issued under such sections, the Attorney General may investigate and bring an action to enforce these provisions as provided in ss. 517.171, 517.201, and 517.2015 after receiving written approval from the office. Such an action may be brought against such person and any other person in any way participating in such act or practice or engaging in such act or practice or doing any act in furtherance of such act or practice, to obtain injunctive relief, restitution, civil penalties, and any remedies provided for in this section. The Attorney General may recover any costs and attorney fees related to the Attorney General's investigation or enforcement of this section. Notwithstanding any other provision of law, moneys recovered by the Attorney General for costs, attorney fees, and civil penalties for a violation of s. 517.275 or~~,~~ s. 517.301, ~~s. 517.311, or s. 517.312,~~ or any rule or order issued pursuant to such sections, must ~~shall~~ be deposited in the Legal Affairs Revolving Trust Fund. The Legal Affairs Revolving Trust Fund may be used to investigate and enforce this section.

(12)~~(6)~~ This section does not limit the authority of the office to bring an administrative action against any person that is the subject of a civil action brought pursuant to this section or limit the authority of the office to engage in investigations or enforcement actions with the Attorney General. However, a person may not be subject to both a civil penalty under subsection (4) and an administrative fine under subsection (9) ~~s. 517.221(3)~~ as the result of the same facts.

(13)~~(7)~~ Notwithstanding s. 95.11(4)(f), an enforcement

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action brought under this section based on a violation of ~~any provision of~~ this chapter or any rule or order issued under this chapter shall be brought within 6 years after the facts giving rise to the cause of action were discovered or should have been discovered with the exercise of due diligence, but not more than 8 years after the date such violation occurred.

(14) This chapter does not limit any statutory right of the state to punish a person for a violation of a law.

(15) When not in conflict with the Constitution or laws of the United States, the courts of this state have the same jurisdiction over civil suits instituted in connection with the sale or offer of sale of securities under any laws of the United States as the courts of this state may have with regard to similar cases instituted under the laws of this state.

Section 15. Section 517.211, Florida Statutes, is amended to read:

517.211 Private remedies available in cases of unlawful sale.—

(1) Every sale made in violation of either s. 517.07 or s. 517.12(1), (3), (4), (8), (10), (12), (15), or (17) may be rescinded at the election of the purchaser; however, ~~except~~ a sale made in violation of the provisions of s. 517.1202(3) relating to a renewal of a branch office notification or ~~shall not be subject to this section, and a sale made~~ in violation of the provisions of s. 517.12(12) relating to filing a change of address amendment is ~~shall~~ not ~~be~~ subject to this section. Each person making the sale and every director, officer, partner, or agent of or for the seller, if the director, officer, partner, or agent has personally participated or aided in making the

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sale, is jointly and severally liable to the purchaser in an action for rescission, if the purchaser still owns the security, or for damages, if the purchaser has sold the security. No purchaser otherwise entitled will have the benefit of this subsection who has refused or failed, within 30 days after ~~of~~ receipt, to accept an offer made in writing by the seller, if the purchaser has not sold the security, to take back the security in question and to refund the full amount paid by the purchaser or, if the purchaser has sold the security, to pay the purchaser an amount equal to the difference between the amount paid for the security and the amount received by the purchaser on the sale of the security, together, in either case, with interest on the full amount paid for the security by the purchaser at the legal rate, pursuant to s. 55.03, for the period from the date of payment by the purchaser to the date of repayment, less the amount of any income received by the purchaser on the security.

(2) Any person purchasing or selling a security in violation of s. 517.301, and every director, officer, partner, or agent of or for the purchaser or seller, if the director, officer, partner, or agent has personally participated or aided in making the sale or purchase, is jointly and severally liable to the person selling the security to or purchasing the security from such person in an action for rescission, if the plaintiff still owns the security, or for damages, if the plaintiff has sold the security.

(3) For purposes of any action brought under this section, a control person who controls any person found to have violated any provision specified in subsection (1) is jointly and

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severally liable with, and to the same extent as, such controlled person in any action brought under this section unless the control person can establish by a preponderance of the evidence that he or she acted in good faith and did not directly or indirectly induce the act that constitutes the violation or cause of action.

(4) In an action for rescission:

(a) A purchaser may recover the consideration paid for the security or investment, plus interest thereon at the legal rate from the date of purchase, less the amount of any income received by the purchaser on the security or investment upon tender of the security or investment.

(b) A seller may recover the security upon tender of the consideration paid for the security, plus interest at the legal rate from the date of purchase, less the amount of any income received by the defendant on the security.

(5) ~~(4)~~ In an action for damages brought by a purchaser of a security or investment, the plaintiff must ~~shall~~ recover an amount equal to the difference between:

(a) The consideration paid for the security or investment, plus interest thereon at the legal rate from the date of purchase; and

(b) The value of the security or investment at the time it was disposed of by the plaintiff, plus the amount of any income received on the security or investment by the plaintiff.

(6) ~~(5)~~ In an action for damages brought by a seller of a security, the plaintiff shall recover an amount equal to the difference between:

(a) The value of the security at the time of the complaint,

plus the amount of any income received by the defendant on the security; and

(b) The consideration received for the security, plus interest at the legal rate from the date of sale.

(7) ~~(6)~~ In any action brought under this section, including an appeal, the court shall award reasonable attorney ~~attorneys'~~ fees to the prevailing party unless the court finds that the award of such fees would be unjust.

(8) This chapter does not limit any statutory or common-law right of a person to bring an action in a court for an act involved in the sale of securities or investments.

(9) The same civil remedies provided by the laws of the United States for the purchasers or sellers of securities in interstate commerce also extend to purchasers or sellers of securities under this chapter.

Section 16. Section 517.221, Florida Statutes, is repealed.

Section 17. Section 517.241, Florida Statutes, is repealed.

Section 18. Section 517.301, Florida Statutes, is amended to read:

517.301 Fraudulent transactions; falsification or concealment of facts.—

(1) It is unlawful and a violation of ~~the provisions of~~ this chapter for a person:

(a) In connection with the rendering of any investment advice or in connection with the offer, sale, or purchase of any investment or security, including any security exempted under ~~the provisions of~~ s. 517.051 and including any security sold in a transaction exempted under ~~the provisions of~~ s. 517.061, s. 517.0611, or s. 517.0612, directly or indirectly:

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1. To employ any device, scheme, or artifice to defraud;

2. To obtain money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or

3. To engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon a person.

(b) By use of any means, to publish, give publicity to, or circulate any notice, circular, advertisement, newspaper, article, letter, investment service, communication, or broadcast that, although ~~which, though~~ not purporting to offer a security for sale, describes such security for a consideration received or to be received directly or indirectly from an issuer, underwriter, or dealer, or from an agent or employee of an issuer, underwriter, or dealer, without fully disclosing the receipt, whether past or prospective, of such consideration and the amount of the consideration.

(c) In any matter within the jurisdiction of the office, to knowingly and willfully falsify, conceal, or cover up, by any trick, scheme, or device, a material fact, make any false, fictitious, or fraudulent statement or representation, or make or use any false writing or document, knowing the same to contain any false, fictitious, or fraudulent statement or entry.

(2) For purposes of ~~ss. 517.311 and 517.312 and~~ this section, the term "investment" means any commitment of money or property principally induced by a representation that an economic benefit may be derived from such commitment, except


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that the term does not include a commitment of money or property for:

(a) The purchase of a business opportunity, business enterprise, or real property through a person licensed under chapter 475 or registered under former chapter 498; or

(b) The purchase of tangible personal property through a person not engaged in telephone solicitation, electronic mail, text messages, social media, or other electronic means where ~~said property is offered and sold in accordance with the following conditions:~~

~~1.~~ there are no specific representations or guarantees made by the offeror or seller as to the economic benefit to be derived from the purchase.~~;~~

~~2. The tangible property is delivered to the purchaser within 30 days after sale, except that such 30-day period may be extended by the office if market conditions so warrant; and~~

~~3. The seller has offered the purchaser a full refund policy in writing, exercisable by the purchaser within 10 days of the date of delivery of such tangible personal property, except that the amount of such refund may not exceed the bid price in effect at the time the property is returned to the seller. If the applicable sellers' market is closed at the time the property is returned to the seller for a refund, the amount of such refund shall be based on the bid price for such property at the next opening of such market.~~

(3) It is unlawful for a person in issuing or selling a security within this state, including a security exempted under s. 517.051 and including a transaction exempted under s. 517.061, s. 517.0611, or s. 517.0612, to misrepresent that such

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security or business entity has been guaranteed, sponsored, recommended, or approved by the state or an agency or officer of the state or by the United States or an agency or officer of the United States.

(4) It is unlawful for a person registered or required to be registered, or subject to the notice requirements, under this chapter, including such persons and issuers who are subject to s. 517.051, s. 517.061, s. 517.0611, s. 517.0612, or s. 517.081, to misrepresent that such person has been sponsored, recommended, or approved, or that such person's abilities or qualifications have in any respect been approved, by the state or an agency or officer of the state or by the United States or an agency or officer of the United States.

(5) It is unlawful and a violation of this chapter for a person in connection with the offer or sale of an investment to obtain money or property by means of:

(a) A misrepresentation that the investment offered or sold is guaranteed, sponsored, recommended, or approved by the state or an agency or officer of the state or by the United States or an agency or officer of the United States; or

(b) A misrepresentation that such person is sponsored, recommended, or approved, or that such person's abilities or qualifications have in any respect been approved, by the state

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

And the title is amended as follows:

Delete lines 139 - 140

and insert:

satisfaction of claims in the event of an insufficient

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2012 balance in the fund; requiring payments and

By Senator Brodeur

10-00148B-24 2024532__

A bill to be entitled

An act relating to securities; amending s. 517.021, F.S.; revising definitions; defining the terms "angel investor group" and "business entity"; amending s. 517.051, F.S.; revising the list of securities that are exempt from registration requirements under certain provisions; amending s. 517.061, F.S.; revising the list of transactions that are exempt from registration requirements under certain provisions; amending s. 517.0611, F.S.; revising a short title; revising provisions relating to a certain registration exemption for certain securities transactions; updating the federal laws or regulations with which the offer or sale of securities must be in compliance; revising requirements for issuers relating to the registration exemption; revising requirements for the notice of offering that must be filed by the issuer under certain circumstances; specifying the timeframe within which issuers may amend such notice after any material information contained in the notice becomes inaccurate; authorizing the issuer to engage in general advertising and general solicitation under certain circumstances; specifying requirements for such advertising and solicitation; requiring the issuer to provide a disclosure statement to certain entities and persons within a specified timeframe; revising requirements for such statement; deleting requirements for the escrow agreement; conforming provisions to changes made by the act; revising the

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amount that may be received for sales of certain securities; providing a limit on securities that may be sold by an issuer to an investor; deleting the requirement that an issuer file and provide a certain annual report; conforming cross-references; revising the duties of intermediaries under certain circumstances; providing obligations of issuers under certain circumstances; providing that certain sales are voidable within a specified timeframe; providing requirements for purchasers' notices to issuers to void purchases; deleting provisions relating to funds received from investors; creating s. 517.0612, F.S.; providing a short title; providing applicability; requiring that offers and sales of securities be in accordance with certain federal laws and rules; specifying certain requirements for issuers relating to the registration exemption; specifying a limitation on the amount of cash and other consideration that may be received from sales of certain securities made within a specified timeframe; prohibiting an issuer from accepting more than a specified amount from a single purchaser under certain circumstances; authorizing the issuer to engage in general advertising and general solicitation of the offering under certain circumstances; specifying that a certain prohibition is enforceable under ch. 517, F.S.; requiring that the purchaser receive a disclosure statement within a specified timeframe; specifying the requirements for such statement; requiring certain

funds to be deposited into certain bank and depository institutions; prohibiting the issuer from withdrawing any amount of the offering proceeds until the target offering amount has been received; requiring the issuer to file a notice of the offering in a certain format within a specified timeframe; requiring the issuer to file an amended notice within a specified timeframe under certain circumstances; prohibiting agents of issuers from engaging in certain acts under certain circumstances; providing that sales made under the exemption are voidable within a specified timeframe; providing requirements for purchasers' notices to issuers to void purchases; creating s. 517.0613, F.S.; providing construction; providing that registration exemptions under certain provisions are not available to issuers for certain transactions under specified circumstances; providing registration requirements; creating s. 517.0614, F.S.; specifying criteria for determining integration of offerings for the purpose of registration or qualifying for a registration exemption; specifying certain requirements for the integration of offerings for an exempt offering for which general solicitation is prohibited; specifying certain requirements for the integration of offerings for two or more exempt offerings that allow general solicitation; specifying the circumstances under which integration analysis is not required; creating s. 517.0615, F.S.; specifying that certain communications are not deemed to

constitute general solicitation or general advertising under specified circumstances; creating s. 517.0616, F.S.; providing that registration exemptions under certain provisions are not available to certain issuers under a specified circumstance; amending s. 517.081, F.S.; revising the duties and authority of the Financial Services Commission; authorizing the commission to establish certain criteria relating to the issuance of certain securities, trusts, and investments; authorizing the commission to prescribe certain forms and establish procedures for depositing fees and filing documents and requirements and standards relating to prospectuses, advertisements, and other sales literature; revising the list of issuers that are ineligible to submit simplified offering circulars; deleting provisions that require issuers to provide certain documents to the Office of Financial Regulation under certain circumstances; revising the requirements that must be met before the office must record the registration of a security; amending s. 517.101, F.S.; revising requirements for written consent to service in certain suits, proceedings, and actions; amending s. 517.131, F.S.; defining the term "final judgment"; specifying the purpose of the Securities Guaranty Fund; making technical changes; revising eligibility for payment from the fund; requiring eligible persons or receivers seeking payment from the fund to file a certain application with the office on a certain form;

authorizing the commission to adopt rules regarding electronic filing of such application; specifying the timeframe within which certain eligible persons or receivers must file such application; providing requirements for such applications; requiring the office to approve applications for payment under certain circumstances and to provide applicants with certain notices within a specified timeframe; requiring eligible persons or receivers to assign to the office all rights, titles, and interests in final judgments and orders of restitution equal to a specified amount under certain circumstances; requiring the office to deem an application for payment abandoned under certain circumstances; requiring that the time period to complete applications be tolled under certain circumstances; deleting provisions relating to specified notices to the office and to rulemaking authority; amending s. 517.141, F.S.; defining terms; revising the Securities Guaranty Fund disbursement amounts to which eligible persons are entitled; revising provisions regarding payment of aggregate claims; providing for the satisfaction of claims in the event of insufficient moneys in the fund; requiring payments and disbursements from the Securities Guaranty Fund to be made by the Chief Financial Officer or his or her authorized designee, upon authorization by the office; requiring such authorization to be submitted within a certain timeframe; deleting provisions regarding

requirements for payment of claims; conforming provisions to changes made by the act; specifying the circumstances under which a claimant must reimburse the fund for payments received from the fund; providing penalties; authorizing the Department of Financial Services, rather than the office, to institute legal proceedings for certain compliance enforcement and to recover certain interests, costs, and fees; amending s. 517.191, F.S.; deleting an obsolete term; revising the civil penalty amounts for certain violations; authorizing the office to recover certain costs and attorney fees; requiring that moneys recovered be deposited in a specified trust fund; specifying the liability of control persons; providing an exception; specifying circumstances under which certain persons are deemed to have violated ch. 517, F.S.; authorizing the office to issue and serve cease and desist orders and emergency cease and desist orders under certain circumstances; authorizing the office to impose and collect administrative fines for certain violations; specifying the disposition of such fines; authorizing the office to bar applications or notifications for licenses and registrations under certain circumstances; conforming cross-references; providing construction; specifying jurisdiction of the courts relating to the sale or offer of certain securities; making technical changes; amending s. 517.211, F.S.; providing for joint and several liability of control persons in certain circumstances

for the purposes of specified actions; specifying the date on which certain interest begins accruing in an action for rescission; providing construction; specifying that certain civil remedies extend to purchasers or sellers of securities; making technical changes; repealing s. 517.221, F.S., relating to cease and desist orders; repealing s. 517.241, F.S., relating to remedies; amending s. 517.301, F.S.; revising the circumstances under which certain activities are considered unlawful and violations of law; conforming provisions to changes made by the act; revising the definition of the term "investment"; specifying that certain misrepresentations by persons issuing or selling securities are unlawful; specifying that certain misrepresentations by persons registered or required to be registered under certain provisions or subject to certain requirements are unlawful; specifying that obtaining money or property in connection with the offer or sale of an investment is unlawful under certain conditions; providing construction; requiring disclaimers for certain statements; making technical changes; repealing s. 517.311, F.S., relating to false representations, deceptive words, and enforcement; repealing s. 517.312, F.S., relating to securities, investments, and boiler rooms, prohibited practices, and remedies; amending ss. 517.072 and 517.12, F.S.; conforming cross-references and making technical changes; amending ss. 517.1201 and 517.1202, F.S.; conforming

cross-references; amending s. 517.302, F.S.; conforming a provision to changes made by the act and making a technical change; providing an effective date.

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

Section 1. Present subsections (3), (4), and (5) and subsections (6) through (25) of section 517.021, Florida Statutes, are redesignated as subsections (4), (5), and (6) and subsections (8) through (27), respectively, new subsections (3) and (7) are added to that section, and subsection (1) and present subsections (4), (8), (9), and (14) of that section are amended, to read:

517.021 Definitions.—When used in this chapter, unless the context otherwise indicates, the following terms have the following respective meanings:

(1) "Accredited investor" shall be defined by rule of the commission in accordance with Securities and Exchange Commission Rule 501, 17 C.F.R. s. 230.501, as amended.

(3) "Angel investor group" means a group of accredited investors who hold regular meetings and have defined processes and procedures for making investment decisions, individually or among the membership of the group, and who are not associated persons, affiliates, or agents of a dealer or investment adviser.

(5) ~~(4)~~ "Boiler room" means an enterprise in which two or more persons in a common scheme or enterprise solicit potential investors through telephone calls, e-mail, text messages, social

media, chat rooms, or other electronic means ~~engage in telephone communications with members of the public using two or more telephones at one location, or at more than one location in a common scheme or enterprise~~.

(7) "Business entity" means any corporation, partnership, limited partnership, limited liability company, proprietorship, firm, enterprise, franchise, association, self-employed individual, or trust, which may or may not be fictitiously named, doing business in this state.

(10)(a) ~~(8)~~ "Dealer" includes, unless otherwise specified, a person, other than an associated person of a dealer, that engages, for all or part of the person's time, directly or indirectly, as agent or principal in the business of offering, buying, selling, or otherwise dealing or trading in securities issued by another person.

(b) The term "dealer" does not include any of the following:

1. ~~(a)~~ A licensed practicing attorney who renders or performs any such services in connection with the regular practice of the attorney's profession.

2. ~~(b)~~ A bank authorized to do business in this state, except nonbank subsidiaries of a bank.

3. ~~(c)~~ A trust company having trust powers that it is authorized to exercise in this state, which renders or performs services in a fiduciary capacity incidental to the exercise of its trust powers.

4. ~~(d)~~ A wholesaler selling exclusively to dealers.

5. ~~(e)~~ A person buying and selling for the person's own account exclusively through a registered dealer or stock

exchange.

6. ~~(f)~~ An issuer.

7. ~~(g)~~ A natural person representing an issuer in the purchase, sale, or distribution of the issuer's own securities if such person:

a. ~~1.~~ Is an officer, a director, a limited liability company manager or managing member, or a bona fide employee of the issuer;

b. ~~2.~~ Has not participated in the distribution or sale of securities for any issuer for which such person was, within the preceding 12 months, an officer, a director, a limited liability company manager or managing member, or a bona fide employee;

c. ~~3.~~ Primarily performs, or is intended to perform at the end of the distribution, substantial duties for, or on behalf of, the issuer other than in connection with transactions in securities; and

d. ~~4.~~ Does not receive a commission, compensation, or other consideration for the completed sale of the issuer's securities apart from the compensation received for regular duties to the issuer.

(11) ~~(9)~~ "Federal covered adviser" means a person that is registered or required to be registered under s. 203 of the Investment Advisers Act of 1940, as amended. The term does not include any person that is excluded from the definition of investment adviser under subparagraphs (16)(b)1.-7. and 9 ~~(14)(b)1.-8~~.

(16)(a) ~~(14)(a)~~ "Investment adviser" means a person, other than an associated person of an investment adviser or a federal covered adviser, that receives compensation, directly or

indirectly, and engages for all or part of the person's time, directly or indirectly, or through publications or writings, in the business of advising others as to the value of securities or as to the advisability of investments in, purchasing of, or selling of securities.

(b) The term does not include any of the following:

1. A dealer or an associated person of a dealer whose performance of services in paragraph (a) is solely incidental to the conduct of the dealer's or associated person's business as a dealer and who does not receive special compensation for those services.

2. A licensed practicing attorney or certified public accountant whose performance of such services is solely incidental to the practice of the attorney's or accountant's profession.

3. A bank authorized to do business in this state.

4. A bank holding company as defined in the Bank Holding Company Act of 1956, as amended, authorized to do business in this state.

5. A trust company having trust powers, as defined in s. 658.12, which it is authorized to exercise in this state, which trust company renders or performs investment advisory services in a fiduciary capacity incidental to the exercise of its trust powers.

6. A person that renders investment advice exclusively to insurance or investment companies.

7. A person that, during the preceding 12 months, has fewer than six clients who are residents of this state. As used in this subparagraph, the term "client" has the same meaning as

provided in Securities and Exchange Commission Rule 275.222-2, 17 C.F.R. s. 275.222-2, as amended ~~does not hold itself out to the general public as an investment adviser and has no more than 15 clients within 12 consecutive months in this state~~.

8. ~~A person whose transactions in this state are limited to those transactions described in s. 222(d) of the Investment Advisers Act of 1940, as amended. Those clients listed in subparagraph 6. may not be included when determining the number of clients of an investment adviser for purposes of s. 222(d) of the Investment Advisers Act of 1940, as amended.~~

~~9.~~ A federal covered adviser.

9. The United States, a state, or any political subdivision of a state, or any agency, authority, or instrumentality of any such entity; a business entity that is wholly owned directly or indirectly by such a governmental entity; or any officer, agent, or employee of any such governmental or business entity who is acting within the scope of his or her official duties.

Section 2. Present subsections (9) and (10) of section 517.051, Florida Statutes, are redesignated as subsections (10) and (11), respectively, and amended, a new subsection (9) is added to that section, and subsections (1), (3), (4), and (8) of that section are amended, to read:

517.051 Exempt securities.—The exemptions provided herein from the registration requirements of s. 517.07 are self-executing and do not require any filing with the office prior to claiming such exemption. Any person who claims entitlement to any of these exemptions bears the burden of proving such entitlement in any proceeding brought under this chapter. The registration provisions of s. 517.07 do not apply to any of the

following securities:

(1) A security issued or guaranteed by the United States or any territory or insular possession of the United States, by the District of Columbia, or by any state of the United States or by any political subdivision or agency or other instrumentality thereof.~~; provided that~~

(a) Except as provided in paragraph (b), a ~~no~~ person may not ~~shall~~ directly or indirectly offer or sell securities, other than general obligation bonds, described under this subsection if the issuer or guarantor is in default or has been in default any time after December 31, 1975, as to principal or interest:

1.~~(a)~~ With respect to an obligation issued by the issuer or successor of the issuer; or

2.~~(b)~~ With respect to an obligation guaranteed by the guarantor or successor of the guarantor,

except by an offering circular containing a full and fair disclosure as prescribed by rule of the commission.

(b) Paragraph (a) does not apply to a security that is an industrial or commercial development bond unless payments are made or unconditionally guaranteed by a person whose securities are exempt from registration under s. 18(b)(1) of the Securities Act of 1933, as amended.

(3) A security issued by and which represents or will represent an interest in or a direct obligation of or be guaranteed by any of the following:

(a) An international bank of which the United States is a member.

(b) A bank organized under the laws of the United States.

(c) A member bank of the Federal Reserve System.

(d) A depository institution, when a substantial portion of its business consists of or will consist of receiving deposits or share accounts that are insured to the maximum amount authorized by statute by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund ~~or guaranteed by:~~

~~(a) A national bank, a federally chartered savings and loan association, or a federally chartered savings bank, or the initial subscription for equity securities in such national bank, federally chartered savings and loan association, or federally chartered savings bank;~~

~~(b) Any federal land bank, joint-stock land bank, or national farm loan association under the provisions of the Federal Farm Loan Act of July 17, 1916;~~

~~(c) An international bank of which the United States is a member; or~~

~~(d) A corporation created and acting as an instrumentality of the government of the United States~~.

(4) A security issued or guaranteed, as to principal, interest, or dividend, by a business entity ~~corporation~~ owning or operating a railroad, another common carrier, or any other public service utility; provided that such business entity ~~corporation~~ is subject to regulation or supervision whether as to its rates and charges or as to the issue of its own securities by a public commission, board, or officer of the government of the United States, of any state, territory, or insular possession of the United States, of any municipality located therein, of the District of Columbia, or of the Dominion

of Canada or of any province thereof; also equipment securities based on chattel mortgages, leases, or agreements for conditional sale of cars, motive power, or other rolling stock mortgaged, leased, or sold to or furnished for the use of or upon such railroad or other public service utility corporation or where the ownership or title of such equipment is pledged or retained in accordance with ~~the provisions of~~ the laws of the United States or of any state or of the Dominion of Canada to secure the payment of such equipment securities; and also bonds, notes, or other evidences of indebtedness issued by a holding corporation and secured by collateral consisting of any securities hereinabove described; provided, further, that the collateral securities equal in fair value at least 125 percent of the par value of the bonds, notes, or other evidences of indebtedness so secured.

(8) Shares or other equity interests of a business entity which represent ownership or entitle the holders of such shares or other equity interests to possession and occupancy of specific apartment units in property owned by such business entity and organized and operated on a cooperative basis, solely for residential purposes ~~A note, draft, bill of exchange, or banker's acceptance having a unit amount of $25,000 or more which arises out of a current transaction, or the proceeds of which have been or are to be used for current transactions, and which has a maturity period at the time of issuance not exceeding 9 months exclusive of days of grace, or any renewal thereof which has a maturity period likewise limited. This subsection applies only to prime quality negotiable commercial paper of a type not ordinarily purchased by the general public;~~

~~that is, paper issued to facilitate well-recognized types of current operational business requirements and of a type eligible for discounting by Federal Reserve banks~~.

(9) A member's or owner's interest in, or a retention certificate or like security given in lieu of a cash patronage dividend issued by, a not-for-profit membership entity operated either as a cooperative under the cooperative laws of a state or in accordance with the cooperative provisions of subchapter T of chapter 1 of subtitle A of the United States Internal Revenue Code, as amended, but not a member's or owner's interest, retention certificate, or like security sold or transferred to a person other than:

(a) A bona fide member of the not-for-profit membership entity; or

(b) A person who becomes a bona fide member of the not-for-profit membership entity at the time of or in connection with the sale or transfer.

(10) ~~(9)~~ A security issued by a business entity ~~corporation~~ organized and operated exclusively for religious, educational, benevolent, fraternal, charitable, or reformatory purposes and not for pecuniary profit, no part of the net earnings of which ~~corporation~~ inures to the benefit of any private stockholder or individual, or any security of a fund that is excluded from the definition of an investment company under s. 3(c)(10)(B) of the Investment Company Act of 1940, as amended; provided that a ~~no~~ person may not ~~shall~~ directly or indirectly offer or sell securities under this subsection except by an offering circular containing full and fair disclosure, as prescribed by the rules of the commission, of all material information, including, but

not limited to, a description of the securities offered and terms of the offering, a description of the nature of the issuer's business, a statement of the purpose of the offering and the intended application by the issuer of the proceeds thereof, and financial statements of the issuer prepared in conformance with United States generally accepted accounting principles. Section 6(c) of the Philanthropy Protection Act of 1995, Pub. L. No. 104-62, does ~~shall~~ not preempt any provision of this chapter.

(11)~~(10)~~ Any insurance or endowment policy or annuity contract or optional annuity contract or self-insurance agreement issued by a business entity ~~corporation~~, insurance company, reciprocal insurer, or risk retention group subject to the supervision of the insurance regulator or bank regulator, or any agency or officer performing like functions, of any state or territory of the United States or the District of Columbia.

Section 3. Section 517.061, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 517.061, F.S., for present text.)

517.061 Exempt transactions.—Except as otherwise provided in subsection (11), the exemptions provided herein from the registration requirements of s. 517.07 are self-executing and do not require any filing with the office before being claimed. Any person who claims entitlement to an exemption under this section bears the burden of proving such entitlement in any proceeding brought under this chapter. The registration provisions of s. 517.07 do not apply to any of the following transactions; however, such transactions are subject to s. 517.301:

(1)(a) Any judicial sale or any sale by an executor, an administrator, a guardian, or a conservator; any sale by a receiver or trustee in insolvency or bankruptcy; any sale by an assignee as defined in s. 727.103 with respect to an assignment as defined in that section; or any transaction incident to a judicially approved reorganization in which a security is issued in exchange for one or more outstanding securities, claims, or property interests.

(b) Except for a security exchanged in a case brought under Title 11 of the United States Code, a security that is issued in exchange for one or more bona fide outstanding securities, claims, or property interests, or partly in such exchange and partly for cash, if the terms and conditions of such issuance and exchange are approved:

1. By a court, an official or agency of the United States, a banking or insurance commission of a state or territory of the United States, or another governmental authority expressly authorized by law to grant such approval.

2. After a hearing upon the fairness of such terms and conditions and at which all persons to whom issuance of securities in such exchange is proposed have the right to appear.

(2) The issuance of notes or bonds in connection with the acquisition of real property or renewals thereof, if such notes or bonds are issued to the sellers of, and are secured by all or part of, the real property so acquired.

(3) A transaction involving a stock dividend or equivalent equity distribution, regardless of whether the business entity distributing the dividend or equivalent equity distribution is

the issuer, if nothing of value is given by stockholders or other equity holders for the dividend or equivalent equity distribution other than the surrender of a right to a cash or property dividend in the event that each stockholder or other equity holder may elect to take the dividend or equivalent equity distribution in cash, property, or stock.

(4) A transaction under an offer to existing security holders of the issuer, including persons that at the date of the transaction are holders of convertible securities, options, or warrants, if a commission or other remuneration is not paid or given, directly or indirectly, for soliciting a security holder in this state.

(5) The issuance of securities to such equity security holders or creditors of a business entity in the process of a reorganization of such business entity, made in good faith and not for the purpose of evading this chapter, either in exchange for the securities of such equity security holders or claims of such creditors or partly for cash and partly in exchange for the securities or claims of such equity security holders or creditors.

(6) A transaction involving the distribution of the securities of an issuer to the security holders of another person in connection with a merger, consolidation, exchange of securities, sale of assets, or other reorganization to which the issuer, or the issuer's parent or subsidiary, and the other person, or the person's parent or subsidiary, are parties.

(7) The offer or sale of securities, solely in connection with the transfer of ownership of an eligible privately held company, through a merger and acquisition broker in accordance

with s. 517.12(21).

(8) The offer or sale of securities under a bona fide employee stock purchase, savings, option, profit-sharing, pension, or similar employee benefit plan, including any securities, plan interests, and guarantees issued under a compensatory benefit plan or compensation contract, contained in a record, established by the issuer, its parents, its majority-owned subsidiaries, or the majority-owned subsidiaries of the issuer's parent for the participation of their employees. This includes offers or sales of such securities to all of the following persons:

(a) Directors, managers, managing members, general partners, officers, consultants, and advisors.

(b) If the issuer is a business trust, trustees and former trustees.

(c) Family members who acquire such securities from related employees through gifts or domestic relations orders.

(d) Former employees, directors, manager, managing members, general partners, officers, consultants, and advisors, if those individuals were employed by or providing services to the issuer when the securities were offered.

(e) Insurance agents who are exclusive insurance agents of the issuer, or of the issuer's parents or subsidiaries, or who derive more than 50 percent of their annual income from such persons.

(9) The offer or sale of securities to a bank, trust company, savings institution, insurance company, dealer, investment company as defined in the Investment Company Act of 1940, 15 U.S.C. s. 80a-3, as amended, pension or profit-sharing

trust, or qualified institutional buyer, whether any of such entities is acting in its individual or fiduciary capacity.

(10)(a) The offer or sale, by or on behalf of an issuer, of its own securities if the offer or sale is part of an offering made in accordance with all of the following conditions:

1. There are no more than 35 purchasers, or the issuer reasonably believes that there are no more than 35 purchasers, of the securities of the issuer in this state during an offering made in reliance upon this subsection or, if such offering continues for a period in excess of 12 months, in any consecutive 12-month period.

2. Neither the issuer nor any person acting on behalf of the issuer offers or sells securities pursuant to this subsection by means of any form of general solicitation or general advertising in this state.

3. Before the sale, each purchaser or the purchaser's representative, if any, is provided with, or given reasonable access to, full and fair disclosure of all material information, which must include written notification of a purchaser's right to void the sale under subparagraph 4.

4. Any sale made pursuant to this subsection is voidable by the purchaser within 3 days after the first tender of consideration is made by such purchaser to the issuer by notifying the issuer that the purchaser expressly voids the purchase. The purchaser's notice to the issuer must be sent by e-mail to the issuer's e-mail address set forth in the disclosure document provided to the purchaser or purchaser's representative or by hand delivery, courier service, or other method by which written proof of delivery to the issuer of the

purchaser's election to rescind the purchase is evidenced.

(b) The following purchasers are excluded from the calculation of the number of purchasers under subparagraph (a)1.:

1. Any spouse or child of the purchaser or any related family member who has the same principal residence as such purchaser.

2. A trust or estate in which a purchaser, any of the persons related to such purchaser specified in subparagraph 1., and any business entity specified in subparagraph 3. collectively have more than 50 percent of the beneficial interest, excluding any contingent interest.

3. A business entity in which a purchaser, any of the persons related to such purchaser specified in subparagraph 1., and any trust or estate specified in subparagraph 2. collectively are beneficial owners of more than 50 percent of the equity securities or equity interest.

4. An accredited investor.

A business entity must be counted as one purchaser. However, if the business entity is organized for the specific purpose of acquiring the securities offered and is not an accredited investor, each beneficial owner of equity securities or equity interests in the business entity must be counted as a separate purchaser. A noncontributory employee benefit plan within the meaning of Title I of the Employee Retirement Income Security Act of 1974 must be counted as one purchaser if the trustee makes all investment decisions for the plan.

(11) Offers or sales of securities by an issuer in a

transaction that meets all of the following conditions:

(a) The offers or sales of securities are made only to persons who are, or who the issuer reasonably believes are, accredited investors.

(b) The issuer is not a business entity that has an undefined business operation, lacks a business plan, lacks a stated investment goal for the funds being raised, or plans to engage in a merger or acquisition with an unspecified business entity.

(c) The issuer reasonably believes that all purchasers are purchasing for investment and not with the view to or for sale in connection with a distribution of the security. Any resale of a security sold in reliance on this exemption within 12 months after sale is presumed to be with a view to distribution and not for investment, except a resale pursuant to a registration statement effective under this chapter or pursuant to an exemption available under this chapter, the Securities Act of 1933, as amended, or the rules and regulations adopted thereunder.

(d)1. A general announcement of the proposed offering, made by any means, includes only the following information:

a. The name, address, and telephone number of the issuer of the securities.

b. The name, a brief description, and price, if known, of any security to be issued.

c. A brief description of the business.

d. The type, number, and aggregate amount of securities being offered.

e. The name, address, and telephone number of the person to

contact for additional information.

f. A statement that:

(I) Sales will be made only to accredited investors;

(II) Money or other consideration is not being solicited and will not be accepted by way of this general announcement; and

(III) The securities have not been registered with or approved by any state securities agency or the Securities and Exchange Commission and are being offered and sold pursuant to an exemption from registration.

2. The issuer, in connection with an offer, may provide information in addition to the information provided in the general announcement as specified in subparagraph 1. if such information is delivered:

a. Through an electronic database that is restricted to persons who have been prequalified as accredited investors; or

b. After the issuer reasonably believes that the prospective purchaser is an accredited investor.

(e) The issuer does not use telephone solicitation unless, before placing the call, the issuer reasonably believes that the prospective purchaser to be solicited is an accredited investor.

(f) The issuer files with the office a notice of transaction, a consent to service of process, and a copy of the general announcement within 15 days after the first sale is made in this state. The commission may adopt by rule procedures for filing documents by electronic means.

(g) Dissemination of the general announcement of the proposed offering to persons who are not accredited investors does not disqualify the issuer from claiming the exemption under

this rule.

(12) The isolated sale or offer for sale of securities when made by or on behalf of a bona fide owner, not the issuer or underwriter, of the securities, who disposes of such securities for the owner's own account, and such sale is not made directly or indirectly for the benefit of the issuer or an underwriter of such securities or for the direct or indirect promotion of any scheme or enterprise with the intent of violating or evading this chapter. For purposes of this subsection, isolated offers or sales include, but are not limited to, an isolated offer or sale made by or on behalf of a bona fide owner, rather than the issuer or underwriter, of the securities if:

(a) The offer or sale of securities is in a transaction satisfying all of the conditions specified in paragraphs (10)(a), (b), and (c); or

(b) The offer or sale of securities is in a transaction exempt under s. 4(a)(1) of the Securities Act of 1933, as amended, or under Securities and Exchange Commission rules or regulations.

(13) By or for the account of a pledgeholder, a secured party as defined in s. 679.1021(1)(ttt), or a mortgagee selling or offering for sale or delivery in the ordinary course of business and not for the purposes of avoiding the provisions of this chapter, to liquidate a bona fide debt, a security pledged in good faith as security for such debt.

(14) An unsolicited purchase or sale of securities at the direction of, and as the agent for, another solely and exclusively by a dealer registered pursuant to s. 517.12; provided that this exemption applies solely and exclusively to

such registered dealers and does not authorize or permit the purchase or sale of securities at the direction of, and as agent for, another by any person other than a dealer so registered; and provided further that such purchase or sale may not be directly or indirectly for the benefit of the issuer or an underwriter of such securities or for the direct or indirect promotion of any scheme or enterprise with the intent of violating or evading this chapter.

(15) A nonissuer transaction with a federal covered adviser managing investments in excess of $100 million acting in the exercise of discretionary authority in a signed record for the account of others.

(16) The sale by or through a registered dealer of any securities option if, at the time of the sale of the option:

(a) The performance of the terms of the option is guaranteed by any dealer registered under the Securities Exchange Act of 1934, as amended, which guaranty and dealer are in compliance with such requirements or rules as may be approved or adopted by the commission; or

(b)1. Such options transactions are cleared by the Options Clearing Corporation or any other clearinghouse recognized by commission rule;

2. The option is not sold by or for the benefit of the issuer of the underlying security; and

3. The underlying security may be purchased or sold on a recognized securities exchange registered under the Securities Exchange Act of 1934, as amended.

(17)(a) The offer or sale of securities, as agent or principal, by a dealer registered pursuant to s. 517.12, when

such securities are offered or sold at a price reasonably related to the current market price of such securities, provided that such securities are:

1. Securities of an issuer for which reports are required to be filed by s. 13 or s. 15(d) of the Securities Exchange Act of 1934, as amended;

2. Securities of a company registered under the Investment Company Act of 1940, as amended;

3. Securities of an insurance company, as that term is defined in s. 2(a)(17) of the Investment Company Act of 1940, as amended; or

4. Securities, other than any security that is a federal covered security and is not subject to any registration or filing requirements under this chapter, that have been listed or approved for listing upon notice of issuance by a securities exchange registered under the Securities Exchange Act of 1934, as amended; and all securities senior to any securities so listed or approved for listing upon notice of issuance, or represented by subscription rights which have been so listed or approved for listing upon notice of issuance, or evidences of indebtedness guaranteed by an issuer with a class of securities listed or approved for listing upon notice of issuance by such securities exchange, such securities to be exempt only so long as such listings or approvals remain in effect. The exemption provided in this sub-subparagraph does not apply when the securities are suspended from listing approval for listing or trading.

(b) The exemption provided in this subsection does not apply if the sale is made for the direct or indirect benefit of

an issuer or a control person of such issuer or if such securities constitute the whole or part of an unsold allotment to, or subscription or participation by, a dealer as an underwriter of such securities.

(c) The exemption provided in this subsection is not available for any securities that have been denied registration pursuant to s. 517.111. Additionally, the office may deny this exemption with reference to any particular security, other than a federal covered security, by order published in such manner as the office finds proper.

(18) Any nonissuer transaction by a registered dealer, and any resale transaction by a sponsor of a unit investment trust registered under the Investment Company Act of 1940, as amended, in a security of a class that has been outstanding in the hands of the public for at least 90 days; provided that, at the time of the transaction, the following conditions in subparagraphs (a), (b), and (c) and either subparagraph (d) or (e) are met:

(a) The issuer of the security is actually engaged in business and is not in the organizational stage or in bankruptcy or receivership and is not a blank check, blind pool, or shell company whose primary plan of business is to engage in a merger or combination of the business with, or an acquisition of, an unidentified person.

(b) The security is sold at a price reasonably related to the current market price of the security.

(c) The security does not constitute the whole or part of an unsold allotment to, or a subscription or participation by, the dealer as an underwriter of the security.

(d) The security is listed in a nationally recognized

securities manual designated by rule of the commission or a document filed with and publicly viewable through the Securities and Exchange Commission electronic data gathering and retrieval system and contains:

1. A description of the business and operations of the issuer;

2. The names of the issuer's officers and directors, if any, or, in the case of an issuer not domiciled in the United States, the corporate equivalents of such persons in the issuer's country of domicile;

3. An audited balance sheet of the issuer as of a date within 18 months before such transaction or, in the case of a reorganization or merger in which parties to the reorganization or merger had such audited balance sheet, a pro forma balance sheet; and

4. An audited income statement for each of the issuer's immediately preceding 2 fiscal years, or for the period of existence of the issuer, if in existence for less than 2 years or, in the case of a reorganization or merger in which the parties to the reorganization or merger had such audited income statement, a pro forma income statement.

(e)1. The issuer of the security has a class of equity securities listed on a national securities exchange registered under the Securities Exchange Act of 1934, as amended.

2. The security is offered, purchased, or sold through an alternative trading system registered under Securities and Exchange Commission Regulation ATS, 17 C.F.R. s. 242.301, as amended.

3. The issuer of the security is a unit investment trust

registered under the Investment Company Act of 1940, as amended.

4. The issuer of the security has been engaged in continuous business, including predecessors, for at least 3 years.

5. The issuer of the security has total assets of at least $2 million based on an audited balance sheet as of a date within 18 months before such transaction or, in the case of a reorganization or merger in which parties to the reorganization or merger had such audited balance sheet, a pro forma balance sheet.

(19) The offer or sale of any security effected by or through a person in compliance with s. 517.12(16).

(20) A nonissuer transaction in an outstanding security by or through a dealer registered or exempt from registration under this chapter, if all of the following are true:

(a) The issuer is a reporting issuer in a foreign jurisdiction designated by this subsection or by commission rule, and the issuer has been subject to continuous reporting requirements in such foreign jurisdiction for not less than 180 days before the transaction.

(b) The security is listed on the securities exchange designated by this subsection or by commission rule, is a security of the same issuer which is of senior or substantially equal rank to the listed security, or is a warrant or right to purchase or subscribe to any such security.

For purposes of this subsection, Canada, together with its provinces and territories, is designated as a foreign jurisdiction, and the Toronto Stock Exchange, Inc., is

designated as a securities exchange. If, after an administrative hearing in compliance with ss. 120.569 and 120.57, the office finds that revocation is necessary or appropriate in furtherance of the public interest and for the protection of investors, it may revoke the designation of a securities exchange under this subsection.

(21) Other transactions exempted by commission rule upon a finding by the office that the application of s. 517.07 to a particular transaction is not necessary or appropriate in furtherance of the public interest and for the protection of investors due to the small dollar amount of the securities involved or the limited character of the offering. In conjunction with its adoption by rule of such exemptions, the commission may exempt persons selling or offering for sale securities in such a transaction from the registration requirements of s. 517.12. A rule adopted by the commission under this subsection may not have the effect of narrowing or limiting any exemption specified in this section.

Section 4. Section 517.0611, Florida Statutes, is amended to read:

517.0611 The Florida Limited Offering Exemption ~~Intrastate crowdfunding~~.—

(1) This section may be cited as ~~the~~ "The Florida Limited Offering ~~Intrastate Crowdfunding~~ Exemption."

(2) The registration provisions of s. 517.07 do not apply to a securities transaction conducted in accordance with this section; however, such transaction is subject to s. 517.301 ~~Notwithstanding any other provision of this chapter, an offer or sale of a security by an issuer is an exempt transaction under~~

~~s. 517.061 if the offer or sale is conducted in accordance with this section. The exemption provided in this section may not be used in conjunction with any other exemption under s. 517.051 or s. 517.061~~.

(3) The offer or sale of securities under this section must be conducted in accordance with the requirements of the federal exemption for intrastate offerings in s. 3(a)(11) of the Securities Act of 1933, 15 U.S.C. s. 77c(a)(11), as amended, ~~and United States~~ Securities and Exchange Commission Rule 147, 17 C.F.R. s. 230.147, as amended, or Securities and Exchange Commission Rule 147A, 17. C.F.R. s. 230.147A, as amended ~~adopted pursuant to the Securities Act of 1933~~.

(4) An issuer ~~must~~:

(a) Must be a for-profit business entity that maintains ~~formed under the laws of the state, be registered with the Secretary of State, maintain~~ its principal place of business ~~in the state,~~ and derives ~~derive~~ its revenues primarily from operations in this ~~the~~ state.

(b) Must conduct transactions for an ~~the~~ offering of $2.5 million or more through a dealer registered with the office or an intermediary registered under s. 517.12 ~~s. 517.12(19)~~. For an offering of less than $2.5 million, the issuer may, but is not required to, use such a dealer or intermediary.

(c) May not be, ~~either~~ before or as a result of the offering, an investment company as defined in s. 3 of the Investment Company Act of 1940, 15 U.S.C. s. 80a-3, as amended, or subject to the reporting requirements of s. 13 or s. 15(d) of the Securities Exchange Act of 1934, 15 U.S.C. s. 78m or s. 78o(d), as amended.

(d) May not be a business entity that has ~~company with~~ an undefined business operation, ~~a company that~~ lacks a business plan, ~~a company that~~ lacks a stated investment goal for the funds being raised, or ~~a company that~~ plans to engage in a merger or acquisition with an unspecified business entity.

(e) May not be subject to a disqualification established by the commission ~~or office~~ or a disqualification described in s. 517.0616 or s. 517.1611 ~~or United States Securities and Exchange Commission Rule 506(d), 17 C.F.R. 230.506(d), adopted pursuant to the Securities Act of 1933~~. Each director, officer, manager, managing member, or general partner, or person occupying a similar status or performing a similar function, or person holding more than 20 percent of the equity interest ~~shares~~ of the issuer, is subject to this paragraph ~~requirement~~.

(f) Must deposit all funds received from investors in an account in ~~Execute an escrow agreement with~~ a federally insured financial institution authorized to do business in this ~~the~~ state, and maintain all such funds in the account until the target offering amount has been reached or the offering has been terminated or has expired. If the target offering amount has not been reached within the period specified by the issuer in the disclosure statement provided to investors, or if the offering is terminated or expires, the issuer must refund invested funds to all investors within 10 business days after such occurrence ~~for the deposit of investor funds, and ensure that all offering proceeds are provided to the issuer only when the aggregate capital raised from all investors is equal to or greater than the target offering amount~~.

(g) Must use all funds in accordance with the use of

proceeds as disclosed to prospective investors ~~Allow investors to cancel a commitment to invest within 3 business days before the offering deadline, as stated in the disclosure statement, and issue refunds to all investors if the target offering amount is not reached by the offering deadline~~.

(5) The issuer must file a notice of the offering with the office, in writing or in electronic form, in a format prescribed by commission rule, together with a nonrefundable filing fee of $200. The filing fee must ~~shall~~ be deposited into the Regulatory Trust Fund of the office. The commission may adopt rules establishing procedures for the deposit of fees and the filing of documents by electronic means if the procedures provide the office with the information and data required by this section. A notice is effective upon receipt, by the office, of the completed form, filing fee, and an irrevocable written consent to service of civil process, similar to that provided for in s. 517.101. The notice may be terminated by filing with the office a notice of termination. The notice and offering expire 12 months after filing the notice with the office and are not eligible for renewal. The notice must:

(a) Be filed with the office at least 10 days before the issuer commences an offering of securities or the offering is displayed on a website of an intermediary in reliance upon the exemption provided by this section.

(b) Indicate that the issuer is conducting an offering in reliance upon the exemption provided by this section.

(c) Contain the name and contact information, including an e-mail address, of the issuer.

(d) Identify any predecessors, owners, officers, directors,

general partners, managers, managing members, ~~and control persons~~ or any person occupying a similar status or performing a similar function of the issuer, including that person's title, ~~his or her~~ status as a partner, trustee, or sole proprietor or a similar role, and ~~his or her~~ ownership percentage.

(e) Identify the federally insured financial institution into~~, authorized to do business in the state, in~~ which investor funds will be deposited~~, in accordance with the escrow agreement~~.

(f) ~~Require an attestation under oath that the issuer, its predecessors, affiliated issuers, directors, officers, and control persons, or any other person occupying a similar status or performing a similar function, are not currently and have not been within the past 10 years the subject of regulatory or criminal actions involving fraud or deceit.~~

~~(g) Include documentation verifying that the issuer is organized under the laws of the state and authorized to do business in the state.~~

~~(h)~~ If applicable, include the intermediary's website address where the issuer's securities will be offered.

(g)~~(i)~~ State ~~Include~~ the target offering amount and the date, not to exceed 365 days, by which the target amount must be reached in order to avoid termination of the offering.

(6) The issuer must amend the notice form within 10 business ~~30~~ days after any material information contained in the notice becomes inaccurate ~~for any reason~~. The commission may require, by rule, an issuer who has filed a notice under this section to file amendments with the office.

(7) The issuer may engage in general advertising and

general solicitation of the offer to prospective investors. Any oral or written statements in advertising or solicitation of the offer which contain a material misstatement, or which fail to disclose material information, are subject to enforcement under this chapter. Any general advertising or other general announcement must state that the offering is limited and open only to residents of this state.

(8) The issuer must provide a disclosure statement to ~~investors and the dealer or intermediary, along with a copy to the office at the time that the notice is filed, and make available to potential investors through~~ the dealer or intermediary, as applicable; to the office at the time that the notice is filed; and to each prospective investor at least 3 days before the investor's commitment to purchase or payment of any consideration. The~~, a~~ disclosure statement must contain ~~containing~~ material information about the issuer and the offering, including all of the following:

(a) The name, legal status, physical address, e-mail address, and website address of the issuer.

(b) The names of the directors, officers, managers, managing members, and general partners and any person occupying a similar status or performing a similar function, and the name and ownership percentage of each person holding more than 20 percent of the issuer's equity interests ~~shares of the issuer~~.

(c) A description of the current business ~~of the issuer~~ and ~~the~~ anticipated business plan of the issuer.

(d) A description of the stated purpose and intended use of the proceeds of the offering.

(e) The target offering amount and~~,~~ the deadline to reach

the target offering amount~~, and regular updates regarding the progress of the issuer in meeting the target offering amount~~.

(f) The price to the public of the securities ~~or the method for determining the price. However, before the sale, each investor must receive in writing the final price and all required disclosures and have an opportunity to rescind the commitment to purchase the securities~~.

(g) A description of the ownership and capital structure of the issuer, including:

1. Terms of the securities being offered and each class of security of the issuer, including how those terms may be modified, and a summary of the differences between such securities, including how the rights of the securities being offered may be materially limited, diluted, or qualified by rights of any other class of security of the issuer.

2. A description of how the exercise of the rights held by the principal equity holders ~~shareholders~~ of the issuer could negatively impact the purchasers of the securities being offered.

~~3. The name and ownership level of each existing shareholder who owns more than 20 percent of any class of the securities of the issuer.~~

~~4. How the securities being offered are being valued, and examples of methods of how such securities may be valued by the issuer in the future, including during subsequent corporate actions.~~

~~5. The risks to purchasers of the securities relating to minority ownership in the issuer, the risks associated with corporate action, including additional issuances of shares, a~~

~~sale of the issuer or of assets of the issuer, or transactions with related parties.~~

(h) A statement that the security being offered is not registered under federal or state securities laws and that the securities are subject to the limitation on resale contained in Securities and Exchange Commission Rule 147 or Rule 147A.

(i) Any issuer plans, formal or informal, to offer additional securities in the future.

(j) The risks to purchasers of the securities relating to minority ownership in the issuer.

(k) ~~(h)~~ A description of the financial condition of the issuer.

1. For offerings that, in combination with all other offerings of the issuer within the preceding 12-month period, have ~~target~~ offering amounts of $500,000 ~~$100,000~~ or less, the financial statements of the issuer may be, but are not required to be, included ~~description must include the most recent income tax return filed by the issuer, if any, and a financial statement that must be certified by the principal executive officer of the issuer as true and complete in all material respects~~.

2. For offerings that, in combination with all other offerings of the issuer within the preceding 12-month period, have target offering amounts of more than $500,000 ~~$100,000~~, but not more than $2.5 million ~~$500,000~~, the description must include financial statements prepared in accordance with generally accepted accounting principles and reviewed by a certified public accountant, as defined in s. 473.302, who is independent of the issuer, using professional standards and

procedures ~~for such review~~ or standards and procedures established by commission ~~the office, by~~ rule~~,~~ for such purpose.

3. For offerings that, in combination with all other offerings of the issuer within the preceding 12-month period, have ~~target~~ offering amounts of more than $2.5 million ~~$500,000~~, the description must include audited financial statements prepared in accordance with generally accepted accounting principles by a certified public accountant, as defined in s. 473.302, who is independent of the issuer, and other requirements as the commission may establish by rule.

(l)~~(i)~~ The following statement in boldface, conspicuous type on the front page of the disclosure statement:

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved these securities or determined if this disclosure statement is truthful or complete. Any representation to the contrary is a criminal offense under chapter 517, Florida Statutes.

These securities are offered under, and will be sold in reliance upon, an exemption from the registration requirements of federal and Florida securities laws. ~~Consequently,~~ Neither the Federal Government nor the State of Florida has reviewed the accuracy or completeness of any offering materials. In making an investment decision, investors must rely on their own examination of the issuer and the terms of the offering, including the merits and risks involved.

These securities are subject to restrictions on transferability and resale and may not be transferred or resold except as specifically authorized by applicable federal and state securities laws. Investing in these securities involves a speculative risk, and investors should be able to bear the loss of their entire investment.

~~(8) The issuer shall provide to the office a copy of the escrow agreement with a financial institution authorized to conduct business in this state. All investor funds must be deposited in the escrow account. The escrow agreement must require that all offering proceeds be released to the issuer only when the aggregate capital raised from all investors is equal to or greater than the minimum target offering amount specified in the disclosure statement as necessary to implement the business plan, and that all investors will receive a full return of their investment commitment if that target offering amount is not raised by the date stated in the disclosure statement.~~

(9) The sum of all cash and other consideration received for sales of a security under this section may not exceed $5 ~~$1~~ million, less the aggregate amount received for all sales of securities by the issuer within the 12 months preceding the first offer or sale made in reliance upon this exemption. Offers or sales to a person owning 20 percent or more of the outstanding equity interests ~~shares~~ of any class or classes of securities or to an officer, director, manager, managing member, general partner, or trustee, or a person occupying a similar status, do not count toward this limitation.

(10) Unless the investor is an accredited investor, or the issuer reasonably believes that the investor is an accredited investor ~~as defined by Rule 501 of Regulation D, adopted pursuant to the Securities Act of 1933~~, the aggregate amount of securities sold by an issuer to an investor ~~in transactions exempt from registration requirements under this subsection~~ in a 12-month period may not exceed $10,000~~:~~

~~(a) The greater of $2,000 or 5 percent of the annual income or net worth of such investor, if the annual income or the net worth of the investor is less than $100,000.~~

~~(b) Ten percent of the annual income or net worth of such investor, not to exceed a maximum aggregate amount sold of $100,000, if either the annual income or net worth of the investor is equal to or exceeds $100,000~~.

~~(11) The issuer shall file with the office and provide to investors free of charge an annual report of the results of operations and financial statements of the issuer within 45 days after the end of its fiscal year, until no securities under this offering are outstanding. The annual reports must meet the following requirements:~~

~~(a) Include an analysis by management of the issuer of the business operations and the financial condition of the issuer, and disclose the compensation received by each director, executive officer, and person having an ownership interest of 20 percent or more of the issuer, including cash compensation earned since the previous report and on an annual basis, and any bonuses, stock options, other rights to receive securities of the issuer, or any affiliate of the issuer, or other compensation received.~~

~~(b) Disclose any material change to information contained in the disclosure statements which was not disclosed in a previous report.~~

(11)~~(12)(a)~~ A notice-filing under this section must ~~shall~~ be summarily suspended by the office if:

(a) The payment for the filing is dishonored by the financial institution upon which the funds are drawn. For purposes of s. 120.60(6), failure to pay the required notice filing fee constitutes an immediate and serious danger to the public health, safety, and welfare. The office shall enter a final order revoking a notice-filing in which the payment for the filing is dishonored by the financial institution upon which the funds are drawn; or~~.~~

(b) ~~A notice-filing under this section shall be summarily suspended by the office if~~ The issuer made a material false statement in the issuer's notice-filing. The summary suspension remains ~~shall remain~~ in effect until a final order is entered by the office. For purposes of s. 120.60(6), a material false statement made in the issuer's notice-filing constitutes an immediate and serious danger to the public health, safety, and welfare. If an issuer made a material false statement in the issuer's notice-filing, the office must ~~shall~~ enter a final order revoking the notice-filing, issue a fine as prescribed by s. 517.191(9) ~~s. 517.221(3)~~, and issue permanent bars under s. 517.191(10) ~~s. 517.221(4)~~ to the issuer and all owners, officers, directors, general partners, and control persons, or any person occupying a similar status or performing a similar function of the issuer, including title; status as a partner, trustee, sole proprietor, or similar role; and ownership

percentage.

(12)~~(13)~~ If the issuer employs the services of an intermediary, the ~~An~~ intermediary must:

(a) Take measures, as established by commission rule, to reduce the risk of fraud with respect to the ~~transactions, including verifying that the issuer is in compliance with the requirements of this section and, if necessary, denying an issuer access to its platform if the intermediary believes it is unable to adequately assess the risk of fraud of the issuer or its potential~~ offering.

(b) Provide ~~basic~~ information on its website regarding the high risk of investment in and limitation on the resale of exempt securities and the potential for loss of an entire investment. The ~~basic~~ information must include, but need not be limited to, all of the following:

1. A description of the financial institution into which investor funds will be deposited ~~escrow agreement that the issuer has executed~~ and the conditions for the use ~~release~~ of such funds by ~~to~~ the issuer ~~in accordance with the agreement and subsection (4)~~.

2. A description of whether financial information provided by the issuer has been audited by an independent certified public accountant, as defined in s. 473.302.

(c) Obtain from each prospective investor a zip code or residence address, a copy of a driver license, and any other proof of residency in order for the issuer or intermediary to reasonably believe that the potential investor is a resident of this state. The commission may adopt rules authorizing additional forms of identification and prescribing the process

for verifying any identification presented by the prospective investor.

(d) Obtain information sufficient for the issuer or intermediary to reasonably believe that a particular prospective investor is an accredited investor

~~(c) Obtain a zip code or residence address from each potential investor who seeks to view information regarding specific investment opportunities, in order to confirm that the potential investor is a resident of the state.~~

~~(d) Obtain and verify a valid Florida driver license number or Florida identification card number from each investor before purchase of a security to confirm that the investor is a resident of the state. The commission may adopt rules authorizing additional forms of identification and prescribing the process for verifying any identification presented by the investor.~~

~~(e) Obtain an affidavit from each investor stating that the investment being made by the investor is consistent with the income requirements of subsection (10).~~

~~(f) Direct the release of investor funds in escrow in accordance with subsection (4).~~

~~(g) Direct investors to transmit funds directly to the financial institution designated in the escrow agreement to hold the funds for the benefit of the investor~~.

(e)~~(h)~~ Provide a monthly update for each offering, after the first full month after the date of the offering. The update must be accessible on the intermediary's website and must display the date and amount of each sale of securities, and each cancellation of commitment to invest, in the previous calendar

month.

~~(i) Require each investor to certify in writing, including as part of such certification his or her signature and his or her initials next to each paragraph of the certification, as follows:~~

~~I understand and acknowledge that:~~

~~I am investing in a high-risk, speculative business venture. I may lose all of my investment, and I can afford the loss of my investment.~~

~~This offering has not been reviewed or approved by any state or federal securities commission or other regulatory authority and no regulatory authority has confirmed the accuracy or determined the adequacy of any disclosure made to me relating to this offering.~~

~~The securities I am acquiring in this offering are illiquid and are subject to possible dilution. There is no ready market for the sale of the securities. It may be difficult or impossible for me to sell or otherwise dispose of the securities, and I may be required to hold the securities indefinitely.~~

~~I may be subject to tax on my share of the taxable income and losses of the issuer, whether or not I have sold or otherwise disposed of my investment or received any dividends or other distributions from the issuer.~~

~~By entering into this transaction with the issuer, I am affirmatively representing myself as being a Florida resident at the time this contract is formed, and if this representation is subsequently shown to be false, the contract is void.~~

~~If I resell any of the securities I am acquiring in this~~

~~offering to a person that is not a Florida resident within 9 months after the closing of the offering, my contract with the issuer for the purchase of these securities is void.~~

~~(j) Require each investor to answer questions demonstrating an understanding of the level of risk generally applicable to investments in startups, emerging businesses, and small issuers, and an understanding of the risk of illiquidity.~~

(f) ~~(k)~~ Take reasonable steps to protect personal information collected from investors, as required by s. 501.171.

(g) ~~(l)~~ Prohibit its directors, ~~and~~ officers, managers, managing members, general partners, employees, and agents from having any financial interest in the issuer using its services.

~~(m) Implement written policies and procedures that are reasonably designed to achieve compliance with federal and state securities laws; comply with the anti-money laundering requirements of 31 C.F.R. chapter X applicable to registered brokers; and comply with the privacy requirements of 17 C.F.R. part 248 relating to brokers.~~

(13) ~~(14)~~ An intermediary not registered as a dealer under s. 517.12(5) may not:

(a) Offer investment advice or recommendations. A refusal by an intermediary to post an offering that it deems not credible or that represents a potential for fraud may not be construed as an offer of investment advice or recommendation.

(b) Solicit purchases, sales, or offers to buy securities offered or displayed on its website.

(c) Compensate employees, agents, or other persons for the solicitation of, or based on the sale of, securities offered or displayed on its website.

(d) Hold, manage, possess, or otherwise handle investor funds or securities.

(e) Compensate promoters, finders, or lead generators for providing the intermediary with the personal identifying information of any prospective ~~potential~~ investor.

(f) Engage in any other activities set forth by commission rule.

(14) If the issuer does not employ a dealer or an intermediary for an offering pursuant to the exemption created under this section, the issuer must fulfill each of the obligations specified in paragraphs (12)(c)-(f).

(15) Any sale made pursuant to the exemption created under this section is voidable by the purchaser within 3 days after the first tender of consideration is made by such purchaser to the issuer by notifying the issuer that the purchaser expressly voids the purchase. The purchaser's notice to the issuer must be sent by e-mail to the issuer's e-mail address set forth in the disclosure statement that is provided to the purchaser or purchaser's representative or by certified mail or overnight delivery service with proof of delivery to the mailing address set forth in the disclosure statement ~~All funds received from investors must be directed to the financial institution designated in the escrow agreement to hold the funds and must be used in accordance with representations made to investors by the intermediary. If an investor cancels a commitment to invest, the intermediary must direct the financial institution designated to hold the funds to promptly refund the funds of the investor~~.

Section 5. Section 517.0612, Florida Statutes, is created to read:

517.0612 Florida Invest Local Exemption.—

(1) This section may be cited as the "Florida Invest Local Exemption."

(2) The registration provisions of s. 517.07 do not apply to a securities transaction conducted in accordance with this section; however, such transaction is subject to s. 517.301.

(3) The offer or sale of securities under this section must meet the requirements of the federal exemption for intrastate offerings in s. 3(a)(11) of the Securities Act of 1933, Securities and Exchange Commission Rule 147, or Securities and Exchange Commission Rule 147A, as amended.

(4) The issuer must be a for-profit business entity registered with the Department of State which has its principal place of business in this state. The issuer may not be, before or as a result of the offering:

(a) An investment company as defined in the Investment Company Act of 1940, as amended;

(b) Subject to the reporting requirements of the Securities and Exchange Act of 1934, as amended;

(c) A business entity that has an undefined business operation, lacks a business plan, lacks a stated investment goal for the funds being raised, or plans to engage in a merger or acquisition with an unspecified business entity; or

(d) Subject to a disqualification as provided in s. 517.0616.

(5) The sum of all cash and other consideration received from all sales of the securities in reliance upon the exemption under this section may not exceed $500,000, less the aggregate amount received for all sales of securities by the issuer within

the 12 months before the first offer or sale made in reliance on this exemption.

(6)(a) The issuer may not accept more than $10,000 from any single purchaser unless any of the following apply:

1. The issuer reasonably believes that the purchaser is an accredited investor.

2. The purchaser is an officer, director, partner, or trustee, or an individual occupying a similar status or performing similar functions, of the issuer.

3. The purchaser is an owner of 10 percent or more of the issuer's outstanding equity.

(b) For purposes of this subsection, the following persons must be treated collectively as a single purchaser:

1. Any spouse or child of the purchaser or any related family member who has the same primary residence as the purchaser.

2. Any business entity of which the purchaser and any person related to the purchaser as provided in subparagraph 1. collectively own more than 50 percent of the equity interest.

(7) The issuer may engage in general advertising and general solicitation of the offering. Any general advertising or other general announcement must state that the offer is limited and open only to residents of this state. Any oral or written statements in advertising or solicitation of the offer which contain a material misstatement, or which fail to disclose material information, are subject to enforcement under this chapter.

(8) A purchaser must receive, at least 3 business days before any binding commitment to purchase or consideration paid,

a disclosure statement that provides material information regarding the issuer, including, but not limited to, all of the following information:

(a) The issuer's name, type of entity, and contact information.

(b) The name and contact information of each director, officer, or other manager of the issuer.

(c) A description of the issuer's business.

(d) A description of the security being offered.

(e) The total amount of the offering.

(f) The intended use of proceeds from the sale of the securities.

(g) The target offering amount.

(h) A statement that if the target offering amount is not obtained in cash or in the value of other tangible consideration received on a date that is no more than 180 days after the commencement of the offering, the offering will be terminated, and any funds or other consideration received from purchasers must be promptly returned.

(i) A statement that the security being offered is not registered under federal or state securities laws and that the securities are subject to the limitation on resale contained in Securities and Exchange Commission Rule 147 or Rule 147A.

(j) The names and addresses of all persons who will be involved in the offer and sale of securities on behalf of the issuer.

(k) The name of the bank or other depository institution into which investor funds will be deposited.

(l) The following statement in boldface, conspicuous type:

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved these securities or determined that this disclosure statement is truthful or complete. Any representation to the contrary is a criminal offense under chapter 517, Florida Statutes.

(9) All funds received from investors must be deposited into a bank or depository institution authorized to do business in this state. The issuer may not withdraw any amount of the offering proceeds unless the target offering amount has been received.

(10) The issuer must file a notice of the offering with the office, in writing or in electronic form, in a format prescribed by commission rule, no less than 5 business days before the offering commences, along with the disclosure statement described in subsection (8). If there are any material changes to the information previously submitted, the issuer, within 3 business days after such material change, must file an amended notice.

(11) An individual, entity, or entity employee who acts as an agent for the issuer in the offer or sale of securities and is not registered as a dealer under this chapter may not do either of the following:

(a) Receive compensation based upon the solicitation of purchases, sales, or offers to purchase the securities.

(b) Take custody of investor funds or securities.

(12) Any sale made pursuant to the exemption created under this section is voidable by the purchaser within 3 days after

the first tender of consideration is made by such purchaser to the issuer by notifying the issuer that the purchaser expressly voids the purchase. The purchaser's notice to the issuer must be sent by e-mail to the issuer's e-mail address set forth in the disclosure statement that is provided to a purchaser or the purchaser's representative or by hand delivery, courier service, or other method by which written proof of delivery to the issuer of the purchaser's election to rescind the purchase is evidenced.

Section 6. Section 517.0613, Florida Statutes, is created to read:

517.0613 Failure to comply with a securities registration exemption.—

(1) Failure to meet the requirements for any exemption from securities registration does not preclude the issuer from claiming the availability of any other applicable state or federal exemption.

(2) The exemptions created under ss. 517.061, 517.0611, and 517.0612 are not available to an issuer for any transaction or series of transactions that, although in technical compliance with the applicable provisions, is part of a plan or scheme to evade the registration provisions of s. 517.07, and registration under s. 517.07 is required in connection with such transactions.

Section 7. Section 517.0614, Florida Statutes, is created to read:

517.0614 Integration of offerings.—

(1) If the safe harbors in subsection (2) do not apply, in determining whether two or more offerings are to be treated as

one for the purpose of registration or qualifying for an exemption from registration under this chapter, offers and sales may not be integrated if, based on the particular facts and circumstances, the issuer can establish either that each offering complies with the registration requirements of this chapter, or that an exemption from registration is available for the particular offering, provided that any transaction or series of transactions that, although in technical compliance with this chapter, is part of a plan or scheme to evade the registration requirements of this chapter will not have the effect of avoiding integration. In making this determination:

(a) For an exempt offering prohibiting general solicitation, the issuer must have a reasonable belief, based on the facts and circumstances, with respect to each purchaser in the exempt offering prohibiting general solicitation, that the issuer or any person acting on the issuer's behalf:

1. Did not solicit such purchaser through the use of general solicitation; or

2. Established a substantive relationship with such purchaser before the commencement of the exempt offering prohibiting general solicitation, provided that a purchaser previously solicited through the use of general solicitation is not deemed to have been solicited through the use of general solicitation in the current offering if, during the 45 calendar days following such previous general solicitation:

a. No offer or sale of the same or similar class of securities has been made by or on behalf of the issuer, including to such purchaser; and

b. The issuer or any person acting on the issuer's behalf

has not solicited such purchaser through the use of general solicitation for any other security.

(b) For two or more concurrent exempt offerings permitting general solicitation, in addition to satisfying the requirements of the particular exemption relied on, general solicitation offering materials for one offering that includes information about the material terms of a concurrent offering under another exemption may constitute an offer of securities in such other offering, and therefore the offer must comply with all the requirements for, and restrictions on, offers under the exemption being relied on for such other offering, including any legend requirements and communications restrictions.

(2) The integration analysis required by subsection (1) is not required if any of the following nonexclusive safe harbors apply:

(a) An offering commenced more than 30 calendar days before the commencement of any other offering, or more than 30 calendar days after the termination or completion of any other offering, may not be integrated with such other offering, provided that for an exempt offering for which general solicitation is not permitted which follows by 30 calendar days or more an offering that allows general solicitation, paragraph (1)(a) applies.

(b) Offers and sales made in compliance with any of the following provisions are not subject to integration with other offerings:

1. Section 517.051 or s. 517.061, except s. 517.061(9), (10), or (11).

2. Section 517.0611 or s. 517.0612.

Section 8. Section 517.0615, Florida Statutes, is created

to read:

517.0615 Solicitations of interest.—

(1) A communication may not be deemed to constitute general solicitation or general advertising if the communication is made in connection with a seminar or meeting in which more than one issuer participates and which is sponsored by a college, a university, or another institution of higher education; a state or local government or an instrumentality thereof; a nonprofit chamber of commerce or other nonprofit organization; or an angel investor group, incubator, or accelerator, if all of the following apply:

(a) Advertising for the seminar or meeting does not reference a specific offering of securities by the issuer.

(b) The sponsor of the seminar or meeting does not do any of the following:

1. Make investment recommendations or provide investment advice to attendees of the seminar or meeting.

2. Engage in any investment negotiations between the issuer and investors attending the seminar or meeting.

3. Charge attendees of the seminar or meeting any fees, other than reasonable administrative fees.

4. Receive any compensation for making introductions between seminar or meeting attendees and issuers or for investment negotiations between such parties.

5. Receive any compensation with respect to the seminar or meeting, which compensation would require registration or notice-filing under this chapter, the Securities Exchange Act of 1934, 15 U.S.C. ss. 78a et seq., as amended, or the Investment Advisers Act of 1940, 15 U.S.C. s. 80b-1 et seq., as amended.

The sponsorship or participation in the seminar or meeting does not by itself require registration or notice-filing under this chapter.

(c) The type of information regarding an offering of securities by the issuer which is communicated or distributed by or on behalf of the issuer in connection with the seminar or meeting is limited to a notification that the issuer is in the process of offering or planning to offer securities, the type and amount of securities being offered, the intended use of proceeds of the offering, and the unsubscribed amount in an offering.

(d) If the event allows attendees to participate virtually, rather than in person, online participation in the event is limited to:

1. Individuals that are members of, or otherwise associated with, the sponsor organization;

2. Individuals that the sponsor reasonably believes are accredited investors; or

3. Individuals that have been invited to the event by the sponsor based on industry or investment-related experience reasonably selected by the sponsor in good faith and disclosed in the public communications about the event.

(2) Before any offers or sales are made in connection with an offering, communications by an issuer or any person authorized to act on behalf of the issuer are not deemed to constitute general solicitation or general advertising if the communication is solely for the purpose of determining whether there is any interest in a contemplated securities offering. Requirements imposed under this chapter on written or oral

statements made in the course of such communication may be enforced as provided in this chapter. The solicitation or acceptance of money or other consideration or of any commitment, binding or otherwise, from any person is prohibited.

(a) The communication must state all of the following:

1. Money or other consideration is not being solicited and, if sent in response, will not be accepted.

2. Any offer to buy the securities will not be accepted, and no part of the purchase price will be accepted.

3. A person's indication of interest does not involve obligation or commitment of any kind.

(b) Any written communication under this subsection may include a means by which a person may indicate to the issuer that the person is interested in a potential offering. The issuer may require the name, address, telephone number, or e-mail address in any response form included in the written communication under this paragraph.

(c) A communication in accordance with this subsection is not subject to s. 501.059, regarding telephone solicitations.

Section 9. Section 517.0616, Florida Statutes, is created to read:

517.0616 Disqualification.—A registration exemption under s. 517.061(9), (10), and (11), s. 517.0611, or s. 517.0612 is not available to an issuer that would be disqualified under Securities and Exchange Commission Rule 506(d), 17 C.F.R. s. 230.506(d), as amended, at the time the issuer makes an offer for the sale of a security.

Section 10. Present subsections (4) through (8) of section 517.081, Florida Statutes, are redesignated as subsections (6)

through (10), respectively, new subsections (4) and (5) are added to that section, and subsection (2), paragraph (g) of subsection (3), and present subsection (7) of that section are amended, to read:

517.081 Registration procedure.—

(2) The office shall receive and act upon applications for the registration of ~~to have~~ securities ~~registered, and the commission may prescribe forms on which it may require such applications to be submitted~~. Applications must ~~shall~~ be duly signed by the applicant, sworn to by any person having knowledge of the facts, and filed with the office. ~~The commission may establish, by rule, procedures for depositing fees and filing documents by electronic means provided such procedures provide the office with the information and data required by this section.~~ An application may be made either by the issuer of the securities for which registration is applied or by any registered dealer desiring to sell such securities ~~the same~~ within the state.

(3) The office may require the applicant to submit to the office the following information concerning the issuer and such other relevant information as the office may in its judgment deem necessary to enable it to ascertain whether such securities shall be registered pursuant to the provisions of this section:

(g)~~1.~~ A specimen copy of the securities certificate, if applicable, and a copy of any circular, prospectus, advertisement, or other description of such securities.

~~2. The commission shall adopt a form for a simplified offering circular to register, under this section, securities that are sold in offerings in which the aggregate offering price~~

~~in any consecutive 12-month period does not exceed the amount provided in s. 3(b) of the Securities Act of 1933, as amended. The following issuers shall not be eligible to submit a simplified offering circular adopted pursuant to this subparagraph:~~

~~a. An issuer seeking to register securities for resale by persons other than the issuer.~~

~~b. An issuer that is subject to any of the disqualifications described in 17 C.F.R. s. 230.262, adopted pursuant to the Securities Act of 1933, as amended, or that has been or is engaged or is about to engage in an activity that would be grounds for denial, revocation, or suspension under s. 517.111. For purposes of this subparagraph, an issuer includes an issuer's director, officer, general partner, manager or managing member, trustee, or equity owner who owns at least 10 percent of the ownership interests of the issuer, promoter, or selling agent of the securities to be offered or any officer, director, partner, or manager or managing member of such selling agent.~~

~~c. An issuer that is a development-stage company that either has no specific business plan or purpose or has indicated that its business plan is to merge with an unidentified company or companies.~~

~~d. An issuer of offerings in which the specific business or properties cannot be described.~~

~~e. Any issuer the office determines is ineligible because the form does not provide full and fair disclosure of material information for the type of offering to be registered by the issuer.~~

~~f. Any issuer that has failed to provide the office the reports required for a previous offering registered pursuant to this subparagraph.~~

~~As a condition precedent to qualifying for use of the simplified offering circular, an issuer shall agree to provide the office with an annual financial report containing a balance sheet as of the end of the issuer's fiscal year and a statement of income for such year, prepared in accordance with United States generally accepted accounting principles and accompanied by an independent accountant's report. If the issuer has more than 100 security holders at the end of a fiscal year, the financial statements must be audited. Annual financial reports must be filed with the office within 90 days after the close of the issuer's fiscal year for each of the first 5 years following the effective date of the registration.~~

(4) The commission may, by rule:

(a) Establish criteria relating to the issuance of equity securities, debt securities, insurance company securities, real estate investment trusts, oil and gas investments, and other investments. In establishing these criteria, the commission may consider the rules and regulations of the Securities and Exchange Commission and statements of policy by the North American Securities Administrators Association, Inc., relating to the registration of securities offerings. The criteria must include all of the following:

1. The promoter's equity investment ratio.

2. The financial condition of the issuer.

3. The voting rights of shareholders.

4. The grant of options or warrants to underwriters and others.

5. Loans and other transactions with affiliates of the issuer.

6. The use, escrow, or refund of proceeds of the offering.

(b) Prescribe forms requiring applications for the registration of securities to be submitted to the office, including a simplified offering circular to register, under this section, securities that are sold in offerings in which the aggregate offering price in any consecutive 12-month period does not exceed the amount provided in s. 3(b) of the Securities Act of 1933, as amended.

(c) Establish procedures for depositing fees and filing documents by electronic means, provided that such procedures provide the office with the information and data required by this section.

(d) Establish requirements and standards for the filing, content, and circulation of a preliminary, final, or amended prospectus, advertisements, and other sales literature. In establishing such requirements and standards, the commission shall consider the rules and regulations of the Securities and Exchange Commission relating to requirements for preliminary, final, or amended or supplemented prospectuses and the rules of the Financial Industry Regulatory Authority relating to advertisements and sales literature.

(5) All of the following issuers are not eligible to submit a simplified offering circular:

(a) An issuer that is subject to any of the disqualifications described in Securities and Exchange

Commission Rule 262, 17 C.F.R. s. 230.262, as amended, or that has been or is engaged or is about to engage in an activity that would be grounds for denial, revocation, or suspension under s. 517.111. For purposes of this paragraph, an issuer includes an issuer's director, officer, general partner, manager or managing member, trustee, or equity owner, who owns at least 10 percent of the ownership interests of the issuer; a promoter or selling agent of the securities to be offered; or any officer, director, partner, or manager or managing member of such selling agent.

(b) An issuer that is a development-stage company that either has no specific business plan or purpose or has indicated that its business plan is to merge with an unidentified business entity or entities.

(c) An issuer of offerings in which the specific business or properties cannot be described.

(d) An issuer that the office determines is ineligible because the simplified circular does not provide full and fair disclosure of material information for the type of offering to be registered by the issuer.

(9)(a) ~~(7)~~ The office shall record the registration of a security in the register of securities if, upon examination of an ~~any~~ application, it finds that all of the following requirements are met: ~~the office~~

1. The application is complete.

2. The fee imposed in subsection (8) has been paid.

3. The sale of the security would not be fraudulent and would not work or tend to work a fraud upon the purchaser.

4. The terms of the sale of such securities would be fair, just, and equitable.

5. The enterprise or business of the issuer is not based upon unsound business principles.

(b) Upon registration, the security may be sold by the issuer or any registered dealer, subject, however, to the further order of the office ~~shall find that the sale of the security referred to therein would not be fraudulent and would not work or tend to work a fraud upon the purchaser, that the terms of the sale of such securities would be fair, just, and equitable, and that the enterprise or business of the issuer is not based upon unsound business principles, it shall record the registration of such security in the register of securities; and thereupon such security so registered may be sold by any registered dealer, subject, however, to the further order of the office. In order to determine if an offering is fair, just, and equitable, the commission may by rule establish requirements and standards for the filing, content, and circulation of any preliminary, final, or amended prospectus and other sales literature and may by rule establish merit qualification criteria relating to the issuance of equity securities, debt securities, insurance company securities, real estate investment trusts, and other traditional and nontraditional investments, including, but not limited to, oil and gas investments. The criteria may include such elements as the promoter's equity investment ratio, the financial condition of the issuer, the voting rights of shareholders, the grant of options or warrants to underwriters and others, loans and other affiliated transaction, the use or refund of proceeds of the offering, and such other relevant criteria as the office in its judgment may deem necessary to such determination~~.

Section 11. Subsection (2) of section 517.101, Florida Statutes, is amended to read:

517.101 Consent to service.—

(2) Any such action must ~~shall~~ be brought either in the county of the plaintiff's residence or in the county in which the office has its official headquarters. The written consent must ~~shall~~ be authenticated by the seal of the ~~said~~ issuer, if it has a seal, and by the acknowledged signature of a director, manager, managing member, general partner, trustee, or officer of the issuer ~~member of the copartnership or company, or by the acknowledged signature of any officer of the incorporated or unincorporated association, if it be an incorporated or unincorporated association, duly authorized by resolution of the board of directors, trustees, or managers of the corporation or association,~~ and must ~~shall in such case~~ be accompanied by a duly certified copy of the resolution of the issuer's board of directors, trustees, managers, managing members, or general partners ~~or managers of the corporation or association,~~ authorizing the signer to execute the consent ~~officers to execute the same~~. In case any process or pleadings mentioned in this chapter are served upon the office, service must ~~it shall~~ be by duplicate copies, one of which must ~~shall~~ be filed in the office and the other ~~another~~ immediately forwarded by the office by registered mail to the principal office of the issuer against which the ~~said~~ process or pleadings are directed.

Section 12. Section 517.131, Florida Statutes, is amended to read:

517.131 Securities Guaranty Fund.—

(1) As used in this section, the term "final judgment"

includes an arbitration award confirmed by a court of competent jurisdiction.

(2)(a) The Chief Financial Officer shall establish a Securities Guaranty Fund to provide monetary relief to victims of securities violations under this chapter who are entitled to monetary damages or restitution and cannot recover the full amount of such monetary damages or restitution from the wrongdoer. An amount not exceeding 20 percent of all revenues received as assessment fees pursuant to s. 517.12(9) and (10) for dealers and investment advisers or s. 517.1201 for federal covered advisers and an amount not exceeding 10 percent of all revenues received as assessment fees pursuant to s. 517.12(9) and (10) for associated persons must ~~shall~~ be part of the regular registration ~~license~~ fee and must ~~shall~~ be transferred to or deposited in the Securities Guaranty Fund.

(b) If the balance in the Securities Guaranty Fund at any time exceeds $1.5 million, transfer of assessment fees to the ~~this~~ fund must ~~shall~~ be discontinued at the end of that registration ~~license~~ year, and transfer of such assessment fees may ~~shall~~ not resume ~~be resumed~~ unless the fund balance is reduced below $1 million by disbursement made in accordance with s. 517.141.

~~(2) The Securities Guaranty Fund shall be disbursed as provided in s. 517.141 to a person who is adjudged by a court of competent jurisdiction to have suffered monetary damages as a result of any of the following acts committed by a dealer, investment adviser, or associated person who was licensed under this chapter at the time the act was committed:~~

~~(a) A violation of s. 517.07.~~

~~(b) A violation of s. 517.301.~~

(3) A ~~Any~~ person is eligible for payment ~~to seek recovery~~ from the Securities Guaranty Fund if the person:

(a)1. Holds an unsatisfied final judgment in which a wrongdoer was found to have violated s. 517.07 or s. 517.301;

2. Has applied any amount recovered from the judgment debtor or any other source to the damages awarded by the court or arbitrator; and

3. Is a natural person who was a resident of this state, or is a business entity that was domiciled in this state, at the time of the violation of s. 517.07 or s. 517.301; or

(b) Is a receiver appointed pursuant to s. 517.191(2) by a court of competent jurisdiction for a wrongdoer ordered to pay restitution under s. 517.191(3) as a result of a violation of s. 517.07 or s. 517.301 which has requested payment from the Securities Guaranty Fund on behalf of a person eligible for payment under paragraph (a)

~~(a) Such person has received final judgment in a court of competent jurisdiction in any action wherein the cause of action was based on a violation of those sections referred to in subsection (2).~~

~~(b) Such person has made all reasonable searches and inquiries to ascertain whether the judgment debtor possesses real or personal property or other assets subject to being sold or applied in satisfaction of the judgment, and by her or his search the person has discovered no property or assets; or she or he has discovered property and assets and has taken all necessary action and proceedings for the application thereof to the judgment, but the amount thereby realized was insufficient~~

~~to satisfy the judgment. To verify compliance with such condition, the office may require such person to have a writ of execution be issued upon such judgment, may require a showing that no personal or real property of the judgment debtor liable to be levied upon in complete satisfaction of the judgment can be found, or may require an affidavit from the claimant setting forth the reasonable searches and inquiries undertaken and the result of those searches and inquiries.~~

~~(c) Such person has applied any amounts recovered from the judgment debtor, or from any other source, to the damages awarded by the court.~~

~~(d) The act for which recovery is sought occurred on or after January 1, 1979.~~

~~(c) The office waives compliance with the requirements of paragraph (a) or paragraph (b). The office may waive such compliance if the dealer, investment adviser, or associated person which is the subject of the claim filed with the office is the subject of any proceeding in which a receiver has been appointed by a court of competent jurisdiction. If the office waives such compliance, the office may, upon petition by the debtor or the court-appointed trustee, examiner, or receiver, distribute funds from the Securities Guaranty Fund up to the amount allowed under s. 517.141. Any waiver granted pursuant to this section shall be considered a judgment for purposes of complying with the requirements of this section and of s. 517.141~~.

(4) A person who has done any of the following is not eligible for payment from the Securities Guaranty Fund:

(a) Participated or assisted in a violation of this

chapter.

(b) Attempted to commit or committed a violation of this chapter.

(c) Profited from a violation of this chapter.

(5) An eligible person, or a receiver on behalf of the eligible person, seeking payment from the Securities Guaranty Fund must file with the office a written application on a form that the commission may prescribe by rule. The commission may adopt by rule procedures for filing documents by electronic means, provided that such procedures provide the office with the information and data required by this section. The application must be filed with the office within 1 year after the date of the final judgment, the date on which a restitution order has been ripe for execution, or the date of any appellate decision thereon, and, at minimum, must contain all of the following information:

(a) The eligible person's and, if applicable, the receiver's full name, address, and contact information.

(b) The person ordered to pay restitution.

(c) If the eligible person is a business entity, the eligible person's type and place of organization and, as applicable, a copy, as amended, of its articles of incorporation, articles of organization, trust agreement, or partnership agreement.

(d) Any final judgment and a copy thereof.

(e) Any restitution ordered pursuant to s. 517.191(3), and a copy thereof.

(f) An affidavit from the eligible person stating either one of the following:

1. That the eligible person has made all reasonable searches and inquiries to ascertain whether the judgment debtor possesses real or personal property or other assets subject to being sold or applied in satisfaction of the final judgment and, by the eligible person's search, that the eligible person has not discovered any property or assets.

2. That the eligible person has taken necessary action on the property and assets of the wrongdoers but the final judgment remains unsatisfied.

(g) If the application is filed by the receiver, an affidavit from the receiver stating the amount of restitution owed to the eligible person on whose behalf the claim is filed; the amount of any money, property, or assets paid to the eligible person on whose behalf the claim is filed by the person over whom the receiver is appointed; and the amount of any unsatisfied portion of any eligible person's order of restitution.

(h) The eligible person's residence or domicile at the time of the violation of s. 517.07 or s. 517.301 which resulted in the eligible person's monetary damages.

(i) The amount of any unsatisfied portion of the eligible person's final judgment.

(j) Whether an appeal or motion to vacate an arbitration award has been filed.

(6) If the office finds that a person is eligible for payment from the Securities Guaranty Fund and if the person has complied with this section and the rules adopted under this section, the office must approve payment to such person from the fund. Within 90 days after the office's receipt of a complete

application, each eligible person or receiver must be given written notice, personally or by mail, that the office intends to approve or deny, or has approved or denied, the application for payment from the Securities Guaranty Fund.

(7) Upon receipt by the eligible person or receiver of notice of the office's decision that the eligible person's or receiver's application for payment from the Securities Guaranty Fund is approved, and before any disbursement, the eligible person shall assign to the office on a form prescribed by commission rule all right, title, and interest in the final judgment or order of restitution equal to the amount of such payment.

(8) The office shall deem an application for payment from the Securities Guaranty Fund abandoned if the eligible person or receiver, or any person acting on behalf of the eligible person or receiver, fails to timely complete the application as prescribed by commission rule. The time period to complete an application must be tolled during the pendency of an appeal or motion to vacate an arbitration award.

~~(4) Any person who files an action that may result in the disbursement of funds from the Securities Guaranty Fund pursuant to the provisions of s. 517.141 shall give written notice by certified mail to the office as soon as practicable after such action has been filed. The failure to give such notice shall not bar a payment from the Securities Guaranty Fund if all of the conditions specified in subsection (3) are satisfied.~~

~~(5) The commission may adopt rules pursuant to ss. 120.536(1) and 120.54 specifying the procedures for complying with subsections (2), (3), and (4), including rules for the form~~

~~of submission and guidelines for the sufficiency and content of submissions of notices and claims.~~

Section 13. Section 517.141, Florida Statutes, is amended to read:

517.141 Payment from the fund.—

(1) As used in this section, the term:

(a) "Claimant" means a person determined eligible for payment under s. 517.131 that is approved by the office for payment from the Securities Guaranty Fund.

(b) "Final judgment" includes an arbitration award confirmed by a court of competent jurisdiction.

(c) "Specified adult" has the same meaning as in s. 517.34(1).

(2) A claimant is entitled to disbursement from the Securities Guaranty Fund in the amount equal to the lesser of:

(a) The unsatisfied portion of the claimant's final judgment or final order of restitution, but only to the extent that the final judgment or final order of restitution reflects actual or compensatory damages, excluding postjudgment interest, costs, and attorney fees; or

(b)1. The sum of $15,000; or

2. If the claimant is a specified adult or if a specified adult is a beneficial owner or beneficiary of the claimant, the sum of $25,000 ~~Any person who meets all of the conditions prescribed in s. 517.131 may apply to the office for payment to be made to such person from the Securities Guaranty Fund in the amount equal to the unsatisfied portion of such person's judgment or $10,000, whichever is less, but only to the extent and amount reflected in the judgment as being actual or~~

~~compensatory damages, excluding postjudgment interest, costs, and attorney's fees~~.

(3)~~(2)~~ Regardless of the number of claims or claimants involved, payments for claims are ~~shall be~~ limited in the aggregate to $250,000 ~~$100,000~~ against any one ~~dealer, investment adviser, or associated~~ person. If the total claim filed by a receiver on behalf of multiple claimants exceeds ~~claims exceed~~ the aggregate limit of $250,000 ~~$100,000~~, the office must ~~shall~~ prorate the payment to each claimant based upon the ratio that each claimant's individual ~~the person's~~ claim bears to the total claim ~~claims~~ filed.

(4) If at any time the moneys in the Securities Guaranty Fund are insufficient to satisfy a valid claim or portion of a valid claim approved by the office, the office must satisfy the unpaid claim or portion of the valid claim as soon as a sufficient amount of money has been deposited into or transferred to the Securities Guaranty Fund. If more than one unsatisfied claim is outstanding, the claims must be paid in the sequence in which the claims were approved by final order of the office, which final order is not subject to an appeal or other pending proceeding.

(5) All payments and disbursements made from the Securities Guaranty Fund must be made by the Chief Financial Officer, or his or her designee, upon authorization by the office. The office shall submit such authorization within 30 days after the approval of an eligible person for payment from the Securities Guaranty Fund

~~(3) No payment shall be made on any claim against any one dealer, investment adviser, or associated person before the~~

~~expiration of 2 years from the date any claimant is found by the office to be eligible for recovery pursuant to this section. If during this 2-year period more than one claim is filed against the same dealer, investment adviser, or associated person, or if the office receives notice pursuant to s. 517.131(4) that an action against the same dealer, investment adviser, or associated person is pending, all such claims and notices of pending claims received during this period against the same dealer, investment adviser, or associated person may be handled by the office as provided in this section. Two years after the first claimant against that same dealer, investment adviser, or associated person applies for payment pursuant to this section:~~

~~(a) The office shall determine those persons eligible for payment or for potential payment in the event of a pending action. All such persons may be entitled to receive their pro rata shares of the fund as provided in this section.~~

~~(b) Those persons who meet all the conditions prescribed in s. 517.131 and who have applied for payment pursuant to this section will be entitled to receive their pro rata shares of the total disbursement.~~

~~(c) Those persons who have filed notice with the office of a pending claim pursuant to s. 517.131(4) but who are not yet eligible for payment from the fund will be entitled to receive their pro rata shares of the total disbursement once they have complied with subsection (1). However, in the event that the amounts they are eligible to receive pursuant to subsection (1) are less than their pro rata shares as determined under this section, any excess shall be distributed pro rata to those persons entitled to disbursement under this subsection whose pro~~

~~rata shares of the total disbursement were less than the amounts of their claims~~.

(6)~~(4)~~ Individual claims filed by persons owning the same joint account, or claims arising ~~stemming~~ from any other type of account ~~maintained by a particular licensee~~ on which more than one name appears, must ~~shall~~ be treated as the claims of one eligible claimant with respect to payment from the Securities Guaranty Fund. If a claimant who has obtained a final judgment or final order of restitution that ~~which~~ qualifies for disbursement under s. 517.131 has maintained more than one account with the ~~dealer, investment adviser, or associated~~ person who is the subject of the claims, for purposes of disbursement of the Securities Guaranty Fund, all such accounts, whether joint or individual, must ~~shall~~ be considered as one account and ~~shall~~ entitle such claimant to only one distribution from the fund ~~not to exceed the lesser of $10,000 or the unsatisfied portion of such claimant's judgment as provided in subsection (1)~~. To the extent that a claimant obtains more than one final judgment or final order of restitution against a person ~~dealer, investment adviser, or one or more associated persons~~ arising out of the same transactions, occurrences, or conduct or out of such ~~the dealer's, investment adviser's, or associated~~ person's handling of the claimant's account, the final ~~such~~ judgments or final orders of restitution must ~~shall~~ be consolidated for purposes of this section and ~~shall~~ entitle the claimant to only one disbursement from the fund ~~not to exceed the lesser of $10,000 or the unsatisfied portion of such claimant's judgment as provided in subsection (1)~~.

(7)~~(5)~~ If the final judgment or final order of restitution

that gave rise to the claim is overturned in any appeal or in any collateral proceeding, the claimant must ~~shall~~ reimburse the Securities Guaranty Fund all amounts paid from the fund to the claimant on the claim. If the claimant satisfies the final judgment or final order of restitution ~~specified in s. 517.131(3)(a)~~, the claimant must ~~shall~~ reimburse the Securities Guaranty Fund all amounts paid from the fund to the claimant on the claim. Such reimbursement must ~~shall~~ be paid to the Department of Financial Services ~~office~~ within 60 days after the final resolution of the appellate or collateral proceedings or the satisfaction of the final judgment or order of restitution, with the 60-day period commencing on the date the final order or decision is entered in such proceedings.

(8) ~~(6)~~ If a claimant receives payments in excess of that which is permitted under this chapter, the claimant must ~~shall~~ reimburse the Securities Guaranty Fund such excess within 60 days after the claimant receives such excess payment or after the payment is determined to be in excess of that permitted by law, whichever is later.

(9) A claimant who knowingly and willfully files or causes to be filed an application under s. 517.131 or documents supporting the application, any of which contain false, incomplete, or misleading information in any material aspect, forfeits all payments from the Securities Guaranty Fund and commits a violation of s. 517.301(1)(c).

(10) ~~(7)~~ The Department of Financial Services ~~office~~ may institute legal proceedings to enforce compliance with this section and with s. 517.131 to recover moneys owed to the Securities Guaranty Fund, and is ~~shall be~~ entitled to recover

interest, costs, and attorney ~~attorney's~~ fees in any action brought pursuant to this section in which the department ~~office~~ prevails.

~~(8) If at any time the money in the Securities Guaranty Fund is insufficient to satisfy any valid claim or portion of a valid claim approved by the office, the office shall satisfy such unpaid claim or portion of such valid claim as soon as a sufficient amount of money has been deposited in or transferred to the fund. When there is more than one unsatisfied claim outstanding, such claims shall be paid in the order in which the claims were approved by final order of the office, which order is not subject to an appeal or other pending proceeding.~~

~~(9) Upon receipt by the claimant of the payment from the Securities Guaranty Fund, the claimant shall assign any additional right, title, and interest in the judgment, to the extent of such payment, to the office. If the provisions of s. 517.131(3)(c) apply, the claimant must assign to the office any right, title, and interest in the debt to the extent of any payment by the office from the Securities Guaranty Fund.~~

~~(10) All payments and disbursements made from the Securities Guaranty Fund shall be made by the Chief Financial Officer upon authorization signed by the director of the office, or such agent as she or he may designate.~~

Section 14. Section 517.191, Florida Statutes, is amended to read:

517.191 Enforcement by the Office of Financial Regulation ~~Injunction to restrain violations; civil penalties~~; enforcement by Attorney General.—

(1) When it appears to the office, either upon complaint or

otherwise, that a person has engaged or is about to engage in any act or practice constituting a violation of this chapter or a rule or order hereunder, the office may investigate; and whenever it shall believe from evidence satisfactory to it that any such person has engaged, is engaged, or is about to engage in any act or practice constituting a violation of this chapter or a rule or order hereunder, the office may, in addition to any other remedies, bring action in the name and on behalf of the state against such person and any other person concerned in or in any way participating in or about to participate in such practices or engaging therein or doing any act or acts in furtherance thereof or in violation of this chapter to enjoin such person or persons from continuing such fraudulent practices or engaging therein or doing any act or acts in furtherance thereof or in violation of this chapter. In any such court proceedings, the office may apply for, and on due showing be entitled to have issued, the court's subpoena requiring forthwith the appearance of any defendant and her or his employees, associated persons, or agents and the production of documents, books, and records that may appear necessary for the hearing of such petition, to testify or give evidence concerning the acts or conduct or things complained of in such application for injunction. In such action, the ~~equity~~ courts shall have jurisdiction of the subject matter, and a judgment may be entered awarding such injunction as may be proper.

(2) In addition to all other means provided by law for the enforcement of any temporary restraining order, temporary injunction, or permanent injunction issued in any such court proceedings, the court shall have the power and jurisdiction,

upon application of the office, to impound and to appoint a receiver or administrator for the property, assets, and business of the defendant, including, but not limited to, the books, records, documents, and papers appertaining thereto. Such receiver or administrator, when appointed and qualified, shall have all powers and duties as to custody, collection, administration, winding up, and liquidation of such ~~said~~ property and business as may ~~shall from time to time~~ be conferred upon her or him by the court. In any such action, the court may issue orders and decrees staying all pending suits and enjoining any further suits affecting the receiver's or administrator's custody or possession of such ~~the said~~ property, assets, and business or, in its discretion, may with the consent of the presiding judge of the circuit require that all such suits be assigned to the circuit court judge appointing such ~~the said~~ receiver or administrator.

(3) In addition to, or in lieu of, any other remedies provided by this chapter, the office may apply to the court hearing the ~~this~~ matter for an order directing the defendant to make restitution of those sums shown by the office to have been obtained in violation of ~~any of the provisions of~~ this chapter. The office has standing to request such restitution on behalf of victims in cases brought by the office under this chapter, regardless of the appointment of an administrator or receiver under subsection (2) or an injunction under subsection (1). Further, such restitution must ~~shall~~, at the option of the court, be payable to the administrator or receiver appointed pursuant to this section or directly to the persons whose assets were obtained in violation of this chapter.

(4) In addition to any other remedies provided by this chapter, the office may apply to the court hearing the matter for, and the court has ~~shall have~~ jurisdiction to impose, a civil penalty against any person found to have violated ~~any provision of~~ this chapter, any rule or order adopted by the commission or the office, or any written agreement entered into with the office in an amount not to exceed any of the following:

(a) The greater of $20,000 ~~$10,000~~ for a natural person or $25,000 for a business entity ~~any other person~~, or the gross amount of any pecuniary loss to investors or pecuniary gain to a natural person or business entity ~~such defendant~~ for each such violation, other than a violation of s. 517.301, plus the greater of $50,000 for a natural person or $250,000 for a business entity ~~any other person~~, or the gross amount of any pecuniary loss to investors or pecuniary gain to a natural person or business entity ~~such defendant~~ for each violation of s. 517.301.

(b) Twice the amount of the civil penalty that would otherwise be imposed under this subsection if a specified adult, as defined in s. 517.34(1), is the victim of a violation of this chapter.

All civil penalties collected pursuant to this subsection must ~~shall~~ be deposited into the Anti-Fraud Trust Fund. The office may recover any costs and attorney fees related to its investigation or enforcement of this section. Notwithstanding any other law, such moneys recovered by the office must be deposited into the Anti-Fraud Trust Fund.

(5) For purposes of any action brought by the office under

this section, a control person who controls any person found to have violated this chapter or any rule adopted thereunder is jointly and severally liable with, and to the same extent as, the controlled person in any action brought by the office under this section unless the control person can establish by a preponderance of the evidence that he or she acted in good faith and did not directly or indirectly induce the act that constitutes the violation or cause of action.

(6) For purposes of any action brought by the office under this section, a person who knowingly or recklessly provides substantial assistance to another person in violation of this chapter or any rule adopted thereunder is deemed to violate this chapter or the rule to the same extent as the person to whom such assistance is provided.

(7) The office may issue and serve upon a person a cease and desist order if the office has reason to believe that the person violates, has violated, or is about to violate this chapter, any commission or office rule or order, or any written agreement entered into with the office.

(8) If the office finds that any conduct described in subsection (7) presents an immediate danger to the public, requiring an immediate final order, the office may issue an emergency cease and desist order reciting with particularity the facts underlying such findings. The emergency cease and desist order is effective immediately upon service of a copy of the order on the respondent named in the order and remains effective for 90 days after issuance. If the office begins nonemergency cease and desist proceedings under subsection (7), the emergency cease and desist order remains effective until the conclusion of

the proceedings under ss. 120.569 and 120.57.

(9) The office may impose and collect an administrative fine against any person found to have violated any provision of this chapter, any rule or order adopted by the commission or office, or any written agreement entered into with the office in an amount not to exceed the penalties provided in subsection (4). All fines collected under this subsection must be deposited into the Anti-Fraud Trust Fund.

(10) The office may bar, permanently or for a specific period of time, any person found to have violated this chapter, any rule or order adopted by the commission or office, or any written agreement entered into with the office from submitting an application or notification for a license or registration with the office.

(11) In addition to all other means provided by law for enforcing ~~any of the provisions of~~ this chapter, when the Attorney General, upon complaint or otherwise, has reason to believe that a person has engaged or is engaged in any act or practice constituting a violation of s. 517.275 or~~,~~ s. 517.301, ~~s. 517.311, or s. 517.312,~~ or any rule or order issued under such sections, the Attorney General may investigate and bring an action to enforce these provisions as provided in ss. 517.171, 517.201, and 517.2015 after receiving written approval from the office. Such an action may be brought against such person and any other person in any way participating in such act or practice or engaging in such act or practice or doing any act in furtherance of such act or practice, to obtain injunctive relief, restitution, civil penalties, and any remedies provided for in this section. The Attorney General may recover any costs

and attorney fees related to the Attorney General's investigation or enforcement of this section. Notwithstanding any other provision of law, moneys recovered by the Attorney General for costs, attorney fees, and civil penalties for a violation of s. 517.275 or~~,~~ s. 517.301, ~~s. 517.311, or s. 517.312,~~ or any rule or order issued pursuant to such sections, must ~~shall~~ be deposited in the Legal Affairs Revolving Trust Fund. The Legal Affairs Revolving Trust Fund may be used to investigate and enforce this section.

(12)~~(6)~~ This section does not limit the authority of the office to bring an administrative action against any person that is the subject of a civil action brought pursuant to this section or limit the authority of the office to engage in investigations or enforcement actions with the Attorney General. However, a person may not be subject to both a civil penalty under subsection (4) and an administrative fine under subsection (9) ~~s. 517.221(3)~~ as the result of the same facts.

(13)~~(7)~~ Notwithstanding s. 95.11(4)(f), an enforcement action brought under this section based on a violation of ~~any provision of~~ this chapter or any rule or order issued under this chapter shall be brought within 6 years after the facts giving rise to the cause of action were discovered or should have been discovered with the exercise of due diligence, but not more than 8 years after the date such violation occurred.

(14) This chapter does not limit any statutory right of the state to punish a person for a violation of a law.

(15) When not in conflict with the Constitution or laws of the United States, the courts of this state have the same jurisdiction over civil suits instituted in connection with the

sale or offer of sale of securities under any laws of the United States as the courts of this state may have with regard to similar cases instituted under the laws of this state.

Section 15. Section 517.211, Florida Statutes, is amended to read:

517.211 Private remedies available in cases of unlawful sale.—

(1) Every sale made in violation of either s. 517.07 or s. 517.12(1), (3), (4), (8), (10), (12), (15), or (17) may be rescinded at the election of the purchaser; however, ~~except~~ a sale made in violation of the provisions of s. 517.1202(3) relating to a renewal of a branch office notification or ~~shall not be subject to this section, and a sale made~~ in violation of the provisions of s. 517.12(12) relating to filing a change of address amendment is ~~shall~~ not ~~be~~ subject to this section. Each person making the sale and every director, officer, partner, or agent of or for the seller, if the director, officer, partner, or agent has personally participated or aided in making the sale, is jointly and severally liable to the purchaser in an action for rescission, if the purchaser still owns the security, or for damages, if the purchaser has sold the security. No purchaser otherwise entitled will have the benefit of this subsection who has refused or failed, within 30 days after ~~of~~ receipt, to accept an offer made in writing by the seller, if the purchaser has not sold the security, to take back the security in question and to refund the full amount paid by the purchaser or, if the purchaser has sold the security, to pay the purchaser an amount equal to the difference between the amount paid for the security and the amount received by the purchaser

on the sale of the security, together, in either case, with interest on the full amount paid for the security by the purchaser at the legal rate, pursuant to s. 55.03, for the period from the date of payment by the purchaser to the date of repayment, less the amount of any income received by the purchaser on the security.

(2) Any person purchasing or selling a security in violation of s. 517.301, and every director, officer, partner, or agent of or for the purchaser or seller, if the director, officer, partner, or agent has personally participated or aided in making the sale or purchase, is jointly and severally liable to the person selling the security to or purchasing the security from such person in an action for rescission, if the plaintiff still owns the security, or for damages, if the plaintiff has sold the security.

(3) For purposes of any action brought under this section, a control person who controls any person found to have violated any provision specified in subsection (1) is jointly and severally liable with, and to the same extent as, such controlled person in any action brought under this section unless the control person can establish by a preponderance of the evidence that he or she acted in good faith and did not directly or indirectly induce the act that constitutes the violation or cause of action.

(4) In an action for rescission:

(a) A purchaser may recover the consideration paid for the security or investment, plus interest thereon at the legal rate from the date of purchase, less the amount of any income received by the purchaser on the security or investment upon

tender of the security or investment.

(b) A seller may recover the security upon tender of the consideration paid for the security, plus interest at the legal rate from the date of purchase, less the amount of any income received by the defendant on the security.

(5)~~(4)~~ In an action for damages brought by a purchaser of a security or investment, the plaintiff must ~~shall~~ recover an amount equal to the difference between:

(a) The consideration paid for the security or investment, plus interest thereon at the legal rate from the date of purchase; and

(b) The value of the security or investment at the time it was disposed of by the plaintiff, plus the amount of any income received on the security or investment by the plaintiff.

(6)~~(5)~~ In an action for damages brought by a seller of a security, the plaintiff shall recover an amount equal to the difference between:

(a) The value of the security at the time of the complaint, plus the amount of any income received by the defendant on the security; and

(b) The consideration received for the security, plus interest at the legal rate from the date of sale.

(7)~~(6)~~ In any action brought under this section, including an appeal, the court shall award reasonable attorney ~~attorneys'~~ fees to the prevailing party unless the court finds that the award of such fees would be unjust.

(8) This chapter does not limit any statutory or common-law right of a person to bring an action in a court for an act involved in the sale of securities or investments.

(9) The same civil remedies provided by the laws of the United States for the purchasers or sellers of securities in interstate commerce also extend to purchasers or sellers of securities under this chapter.

Section 16. Section 517.221, Florida Statutes, is repealed.

Section 17. Section 517.241, Florida Statutes, is repealed.

Section 18. Section 517.301, Florida Statutes, is amended to read:

517.301 Fraudulent transactions; falsification or concealment of facts.—

(1) It is unlawful and a violation of ~~the provisions of~~ this chapter for a person:

(a) In connection with the rendering of any investment advice or in connection with the offer, sale, or purchase of any investment or security, including any security exempted under ~~the provisions of~~ s. 517.051 and including any security sold in a transaction exempted under ~~the provisions of~~ s. 517.061, s. 517.0611, or s. 517.0612, directly or indirectly:

1. To employ any device, scheme, or artifice to defraud;

2. To obtain money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or

3. To engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon a person.

(b) By use of any means, to publish, give publicity to, or circulate any notice, circular, advertisement, newspaper,

article, letter, investment service, communication, or broadcast that, although ~~which, though~~ not purporting to offer a security for sale, describes such security for a consideration received or to be received directly or indirectly from an issuer, underwriter, or dealer, or from an agent or employee of an issuer, underwriter, or dealer, without fully disclosing the receipt, whether past or prospective, of such consideration and the amount of the consideration.

(c) In any matter within the jurisdiction of the office, to knowingly and willfully falsify, conceal, or cover up, by any trick, scheme, or device, a material fact, make any false, fictitious, or fraudulent statement or representation, or make or use any false writing or document, knowing the same to contain any false, fictitious, or fraudulent statement or entry.

(2) For purposes of ~~ss. 517.311 and 517.312 and~~ this section, the term "investment" means any commitment of money or property principally induced by a representation that an economic benefit may be derived from such commitment, except that the term does not include a commitment of money or property for:

(a) The purchase of a business opportunity, business enterprise, or real property through a person licensed under chapter 475 or registered under former chapter 498; or

(b) The purchase of tangible personal property through a person not engaged in telephone solicitation, electronic mail, text messages, social media, or other electronic means where ~~said property is offered and sold in accordance with the following conditions:~~

~~1.~~ there are no specific representations or guarantees made

by the offeror or seller as to the economic benefit to be derived from the purchase.~~;~~

~~2. The tangible property is delivered to the purchaser within 30 days after sale, except that such 30-day period may be extended by the office if market conditions so warrant; and~~

~~3. The seller has offered the purchaser a full refund policy in writing, exercisable by the purchaser within 10 days of the date of delivery of such tangible personal property, except that the amount of such refund may not exceed the bid price in effect at the time the property is returned to the seller. If the applicable sellers' market is closed at the time the property is returned to the seller for a refund, the amount of such refund shall be based on the bid price for such property at the next opening of such market.~~

(3) It is unlawful for a person in issuing or selling a security within this state, including a security exempted under s. 517.051 and including a transaction exempted under s. 517.061, s. 517.0611, or s. 517.0612, to misrepresent that such security or business entity has been guaranteed, sponsored, recommended, or approved by the state or an agency or officer of the state or by the United States or an agency or officer of the United States.

(4) It is unlawful for a person registered or required to be registered, or subject to the notice requirements, under this chapter, including such persons and issuers who are subject to s. 517.051, s. 517.061, s. 517.0611, s. 517.0612, or s. 517.081, to misrepresent that such person has been sponsored, recommended, or approved, or that such person's abilities or qualifications have in any respect been examined, by the state

or an agency or officer of the state or by the United States or an agency or officer of the United States.

(5) It is unlawful and a violation of this chapter for a person in connection with the offer or sale of an investment to obtain money or property by means of:

(a) A misrepresentation that the investment offered or sold is guaranteed, sponsored, recommended, or approved by the state or an agency or officer of the state or by the United States or an agency or officer of the United States; or

(b) A misrepresentation that such person is sponsored, recommended, or approved, or that such person's abilities or qualifications have in any respect been examined, by the state or an agency or officer of the state or by the United States or an agency or officer of the United States.

(6)(a) Subsection (3) or subsection (4) may not be construed to prohibit a statement that a person or security is registered or has made a notice filing under this chapter if such statement is required by this chapter or rules promulgated thereunder and is true in fact and if the effect of such statement is not a misrepresentation.

(b) A statement that a person is registered made in connection with the offer or sale of a security under this chapter must include the following disclaimer: "Registration does not imply that such person has been sponsored, recommended, or approved by the state or an agency or officer of the state or by the United States or an agency or officer of the United States."

1. If the statement of registration is made in writing, the disclaimer must immediately follow such statement and must be in

the same size and style of print as the statement of registration.

2. If the statement of registration is made orally, the disclaimer must be made or broadcast with the same force and effect as the statement of registration.

(7) It is unlawful and a violation of this chapter for a person to directly or indirectly manage, supervise, control, or own, either alone or in association with others, a boiler room in this state which sells or offers for sale a security or investment in violation of subsection (1), subsection (3), subsection (4), subsection (5), or subsection (6).

Section 19. Section 517.311, Florida Statutes, is repealed.

Section 20. Section 517.312, Florida Statutes, is repealed.

Section 21. Subsections (1), (2), and (3) of section 517.072, Florida Statutes, are amended to read:

517.072 Viatical settlement investments.—

(1) The exemptions provided for by s. 517.051(6) and (11) ~~ss. 517.051(6), (8), and (10)~~ do not apply to a viatical settlement investment.

(2) The offering of a viatical settlement investment is not an exempt transaction under s. 517.061(10), (12), (13), and (18) ~~s. 517.061(2), (3), (8), (11), and (18)~~, regardless of whether the offering otherwise complies with the conditions of that section, unless such offering is to a qualified institutional buyer.

(3) The registration provisions of ss. 517.07 and 517.12 do not apply to any of the following transactions in viatical settlement investments; however, such transactions in viatical settlement investments are subject to s. 517.301 ~~the provisions~~

~~of ss. 517.301, 517.311, and 517.312~~:

(a) The transfer or assignment of an interest in a previously viaticated policy from a natural person who transfers or assigns no more than one such interest in a single calendar year.

(b) The provision of stop-loss coverage to a viatical settlement provider, financing entity, or related provider trust, as those terms are defined in s. 626.9911, by an authorized or eligible insurer.

(c) The transfer or assignment of a viaticated policy from a licensed viatical settlement provider to another licensed viatical settlement provider, a related provider trust, a financing entity, or a special purpose entity, as those terms are defined in s. 626.9911, or to a contingency insurer, provided that such transfer or assignment is not the direct or indirect promotion of any scheme or enterprise with the intent of violating or evading ~~any provision of~~ this chapter.

(d) The transfer or assignment of a viaticated policy to a bank, trust company, savings institution, insurance company, dealer, investment company as defined in the Investment Company Act of 1940, as amended, pension or profit-sharing trust, qualified institutional buyer, or an accredited investor, provided such transfer or assignment is not for the direct or indirect promotion of any scheme or enterprise with the intent of violating or evading any provision of this chapter.

(e) The transfer or assignment of a viaticated policy by a conservator of a viatical settlement provider appointed by a court of competent jurisdiction who transfers or assigns ownership of viaticated policies pursuant to that court's order.

Section 22. Subsection (2), paragraph (a) of subsection (9), paragraph (j) of subsection (16), subsection (20), and paragraphs (b) and (c) of subsection (21) of section 517.12, Florida Statutes, are amended to read:

517.12 Registration of dealers, associated persons, intermediaries, and investment advisers.—

(2) The registration requirements of this section do not apply in a transaction exempted by s. 517.061(1)-(6), (8), (9), (12), and (13) ~~s. 517.061(1)-(10), (12), (14), and (15)~~.

(9)(a) An applicant for registration shall pay an assessment fee of $200, in the case of a dealer or investment adviser, or $50, in the case of an associated person. An associated person may be assessed an additional fee to cover the cost for the fingerprints to be processed by the office. Such fee shall be determined by rule of the commission. Such fees become the revenue of the state, except for those assessments provided for under s. 517.131(2) ~~s. 517.131(1)~~ until such time as the Securities Guaranty Fund satisfies the statutory limits, and are not returnable in the event that registration is withdrawn or not granted.

(16)

(j) All fees collected under this subsection become the revenue of the state, except those assessments provided for under s. 517.131(2) ~~s. 517.131(1)~~, until the Securities Guaranty Fund has satisfied the statutory limits. Such fees are not returnable if a notice-filing is withdrawn.

(20) The registration requirements of this section do not apply to any general lines insurance agent or life insurance agent licensed under chapter 626, with regard to ~~for~~ the sale of

a security as defined in s. 517.021(25)(g) ~~s. 517.021(23)(g)~~, if the individual is directly authorized by the issuer to offer or sell the security on behalf of the issuer and the issuer is a federally chartered savings bank subject to regulation by the Federal Deposit Insurance Corporation. Actions under this subsection ~~shall~~ constitute activity under the insurance agent's license for purposes of ss. 626.611 and 626.621.

(21)

(b) Prior to the completion of any securities transaction described in s. 517.061(7) ~~s. 517.061(22)~~, a merger and acquisition broker must receive written assurances from the control person with the largest percentage of ownership for both the buyer and seller engaged in the transaction that:

1. After the transaction is completed, any person who acquires securities or assets of the eligible privately held company, acting alone or in concert, will be a control person of the eligible privately held company or will be a control person for the business conducted with the assets of the eligible privately held company; and

2. If any person is offered securities in exchange for securities or assets of the eligible privately held company, such person will, before becoming legally bound to complete the transaction, receive or be given reasonable access to the most recent year-end financial statements of the issuer of the securities offered in exchange. The most recent year-end financial statements shall be customarily prepared by the issuer's management in the normal course of operations. If the financial statements of the issuer are audited, reviewed, or compiled, the most recent year-end financial statements must

include any related statement by the independent certified public accountant; a balance sheet dated not more than 120 days before the date of the exchange offer; and information pertaining to the management, business, results of operations for the period covered by the foregoing financial statements, and material loss contingencies of the issuer.

(c) A merger and acquisition broker engaged in a transaction exempt under s. 517.061(7) ~~s. 517.061(22)~~ is exempt from registration under this section unless the merger and acquisition broker:

1. Directly or indirectly, in connection with the transfer of ownership of an eligible privately held company, receives, holds, transmits, or has custody of the funds or securities to be exchanged by the parties to the transaction;

2. Engages on behalf of an issuer in a public offering of any class of securities which is registered, or which is required to be registered, with the United States Securities and Exchange Commission under the Securities Exchange Act of 1934, 15 U.S.C. ss. 78a et seq., or with the office under s. 517.07; or for which the issuer files, or is required to file, periodic information, documents, and reports under s. 15(d) of the Securities Exchange Act of 1934, 15 U.S.C. s. 78o(d);

3. Engages on behalf of any party in a transaction involving a public shell company;

4. Is subject to a suspension or revocation of registration under s. 15(b)(4) of the Securities Exchange Act of 1934, 15 U.S.C. s. 78o(b)(4);

5. Is subject to a statutory disqualification described in s. 3(a)(39) of the Securities Exchange Act of 1934, 15 U.S.C. s.

78c(a)(39);

6. Is subject to a disqualification under the United States Securities and Exchange Commission Rule 506(d), 17 C.F.R. s. 230.506(d); or

7. Is subject to a final order described in s. 15(b)(4)(H) of the Securities Exchange Act of 1934, 15 U.S.C. s. 78o(b)(4)(H).

Section 23. Subsection (6) of section 517.1201, Florida Statutes, is amended to read:

517.1201 Notice filing requirements for federal covered advisers.—

(6) All fees collected under this section become the revenue of the state, except for those assessments provided for under s. 517.131(2) ~~s. 517.131(1)~~ until such time as the Securities Guaranty Fund satisfies the statutory limits, and are not returnable in the event that a notice filing is withdrawn.

Section 24. Subsections (4) and (8) of section 517.1202, Florida Statutes, are amended to read:

517.1202 Notice-filing requirements for branch offices.—

(4) A branch office notice-filing under this section shall be summarily suspended by the office if the notice-filer fails to provide to the office, within 30 days after a written request by the office, all of the information required by this section and the rules adopted under this section. The summary suspension shall be in effect for the branch office until such time as the notice-filer submits the requested information to the office, pays a fine as prescribed by s. 517.191(9) ~~s. 517.221(3)~~, and a final order is entered. At such time, the suspension shall be lifted. For purposes of s. 120.60(6), failure to provide all

information required by this section and the underlying rules constitutes immediate and serious danger to the public health, safety, and welfare. If the notice-filer fails to provide all of the requested information within a period of 90 days, the notice-filing shall be revoked by the office.

(8) All fees collected under this section become the revenue of the state, except for those assessments provided for under s. 517.131(2) ~~s. 517.131(1)~~ until such time as the Securities Guaranty Fund satisfies the statutory limits, and are not returnable in the event that a branch office notice-filing is withdrawn.

Section 25. Subsection (2) of section 517.302, Florida Statutes, is amended to read:

517.302 Criminal penalties; alternative fine; Anti-Fraud Trust Fund; time limitation for criminal prosecution.—

(2) Any person who violates s. 517.301 ~~the provisions of s. 517.312(1)~~ by obtaining money or property of an aggregate value exceeding $50,000 from five or more persons is guilty of a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 26. This act shall take effect October 1, 2024.

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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1/16/24
Meeting Date

Banking + Insurance
Committee

SB 532
Bill Number or Topic

Amendment Barcode (if applicable)

Name Stuart Cohn

Phone 850-561-5600

Address 651 E. Jefferson Street
Street

Email

Tallahassee FL 32399
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

The Business Law Section of the Florida Bar

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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1/16/24
Meeting Date

Banking & Insurance
Committee

352 5227
Bill Number or Topic

Amendment Barcode (if applicable)

Name David Cruz

Phone 701-3676

Address P.O. Box 1757
Street

Email DCruz@fcities.com

Tallahassee FL 32302
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing: Florida League of Cities

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

1/16/24
Meeting Date

B & I
Committee

S32
Bill Number or Topic

Amendment Barcode (if applicable)

Name Ash Mason

Phone (813) 380-7071

Email Ash.Mason@FLOFR.GOV

Address
Street

City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing: Office of Financial Regulation

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

January 16, 2024
Meeting Date

Banking and Insurance
Committee

SB 532
Bill Number or Topic

Amendment Barcode (if applicable)

Name Tiffany Garling - Florida Chamber of Commerce

Phone 850-521-1296

Address 136 S. Bronough Street
Street

Email tgarling@flchamber.com

Tallahassee FL 32301
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
Florida Chamber of Commerce

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR JASON BRODEUR
10th District

COMMITTEES:
Appropriations Committee on Agriculture, Environment, and General Government, *Chair*
Health Policy, *Vice Chair*
Appropriations
Appropriations Committee on Health and Human Services
Children, Families, and Elder Affairs
Community Affairs
Regulated Industries
Rules

JOINT COMMITTEE:
Joint Legislative Auditing Committee

December 5, 2023

The Honorable Jim Boyd
Chair, Committee on Banking and Insurance
418 Senate Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Boyd,

I respectfully request that **Senate Bill 532**, **Securities**, be placed on the agenda of the Banking and Insurance Committee meeting to be considered at your earliest convenience.

If you have any questions or concerns, please do not hesitate to reach out to me or my office.

Sincerely,

Senator Jason Brodeur – District 10

CC: James Knudson – Staff Director
Lisa Johnson- Deputy Staff Director
Amaura Canty – Committee Administrative Assistant

REPLY TO:
❒ 110 Timberlachen Circle, Suite 1012, Lake Mary, Florida 32746 (407) 333-1802
❒ 405 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5010

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

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

The Florida Senate

COMMITTEE VOTE RECORD

COMMITTEE: Banking and Insurance
ITEM: SB 532
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Tuesday, January 16, 2024
TIME: 11:00 a.m.—1:00 p.m.
PLACE: 412 Knott Building

FINAL VOTE			1/16/2024 1 Amendment adopted w/o objection Brodeur					
Yea	**Nay**	**SENATORS**	**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**
X		Broxson						
X		Burton						
X		Hutson						
X		Ingoglia						
X		Mayfield						
X		Powell						
X		Thompson						
		Torres						
X		Trumbull						
X		DiCeglie, VICE CHAIR						
X		Boyd, CHAIR						
10	0	**TOTALS**	RCS	-				
Yea	**Nay**		**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered
RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment
TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call
WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	CS/SB 556
INTRODUCER:	Banking and Insurance and Senator Rouson
SUBJECT:	Protection of Specified Adults
DATE:	January 18, 2024
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Knudson	BI	**Fav/CS**
2.			CF	
3.			RC	
4.				
5.				
6.				

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 556 provides additional protections for specified adults (age 65 years or older) and vulnerable adults who have accounts with financial institutions and may be victims of suspected financial exploitation. A vulnerable adult is a person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, sensory, long-term physical, or developmental disability or dysfunction, or brain damage, or the infirmities of aging. The bill allows financial institutions to delay disbursements or transactions of funds from an account of a specified adult or a vulnerable adult under the following conditions:

- A financial institution reasonably believes that financial exploitation of the specified adult has occurred, is occurring, has been attempted, or will be attempted in connection with the disbursement or transaction.
- Not later than 3 business days after the date on which the delay was first placed, the financial institution provides written notice to all parties authorized to transact business on the account and any trusted contact on the account, using the contact information provided on the account, unless the employee of the financial institution believes that any of the parties are involved in the suspected exploitation.
- Not later than 3 business days after the date on which the delay was first placed, a state-chartered financial institution notifies the Office of Financial Regulation of the delay.

- The financial institution immediately initiates an internal review of the facts and circumstances that caused the employee to reasonably believe that the financial exploitation of the specified adult has occurred, is occurring, has been attempted, or will be attempted.

A delay in a disbursement or transaction expires in 15 business days, and may be extended for an additional 30 business days. A court of competent jurisdiction may shorten or extend the length of any delay.

The bill grants immunity from any administrative or civil liability that might otherwise arise from a delay in a disbursement or transaction to any financial institution who in good faith and exercising reasonable care complies with the provisions of s. 415.10341, F.S. The bill does not alter the obligation of a financial institution to comply with instructions from a client absent a reasonable belief of financial exploitation. The bill does not create new rights or obligations of a financial institution under other applicable laws or rules. The bill does not limit the right of a financial institution to refuse to place a delay on a transaction or disbursement under other laws or rules or under a customer agreement.

The bill takes effect July 1, 2024.

II. Present Situation:

Demographics of Florida's Older Adults

In 2021, an estimated 21 percent (4,498,198 out of 21,477,737) of Florida's population was age 65 or older.[1] Florida's population of individuals age 65 or older, as of April 1, 2022, was 4,782,219.[2]

Financial Exploitation of Older Adults

Older adults are targets for financial exploitation due to their income and accumulated life-long savings, in addition to the possibility that they may face declining cognitive or physical abilities, isolation from family and friends, lack of familiarity or comfort with technology, and reliance on others for their physical well-being, financial management, and social interaction.[3] According to the U.S. Department of Justice, elder abuse, which includes elderly financial exploitation among other forms of abuse, affects at least 10 percent of older adults each year in the United States.[4]

The monetary amount of losses is difficult to ascertain. A 2023 report estimated the cost of elder financial exploitation in the United State at $269.5 billion in 2022.[5] The amount of elder fraud

[1] GAO-21-90, ELDER JUSTICE: HHS Could Do More to Encourage State Reporting on the Costs of Financial Exploitation KFF, Population Distribution by Age | KFF (2021) (last visited Sep. 28, 2023).
[2] University of Florida, Bureau of Economic and Business Research, Florida Population Projections, Bulletin 196, (Oct. 2023).
[3] See Department of Justice, Office of Public Affairs, "Associate Attorney General Vanita Gupta Delivers Remarks at the Elder Justice Coordinating Council Meeting," (December 7, 2021); see also "Associate Deputy Attorney General Paul R. Perkins Delivers Remarks at the ABA/ABA Financial Crimes Enforcement Conference," (December 9, 2020).
[4] About Elder Abuse | EJI | Department of Justice (last visited Sep. 28, 2023).
[5] The United States of Elder Fraud – How Prevalent is Elder Financial Abuse in Each State? (June 15, 2023). The United States of Elder Fraud - How Prevalent is Elder Financial Abuse in Each State? - Comparitech (last visited Jan. 10, 2024).

losses in Florida is estimated to be $15.43 billion.[6] However, the amount of reported loss in Florida is about $657 million. Many victims fail to report exploitation because of shame and embarrassment. The tendency to not report may also be related to the perpetrator being a friend or family member of the victim.[7]

Some of the most common forms of financial exploitation reported to state adult protective services include:

- Theft. Involves assets taken without knowledge, consent or authorization; may include taking of cash, valuables, medications other personal property.
- Fraud. Involves acts of dishonestly by persons entrusted to manage assets but appropriate assets for unintended uses; may include falsification of records, forgeries, unauthorized check-writing, and Ponzi-type financial schemes.
- Real Estate. Involves unauthorized sales, transfers or changes to a property title; may include unauthorized or invalid changes to an estate documents.
- Contractor. Includes building contractors or handymen who receive a payment for building repairs, but fail to initiate or complete project; may include invalid liens by contractors
- Lottery Scams. Involves payments (or transfer of funds) to collect unclaimed property or "prizes" from lotteries or sweepstakes.[8]

The Internet Crime Complaint Center (IC3) within the Federal Bureau of Investigations, receives and tracks thousands of complaints daily, reported by victims of fraud, their family members, and law enforcement officers. The 2022 annual Elder Fraud Report[9] provides a summary of complaints submitted by or on behalf of victims aged 60 and over. Some of the findings include:

- Over 88,000 victims over the age of 60 reported losses of $3.1 billion to the IC3. This represents an 84 percent increase in losses over losses reported in 2021.
- The average loss per victim was $35,101. There were 5,456 victims who lost more than $100,000 each.
- Florida accounted for 8,480 out of the 88,000 total victims. Florida victims incurred over $328 million in losses.

In 2013, the Financial Crimes Enforcement Network (FinCEN), which receives and maintains the database of suspicious activity reports (SARs),[10] introduced electronic SAR filing with a

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[6] *Id.*

[7] AARP, The Scope of Elder Financial Exploitation: What it Costs Victims (2023), https://www.aarp.org/content/dam/aarp/money/scams-and-fraud/2023/true-cost-elder-financial-exploitation.doi.10.26419-2Fppi.00194.001.pdf (last visited Sep. 28, 2023).

[8] National Adult Protective Services Association, What is Financial Exploitation? Financial Exploitation – NAPSA (napsa-now.org) (last visited Oct. 2, 2023).

[9] FBI IC3 Elder Fraud Report (2022), https://www.ic3.gov/Media/PDF/AnnualReport/2022_IC3ElderFraudReport.pdf (last visited Jan. 10, 2024).

[10] A financial institution is required to file a Suspicious Activity Report (SAR) with the Financial Crimes Enforcement Network (FinCEN) if it knows, suspects, or has reason to suspect a transaction conducted or attempted by, at, or through the financial institution involves funds derived from illegal activity, or attempts to disguise funds derived from illegal activity; is designed to evade regulations promulgated under the BSA; lacks a business or apparent lawful purpose; or involves the use of the financial institution to facilitate criminal activity, including elder financial exploitation. *See* 31 CFR ss. 1020.320, 1021.320, 1022.320, 1023.320, 1024.320, 1025.320, 1026.320, 1029.320, and 1030.320.

designated category for "elder financial exploitation."[11] Recent analysis of SARs related to elder financial exploitation has revealed the following:

- Among the SARs that reported a loss to an older adult, the average amount lost was $34,200; in 7 percent of these SARs, the loss exceeded $100,000.[12]
- One-third of the individuals who lost money were ages 80 and older, and adults ages 70 to 79 had the highest average monetary loss ($45,300).[13]
- Where an individual has incurred an actual loss, the amount of loss reflects substantial financial hardship for elders: The median suspicious activity amount from one sample of scam-related SARs was $6,105, and for theft-related SARs it was $15,964. These amounts represent 16 and 41 percent, respectively, of the median income of $38,515 for households maintained by individuals 65 and over in 2015 (as reported by the U.S. Census Bureau).[14]
- The total number of SAR filings and total suspicious activity amounts increased 20 percent and 30 percent, respectively, each year during the period studied (October 2013 – August 2019).[15]

Elderly financial exploitation schemes generally involve either theft or scams.[16] Suspicious activity report narratives indicate that financial exploitation most often involves money transfer scams conducted through money services businesses (MSBs) and theft perpetrated through depository, securities, and futures institutions.[17]

Financial Exploitation and the Role of Financial Institutions

Financial institutions can play a key role in detecting, responding to, and preventing elderly financial exploitation.[18] Financial institutions are often well-positioned to detect when older account holders have been targeted or victimized. In recognition of this, FinCEN issued an Advisory to Financial Institutions on Filing Suspicious Activity Reports Regarding Elder Financial Exploitation (advisory).[19] The advisory provided potential "red flag" indicators and instructions on how to report exploitation activity through Suspicious Activity Reports (SARs). Once such threats have been detected, financial institutions should report to law enforcement and the state or local Adult Protective Service agency. In 2013, eight federal regulatory agencies

[11] Consumer Financial Protection Bureau, *Suspicious Activity Reports on Elder Financial Exploitation: Issues and Trends*, 3 (Feb. 2019), https://files.consumerfinance.gov/f/documents/cfpb_suspicious-activity-reports-elder-financial-exploitation_report.pdf (last visited Feb. 3, 2020).
[12] *Id*. at 4.
[13] *Id.*
[14] FinCen, *Financial Trend Analysis: Elders Face Increased Financial Threat from Domestic and Foreign Actors*, 7 (Dec. 2019), https://www.fincen.gov/sites/default/files/shared/FinCEN%20Financial%20Trend%20Analysis%20Elders_FINAL%20508.pdf (last visited Feb. 3, 2020).
[15] *Id.* at 1.
[16] See FinCEN Financial Trend Analysis (FTA), "Elders Face Increased Financial Threat from Domestic and Foreign Actors," (December 2019), Financial Trend Analysis (fincen.gov) (Dec. 2019) (last visited Sep. 28, 2023).
[17] *Id*.
[18] See, Consumer Financial Protection Bureau (CFPB), Advisory for financial institutions on preventing and responding to elder financial exploitation (March 2016), available at http://files.consumerfinance.gov/f/201603_cfpb_advisory-for-financial-institutions-on-preventing-and-responding-to-elder-financial-exploitation.pdf (last visited Sep. 28, 2023); and, CFPB, Recommendations and report for financial institutions on preventing and responding to elder financial exploitation (March 2016), available at 201603_cfpb_recommendations-and-report-for-financial-institutions-on-preventing-and-responding-to-elder-financial-exploitation.pdf (consumerfinance.gov) (last visited Sep. 28, 2023).
[19] See, FinCEN, FIN-2011-A003, Advisory to Financial Institutions on Filing Suspicious Activity Reports Regarding Elder Financial Exploitation (Feb. 22, 2011), available at INTELLIGENCE REPORT (fincen.gov) (last visited Sep. 28, 2023).

issued interagency guidance clarifying that reporting suspected financial abuse of older adults to appropriate authorities does not generally violate the privacy provisions of the Gramm-Leach-Bliley Act.

Mandatory Reporting of Abuse or Exploitation of Vulnerable Adults in Florida

The Adult Protective Services Act (ch. 415, F.S.) defines abuse as any willful act or threatened act by a relative, caregiver, or household member, which harms or is likely to harm a vulnerable adult's physical, mental, or emotional health.[20] The Adult Protective Services program is located within the Department of Children and Families (department), and is responsible for investigating allegations of abuse, neglect or exploitation, as provided in the Adult Protective Services Act (act).[21] Section 415.1034, F.S., requires any person who knows, or has reasonable cause to suspect, that a vulnerable adult has been or is being abused, neglected, or exploited to report suspected abuse to the central abuse hotline immediately. Any person reporting or that participates in a judicial proceeding is presumed to be acting in good faith and, unless lack of good faith is shown by clear and convincing evidence, is immune from any civil or criminal liability that otherwise might be incurred or imposed.[22]

For purposes of the act, the following terms apply:

- A "vulnerable adult" is a person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, sensory, long-term physical, or developmental disability or dysfunction, or brain damage, or the infirmities of aging.[23]
- "Exploitation" means a person who:[24]
  - Stands in a position of trust and confidence with a vulnerable adult and knowingly, by deception or intimidation, obtains or uses, or endeavors to obtain or use, a vulnerable adult's funds, assets, or property with the intent to temporarily or permanently deprive a vulnerable adult of the use, benefit, or possession of the funds, assets, or property for the benefit of someone other than the vulnerable adult; or
  - Knows or should know that the vulnerable adult lacks the capacity to consent, and obtains or uses, or endeavors to obtain or use, the vulnerable adult's funds, assets, or property with the intent to temporarily or permanently deprive the vulnerable adult of the use, benefit, or possession of the funds, assets, or property for the benefit of someone other than the vulnerable adult.
- "Exploitation" may include, but is not limited to:[25]
  - Breaches of fiduciary relationships, such as the misuse of a power of attorney or the abuse of guardianship duties, resulting in the unauthorized appropriation, sale, or transfer of property;
  - Unauthorized taking of personal assets;
  - Misappropriation, misuse, or transfer of moneys belonging to a vulnerable adult from a personal or joint account; or

[20] Section 415.102, F.S.
[21] Sections 415.101-415.113, F.S.
[22] Section 415.1036, F.S.
[23] *See* s. 415.102(28), F.S.
[24] *See* s. 415.102(8), F.S.
[25] *Id.*

- Intentional or negligent failure to effectively use a vulnerable adult's income and assets for the necessities required for that person's support and maintenance.

Once a person reports to the central abuse hotline,[26] the department must initiate a protective investigation within 24 hours.[27] If a caregiver refuses to allow the department to begin a protective investigation or interferes with the investigation, the department can contact the appropriate law enforcement agency for assistance. If, during the course of the investigation, the department has reason to believe that the abuse, neglect, or exploitation is perpetrated by a second party, the appropriate law enforcement agency and state attorney must be notified. The department shall make a preliminary written report to the law enforcement agencies within 5 working days after the oral report and complete the investigation within 60 days.[28]

Florida's Law on the Protection of Vulnerable Investors[29]

In 2020, legislation was enacted in Florida to protect vulnerable investors.[30] The law allows a dealer or investment adviser to delay a disbursement or transaction of funds or securities from the account of a specified adult or an account for which a specified adult is a beneficiary or beneficial owner if the dealer or investment adviser reasonably believes that financial exploitation of the specified adult has occurred, is occurring, has been attempted, or will be attempted in connection with the disbursement or transaction. A specified adult is an individual who is age 65 or older or who meets the definition of "vulnerable adult" under the act.

The suspected financial exploitation must be immediately reported to the Florida Abuse Hotline if so required by the act. Not later than three business days after placing a delay, the dealer or investment adviser must notify all parties authorized to transact business on the account as well as any designated trusted contact, unless such person is believed to be engaged in the suspected financial exploitation. Not later than three business days after placing or extending a delay, the dealer or investment adviser must notify the Office of Financial Regulation of the delay or extension.

A delay expires in 15 business days but may be terminated sooner. The dealer or investment adviser may extend the delay for up to an additional 10 business days. The length of the hold may be shortened or extended by a court of competent jurisdiction. A dealer or investment adviser must annually conduct training that is reasonably designed to educate its associated persons on issues pertaining to financial exploitation. A dealer, an investment adviser, or an associated person who in good faith and exercising reasonable care complies with the bill is immune from any administrative or civil liability that might otherwise arise from a delay in a disbursement or transaction.

[26] Section 415.103, F.S.
[27] Section 415.104, F.S.
[28] *Id.*
[29] Section 517.34, F.S.
[30] Ch. 2020-157, Laws of Fla.

Regulation of Financial Institutions

The Florida Office of Financial Regulation (OFR) is responsible for all activities of the Financial Services Commission relating to the regulation of banks, credit unions, other financial institutions, finance companies, and the securities industry.[31] The OFR has three divisions: the Division of Consumer Finance, the Division of Financial Institutions (DFI), and the Division of Securities.

Florida law defines the term "financial institution" broadly; the term includes "state and federal savings or thrift associations, banks, savings banks, trust companies, international bank agencies, international banking corporations, international branches, international representative offices, international administrative offices, international trust entities, international trust company representative offices, qualified limited service affiliates, credit unions, agreement corporations operating pursuant to s. 25 of the Federal Reserve Act, 12 U.S.C. ss. 601 et seq. and Edge Act corporations organized pursuant to s. 25(a) of the Federal Reserve Act, 12 U.S.C. ss. 611 et seq."[32]

Dual Regulatory System

Banks and credit unions in the United States are chartered and regulated under a dual regulatory system. These depository institutions may elect to have a national charter and a federal primary regulator, or they may choose to be chartered and regulated by the state in which they are headquartered. OFR's DFI provides general supervision over all Florida-chartered financial institutions, along with their subsidiaries and service corporations.[33] DFI is tasked with the administration of the financial institutions codes,[34] which apply to all Florida state-authorized or state-chartered financial institutions and to the enforcement of all laws relating to Florida state-authorized or state-chartered financial institutions.[35]

As a result of the dual regulatory system, the OFR does not have absolute regulatory authority over every financial institution operating in Florida. Florida-chartered depository institutions (banks and credit unions) are chartered by the OFR, but are additionally required to obtain deposit insurance,[36] and thus are also subject to examination and regulation by federal regulatory authorities. While the Federal Reserve serves as the primary federal regulator of a state bank which has elected to become a member bank of the Federal Reserve System,[37] the FDIC remains the primary federal regulator for non-member state-banks and remains authorized to make special examination of any insured bank when necessary. Likewise, state-chartered credit unions are subject to examination and regulation by the National Credit Union Administration (NCUA).[38] Thus, federal supervisors play an important role in ensuring and protecting the financial stability of financial institutions operating in Florida.

[31] Section 20.121(3)(a)2., F.S.
[32] Section 655.005(1)(i), F.S.
[33] Section 655.012(1), F.S.
[34] Sections 655.001(1) and 655.012(1), F.S.
[35]
[36] Section 658.38, F.S.
[37] 12 U.S.C. s. 248.
[38] Section 657.033, F.S.; 12 U.S.C. s. 1784.

OFR is required to conduct an examination of the condition of each state financial institution "at least every 18 months," but is authorized to conduct more frequent examinations based on the risk profile of the financial institution, prior examination results, or significant changes in the institutions or its operations. The examination process is risk-focused and covers all aspects of prudent management practices, including: governance, board and management oversight, identification, and reporting of complaints and regulation pertaining to discrimination. The examinations predominantly evaluate the strength of the Capital, Asset Quality, Management, Earnings, Liquidity, and Sensitivity to Market Risk (CAMELS) of the financial institution, however, examiners evaluate compliance with Florida law, including confidentiality rules, as well.

National banks are chartered pursuant to the National Bank Act and supervised by the Office of the Comptroller of the Currency (OCC).[39] National banks are required to be members of the Federal Reserve System; state banks may apply for membership.[40] The Federal Reserve system is the primary federal regulator of state member banks, and also serves as the primary regulator of bank holding companies and financial holding companies.[41] Federally-chartered credit unions are chartered and supervised by the National Credit Union Administration (NCUA).[42] Both state- and federally-chartered credit unions must obtain insurance of their accounts and are subject to examination by the NCUA.[43]

Access to the Books and Records of a Financial Institution

Section 655.059, F.S., governs access to the books and records of a financial institution. Access to books and records is strictly limited. Books and records are expressly confidential, and may only be made available for inspection and examination to certain persons and government entities, including:

- The OFR and its duly authorized representatives;
- Any person duly authorized to act for the financial institution;
- Any federal or state instrumentality or agency authorized to inspect or examine the books and records of an insured financial institution;
- The home country supervisor of an international banking corporation or international trust entity, under certain conditions;
- To the extent the books and records pertain to their own accounts or the determination of their voting rights, depositors, borrowers, members, and stockholders have the right to inspect; and
- To any person otherwise authorized by the board of directors.

Books and records may also be made available for inspection pursuant to a subpoena, under the following circumstances:

- As compelled by a court of competent jurisdiction;
- As compelled by a legislative subpoena; and

[39] 12 U.S.C. s. 481.
[40] 12 U.S.C. s. 208.3 and 222.
[41] 12 U.S.C. s. 248.
[42] *See* 12 U.S.C. s. 1751, et. seq.
[43] Section 657.033, F.S.; 12 U.S.C. s. 1784.

- To any federal or state law enforcement or prosecutorial instrumentality authorized to investigate criminal activity.

A person who willfully violates of these confidentiality rules is guilty of a felony of the third degree, punishable as provided in sections 775.082, 775.083, and 775.084, F.S.

Federal Right to Privacy Act (RFPA)

Pursuant to RFPA,[44] a federal government authority generally must seek a subpoena to access such books and records, and may only request financial records pursuant to a formal written request under certain conditions, one of which includes serving a copy of the request upon the customer.[45]

2018 Federal Safe Senior Act

The federal Safe Senior Act[46] provides immunity for covered financial institutions from suit for disclosure of financial exploitation of senior citizens.

For purposes of the act, the term ‘‘exploitation’’ means the fraudulent or otherwise illegal, unauthorized, or improper act or process of an individual, including a caregiver or a fiduciary, that:
- Uses the resources of a senior citizen for monetary or personal benefit, profit, or gain; or
- Results in depriving a senior citizen of rightful access to or use of benefits, resources, belongings, or assets.

The act defines the term, “covered agency,” to include:
- A state financial regulatory agency, including a state securities or law enforcement authority and a state insurance regulator;
- Each of the Federal agencies represented in the membership of the Financial Institutions Examination Council established under section 1004 of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3303);[47]
- A securities association registered under section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3);
- The Securities and Exchange Commission;
- A law enforcement agency; or
- A state or local agency responsible for administering adult protective service laws.

The term, “covered financial institution” means:
- A credit union;[48]

[44] 12 U.S.C. s. 3401 et seq.
[45] See 12 U.S.C. s. 3408.
[46] Public Law 115-174 (May 24, 2018); 132 STAT. 1336.
[47] This would include the Federal Reserve, Consumer Financial Protection Bureau, National Credit Union Association, Office of the Comptroller of the Currency.
[48] The term ‘‘credit union’’ has the meaning given the term in section 2 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5301).

- A depository institution;[49]
- An investment adviser;
- A broker-dealer;
- An insurance company;
- An insurance agency; or
- A transfer agent.

The federal Safe Senior Act offers a safe harbor from liability for specified individuals or covered financial institutions in any civil or administrative proceedings for disclosing the suspected information regarding the suspected exploitation of a senior citizen to a covered agency, such as a state adult protective services agency, regulators, or law enforcement. A senior citizen for purposes of the act is an individual age 65 years or older. The civil and administrative immunity established by the act is provided on the condition that specified individuals[50] receive specified training on how to identify and report exploitative activity against seniors before making a report, and reports of suspected exploitation are made "in good faith" and "with reasonable care."

Further, the act provides that a covered financial institution shall not be liable, including any civil or administrative proceeding, for a disclosure made by specified individuals if the following conditions are met:

- The individual was employed by, or, in the case of a registered representative, insurance producer, or investment adviser representative, affiliated or associated with, the covered financial institution at the time of the disclosure; and
- Before the time of the disclosure, such individual received the training.

However, the civil or administrative immunity provided by this act may not be construed to limit the liability of an individual or a covered financial institution in a civil action for any act, omission, or fraud that is not a disclosure described in the provision relating to the immunity from suit for individuals.

Training

A covered financial institution or a third party selected by a covered financial institution may provide the training described in the act to each officer or employee of, or registered representative, insurance producer, or investment adviser representative affiliated or associated with the covered financial institution who:

- Is specified in the act;
- May come into contact with a senior citizen as a regular part of the professional duties of the individual; or
- May review or approve the financial documents, records, or transactions of a senior citizen in connection with providing financial services to a senior citizen.

[49] The term ''depository institution'' has the meaning given the term in section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c));

[50] The employee served as a supervisor or in a compliance or legal function (including as a Bank Secrecy Act officer) for, or, in the case of a registered representative, investment adviser representative, or insurance producer, was affiliated or associated with, a covered financial institution.

The act provides that the training described above must be provided as soon as reasonably practicable; and with respect to an individual who begins employment, or becomes affiliated or associated with a covered financial institution after the date of enactment of this act, not later than one year after the date on which the individual becomes employed by, or affiliated or associated with, the covered financial institution in a position described in the act.

Record Retention

The act requires a covered financial institution to maintain a record of each individual who is employed by, or affiliated or associated with, the covered financial institution in a position described in the act; and has completed the training described in the act. Upon request, the covered financial institution must provide a record described in the act to a covered agency with examination authority over the covered financial institution.

Relationship to State Law

The act provides that nothing in the act may be construed to preempt or limit any provision of state law, except only to the extent that the immunity described in the act provides a greater level of protection against liability to an individual described in the act or to a covered financial institution described in the act than is provided under state law.

III. Effect of Proposed Changes:

Section 1 creates s. 415.10341, F.S. The section creates definitions and a voluntary process for financial institutions to delay disbursements or transactions if they reasonably suspect, and report, the financial exploitation of specified adults, i.e., adults aged 65 years or older and vulnerable adults.

The term, "financial exploitation," means the wrongful or unauthorized taking, withholding, appropriation, or use of money, assets, or property of a specified adult, or any act or omission by a person, including through the use of a power of attorney, guardianship, or conservatorship, to divert or obtain control over the specified adult's money, assets, or property through deception, intimidation, or undue influence to deprive the specified adult of the ownership, use, benefit, or possession of their money, assets, or property. The term "financial institution" means the same as that term is defined within ch. 655, F.S. "Specified adult" means a natural person 65 years of age or older, or a vulnerable adult as that term is defined in s. 415.102, F.S. The term "trusted contact" mean a natural person 18 years of age or older whom an account holder has expressly identified and recorded in a financial institution's books and records as the person who may be contacted about the account.

Subsection (2) provides a statement of legislative findings and intent. Stated findings include:

- There are many Floridians that are at increased risk of financial exploitation due to their age or disability;
- Specified adults are at a statistically higher risk of being targeted for financial exploitation due to their accumulation of substantial assets and wealth compared to younger age groups; and

- Specified adults have the freedom and right to manage their assets, make investment choices, and spend their funds. Such rights may not be infringed upon absent a reasonable belief of financial exploitation.

The Legislative intent of the legislation includes:
- Preventing financial exploitation;
- Encouraging the constructive involvement of financial institutions;
- Providing immunity from liability for financial institutions and their employees who take action as authorized by the act; and
- Balancing the rights of specified adults to direct and control their assets, funds, and investments and to exercise their constitutional rights consistent with due process against the need to give financial institutions the ability to place narrow, time-limited restrictions on those rights in order to decrease the risk of loss due to abuse, neglect, or financial exploitation.

Subsection (3) authorizes a financial institution that reports suspected financial exploitation of a specified adult to delay a disbursement or transaction if certain criteria are met, and requires the financial institution to make and keep certain records related to the delay.

Subsection (4) creates timeframes for the delay of disbursements or transactions. Delays expire after 15 business days, but may be extended by an additional 30 business days if the financial institution's review of the available facts and circumstances continues to support the reasonable belief of financial exploitation. A court of competent jurisdiction may shorten or extend these timeframes.

Subsection (5) eliminates civil or administrative liability for a financial institution that acts in good faith and exercises reasonable care to comply with the bill.

Subsection (6) creates eligibility requirements that financial institutions must meet prior to delaying a disbursement or transaction under the bill. These requirements include:
- Developing training policies or programs reasonably designed to educate employees on issues pertaining to financial exploitation of specified adults;
- Conducting training for all employees as soon as reasonably practicable and maintaining a written record of all trainings conducted. With respect to an individual who begins employment with a covered financial institution after July 1, 2024, such training must be conducted within 1 year after the person becomes employed.
- Developing, maintaining, and enforcing written procedures regarding the manner in which suspected financial exploitation is reviewed internally, including, if applicable, the manner in which suspected financial exploitation is required to be reported to supervisory personnel.

Subsection (7) clarifies that absent a reasonable belief of financial exploitation, the bill does not otherwise alter a financial institution's obligations to all parties authorized to transact business on an account, and any trusted contact named on such account.

Subsection (8) clarifies that the bill does not create new rights or impose new obligations on a financial institution under other applicable law.

Section 2 provides an effective date of July 1, 2024.

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:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The ability of a financial institution to place a delay on a disbursement or transaction, may decrease losses to account holders who are financially preyed upon because such a delay may prevent the money from ever getting into the hands of the bad actor. Once the bad actor receives the money, it is difficult, or in some cases impossible, to ever recover the money.

The bill may result in increased training and compliance costs for financial institutions.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 415.10341 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 on January 16, 2024
The CS provides the following changes:

- Allows a financial institution to extend a delay on a disbursement or transaction for an additional 30 days instead of 10 days.
- Revises eligibility requirements, relating to the frequency of training of employees, that financial institutions must meet prior to delaying a disbursement or transaction.
- Eliminates provisions relating to records of financial institutions available for review since state and federal law already address access to these records.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/18/2024	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 110 - 152

and insert:

(4) A delay on a disbursement or transaction under subsection (3) expires 15 business days after the date on which the delay was first placed. However, the financial institution may extend the delay for up to 30 additional business days if the financial institution's review of the available facts and circumstances continues to support the reasonable belief that

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financial exploitation of the specified adult has occurred, is occurring, has been attempted, or will be attempted. The length of the delay may be shortened or extended at any time by a court of competent jurisdiction. This subsection does not prevent a financial institution from terminating a delay after communication with the parties authorized to transact business on the account and any trusted contact on the account.

(5) A financial institution that acts in good faith and exercises reasonable care to comply with this section is immune from any administrative or civil liability that might otherwise arise from such delay in a disbursement or transaction in accordance with this section. This subsection does not supersede or diminish any immunity granted elsewhere in this chapter.

(6) Before placing a delay on a disbursement or transaction pursuant to this section, a financial institution must do all of the following:

(a) Develop training policies or programs reasonably designed to educate employees on issues pertaining to financial exploitation of specified adults.

(b) Conduct training for all employees as soon as reasonably practicable and maintain a written record of all trainings conducted. With respect to an individual who begins employment with a covered financial institution after July 1, 2024, such training must be conducted within 1 year after the date on which the individual becomes employed by or affiliated or associated with the covered financial institution.

(c) Develop, maintain, and enforce written procedures regarding the manner in which suspected financial exploitation is reviewed internally, including, if applicable, the manner in

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which suspected financial exploitation is required to be reported to supervisory personnel.

(7) Absent a reasonable belief of financial exploitation as provided in this section, this section does not otherwise alter a financial institution's obligations to all parties authorized to transact business on an account and any trusted contact named on such account.

(8) This section does not create new rights for or impose

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

And the title is amended as follows:

Delete lines 7 - 9

and insert:

specified adult; specifying that a delay on a

By Senator Rouson

16-00063A-24 2024556__

A bill to be entitled

An act relating to protection of specified adults; creating s. 415.10341, F.S.; defining terms; providing legislative findings and intent; authorizing financial institutions, under certain circumstances, to delay a disbursement or transaction from an account of a specified adult; requiring the financial institution to make certain information available upon request by certain entities; specifying that a delay on a disbursement or transaction expires on a certain date; authorizing the financial institution to extend the delay under certain circumstances; authorizing a court of competent jurisdiction to shorten or extend the delay; providing construction; granting financial institutions immunity from certain liability; providing construction; requiring financial institutions to take certain actions before placing a delay on a disbursement or transaction; providing construction; providing an effective date.

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

Section 1. Section 415.10341, Florida Statutes, is created to read:

415.10341 Protection of specified adults.—

(1) As used in this section, the term:

(a) "Financial exploitation" means the wrongful or unauthorized taking, withholding, appropriation, or use of money, assets, or property of a specified adult; or any act or

16-00063A-24 2024556__

omission by a person, including through the use of a power of attorney, guardianship, or conservatorship of a specified adult, to:

1. Obtain control over the specified adult's money, assets, or property through deception, intimidation, or undue influence to deprive him or her of the ownership, use, benefit, or possession of the money, assets, or property; or

2. Divert the specified adult's money, assets, or property to deprive him or her of the ownership, use, benefit, or possession of the money, assets, or property.

(b) "Financial institution" means a state financial institution or a federal financial institution as those terms are defined under s. 655.005(1).

(c) "Specified adult" means a natural person 65 years of age or older, or a vulnerable adult as defined in s. 415.102.

(d) "Trusted contact" means a natural person 18 years of age or older whom the account owner has expressly identified and recorded in a financial institution's books and records as the person who may be contacted about the account.

(2) The Legislature finds that many persons in this state, because of age or disability, are at increased risk of financial exploitation and loss of their assets, funds, investments, and investment accounts. The Legislature further finds that specified adults in this state are at a statistically higher risk of being targeted for financial exploitation, regardless of diminished capacity or other disability, because of their accumulation of substantial assets and wealth compared to younger age groups. In enacting this section, the Legislature recognizes the freedom of specified adults to manage their

assets, make investment choices, and spend their funds, and intends that such rights may not be infringed absent a reasonable belief of financial exploitation as provided in this section. The Legislature therefore intends to provide for the prevention of financial exploitation of such persons. The Legislature intends to encourage the constructive involvement of financial institutions that take action based upon the reasonable belief that specified adults who have accounts with such financial institutions have been or are the subject of financial exploitation, and to provide financial institutions and their employees immunity from liability for taking actions as authorized herein. The Legislature intends to balance the rights of specified adults to direct and control their assets, funds, and investments and to exercise their constitutional rights consistent with due process with the need to provide financial institutions the ability to place narrow, time-limited restrictions on these rights in an effort to decrease specified adults' risk of loss due to abuse, neglect, or financial exploitation.

(3) If a financial institution reports suspected financial exploitation of a specified adult pursuant to s. 415.1034, it may delay a disbursement or transaction from an account of a specified adult or an account for which a specified adult is a beneficiary or beneficial owner if all of the following apply:

(a) The financial institution immediately initiates an internal review of the facts and circumstances that caused an employee of the financial institution to report suspected financial exploitation.

(b) Not later than 3 business days after the date on which

the delay was first placed, the financial institution:

1. Notifies in writing all parties authorized to transact business on the account and any trusted contact on the account, using the contact information provided for the account, with the exception of any party an employee of the financial institution reasonably believes has engaged in, is engaging in, has attempted to engage in, or will attempt to engage in the suspected financial exploitation of the specified adult. The notice, which may be provided electronically, must provide the reason for the delay.

2. Creates and maintains for at least 5 years from the date of the delayed disbursement or transaction a written or electronic record of the delayed disbursement or transaction that includes, at minimum, the following information:

a. The date on which the delay was first placed.

b. The name and address of the specified adult.

c. The business location of the financial institution.

d. The name and title of the employee who reported suspected financial exploitation of the specified adult pursuant to s. 415.1034.

e. The facts and circumstances that caused the employee to report suspected financial exploitation.

(4) The financial institution must make the information required in subparagraph (3)(b)2. available for review upon request by the department, any law enforcement agency conducting an investigation under s. 415.104, or any state or federal agency with regulatory authority over the financial institution.

(5) A delay on a disbursement or transaction under subsection (3) expires 15 business days after the date on which

the delay was first placed. However, the financial institution may extend the delay for up to 10 additional business days if the financial institution's review of the available facts and circumstances continues to support the reasonable belief that financial exploitation of the specified adult has occurred, is occurring, has been attempted, or will be attempted. The length of the delay may be shortened or extended at any time by a court of competent jurisdiction. This subsection does not prevent a financial institution from terminating a delay after communication with the parties authorized to transact business on the account and any trusted contact on the account.

(6) A financial institution that acts in good faith and exercises reasonable care to comply with this section is immune from any administrative or civil liability that might otherwise arise from such delay in a disbursement or transaction in accordance with this section. This subsection does not supersede or diminish any immunity granted elsewhere in this chapter.

(7) Before placing a delay on a disbursement or transaction pursuant to this section, a financial institution must do all of the following:

(a) Develop training policies or programs reasonably designed to educate employees on issues pertaining to financial exploitation of specified adults.

(b) Conduct training for all employees at least annually and maintain a written record of all trainings conducted.

(c) Develop, maintain, and enforce written procedures regarding the manner in which suspected financial exploitation is reviewed internally, including, if applicable, the manner in which suspected financial exploitation is required to be

reported to supervisory personnel.

(8) Absent a reasonable belief of financial exploitation as provided in this section, this section does not otherwise alter a financial institution's obligations to all parties authorized to transact business on an account and any trusted contact named on such account.

(9) This section does not create new rights for or impose new obligations on a financial institution under other applicable law.

Section 2. This act shall take effect July 1, 2024.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR DARRYL ERVIN ROUSON
16th District

COMMITTEES:
Appropriations, *Vice Chair*
Ethics and Elections, *Vice Chair*
Agriculture
Appropriations Committee on Criminal and Civil Justice
Appropriations Committee on Health and Human Services
Children, Families, and Elder Affairs
Governmental Oversight and Accountability
Rules

JOINT COMMITTEE:
Joint Administrative Procedures Committee

December 8, 2023

Senator Jim Boyd
Chair, Committee on Banking and Insurance
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Boyd,

I write today respectfully requesting that SB 556, Protection of Specified Adults, be added to the agenda of a forthcoming meeting of the Committee on Banking and Insurance for consideration. I look forward to the opportunity to present SB 556 to the committee. I am available for any questions you may have about this legislation. Thank you in advance for the committee's time and consideration.

Sincerely –

Darryl E Rouson

Senator Darryl E. Rouson
Florida Senate District 16

REPLY TO:
❒ 535 Central Avenue, Suite 302, St. Petersburg, Florida 33701 (727) 822-6828
❒ 212 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5016

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

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

1

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

1/10/24
Meeting Date

BANKING & INSURANCE
Committee

SB 556
Bill Number or Topic

Amendment Barcode (if applicable)

Name Kim DROEGE (DRŌ ghēē) Phone 920-889-9520

Address 1130 SIGNATURE DR Email KRDROEGE@AOL.COM
Street

SUN CITY CENTER FL 33573
City State Zip

Speaking: [X] For [ ] Against [ ] Information **OR** Waive Speaking: [ ] In Support [ ] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[X] I am appearing without compensation or sponsorship.

[ ] I am a registered lobbyist, representing:

[ ] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

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The Florida Senate

APPEARANCE RECORD

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01/16/2024
Meeting Date

Banking and Insurance
Committee

SB 556: Protection of Specified Adults
Bill Number or Topic

Amendment Barcode (if applicable)

Name Jeffery Merry

Phone 770-330-1960

Address 16320 Bridgewalk Dr
Street

Email jmerry@hcso.tampa.fl.us

Lithia FL 33547
City *State* *Zip*

Speaking: ☑ For ☐ Against ☐ Information **OR** **Waive Speaking:** ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☑ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:
Hillsborough County Sheriff's Office

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

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1/16/24
Meeting Date

Banking & Insurance
Committee

556
Bill Number or Topic

Amendment Barcode (if applicable)

Name ALLAN STOLLBERG

Phone 561 632-4561

Address 3656 ARALIA CT
Street

Email stollbergallan@Yahoo.com

W. PALM BEACH FL 33406
City State Zip

Speaking: ☑ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

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1/16/24
Meeting Date

Banking & Insurance
Committee

556 – Protection Specified Adults
Bill Number or Topic

Amendment Barcode (if applicable)

Name Karen Murillo

Phone 850-567-0414

Address 215 S. Monroe St., Ste. 603
Street

Email kmurillo@aarp.org

Tallahassee FL 32308
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
AARP Florida

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

January 16, 2024
Meeting Date

Banking and Insurance
Committee

556
Bill Number or Topic

Amendment Barcode (if applicable)

Name Brian Jogerst

Phone 850-222-0191

Address PO Box 11094
Street

Email brian@bhandassociates.com

Tallahassee FL 32302
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** **Waive Speaking:** ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
Elder Law Section/Florida Bar

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

1/16/24
Meeting Date

Banking & Insurance
Committee

556
Bill Number or Topic

Amendment Barcode (if applicable)

Name Anthony DiMarco

Phone 850 224-2267

Email adimarco@floridabankers.com

Address 101 Thomasville Rd
Street

Tallahassee FL 32303
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing: Florida Bankers Assoc.

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

S-001 (08/10/2021)

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The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

January 16, 2024
Meeting Date

Banking and Insurance
Committee

556
Bill Number or Topic

279272
Amendment Barcode (if applicable)

Name Brian Jogerst

Phone 850-222-0191

Address PO Box 11094
Street

Email brian@bhandassociates.com

Tallahassee FL 32302
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** **Waive Speaking:** ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
Elder Law Section/Florida Bar

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

COMMITTEE VOTE RECORD

COMMITTEE: Banking and Insurance
ITEM: SB 556
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Tuesday, January 16, 2024
TIME: 11:00 a.m.—1:00 p.m.
PLACE: 412 Knott Building

FINAL VOTE			1/16/2024 1 Amendment adopted w/o objection Rouson					
Yea	**Nay**	**SENATORS**	**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**
X		Broxson						
X		Burton						
X		Hutson						
X		Ingoglia						
X		Mayfield						
X		Powell						
X		Thompson						
		Torres						
X		Trumbull						
X		DiCeglie, VICE CHAIR						
X		Boyd, CHAIR						
10	0	**TOTALS**	RCS	-				
Yea	**Nay**		**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered
RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment
TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call
WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	CS/SB 846
INTRODUCER:	Senate Committee on Banking and Insurance and Senator DiCeglie
SUBJECT:	Risk Retention Groups
DATE:	January 18, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Thomas	Knudson	BI	**Fav/CS**
2.			AEG	
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 846 amends s. 324.021, F.S., to provide that motor vehicle liability insurance coverage issued by a risk retention group operating in accordance with 15 U.S.C. ss. 3901 et seq., which conducts business in this state pursuant to s. 627.943 or s. 627.944, F.S., satisfies the financial responsibility requirements of state motor vehicle law.

Risk retention groups sell insurance to eligible members, do not submit rate and form filings to state regulators, and are not members of state guaranty associations that manage claims if an insurer becomes insolvent. Members of a risk retention group must be engaged in similar businesses or activities that have similar exposures due to the type of business, trade, product, service, premises, or operations.

The bill does not appear to have a fiscal impact on local or state government revenues or expenditures.

The bill has an effective date of July 1, 2024.

II. Present Situation:

Risk Retention Groups

Federal law treats risk retention groups (RRGs) – which may sell insurance only to eligible members – differently than traditional insurance companies. Members of a RRG must be engaged in similar businesses or activities that have similar exposures due to the type of business, trade, product, service, premises, or operations.[1]

Authorized insurers must be licensed in every state in which they operate and the domicile state serves as the primary regulator. RRGs need to be licensed as a liability insurer in only one state; further, those that were chartered prior to 1985 may operate under the laws of Bermuda or the Cayman Islands.[2] State regulators may require RRGs to comply with state laws relating to claim settlement and false or fraudulent acts, pay premium taxes, register with the designated state agent for service of process, and submit to financial exams if such exam has not been completed by the state in which the RRG is chartered.[3]

States may not require a RRG to participate in any insolvency guaranty association.[4] However, states may require notice that insurance provided by a RRG is not protected by an insolvency guaranty association.[5] Unlike authorized insurers, RRGs do not submit rate and form filings with a state regulator. Instead, RRGs apportion risk among their members; thus, rates are based on an actuarial analysis of the membership and policies can be tailored to suit the needs of the membership.[6]

RRGs may only provide liability insurance; the law defines liability insurance as coverage for liability for damages to persons or property arising out of any business, trade, product, professional service, premise, operation, or activity of a state or local government.[7] Liability insurance does not include an employer's liability to its employees; thus, RRGs may not issue workers' compensation insurance policies to their members.[8]

RRGs may operate in Florida if they obtain a certificate of authority as a liability insurer, or are licensed in another state and provide a copy of their business plan and annual financial statement to the office of Insurance Regulation (OIR) and designate the Chief Financial Officer as agent for service of process.[9] According to the OIR, 146 RRGs are licensed in a state other than Florida and registered to do business in Florida.[10]

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[1] 15 U.S.C. §3901(a)(4)(F) and s. 627.942(9), F.S.
[2] 15 U.S.C. § 3901(a)(4) and s. 627.942(9), F.S.
[3] 15 U.S.C. § 3902(a)(1).
[4] 15 U.S.C. § 3902(a)(2).
[5] 15 U.S.C. § 3902(a)(1).
[6] National Association of Insurance Commissioners, *Risk Retention Groups*, Risk Retention Groups (naic.org) (last accessed January 9, 2024).
[7] 15 U.S.C. 3901(a)(2)(A) and s. 627.942(9)(g), F.S.
[8] 15 U.S.C. 3901(a)(2)(B) and s. 627.942(4), F.S.
[9] Sections 627.943 and 627.944, F.S.
[10] Florida Office of Insurance Regulation, *Active Company Search*, https://companysearch.myfloridacfo.gov/ (last accessed January 9, 2024).

RRGs licensed in Florida pay the same premium taxes as Florida-licensed insurers.[11] RRGs registered to operate in Florida but licensed in another state pay the same premium taxes as surplus lines insurers that are allowed to sell lines of insurance that consumers cannot obtain from Florida-licensed insurers.[12] All RRGs operating in Florida must use agents who are licensed and appointed in Florida.[13]

It has been reported that confusion exists as to whether "a non-domiciliary or foreign RRG registered in the State is indeed deemed an 'insurer authorized to do business in the state' consistent with" federal law.[14] This confusion has been an issue especially for Florida trucking companies seeking to prove financial responsibility under Florida motor vehicle law. However, in a memorandum written in 2012 by the General Counsel of the Department of Highway Safety and Motor Vehicles, a RRG:

> can be accepted as an insurer writing commercial vehicle coverage for vehicles owned or operated by their members, so long as the policy does not extend to coverage for members who own a taxicab, limousine, jitney, or any other for-hire passenger transportation vehicle, as set forth in s. 324.031 Fla. Stats.[15]

Presently, there are 40 RRGs authorized to sell commercial automobile liability insurance to its members.[16]

Florida's Motor Vehicle Financial Responsibility Law

Chapter 324, F.S., sets forth the financial responsibility laws for owners or operators of motor vehicles in Florida, whether they be used for personal or commercial purposes. Generally, a motor vehicle owner or operator is required to insure against losses from liability for bodily injury, death, and property damage by 1) purchasing auto insurance from an insurance carrier authorized by the OIR to do business in Florida;[17] or 2) obtaining a certificate of self-insurance from the Department of Highway Safety and Motor Vehicle (DHSMV) after demonstrating the ability to cover potential losses arising out of the ownership, maintenance, or use of a motor vehicle.[18]

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[11] Section 627.943(4), F.S. Pursuant to s. 624.509, F.S., premium taxes (typically 1.75 percent of the premium) are collected by the licensed insurer and paid to the Department of Revenue on or before March 1 of each year.
[12] Section 627.944 (3), F.S. Pursuant to s. 626.932, F.S., premium taxes (4.94 percent of the premium) are collected by the licensed insurance agent and paid to the Department of Financial Services on a quarterly basis; premiums are also reported to the Florida Surplus Lines Service Office (FSLSO) which oversees the reporting requirements of eligible surplus lines insurers. The FSLSO website is https://www.fslso.com/.
[13] Sections 627.943(1) and 627.944(12), F.S.
[14] Email to Staff Director, Senate Committee on Banking and Insurance, James Knudson, from Joseph E. Deems, Executive Director, National Risk Retention Association, November 1, 2023 (on file with the Senate Committee on Banking and Insurance).
[15] Memorandum to Julie Gentry, Chief of Motorist Compliance, DHSMV, from Stephen D. Hurm, General Counsel, DHSMV, May 25, 2012 (on file with the Senate Committee on Banking and Insurance).
[16] Florida Office of Insurance Regulation, *Active Company Search*, https://companysearch.myfloridacfo.gov/ (last accessed January 9, 2024).
[17] Section 324.021(8), F.S.
[18] Sections 324.161 and 324.171, F.S. *Also see* Florida Department of Highway Safety and Motor Vehicles, Self-Insurance, https://www.flhsmv.gov/insurance/self-insurance/firm/ (last accessed January 9, 2024).

The OIR licenses insurance carriers and reviews policy contracts and premium rates of its licensees.[19] An insurance carrier may not issue an auto insurance policy in Florida unless the policy includes coverages for both personal injury and property damage.[20]

The DHSMV administers the Financial Responsibility Law by requiring all licensed insurance companies to provide electronic notification of all policies that are issued or cancelled.[21] Vehicle owners must show proof of personal injury protection and property damage liability coverage to register a vehicle,[22] and must provide proof of bodily injury liability coverage if they are involved in an accident and charged with a moving violation.[23] A vehicle owner who fails to maintain continuous coverage may have his or her driver's license and registration suspended.[24]

Required coverages vary based on the use of a motor vehicle. For individual motorists, the law requires $10,000 in personal injury protection and $10,000 for property damage.[25] If a driver has been convicted of driving under the influence of alcohol, the motorist must maintain liability coverage of $100,000 for bodily injury to, or death of, one person in any one crash and in the amount of $300,000 due to bodily injury to, or death of, two or more persons in any one crash and in the amount of $50,000 because of property damage in any one crash per accident, for three years after the license is reinstated.[26]

For leased motor vehicles, the lessor is not liable for the actions of a lessee so long as the lease requires $100,000/$300,000 bodily injury liability and $50,000 property damage liability or not less than $500,000 combined property damage and bodily injury liability.[27] For-hire passenger vehicles like taxicabs and limousines must have bodily injury liability coverage of $125,000 per person and $250,000 per occurrence, and $50,000 property damage coverage.[28]

Commercial motor vehicles operating on Florida's highways are subject to state and federal regulations related to size and weight limits, safety standards, and registration requirements. Commercial vehicles that weigh 10,001 pounds or more, and engage in interstate commerce or haul hazardous materials, are subject to federal law, where required coverages range from $750,000 to $5 million.[29] Commercial vehicles that weigh 26,001 pounds or more, operate only within Florida, and do not transport hazardous materials are subject to Florida law, where required coverages range from $50,000 to $300,000.[30]

When the owner or operator of a motor vehicle purchases liability insurance to satisfy the financial responsibility law, the policy must be issued by an insurance company authorized to do

[19] Sections 624.404, 627.062, 627.410, and 627.4102, F.S.
[20] Section 627.7275, F.S.
[21] Sections 324.0221, 324.252, F.S., and Rules 15A-3.007, and 15A-3.012, F.A.C.
[22] Sections 324.022, 324.023, F.S., and Rule 15A-3.006, F.A.C.
[23] Section 324.021, F.S. *Also see*, Florida Highway Safety and Motor Vehicles, *Florida Insurance Requirements*, https://www.flhsmv.gov/insurance/ (last accessed January 9, 2024).
[24] Section 324.0221, F.S.
[25] Sections 324.021(7), 324.022, and 627.736, F.S.
[26] Section 324.023, F.S.
[27] Section 324.021(9), F.S.
[28] Sections 324.032, F.S.
[29] 49 CFR § 387.9.
[30] Sections 207.002(1), 320.01(25), and 627.7415, F.S.

business in Florida.[31] When an owner or operator self-insures a vehicle or fleet of vehicles, the owner or operator must obtain a certificate of self-insurance from the DHSMV.[32]

III. Effect of Proposed Changes:

The bill amends s. 324.021, F.S., to provide that motor vehicle liability insurance coverage issued by a risk retention group operating in accordance with 15 U.S.C. ss. 3901 et seq., which conducts business in this state pursuant to ss. 627.943 or 627.944, F.S., satisfies the financial responsibility requirements of state motor vehicle law. The change should eliminate any existing confusion of whether these RRGs are permitted to sell commercial motor vehicle liability coverage to its members.

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:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may end the confusion regarding the ability of RRGs to offer commercial motor vehicle liability insurance to its members. The bill may benefit members of RRGs who are able to buy their motor vehicle policies through the group at a lower rate.

[31] Section 324.021(8), F.S.
[32] Section 324.171, F.S.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following section of the Florida Statutes: 324.021.

IX. Additional Information:

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

CS by Banking and Insurance Committee on January 16, 2024:
The committee substitute removes the entire substance of the bill and amends s. 324.021, F.S., to provide that motor vehicle insurance coverage issued by risk retention groups operating under federal law, and conducting business in the state, satisfies the financial responsibility requirements of Florida motor vehicle law.

B. Amendments:

None.

560190

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/18/2024	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsection (8) of section 324.021, Florida Statutes, is amended to read:

324.021 Definitions; minimum insurance required.—The following words and phrases when used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this section, except in those instances

560190

where the context clearly indicates a different meaning:

(8) MOTOR VEHICLE LIABILITY POLICY.—Any owner's or operator's policy of liability insurance furnished as proof of financial responsibility pursuant to s. 324.031, insuring such owner or operator against loss from liability for bodily injury, death, and property damage arising out of the ownership, maintenance, or use of a motor vehicle in not less than the limits described in subsection (7) and conforming to the requirements of s. 324.151, issued by any insurance company authorized to do business in this state, including, but not limited to, a risk retention group operating in accordance with 15 U.S.C. ss. 3901 et seq. which conducts business in this state pursuant to s. 627.943 or s. 627.944. The owner, registrant, or operator of a motor vehicle is exempt from providing such proof of financial responsibility if he or she is a member of the United States Armed Forces and is called to or on active duty outside this state or the United States, or if the owner of the vehicle is the dependent spouse of such active duty member and is also residing with the active duty member at the place of posting of such member, and the vehicle is primarily maintained at such place of posting. The exemption provided by this subsection applies only as long as the member of the armed forces is on such active duty outside this state or the United States and the owner complies with the security requirements of the state of posting or any possession or territory of the United States.

Section 2. This act shall take effect July 1, 2024.

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

560190

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to risk retention groups; amending s. 324.021, F.S.; revising the definition of the term "motor vehicle liability policy" to include policies of liability insurance issued by certain risk retention groups; providing an effective date.

By Senator DiCeglie

18-00549-24 2024846__

A bill to be entitled

An act relating to risk retention groups; amending s. 627.944, F.S.; providing that certain risk retention groups are deemed to be insurance companies authorized to do business in this state; making technical changes; providing an effective date.

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

Section 1. Section 627.944, Florida Statutes, is amended to read:

627.944 Risk retention groups not certificated in this state.—Risk retention groups certificated or licensed in states other than this state and seeking to do business as a risk retention group in this state are deemed to be insurance companies authorized to do business in this state and must observe and abide by the laws of this state as follows:

(1) NOTICE OF OPERATIONS AND DESIGNATION OF CHIEF FINANCIAL OFFICER AS AGENT.—Before offering insurance in this state, a risk retention group must ~~shall~~ submit to the office:

(a) A statement identifying the state or states in which the risk retention group is certificated or licensed as a liability insurance company, date of certification or licensing, its principal place of business, and such other information, including information on its membership, as the office may require to verify that the risk retention group is qualified as a risk retention group under ~~the provisions of~~ this part.

(b) A copy of its plan of operations or a feasibility study and revisions of such plan or study submitted to its state of

domicile; provided, however, that the provision relating to the submission of a plan of operation or a feasibility study does ~~shall~~ not apply with respect to any line or classification of liability insurance which was defined in the Product Liability Risk Retention Act of 1981 before October 27, 1986, and which was offered before such date by any risk retention group which had been certificated or licensed and operating for not less than 3 years before such date.

(c) A statement of registration which designates the Chief Financial Officer or her or his designee as its agent for the purpose of receiving service of legal documents of process.

(2) FINANCIAL CONDITION.—Any risk retention group doing business in this state must ~~shall~~ submit to the office:

(a) A copy of the group's financial statement submitted to its state of domicile, which must ~~shall~~ be certified by an independent public accountant and contain a statement of opinion on loss and loss adjustment expense reserves made by a member of the American Academy of Actuaries or a qualified loss reserve specialist under criteria established by rule of the commission after considering any criteria established by the National Association of Insurance Commissioners.

(b) A copy of each examination of the risk retention group as certified by the insurance commissioner or public official conducting the examination.

(c) Upon request by the office, a copy of any audit performed with respect to the risk retention group.

(d) Such information as may be required to verify its continuing qualification as a risk retention group under ~~the provisions of~~ this part.

(3) TAXATION.—All premiums paid for insurance or coverages on risks located within this state to a risk retention group shall be subject to taxation at the same rate and subject to the same interest, fines, and penalties for nonpayment as that applicable to eligible surplus lines insurers. Each agent utilized in any transaction shall report and pay the taxes for the premiums for risks which they have placed with or on behalf of a risk retention group not certificated in this state. In the event that an agent fails to pay the tax, each risk retention group shall pay the tax for insured or covered risks located within this state. Further, each risk retention group shall report all premiums paid to it for insured or covered risks located within this state.

(4) COMPLIANCE WITH UNFAIR CLAIM SETTLEMENT PRACTICES LAW.—Any risk retention group, its agents, and its representatives shall comply with the unfair claim settlement practices law of this state as set forth in s. 626.9541(1)(i).

(5) DECEPTIVE, FALSE, OR FRAUDULENT PRACTICES.—Any risk retention group shall comply with and be subject to the laws of this state regarding deceptive, false, or fraudulent acts or practices, including ~~the provisions of~~ part IX of chapter 626. If the office seeks an injunction regarding conduct in violation of these laws, the injunction may be obtained from any Florida court of competent jurisdiction.

(6) EXAMINATION REGARDING FINANCIAL CONDITION.—Any risk retention group must submit to an examination by the office to determine its financial condition if the insurance commissioner of the jurisdiction in which the group is certificated or licensed has not initiated an examination or does not initiate

an examination within 30 days after a request by the office. Any examination must ~~shall~~ be coordinated to avoid unjustified repetition and conducted in an expeditious manner.

(7) NOTICE TO PURCHASERS.—Any policy issued by a risk retention group must ~~shall~~ contain in 10-point type on the front page and the declaration page, the following provision:

"Notice, this policy is issued by your risk retention group. Your risk retention group may not be subject to all of the insurance laws and regulations of your state. State insurance insolvency guaranty funds are not available for your risk retention group."

(8) PROHIBITED ACTS REGARDING SOLICITATION OR SALE.—The following acts by a risk retention group are ~~hereby~~ prohibited:

(a) The solicitation or sale of insurance by a risk retention group to any person who is not eligible for membership in the group.

(b) The solicitation or sale of insurance by, or operation of, a risk retention group that is in a hazardous financial condition or is financially impaired.

(9) PROHIBITED OWNERSHIP BY AN INSURANCE COMPANY.—No risk retention group shall be allowed to do business in this state if an insurer is directly or indirectly a member or owner of the risk retention group, other than in the case of a risk retention group all of whose members are insurers.

(10) PROHIBITED COVERAGE.—No risk retention group may offer insurance coverage prohibited by the Florida Insurance Code or declared unlawful by the highest court of this state.

(11) DELINQUENCY PROCEEDINGS.—A risk retention group not domiciled in this state but doing business in this state shall comply with a lawful order issued in a voluntary dissolution proceeding or in a delinquency proceeding commenced by the office if there has been a finding of financial impairment after an examination under subsection (6).

(12) UTILIZATION OF AGENT.—A risk retention group shall utilize an agent licensed and appointed in this state in order to solicit, transact, underwrite, or provide insurance on a risk of a group member, which risk is located in this state.

Section 2. This act shall take effect July 1, 2024.

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES
OFFICE OF GENERAL COUNSEL

May 25, 2012

TO: JULIE GENTRY
Chief of Motorist Compliance

VIA: STEPHEN D. HURM
General Counsel

FROM: JUDSON M. CHAPMAN
Sr. Assistant General Counsel

SUBJECT: Alliance for Nonprofits (ANI), Risk Retention Group (RRG)
DOCKET NO.: 2012-0005713

QUESTION PRESENTED:

Can the Department accept ANI, a registered risk retention group with the Office of Insurance Regulation (OIR), as a commercial motor vehicle liability insurer under Ch. 324?

ANSWER:

Yes, they can be accepted as an insurer writing commercial vehicle coverage for vehicles owned or operated by their members, so long as the policy does not extend to coverage for members who own or operate a taxicab, limousine, jitney, or any other for-hire passenger transportation vehicle, as set forth in s. 324.031 Fla. Stats.

DISCUSSION:

As reflected in the February 10, 2011 letter from OIR, copy attached, ANI is a registered Risk Retention Group in this State. RRG's are created pursuant to the Federal Liability Risk Retention Act, 15 USCA ss.3901-3906, for the purpose of spreading risk liability exposure among its group members. These groups are further described in ss. 627.941 et. seq. Fla. Stats.

The Federal law exempts RRG's from many state insurance regulatory laws. In the case of Mears Transportation Group v. State, 34 F.3d 1013 (U.S. 11th Cir. Ct. 1994), it was determined that, in spite of these exemptions, Florida could still require an RRG to prove financial responsibility under 324.031 Fla. Stats., by showing membership in the Florida Insurance Guaranty Association (FIGA).

However, in the case of ANI, they have assured us that the motor vehicle liability policies they intend to write for their members will not be "for-hire" coverage, thus distinguishing their coverage from that involved in the Mears Transportation case, which involved for-hire transportation companies. See in this regard, ANI's email of May 16, 2012, copy attached.

Accordingly, it is our opinion that the FIGA membership requirement of 324.031 does not affect ANI, since that section applies to for-hire transportation companies and ANI members do not fall into that category. ANI may be approved to provide commercial motor vehicle liability policies as defined in ss. 324.021(8) and 324.151 Fla. Stats.

CONCLUSION:

Yes, they can be accepted as an insurer writing commercial vehicle coverage for vehicles owned or operated by their members, so long as the policy does not extend to coverage for members who own or operate a taxicab, limousine, jitney, or any other for-hire passenger transportation vehicle, as set forth in s. 324.031 Fla. Stats.

If you have other questions in this regard, please let us know. Please refer to the above docket number when submitting further inquiries regarding this matter.

JMC/plt

cc: Boyd Walden
Steven Fielder
DHSMV Attorneys

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

1/16/24
Meeting Date

GAI
Committee

846
Bill Number or Topic

Amendment Barcode (if applicable)

Name ALIX MILLER

Phone 850-222-1902

Address 350 E Colley Ave
Street

Tallahassee FL 32301
City State Zip

Email alix@floridatrucking.org

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing: Florida Trucking Association

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

THE FLORIDA SENATE
SENATOR NICK DICEGLIE
District 18

Kathleen Passidomo
President of the Senate

Dennis Baxley
President Pro Tempore

January 11, 2024

Dear Chair Boyd,

I respectfully request that **SB 846: Risk Retention Groups** be placed on the agenda of the Committee on Banking and Insurance at your earliest convenience.
If my office can be of any assistance to the committee please do not hesitate to contact me at DiCeglie.Nick@flsenate.gov or (850) 487-5018. Thank you for your consideration.

Sincerely,

Nick DiCeglie

State Senator, District 18

Proudly Serving Pinellas County

Transportation Committee, Chair ~ Banking and Insurance Committee, Vice Chair ~
Fiscal Policy Committee ~ Judiciary Committee ~
Rules Committee ~ Joint Legislative Auditing Committee

The Florida Senate

COMMITTEE VOTE RECORD

COMMITTEE: Banking and Insurance
ITEM: SB 846
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Tuesday, January 16, 2024
TIME: 11:00 a.m.—1:00 p.m.
PLACE: 412 Knott Building

FINAL VOTE			1/16/2024 1 Amendment adopted w/o objection DiCeglie					
Yea	**Nay**	**SENATORS**	**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**
X		Broxson						
X		Burton						
X		Hutson						
X		Ingoglia						
X		Mayfield						
X		Powell						
X		Thompson						
		Torres						
X		Trumbull						
X		DiCeglie, VICE CHAIR						
X		Boyd, CHAIR						
10	0	**TOTALS**	RCS	-				
Yea	**Nay**		**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered
RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment
TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call
WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	CS/SB 902
INTRODUCER:	Banking and Insurance and Senator Boyd
SUBJECT:	Motor Vehicle Retail Financial Agreements
DATE:	January 18, 2024
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Moody	Knudson	BI	**Fav/CS**
2.			CM	
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 902 substantially adopts portions of the Guarantee Asset Protection Alliance ("GAPA") Products Model Act relating to vehicle value protection agreements ("VVPAs"), excess wear and use waivers, and guarantee asset protection products (the "GAP products").

Vehicle Value Protection Agreements

The bill creates the "Florida Vehicle Value Protection Agreements Act" (the "Florida Act"), which includes:

- Definitions of the terms, administrator, commercial transaction, consumer, contract holder, finance agreement, free look period, motor vehicle, provider, and vehicle value protection agreement.
    - A "vehicle value protection agreement" is defined as a contractual agreement that provides a benefit toward either the reduction of some or all of the contract holder's current finance agreement deficiency balance, or the purchase or lease of a replacement motor vehicle upon the occurrence of an adverse event to the vehicle. The term does not include GAP products and the product is not insurance.
- Requirements for offering VVPAs, including provisions regarding restricting the type of charges, prohibiting certain conditional sales, utilizing an administrator, providing a copy of the agreement, prohibiting sales with duplicative coverage, and providing for financial security requirements;

- The nature, extent and type of disclosures required in VVPAs;
- Penalties for violating the Florida Act which includes noncriminal violations punishable by a fine per violation or in the aggregate for all "violations of a similar nature," which is defined in the bill; and
- Exemption of VVPAs offered in connection with a commercial transaction from the disclosure and penalty provisions of the Florida Act.

Excess Wear and Use Waivers

The bill authorizes a retail lessee to contract with a retail lessor for an "excess wear and use waiver," which is an agreement wherein the lessor agrees to cancel all or part of amounts that may become due under the lease because of excessive wear and use of a motor vehicle. The bill also prohibits the terms of the related motor vehicle lease from being conditioned upon the consumer's payment for any excess wear and use wavier, except such waiver may be discounted or given at no charge for the purchase of other noncredit-related goods. A lease agreement that includes an excess wear and use waiver must contain certain disclosures. An excess wear and use waiver is not insurance for purposes of the Florida Insurance Code.

Guaranteed Asset Protection Products

The bill amends the definition of "guaranteed asset protection product" ("GAP product") which is an agreement by which a creditor agrees to waive a customer's liability for any debt that exceed the value of the collateral, to specify that a GAP product:

- May be with or without a separate charge;
- May cancel, rather than just waive, the customer's liability;
- Applies when a motor vehicle incurs total physical damage or is subject to an unrecovered theft; and
- May provide for a benefit that waives a portion of, or provides a customer with a credit toward, the purchase of a replacement vehicle.

The bill also amends the provisions regarding GAP products to:

- Prohibit an entity from deducting more than $75 in administrative fees from a refund;
- Provide that a GAP product may be cancelable or noncancelable after a "free-look period," which is defined in the bill; and
- Provide that if a termination of a GAP product occurs for a specified reason, the entity may pay any refund directly to the holder or administrator, and deduct the refund amount from the amount owed under the retail installment contract except if such contract has been paid in full.

The bill has an effective date of October 1, 2024.

II. Present Situation:

Florida Motor Vehicle Sales Finance Laws

The Florida Motor Vehicle Retail Sales Finance Act[1] regulates sellers,[2] commonly referred to as auto dealers, who enter into retail installment contracts[3] with buyers[4] for the purchase or lease of a motor vehicle.[5] Except for certain businesses, such as banks or trust companies, sellers are required to obtain a license to operate in Florida.[6] A seller must submit an application, specified information, and a nonrefundable fee to the Office of Financial Regulation (OFR) to obtain the required license.[7]

Any person who willfully and intentionally violates any provision of s. 520.995, F.S., or engages in the business of a retail installment seller without a license is guilty of a misdemeanor of the first degree. Section 520.995, F.S., provides grounds for disciplinary action by the OFR when, for instance, there is failure to comply with any provision of ch. 520, F.S. Further, the OFR has authority to issue and serve upon any person a cease and desist order whenever such person is violating, has violated, or is about to violate any provision of ch. 520, F.S.,[8] or may impose an administrative fine not to exceed $1,000 for each violation that has occurred.[9]

Retail installment contracts must comply with several requirements and prohibitions, including, but not limited to, that the agreement must:

- Be in writing;[10]
- Contain a "Notice to the Buyer" which includes specified information;[11] and
- Contain other specified information, including the amount financed, finance charges, total amount of payments, total sale price, and payment details.[12]

Sellers must provide buyers with a separate written itemization of the amount financed.[13] Florida law contains several other provisions to protect the buyer, such as regulation on insurance rates,

[1] Sections 520.01-520.10, 520.12, 520.125, and 520.13, F.S.
[2] Section 520.02(11), F.S., defines "motor vehicle retail installment seller" or "seller" as a person engaged in the business of selling motor vehicles to retail buyers in retail installment transactions.
[3] "Retail installment contract" or "contract" is defined as an agreement, entered into in this state, pursuant to which the title to, or a lien upon the motor vehicle, which is the subject matter of a retail installment transaction, is retained or taken by a seller from a retail buyer as security, in whole or in part, for the buyer's obligation. The term includes a conditional sales contract and a contract for the bailment or leasing of a motor vehicle by which the bailee or lessee contracts to pay as compensation for its use a sum substantially equivalent to or in excess of its value and by which it is agreed that the bailee or lessee is bound to become, or for no further or a merely nominal consideration, has the option of becoming, the owner of the motor vehicle upon full compliance with the provisions of the contract. Section 520.02(17), F.S.
[4] "Retail buyer" or "buyer" is defined as a person who buys a motor vehicle from a seller not principally for the purpose of resale, and who executes a retail installment contract in connection therewith or a person who succeeds to the rights and obligations of such person.
[5] *See* Ch. 520, F.S.
[6] Section 520.03(1), F.S.
[7] *Id.*
[8] Section 520.994(3), F.S.
[9] Section 520.994(4), F.S.
[10] Section 520.07(1)(a), F.S.
[11] Section 520.07(1)(b), F.S.
[12] Section 520.07(2), F.S.
[13] Section 520.07(3), F.S.

refunds for unearned insurance premiums, limits on the amount of delinquency charges a holder[14] may charge, and restrictions on when a contract may be signed with blank spaces.[15]

In conjunction with entering into any new retail installment contract or contract for a loan, a seller, a sales finance company,[16] or a retail lessor,[17] and any assignee of such an entity, may offer an optional GAP product for fee or otherwise.[18] Florida law defines a "guaranteed asset protection product" as:

> a loan, lease, or retail installment contract term, or modification or addendum to a loan, lease, or retail installment contract, under which a creditor agrees to waive a customer's liability for payment of some or all of the amount by which the debt exceeds the value of the collateral. Such a product is not insurance for purposes of the Florida Insurance Code. This subsection also applies to all guaranteed asset protection products issued before October 1, 2008.

A seller or any other authorized entity may not require the buyer to purchase a GAP product as a condition for making the loan. In order to offer a GAP product, a seller or any other authorized entity must comply with the following:[19]

- The cost of any GAP product must not exceed the amount of the loan indebtedness.
- Any contract or agreement pertaining to a GAP product must be governed by s. 520.07, F.S., relating to requirements and prohibitions as to retail installment contracts.
- A GAP product must remain the obligation of any person that purchases or otherwise acquires the loan contract covering such product.
- An entity providing GAP products must provide readily understandable disclosures that explain in detail eligibility requirements, conditions, refunds, and exclusions. The disclosures must explain that the purchase of the GAP product is optional, and must meet certain criteria regarding the language contained in it.
- An entity must provide a copy of the executed contract for the GAP product to the buyer.
- An entity may not offer a contract for a GAP product that contains terms giving the entity the right to unilaterally modify the contract unless:
    - The modification is favorable to the buyer and is made without any additional charge; or
    - The buyer is notified of any proposed change and is provided a reasonable opportunity to cancel the contract without penalty before the change goes in effect.
- If a contract for a GAP product is terminated, the entity must refund to the buyer any unearned fees paid for the contract unless the contract provides otherwise. A customer who

[14] Section 520.02(8), F.S., provides that a "holder" of a retail installment contract means the retail seller of a motor vehicle retail installment contract or an assignee of such contract.
[15] Section 520.07, F.S.
[16] Section 520.02(19), F.S., defines "sales finance company" as a person engaged in the business of purchasing retail installment contracts from one or more sellers. The term includes, but is not limited to, a bank or trust company, if so engaged. The term does not include the pledge of an aggregate number of such contracts to secure a bona fide loan thereon.
[17] Section 521.003(8), F.S., defines "retail lessor" as a person who regularly engages in the business of selling or leasing motor vehicles and who offers or arranges a lease agreement for a motor vehicle. The term includes an agent or affiliate who acts on behalf of the retail lessor and excludes any assignee of the lease agreement.
[18] Section 520.07(11), F.S.
[19] *Id.*

receives the benefit of the GAP product is not entitled to a refund. The buyer must notify the entity of the event terminating the contract and request a refund within 90 days after the terminating event. An entity may offer a buyer a nonrefundable contract for a GAP product only if the entity also offers the buyer a bona fide option to purchase a comparable contract that provides for a refund.

Ch. 520, F.S., does not contain any provisions on VVPAs or excess wear and use waivers.

GAPA Products Model Act

The Guarantee Asset Protection Alliance (GAPA) is an organization composed of insurance companies, lenders, and administrative services companies and offers member benefits relating to, amongst other things, legislative efforts regarding GAP waivers.[20] On November 30, 2023, GAPA approved the latest Products Model Act (the "Revised Model Act") relating to motor vehicle financial protection,[21] such as VVPA and debt waivers.[22] Debt waivers include GAP products and excess wear and use waivers.[23] The Model Act relates to the GAP waiver only. The Revised Model Act, of which the bill adopts many portions, incorporates updated provisions on GAP waivers, provisions covering excess wear and use waivers, and provisions on VVPAs. According to GAPA, 15 states have enacted GAP waivers, 22 states have adopted the Model Act (including Florida), and 4 states have adopted the Revised Model Act.[24]

III. Effect of Proposed Changes:

Florida Vehicle Value Protection Agreements Act

Section 3 of the bill provides that ss. 520.151, F.S., to 520.156, F.S., may be cited as the "Florida Act."

Section 4 of the bill defines, for purposes of the Florida Vehicle Value Protection Agreements Act, the following terms:

- "Administrator" means the person who is responsible for the administrative or operational function of managing vehicle value protection agreements, including, but not limited to, the adjudication of claims or benefit requests by contract holders.
- "Commercial transaction" means a transaction in which the motor vehicle subject to the transaction is used primarily for business or commercial purposes.
- "Contract holder" means a person who is the purchaser or holder of a vehicle value protection agreement.

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[20] The GAPA, *Membership*, available at: GAPA Membership Information (gapalliance.org) (last visited Jan. 10, 2024).
[21] The GAPA, *Motor Vehicle Financial Protection Products Model Act*, Nov. 30, 2023, p. 2, available at: GAPA-Model-Act-APPROVED-2023_11_30.pdf (gapalliance.org) (last visited Jan. 10, 2024) (hereinafter cited as the "Revised Model Act"). The Revised Model Act defines "Motor Vehicle Financial Protection Products" as agreements defined herein that protect a Consumer's financial interest in their current or future motor vehicle and include but are not limited to debt waivers and vehicle value protection agreements.
[22] The Revised Model Act.
[23] The Revised Model Act at p. 2-3.
[24] The GAPA, *Legislative Status of GAP Waiver*, May 2023, available at: PowerPoint Presentation (gapalliance.org) (last visited Jan. 12, 2024).

- "Finance agreement" means a loan, retail installment sales contract, or lease for the purchase, refinancing, or lease of a motor vehicle.
- "Free-look period" means the period of time, commencing on the effective date of the contract, during which the buyer may cancel the contract for a full refund of the purchase price. This period may not be shorter than 30 days.
- Motor vehicle" has the same meaning as provided in s. 520.02, F.S., which defines the term as any device or vehicle, including automobiles, motorcycles, motor trucks, trailers, mobile homes, and all other vehicles operated over the public highways and streets of this state and propelled by power other than muscular power, but excluding traction engines, road rollers, implements of husbandry and other agricultural equipment, and vehicles which run only upon a track.
- "Provider" means a person that is obligated to provide a benefit under a VVPA. A provider may function as an administrator or retain the services of a third-party administrator.
- "Vehicle value protection agreement" includes a contractual agreement that provides a benefit towards either the reduction of some or all of the contract holder's current finance agreement deficiency balance or the purchase or lease of a replacement motor vehicle or motor vehicle services upon the occurrence of an adverse event to the motor vehicle, including, but not limited to, loss, theft, damage, obsolescence, diminished value, or depreciation. The term does not include GAP products defined in s. 520.02, F.S. Such a product is not insurance for purposes of the Florida Insurance Code.

All of the defined terms are substantially the same as the definitions contained in the Revised Model Act.[25]

Section 5 of the bill provides that a VVPA may be offered, sold, or given to consumers in compliance with the Florida Act. Notwithstanding any other law, any amount charged or financed for a VVPA must not be a finance charge or interest and must be separately stated in the finance agreement and in the VVPA. The extension or terms of credit, or the terms of the motor vehicle sale or lease may not be conditioned upon the consumer's payment for or financing of any charge for a VVPA, except a VVPA may be discounted or given at no charge in connection with the purchase of other noncredit-related goods or services. These provisions are substantially the same as the provisions in the Revised Model Act that apply to the requirements for offering motor vehicle financial protection products.[26]

The bill authorizes a provider to use an administrator or other designee to administer a VVPA. A consumer may not be sold a VVPA unless a copy of the agreement has been or will be provided to him or her at a reasonable time after such agreement is sold, or if coverage is duplicative of another VVPA sold to a person or duplicative of a GAP product. The Revised Model Act does not contain a provision that prohibits duplicative coverage. This provision was added to ensure consumers were not purchasing products that provide the same coverage.

Each provider must do one of the following:

[25] The Revised Model Act at pp. 1-2, and 6
[26] The Revised Model Act at p. 2.

- Insure[27] all of its VVPAs under a policy that pays or reimburses the contract holder in the event the provider fails to perform its obligations under the agreement. The Revised Model Act provides more details on the amount of minimum coverage that would be required. This language was omitted to avoid inconsistencies with the Florida Insurance Code, but the overall intent and protection afforded under the Revised Model Act is maintained under this provision in the bill.
- Maintain a funded reserve account for its obligations under its contracts issued and outstanding in this state. The reserves may not be less than 40 percent of gross consideration received, less claims paid, on the sale of the VVPA for all in-force contracts in this state. The reserve must be placed in trust with the OFR and have a financial security deposit valued at not less than 5 percent of the gross consideration received, less claims paid, on the sale of the VVPAs for all VVPAs issued and in force in this state, but at least $25,000. The reserve account must consist of one of the following:
    - A surety bond issued by an authorized surety;
    - Securities of the type eligible for deposit by insurers as provided in s. 625.52, F.S.;
    - Cash; or
    - A letter of credit issued by a qualified financial institution.
- Maintain, or together with its parent corporation maintain, a net worth or stockholders' equity of $100 million and, upon request, provide the OFR with a copy of the provider's or the provider's parent company's Form 10-K or Form 20-F filed with the Securities and Exchange Commission ("SEC") within the last calendar year, or if the company does not file with the SEC, a copy of the company's audited financial statements, which must show a net worth of the provider or its parent company of at least $100 million. If the provider's parent company's Form 10-K, Form 20-F, or financial statements are filed to meet the provider's financial security requirement, the parent company must agree to guarantee the obligations of the provider relating to vehicle value protection agreements sold by the provider in this state.

A financial security requirement other than those described in this paragraph may not be imposed on VVPA providers.

Section 6 of the bill requires VVPAs to disclose in writing, in clear, understandable language, all of the following:

- The name and address of the provider, contract holder, and administrator.
- The terms of the VVPA, including any purchase price to be paid by the contract holder, the requirements for eligibility and conditions of coverage, and any exclusions.
- Whether the VVPA may be canceled by the contract holder during a free-look period, and that the contract holder is entitled to a full refund if the contract is cancelled of any purchase price if no benefits have been provided.
- Any procedure the contract holder must follow to obtain a benefit under the terms and conditions of the VVPA, including a telephone number, website, or mailing address where the contract holder may apply for a benefit.
- Whether the VVPA is cancelable after the free-look period and the conditions under which it may be canceled, including the procedures for requesting any refund of the unearned purchase price paid by the contract holder. In the event that the agreement is cancelable, it

[27] The insurer must be licensed or otherwise authorized or eligible to do business in this state.

must include the methodology for calculating any refund due of the unearned purchase price of the vehicle value protection agreement.
- The extension or terms of credit, or the terms of the related motor vehicle sale or lease may not be conditioned upon the purchase of the vehicle value protection agreement.
- A VVPA must state the terms, restrictions, or conditions governing cancellation of the VVPA before the termination or expiration date of the VVPA by either the provider or the contract holder. The provider of the VVPA shall mail a written notice to the contract holder at the last known address of the contract holder contained in the records of the provider at least 5 days before cancellation by the provider, which notice must state the effective date of the cancellation and the reason for the cancellation. However, such prior notice is not required if the reason for cancellation is nonpayment of the provider fee, a material misrepresentation by the contract holder to the provider or administrator, or a substantial breach of duties by the contract holder relating to the covered motor vehicle or its use. If a vehicle value protection agreement is canceled by the provider for a reason other than nonpayment of the provider fee, the provider must refund to the contract holder 100 percent of the unearned pro rata provider fee paid by the contract holder, if any. If coverage under the vehicle value protection agreement continues after a claim, any refund may reflect a deduction for claims paid and, at the discretion of the provider, an administrative fee of not more than $75.

Section 7 of the bill provides that the provisions on disclosures (section 6) and the provisions on penalties (section 8) do not apply to VVPAs offered in connection with a commercial transaction. This section of the bill adopts the Revised Model Act.

Section 8 of the bill provides that a provider, an administrator, or any other person who willfully and intentionally violates the Florida Vehicle Value Protection Agreements Act commits a noncriminal violation.[28] Such violation is punishable by a civil fine not to exceed $500 per violation and not more than $10,000 in the aggregate for all violations of a similar nature. For purposes of this section, the term "violations of a similar nature" means violations that consist of the same or similar course of conduct, action, or practice, irrespective of the number of times the action, conduct, or practice determined to be a violation of the Florida Act occurred. The bill adopts part of the Revised Model Act that provides for penalties, including the issuance of cease and desist orders and the imposition of penalties. The OFR has administrative authority to issue cease and desist orders pursuant to s. 520.994, F.S.

Excess Wear and Use Waiver Agreements

Section 9 of the bill substantially adopts the definition of "excess wear and use waiver" in the Revised Model Act to mean a contractual agreement wherein a lessor agrees, with or without a separate charge, to cancel or waive all or part of amounts that may become due under a lease agreement as a result of excessive wear and use of a motor vehicle, which agreement must be part of, or a separate addendum to, the lease agreement. Such waivers may also cancel or waive amounts due for excess mileage.

[28] Section 775.08(3), F.S., defines "noncriminal violation" as any offense that is punishable under the laws of this state, or that would be punishable if committed in this state, by no other penalty than a fine, forfeiture, or other civil penalty. A noncriminal violation does not constitute a crime, and conviction for a noncriminal violation shall not give rise to any legal disability based on a criminal offense.

The bill establishes legal authority and requirements for retail lessees to contract with retail lessors for an excess wear and use waiver in connection with lease agreements. The terms of the related motor vehicle lease may not be conditioned upon the consumer's payment for any excess wear and use waiver. However, excess wear and use waivers may be discounted or given at no charge in connection with the purchase of other noncredit-related goods. A lease agreement that includes an excess wear and use waiver must disclose all of the following:

- The total charge for the excess wear and use waiver.
- Any exclusions or limitations on the amount of excess wear and use which may be waived under the excess wear and use waiver.
- The terms, restrictions, or conditions governing cancellation of the excess wear and use waiver before the termination or expiration of the excess wear and use waiver, which may include an administrative fee of not more than $75.

The bill provides that an excess wear and use waiver is not insurance for purposes of the Florida Insurance Code.

Guaranteed Asset Protection Products

Section 1 of the bill amends the definition of "guaranteed asset protection product" to mean:

> a loan, lease, or retail installment contract term, or modification or addendum to a loan, lease, or retail installment contract, under which a creditor agrees, with or without a separate charge, to cancel or waive a customer's liability for payment of some or all of the amount by which the debt exceeds the value of the collateral that has incurred total physical damage or is the subject of an unrecovered theft. A guaranteed asset protection product may also provide, with or without a separate charge, a benefit that waives a portion of, or provides a customer with a credit toward, the purchase of a replacement motor vehicle…This subsection also applies to all guaranteed asset protection products issued before October 1, 2008.

The current definition of GAP products under Florida law is being amended to substantially conform to the Revised Model Act, and clarify that a GAP product can:

- Be included in a loan contract with or without a separate fee;
- Cover a loan balance when a consumer has a total loss of their car or an unrecovered theft; and
- Provide a credit towards the purchase of a replacement motor vehicle.

Section 2 of the bill prohibits an entity who is required to refund to the buyer any unearned fees paid for a retail installment contract under s. 520.07(11)(g), F.S., from deducting more than $75 in administrative fees from the refund.

The bill allows GAP products to be cancelable or noncancelable after a free-look period, which is defined in **section 4** of the bill to mean the period of time, commencing on the effective date of the contract, during which the buyer may cancel the contract for a full refund of the purchase price. The period may not be shorter than 30 days.

If a GAP product is terminated because of:

- A default under the retail installment contract or contract for a loan,

- The repossession of the motor vehicle associated with such contract or loan, or
- Any other termination of such contract or loan, a refund of the GAP product amount maybe used to satisfy any balance owed on the retail installment contract or contract for a loan unless the buyer can show that the retail installment contract has been paid in full.

Effective Date

Section 10 of the bill provides an effective date of October 1, 2024.

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:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

OFR reports that any insignificant fiscal impact that may result from this bill could be absorbed within its current resources.[29]

[29] Email from Gregory C Oats, Director of the Division of Consumer Finance, OFR, to Jacqueline Moody, Florida Senate Committee on Banking and Insurance Senior Attorney, *SB 902*, (Jan. 12, 2024) (on file with Senate Committee on Banking and Insurance.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 520.02 and 520.07. This bill creates the following sections of the Florida Statutes: 520.151, 520.152, 520.153, 520.154, 520.155, 520.156, and 520.157.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Banking and Insurance Committee on January 16, 2024:

- Removes the modification to the definition of "guaranteed asset protection product" that would apply the definition to "related" products issued before October 1, 2008;
- With respect to financial security requirements for VVPAs, requires a provider to place the reserve in trust with the office (rather than the commission), and to provide the OFR (rather than the commission) with a copy of the company's audited financial statements;
- Removes the option for another form of security held in reserve to be prescribed by commission regulation;
- Removes the definitions of the terms "person" and "commission;"
- Clarifies that the exemption for commercial transactions applies to the disclosure and penalties provisions by amending the cross-reference from s. 520.155, F.S., to s. 520.156, F.S.; and
- Relocates provisions on "excess wear and use waiver" from ch. 521, F.S., (motor vehicle lease disclosure) to ch. 520, F.S. (retail installment sales).

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/18/2024	.	
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The Committee on Banking and Insurance (Boyd) recommended the following:

Senate Amendment (with title amendment)

Delete lines 80 - 401
and insert:
protection products issued before October 1, 2008.
Section 2. Paragraph (g) of subsection (11) of section 520.07, Florida Statutes, is amended, and paragraphs (h) and (i) are added to that subsection, to read:
520.07 Requirements and prohibitions as to retail installment contracts.—

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(11) In conjunction with entering into any new retail installment contract or contract for a loan, a motor vehicle retail installment seller as defined in s. 520.02, a sales finance company as defined in s. 520.02, or a retail lessor as defined in s. 521.003, and any assignee of such an entity, may offer, for a fee or otherwise, optional guaranteed asset protection products in accordance with this chapter. The motor vehicle retail installment seller, sales finance company, retail lessor, or assignee may not require the purchase of a guaranteed asset protection product as a condition for making the loan. In order to offer any guaranteed asset protection product, a motor vehicle retail installment seller, sales finance company, or retail lessor, and any assignee of such an entity, shall comply with the following:

(g) If a contract for a guaranteed asset protection product is terminated, the entity shall refund to the buyer any unearned fees paid for the contract unless the contract provides otherwise. A refund is not due to a consumer who receives a benefit under such product. In order to receive a refund, the buyer must notify the entity of the event terminating the contract and request a refund within 90 days after the occurrence of the event terminating the contract. An entity may offer a buyer a contract that does not provide for a refund only if the entity also offers that buyer a bona fide option to purchase a comparable contract that provides for a refund. An entity may not deduct more than $75 in administrative fees from a refund made under this subsection.

(h) Guaranteed asset protection products may be cancelable or noncancelable after a free-look period as defined in s.

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520.152.

(i) If the termination of the guaranteed asset protection product occurs because of a default under the retail installment contract or contract for a loan, the repossession of the motor vehicle associated with the retail installment contract or contract for a loan, or any other termination of the retail installment contract or contract for a loan, the entity may pay any refund due directly to the holder or administrator and apply the refund as a reduction of the amount owed under the retail installment contract or contract for a loan, unless the buyer can show that the retail installment contract has been paid in full.

Section 3. Section 520.151, Florida Statutes, is created to read:

520.151 Florida Vehicle Value Protection Agreements Act.—Sections 520.151-520.156 may be cited as the "Florida Vehicle Value Protection Agreements Act."

Section 4. Section 520.152, Florida Statutes, is created to read:

520.152 Definitions.—As used in ss. 520.151-520.156, unless the context or subject matter otherwise requires, the term:

(1) "Administrator" means the person who is responsible for the administrative or operational function of managing vehicle value protection agreements, including, but not limited to, the adjudication of claims or benefit requests by contract holders.

(2) "Commercial transaction" means a transaction in which the motor vehicle subject to the transaction is used primarily for business or commercial purposes.

(3) "Contract holder" means a person who is the purchaser

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or holder of a vehicle value protection agreement.

(4) "Finance agreement" means a loan, retail installment sales contract, or lease for the purchase, refinancing, or lease of a motor vehicle.

(5) "Free-look period" means the period of time, commencing on the effective date of the contract, during which the buyer may cancel the contract for a full refund of the purchase price. This period may not be shorter than 30 days.

(6) "Motor vehicle" has the same meaning as provided in s. 520.02.

(7) "Provider" means a person that is obligated to provide a benefit under a vehicle value protection agreement. A provider may function as an administrator or retain the services of a third-party administrator.

(8) "Vehicle value protection agreement" includes a contractual agreement that provides a benefit toward either the reduction of some or all of the contract holder's current finance agreement deficiency balance or the purchase or lease of a replacement motor vehicle or motor vehicle services upon the occurrence of an adverse event to the motor vehicle, including, but not limited to, loss, theft, damage, obsolescence, diminished value, or depreciation. The term does not include guaranteed asset protection products as defined in s. 520.02. Such a product is not insurance for purposes of the Florida Insurance Code.

Section 5. Section 520.153, Florida Statutes, is created to read:

520.153 Requirements and prohibitions as to vehicle value protection agreements.—

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(1) Vehicle value protection agreements may be offered, sold, or given to consumers in this state in compliance with this act.

(2) Notwithstanding any other law, any amount charged or financed for a vehicle value protection agreement is not considered a finance charge or interest and must be separately stated in the finance agreement and in the vehicle value protection agreement.

(3) The extension of credit, the terms of credit, or the terms of the related motor vehicle sale or lease may not be conditioned upon the consumer's payment for or financing of any charge for a vehicle value protection agreement. However, a vehicle value protection agreement may be discounted or given at no charge in connection with the purchase of other noncredit-related goods or services.

(4) A provider may use an administrator or other designee to administer a vehicle value protection agreement.

(5) A vehicle value protection agreement may not be sold to any person unless he or she has been or will be provided access to a copy of such vehicle value protection agreement at a reasonable time after such vehicle value protection agreement is sold.

(6) A vehicle value protection agreement may not be sold if coverage is duplicative of another vehicle value protection agreement sold to a person or duplicative of a guaranteed asset protection product.

(7) Each provider shall do one of the following:

(a) Insure all of its vehicle value protection agreements under a policy that pays or reimburses the contract holder in

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the event the provider fails to perform its obligations under the vehicle value protection agreement. The insurer must be licensed or otherwise authorized or eligible to do business in this state.

(b) Maintain a funded reserve account for its obligations under its contracts issued and outstanding in this state. The reserves may not be less than 40 percent of gross consideration received, less claims paid, on the sale of the vehicle value protection agreement for all in-force contracts in this state. The reserve must be placed in trust with the office and have a financial security deposit valued at not less than 5 percent of the gross consideration received, less claims paid, on the sale of the vehicle value protection agreements for all vehicle value protection agreements issued and in force in this state, but at least $25,000. The reserve account must consist of one of the following:

1. A surety bond issued by an authorized surety.

2. Securities of the type eligible for deposit by insurers as provided in s. 625.52.

3. Cash.

4. A letter of credit issued by a qualified financial institution.

(c) Maintain, or together with its parent corporation maintain, a net worth or stockholders' equity of $100 million and, upon request, provide the office with a copy of the provider's or the provider's parent company's Form 10-K or Form 20-F filed with the Securities and Exchange Commission within the last calendar year, or if the company does not file with the Securities and Exchange Commission, a copy of the company's

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audited financial statements, which must show a net worth of the provider or its parent company of at least $100 million. If the provider's parent company's Form 10-K, Form 20-F, or financial statements are filed to meet the provider's financial security requirement, the parent company must agree to guarantee the obligations of the provider relating to vehicle value protection agreements sold by the provider in this state.

(8) A financial security requirement other than those imposed in subsection (7) may not be imposed on vehicle value protection agreement providers.

Section 6. Section 520.154, Florida Statutes, is created to read:

520.154 Disclosures.—

(1) A vehicle value protection agreement must disclose in writing, in clear, understandable language, all of the following:

(a) The name and address of the provider, contract holder, and administrator, if any.

(b) The terms of the vehicle value protection agreement, including, but not limited to, the purchase price to be paid by the contract holder, if any, the requirements for eligibility and conditions of coverage, and any exclusions.

(c) Whether the vehicle value protection agreement may be canceled by the contract holder during a free-look period as defined in s. 520.152, and that, in the event of cancellation, the contract holder is entitled to a full refund of the purchase price, if any, so long as no benefits have been provided.

(d) The procedure the contract holder must follow, if any, to obtain a benefit under the terms and conditions of the

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vehicle value protection agreement, including, if applicable, a telephone number, website, or mailing address where the contract holder may apply for a benefit.

(e) Whether the vehicle value protection agreement is cancelable after the free-look period and the conditions under which it may be canceled, including the procedures for requesting any refund of the unearned purchase price paid by the contract holder. In the event that the agreement is cancelable, it must include the methodology for calculating any refund due of the unearned purchase price of the vehicle value protection agreement.

(f) That the extension of credit, the terms of the credit, or the terms of the related motor vehicle sale or lease may not be conditioned upon the purchase of the vehicle value protection agreement.

(2) A vehicle value protection agreement must state the terms, restrictions, or conditions governing cancellation of the vehicle value protection agreement before the termination or expiration date of the vehicle value protection agreement by either the provider or the contract holder. The provider of the vehicle value protection agreement shall mail a written notice to the contract holder at the last known address of the contract holder contained in the records of the provider at least 5 days before cancellation by the provider, which notice must state the effective date of the cancellation and the reason for the cancellation. However, such prior notice is not required if the reason for cancellation is nonpayment of the provider fee, a material misrepresentation by the contract holder to the provider or administrator, or a substantial breach of duties by

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the contract holder relating to the covered motor vehicle or its use. If a vehicle value protection agreement is canceled by the provider for a reason other than nonpayment of the provider fee, the provider must refund to the contract holder 100 percent of the unearned pro rata provider fee paid by the contract holder, if any. If coverage under the vehicle value protection agreement continues after a claim, any refund may reflect a deduction for claims paid and, at the discretion of the provider, an administrative fee of not more than $75.

Section 7. Section 520.155, Florida Statutes, is created to read:

520.155 Commercial transactions exempt.—Sections 520.154 and 520.156 do not apply to vehicle value protection agreements offered in connection with a commercial transaction.

Section 8. Section 520.156, Florida Statutes, is created to read:

520.156 Penalties.—A provider, an administrator, or any other person who willfully and intentionally violates ss. 520.151-520.155 commits a noncriminal violation as defined in s. 775.08(3), punishable by a fine not to exceed $500 per violation and not more than $10,000 in the aggregate for all violations of a similar nature. For purposes of this section, the term "violations of a similar nature" means violations that consist of the same or similar course of conduct, action, or practice, irrespective of the number of times the action, conduct, or practice determined to be a violation of ss. 520.151-520.155 occurred.

Section 9. Section 520.157, Florida Statutes, is created to read:


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520.157 Excess wear and use waiver.—

(1) For purposes of this section, the term "excess wear and use waiver" means a contractual agreement wherein a lessor agrees, regardless of whether subject to a separate fee, to cancel or waive all or part of amounts that may become due under a lease agreement as a result of excess wear and use of a motor vehicle, which agreement must be part of, or a separate addendum to, the lease agreement. Such waivers may also cancel or waive amounts due for excess mileage.

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

And the title is amended as follows:

Delete lines 47 - 50

and insert:

of a similar nature"; creating s. 520.157, F.S.; defining the term "excess wear and use waiver"; authorizing a retail lessee

By Senator Boyd

20-00355B-24 2024902__

A bill to be entitled

An act relating to motor vehicle retail financial agreements; amending s. 520.02, F.S.; revising the definition of the term "guaranteed asset protection product"; amending s. 520.07, F.S.; prohibiting certain entities from deducting more than a specified amount in administrative fees when providing a refund of a guaranteed asset protection product; authorizing guaranteed asset protection products to be cancelable or noncancelable under certain circumstances; authorizing certain entities to pay refunds directly to the holder or administrator of a loan under certain circumstances; creating s. 520.151, F.S.; providing a short title; creating s. 520.152, F.S.; defining terms; creating s. 520.153, F.S.; authorizing the offer, sale, or gift of vehicle value protection agreements in compliance with a certain act; specifying a requirement regarding the amount charged or financed for a vehicle value protection agreement; prohibiting the conditioning of credit offers or terms for the sale or lease of a motor vehicle upon a consumer's payment for or financing of any charge for a vehicle value protection agreement; authorizing discounting or giving the vehicle value protection agreement at no charge under certain circumstances; authorizing providers to use an administrator or other designee for administration of vehicle value protection agreements; prohibiting vehicle value protection agreements from being sold under certain

20-00355B-24 2024902__

circumstances; specifying financial security requirements for providers; prohibiting additional financial security requirements from being imposed on providers; creating s. 520.154, F.S.; requiring vehicle value protection agreements to include certain disclosures in writing, in clear and understandable language; requiring vehicle value protection agreements to state the terms, restrictions, or conditions governing cancellation by the provider or the contract holder; specifying requirements for notice by the provider, refund of fees, and deduction of fees in the event the vehicle value protection agreement is canceled; creating s. 520.155, F.S.; providing an exemption for vehicle value protection agreements in connection with a commercial transaction; creating s. 520.156, F.S.; providing noncriminal penalties; defining the term "violations of a similar nature"; amending s. 521.003, F.S.; defining the term "excess wear and use waiver"; conforming a provision to changes made by the act; creating s. 521.007, F.S.; authorizing a retail lessee to contract with a retail lessor for an excess wear and use waiver; prohibiting conditioning the terms of the consumer's motor vehicle lease on his or her payment for any excess wear and use waiver; authorizing discounting or giving the excess wear and use waiver at no charge under certain circumstances; requiring certain disclosures for a lease agreement that includes an excess wear and use waiver; providing

construction; providing an effective date.

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

Section 1. Subsection (7) of section 520.02, Florida Statutes, is amended to read:

520.02 Definitions.—In this act, unless the context or subject matter otherwise requires:

(7) "Guaranteed asset protection product" means a loan, lease, or retail installment contract term, or modification or addendum to a loan, lease, or retail installment contract, under which a creditor agrees, with or without a separate charge, to cancel or waive a customer's liability for payment of some or all of the amount by which the debt exceeds the value of the collateral that has incurred total physical damage or is the subject of an unrecovered theft. A guaranteed asset protection product may also provide, with or without a separate charge, a benefit that waives a portion of, or provides a customer with a credit toward, the purchase of a replacement motor vehicle. Such a product is not insurance for purposes of the Florida Insurance Code. This subsection also applies to all guaranteed asset protection and related products issued before October 1, 2008.

Section 2. Paragraph (g) of subsection (11) of section 520.07, Florida Statutes, is amended, and paragraphs (h) and (i) are added to that subsection, to read:

520.07 Requirements and prohibitions as to retail installment contracts.—

(11) In conjunction with entering into any new retail installment contract or contract for a loan, a motor vehicle

retail installment seller as defined in s. 520.02, a sales finance company as defined in s. 520.02, or a retail lessor as defined in s. 521.003, and any assignee of such an entity, may offer, for a fee or otherwise, optional guaranteed asset protection products in accordance with this chapter. The motor vehicle retail installment seller, sales finance company, retail lessor, or assignee may not require the purchase of a guaranteed asset protection product as a condition for making the loan. In order to offer any guaranteed asset protection product, a motor vehicle retail installment seller, sales finance company, or retail lessor, and any assignee of such an entity, shall comply with the following:

(g) If a contract for a guaranteed asset protection product is terminated, the entity shall refund to the buyer any unearned fees paid for the contract unless the contract provides otherwise. A refund is not due to a consumer who receives a benefit under such product. In order to receive a refund, the buyer must notify the entity of the event terminating the contract and request a refund within 90 days after the occurrence of the event terminating the contract. An entity may offer a buyer a contract that does not provide for a refund only if the entity also offers that buyer a bona fide option to purchase a comparable contract that provides for a refund. An entity may not deduct more than $75 in administrative fees from a refund made under this subsection.

(h) Guaranteed asset protection products may be cancelable or noncancelable after a free-look period as defined in s. 520.152.

(i) If the termination of the guaranteed asset protection

product occurs because of a default under the retail installment contract or contract for a loan, the repossession of the motor vehicle associated with the retail installment contract or contract for a loan, or any other termination of the retail installment contract or contract for a loan, the entity may pay any refund due directly to the holder or administrator and apply the refund as a reduction of the amount owed under the retail installment contract or contract for a loan, unless the buyer can show that the retail installment contract has been paid in full.

Section 3. Section 520.151, Florida Statutes, is created to read:

520.151 Florida Vehicle Value Protection Agreements Act.—Sections 520.151-520.156 may be cited as the "Florida Vehicle Value Protection Agreements Act."

Section 4. Section 520.152, Florida Statutes, is created to read:

520.152 Definitions.—As used in ss. 520.151-520.156, unless the context or subject matter otherwise requires, the term:

(1) "Administrator" means the person who is responsible for the administrative or operational function of managing vehicle value protection agreements, including, but not limited to, the adjudication of claims or benefit requests by contract holders.

(2) "Commercial transaction" means a transaction in which the motor vehicle subject to the transaction is used primarily for business or commercial purposes.

(3) "Commission" means the Financial Services Commission.

(4) "Contract holder" means a person who is the purchaser or holder of a vehicle value protection agreement.

(5) "Finance agreement" means a loan, retail installment sales contract, or lease for the purchase, refinancing, or lease of a motor vehicle.

(6) "Free-look period" means the period of time, commencing on the effective date of the contract, during which the buyer may cancel the contract for a full refund of the purchase price. This period may not be shorter than 30 days.

(7) "Motor vehicle" has the same meaning as provided in s. 520.02.

(8) "Person" means an individual, a partnership, a corporation, an association, or any other group, however organized.

(9) "Provider" means a person that is obligated to provide a benefit under a vehicle value protection agreement. A provider may function as an administrator or retain the services of a third-party administrator.

(10) "Vehicle value protection agreement" includes a contractual agreement that provides a benefit toward either the reduction of some or all of the contract holder's current finance agreement deficiency balance or the purchase or lease of a replacement motor vehicle or motor vehicle services upon the occurrence of an adverse event to the motor vehicle, including, but not limited to, loss, theft, damage, obsolescence, diminished value, or depreciation. The term does not include guaranteed asset protection products as defined in s. 520.02. Such a product is not insurance for purposes of the Florida Insurance Code.

Section 5. Section 520.153, Florida Statutes, is created to read:

520.153 Requirements and prohibitions as to vehicle value protection agreements.—

(1) Vehicle value protection agreements may be offered, sold, or given to consumers in this state in compliance with this act.

(2) Notwithstanding any other law, any amount charged or financed for a vehicle value protection agreement is not considered a finance charge or interest and must be separately stated in the finance agreement and in the vehicle value protection agreement.

(3) The extension of credit, the terms of credit, or the terms of the related motor vehicle sale or lease may not be conditioned upon the consumer's payment for or financing of any charge for a vehicle value protection agreement. However, a vehicle value protection agreement may be discounted or given at no charge in connection with the purchase of other noncredit-related goods or services.

(4) A provider may use an administrator or other designee to administer a vehicle value protection agreement.

(5) A vehicle value protection agreement may not be sold to any person unless he or she has been or will be provided access to a copy of such vehicle value protection agreement at a reasonable time after such vehicle value protection agreement is sold.

(6) A vehicle value protection agreement may not be sold if coverage is duplicative of another vehicle value protection agreement sold to a person or duplicative of a guaranteed asset protection product.

(7) Each provider shall do one of the following:

(a) Insure all of its vehicle value protection agreements under a policy that pays or reimburses the contract holder in the event the provider fails to perform its obligations under the vehicle value protection agreement. The insurer must be licensed or otherwise authorized or eligible to do business in this state.

(b) Maintain a funded reserve account for its obligations under its contracts issued and outstanding in this state. The reserves may not be less than 40 percent of gross consideration received, less claims paid, on the sale of the vehicle value protection agreement for all in-force contracts in this state. The reserve must be placed in trust with the commission and have a financial security deposit valued at not less than 5 percent of the gross consideration received, less claims paid, on the sale of the vehicle value protection agreements for all vehicle value protection agreements issued and in force in this state, but at least $25,000. The reserve account must consist of one of the following:

1. A surety bond issued by an authorized surety.

2. Securities of the type eligible for deposit by insurers as provided in s. 625.52.

3. Cash.

4. A letter of credit issued by a qualified financial institution.

5. Another form of security prescribed by commission regulation.

(c) Maintain, or together with its parent corporation maintain, a net worth or stockholders' equity of $100 million and, upon request, provide the commission with a copy of the

provider's or the provider's parent company's Form 10-K or Form 20-F filed with the Securities and Exchange Commission within the last calendar year, or if the company does not file with the Securities and Exchange Commission, a copy of the company's audited financial statements, which must show a net worth of the provider or its parent company of at least $100 million. If the provider's parent company's Form 10-K, Form 20-F, or financial statements are filed to meet the provider's financial security requirement, the parent company must agree to guarantee the obligations of the provider relating to vehicle value protection agreements sold by the provider in this state.

(8) A financial security requirement other than those imposed in subsection (7) may not be imposed on vehicle value protection agreement providers.

Section 6. Section 520.154, Florida Statutes, is created to read:

520.154 Disclosures.—

(1) A vehicle value protection agreement must disclose in writing, in clear, understandable language, all of the following:

(a) The name and address of the provider, contract holder, and administrator, if any.

(b) The terms of the vehicle value protection agreement, including, but not limited to, the purchase price to be paid by the contract holder, if any, the requirements for eligibility and conditions of coverage, and any exclusions.

(c) Whether the vehicle value protection agreement may be canceled by the contract holder during a free-look period as defined in s. 520.152, and that, in the event of cancellation,

the contract holder is entitled to a full refund of the purchase price, if any, so long as no benefits have been provided.

(d) The procedure the contract holder must follow, if any, to obtain a benefit under the terms and conditions of the vehicle value protection agreement, including, if applicable, a telephone number, website, or mailing address where the contract holder may apply for a benefit.

(e) Whether the vehicle value protection agreement is cancelable after the free-look period and the conditions under which it may be canceled, including the procedures for requesting any refund of the unearned purchase price paid by the contract holder. In the event that the agreement is cancelable, it must include the methodology for calculating any refund due of the unearned purchase price of the vehicle value protection agreement.

(f) That the extension of credit, the terms of the credit, or the terms of the related motor vehicle sale or lease may not be conditioned upon the purchase of the vehicle value protection agreement.

(2) A vehicle value protection agreement must state the terms, restrictions, or conditions governing cancellation of the vehicle value protection agreement before the termination or expiration date of the vehicle value protection agreement by either the provider or the contract holder. The provider of the vehicle value protection agreement shall mail a written notice to the contract holder at the last known address of the contract holder contained in the records of the provider at least 5 days before cancellation by the provider, which notice must state the effective date of the cancellation and the reason for the

cancellation. However, such prior notice is not required if the reason for cancellation is nonpayment of the provider fee, a material misrepresentation by the contract holder to the provider or administrator, or a substantial breach of duties by the contract holder relating to the covered motor vehicle or its use. If a vehicle value protection agreement is canceled by the provider for a reason other than nonpayment of the provider fee, the provider must refund to the contract holder 100 percent of the unearned pro rata provider fee paid by the contract holder, if any. If coverage under the vehicle value protection agreement continues after a claim, any refund may reflect a deduction for claims paid and, at the discretion of the provider, an administrative fee of not more than $75.

Section 7. Section 520.155, Florida Statutes, is created to read:

520.155 Commercial transactions exempt.—Sections 520.154 and 520.155 do not apply to vehicle value protection agreements offered in connection with a commercial transaction.

Section 8. Section 520.156, Florida Statutes, is created to read:

520.156 Penalties.—A provider, an administrator, or any other person who willfully and intentionally violates ss. 520.151-520.155 commits a noncriminal violation as defined in s. 775.08(3), punishable by a fine not to exceed $500 per violation and not more than $10,000 in the aggregate for all violations of a similar nature. For purposes of this section, the term "violations of a similar nature" means violations that consist of the same or similar course of conduct, action, or practice, irrespective of the number of times the action, conduct, or

practice determined to be a violation of ss. 520.151-520.155 occurred.

Section 9. Section 521.003, Florida Statutes, is amended to read:

521.003 Definitions.—As used in ss. 521.001-521.007 ~~ss. 521.001-521.006~~, the term:

(1) "Adjusted or net capitalized cost" means the capitalized cost, less any capitalized cost-reduction payments made by the retail lessee at the inception of the lease agreement. The adjusted or net capitalized cost shall serve as the basis for calculating the amount of the retail lessee's periodic payment under the lease agreement.

(2) "Capitalized cost" means the agreed-upon total amount which, after deducting any capitalized cost reductions, serves as the basis for calculating the amount of the periodic payment under the lease agreement. The capitalized cost may include, without limitation:

(a) Taxes.

(b) Registration fees.

(c) License fees.

(d) Insurance charges.

(e) Charges for guaranteed auto protection or GAP coverage.

(f) Charges for service contracts and extended warranties.

(g) Fees and charges for accessories and for installing accessories.

(h) Charges for delivery, service, and repair.

(i) Administrative fees, acquisition fees, and any ~~and all~~ fees or charges for providing services incidental to the lease agreement.

(j) The unpaid balance of any amount financed under an outstanding motor vehicle loan agreement or motor vehicle retail installment contract with respect to a motor vehicle used as a trade-in.

(k) The unpaid portion of the early termination obligation under an outstanding lease agreement.

(l) The first periodic payment due at the inception of the lease agreement.

(3) "Capitalized cost reduction" means a payment made by cash, check, credit card debit, net vehicle trade-in, rebate, or other similar means in the nature of a down payment or credit, made by the retail lessee at the inception of the lease agreement, for the purpose of reducing the capitalized cost and may ~~shall~~ not include any periodic payments received by the retail lessor at the inception of the lease agreement.

(4) "Excess wear and use waiver" means a contractual agreement wherein a lessor agrees, with or without a separate charge, to cancel or waive all or part of amounts that may become due under a lease agreement as a result of excessive wear and use of a motor vehicle, which agreement must be part of, or a separate addendum to, the lease agreement. Such waivers may also cancel or waive amounts due for excess mileage.

(5) "Lease agreement" means a written agreement entered into in this state for the transfer from a retail lessor to a retail lessee of the right to possess and use a motor vehicle in exchange for consideration for a scheduled term exceeding 4 months, whether or not the retail lessee has the option to purchase or otherwise become the owner of the motor vehicle upon expiration of the agreement. The term does not include an

agreement which covers an absolute sale, a sale pending approval, or a retail installment sale, including a transaction or contract which is governed by the Motor Vehicle Retail Sales Finance Act of Florida.

(6) ~~(5)~~ "Lease transaction" means a presentation made to the retail lessee concerning the motor vehicle, including a sales presentation or a document presented to the retail lessee, resulting in the execution of a lease agreement.

(7) ~~(6)~~ "Motor vehicle" means a motor vehicle of the type and kind required to be registered and titled under chapters 319 and 320, excluding a recreational vehicle, moped, motorcycle powered by a motor with a displacement of 50 cubic centimeters or less, or a mobile home.

(8) ~~(7)~~ "Retail lessee" means an individual who executes a lease agreement for a motor vehicle from a retail lessor primarily for personal, family, or household purposes.

(9) ~~(8)~~ "Retail lessor" means a person who regularly engages in the business of selling or leasing motor vehicles and who offers or arranges a lease agreement for a motor vehicle. The term includes an agent or affiliate who acts on behalf of the retail lessor and excludes any assignee of the lease agreement.

Section 10. Section 521.007, Florida Statutes, is created to read:

521.007 Excess wear and use waiver.—

(1) A retail lessee may contract with a retail lessor for an excess wear and use waiver in connection with a lease agreement.

(2) The terms of the related motor vehicle lease may not be conditioned upon the consumer's payment for any excess wear and

use waiver. However, excess wear and use waivers may be discounted or given at no charge in connection with the purchase of other noncredit-related goods.

(3) A lease agreement that includes an excess wear and use waiver must disclose all of the following:

(a) The total charge for the excess wear and use waiver.

(b) Any exclusions or limitations on the amount of excess wear and use which may be waived under the excess wear and use waiver.

(c) The terms, restrictions, or conditions governing cancellation of the excess wear and use waiver before the termination or expiration of the excess wear and use waiver, which may include an administrative fee of not more than $75.

(4) An excess wear and use waiver is not insurance for purposes of the Florida Insurance Code.

Section 11. This act shall take effect October 1, 2024.

The Florida Senate

COMMITTEE VOTE RECORD

COMMITTEE: Banking and Insurance
ITEM: SB 902
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Tuesday, January 16, 2024
TIME: 11:00 a.m.—1:00 p.m.
PLACE: 412 Knott Building

FINAL VOTE			1/16/2024 1 Amendment adopted w/o objection Boyd					
Yea	**Nay**	**SENATORS**	**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**
X		Broxson						
X		Burton						
X		Hutson						
X		Ingoglia						
X		Mayfield						
X		Powell						
X		Thompson						
		Torres						
X		Trumbull						
X		DiCeglie, VICE CHAIR						
X		Boyd, CHAIR						
10	0	**TOTALS**	RCS	-				
Yea	**Nay**		**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered
RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment
TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call
WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

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 1014
INTRODUCER:	Senator Perry
SUBJECT:	Public Records/State Banks and State Trust Companies
DATE:	January 12, 2024
REVISED:	

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

I. Summary:

Senate Bill 1014 makes confidential and exempt from public disclosure certain information received by the Office of Financial Regulation (OFR) pursuant to an application for authority to organize a new state bank or new state trust company under ch. 658, F.S., including:

- Personal financial information;
- A driver license number, a passport number, a military identification number, or any other number or code issued on a government document used to verify identity;
- Books and records of a current or proposed financial institutions;
- The proposed business plan and supporting documentation; and
- Personal identifying information of certain proposed officers or proposed directors who are employed by, or actively participate in the affairs of, another financial institution for a specified period of time.

The bill is subject to the Open Government Sunset Review Act and will be repealed on October 2, 2029, unless the statute is reviewed and reenacted by the Legislature before that date. The bill provides a statement of public necessity as required by the Florida constitution.

The bill requires a two-thirds vote of the members present and voting in each house of the Legislature for final passage because it creates a new public records exemption.

There is no anticipated fiscal impact on state, county, or municipal governments. Agency costs incurred in responding to public records requests for the specified information should be offset by authorized fees.

The bill is effective July 1, 2024.

II. Present Situation:

Public Records Law

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

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

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

According to the Public Records Act, a public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted. Section 119.011(12), F.S., defines "public records" to include:

> all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.[6]

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business which are used to "perpetuate, communicate, or formalize knowledge of some type."[7]

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person's right to inspect and copy any state or local government public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.[8] A violation of the Public Records Act may result in civil or criminal liability.[9]

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[1] FLA. CONST., art. I, s. 24(a).
[2] *Id*.
[3] The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So.2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So.2d 255 (Fla. 1995). The Legislature's records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are primarily located in s. 11.0431(2)-(3), F.S.
[4] Public records laws are found throughout the Florida Statutes.
[5] Section 119.01(1), F.S.
[6] Section 119.011(2), F.S., defines "agency" as "any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency."
[7] *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc*., 379 So.2d 633, 640 (Fla. 1980).
[8] Section 119.07(1)(a), F.S.
[9] Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

The Public Records Act contains general exemptions that apply across agencies. Agency or program-specific exemptions often are placed in the substantive statutes relating to that particular agency or program. Only the Legislature may create an exemption to public records requirements.[10] An exemption must be created by general law and must specifically state the public necessity which justifies the exemption.[11] Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill that enacts an exemption may not contain other substantive provisions[12] and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.[13]

When creating a public records exemption, the Legislature may provide that a record is "exempt" or "confidential and exempt." There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Public Records Act *and confidential*.[14] Records designated as "confidential and exempt" are not subject to inspection by the public and may only be released under the circumstances defined by statute.[15] Records designated as "exempt" may be released at the discretion of the records custodian under certain circumstances.[16]

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act (the Act), prescribe a legislative review process for newly created or substantially amended public records or open meetings exemptions,[17] with specified exceptions.[18] The Act requires the repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption or repeal the sunset date.[19] In practice, many exemptions are continued by repealing the sunset date, rather than reenacting the exemption.

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary. An exemption serves an identifiable purpose if the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption and it meets one of the following purposes:

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;[20]

[10] FLA. CONST., art. I, s. 24(c).
[11] *Id.*
[12] The bill may, however, contain multiple exemptions that relate to one subject.
[13] FLA. CONST., art. I, s. 24(c).
[14] *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So.2d 48, 53 (Fla. 5th DCA 2004).
[15] *Id.*
[16] *Williams v. City of Minneola*, 575 So.2d 683 (Fla. 5th DCA 1991).
[17] Section 119.15, F.S. Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings.
[18] Section 119.15(2)(a) and (b), F.S., provides that exemptions required by federal law or applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.
[19] Section 119.15(3), F.S.
[20] Section 119.15(6)(b)1., F.S.

- The release of sensitive personal information would be defamatory or would jeopardize an individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;[21] or
- It protects trade or business secrets.[22]

The Act also requires specified questions to be considered during the review process.[23] In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

If, in reenacting an exemption or repealing the sunset date, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.[24] If the exemption is reenacted or saved from repeal without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.[25]

Confidential and Exempt Records in the Financial Institutions Codes

Books and records of financial institutions are confidential and may be made available for inspection and examination only in limited circumstances, for instance:[26]

- To the OFR or its duly authorized representative;
- To any person duly authorized to act for the financial institution;
- To any federal or state instrumentality or agency authorized to inspect or examine the books and records of an insured financial institution;
- As compelled by a court of competent jurisdiction; and
- As compelled by legislative subpoena as provided by law.

Current Florida law also contains several provisions which make confidential and exempt from the Public Records Act certain records or information of financial institutions relating to:

- Investigations conducted by the OFR;[27]

[21] Section 119.15(6)(b)2., F.S.
[22] Section 119.15(6)(b)3., F.S.
[23] Section 119.15(6)(a), F.S. The specific questions are:
- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

[24] FLA. CONST. art. I, s. 24(c).
[25] Section 119.15(7), F.S.
[26] Section 655.059(1), F.S.
[27] Section 655.057(1), F.S.

- Reports of examinations,[28] operations, or condition, including working papers,[29] or portions thereof, prepared by, or for the use of, the OFR or any state or federal agency responsible for the regulation or supervision of financial institutions[30] in Florida;[31]
- Informal enforcement actions;[32,33]
- Trade secrets[34] held by the OFR;[35]
- Any portion of a required shareholder list which reveals the shareholders' identities;[36] and
- Confidential documents supplied to the OFR or to employees of any financial institution by other state or federal governmental agencies.[37]

Any person who willfully discloses information made confidential commits a felony of the third degree.[38] There is no provision in the Financial Institutions Codes which makes confidential or exempts from the Public Records Act information received by the OFR in relation to an application for authority to organize a new state bank[39] or new state trust company.[40]

The exemptions do not prevent or restrict:[41]

- Publishing certain reports that must be submitted to the OFR or that are required to be published by federal law or regulation;
- Providing records or information to any other state, federal, or foreign agency responsible for the regulation and supervision of financial institutions;
- Disclosing or publishing summaries of the economic condition or similar data of financial institutions;

[28] "Examination report" is defined as records submitted to or prepared by the [OFR] as part of the [OFR's] duties performed pursuant to s. 655.012, F.S., or s. 655.045(1), F.S. Section 655.057(12)(a), F.S.
[29] "Working papers" is defined as the records of the procedures followed, the tests performed, the information obtained, and the conclusions reached in an examination or investigation performed under s. 655.032, F.S., or s. 655.045, F.S. Working papers include planning documentation, work programs, analyses, memoranda, letters of confirmation and representation, abstracts of the books and records of a financial institution as defined in s. 655.005(1), F.S., and scheduled or commentaries prepared or obtained in the course of such examination or investigation.
[30] "Financial institution" is defined as a state or federal savings or thrift association, bank, savings bank, trust company, international bank agency, international banking corporation, international branch, international representative office, international administrative office, international trust entity, international trust company representative office, qualified limited service affiliate, credit union, or an agreement corporation operating pursuant to s. 25 of the Federal Reserve Act, 12 U.S.C. ss. 601 et seq. or Edge Act corporation organized pursuant to s. 25(a) of the Federal Reserve Act, 12 U.S.C. ss. 611 et seq. Section 655.005(1)(i), F.S.
[31] Section 655.057(2), F.S.
[32] "Informal enforcement actions" is defined as a board resolution, a document of resolution, or an agreement in writing between the office and a financial institution which meets certain criteria. Section 655.057(12)(b), F.S.
[33] Section 655.057(3), F.S.
[34] "Trade secrets" is defined as information, including a formula, pattern, compilation, program, device, method, technique, or process that meets specified criteria. Section 688.002(4), F.S. The trade secret must also comply with s. 655.0591, F.S.
[35] Section 655.057(4), F.S.
[36] Section 655.057(8), F.S.
[37] Section 655.057(9), F.S.
[38] Section 655.057(13), F.S. A third degree felony is punishable by up to five years imprisonment and up to a $5,000 fine. Sections 775.082, 775.083, and 775.084, F.S.
[39] "State bank" is defined as any bank which has a subsisting bank charter issued pursuant to the provisions of the financial institutions codes or the general banking laws of this state in effect prior to the enactment of the financial institutions codes. Section 658.12(17), F.S.
[40] "State trust company" is defined as a corporation, other than a bank, which has a subsisting trust company charter issued pursuant to the provisions of the financial institutions codes or the applicable laws of the state in effect prior to the enactment of the financial institutions codes. Section 658.12(19), F.S.
[41] Section 655.057(5), F.S.

- Reporting any suspicious criminal activity to appropriate law enforcement or prosecutorial agencies;
- Furnishing certain information requested by the Chief Financial Officer or specified agency of any financial institution that is, or has applied to be, designated as a qualified public depository; and
- Furnishing information to Federal Home Loan Banks regarding its member institutions.

Orders to produce confidential records or information issued by courts or administrative law judges must provide for inspection in camera by the court or administrative law judge. Other procedural safeguards are provided for in the Financial Institutions Codes to protect the confidentiality of the records or information, including provisions that an order directing the release of information is reviewable by the OFR. [42]

The OFR must retain the original and any copies of examination reports, investigatory records, applications, and related information compiled by the OFR for at least 10 years.[43]

III. Effect of Proposed Changes:

Section 1 of the bill makes confidential and exempt from public disclosure certain information received by the Office of Financial Regulation (OFR) pursuant to an application for authority to organize a new state bank or new state trust company under ch. 658, F.S., including:

- Personal financial information;
- A driver license number, a passport number, a military identification number, or any other number or code issued on a government document used to verify identity;
- Books and records of a current or proposed financial institutions; and
- The proposed business plan and supporting documentation.

Section 1 of the bill also makes confidential and exempt from public disclosure personal identifying information of a proposed officer or director who is currently employed by, or actively participates in the affairs of, another financial institution received by the OFR pursuant to an application for authority to organize a new state bank or new state trust company under ch. 658, F.S., until the application is approved or the charter is issued. The term "personal identifying information" is defined as names, home addresses, e-mail addresses, telephone numbers, names of relatives, work experience, professional licensing and educational backgrounds, and photographs.

The bill is subject to the Open Government Sunset Review Act and will be repealed on October 2, 2029, unless the statute is reviewed and reenacted by the Legislature before that date.

Section 2 of the bill provides that the Legislature finds it is a public necessity that the information referred to in section 1 of the bill be made confidential and exempt. The public necessity statement notes:

> [t]he [OFR] may receive sensitive personal, financial, and business information in conjunction with its duties related to the review of applications for the organization or

[42] Section 655.057(6), F.S.
[43] Section 655.057(10), F.S.

establishment of new state banks and new state trust companies. These exemptions from public records requirements are necessary to ensure the [OFR's] ability to administer its regulatory duties while preventing unwarranted damage to the proposed state bank or proposed state trust company, or certain proposed officers or proposed directors of the proposed state bank or proposed state trust company, and other financial institutions in this state. The release of information that could lead to the identification of an individual involved in the potential establishment of a new state bank or new state trust company may subject such individual to retribution and jeopardize his or her current employment with, or participation in the affairs of, another financial institution. Thus, the public availability of such information has a chilling effect on the establishment of new state banks and new state trust companies. Further, the public availability of the books and financial records of a current or proposed financial institution in this state presents an unnecessary risk of harm to the business operations of such institution. Finally, the public availability of a proposed state bank's or proposed state trust company's business plan may cause competitive harm to such bank's or trust's company's future business operations and presents an unfair competitive advantage for existing financial institutions that are not required to release such information.

The bill requires a two-thirds vote of the members present and voting in each house of the Legislature for final passage because it creates a new public records exemption.

Section 3 of the bill provides for an effective date of July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. SB 1014 creates a new exemption and therefore, the bill will require a two-thirds vote to be enacted.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. Section 2 of the bill contains a statement of public necessity.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The exemption in the bill does not appear to be broader than necessary to accomplish the purpose of the law. The bill provides the specific information that would be made confidential and exempt to prevent unwarranted damage or unnecessary risk of harm to the proposed new state bank or new state trust company, or the proposed officer or director.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill does not appear to have a fiscal impact on state or local governments. Costs incurred by an agency in responding to public records requests regarding these exemptions should be offset by authorized fees.[44]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends s. 655.057 of the Florida Statutes.

[44] Section 119.07(2) and (4), F.S.

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.

By Senator Perry

9-01296-24 20241014__

A bill to be entitled

An act relating to public records; amending s. 655.057, F.S.; providing an exemption from public records requirements for certain information received by the Office of Financial Regulation relating to an application for authority to organize a new state bank or new state trust company; providing an exemption from public records requirements for certain information received by the office relating to an application for authority to organize a new state bank or new state trust company until specified conditions are met; defining the term "personal identifying information"; providing for future legislative review and repeal of the exemptions; providing a statement of public necessity; providing an effective date.

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

Section 1. Present subsections (5) through (13) of section 655.057, Florida Statutes, are redesignated as subsections (6) through (14), respectively, and a new subsection (5) is added to that section, to read:

655.057 Records; limited restrictions upon public access.—

(5)(a) The following information received by the office pursuant to an application for authority to organize a new state bank or new state trust company under chapter 658 is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

1. Personal financial information.

9-01296-24 20241014__

2. A driver license number, a passport number, a military identification number, or any other number or code issued on a government document used to verify identity.

3. Books and records of a current or proposed financial institution.

4. The proposed state bank's or proposed state trust company's proposed business plan.

(b) The personal identifying information of a proposed officer or proposed director who is currently employed by, or actively participates in the affairs of, another financial institution received by the office pursuant to an application for authority to organize a new state bank or new state trust company under chapter 658 is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the application is approved and the charter is issued. As used in this paragraph, the term "personal identifying information" means names, home addresses, e-mail addresses, telephone numbers, names of relatives, work experience, professional licensing and educational backgrounds, and photographs.

(c) This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and is repealed October 2, 2029, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that certain information received by the Office of Financial Regulation pursuant to an application for authority to organize a new state bank or new state trust company under chapter 658, Florida Statutes, be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of

the State Constitution to the extent that disclosure would reveal personal financial information; reveal a driver license number, a passport number, a military identification number, or any other number or code issued on a government document used to verify identity; reveal books and records of a current or proposed financial institution; or reveal a proposed state bank's or proposed state trust company's business plan and any attached supporting documentation. The Legislature further finds that it is a public necessity that the personal identifying information of a proposed officer or proposed director who is currently employed by, or actively participates in the affairs of, another financial institution be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution for the duration of the application process, until the application is approved and a charter is issued. The office may receive sensitive personal, financial, and business information in conjunction with its duties related to the review of applications for the organization or establishment of new state banks and new state trust companies. These exemptions from public records requirements are necessary to ensure the office's ability to administer its regulatory duties while preventing unwarranted damage to the proposed state bank or proposed state trust company, or certain proposed officers or proposed directors of the proposed state bank or proposed state trust company, and other financial institutions in this state. The release of information that could lead to the identification of an individual involved in the potential establishment of a new state bank or new state trust company may subject such

individual to retribution and jeopardize his or her current employment with, or participation in the affairs of, another financial institution. Thus, the public availability of such information has a chilling effect on the establishment of new state banks and new state trust companies. Further, the public availability of the books and financial records of a current or proposed financial institution in this state presents an unnecessary risk of harm to the business operations of such institution. Finally, the public availability of a proposed state bank's or proposed state trust company's business plan may cause competitive harm to such bank's or trust company's future business operations and presents an unfair competitive advantage for existing financial institutions that are not required to release such information.

Section 3. This act shall take effect July 1, 2024.

The Florida Senate

Committee Agenda Request

To: Senator Jim Boyd, Chair
Committee on Banking and Insurance

Subject: Committee Agenda Request

Date: January 5, 2024

I respectfully request that **Senate Bill #1014**, relating to Public Records/State Banks and State Trust Companies, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

W. Keith Perry

Senator Keith Perry
Florida Senate, District 9

File signed original with committee office

S-020 (03/2004)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

1/16/24
Meeting Date

Banking & Insurance
Committee

1014
Bill Number or Topic

Amendment Barcode (if applicable)

Name Ash Mason

Phone (813) 380-7071

Address
Street

Email Ash.Mason@FLOFR.GOV

City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing: Office of Financial Regulation

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

COMMITTEE VOTE RECORD

COMMITTEE: Banking and Insurance
ITEM: SB 1014
FINAL ACTION: Favorable
MEETING DATE: Tuesday, January 16, 2024
TIME: 11:00 a.m.—1:00 p.m.
PLACE: 412 Knott Building

FINAL VOTE								
Yea	**Nay**	**SENATORS**	**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**
X		Broxson						
X		Burton						
X		Hutson						
X		Ingoglia						
X		Mayfield						
X		Powell						
X		Thompson						
		Torres						
X		Trumbull						
X		DiCeglie, VICE CHAIR						
VA		Boyd, CHAIR						
10	0	**TOTALS**						
Yea	**Nay**		**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered
RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment
TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call
WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	CS/SB 1066
INTRODUCER:	Banking and Insurance and Senator Burton
SUBJECT:	Consumer Protection
DATE:	January 18, 2024
REVISED:	

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1066 amends various statutes in the area of consumer protection. Specifically, the bill:

- Prohibits bringing a Qui Tam action where such action is based upon allegations or transactions arising from, or to otherwise enforce, the provisions of the Florida Disposition of Unclaimed Property Act;
- Requires third party settlement organizations that conduct transactions involving a payee in Florida to create a mechanism for the payee to identify whether a transaction is for goods and services or personal transactions;
- Provides that a state agency may not enter into a contract or other agreement with any entity whose function is to advise the censorship or blacklisting of news sources based on subjective criteria or political biases, under the stated function of "fact checking" or otherwise removing "misinformation";
- Provides for the retirement of the title to a mobile home by the Department of Highway Safety and Motor Vehicles (DHSMV) if the owner of the real property records a mortgage against the owner's mobile home and real property in the official records of the clerk of court in the county in which the real property is located;
- Provides that a contractor executing a contract during a declaration of a state of emergency to replace or repair a roof of a residential property must include disclosure language in the contract of the right of cancellation of the contract within 10 days;
- Expands the definition of "depository institution" for purposes of the Florida Commercial Financing Disclosure Law to include institutions chartered by another state, territory, or the federal government authorized to do business in Florida and whose deposits or share

accounts are insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund;
- Provides that the certified public accountant that prepares the mandatory annual audit for an insurer must be Florida licensed and must have completed at least 4 hours of continuing education that is insurance-related as a condition of license renewal; the continuing education must be approved by the Department of Business and Professional Regulation, based on the recommendations of the Department of Financial Services;
- Applies provisions limiting public adjuster compensation to insurance policies for coverages provided by condominium association, cooperative association, apartment building, and similar policies, including policies covering the common elements of a homeowners' association;
- Provides that each public adjuster contract relating to a property and casualty claim must contain the license number of the public adjusting firm;
- Provides that the disclosure requirements of contracts for short-term health insurance must be in writing and signed by the purchaser at the time of purchase; the disclosures must include the duration, any essential benefit not included, content of coverage, and exclusions within the contract;
- Provides that a claim from a condominium unit owner resulting from a loss assessment must be given to the insurer within 90 days after the date on which the condominium association or its governing board votes to levy the assessment to cover a shortfall in reserves due to a covered loss; such vote by the association or its governing board must have occurred within 33 months after the date of the loss that created the need for the assessment;
- Adopts the 2018 edition of the National Fire Protection Association Code for Fireworks Display;
- Provides a criminal penalty for fraud related to grants or contracts with the state or any agency of the state; and
- Provides a criminal penalty for the act of knowingly making statements or communications, or disseminating such statements or communications, that have the intent of falsely representing that such communication originated from a bank or lending institution.

The bill does not appear to have a fiscal impact on state or local government.

The bill has an effective date of July 1, 2024.

II. Present Situation:

The Florida False Claims Act

Qui Tam Actions and the Relator

The Florida False Claims Act[1] authorizes two entities, either a private individual or the state,[2] to sue someone who allegedly files a false claim seeking payment or approval for payment from the state. The person who brings a false claims suit is referred to as the "relator." The action filed by

[1] Sections 68.081-68.092, F.S.
[2] For purposes of this act, the Department of Legal Affairs is authorized to bring an action, and in some limited circumstances, the Division of Financial Services may bring an action. See s. 68.083(1), (2), and (4), F.S.

the relator on behalf of the state is referred to as a "qui tam" proceeding.[3] Relators are entitled to a significant share of the settlement or proceeds when a recovery is made against a defendant. The relator does not need to demonstrate that he or she has been harmed by the violator's actions to adequately state a cause of action. Quite often, the relator is aware of the false claim because he or she was employed by the defendant or has knowledge of industry standards that were violated.

At the core of the Florida False Claims Act is the relator's right to earn a substantial portion of the recovery against a defendant. This provides a relator tremendous financial incentive to report misconduct. It also provides the state an opportunity to be made whole when damaged by fraudulent actions it did not know were occurring. An individual who successfully brings an action is entitled to receive a portion of the proceeds or settlement of the claim.[4]

Florida Disposition of Unclaimed Property Act

Chapter 717, F.S., details how to determine whether property held by a person belonging to another is unclaimed and how to dispose of it. Any intangible property or income held in the possession of a "holder"[5] for the benefit of another is presumed unclaimed if the owner fails to claim such property for more than 5 years after the property becomes payable or distributable.[6]

Once the 5-year period elapses, the holder may file a petition with the Department of Financial Services (DFS) and request that the DFS accept custody of the property.[7] Upon delivery of property to the DFS, the state assumes custody and responsibility for the safekeeping of the property. So long as the person who delivers the property to the DFS has done so in good faith, he or she is relieved of any liability to manage the property.[8]

Form 1099-K Reporting Requirement

Section 6050W of the Internal Revenue Code requires certain entities to file a return each year providing information about payments made by credit card or third party merchants.[9] The return is Form 1099-K, and is required to be filed for each calendar year on or before the last day of February of the year following the transactions.[10]

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[3] "Qui tam" is an abbreviated phrase from the larger Latin phrase "*qui tam pro domino rege quam pro se ipso in hac parte sequitur*." According to Black's Law Dictionary, it means "who as well for the king as for himself sues in this matter." A qui tam action is a statutory action that permits a private individual to sue for a penalty, which will be divided between the government or some other public institution and the person who initiates the suit. BLACK'S LAW DICTIONARY (10th ed. 2014).

[4] Section 68.085(1)(a), F.S.

[5] Section 717.101(12), F.S., defines "holder" as a person, wherever organized or domiciled, who is:

- In possession of property belonging to another;
- A trustee in case of a trust; or
- Indebted to another on an obligation.

[6] Section 717.102(1), F.S.

[7] Section 717.117(5), F.S.

[8] Section 717.1201(5), F.S.

[9] 26 U.S. Code s. 6050W(e)

[10] https://www.irs.gov/forms-pubs/about-form-1099-k (last visited January 16, 2024).

Reportable transactions include any transaction where the payment method is a payment card (credit card, debit card, or similar) or a third party payment system (like PayPal, Venmo, or Apple Pay). The return is filed by the payment settlement entity (e.g., a bank, credit card company, or payment platform like PayPal) and a copy is provided to dealers who have payment card transactions (credit card sales) of any amount, or who have third-party payment transactions (e.g., PayPal) in excess of $20,000 over more than 200 transactions.[11] These sales should be included in the payee's gross income on their tax returns for the year.

Some states require payment settlement entities to submit a copy of any Form 1099-K related to sales in that state or for residents of that state, if the IRS already requires the Form 1099-K to be filed. Examples include Alabama,[12] Tennessee,[13] North Carolina,[14] and New York.[15] Since 2020, entities required to file Form 1099-K with the federal government must also file a copy with the Florida Department of Revenue electronically within 30 days of filing the federal return.[16] The copy can be either the exact information filed on the full federal return, or a copy of the information limited to participating payees with an address in Florida.[17]

Procurement of Commodities and Services

Chapter 287, F.S., regulates state agency procurement of personal property and services. The term "agency" is defined broadly to mean any unit of the executive branch of state government.[18] Every procurement for contractual services in excess of the threshold amount in category two, $35,000, with certain exceptions[19], must be evidenced by a written agreement embodying all provisions and conditions of the procurement of such services.[20] The written agreement must be signed by the agency head or designee and the contractor before the rendering of any contractual service in excess of $35,000.[21, 22]

Real Property Transactions – Mobile Homes

Section 319.261, F.S., was created during the 2003 Regular Session to provide a mechanism by which the owner of a mobile home which is permanently affixed to real property owned by that same person may permanently retire the title to the mobile home. The Department of Highway Safety and Motor Vehicles is authorized to retire the title to the mobile home if the owner

[11] https://www.irs.gov/businesses/understanding-your-form-1099-k (last visited January 16, 2024).
[12] https://www.revenue.alabama.gov/new-1099-k-filing-requirement/ (last visited January 16, 2024).
[13] https://www.tn.gov/content/dam/tn/revenue/documents/notices/sales/sales16-01.pdf (last visited January 16, 2024).
[14] https://www.ncdor.gov/file-pay/guidance-information-reporting#payment-settlement-entity-(1099k) (January 16, 2024).
[15] https://www.tax.ny.gov/bus/multi/reporting_requiremts.htm (last visited March 24, 2023).
[16] Section 212.134, F.S.
[17] Section 212.134(1), F.S.
[18] Section 287.012(1), F.S. The term "agency" is defined as "any of the various state officers, departments, boards, commissions, divisions, bureaus, and councils and any other unit of organization, however designated, of the executive branch of state government. "Agency" does not include the university and college boards of trustees or the state universities and colleges."
[19] Excepting providing of health and mental health services or drugs in the examination, diagnosis, or treatment of sick or injured state employees or the providing of other benefits as required by the Workers' Compensation Law.
[20] Section 287.058(1), F.S.
[21] There is an exception in the case of a valid emergency as certified by the agency head.
[22] Section 287.058(2), F.S.

records the following documents with the clerk of court in the county in which the real property is located:

- The original title to the mobile home, or for a new home the manufacturers' certificate of origin, which includes a description of the mobile home, including model year, make, width, length, vehicle identification number, and a statement by any recorded lien holder on the title that the security interest in the home has been released, or that such security interest will be released upon retirement of the title;
- The legal description of the real property, and in the case of a leasehold interest, a copy of the lease agreement; and
- A sworn statement by the owner that he or she is the owner of the mobile home and that the home is permanently affixed to the real property in accordance with state law.[23]

The clerk of the court is responsible for recording the documents and providing to the owner of the real property a copy of the recorded title or manufacturers' certificate of origin and a copy of all the documents recorded.[24] The owner or lien-holder must then submit these documents with the appropriate application to DHSMV in order to retire the title.[25]

Prohibited Property Insurance Practices by Contractors

Contractors are prohibited from making written or electronic communications that encourage or induce a consumer to contact a contractor or public adjuster for the purpose of making a property insurance claim for roof damage unless such solicitation provides notice in a prescribed format that:

- The consumer is responsible for the payment of any deductible;
- It is insurance fraud punishable as a third-degree felony for a contractor to knowingly or willfully, and with intent to injure, defraud, or deceive, pay, waive, or rebate all or part of an insurance deductible applicable to payment to the contractor for repairs to a property covered by a property insurance policy; and
- It is insurance fraud punishable as a third-degree felony to file intentionally an insurance claim containing false, fraudulent, or misleading information.[26]

Contractors, and persons acting on behalf of contractors, are prohibited from engaging in the following practices:

- Offering the residential property owner consideration to perform a roof inspection or file an insurance claim;
- Offering or receiving consideration for referrals when property insurance proceeds are payable;
- Interpreting policy provisions or advising an insured regarding coverages or duties under the insured’s property insurance policy or adjusting a property insurance claim on behalf of the insured, unless the contractor holds a license as a public adjuster; and

[23] Section 319.261(2), F.S.
[24] Section 319.261(3), F.S.
[25] Section 319.261(4), F.S.
[26] Section 489.147(2), F.S.

- Providing an authorization agreement to the insured without providing a good faith estimate.[27]

The above acts are subject to discipline by the Department of Business and Professional Regulation and a $10,000 fine per violation.[28] The law provides the residential property owner may void the contract with the contractor within 10 days of its execution if the contractor fails to provide notice to the residential property owner of these prohibited practices.[29]

Florida Commercial Financing Disclosure Law

The Florida Commercial Financing Disclosure Law (Law) requires a provider that consummates a commercial financing transaction of $500,000 or less to give the business certain written disclosures regarding the total cost of the transaction, and the manner, frequency, and amount of each payment.[30] The Law provides that a provider's characterization of accounts receivable purchase transaction as a purchase is conclusive that the transaction is not a loan or a transaction for the use, forbearance, or detention of money.[31] "Provider" means:

> a person who consummates more than five commercial financing product transactions to a business located in the state in any calendar year. The term also includes a person who enters into a written agreement with a depository institution to arrange for the extension of a commercial financing product by the depository institution to a business via an online lending platform administered by the person. The fact that a provider extends a specific offer for a commercial financing product on behalf of a depository institution may not be construed to mean that the provider engaged in lending or financing or originated that loan or financing.[32]

"Depository institution" means a Florida state-chartered bank, savings bank, credit union, or trust company, or a federal savings or thrift association, bank, credit union, savings bank, or thrift.[33] The Law does not apply to:

- A provider that is a federally insured depository institution or an affiliate or holding company of such institution; or a subsidiary or service corporation that is owned and controlled by a federally insured depository institution or under common ownership with such institution.
- A provider that is a lender regulated under the Farm Credit Act of 1971, 12 U.S.C. ss. 2001 et seq.
- A commercial financing product transaction that is:
  - Secured by real property;
  - A lease; or
  - A purchase money obligation that is incurred as all or part of the price of the collateral or for value given to enable the business to acquire rights in or the use of the collateral if the value is in fact so used.

[27] *Id.*
[28] Section 489.147(3), F.S.
[29] Section 489.147(5), F.S.
[30] Section 559.9613, F.S.
[31] Section 559.9611(1), F.S.
[32] Section 559.9611(10), F.S.
[33] Section 559.9611(9), F.S.

- A commercial financing transaction in which the recipient is a motor vehicle dealer or an affiliate of such a dealer, or a vehicle rental company or an affiliate of such a company, pursuant to a commercial loan or commercial open-end credit plan of at least $50,000 or a commercial financing transaction offered by a person in connection with the sale or lease of products or services that such person manufactures, licenses, or distributes, or whose parent company or any of its directly or indirectly owned and controlled subsidiaries manufactures, licenses, or distributes.
- A provider that is licensed as a money transmitter under chapter 560 or licensed as a money transmitter by any other state, district, territory, or commonwealth of the United States.
- A provider that consummates no more than five commercial financing transactions in this state in a 12-month period.
- A commercial financing transaction of more than $500,000.[34]

Disclosures. The provider must disclose in writing the following at or before consummation of a commercial financing product transaction:

- The total amount of funds provided to the business under the terms of the commercial financing transaction agreement;
- The total amount of funds disbursed to the business under the terms of the commercial financing transaction agreement, if less than the total amount of funds provided, as a result of any fees deducted or withheld at disbursement and any amount paid to a third party on behalf of the business;
- The total amount to be paid to the provider pursuant to terms of the commercial financing transaction agreement;
- The total dollar cost of the commercial financing transaction under the terms of the agreement, derived by subtracting the total amount of funds provided from the total of payments;
- The manner, frequency and amount of each payment; and
- A statement of whether there are any costs or discounts associated with prepayment of the commercial financing transaction including a reference to the provision in the agreement that creates the contractual rights of the parties related to prepayment.[35]

Prohibited Acts. The Law prohibits a broker from engaging in any of the following acts:

- Assessing, collecting, or soliciting an advance fee from a business to provide services to a broker. However, this prohibition would not preclude a broker from soliciting a business to pay for, or a preclude a business from paying for, actual services necessary to apply for commercial financial product, such as a credit check or an appraisal of security, if certain conditions are met.
- Making or using any false or misleading representation or omitting any material fact in the offer or sale of the services of a broker or engage in any act that would operate as fraud or deception upon any person in connection with the offer or sale of the services of the broker, notwithstanding the absence the absence of reliance by the business.
- Making or using any false or deceptive representation in its business dealings.

[34] Section 559.9612, F.S.
[35] Section 559.9613, F.S.

- Offering the services of a broker by any advertisement without disclosing the actual address and telephone number of the business of the broker.[36]

Enforcement. The Law provides that violations are punishable by a fine of $500 per incident, not to exceed $20,000 for all aggregated violations arising from the use of the transaction documentation or materials found to be in violation.[37] Any person who violates any provision of the Law after receiving written notice of a prior violation from the Attorney General may be subject to a fine of $1,000 per incident, not to exceed $50,000 for all aggregated violations arising from the use of the transaction documentation or materials found to be in violation.[38] The Attorney General has exclusive authority to impose fines for noncompliance with the disclosure requirements and prohibited acts.[39]

Insurer Reporting of Property Insurance Data

All insurers with a Florida certificate of authority to transact insurance business must file quarterly and annual reports with the Office of Insurance Regulation (OIR) containing various financial data, including audited financial statements, actuarial opinions, and certain claims date.[40] Each year, insurers must file an annual statement covering the preceding calendar year on or before March 1. Quarterly statements covering each period ending on March 31, June 30, and September 30 must be filed within 45 days after each such date.[41]

In addition to each authorized insurer having to file with the OIR statements of its financial condition, transactions, and affairs, each authorized insurer must also hire a certified public accountant to prepare an audit.[42] The board of the insurer is required to establish an audit committee of three or more directors of the insurer or an affiliated company. The audit committee is responsible for discussing audit findings and interacting with the certified public accountant with regard to his or her findings. The audit committee must be comprised solely of members who are free from any relationship that, in the opinion of its board of directors, would interfere with the exercise of independent judgment as a committee member. The audit committee must report to the board any findings of adverse financial conditions or significant deficiencies in internal controls that have been noted by the accountant. The insurer may request the OIR to waive this requirement of the audit committee membership based upon unusual hardship to the insurer.[43]

Public Adjusters

A public adjuster is any person, except a duly licensed attorney-at-law as exempted under s. 626.860, F.S., who, for money, commission, or any other things of value, directly or indirectly prepares, completes, or files an insurance claim for an insured or third-party claimant, or who, for money, commission, or any other thing of value, acts on behalf of, or aids an insured or third-

[36] Section 559.9614, F.S.
[37] Section 559.9615(2)(a), F.S.
[38] Section 559.9615(2)(b), F.S.
[39] Section 559.9615(1), F.S.
[40] Section 624.424, F.S.
[41] Section 624.424(1)(a), F.S.
[42] Section 624.424(8), F.S.
[43] Section 624.424(8)(c), F.S.

party claimant in negotiating for or effecting the settlement of a claim or claims for loss or damage covered by an insurance contract, or who, advertises for employment as an adjuster of such claims.[44] The term also includes any person who, for money, commission, or any other thing of value, directly or indirectly solicits, investigates, or adjusts such claims on behalf of the public adjuster, as insured, or a third-party claimant.[45]

The substantive provisions within the definition of "public adjuster", found in subsections (5) through (18), apply only to residential property insurance policies and condominium unit owner policies.[46] The definition excludes several categories of persons who do not fall within the definition, such as licensed health care providers or employees thereof who prepares or files health insurance claim forms on behalf of a patient.[47] Subsection (11) limits compensation a public adjuster may charge. These limits are:

- If a public adjuster enters into a contract with an insured or claimant to reopen a claim or file a supplemental claim that seeks additional payments for a claim that has been previously paid the public adjuster may not charge based on a previous claim payment for the same cause of loss. The charge must be based only on the claim payments or settlements obtained through the work after entering into the contract. Compensation for the reopened or supplemental claim may not exceed 20 percent of the reopened or supplemental claim payment.[48]
- A public adjuster may not charge in excess of:
  - Ten percent of the amount of insurance claim payments or settlements, exclusive of attorney fees and costs, paid to the insured by the insurer for claims based on events that are the subject of a declaration of a state of emergency by the Governor. This provision applies to claims made during the year after the declaration of emergency. After that year, the limitations in subparagraph 2. apply.[49]
  - Twenty percent of the amount of insurance claim payments or settlements, exclusive of attorney fees and costs, paid to the insured by the insurer for claims that are not based on events that are the subject of a declaration of a state of emergency by the Governor.[50]
  - One percent of the amount of insurance claim payments or settlements, paid to the insured by the insurer for any coverage part of the policy where the claim payment or agreement to pay is equal to or greater than the policy limit for that part of the policy, if the payment or written commitment to pay is provided within 14 days after the date of loss or within 10 days after the date on which the contract is executed, whichever is later.[51]
  - Zero percent of the amount of insurance claim payments or settlements, paid to the insured by the insurer for any coverage part of the policy where the claim payment or agreement to pay occurs before the date on which the contract is executed.[52]

[44] Section 626.854(1), F.S.
[45] *Id.*
[46] Section 626.854(19), F.S.
[47] Section 626.854(2)(a), F.S.
[48] Section 626.854(11)(a), F.S.
[49] Section 626.854(11)(b)1., F.S.
[50] Section 626.854(11)(b)2., F.S.
[51] Section 626.854(11)(b)3., F.S.
[52] Section 626.854(11)(b)4., F.S.

- For purposes of calculating permissible compensation, compensation may not be based on the deductible portion of a claim.[53]
- Compensation may not be based on amounts attributable to additional living expenses, unless such compensation is affirmatively agreed to in a separate agreement that includes a disclosure in substantially the following form: "I agree to retain and compensate the public adjuster for adjusting my additional living expenses and securing payment from my insurer for amounts attributable to additional living expenses payable under the policy issued on my (home/mobile home/condominium unit)."[54]
- The rate of compensation may not be increased based solely on the fact that the claim is litigated.[55]
- Any maneuver, shift, or device through which the limits on compensation set forth in this subsection are exceeded is a violation of the chapter and is punishable as provided under s. 626.8698.[56]

Contracts and Disclosures

All contracts for public adjuster services and proof-of-loss statements must be in at least 12-point font, and be titled "Public Adjuster Contract."[57] Public adjuster contracts relating to property and casualty claims must include the public adjuster's and insured's phone number and e-mail addresses.[58] The contract language must state the percentage of compensation in a minimum of 18-point bold type before the space reserved for the insured's signature.[59] The insured is required to initial each page that does not have his or her signature.[60] An unaltered copy of the contract must be remitted to the insured at the time of execution and to the insurer within seven days after execution, and an unaltered copy may be provided to the insurer's representative.[61]

Health Insurance Policies – Short Term Health Insurance

Section 627.6426, F.S., provides for short-term health insurance contracts. "Short term health insurance" is health insurance coverage provided by an issuer with an expiration date that is less than 12 months after the original effective date of the contract and, taking into account renewals or extensions, has a duration not to exceed 36 months.[62] Such contracts must include the following disclosure:

> "This coverage is not required to comply with certain federal market requirements for health insurance, principally those contained in the Patient Protection and Affordable Care Act. Be sure to check your policy carefully to make sure you are aware of any exclusions or limitations regarding coverage of preexisting conditions or health benefits (such as hospitalization, emergency services, maternity care, preventive care, prescription

[53] Section 626.854(11)(c), F.S.
[54] Section 626.854(11)(d), F.S.
[55] Section 626.854(11)(e), F.S.
[56] Section 626.854(11)(f), F.S.
[57] Section 626.8796(1), F.S.
[58] Section 626.8796(2), F.S.
[59] *Id.*
[60] *Id.*
[61] *Id.*
[62] Section 627.6426(1), F.S.

drugs, and mental health and substance use disorder services). Your policy might also have lifetime and/or annual dollar limits on health benefits. If this coverage expires or you lose eligibility for this coverage, you might have to wait until an open enrollment period to get other health insurance coverage."[63]

Notice of Property Insurance Claim

Section 627.70132, F.S., requires insureds to notify an insurer of a claim or reopened claim,[64] within 1 year after the date of loss.[65] Notice of a supplemental claim[66] must be given to the insurer within 18 months of the date of loss or such claim is barred. The time period is tolled for filing a property insurance claim during any term of deployment to a combat zone or combat support posting which materially affects the ability of a servicemember to file a claim, supplemental claim, or reopened claim. Section 627.706(5), F.S., requires insureds to notify an insurer of a claim, supplemental claim, or reopened sinkhole claim within 2 years after the insured knew or reasonably should have known about the loss.

Minimum Fireworks Safety Standards

Chapter 791, F.S., sets forth the framework for the regulation of fireworks in Florida under the State Fire Marshal's office within the DFS. While ch. 791, F.S., applies uniformly throughout the state, enforcement of these statutes resides with local law enforcement departments.[67] The statutes prohibit the retail sale and use of fireworks[68] by the public. However, provisions of ch. 791, F.S., exempt certain wholesale sales and commercial uses of fireworks from this general ban.

Section 791.02, F.S., allows counties and cities to adopt reasonable rules and regulations for the granting of permits for the supervised public display of fireworks within their boundaries. Display operators must apply for a permit at least 15 days in advance and obtain approval from municipal chiefs of police and fire departments. The outdoor display of fireworks is governed by the National Fire Protection Association (NFPA 1123) Code for Fireworks Display, 1995 Edition, approved by the American National Standards Institute, which establishes minimum safety standards for outdoor public displays.[69] However, the most recent Florida Fire Prevention Code references the 2018 edition of the NFPA 1123 Code.[70]

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[63] Section 627.6426(2), F.S.
[64] Section 627.70132(1)(a), F.S., defines "reopened claim" as a claim that an insurer has previously closed, but that has been reopened upon an insured's request for additional costs for loss or damage previously disclosed to the insurer.
[65] Section 627.70132(3), F.S., provides that the date of loss for claims resulting from specified and other weather-related events, such as hurricanes and tornadoes, is the date that the hurricane made landfall or the other weather-related event is verified by the National Oceanic and Atmospheric Administration.
[66] Section 627.70132(1)(b), F.S., defines "supplemental claim" as a claim for additional loss or damage from the same peril which the insured has previously adjusted or for which costs have been incurred while completing repairs or replacement pursuant to an open claim for which timely notice was previously provided to the insurer.
[67] Section 791.001, F.S.
[68] Florida Statutes provide specific definitions of what are and are not fireworks, which is outlined in later sections of the analysis.
[69] Section 791.012, F.S.
[70] 8th Edition of the Florida Fire Prevention Code (2023) https://www.myfloridacfo.com/division/sfm/bfp/florida-fire-prevention-code (last visited January 9, 2024).

Grant and Contract Fraud

Chapter 817, F.S., prohibits and punishes various fraudulent acts or practices. In general terms, fraud is the willful act of misrepresenting the truth to someone or concealing an important fact from them for the purpose of inducing that person to act to his or her detriment.[71] In the context of contracts, Fraud is an act that causes an error bearing on a material part of a contract that is "created or continued by artifice, with design to obtain some unjust advantage to the one party, or to cause an inconvenience or loss to the other."[72]

No specific statute exists creating a crime of grant or contract fraud. However, individuals perpetrating such fraud could possibly face prosecution for violations of section 817.034(4)(a), F.S., Organized Scheme to Defraud, section 812.014(2)(a), F.S., Theft, and section 838.022, F.S., Official Misconduct, among other possible crimes, depending on the facts of each case.

Deceptive Advertising

Several existing statutes address false, misleading, and deceptive advertising. Section 817.40, F.S., contains the definitions for use in construing the statutes involving false, misleading, and deceptive advertising and sales. Misleading advertising is prohibited by s. 817.41, F.S. Advertising "containing any assertion, representation, or statement that commodities, mortgages, promissory notes, securities, or other things of value offered for sale are covered by insurance guaranties where such insurance is nonexistent or does not in fact insure against the risks covered" is prohibited by section 817.411, F.S. Advertising that offers "for sale or to issue invitations for offers for the sale of any property, real or personal, tangible or intangible, or any services, professional or otherwise, by placing or causing to be placed before the general public, by any means whatever, an advertisement describing such property or services as part of a plan or scheme with the intent not to sell such property or services so advertised, or with the intent not to sell such property or services at the price at which it was represented in the advertisement to be available for purchase by any member of the general public" is prohibited by s. 817.44, F.S.

Penalties for violations of these statutes are provided in s. 817.45, F.S. For a first violation, a violator is guilty of a misdemeanor of the first degree.[73] For a second or subsequent violation, the violator is guilty of a misdemeanor of the first degree, but may be subject to a fine not to exceed $10,000.

III. Effect of Proposed Changes:

The Florida False Claims Act

Section 1 amends s. 68.087, F.S., to prohibit bringing a Qui Tam action under s. 68.083(2), F.S., based upon allegations or transactions arising from, or to otherwise enforce, the provisions of the Florida Disposition of Unclaimed Property Act.

[71] Black's Law Dictionary, https://thelawdictionary.org/fraud/ (last visited January 9, 2024).
[72] *Id.*
[73] Punishment may include a term of imprisonment not exceeding 1 year, a fine not to exceed $1,000, court costs. Sections 775.082(4)(a) and 775.083(1)(d), F.S.

Form 1099-K Reporting Requirement

Section 2 amends s. 212.134, F.S., to require third party settlement organizations that conduct transactions involving a payee in Florida to create a mechanism for the payee to identify whether a transaction is for goods and services or personal transactions. The bill requires that such payment settlement organizations must include information regarding whether the transaction was for goods and services or for a personal transaction when submitting to the Department of Revenue the information contained in each return filed by such payment settlement organizations regarding participating payees with an address in this state with the Internal Revenue Service pursuant to s. 6050W of the Internal Revenue Code.

Procurement of Commodities and Services

Section 3 creates s. 286.312, F.S., to provide that an agency may not enter into a contract or other agreement with an entity whose function is to advise the censorship or blacklisting of news sources based on subjective criteria or political biases under the stated goal of fact-checking or removing misinformation.

Real Property Transactions – Mobile Homes

Section 4 amends s. 319.261, F.S., to provide for the retirement of the title to a mobile home by the Department of Highway Safety and Motor Vehicles if the owner of the real property records a mortgage against the owner's mobile home and real property in the official records of the clerk of court in the county in which the real property is located.

Prohibited Property Insurance Practices by Contractors

Section 5 amends s. 489.147, F.S., to provide that a contractor may not enter into a contract to replace a roof on residential property during a declaration of a state of emergency unless the contract includes the following notice in bold type of not less than 18 points immediately before the space reserved for the signature of the residential property owner:

> "You, the residential property owner, may cancel this contract without penalty or obligation up until the 10 day after the execution of the contract or until the official start date, whichever comes first, because this contract was entered into during a declaration of a state of emergency by the Governor. It is the responsibility of your contractor to include an official start date clause in your contract. This clause must state the official start date and the work that will be commenced on that date. If there is no official start date clause in the contract, the contract may be voided within 10 days following the execution of the contract."

Such notice of cancellation must be sent to the contractor by mail that provides proof thereof, at the address specified in the contract.

Florida Commercial Financing Disclosure Law

Section 6 amends s. 559.9611, F.S., to expand the definition of "depository institution" to include institutions chartered by another state, territory, or the federal government authorized to do business in Florida and whose deposits or share accounts are insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund. Presently, the definition is limited to state chartered institutions. The Florida Commercial Financing Disclosure Law requires "providers" to make certain disclosures of the terms of a commercial financing transaction. The definition of "provider" includes a person who enters into a written agreement with a "depository institution" to arrange a commercial financing transaction. Expanding the definition of "depository institution" expands the applicability of the disclosure requirements.

Insurer Reporting of Property Insurance Data

Section 7 amends s. 624.424, F.S., to provide that the certified public accountant that prepares the mandatory annual audit must be Florida licensed and must have completed at least 4 hours of continuing education that is insurance-related as a condition of license renewal. The continuing education must be approved by the Department of Business and Professional Regulation, based on the recommendations of the Department of Financial Services. This requirement becomes effective once the courses have been created and approved.

Public Adjusters

Section 8 amends s. 626.854, F.S., to apply provisions providing limits on public adjuster compensation to insurance policies for coverages provided by condominium association, cooperative association, apartment building, and similar policies, including policies covering the common elements of a homeowners' association.

Section 9 amends s. 626.8796(2), F.S., to provide that each public adjuster contract relating to a property and casualty claim must contain the license number of the public adjusting firm.

Health Insurance Policies – Short Term Health Insurance

Section 10 amends s. 627.6426, F.S., to provide that the disclosure requirements of contracts for short-term health insurance must be in writing and signed by the purchaser at the time of purchase. The disclosures must include the duration, any essential benefit not included, content of coverage, and exclusions within the contract. The disclosures must be printed in at least 12-point type and in a color that is readable. A copy of the signed disclosures must be maintained by the issuer for a period of 5 years after the date of purchase.

Notice of Property Insurance Claim

Section 11 amends s. 627.70132, F.S., to provide that a notice of claim from a condominium unit owner resulting from a loss assessment for loss assessment coverage under s. 627.714, F.S., must be given to the insurer within 90 days after the date on which the condominium association or its governing board votes to levy an assessment to cover a shortfall in reserves due to a covered loss. Such vote by the association or its governing board must have occurred within 33 months after the date of the loss that created the need for the assessment.

If the condominium association votes to levy an assessment more than 9 months after the underlying loss – for example a hurricane or tornado – that gives rise to the assessment, the bill will expand the time frame for filings a loss assessment claim with an insurer, which is one year after such weather-related event. If, however, the vote was taken within the first nine months following the storm, the unit owner would need to file the notice prior to the expiration on the one-year period under current law.

Minimum Fireworks Safety Standards

Section 12 amends s. 791.012, F.S., to adopt the 2018 edition of the National Fire Protection Association Code for Fireworks Display, which will replace the 1995 edition.

Grant and Contract Fraud

Section 13 creates s. 817.153, F.S., to provide new criminal penalties for fraud related to grants or contracts with the state or any agency of the state. The penalties apply to all grant agreements, state contracts, or other agreements with the state, regardless of whether the funds being provided are state funds or federal pass-through funds. A person violates this section if the person:

- Knowingly presents or causes to be presented a claim related to a grant agreement, contract, or other agreement with the state, or any agency thereof, that the person knows or should know is false or fraudulent.
- Knowingly makes, uses, or causes to be made or used any false statement, omission, or misrepresentation of a material fact in any application, proposal, bid, progress report, budget, financial statement, audit, or other document that is required to be submitted in order to directly or indirectly receive or retain funds provided in whole or in part pursuant to a state grant agreement, state contract, or other agreement with the state.
- Knowingly makes, uses, or causes to be made or used false records or statements material to false or fraudulent claims under a grant agreement, state contract, or other agreement with the state.
- Knowingly conceals, avoids, or decreases an obligation to pay or transmit funds or property with respect to a state grant agreement, state contract, or other agreement with the state, or knowingly makes, uses, or causes to be made or used a false record or statement material to such an obligation.

Proof of specific intent to defraud is not required, however, innocent mistake is a defense to an action brought under this section. Penalties for a violation are based on the value of the property involved as follows:

- Less than $20,000, the offender commits a felony of the third degree.[74]
- At least $20,000, but less than $100,000, the offender commits a felony of the second degree.[75]

[74] Punishment may include a term of imprisonment not exceeding 5 years, a fine not to exceed $5,000, court costs. Sections 775.082(3)(e) and 775.083(1)(c), F.S.
[75] Punishment may include a term of imprisonment not exceeding 15 years, a fine not to exceed $10,000, court costs. Sections 775.082(3)(d) and 775.083(1)b), F.S.

- At least $100,000, the offender commits a felony of the first degree.[76]

Deceptive Advertising

Section 14 creates s. 817.4112, F.S., to provide that that a person or business may not knowingly make statements, or disseminate any communication that has the intent of falsely representing that such communication originated from a bank or lending institution.

Section 15 amends s. 817.45, F.S., to provide a penalty for the new crime created in Section 14 of the bill. A person violating the new crime is guilty of a first degree misdemeanor[77] for a first offence. A second or subsequent conviction is also a first degree misdemeanor but the fine may be up to $10,000.

Effective Date

Section 16 provides the bill is effective July 1, 2024.

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:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

[76] Punishment may include a term of imprisonment not exceeding 30 years, a fine not to exceed to $10,000, court costs. Sections 775.082(3)(b)1. and 775.083(1)(b), F.S.
[77] Punishment may include a term of imprisonment not exceeding 1 year, a fine not to exceed $1,000, court costs. Sections 775.082(4)(a) and 775.083(1)(d), F.S.

B. Private Sector Impact:

The bill is intended to have a positive impact on consumers. Public adjusters' compensation may be reduced due to the provisions in the bill.

C. Government Sector Impact:

The bill creates two new first degree misdemeanors. The new misdemeanors may increase state court revenues and expenditures, if prosecuted. In addition, the bill may have an indeterminate negative jail bed impact.

VI. Technical Deficiencies:

The notice provided in Section 5 of the bill for roof contracts entered into during a declared state of emergency appears to have an internal inconsistency. On lines 157 and 158, the notice references the right to cancel the contract "up until the 10 [sic] day after the execution of the contract". On lines 167 and 168, the notice references that the contract "may be voided within 10 days after the execution of the contract." One phrase provides for "up until the 10 [sic] day" and the other provides for "within 10 days." It appears they should both use the phrase "within" the 10 days. Also, the term "10 day" on lines 157 and 158 should read "10th day".

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 68.087, 212.34, 319.261, 489.147, 559.9611, 624.424, 626.854, 626.8796, 627.6426, 627.70132, 791.012, and 817.45.

This bill creates the following sections of the Florida Statutes: 286.312, 817.153, and 817.4112.

IX. Additional Information:

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

CS by Banking and Insurance Committee on January 16, 2024:
The committee substitute makes the following changes:

- Amends s. 212.134, F.S., to require third party settlement organizations that conduct transactions involving a payee in Florida to create a mechanism for the payee to identify whether a transaction is for goods and services or personal transactions;
- Removes the provision prohibiting state agencies from contracting with entities whose function is "fact checking" and places them in a newly created statute instead;
- Revises the proposed definition of "depository institution" for purposes of the Florida Commercial Financing Disclosure Law to remove certain terms and adds the requirement "authorized to transact business in this state and whose deposits or share

accounts are insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund";

- Revises the proposed continuing education requirement for CPAs by adding "Upon creation of the continuing education" to give the Department of Business and Professional Regulation time to create the courses;
- Revises the provision regarding the time for a condominium unit owner to file a notice of a property insurance claim resulting from a loss assessment; and
- Removes Section 12 from the bill that added commercial residential or commercial (business) insurance policies to the requirement that the insurer must clearly notify the applicant or policyholder of the availability of certain premium discounts.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/18/2024	.	
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The Committee on Banking and Insurance (Burton) recommended the following:

Senate Amendment (with title amendment)

Delete lines 57 - 566
and insert:
Section 2. Section 212.134, Florida Statutes, is amended to read:
212.134 Information returns relating to payment-card and third-party network transactions.—
(1) For purposes of this section, the term:
(a) "Participating payee" has the same meaning as in s.

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6050W of the Internal Revenue Code.

(b) "Return" or "information return" means IRS Form 1099-K required under s. 6050W of the Internal Revenue Code.

(c) "Third party network transaction" has the same meaning as in s. 6050W of the Internal Revenue Code.

(d) "Third party settlement organization" has the same meaning as in s. 6050W of the Internal Revenue Code.

(2) For each year in which a payment settlement entity, an electronic payment facilitator, or other third party contracted with the payment settlement entity to make payments to settle reportable payment transactions on behalf of the payment settlement entity must file a return pursuant to s. 6050W of the Internal Revenue Code, for participating payees with an address in this state, the entity, the facilitator, or the third party must submit the information in the return to the department by the 30th day after filing the federal return. The format of the information returns required must be either a copy of such information returns or a copy of such information returns related to participating payees with an address in the state. For purposes of this subsection, the term "payment settlement entity" has the same meaning as provided in s. 6050W of the Internal Revenue Code.

(3) ~~(2)~~ All reports of returns submitted to the department under this section must be in an electronic format.

(4) ~~(3)~~ Any payment settlement entity, facilitator, or third party failing to file the information return required, filing an incomplete information return, or not filing an information return within the time prescribed is subject to a penalty of $1,000 for each failure, if the failure is for not more than 30

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days, with an additional $1,000 for each month or fraction of a month during which each failure continues. The total amount of penalty imposed on a reporting entity may not exceed $10,000 annually.

(5) ~~(4)~~ The executive director or his or her designee may waive the penalty if he or she determines that the failure to timely file an information return was due to reasonable cause and not due to willful negligence, willful neglect, or fraud.

(6) All third party settlement organizations that conduct transactions involving a participating payee with an address in this state shall create a mechanism for participating payees to identify whether a participating payee's transaction is for goods and services or is personal. The mechanism must clearly indicate the participating payee's requirement to indicate the appropriate transaction type. The participating payee is responsible for indicating the appropriate transaction type. All third party settlement organizations shall maintain records that clearly identify whether a transaction, as designated by the participating payee, is a transaction for goods and services or is personal. The information in the return submitted to the department under subsection (2) for such entities must be limited to transactions for goods and services.

Section 3. Section 286.312, Florida Statutes, is created to read:

286.312 Prohibited use of state funds; censorship or blacklisting of news sources.—An agency may not enter into a contract or other agreement with an entity whose function is to advise the censorship or blacklisting of news sources based on subjective criteria or political biases under the stated goal of

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fact-checking or removing misinformation.

Section 4. Subsection (2) of section 319.261, Florida Statutes, is amended to read:

319.261 Real property transactions; retiring title to mobile home.—

(2) The title to the mobile home must ~~may~~ be retired by the department if the owner of the real property records the following documents in the official records of the clerk of court in the county in which the real property is located:

(a)1. The original title to the mobile home which includes ~~shall include~~ a description of the mobile home, including model year, make, width, length, and vehicle identification number, and a statement by any recorded lienholder on the title that the security interest in the home has been released~~,~~ or that such security interest will be released upon retirement of the title as set forth in this section;~~.~~

2.~~(b)~~ The legal description of the real property, and in the case of a leasehold interest, a copy of the lease agreement; and~~.~~

3.~~(c)~~ A sworn statement by the owner of the real property, as shown on the real property deed or lease, that he or she is the owner of the mobile home and that the home is permanently affixed to the real property in accordance with state law; or

(b) A mortgage against the owner’s mobile home and real property.

Section 5. Subsection (6) is added to section 489.147, Florida Statutes, to read:

489.147 Prohibited property insurance practices.—

(6)(a) During a declared state of emergency, a contractor

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executing a contract to replace or repair a roof of a residential property must include in the contract the following language in bold type of not less than 18 points immediately before the space reserved for the signature of the residential property owner:

"You, the residential property owner, may cancel this contract without penalty or obligation up until the 10 day after the execution of the contract or until the official start date, whichever comes first, because this contract was entered into during a declaration of a state of emergency by the Governor. It is the responsibility of your contractor to include an official start date clause in your contract. This clause must state the official start date and the work that will be commenced on that date. If there is no official start date clause in the contract, the contract may be voided within 10 days after the execution of the contract."

(b) The residential property owner must send the notice of cancellation by certified mail, return receipt requested, or by another form of mailing that provides proof thereof, to the address specified in the contract.

Section 6. Subsection (9) of section 559.9611, Florida Statutes, is amended to read:

559.9611 Definitions.—As used in this part, the term:

(9) "Depository institution" means a bank, a credit union, a savings bank, a savings and loan association, a savings or


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thrift association, or an industrial loan company doing business under the authority of a charter issued by the United States, this state, or any other state, district, territory, or commonwealth of the United States which is authorized to transact business in this state and whose deposits or share accounts are insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund ~~Florida state-chartered bank, savings bank, credit union, or trust company, or a federal savings or thrift association, bank, credit union, savings bank, or thrift~~.

Section 7. Paragraph (d) of subsection (8) of section 624.424, Florida Statutes, is amended to read:

624.424 Annual statement and other information.—

(8)

(d) Upon creation of the continuing education required under this paragraph, the certified public accountant who prepares the audit must be licensed to practice pursuant to chapter 473 and must have completed at least 4 hours of continuing education that is insurance related as a condition of license renewal. The continuing education must be approved by the Department of Business and Professional Regulation, based on the recommendations of the Department of Financial Services. An insurer may not use the same accountant or partner of an accounting firm responsible for preparing the report required by this subsection for more than 5 consecutive years. Following this period, the insurer may not use such accountant or partner for a period of 5 years, but may use another accountant or partner of the same firm. An insurer may request the office to waive this prohibition based upon an unusual hardship to the

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insurer and a determination that the accountant is exercising independent judgment that is not unduly influenced by the insurer considering such factors as the number of partners, expertise of the partners or the number of insurance clients of the accounting firm; the premium volume of the insurer; and the number of jurisdictions in which the insurer transacts business.

Section 8. Subsection (19) of section 626.854, Florida Statutes, is amended, and subsections (5) through (18) of that section are republished, to read:

626.854 "Public adjuster" defined; prohibitions.—The Legislature finds that it is necessary for the protection of the public to regulate public insurance adjusters and to prevent the unauthorized practice of law.

(5) A public adjuster may not directly or indirectly through any other person or entity solicit an insured or claimant by any means except on Monday through Saturday of each week and only between the hours of 8 a.m. and 8 p.m. on those days.

(6) When entering a contract for adjuster services after July 1, 2023, a public adjuster:

(a) May not collect a fee for services on payments made to a named insured unless they have a written contract with the named insured, or the named insured's legal representative.

(b) May not contract for services to be provided by a third party on behalf of the named insured or in pursuit of settlement of the named insured's claim, if the cost of those services is to be borne by the named insured, unless the named insured agrees in writing to procure these services and such agreement is entered into subsequent to the date of the contract for

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public adjusting services.

(c) If a public adjuster contracts with a third-party service provider to assist with the settlement of the named insured's claim, without first obtaining the insured's written consent, payment of the third party's fees must be made by the public adjuster and may not be charged back to the named insured.

(d) If a public adjuster represents anyone other than the named insured in a claim, the public adjuster fees shall be paid by the third party and may not be charged back to the named insured.

(7) An insured or claimant may cancel a public adjuster's contract to adjust a claim without penalty or obligation within 10 days after the date on which the contract is executed. If the contract was entered into based on events that are the subject of a declaration of a state of emergency by the Governor, an insured or claimant may cancel the public adjuster's contract to adjust a claim without penalty or obligation within 30 days after the date of loss or 10 days after the date on which the contract is executed, whichever is longer. The public adjuster's contract must contain the following language in minimum 18-point bold type immediately before the space reserved in the contract for the signature of the insured or claimant:

"You, the insured, may cancel this contract for any reason without penalty or obligation to you within 10 days after the date of this contract. If this contract was entered into based on events that are the subject of a declaration of a state of emergency by the

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Governor, you may cancel this contract for any reason without penalty or obligation to you within 30 days after the date of loss or 10 days after the date on which the contract is executed, whichever is longer. You may also cancel the contract without penalty or obligation to you if I, as your public adjuster, fail to provide you and your insurer a copy of a written estimate within 60 days of the execution of the contract, unless the failure to provide the estimate within 60 days is caused by factors beyond my control, in accordance with s. 627.70131(5)(a)2., Florida Statutes. The 60-day cancellation period for failure to provide a written estimate shall cease on the date I have provided you with the written estimate."

The notice of cancellation shall be provided to ...(name of public adjuster)..., submitted in writing and sent by certified mail, return receipt requested, or other form of mailing that provides proof thereof, at the address specified in the contract.

(8) It is an unfair and deceptive insurance trade practice pursuant to s. 626.9541 for a public adjuster or any other person to circulate or disseminate any advertisement, announcement, or statement containing any assertion, representation, or statement with respect to the business of insurance which is untrue, deceptive, or misleading.

(a) The following statements, made in any public adjuster's advertisement or solicitation, are considered deceptive or misleading:

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1. A statement or representation that invites an insured policyholder to submit a claim when the policyholder does not have covered damage to insured property.

2. A statement or representation that invites an insured policyholder to submit a claim by offering monetary or other valuable inducement.

3. A statement or representation that invites an insured policyholder to submit a claim by stating that there is "no risk" to the policyholder by submitting such claim.

4. A statement or representation, or use of a logo or shield, that implies or could mistakenly be construed to imply that the solicitation was issued or distributed by a governmental agency or is sanctioned or endorsed by a governmental agency.

(b) For purposes of this paragraph, the term "written advertisement" includes only newspapers, magazines, flyers, and bulk mailers. The following disclaimer, which is not required to be printed on standard size business cards, must be added in bold print and capital letters in typeface no smaller than the typeface of the body of the text to all written advertisements by a public adjuster:

"THIS IS A SOLICITATION FOR BUSINESS. IF YOU HAVE HAD A CLAIM FOR AN INSURED PROPERTY LOSS OR DAMAGE AND YOU ARE SATISFIED WITH THE PAYMENT BY YOUR INSURER, YOU MAY DISREGARD THIS ADVERTISEMENT."

(9) A public adjuster, a public adjuster apprentice, or any person or entity acting on behalf of a public adjuster or public

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adjuster apprentice may not give or offer to give a monetary loan or advance to a client or prospective client.

(10) A public adjuster, public adjuster apprentice, or any individual or entity acting on behalf of a public adjuster or public adjuster apprentice may not give or offer to give, directly or indirectly, any article of merchandise having a value in excess of $25 to any individual for the purpose of advertising or as an inducement to entering into a contract with a public adjuster.

(11)(a) If a public adjuster enters into a contract with an insured or claimant to reopen a claim or file a supplemental claim that seeks additional payments for a claim that has been previously paid in part or in full or settled by the insurer, the public adjuster may not charge, agree to, or accept from any source compensation, payment, commission, fee, or any other thing of value based on a previous settlement or previous claim payments by the insurer for the same cause of loss. The charge, compensation, payment, commission, fee, or any other thing of value must be based only on the claim payments or settlements paid to the insured, exclusive of attorney fees and costs, obtained through the work of the public adjuster after entering into the contract with the insured or claimant. Compensation for the reopened or supplemental claim may not exceed 20 percent of the reopened or supplemental claim payment. In no event shall the contracts described in this paragraph exceed the limitations in paragraph (b).

(b) A public adjuster may not charge, agree to, or accept from any source compensation, payment, commission, fee, or any other thing of value in excess of:

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1. Ten percent of the amount of insurance claim payments or settlements, exclusive of attorney fees and costs, paid to the insured by the insurer for claims based on events that are the subject of a declaration of a state of emergency by the Governor. This provision applies to claims made during the year after the declaration of emergency. After that year, the limitations in subparagraph 2. apply.

2. Twenty percent of the amount of insurance claim payments or settlements, exclusive of attorney fees and costs, paid to the insured by the insurer for claims that are not based on events that are the subject of a declaration of a state of emergency by the Governor.

3. One percent of the amount of insurance claim payments or settlements, paid to the insured by the insurer for any coverage part of the policy where the claim payment or written agreement by the insurer to pay is equal to or greater than the policy limit for that part of the policy, if the payment or written commitment to pay is provided within 14 days after the date of loss or within 10 days after the date on which the public adjusting contract is executed, whichever is later.

4. Zero percent of the amount of insurance claim payments or settlements, paid to the insured by the insurer for any coverage part of the policy where the claim payment or written agreement by the insurer to pay occurs before the date on which the public adjusting contract is executed.

(c) Insurance claim payments made by the insurer do not include policy deductibles, and public adjuster compensation may not be based on the deductible portion of a claim.

(d) Public adjuster compensation may not be based on

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amounts attributable to additional living expenses, unless such compensation is affirmatively agreed to in a separate agreement that includes a disclosure in substantially the following form:

"I agree to retain and compensate the public adjuster for adjusting my additional living expenses and securing payment from my insurer for amounts attributable to additional living expenses payable under the policy issued on my (home/mobile home/condominium unit)."

(e) Public adjuster rate of compensation may not be increased based solely on the fact that the claim is litigated.

(f) Any maneuver, shift, or device through which the limits on compensation set forth in this subsection are exceeded is a violation of this chapter punishable as provided under s. 626.8698.

(12)(a) Each public adjuster must provide to the claimant or insured a written estimate of the loss to assist in the submission of a proof of loss or any other claim for payment of insurance proceeds within 60 days after the date of the contract. The written estimate must include an itemized, per-unit estimate of the repairs, including itemized information on equipment, materials, labor, and supplies, in accordance with accepted industry standards. The public adjuster shall retain such written estimate for at least 5 years and shall make the estimate available to the claimant or insured, the insurer, and the department upon request.

(b) An insured may cancel the contract with no additional

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penalties or fees charged by the public adjuster if such an estimate is not provided within 60 days after executing the contract, subject to the cancellation notice requirement in this section, unless the failure to provide the estimate within 60 days is caused by factors beyond the control of the public adjuster. The cancellation period shall cease on the date the public adjuster provides the written estimate to the insured.

(13) A public adjuster, public adjuster apprentice, or any person acting on behalf of a public adjuster or apprentice may not accept referrals of business from any person with whom the public adjuster conducts business if there is any form or manner of agreement to compensate the person, directly or indirectly, for referring business to the public adjuster. A public adjuster may not compensate any person, except for another public adjuster, directly or indirectly, for the principal purpose of referring business to the public adjuster.

(14) A company employee adjuster, independent adjuster, attorney, investigator, or other persons acting on behalf of an insurer that needs access to an insured or claimant or to the insured property that is the subject of a claim must provide at least 48 hours' notice to the insured or claimant, public adjuster, or legal representative before scheduling a meeting with the claimant or an onsite inspection of the insured property. The insured or claimant may deny access to the property if the notice has not been provided. The insured or claimant may waive the 48-hour notice.

(15) The public adjuster must ensure that prompt notice is given of the claim to the insurer, the public adjuster's contract is provided to the insurer, the property is available

for inspection of the loss or damage by the insurer, and the insurer is given an opportunity to interview the insured directly about the loss and claim. The insurer must be allowed to obtain necessary information to investigate and respond to the claim.

(a) The insurer may not exclude the public adjuster from its in-person meetings with the insured. The insurer shall meet or communicate with the public adjuster in an effort to reach agreement as to the scope of the covered loss under the insurance policy. The public adjuster shall meet or communicate with the insurer in an effort to reach agreement as to the scope of the covered loss under the insurance policy. This section does not impair the terms and conditions of the insurance policy in effect at the time the claim is filed.

(b) A public adjuster may not restrict or prevent an insurer, company employee adjuster, independent adjuster, attorney, investigator, or other person acting on behalf of the insurer from having reasonable access at reasonable times to any insured or claimant or to the insured property that is the subject of a claim.

(c) A public adjuster may not act or fail to reasonably act in any manner that obstructs or prevents an insurer or insurer’s adjuster from timely conducting an inspection of any part of the insured property for which there is a claim for loss or damage. The public adjuster representing the insureds may be present for the insurer’s inspection, but if the unavailability of the public adjuster otherwise delays the insurer’s timely inspection of the property, the public adjuster or the insureds must allow the insurer to have access to the property without the

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participation or presence of the public adjuster or insureds in order to facilitate the insurer's prompt inspection of the loss or damage.

(16) A licensed contractor under part I of chapter 489, or a subcontractor of such licensee, may not advertise, solicit, offer to handle, handle, or perform public adjuster services as provided in subsection (1) unless licensed and compliant as a public adjuster under this chapter. The prohibition against solicitation does not preclude a contractor from suggesting or otherwise recommending to a consumer that the consumer consider contacting his or her insurer to determine if the proposed repair is covered under the consumer's insurance policy, except as it relates to solicitation prohibited in s. 489.147. In addition, the contractor may discuss or explain a bid for construction or repair of covered property with the residential property owner who has suffered loss or damage covered by a property insurance policy, or the insurer of such property, if the contractor is doing so for the usual and customary fees applicable to the work to be performed as stated in the contract between the contractor and the insured.

(17) A public adjuster shall not acquire any interest in salvaged property, except with the written consent and permission of the insured through a signed affidavit.

(18) A public adjuster, a public adjuster apprentice, or a person acting on behalf of an adjuster or apprentice may not enter into a contract or accept a power of attorney that vests in the public adjuster, the public adjuster apprentice, or the person acting on behalf of the adjuster or apprentice the effective authority to choose the persons or entities that will

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perform repair work in a property insurance claim or provide goods or services that will require the insured or third-party claimant to expend funds in excess of those payable to the public adjuster under the terms of the contract for adjusting services.

(19) Subsections (5)-(18) apply only to residential property insurance policies and condominium unit owner policies as described in s. 718.111(11), except that subsection (11) also applies to coverages provided by condominium association, cooperative association, apartment building, and similar policies, including policies covering the common elements of a homeowners' association.

Section 9. Subsection (2) of section 626.8796, Florida Statutes, is amended to read:

626.8796 Public adjuster contracts; disclosure statement; fraud statement.—

(2) A public adjuster contract relating to a property and casualty claim must contain the full name, permanent business address, phone number, e-mail address, and license number of the public adjuster; the full name and license number of the public adjusting firm; and the insured's full name, street address, phone number, and e-mail address, together with a brief description of the loss. The contract must state the percentage of compensation for the public adjuster's services in minimum 18-point bold type before the space reserved in the contract for the signature of the insured; the type of claim, including an emergency claim, nonemergency claim, or supplemental claim; the initials of the named insured on each page that does not contain the insured's signature; the signatures of the public adjuster

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and all named insureds; and the signature date. If all of the named insureds' signatures are not available, the public adjuster must submit an affidavit signed by the available named insureds attesting that they have authority to enter into the contract and settle all claim issues on behalf of the named insureds. An unaltered copy of the executed contract must be remitted to the insured at the time of execution and to the insurer, or the insurer's representative within 7 days after execution. A public adjusting firm that adjusts claims primarily for commercial entities with operations in more than one state and that does not directly or indirectly perform adjusting services for insurers or individual homeowners is deemed to comply with the requirements of this subsection if, at the time a proof of loss is submitted, the public adjusting firm remits to the insurer an affidavit signed by the public adjuster or public adjuster apprentice that identifies:

(a) The full name, permanent business address, phone number, e-mail address, and license number of the public adjuster or public adjuster apprentice.

(b) The full name of the public adjusting firm.

(c) The insured's full name, street address, phone number, and e-mail address, together with a brief description of the loss.

(d) An attestation that the compensation for public adjusting services will not exceed the limitations provided by law.

(e) The type of claim, including an emergency claim, nonemergency claim, or supplemental claim.

Section 10. Section 627.6426, Florida Statutes, is amended

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to read:

627.6426 Short-term health insurance.—

(1) For purposes of this part, the term "short-term health insurance" means health insurance coverage provided by an issuer with an expiration date specified in the contract that is less than 12 months after the original effective date of the contract and, taking into account renewals or extensions, has a duration not to exceed 36 months in total.

(2) All contracts for short-term health insurance entered into by an issuer and an individual seeking coverage must ~~shall~~ include the following written disclosures signed by the purchaser at the time of purchase ~~disclosure~~:

(a) The following statement:

"This coverage is not required to comply with certain federal market requirements for health insurance, principally those contained in the Patient Protection and Affordable Care Act. Be sure to check your policy carefully to make sure you are aware of any exclusions or limitations regarding coverage of preexisting conditions or health benefits (such as hospitalization, emergency services, maternity care, preventive care, prescription drugs, and mental health and substance use disorder services). Your policy might also have lifetime and/or annual dollar limits on health benefits. If this coverage expires or you lose eligibility for this coverage, you might have to wait until an open enrollment period to get other health insurance coverage."

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(b) The following information:

1. The duration of the contract, including any waiting period.

2. Any essential health benefit under 42 U.S.C. s. 18022(b) that the contract does not provide.

3. The content of coverage.

4. Any exclusion of preexisting conditions.

(3) The disclosures must be printed in no less than 12-point type and in a color that is easily readable. A copy of the signed disclosures must be maintained by the issuer for a period of 5 years after the date of purchase.

(4) Disclosures provided by electronic means must meet the requirements of subsection (2).

Section 11. Present subsection (4) of section 627.70132, Florida Statutes, is redesignated as subsection (5), and a new subsection (4) is added to that section, to read:

627.70132 Notice of property insurance claim.—

(4) A notice of claim for loss assessment coverage under s. 627.714 must be given to the insurer within 90 days after the date on which the condominium association or its governing board votes to levy an assessment to cover a shortfall in reserves due to a covered loss. Such vote by the association or its governing board must have occurred within 33 months after the date of the loss that created the need for the assessment.

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

And the title is amended as follows:

Delete lines 5 - 34

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and insert:
amending s. 212.34, F.S.; defining terms; revising requirements for payment settlement entities, or their electronic payment facilitators or contracted third parties, in submitting information returns to the Department of Revenue; specifying requirements for third party settlement organizations that conduct certain transactions; creating s. 286.312, F.S.; prohibiting agencies from entering into certain contracts or agreements; amending s. 319.261, F.S.; requiring that the title to a mobile home be retired if the owner of the real property records certain documents in the official records of the clerk of court in the county in which the real property is located; making technical changes; amending s. 489.147, F.S.; requiring contractors to include a notice in their contracts with residential property owners under certain circumstances; providing requirements for notices of contract cancellation; amending s. 559.9611, F.S.; revising the definition of the term "depository institution"; amending s. 624.424, F.S.; providing requirements for certain insurers' accountants; amending s. 626.854, F.S.; revising applicability of provisions relating to public adjusters; amending s. 626.8796, F.S.; revising the content of certain public adjuster contracts; amending s. 627.6426, F.S.; revising the disclosure requirements of contracts for short-term health insurance; amending s. 627.70132, F.S.; requiring a

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condominium association to give a notice of claim for loss assessment coverage to its insurer by a certain date;

By Senator Burton

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A bill to be entitled

An act relating to consumer protection; amending s. 68.087, F.S.; prohibiting certain civil actions under the Florida Disposition of Unclaimed Property Act; amending s. 215.971, F.S.; prohibiting state government agencies from entering into certain agreements with specified recipients and subrecipients; amending s. 287.058, F.S.; prohibiting state government agencies from entering into contracts and agreements with certain entities; amending s. 319.261, F.S.; requiring the title to a mobile home to be retired if the owner of the real property records certain documents in the official records of the clerk of court in the county in which the real property is located; amending s. 489.147, F.S.; requiring contractors to include a notice in their contracts with residential property owners under certain circumstances; providing requirements for notices of contract cancellation; amending s. 559.9611, F.S.; revising the definition of the term "depository institution"; amending s. 624.424, F.S.; providing requirements for certain insurers' accountants; amending s. 626.854, F.S.; revising applicability of provisions relating to public adjusters; amending s. 626.8796, F.S.; revising the content of certain public adjuster contracts; amending s. 627.6426, F.S.; revising the disclosure requirements of contracts for short-term health insurance; amending s. 627.70132, F.S.; providing that claims resulting from certain

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loss assessments are considered to have occurred on a specified date; amending s. 627.711, F.S.; requiring insurers to provide a specified notice to commercial residential property insurance and commercial property insurance policyholders under certain circumstances; amending s. 791.012, F.S.; updating the source of the code for outdoor display of fireworks; creating s. 817.153, F.S.; defining the terms "claim" and "other agreement"; prohibiting grant or contract fraud; providing criminal penalties; creating s. 817.4112, F.S.; prohibiting falsely representing that an advertisement or communication originated from a bank or lending institution; amending s. 817.45, F.S.; providing criminal penalties for violations of specified provisions; providing an effective date.

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

Section 1. Present subsections (3) through (6) of section 68.087, Florida Statutes, are redesignated as subsections (4) through (7), respectively, and a new subsection (3) is added to that section, to read:

68.087 Exemptions to civil actions.—

(3) In no event may a person bring an action under s. 68.083(2) based upon allegations or transactions arising from, or to otherwise enforce, the provisions of the Florida Disposition of Unclaimed Property Act under chapter 717.

Section 2. Subsection (4) is added to section 215.971, Florida Statutes, to read:

215.971 Agreements funded with federal or state assistance.—

(4) An agency may not enter into an agreement under this chapter if the recipient or subrecipient fits any criteria provided in s. 287.058(8).

Section 3. Subsection (8) is added to section 287.058, Florida Statutes, to read:

287.058 Contract document.—

(8) An agency may not enter into a contract or other agreement with an entity whose function is to advise the censorship or blacklisting of news sources based on subjective criteria or political biases under the stated goal of fact-checking or removing misinformation.

Section 4. Subsection (2) of section 319.261, Florida Statutes, is amended to read:

319.261 Real property transactions; retiring title to mobile home.—

(2) The title to the mobile home shall ~~may~~ be retired by the department if the owner of the real property records the following documents in the official records of the clerk of court in the county in which the real property is located:

(a)1. The original title to the mobile home which includes ~~shall include~~ a description of the mobile home, including model year, make, width, length, and vehicle identification number, and a statement by any recorded lienholder on the title that the security interest in the home has been released~~,~~ or that such security interest will be released upon retirement of the title as set forth in this section; ~~.~~

2.~~(b)~~ The legal description of the real property, and in

the case of a leasehold interest, a copy of the lease agreement; and~~.~~

3.~~(c)~~ A sworn statement by the owner of the real property, as shown on the real property deed or lease, that he or she is the owner of the mobile home and that the home is permanently affixed to the real property in accordance with state law; or

(b) A mortgage against the owner's mobile home and real property.

Section 5. Subsection (6) is added to section 489.147, Florida Statutes, to read:

489.147 Prohibited property insurance practices.—

(6)(a) A contractor executing during a declaration of a state of emergency a contract to replace or repair a roof of a residential property must include in the contract the following language in bold type of not less than 18 points immediately before the space reserved for the signature of the residential property owner:

"You, the residential property owner, may cancel this contract without penalty or obligation until 10 days following the execution of the contract or until the official start date, whichever comes first, because this contract was entered into during a declaration of a state of emergency by the Governor. It is the responsibility of your contractor to include an official start date clause in your contract. This clause must state the official start date and the work that will be commenced on that date. If there is no official start date clause in the contract, the contract may be voided within 10 days following the execution of the contract."

(b) The residential property owner must send the notice of cancellation by certified mail, return receipt requested, or other form of mailing that provides proof thereof, at the address specified in the contract.

Section 6. Subsection (9) of section 559.9611, Florida Statutes, is amended to read:

559.9611 Definitions.—As used in this part, the term:

(9) "Depository institution" means a bank, credit union, savings bank, savings and loan association, savings or thrift association, trust company, or industrial loan company doing business under the authority of, or in accordance with, a license, certificate, or charter issued by the United States, this state, or any other state, district, territory, or commonwealth of the United States which is authorized to transact business in this state ~~Florida state-chartered bank, savings bank, credit union, or trust company, or a federal savings or thrift association, bank, credit union, savings bank, or thrift~~.

Section 7. Paragraph (d) of subsection (8) of section 624.424, Florida Statutes, is amended to read:

624.424 Annual statement and other information.—

(8)

(d) The certified public accountant that prepares the audit must be licensed to practice pursuant to chapter 473 and must have completed at least 4 hours of continuing education that is insurance related as a condition of license renewal. The continuing education must be approved by the Department of Business and Professional Regulation, based on the recommendations of the Department of Financial Services. An

insurer may not use the same accountant or partner of an accounting firm responsible for preparing the report required by this subsection for more than 5 consecutive years. Following this period, the insurer may not use such accountant or partner for a period of 5 years, but may use another accountant or partner of the same firm. An insurer may request the office to waive this prohibition based upon an unusual hardship to the insurer and a determination that the accountant is exercising independent judgment that is not unduly influenced by the insurer considering such factors as the number of partners, expertise of the partners or the number of insurance clients of the accounting firm; the premium volume of the insurer; and the number of jurisdictions in which the insurer transacts business.

Section 8. Subsection (19) of section 626.854, Florida Statutes, is amended, and subsections (5) through (18) are republished, to read:

626.854 "Public adjuster" defined; prohibitions.—The Legislature finds that it is necessary for the protection of the public to regulate public insurance adjusters and to prevent the unauthorized practice of law.

(5) A public adjuster may not directly or indirectly through any other person or entity solicit an insured or claimant by any means except on Monday through Saturday of each week and only between the hours of 8 a.m. and 8 p.m. on those days.

(6) When entering a contract for adjuster services after July 1, 2023, a public adjuster:

(a) May not collect a fee for services on payments made to a named insured unless they have a written contract with the

named insured, or the named insured's legal representative.

(b) May not contract for services to be provided by a third party on behalf of the named insured or in pursuit of settlement of the named insured's claim, if the cost of those services is to be borne by the named insured, unless the named insured agrees in writing to procure these services and such agreement is entered into subsequent to the date of the contract for public adjusting services.

(c) If a public adjuster contracts with a third-party service provider to assist with the settlement of the named insured's claim, without first obtaining the insured's written consent, payment of the third party's fees must be made by the public adjuster and may not be charged back to the named insured.

(d) If a public adjuster represents anyone other than the named insured in a claim, the public adjuster fees shall be paid by the third party and may not be charged back to the named insured.

(7) An insured or claimant may cancel a public adjuster's contract to adjust a claim without penalty or obligation within 10 days after the date on which the contract is executed. If the contract was entered into based on events that are the subject of a declaration of a state of emergency by the Governor, an insured or claimant may cancel the public adjuster's contract to adjust a claim without penalty or obligation within 30 days after the date of loss or 10 days after the date on which the contract is executed, whichever is longer. The public adjuster's contract must contain the following language in minimum 18-point bold type immediately before the space reserved in the contract

for the signature of the insured or claimant:

"You, the insured, may cancel this contract for any reason without penalty or obligation to you within 10 days after the date of this contract. If this contract was entered into based on events that are the subject of a declaration of a state of emergency by the Governor, you may cancel this contract for any reason without penalty or obligation to you within 30 days after the date of loss or 10 days after the date on which the contract is executed, whichever is longer. You may also cancel the contract without penalty or obligation to you if I, as your public adjuster, fail to provide you and your insurer a copy of a written estimate within 60 days of the execution of the contract, unless the failure to provide the estimate within 60 days is caused by factors beyond my control, in accordance with s. 627.70131(5)(a)2., Florida Statutes. The 60-day cancellation period for failure to provide a written estimate shall cease on the date I have provided you with the written estimate."

The notice of cancellation shall be provided to ...(name of public adjuster)..., submitted in writing and sent by certified mail, return receipt requested, or other form of mailing that provides proof thereof, at the address specified in the contract.

(8) It is an unfair and deceptive insurance trade practice pursuant to s. 626.9541 for a public adjuster or any other person to circulate or disseminate any advertisement, announcement, or statement containing any assertion, representation, or statement with respect to the business of insurance which is untrue, deceptive, or misleading.

(a) The following statements, made in any public adjuster's

advertisement or solicitation, are considered deceptive or misleading:

1. A statement or representation that invites an insured policyholder to submit a claim when the policyholder does not have covered damage to insured property.

2. A statement or representation that invites an insured policyholder to submit a claim by offering monetary or other valuable inducement.

3. A statement or representation that invites an insured policyholder to submit a claim by stating that there is "no risk" to the policyholder by submitting such claim.

4. A statement or representation, or use of a logo or shield, that implies or could mistakenly be construed to imply that the solicitation was issued or distributed by a governmental agency or is sanctioned or endorsed by a governmental agency.

(b) For purposes of this paragraph, the term "written advertisement" includes only newspapers, magazines, flyers, and bulk mailers. The following disclaimer, which is not required to be printed on standard size business cards, must be added in bold print and capital letters in typeface no smaller than the typeface of the body of the text to all written advertisements by a public adjuster:

"THIS IS A SOLICITATION FOR BUSINESS. IF YOU HAVE HAD A CLAIM FOR AN INSURED PROPERTY LOSS OR DAMAGE AND YOU ARE SATISFIED WITH THE PAYMENT BY YOUR INSURER, YOU MAY DISREGARD THIS ADVERTISEMENT."

(9) A public adjuster, a public adjuster apprentice, or any person or entity acting on behalf of a public adjuster or public

adjuster apprentice may not give or offer to give a monetary loan or advance to a client or prospective client.

(10) A public adjuster, public adjuster apprentice, or any individual or entity acting on behalf of a public adjuster or public adjuster apprentice may not give or offer to give, directly or indirectly, any article of merchandise having a value in excess of $25 to any individual for the purpose of advertising or as an inducement to entering into a contract with a public adjuster.

(11)(a) If a public adjuster enters into a contract with an insured or claimant to reopen a claim or file a supplemental claim that seeks additional payments for a claim that has been previously paid in part or in full or settled by the insurer, the public adjuster may not charge, agree to, or accept from any source compensation, payment, commission, fee, or any other thing of value based on a previous settlement or previous claim payments by the insurer for the same cause of loss. The charge, compensation, payment, commission, fee, or any other thing of value must be based only on the claim payments or settlements paid to the insured, exclusive of attorney fees and costs, obtained through the work of the public adjuster after entering into the contract with the insured or claimant. Compensation for the reopened or supplemental claim may not exceed 20 percent of the reopened or supplemental claim payment. In no event shall the contracts described in this paragraph exceed the limitations in paragraph (b).

(b) A public adjuster may not charge, agree to, or accept from any source compensation, payment, commission, fee, or any other thing of value in excess of:

1. Ten percent of the amount of insurance claim payments or settlements, exclusive of attorney fees and costs, paid to the insured by the insurer for claims based on events that are the subject of a declaration of a state of emergency by the Governor. This provision applies to claims made during the year after the declaration of emergency. After that year, the limitations in subparagraph 2. apply.

2. Twenty percent of the amount of insurance claim payments or settlements, exclusive of attorney fees and costs, paid to the insured by the insurer for claims that are not based on events that are the subject of a declaration of a state of emergency by the Governor.

3. One percent of the amount of insurance claim payments or settlements, paid to the insured by the insurer for any coverage part of the policy where the claim payment or written agreement by the insurer to pay is equal to or greater than the policy limit for that part of the policy, if the payment or written commitment to pay is provided within 14 days after the date of loss or within 10 days after the date on which the public adjusting contract is executed, whichever is later.

4. Zero percent of the amount of insurance claim payments or settlements, paid to the insured by the insurer for any coverage part of the policy where the claim payment or written agreement by the insurer to pay occurs before the date on which the public adjusting contract is executed.

(c) Insurance claim payments made by the insurer do not include policy deductibles, and public adjuster compensation may not be based on the deductible portion of a claim.

(d) Public adjuster compensation may not be based on

amounts attributable to additional living expenses, unless such compensation is affirmatively agreed to in a separate agreement that includes a disclosure in substantially the following form: "I agree to retain and compensate the public adjuster for adjusting my additional living expenses and securing payment from my insurer for amounts attributable to additional living expenses payable under the policy issued on my (home/mobile home/condominium unit)."

(e) Public adjuster rate of compensation may not be increased based solely on the fact that the claim is litigated.

(f) Any maneuver, shift, or device through which the limits on compensation set forth in this subsection are exceeded is a violation of this chapter punishable as provided under s. 626.8698.

(12)(a) Each public adjuster must provide to the claimant or insured a written estimate of the loss to assist in the submission of a proof of loss or any other claim for payment of insurance proceeds within 60 days after the date of the contract. The written estimate must include an itemized, per-unit estimate of the repairs, including itemized information on equipment, materials, labor, and supplies, in accordance with accepted industry standards. The public adjuster shall retain such written estimate for at least 5 years and shall make the estimate available to the claimant or insured, the insurer, and the department upon request.

(b) An insured may cancel the contract with no additional penalties or fees charged by the public adjuster if such an estimate is not provided within 60 days after executing the contract, subject to the cancellation notice requirement in this

section, unless the failure to provide the estimate within 60 days is caused by factors beyond the control of the public adjuster. The cancellation period shall cease on the date the public adjuster provides the written estimate to the insured.

(13) A public adjuster, public adjuster apprentice, or any person acting on behalf of a public adjuster or apprentice may not accept referrals of business from any person with whom the public adjuster conducts business if there is any form or manner of agreement to compensate the person, directly or indirectly, for referring business to the public adjuster. A public adjuster may not compensate any person, except for another public adjuster, directly or indirectly, for the principal purpose of referring business to the public adjuster.

(14) A company employee adjuster, independent adjuster, attorney, investigator, or other persons acting on behalf of an insurer that needs access to an insured or claimant or to the insured property that is the subject of a claim must provide at least 48 hours' notice to the insured or claimant, public adjuster, or legal representative before scheduling a meeting with the claimant or an onsite inspection of the insured property. The insured or claimant may deny access to the property if the notice has not been provided. The insured or claimant may waive the 48-hour notice.

(15) The public adjuster must ensure that prompt notice is given of the claim to the insurer, the public adjuster's contract is provided to the insurer, the property is available for inspection of the loss or damage by the insurer, and the insurer is given an opportunity to interview the insured directly about the loss and claim. The insurer must be allowed

to obtain necessary information to investigate and respond to the claim.

(a) The insurer may not exclude the public adjuster from its in-person meetings with the insured. The insurer shall meet or communicate with the public adjuster in an effort to reach agreement as to the scope of the covered loss under the insurance policy. The public adjuster shall meet or communicate with the insurer in an effort to reach agreement as to the scope of the covered loss under the insurance policy. This section does not impair the terms and conditions of the insurance policy in effect at the time the claim is filed.

(b) A public adjuster may not restrict or prevent an insurer, company employee adjuster, independent adjuster, attorney, investigator, or other person acting on behalf of the insurer from having reasonable access at reasonable times to any insured or claimant or to the insured property that is the subject of a claim.

(c) A public adjuster may not act or fail to reasonably act in any manner that obstructs or prevents an insurer or insurer's adjuster from timely conducting an inspection of any part of the insured property for which there is a claim for loss or damage. The public adjuster representing the insureds may be present for the insurer's inspection, but if the unavailability of the public adjuster otherwise delays the insurer's timely inspection of the property, the public adjuster or the insureds must allow the insurer to have access to the property without the participation or presence of the public adjuster or insureds in order to facilitate the insurer's prompt inspection of the loss or damage.

(16) A licensed contractor under part I of chapter 489, or a subcontractor of such licensee, may not advertise, solicit, offer to handle, handle, or perform public adjuster services as provided in subsection (1) unless licensed and compliant as a public adjuster under this chapter. The prohibition against solicitation does not preclude a contractor from suggesting or otherwise recommending to a consumer that the consumer consider contacting his or her insurer to determine if the proposed repair is covered under the consumer's insurance policy, except as it relates to solicitation prohibited in s. 489.147. In addition, the contractor may discuss or explain a bid for construction or repair of covered property with the residential property owner who has suffered loss or damage covered by a property insurance policy, or the insurer of such property, if the contractor is doing so for the usual and customary fees applicable to the work to be performed as stated in the contract between the contractor and the insured.

(17) A public adjuster shall not acquire any interest in salvaged property, except with the written consent and permission of the insured through a signed affidavit.

(18) A public adjuster, a public adjuster apprentice, or a person acting on behalf of an adjuster or apprentice may not enter into a contract or accept a power of attorney that vests in the public adjuster, the public adjuster apprentice, or the person acting on behalf of the adjuster or apprentice the effective authority to choose the persons or entities that will perform repair work in a property insurance claim or provide goods or services that will require the insured or third-party claimant to expend funds in excess of those payable to the

public adjuster under the terms of the contract for adjusting services.

(19) Subsections (5)-(18) apply only to residential property insurance policies and condominium unit owner policies as described in s. 718.111(11), except that subsection (11) also applies to coverages provided by condominium association, cooperative association, apartment building, and similar policies, including policies covering the common elements of a homeowners' association.

Section 9. Subsection (2) of section 626.8796, Florida Statutes, is amended to read:

626.8796 Public adjuster contracts; disclosure statement; fraud statement.—

(2) A public adjuster contract relating to a property and casualty claim must contain the full name, permanent business address, phone number, e-mail address, and license number of the public adjuster; the full name and license number of the public adjusting firm; and the insured's full name, street address, phone number, and e-mail address, together with a brief description of the loss. The contract must state the percentage of compensation for the public adjuster's services in minimum 18-point bold type before the space reserved in the contract for the signature of the insured; the type of claim, including an emergency claim, nonemergency claim, or supplemental claim; the initials of the named insured on each page that does not contain the insured's signature; the signatures of the public adjuster and all named insureds; and the signature date. If all of the named insureds' signatures are not available, the public adjuster must submit an affidavit signed by the available named

insureds attesting that they have authority to enter into the contract and settle all claim issues on behalf of the named insureds. An unaltered copy of the executed contract must be remitted to the insured at the time of execution and to the insurer, or the insurer's representative within 7 days after execution. A public adjusting firm that adjusts claims primarily for commercial entities with operations in more than one state and that does not directly or indirectly perform adjusting services for insurers or individual homeowners is deemed to comply with the requirements of this subsection if, at the time a proof of loss is submitted, the public adjusting firm remits to the insurer an affidavit signed by the public adjuster or public adjuster apprentice that identifies:

(a) The full name, permanent business address, phone number, e-mail address, and license number of the public adjuster or public adjuster apprentice.

(b) The full name of the public adjusting firm.

(c) The insured's full name, street address, phone number, and e-mail address, together with a brief description of the loss.

(d) An attestation that the compensation for public adjusting services will not exceed the limitations provided by law.

(e) The type of claim, including an emergency claim, nonemergency claim, or supplemental claim.

Section 10. Section 627.6426, Florida Statutes, is amended to read:

627.6426 Short-term health insurance.—

(1) For purposes of this part, the term "short-term health

insurance" means health insurance coverage provided by an issuer with an expiration date specified in the contract that is less than 12 months after the original effective date of the contract and, taking into account renewals or extensions, has a duration not to exceed 36 months in total.

(2) All contracts for short-term health insurance entered into by an issuer and an individual seeking coverage shall include the following written disclosures signed by the purchaser at the time of purchase ~~disclosure~~:

(a) The following statement:

"This coverage is not required to comply with certain federal market requirements for health insurance, principally those contained in the Patient Protection and Affordable Care Act. Be sure to check your policy carefully to make sure you are aware of any exclusions or limitations regarding coverage of preexisting conditions or health benefits (such as hospitalization, emergency services, maternity care, preventive care, prescription drugs, and mental health and substance use disorder services). Your policy might also have lifetime and/or annual dollar limits on health benefits. If this coverage expires or you lose eligibility for this coverage, you might have to wait until an open enrollment period to get other health insurance coverage."

(b) The following information:

1. The duration of the contract, including any waiting period.

2. Any essential health benefit under 42 U.S.C. s. 18022(b)

that the contract does not provide.

3. The content of coverage.

4. Any exclusion of preexisting conditions.

(3) These disclosures must be printed in no less than 12-point type and in a color that is readable. A copy of the signed disclosures must be maintained by the issuer for a period of 5 years after the date of purchase.

(4) Disclosures provided by electronic means must meet the requirements of subsection (2).

Section 11. Present subsection (4) of section 627.70132, Florida Statutes, is redesignated as subsection (5), and a new subsection (4) is added to that section, to read:

627.70132 Notice of property insurance claim.—

(4) A claim resulting from loss assessment as described in s. 627.714 is considered to have occurred on the date of the notice of loss assessment sent by a unit owner's condominium association.

Section 12. Subsection (1) of section 627.711, Florida Statutes, is amended to read:

627.711 Notice of premium discounts for hurricane loss mitigation; uniform mitigation verification inspection form.—

(1) Using a form prescribed by the Office of Insurance Regulation, the insurer shall clearly notify the applicant or policyholder of any personal lines residential property insurance policy, commercial residential property insurance policy, or commercial property insurance policy at the time of the issuance of the policy and at each renewal, of the availability and the range of each premium discount, credit, other rate differential, or reduction in deductibles, and

combinations of discounts, credits, rate differentials, or reductions in deductibles, for properties on which fixtures or construction techniques demonstrated to reduce the amount of loss in a windstorm can be or have been installed or implemented. The prescribed form shall describe generally what actions the policyholders may be able to take to reduce their windstorm premium. The prescribed form and a list of such ranges approved by the office for each insurer licensed in the state and providing such discounts, credits, other rate differentials, or reductions in deductibles for properties described in this subsection shall be available for electronic viewing and download from the Department of Financial Services' or the Office of Insurance Regulation's Internet website. The Financial Services Commission may adopt rules to implement this subsection.

Section 13. Section 791.012, Florida Statutes, is amended to read:

791.012 Minimum fireworks safety standards.—The outdoor display of fireworks in this state shall be governed by the National Fire Protection Association (NFPA) 1123, Code for Fireworks Display, 2018 ~~1995~~ Edition~~, approved by the American National Standards Institute~~. Any state, county, or municipal law, rule, or ordinance may provide for more stringent regulations for the outdoor display of fireworks, but in no event may any such law, rule, or ordinance provide for less stringent regulations for the outdoor display of fireworks. The division shall promulgate rules to carry out the provisions of this section. The Code for Fireworks Display shall not govern the display of any fireworks on private, residential property

and shall not govern the display of those items included under s. 791.01(4)(b) and (c) and authorized for sale thereunder.

Section 14. Section 817.153, Florida Statutes, is created to read:

817.153 Grant and contract fraud.—

(1) As used in this section, the term:

(a) "Claim" means an application, request, or demand for money or property under a state grant agreement, state contract, or other agreement with the state for money or property, whether or not the United States or a specified state agency has title to the money or property, presented or caused to be presented to any officer, employee, or agent of a state agency, as well as any request for a drawdown or other payment that is made to a computerized payment administration system.

(b) "Other agreement" includes a loan, subsidy, and payment for a specified use; an award; and subaward, regardless of whether one or more persons entering into the agreement is a contractor or subcontractor.

(2) A person commits grant or contract fraud if he or she:

(a) Knowingly presents or causes to be presented a claim related to a grant agreement, contract, or other agreement with the state, or any agency thereof, that a person knows or should know is false or fraudulent.

(b) Knowingly makes, uses, or causes to be made or used any false statement, omission, or misrepresentation of a material fact in any application, proposal, bid, progress report, budget, financial statement, audit, or other document that is required to be submitted in order to directly or indirectly receive or retain funds provided in whole or in part pursuant to a state

grant agreement, state contract, or other agreement with the state.

(c) Knowingly makes, uses, or causes to be made or used false records or statements material to false or fraudulent claims under a grant agreement, state contract, or other agreement with the state.

(d) Knowingly conceals, avoids, or decreases an obligation to pay or transmit funds or property with respect to a state grant agreement, state contract, or other agreement with the state, or knowingly makes, uses, or causes to be made or used a false record or statement material to such an obligation.

Proof of specific intent to defraud is not required. Innocent mistake is a defense to an action under this section.

(3) If the value of the property involved in a violation of this section is:

(a) Less than $20,000, the offender commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) At least $20,000, but less than $100,000, the offender commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) At least $100,000, the offender commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) This section applies to all grant agreements, state contracts, or other agreements with the state, regardless of whether the funds being provided pursuant to those grant agreements, state contracts, or other agreements with the state

are state funds or federal pass-through funds.

Section 15. Section 817.4112, Florida Statutes, is created to read:

817.4112 Falsely representing origin of advertisement or communication.—A person or business entity may not knowingly make statements, or disseminate, in oral, written, electronic, or printed form or otherwise, any advertisement or communication that has the intent or purpose of falsely representing that such advertisement or communication originated from a bank or lending institution.

Section 16. Section 817.45, Florida Statutes, is amended to read:

817.45 Penalty.—Any person convicted of violating any of the provisions of s. 817.41, s. 817.411, s. 817.4112, or s. 817.44 is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Upon a second or subsequent conviction for violation of s. 817.41, s. 817.411, s. 817.4112, or s. 817.44, such person is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or by a fine not exceeding $10,000, or by both.

Section 17. This act shall take effect July 1, 2024.

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

1/16
Meeting Date

BANKING & INS.
Committee

1066
Bill Number or Topic

Amendment Barcode (if applicable)

Name CHASE MITCHELL

Phone 850 413 2866

Address 200 E GAINES
Street

Email chase.mitchell@myfloridacfo.com

TALL FL 32399
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:

CFO JIMMY PATRONIS

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

1-16-2024
Meeting Date

Banking & Insurance
Committee

1066
Bill Number or Topic

Amendment Barcode (if applicable)

Name BG Murphy

Phone 863-698-8820

Address 3159 Shamrock South
Street

Email bmurphy@faia.com

Tallahassee FL 32309
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing: FL Association of Insurance Agents

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

1/16/24
Meeting Date

Banking and Insurance
Committee

SB 1066
Bill Number or Topic

Amendment Barcode (if applicable)

Name Tasha Carter, FL's Insurance Consumer Advocate

Phone 850-413-2868

Address 200 E Gaines Street
Street

Email Tasha.Carter@myfloridacfo.com

Tallahassee FL 32399
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing: DFS, Office of Insurance Consumer Advocate

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Health Policy, *Chair*
Judiciary, *Vice Chair*
Appropriations Committee on Health and Human Services
Banking and Insurance
Fiscal Policy
Rules

JOINT COMMITTEE:
Joint Administrative Procedures Committee

SENATOR COLLEEN BURTON
12th District

January 5, 2024

The Honorable Jim Boyd
320 Knott Building
404 South Monroe Street
Tallahassee, FL 32399

Chair Boyd,

I respectfully request SB 1066- Consumer Protection be placed on the Banking and Insurance agenda at your earliest convenience.

Thank you for your consideration.

Regards,

Colleen Burton
State Senator, District 12

CC: James Knudson, Staff Director
Lisa Johnson, Deputy Staff Director
Amaura Canty, Committee Administrative Assistant

REPLY TO:
❒ 100 South Kentucky Avenue, Suite 260, Lakeland, Florida 33801 (863) 413-1529
❒ 318 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5012

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

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

The Florida Senate

COMMITTEE VOTE RECORD

COMMITTEE: Banking and Insurance
ITEM: SB 1066
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Tuesday, January 16, 2024
TIME: 11:00 a.m.—1:00 p.m.
PLACE: 412 Knott Building

FINAL VOTE			1/16/2024 1 Amendment adopted w/o objection Burton					
Yea	**Nay**	**SENATORS**	**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**
X		Broxson						
X		Burton						
X		Hutson						
X		Ingoglia						
X		Mayfield						
X		Powell						
X		Thompson						
		Torres						
X		Trumbull						
X		DiCeglie, VICE CHAIR						
X		Boyd, CHAIR						
10	0	**TOTALS**	RCS	-				
Yea	**Nay**		**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered
RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment
TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call
WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	CS/SB 1106
INTRODUCER:	Senate Committee on Banking and Insurance and Senator Hooper
SUBJECT:	Coverage by Citizens Property Insurance Corporation
DATE:	January 17, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Thomas	Knudson	BI	**Fav/CS**
2.			AEG	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1106 revises the criteria for personal lines residential structures and single condominium units to be eligible for coverage with the Citizens Property Insurance Corporation (Citizens). Effective August 1, 2024, such structures and condominium units are eligible for Citizens coverage if:

- The dwelling replacement cost of the residential structure or the combined dwelling and contents replacement cost of the single condominium unit is less than $1 million (rather than less than $700,000 as provided under current law); and
- For a residential structure or single condominium unit with a replacement cost of at least $700,000 but less than $1 million, the risk has not been offered comparable coverage from an authorized insurer at the insurer's approved rate under a standard policy including wind coverage.

Under the bill, rates for Citizens coverage on residential structures or single condominium units with a replacement cost of at least $700,000, but less than $1 million, will be subject to all of the following requirements:

- Rates must be actuarially sound pursuant to the Rating Law and not competitive with approved rates in the admitted voluntary market.
- For the purpose of ensuring Citizens' rates on such policies are not competitive with approved rates charged in the admitted voluntary market, after Citizens' next annual rate filing, which occurs on or after August 1, 2024, such rates are subject to an additional surcharge of the lesser of $2,500 or 25 percent of the corporation's rate for the policy.

- After Citizens' next annual rate filing, which occurs on or after August 1, 2024, such rates are not subject to the Citizens "rate glidepath," which prohibits imposing a rate increase on any policy greater than a specified percentage (13 percent for 2024, 14 percent for 2025, and 15 percent for 2026 and thereafter).

The bill is effective August 1, 2024.

II. Present Situation:

Citizens Property Insurance Corporation—Overview

Citizens Property Insurance Corporation (Citizens) is a state-created, not-for-profit, tax-exempt governmental entity whose public purpose is to provide property insurance coverage to those unable to find affordable coverage in the voluntary admitted market.[1] Citizens is not a private insurance company.[2] Citizens was statutorily created in 2002 when the Florida Legislature combined the state's two insurers of last resort, the Florida Residential Property and Casualty Joint Underwriting Association (RPCJUA) and the Florida Windstorm Underwriting Association (FWUA).[3]

Citizens operates in accordance with the provisions in s. 627.351(6), F.S., and is governed by a nine member Board of Governors (board) that administers its Plan of Operations. The Plan of Operations is reviewed and approved by the Financial Services Commission.[4] The Governor, President of the Senate, Speaker of the House of Representatives, and Chief Financial Officer each appoint two members to the board.[5] The Governor appoints an additional member who serves solely to advocate on behalf of the consumer.[6] Citizens is subject to regulation by the Office of Insurance Regulation (OIR).

Current Policies

As of November 30, 2023, Citizens reports 1,260,430 policies in-force with a total exposure of $562.5 billion.[7] That is a reduction of over 74,000 policies and $23.3 billion in exposure from October 31, 2023.

Eligibility for Insurance in Citizens

Citizens is required to provide a procedure for determining the eligibility of a potential risk for insurance in Citizens and provide specific eligibility requirements based on premium amounts, value of the property insured, and the location of the property.[8] Risks not meeting the statutory eligibility requirements cannot be insured by Citizens. Citizens has additional eligibility

[1] The term "admitted market" means insurance companies licensed to transact insurance in Florida.
[2] Section 627.351(6)(a)1., F.S.
[3] Section 2, ch. 2002-240, Laws of Fla.
[4] Section 627.351(6)(a)2., F.S.
[5] Section 627.351(6)(c)4.a., F.S.
[6] Section 627.351(6)(c)4., F.S.
[7] Corporate Analytics Business Overview, September 20, 2023 Report, p.1 https://www.citizensfla.com/documents (last visited January 10, 2024).
[8] Section 627.351(6)(c)5., F.S.

requirements set out in their underwriting rules. These rules are approved by the OIR and are set out in Citizens' underwriting manuals.[9]

Eligibility Based on Premium Amount

An applicant for residential insurance cannot buy insurance in Citizens if an authorized insurer in the private market offers the applicant insurance for a premium that does not exceed the Citizens premium by 20 percent or more. [10] The coverage offered by the private insurer must be comparable to Citizens' coverage.

A residential policyholder may not renew insurance in Citizens if an authorized insurer offers to insure the property at a premium no more than 20 percent greater than the Citizens' renewal premium.[11] The insurance coverage offered from the private market insurer must be comparable to the insurance from Citizens in order for the eligibility requirement for renewal premium to apply.[12]

Eligibility Based on Value of Property Insured

In addition to the eligibility restrictions based on premium amount, current law provides eligibility restrictions for homes and condominium units based on the value of the property insured.[13] Structures with a dwelling replacement cost of $700,000 or more, or a single condominium unit that has a combined dwelling and contents replacement cost of $700,000 or more, are not eligible for coverage with Citizens.[14] However, Citizens is allowed to insure structures with a dwelling replacement cost, or a condominium unit with a dwelling and contents replacement cost, of one million dollars or less in Miami-Dade and Monroe counties, after the OIR determined these counties to be non-competitive.[15]

Citizens "Glidepath" Rates

From 2007 until 2010, Citizens' rates were frozen by statute at the level that had been established in 2006.[16] In 2010, the Legislature established a "glidepath" to impose annual rate increases up to a level that is actuarially sound. Under the original established glidepath, Citizens had to implement an annual rate increase which, except for sinkhole coverage, does not exceed 10 percent above the previous year for any individual policyholder, adjusted for coverage changes and surcharges.[17] In 2021, the Legislature revised this glidepath to increase it one percent per year to up to 15 percent, as follows:[18]

- 11 percent for 2022.

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[9] *See* Citizens Property Insurance Corporation, *PIF Standard Summary Report for Period Ending Nov. 30, 2023 (December 6, 2023)* (On file with the Florida Senate Banking and Insurance Committee).
[10] Section 627.351(6)(c)5., F.S.
[11] Section 627.351(6)(c)5.a., F.S.
[12] *Id.*
[13] Section 627.351(6)(a)3., F.S.
[14] Section 627.351(6)(a)3.d., F.S.
[15] The OIR, Final Order Case No: 165625-14, Dec. 22, 2014, https://www.floir.com/siteDocuments/Citizens165625-14-O.pdf;*See also* Section 627.351(6)(a)3.d., F.S., and Citizens, *Update to Maximum Coverage Limits*, Nov. 12, 2019, https://www.citizensfla.com/-/2019-roof-permits-acceptable-for-fbc-credits (all sites last visited January 10, 2024).
[16] Section 15, ch. 2006-12, Laws of Fla.
[17] Section 10, ch. 2009-87, Laws of Fla.
[18] Section 627.351(6)(n)5., F.S.

- 12 percent for 2023.
- 13 percent for 2024.
- 14 percent for 2025.
- 15 percent for 2026 and all subsequent years.

The implementation of this increase ceases when Citizens has achieved actuarially sound rates.[19] In addition to the overall glidepath rate increase, Citizens can increase its rates to recover the additional reimbursement premium it incurs as a result of the annual cash build-up factor added to the price of the mandatory layer of the Florida Hurricane Catastrophe Fund coverage, pursuant to s. 215.555(5)(b), F.S.[20] The glidepath does not apply to policies written on or after November 1, 2023, that:

- Do not cover a primary residence;
- New policies under which the coverage for the insured risk, before the date of application with the corporation, was last provided by an insurer determined by the office to be unsound or an insurer placed in receivership under chapter 631; or
- Subsequent renewals of those policies.[21]

Citizens Financial Resources

Citizens' financial resources include insurance premiums, investment income, and operating surplus from prior years, Florida Hurricane Catastrophe Fund (FHCF) reimbursements, private reinsurance, policyholder surcharges, and regular and emergency assessments. Non-weather water losses, reinsurance costs and litigation are currently the major determinants of insurance rates.[22] In the event of a catastrophic storm or series of smaller storms, reserves could be exhausted, leaving Citizens unable to pay all claims.[23] Under Florida law, if the Citizens' Board of Directors determines a Citizens' account has a projected deficit, Citizens is authorized to levy assessments[24] on its policyholders and on each line of property and casualty line of business other than workers' compensation insurance and medical malpractice insurance.[25]

Citizens Depopulation

Florida law requires Citizens to create programs to help return Citizens policies to the private market and reduce the risk of additional assessments for all Floridians.[26] In 2016, the Legislature passed requirements that Citizens, by January 1, 2017, amend its operations relating to take-out agreements.[27] As part of these updated requirements, codified under s. 627.351(6)(ii), F.S., a policy may not be taken out of Citizens unless Citizens:

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[19] Section 627.351(6)(n)7., F.S.
[20] Section 627.351(6)(n)6., F.S.
[21] Section 627.351(6)(n)8., F.S.
[22] Citizens, *2023 Rate Kit*, https://www.citizensfla.com/documents/ (last visited January 10, 2024).
[23] Citizens, *Insurance/Insurance 101/Assessments*, https://www.citizensfla.com/assessments (last visited January 10, 2024).
[24] Assessments are charges that Citizens and non-Citizens policyholders can be required to pay, in addition to their regular policy premiums.
[25] Accident and health insurance policies written under the National Flood Insurance Program or the Federal Crop Insurance Program are not assessable types of property and casualty insurance. Surplus lines insurers are not assessable, but their policyholders are. Section 627.351.(6)(b)3.f.-h., F.S.
[26] Section 627.351(6)(q)3.a., F.S.
[27] Chapter 2016-229, Laws of Fla.

- Publishes a periodic schedule of cycles during which an insurer may identify, and notify Citizens of, policies the insurer is requesting to take out;[28]
- Maintains and makes available to the agent of record a consolidated list of all insurers requesting a take-out policy; such list must include a description of the coverage offered and the estimated premium for each take-out request; and
- Provides written notice to the policyholder and agent regarding all insurers requesting to take out the policy and the policyholder's option to accept a take-out offer or to reject all take out offers and to remain with the corporation. The notice must be in a format prescribed by the corporation and include, for each take-out offer:
  - The amount of the estimated premium;
  - A description of the coverage; and
  - A comparison of the estimated premium and coverage offered by the insurer to the estimated premium and coverage provided by the corporation.

Citizens Flood Insurance Requirement

Citizens' personal lines residential policyholders must secure and maintain flood insurance that meets certain requirements as a condition of eligibility for Citizens coverage.[29] The implementation of this requirement is based on as schedule.[30] For Citizens personal lines residential policyholders whose property is located within special hazard flood zones defined by the FEMA, flood coverage must be obtained by:

- April 1, 2023 for Citizens' new policies.
- July 1, 2023 for Citizens' renewal policies.

For all other risks, the requirement to obtain flood insurance must be implemented for specified Citizens' policyholders as follows:

- March 1, 2024, for policies insuring a structure that has a dwelling replacement cost of $600,000 or more.
- March 1, 2025, for policies insuring a structure that has a dwelling replacement cost of $500,000 or more.
- March 1, 2026, for policies insuring a structure that has a dwelling replacement cost of $400,000 or more.
- March 1, 2027, for all other policyholders.

The requirement to obtain flood insurance does not apply to policies that do not provide coverage for the peril of wind or to policies that provide coverage under a condominium unit owners form.[31]

III. Effect of Proposed Changes:

The bill amends s. 627.351(6)(a), F.S, to allow Citizens to provide coverage for personal lines residential structures that have a dwelling replacement cost of $700,000 or more (but not $1

[28] Such requests from insurers must include a description of the coverage offered and an estimated premium and must be submitted to the corporation in a form and manner prescribed by the corporation.
[29] Section 627.351(6)(aa), F.S.
[30] *Id.*
[31] Section 627.351(6)(aa)3., F.S.

million or more) or a single condominium unit that has a combined dwelling and contents replacement cost of $700,000 or more (but not $1 million or more). To ensure that Citizens' rates for these newly authorized policies are not competitive with approved rates charged in the admitted voluntary market, the bill imposes on such policies a surcharge equal to the lesser of $2,500 or 25 percent of the rate for each policy. Citizens may not offer these policies if the property is offered comparable coverage from an authorized insurer at the insurer's approved rate under a standard policy including wind coverage.

The bill provides that the Citizens rate glidepath does not apply to personal lines residential structures that have a dwelling replacement cost of $700,000 or more or a single condominium unit that has a combined dwelling and contents replacement cost of $700,000 or more, after the corporation's next annual rate change which occurs on or after August 1, 2024. The bill also provides that the surcharge on premiums for the higher value homes does not become effective until the corporation's next annual rate filing, which occurs on or after August 1, 2024.

This has the effect of not applying the Citizens rate glidepath and adding a surcharge to personal lines residential structures that have a dwelling replacement cost of $700,000 or more (but not $1 million or more) or a single condominium unit that has a combined dwelling and contents replacement cost of $700,000 or more (but not $1 million or more):

- That the bill makes eligible for Citizens coverage; and
- That are currently eligible for Citizens coverage because the residential structure or condominium unit is located in a county in which the OIR has determined there is not a reasonable degree of competition (currently Dade County and Monroe County) pursuant to s. 627.351(6)(a)3., F.S.

The bill is effective August 1, 2024.

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:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill is anticipated to benefit homeowners who are able to obtain coverage from Citizens under the newly authorized coverage. These are homeowners that are currently unable to obtain coverage in the admitted market and coverage from Citizens had been unavailable. Such homeowners have been required to turn to the non-admitted market or go without coverage.

C. Government Sector Impact:

The bill will affect the revenues and expenditures on Citizens. It is unknown what the impact will be but it is intended that the premiums collected on the newly authorized polices will offset the additional covered risk.

VI. Technical Deficiencies:

The bill makes additional higher value residences eligible for Citizens coverage effective July 1, 2024, however, the effective date of the bill is August 1, 2024.

VII. Related Issues:

None.

VIII. Statutes Affected:

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

IX. Additional Information:

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

CS by Banking and Insurance Committee on January 16, 2024:
The committee substitute makes the following changes:

- Provides that the Citizens rate glidepath and the surcharge created by the bill does not apply to the higher value homes the bill makes eligible for Citizens coverage, until the corporation's next annual rate change which occurs on or after August 1, 2024.
- Provides that the Citizens rate glidepath and the surcharge created by the bill will also apply to policies that are eligible for Citizens because they are located in a county where the OIR has determined there is not a reasonable degree of competition.
- Restores current law relating to personal lines policies that are not subject to the glidepath rate increase limitations. These policies are:
  - Policies that do not cover a primary residence;

- Policies assumed from an insurer determined by the office to be unsound or an insurer placed in receivership.

- Changes the effective date of the bill to August 1, 2024, to allow Citizens the necessary time to implement the Coverage A limit changes.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/18/2024	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 206 - 259

and insert:

Beginning with the implementation of the corporation's next annual rate change on or after August 1, 2024, this subparagraph does not apply to a personal lines residential structure that has a dwelling replacement cost of $700,000 or more or a single condominium unit that has a combined dwelling and contents replacement cost of $700,000 or more.

320544

6. The corporation may also implement an increase to reflect the effect on the corporation of the cash buildup factor pursuant to s. 215.555(5)(b).

7. The corporation's implementation of rates as prescribed in subparagraphs 5. and 9. ~~8.~~ shall cease for any line of business written by the corporation upon the corporation's implementation of actuarially sound rates. Thereafter, the corporation shall annually make a recommended actuarially sound rate filing that is not competitive with approved rates in the admitted voluntary market for each commercial and personal line of business the corporation writes.

8. Effective upon implementation of the corporation's next annual rate change on or after August 1, 2024, for the purpose of ensuring that the corporation's rates are not competitive with approved rates charged in the admitted voluntary market as required by subparagraph 1., a surcharge equal to the lesser of $2,500 or 25 percent of the uncapped premium calculated using the corporation's approved rates applies to each personal lines residential policy insuring a structure that has a dwelling replacement cost of $700,000 or more and to each policy insuring a single condominium unit that has a combined dwelling and contents replacement cost of $700,000 or more. Notwithstanding this subsection, effective August 1, 2024, a personal lines residential structure that has a dwelling replacement cost of $700,000 or more and a single condominium unit that has a combined dwelling and contents replacement cost of $700,000 or more are not eligible for coverage by the corporation if the risk is offered comparable coverage from an authorized insurer at the insurer's approved rate under a standard policy including

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wind coverage.

9.~~8.~~ The following new or renewal personal lines policies written on or after November 1, 2023, are not subject to the rate increase limitations in subparagraph 5., but may not be charged more than 50 percent above, nor less than, the prior year's established rate for the corporation:

a. Policies that do not cover a primary residence;

b. New policies under which the coverage for the insured risk, before the date of application with the corporation, was last provided by an insurer determined by the office to be unsound or an insurer placed in receivership under chapter 631; or

c. Subsequent renewals of those policies, including the new policies in sub-subparagraph b., under which the coverage for the insured risk, before the date of application with the corporation, was last provided by an insurer determined by the office to be unsound or an insurer placed in receivership under chapter 631.

10.~~9.~~ As used in this paragraph, the term "primary residence" means the dwelling that is the policyholder's primary home or is a rental property that is the primary home of the tenant, and which the policyholder or tenant occupies for more than 9 months of each year.

Section 2. This act shall take effect August 1, 2024.

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

And the title is amended as follows:

Delete lines 13 - 16

and insert:

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units under certain circumstances; providing an effective date.

By Senator Hooper

21-01045A-24 20241106__

A bill to be entitled

An act relating to coverage by Citizens Property Insurance Corporation; amending s. 627.351, F.S.; revising certain minimum replacement costs as risk amounts ineligible for coverage by Citizens Property Insurance Corporation for personal lines residential structures; providing exceptions to rate increase limitations on single policies issued by the corporation; requiring surcharges for a specified purpose for policies covering certain personal lines residential structures; prohibiting coverage for certain dwelling structures and single condominium units under certain circumstances; deleting provisions relating to rate increase limitations on certain policies; deleting the definition of the term "primary residence"; providing an effective date.

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

Section 1. Paragraphs (a) and (n) of subsection (6) of section 627.351, Florida Statutes, are amended to read:

627.351 Insurance risk apportionment plans.—

(6) CITIZENS PROPERTY INSURANCE CORPORATION.—

(a) The public purpose of this subsection is to ensure that there is an orderly market for property insurance for residents and businesses of this state.

1. The Legislature finds that private insurers are unwilling or unable to provide affordable property insurance coverage in this state to the extent sought and needed. The

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absence of affordable property insurance threatens the public health, safety, and welfare and likewise threatens the economic health of the state. The state therefore has a compelling public interest and a public purpose to assist in assuring that property in the state is insured and that it is insured at affordable rates so as to facilitate the remediation, reconstruction, and replacement of damaged or destroyed property in order to reduce or avoid the negative effects otherwise resulting to the public health, safety, and welfare, to the economy of the state, and to the revenues of the state and local governments which are needed to provide for the public welfare. It is necessary, therefore, to provide affordable property insurance to applicants who are in good faith entitled to procure insurance through the voluntary market but are unable to do so. The Legislature intends, therefore, that affordable property insurance be provided and that it continue to be provided, as long as necessary, through Citizens Property Insurance Corporation, a government entity that is an integral part of the state, and that is not a private insurance company. To that end, the corporation shall strive to increase the availability of affordable property insurance in this state, while achieving efficiencies and economies, and while providing service to policyholders, applicants, and agents which is no less than the quality generally provided in the voluntary market, for the achievement of the foregoing public purposes. Because it is essential for this government entity to have the maximum financial resources to pay claims following a catastrophic hurricane, it is the intent of the Legislature that the corporation continue to be an integral part of the state and

that the income of the corporation be exempt from federal income taxation and that interest on the debt obligations issued by the corporation be exempt from federal income taxation.

2. The Residential Property and Casualty Joint Underwriting Association originally created by this statute shall be known as the Citizens Property Insurance Corporation. The corporation shall provide insurance for residential and commercial property, for applicants who are entitled, but, in good faith, are unable to procure insurance through the voluntary market. The corporation shall operate pursuant to a plan of operation approved by order of the Financial Services Commission. The plan is subject to continuous review by the commission. The commission may, by order, withdraw approval of all or part of a plan if the commission determines that conditions have changed since approval was granted and that the purposes of the plan require changes in the plan. For the purposes of this subsection, residential coverage includes both personal lines residential coverage, which consists of the type of coverage provided by homeowner, mobile home owner, dwelling, tenant, condominium unit owner, and similar policies; and commercial lines residential coverage, which consists of the type of coverage provided by condominium association, apartment building, and similar policies.

3. With respect to coverage for personal lines residential structures, ~~:~~

~~a.~~ effective July 1, 2024 ~~January 1, 2014~~, a structure that has a dwelling replacement cost of $1 million or more, or a single condominium unit that has a combined dwelling and contents replacement cost of $1 million or more, is not eligible

for coverage by the corporation. ~~Such dwellings insured by the corporation on December 31, 2013, may continue to be covered by the corporation until the end of the policy term. The office shall approve the method used by the corporation for valuing the dwelling replacement cost for the purposes of this subparagraph. If a policyholder is insured by the corporation before being determined to be ineligible pursuant to this subparagraph and such policyholder files a lawsuit challenging the determination, the policyholder may remain insured by the corporation until the conclusion of the litigation.~~

~~b. Effective January 1, 2015, a structure that has a dwelling replacement cost of $900,000 or more, or a single condominium unit that has a combined dwelling and contents replacement cost of $900,000 or more, is not eligible for coverage by the corporation. Such dwellings insured by the corporation on December 31, 2014, may continue to be covered by the corporation only until the end of the policy term.~~

~~c. Effective January 1, 2016, a structure that has a dwelling replacement cost of $800,000 or more, or a single condominium unit that has a combined dwelling and contents replacement cost of $800,000 or more, is not eligible for coverage by the corporation. Such dwellings insured by the corporation on December 31, 2015, may continue to be covered by the corporation until the end of the policy term.~~

~~d. Effective January 1, 2017, a structure that has a dwelling replacement cost of $700,000 or more, or a single condominium unit that has a combined dwelling and contents replacement cost of $700,000 or more, is not eligible for coverage by the corporation. Such dwellings insured by the~~

~~corporation on December 31, 2016, may continue to be covered by the corporation until the end of the policy term.~~

~~The requirements of sub-subparagraphs b.-d. do not apply in counties where the office determines there is not a reasonable degree of competition. In such counties a personal lines residential structure that has a dwelling replacement cost of less than $1 million, or a single condominium unit that has a combined dwelling and contents replacement cost of less than $1 million, is eligible for coverage by the corporation.~~

4. It is the intent of the Legislature that policyholders, applicants, and agents of the corporation receive service and treatment of the highest possible level but never less than that generally provided in the voluntary market. It is also intended that the corporation be held to service standards no less than those applied to insurers in the voluntary market by the office with respect to responsiveness, timeliness, customer courtesy, and overall dealings with policyholders, applicants, or agents of the corporation.

5.a. Effective January 1, 2009, a personal lines residential structure that is located in the "wind-borne debris region," as defined in s. 1609.2, International Building Code (2006), and that has an insured value on the structure of $750,000 or more is not eligible for coverage by the corporation unless the structure has opening protections as required under the Florida Building Code for a newly constructed residential structure in that area. A residential structure is deemed to comply with this sub-subparagraph if it has shutters or opening protections on all openings and if such opening protections

complied with the Florida Building Code at the time they were installed.

b. Any major structure, as defined in s. 161.54(6)(a), that is newly constructed, or rebuilt, repaired, restored, or remodeled to increase the total square footage of finished area by more than 25 percent, pursuant to a permit applied for after July 1, 2015, is not eligible for coverage by the corporation if the structure is seaward of the coastal construction control line established pursuant to s. 161.053 or is within the Coastal Barrier Resources System as designated by 16 U.S.C. ss. 3501-3510.

6. With respect to wind-only coverage for commercial lines residential condominiums, effective July 1, 2014, a condominium shall be deemed ineligible for coverage if 50 percent or more of the units are rented more than eight times in a calendar year for a rental agreement period of less than 30 days.

(n)1. Rates for coverage provided by the corporation must be actuarially sound pursuant to s. 627.062 and not competitive with approved rates charged in the admitted voluntary market so that the corporation functions as a residual market mechanism to provide insurance only when insurance cannot be procured in the voluntary market, except as otherwise provided in this paragraph. The office shall provide the corporation such information as would be necessary to determine whether rates are competitive. The corporation shall file its recommended rates with the office at least annually. The corporation shall provide any additional information regarding the rates which the office requires. The office shall consider the recommendations of the board and issue a final order establishing the rates for the

corporation within 45 days after the recommended rates are filed. The corporation may not pursue an administrative challenge or judicial review of the final order of the office.

2. In addition to the rates otherwise determined pursuant to this paragraph, the corporation shall impose and collect an amount equal to the premium tax provided in s. 624.509 to augment the financial resources of the corporation.

3. After the public hurricane loss-projection model under s. 627.06281 has been found to be accurate and reliable by the Florida Commission on Hurricane Loss Projection Methodology, the model shall be considered when establishing the windstorm portion of the corporation's rates. The corporation may use the public model results in combination with the results of private models to calculate rates for the windstorm portion of the corporation's rates. This subparagraph does not require or allow the corporation to adopt rates lower than the rates otherwise required or allowed by this paragraph.

4. The corporation must make a recommended actuarially sound rate filing for each personal and commercial line of business it writes.

5. Notwithstanding the board's recommended rates and the office's final order regarding the corporation's filed rates under subparagraph 1., the corporation shall annually implement a rate increase which, except for sinkhole coverage, does not exceed the following for any single policy issued by the corporation, excluding coverage changes and surcharges:

a. Twelve percent for 2023.

b. Thirteen percent for 2024.

c. Fourteen percent for 2025.

d. Fifteen percent for 2026 and all subsequent years.

This subparagraph does not apply to a personal lines residential structure that has a dwelling replacement cost of $700,000 or more or a single condominium unit that has a combined dwelling and contents replacement cost of $700,000 or more.

6. The corporation may also implement an increase to reflect the effect on the corporation of the cash buildup factor pursuant to s. 215.555(5)(b).

7. The corporation's implementation of rates as prescribed in subparagraph ~~subparagraphs~~ 5. ~~and 8.~~ shall cease for any line of business written by the corporation upon the corporation's implementation of actuarially sound rates. Thereafter, the corporation shall annually make a recommended actuarially sound rate filing that is not competitive with approved rates in the admitted voluntary market for each commercial and personal line of business the corporation writes.

8. Effective July 1, 2024, for the purpose of ensuring that the corporation's rates are not competitive with approved rates charged in the admitted voluntary market as required by subparagraph 1., a surcharge equal to the lesser of $2,500 or 25 percent of the corporation's rate for each policy applies to personal lines residential structures that have a dwelling replacement cost of $700,000 or more and single condominium units that have a combined dwelling and contents replacement cost of $700,000 or more. Notwithstanding this subsection, effective July 1, 2024, a personal lines residential structure that has a dwelling replacement cost of $700,000 or more and a single condominium unit that has a combined dwelling and

contents replacement cost of $700,000 or more are not eligible for coverage by the corporation if the risk is offered comparable coverage from an authorized insurer at the insurer's approved rate under a standard policy including wind coverage.

~~8. The following new or renewal personal lines policies written on or after November 1, 2023, are not subject to the rate increase limitations in subparagraph 5., but may not be charged more than 50 percent above, nor less than, the prior year's established rate for the corporation:~~

~~a. Policies that do not cover a primary residence;~~

~~b. New policies under which the coverage for the insured risk, before the date of application with the corporation, was last provided by an insurer determined by the office to be unsound or an insurer placed in receivership under chapter 631; or~~

~~c. Subsequent renewals of those policies, including the new policies in sub-subparagraph b., under which the coverage for the insured risk, before the date of application with the corporation, was last provided by an insurer determined by the office to be unsound or an insurer placed in receivership under chapter 631.~~

~~9. As used in this paragraph, the term "primary residence" means the dwelling that is the policyholder's primary home or is a rental property that is the primary home of the tenant, and which the policyholder or tenant occupies for more than 9 months of each year.~~

Section 2. This act shall take effect July 1, 2024.

Citizens Property Insurance Corporation

PIF Standard Summary Report

Report Run Date : 12-06-2023
Reported Period : 11-30-2023

Account - Product Line	Policies In-Force	Total Exposure	Premium with Surcharges	Change From Prior Month		
				Policies In-Force	Total Exposure	Premium with Surcharges
PLA - Personal Residential Multi-Peril (PR-M)	1,018,750	371,975,487,028	2,623,248,680	-58,248	-20,895,039,663	-209,571,106
COASTAL - Personal Residential Wind-Only (PR-W)	90,722	44,213,728,778	304,333,124	-87	-14,737,697	-715,478
COASTAL - Personal Residential Multi-Peril (PR-M)	137,829	40,686,667,621	494,066,630	-16,329	-5,076,611,375	-74,894,033
COASTAL - Commercial Residential Wind-Only (CR-W)	4,416	57,685,922,230	534,058,458	97	868,726,315	8,578,269
COASTAL - Commercial Residential Multi-Peril (CR-M)	89	577,383,883	3,562,791	0	-1,293,800	9,800
COASTAL - Commercial Non-Residential Wind-Only (CNR-W)	4,025	3,558,716,951	58,742,309	58	48,249,610	777,644
COASTAL - Commercial Non-Residential Multi-Peril (CNR-M)	334	600,525,330	6,928,743	22	27,388,200	351,674
CLA - Commercial Residential Multi-Peril (CR-M)	2,927	41,558,356,483	285,176,748	173	1,548,055,850	13,056,775
CLA - Commercial Non-Residential Multi-Peril (CNR-M)	1,338	1,793,124,899	15,914,118	124	122,431,772	1,203,458
Total	**1,260,430**	**562,649,913,203**	**4,326,031,601**	**-74,190**	**-23,372,830,788**	**-261,202,997**

Personal Residential Exposure Includes Coverages A-D, except DP1/MDP1/MD1, Which Excludes Coverages B and D.
Commercial Exposure Includes Building, Other Structures and Business Personal Property.

Citizens Property Insurance Corporation

Detail By Account

Report Run Date : 12-06-2023

Reported Period : 11-30-2023

Nov-30-2023		Current Month-End					Change From Prior Month				
		Policies Inforce	Building Count	Risk Count	Premium With Surch	Total Exposure	Policies Inforce	Building Count	Risk Count	Premium With Surch	Total Exposure
Personal Lines Account PR-M Wind Coverage	Dade, Broward, Palm Beach and Monroe	321,174	321,174	321,174	1,170,447,316	107,915,335,445	(30,649)	(30,649)	(30,649)	(135,235,315)	(10,334,991,371)
	Remainder of State	660,501	660,501	660,501	1,404,303,555	254,369,072,373	(27,405)	(27,405)	(27,405)	(73,969,162)	(10,637,365,745)
	State Total	**981,675**	**981,675**	**981,675**	**2,574,750,871**	**362,284,407,818**	**(58,054)**	**(58,054)**	**(58,054)**	**(209,204,477)**	**(20,972,357,116)**
Personal Lines Account PR-M Exclude Wind Coverage	Dade, Broward, Palm Beach and Monroe	24,570	24,570	24,570	38,095,612	5,960,575,105	(296)	(296)	(296)	(440,905)	31,786,641
	Remainder of State	12,505	12,505	12,505	10,402,197	3,730,504,105	102	102	102	74,276	45,530,812
	State Total	**37,075**	**37,075**	**37,075**	**48,497,809**	**9,691,079,210**	**(194)**	**(194)**	**(194)**	**(366,629)**	**77,317,453**
Personal Lines Account	Dade, Broward, Palm Beach and Monroe	345,744	345,744	345,744	1,208,542,928	113,875,910,550	(30,945)	(30,945)	(30,945)	(135,676,220)	(10,303,204,730)
	Remainder of State	673,006	673,006	673,006	1,414,705,752	258,099,576,478	(27,303)	(27,303)	(27,303)	(73,894,886)	(10,591,834,933)
	State Total	**1,018,750**	**1,018,750**	**1,018,750**	**2,623,248,680**	**371,975,487,028**	**(58,248)**	**(58,248)**	**(58,248)**	**(209,571,106)**	**(20,895,039,663)**
Coastal Account PR-W Wind Only	Dade, Broward, Palm Beach and Monroe	62,328	62,328	62,328	234,872,760	31,001,364,369	112	112	112	(313,958)	10,460,734
	Remainder of State	28,394	28,394	28,394	69,460,364	13,212,364,409	(199)	(199)	(199)	(401,520)	(25,198,431)
	State Total	**90,722**	**90,722**	**90,722**	**304,333,124**	**44,213,728,778**	**(87)**	**(87)**	**(87)**	**(715,478)**	**(14,737,697)**
Coastal Account CR-W Wind Only	Dade, Broward, Palm Beach and Monroe	3,159	9,163	12,776	386,056,840	38,632,044,423	61	124	154	5,537,051	483,781,600
	Remainder of State	1,257	5,109	7,681	148,001,618	19,053,877,807	36	130	178	3,041,218	384,944,715
	State Total	**4,416**	**14,272**	**20,457**	**534,058,458**	**57,685,922,230**	**97**	**254**	**332**	**8,578,269**	**868,726,315**
Coastal Account CNR-W Wind Only	Dade, Broward, Palm Beach and Monroe	2,818	4,056	4,116	42,943,381	2,262,925,908	35	29	30	517,622	24,100,310
	Remainder of State	1,207	2,357	2,510	15,798,928	1,295,791,043	25	54	55	289,026	26,104,300
	State Total	**4,025**	**6,413**	**6,626**	**58,742,309**	**3,558,716,951**	**58**	**81**	**83**	**777,644**	**48,249,610**
Coastal Account Wind Only	Dade, Broward, Palm Beach and Monroe	68,305	75,547	79,220	663,872,981	71,896,334,700	208	265	296	5,740,715	518,342,644
	Remainder of State	30,858	35,860	38,585	233,260,910	33,562,033,259	(138)	(15)	34	2,928,724	385,850,584
	State Total	**99,163**	**111,407**	**117,805**	**897,133,891**	**105,458,367,959**	**68**	**248**	**328**	**8,640,435**	**902,238,228**
Coastal Account PR-M Multi-Peril	Dade, Broward, Palm Beach and Monroe	99,419	99,419	99,419	379,362,598	26,170,168,143	(11,392)	(11,392)	(11,392)	(56,203,479)	(3,232,493,906)
	Remainder of State	38,410	38,410	38,410	114,704,032	14,516,499,478	(4,937)	(4,937)	(4,937)	(18,690,554)	(1,844,117,469)
	State Total	**137,829**	**137,829**	**137,829**	**494,066,630**	**40,686,667,621**	**(16,329)**	**(16,329)**	**(16,329)**	**(74,894,033)**	**(5,076,611,375)**
Coastal Account CR-M Multi-Peril	Dade, Broward, Palm Beach and Monroe	79	208	243	3,293,176	537,083,483	0	0	0	(647)	(967,700)
	Remainder of State	10	24	28	269,615	40,300,400	0	0	0	10,447	(326,100)
	State Total	**89**	**232**	**271**	**3,562,791**	**577,383,883**	**0**	**0**	**0**	**9,800**	**(1,293,800)**
Coastal Account CNR-M Multi-Peril	Dade, Broward, Palm Beach and Monroe	177	235	235	3,609,639	253,396,596	15	15	15	272,700	19,033,200
	Remainder of State	157	338	338	3,319,104	347,128,734	7	11	11	78,974	8,355,000
	State Total	**334**	**573**	**573**	**6,928,743**	**600,525,330**	**22**	**26**	**26**	**351,674**	**27,388,200**
Coastal Account Multi-Peril	Dade, Broward, Palm Beach and Monroe	99,675	99,862	99,897	386,265,413	26,960,648,222	(11,377)	(11,377)	(11,377)	(55,931,426)	(3,214,428,406)
	Remainder of State	38,577	38,772	38,776	118,292,751	14,903,928,612	(4,930)	(4,926)	(4,926)	(18,601,133)	(1,836,088,569)
	State Total	**138,252**	**138,634**	**138,673**	**504,558,164**	**41,864,576,834**	**(16,307)**	**(16,303)**	**(16,303)**	**(74,532,559)**	**(5,050,516,975)**
Coastal Account	Dade, Broward, Palm Beach and Monroe	167,980	175,409	179,117	1,050,138,394	98,856,982,922	(11,169)	(11,112)	(11,081)	(50,190,711)	(2,696,085,762)
	Remainder of State	69,435	74,632	77,361	351,553,661	48,465,961,871	(5,068)	(4,941)	(4,892)	(15,672,409)	(1,450,237,985)
	State Total	**237,415**	**250,041**	**256,478**	**1,401,692,055**	**147,322,944,793**	**(16,239)**	**(16,055)**	**(15,975)**	**(65,892,124)**	**(4,148,278,747)**
Commercial Lines Account CR-M Wind Coverage	Dade, Broward, Palm Beach and Monroe	1,492	12,132	12,995	149,498,689	19,694,329,799	71	437	472	5,785,621	685,760,700
	Remainder of State	1,230	12,797	15,071	128,293,405	19,253,603,584	97	769	896	7,241,466	853,820,750
	State Total	**2,722**	**24,929**	**28,066**	**277,792,094**	**38,947,933,383**	**168**	**1,206**	**1,368**	**13,027,087**	**1,539,581,450**
Commercial Lines Account CR-M Exclude Wind Coverage	Dade, Broward, Palm Beach and Monroe	139	443	539	4,696,061	1,564,918,100	5	5	13	51,670	18,661,800
	Remainder of State	66	283	402	2,688,593	1,045,505,000	0	(1)	(2)	(21,982)	(10,187,400)
	State Total	**205**	**726**	**941**	**7,384,654**	**2,610,423,100**	**5**	**4**	**11**	**29,688**	**8,474,400**
Commercial Lines Account CR-M	Dade, Broward, Palm Beach and Monroe	1,631	12,575	13,534	154,194,750	21,259,247,899	76	442	485	5,837,291	704,422,500
	Remainder of State	1,296	13,080	15,473	130,981,998	20,299,108,584	97	768	894	7,219,484	843,633,350
	State Total	**2,927**	**25,655**	**29,007**	**285,176,748**	**41,558,356,483**	**173**	**1,210**	**1,379**	**13,056,775**	**1,548,055,850**
Commercial Lines Account CNR-M Wind Coverage	Dade, Broward, Palm Beach and Monroe	543	681	681	7,138,102	617,327,386	54	61	61	621,115	50,431,894
	Remainder of State	795	1,352	1,352	8,776,016	1,175,797,513	70	107	107	582,343	71,999,878
	State Total	**1,338**	**2,033**	**2,033**	**15,914,118**	**1,793,124,899**	**124**	**168**	**168**	**1,203,458**	**122,431,772**
Commercial Lines Account CNR-M	Dade, Broward, Palm Beach and Monroe	543	681	681	7,138,102	617,327,386	54	61	61	621,115	50,431,894
	Remainder of State	795	1,352	1,352	8,776,016	1,175,797,513	70	107	107	582,343	71,999,878
	State Total	**1,338**	**2,033**	**2,033**	**15,914,118**	**1,793,124,899**	**124**	**168**	**168**	**1,203,458**	**122,431,772**
Commercial Lines Account	Dade, Broward, Palm Beach and Monroe	2,174	13,256	14,215	161,332,852	21,876,575,285	130	503	546	6,458,406	754,854,394
	Remainder of State	2,091	14,432	16,825	139,758,014	21,474,906,097	167	875	1,001	7,801,827	915,633,228
	State Total	**4,265**	**27,688**	**31,040**	**301,090,866**	**43,351,481,382**	**297**	**1,378**	**1,547**	**14,260,233**	**1,670,487,622**
Citizens Total	**State Total**	**1,260,430**	**1,296,479**	**1,306,268**	**4,326,031,601**	**562,649,913,203**	**(74,190)**	**(72,925)**	**(72,676)**	**(261,202,997)**	**(23,372,830,788)**

Personal Residential Exposure Includes Coverages A-D, except DP1/MDP1/MD1, Which Excludes Coverages B and D.
Commercial Exposure Includes Building, Other Structures and Business Personal Property.

Citizens Property Insurance Corporation

Detail By County

Excludes Takeouts
Report Run Date : 12-06-2023
Reported Period : 11-30-2023

In-Force Policies By Account And County For Period : Nov-30-2023								
	Current Month-End				Change From Prior Month			
PLA PR-M	Policies In-Force	Building Count	Total Premium	Total Exposure	Policies In-Force	Building Count	Total Premium	Total Exposure
ALACHUA	3,726	3,726	$4,849,348	$1,179,494,010	(158)	(158)	($304,281)	($68,613,427)
BAKER	489	489	$546,715	$92,230,351	(25)	(25)	($32,332)	($4,576,910)
BAY	6,109	6,109	$13,584,755	$2,017,860,168	(529)	(529)	($1,539,628)	($231,830,415)
BRADFORD	471	471	$613,693	$109,843,346	0	0	($17,603)	($2,381,020)
BREVARD	48,679	48,679	$117,225,285	$20,446,207,922	(959)	(959)	($3,465,582)	($315,724,314)
BROWARD	113,479	113,479	$395,419,392	$36,578,400,079	(10,585)	(10,585)	($45,040,436)	($3,487,940,264)
CALHOUN	141	141	$262,470	$44,430,092	3	3	$4,622	$526,990
CHARLOTTE	14,572	14,572	$32,692,280	$5,624,884,481	(153)	(153)	($421,801)	($56,380,125)
CITRUS	7,831	7,831	$12,143,291	$2,282,329,352	(274)	(274)	($474,155)	($90,490,314)
CLAY	4,382	4,382	$6,899,531	$1,813,100,291	(87)	(87)	($195,464)	($51,838,049)
COLLIER	8,840	8,840	$24,991,256	$3,234,415,829	(793)	(793)	($2,634,797)	($298,423,334)
COLUMBIA	847	847	$1,177,982	$210,294,671	(41)	(41)	($84,728)	($15,815,200)
DESOTO	726	726	$1,618,360	$221,471,259	(5)	(5)	($29,279)	($4,507,655)
DIXIE	604	604	$844,757	$101,141,472	(54)	(54)	($102,429)	($14,330,840)
DUVAL	23,528	23,528	$39,599,586	$9,305,647,089	(530)	(530)	($1,270,793)	($290,649,419)
ESCAMBIA	6,386	6,386	$16,008,563	$2,313,208,296	(789)	(789)	($2,345,951)	($336,886,051)
FLAGLER	2,897	2,897	$5,696,208	$1,269,362,700	(64)	(64)	($141,185)	($31,205,455)
FRANKLIN	320	320	$812,846	$80,117,660	(27)	(27)	($80,845)	($7,868,840)
GADSDEN	949	949	$1,522,871	$329,341,555	0	0	($22)	$400,820
GILCHRIST	573	573	$755,779	$112,688,163	(28)	(28)	($42,983)	($7,002,160)
GLADES	470	470	$970,557	$130,773,347	10	10	$12,259	($719,790)
GULF	212	212	$466,250	$46,058,910	(8)	(8)	($27,716)	($3,770,200)
HAMILTON	81	81	$137,295	$22,662,400	(5)	(5)	($2,543)	($423,710)
HARDEE	392	392	$795,291	$105,923,941	11	11	$3,734	$2,224,389
HENDRY	1,136	1,136	$2,890,509	$350,292,266	37	37	$28,917	$8,116,250
HERNANDO	24,437	24,437	$39,645,265	$10,120,426,711	(1,213)	(1,213)	($2,449,419)	($548,033,385)
HIGHLANDS	5,596	5,596	$9,585,601	$1,618,365,874	25	25	($70,749)	($27,101,241)
HILLSBOROUGH	70,976	70,976	$155,715,148	$29,209,954,920	(3,450)	(3,450)	($8,799,717)	($1,343,356,960)
HOLMES	410	410	$739,855	$148,902,940	(1)	(1)	$2,758	($161,780)

INDIAN RIVER	9,539	9,539	$26,018,537	$3,483,646,502	(722)	(722)	($1,995,950)	($244,058,553)
JACKSON	955	955	$1,612,206	$327,187,680	(10)	(10)	($20,490)	($5,713,500)
JEFFERSON	316	316	$463,009	$79,808,394	(5)	(5)	($2,008)	$969,770
LAFAYETTE	153	153	$252,944	$34,669,235	1	1	($6,360)	($1,314,550)
LAKE	13,973	13,973	$22,789,223	$5,449,324,837	177	177	$182,196	$31,708,622
LEE	30,870	30,870	$67,108,498	$10,811,129,900	(1,185)	(1,185)	($2,720,213)	($342,036,798)
LEON	4,610	4,610	$5,619,562	$1,563,427,680	(63)	(63)	($124,250)	($33,640,680)
LEVY	1,452	1,452	$1,923,851	$257,926,084	(74)	(74)	($129,486)	($19,255,115)
LIBERTY	108	108	$136,661	$21,623,120	(7)	(7)	($17,091)	($2,318,050)
MADISON	231	231	$351,446	$54,179,334	(7)	(7)	($8,554)	($1,304,665)
MANATEE	19,137	19,137	$39,113,714	$7,059,157,847	(466)	(466)	($1,193,354)	($163,347,085)
MARION	7,696	7,696	$10,944,358	$2,493,018,989	(485)	(485)	($846,804)	($202,654,869)
MARTIN	9,652	9,652	$35,403,850	$3,895,083,027	(1,729)	(1,729)	($6,574,479)	($659,475,410)
MIAMI-DADE	147,892	147,892	$528,625,744	$45,656,000,350	(13,070)	(13,070)	($64,225,244)	($4,583,666,244)
MONROE	504	504	$539,814	$157,552,801	7	7	$11,098	$2,459,590
NASSAU	1,234	1,234	$2,066,043	$369,754,018	(106)	(106)	($241,054)	($41,825,264)
OKALOOSA	9,358	9,358	$25,623,747	$3,861,560,554	(1,529)	(1,529)	($5,090,226)	($715,983,750)
OKEECHOBEE	1,457	1,457	$3,492,110	$448,747,725	33	33	$84,322	$7,812,277
ORANGE	46,945	46,945	$96,686,364	$18,988,739,703	(156)	(156)	($1,048,703)	($177,629,561)
OSCEOLA	19,009	19,009	$36,540,304	$7,615,378,779	(74)	(74)	($288,338)	($50,562,807)
PALM BEACH	83,869	83,869	$283,957,978	$31,483,957,320	(7,297)	(7,297)	($26,421,638)	($2,234,057,812)
PASCO	31,533	31,533	$53,606,153	$11,525,783,102	(5,561)	(5,561)	($13,008,708)	($2,166,043,883)
PINELLAS	114,599	114,599	$251,097,606	$43,350,128,562	(4,472)	(4,472)	($10,996,857)	($1,305,218,725)
POLK	17,250	17,250	$33,750,594	$5,734,788,391	(201)	(201)	($760,769)	($147,145,208)
PUTNAM	1,515	1,515	$2,149,871	$387,070,078	(34)	(34)	($61,365)	($13,943,995)
SANTA ROSA	6,494	6,494	$17,853,986	$2,891,484,248	(352)	(352)	($1,028,550)	($154,403,059)
SARASOTA	15,868	15,868	$32,774,685	$6,174,346,270	(170)	(170)	($536,131)	($56,935,360)
SEMINOLE	19,583	19,583	$38,495,492	$8,565,757,655	210	210	$239,657	$69,812,970
ST JOHNS	5,815	5,815	$10,868,441	$2,435,299,792	(99)	(99)	($247,527)	($55,447,789)
ST LUCIE	22,345	22,345	$61,373,202	$8,503,663,883	(747)	(747)	($2,002,209)	($273,093,635)
SUMTER	1,477	1,477	$2,258,510	$449,176,533	(32)	(32)	($40,076)	($12,399,107)
SUWANNEE	496	496	$650,472	$82,683,234	(32)	(32)	($83,998)	($9,560,500)
TAYLOR	758	758	$1,084,047	$134,909,529	(86)	(86)	($185,990)	($26,005,235)
UNION	167	167	$259,872	$42,921,851	(4)	(4)	($13,657)	($3,046,040)
VOLUSIA	20,716	20,716	$36,375,595	$8,018,306,130	(97)	(97)	($327,251)	($29,841,582)
WAKULLA	513	513	$702,671	$96,073,745	(66)	(66)	($150,336)	($25,127,570)
WALTON	963	963	$1,654,297	$233,509,151	(54)	(54)	($190,932)	($25,256,052)
WASHINGTON	439	439	$812,484	$117,880,900	8	8	$22,367	$3,271,970
Total	**1,018,750**	**1,018,750**	**$2,623,248,680**	**$371,975,487,028**	**(58,248)**	**(58,248)**	**($209,571,106)**	**($20,895,039,663)**

COASTAL PR-W	Policies In-Force	Building Count	Total Premium	Total Exposure	Policies In-Force	Building Count	Total Premium	Total Exposure
BAY	1,357	1,357	$3,319,468	$437,333,251	25	25	$46,567	$5,768,060
BREVARD	499	499	$1,213,845	$200,861,623	(6)	(6)	($26,393)	($3,648,730)
BROWARD	16,110	16,110	$51,664,025	$6,984,349,987	66	66	$40,309	$22,503,024
CHARLOTTE	402	402	$1,194,983	$188,623,605	0	0	$10,002	$766,570
COLLIER	1,385	1,385	$4,093,046	$655,420,566	2	2	$21,434	($359,280)
DUVAL	356	356	$590,122	$210,864,688	(3)	(3)	($2,694)	($1,000,760)
ESCAMBIA	2,571	2,571	$7,250,371	$1,318,806,770	5	5	$3,148	$526,360
FLAGLER	474	474	$779,374	$237,798,160	(2)	(2)	($6,665)	($1,759,570)
FRANKLIN	462	462	$2,008,778	$247,298,475	(10)	(10)	($63,967)	($5,251,980)
GULF	223	223	$807,300	$111,017,885	0	0	$13,696	$484,360
HERNANDO	70	70	$140,170	$35,529,795	0	0	($3,559)	($258,400)
INDIAN RIVER	325	325	$1,287,757	$176,692,519	4	4	$9,270	$1,259,800
LEE	3,403	3,403	$10,116,907	$1,487,134,621	(20)	(20)	($41,094)	($4,476,510)
LEVY	125	125	$242,524	$51,753,410	(6)	(6)	($14,500)	($2,822,800)
MANATEE	551	551	$1,925,370	$240,479,905	(22)	(22)	($62,943)	($8,505,480)
MIAMI-DADE	21,596	21,596	$78,147,256	$11,911,697,090	7	7	($207,584)	($21,742,518)
MONROE	14,997	14,997	$73,105,758	$7,904,463,619	(9)	(9)	($245,290)	($4,739,620)
NASSAU	205	205	$352,173	$121,203,515	0	0	$3,790	$1,259,950
OKALOOSA	457	457	$1,251,839	$130,914,885	2	2	($17,193)	($421,000)
PALM BEACH	9,625	9,625	$31,955,721	$4,200,853,673	48	48	$98,607	$14,439,848
PASCO	333	333	$487,640	$106,488,195	(25)	(25)	($44,664)	($8,876,280)
PINELLAS	1,946	1,946	$5,580,679	$888,136,574	(118)	(118)	($271,332)	($32,140,795)
SANTA ROSA	460	460	$1,642,925	$253,438,670	0	0	($1,812)	$391,390
SARASOTA	7,501	7,501	$13,384,547	$3,634,264,960	35	35	$47,298	$35,865,889
ST JOHNS	292	292	$515,837	$151,016,664	(13)	(13)	($23,512)	($4,744,770)
ST LUCIE	250	250	$459,805	$57,149,513	1	1	$8,906	$2,051,870
VOLUSIA	2,828	2,828	$4,621,948	$1,278,240,585	(55)	(55)	($52,478)	($5,289,835)
WAKULLA	64	64	$145,117	$29,945,310	(7)	(7)	($15,806)	($3,014,210)
WALTON	1,855	1,855	$6,047,839	$961,950,265	14	14	$82,981	$8,997,720
Total	**90,722**	**90,722**	**$304,333,124**	**$44,213,728,778**	**(87)**	**(87)**	**($715,478)**	**($14,737,697)**
COASTAL PR-M	Policies In-Force	Building Count	Total Premium	Total Exposure	Policies In-Force	Building Count	Total Premium	Total Exposure
BAY	1,137	1,137	$3,957,581	$354,242,309	(49)	(49)	($184,347)	($15,581,290)
BREVARD	1,311	1,311	$3,606,783	$359,478,260	(422)	(422)	($1,654,826)	($160,649,760)
BROWARD	28,300	28,300	$108,263,722	$6,890,977,461	(3,638)	(3,638)	($16,376,006)	($902,988,231)
CHARLOTTE	208	208	$912,535	$81,891,790	(32)	(32)	($156,852)	($11,163,700)
COLLIER	1,175	1,175	$4,657,818	$420,891,022	(265)	(265)	($1,200,105)	($97,052,730)

DUVAL	345	345	$938,703	$154,140,290	(10)	(10)	($38,910)	($5,056,175)
ESCAMBIA	3,030	3,030	$10,374,412	$1,317,507,870	(196)	(196)	($1,001,484)	($101,327,420)
FLAGLER	681	681	$1,867,034	$300,904,426	1	1	($3,052)	($480,880)
FRANKLIN	183	183	$1,016,782	$80,102,145	(5)	(5)	($37,653)	($2,208,320)
GULF	91	91	$361,653	$26,750,220	0	0	$5,148	($1,295)
HERNANDO	600	600	$1,969,241	$304,259,928	(52)	(52)	($169,355)	($24,160,935)
INDIAN RIVER	406	406	$2,452,393	$207,211,170	(117)	(117)	($537,087)	($41,061,520)
LEE	2,100	2,100	$7,612,722	$732,762,605	(136)	(136)	($468,630)	($45,731,548)
LEVY	64	64	$215,272	$24,634,220	2	2	$165	$507,290
MANATEE	203	203	$720,442	$59,208,015	(97)	(97)	($426,266)	($28,249,700)
MIAMI-DADE	42,076	42,076	$153,683,593	$10,576,446,189	(4,271)	(4,271)	($23,663,179)	($1,341,499,263)
MONROE	2,616	2,616	$13,932,412	$1,129,542,853	(26)	(26)	($266,643)	($18,862,750)
NASSAU	84	84	$237,803	$37,603,195	0	0	($757)	($615,760)
OKALOOSA	181	181	$751,362	$55,389,129	(25)	(25)	($123,187)	($10,559,738)
PALM BEACH	26,427	26,427	$103,482,871	$7,573,201,640	(3,457)	(3,457)	($15,897,651)	($969,143,662)
PASCO	4,484	4,484	$10,755,927	$1,532,529,406	(803)	(803)	($2,182,428)	($273,795,650)
PINELLAS	2,904	2,904	$10,831,155	$1,087,035,507	(820)	(820)	($3,442,509)	($288,668,988)
SANTA ROSA	423	423	$1,980,908	$222,714,341	(67)	(67)	($384,877)	($35,148,430)
SARASOTA	9,984	9,984	$26,787,993	$3,999,119,072	(917)	(917)	($2,912,743)	($324,108,265)
ST JOHNS	268	268	$812,734	$124,273,901	(2)	(2)	($6,688)	($1,016,000)
ST LUCIE	639	639	$1,638,877	$95,373,080	(130)	(130)	($382,781)	($23,547,251)
VOLUSIA	6,800	6,800	$15,847,252	$2,475,825,496	(574)	(574)	($1,999,992)	($227,265,684)
WAKULLA	38	38	$136,873	$14,515,270	(3)	(3)	($8,420)	($1,281,290)
WALTON	1,071	1,071	$4,259,777	$448,136,811	(218)	(218)	($1,372,918)	($125,892,430)
Total	**137,829**	**137,829**	**$494,066,630**	**$40,686,667,621**	**(16,329)**	**(16,329)**	**($74,894,033)**	**($5,076,611,375)**
COASTAL CR-W	Policies In-Force	Building Count	Total Premium	Total Exposure	Policies In-Force	Building Count	Total Premium	Total Exposure
BAY	12	24	$803,390	$51,997,000	0	3	$81,314	$2,513,000
BREVARD	76	240	$5,690,519	$791,370,300	1	1	$150,795	$4,291,000
BROWARD	919	2,224	$89,603,292	$8,681,954,463	24	33	$696,429	$48,485,600
CHARLOTTE	7	124	$812,745	$51,260,000	1	3	$34,614	$2,201,000
COLLIER	190	606	$30,213,648	$4,129,874,049	8	46	$830,123	$87,102,000
DUVAL	9	29	$630,693	$71,278,000	1	1	$18,873	$5,691,000
ESCAMBIA	36	126	$5,670,342	$740,903,684	2	7	$256,290	$34,861,800
FLAGLER	5	23	$886,192	$112,855,000	0	0	$0	$0
GULF	4	7	$38,835	$3,817,000	0	0	$0	$0
INDIAN RIVER	65	377	$6,638,261	$659,218,200	0	0	($135)	($23,000)
LEE	89	218	$5,284,918	$1,236,388,566	0	0	($309,513)	($3,005,000)
LEVY	1	1	$19,695	$918,000	0	0	$0	$0

MANATEE	43	338	$6,449,856	$433,882,900	0	(1)	$28,754	$564,000
MIAMI-DADE	1,300	2,614	$185,939,411	$19,039,829,508	28	70	$4,559,785	$404,201,400
MONROE	195	729	$19,330,335	$1,437,128,785	1	1	$9,132	($867,000)
NASSAU	12	89	$2,784,861	$298,420,000	0	0	$0	$0
OKALOOSA	21	78	$3,023,197	$381,657,258	2	3	$414,573	$52,181,000
PALM BEACH	745	3,596	$91,183,802	$9,473,131,667	8	20	$271,705	$31,961,600
PASCO	15	223	$2,850,473	$252,482,100	0	0	($56,282)	$0
PINELLAS	256	524	$21,294,378	$2,874,900,301	11	38	$692,710	$72,096,000
SANTA ROSA	8	33	$856,198	$90,957,000	0	0	$0	$0
SARASOTA	183	1,102	$26,971,650	$3,651,029,506	2	(36)	($73,300)	$24,272,615
ST JOHNS	15	62	$1,883,884	$122,988,900	(1)	(1)	($18,670)	($8,432,900)
ST LUCIE	46	243	$7,861,048	$785,739,050	1	5	$189,616	$7,464,000
VOLUSIA	119	378	$13,256,849	$1,920,157,993	8	61	$801,456	$103,168,200
WALTON	45	264	$4,079,986	$391,783,000	0	0	$0	$0
Total	**4,416**	**14,272**	**$534,058,458**	**$57,685,922,230**	**97**	**254**	**$8,578,269**	**$868,726,315**
COASTAL CR-M	Policies In-Force	Building Count	Total Premium	Total Exposure	Policies In-Force	Building Count	Total Premium	Total Exposure
BROWARD	20	25	$769,137	$124,479,900	0	0	($296)	($40,700)
COLLIER	1	1	$8,390	$1,311,600	0	0	$0	$0
INDIAN RIVER	1	1	$26,196	$9,608,300	0	0	$0	$0
LEE	1	2	$13,105	$4,628,100	0	0	$0	$0
MIAMI-DADE	40	56	$1,561,669	$246,351,983	0	0	($351)	($927,000)
MONROE	4	11	$388,995	$29,288,000	0	0	$0	$0
PALM BEACH	15	116	$573,375	$136,963,600	0	0	$0	$0
PINELLAS	5	5	$41,048	$9,774,400	0	0	$0	$0
SARASOTA	1	14	$176,293	$13,333,700	0	0	$10,447	($326,100)
VOLUSIA	1	1	$4,583	$1,644,300	0	0	$0	$0
Total	**89**	**232**	**$3,562,791**	**$577,383,883**	**0**	**0**	**$9,800**	**($1,293,800)**
COASTAL CNR-W	Policies In-Force	Building Count	Total Premium	Total Exposure	Policies In-Force	Building Count	Total Premium	Total Exposure
BAY	68	182	$1,339,491	$118,633,163	0	0	$6,500	$265,000
BREVARD	58	90	$470,476	$39,972,988	0	0	$2,021	$134,000
BROWARD	668	879	$7,303,312	$490,527,336	21	21	$226,113	$14,102,600
CHARLOTTE	8	19	$134,241	$10,424,500	0	0	$0	$0
COLLIER	71	103	$1,020,591	$68,641,961	2	4	$27,884	$2,120,000
DUVAL	15	15	$49,254	$6,671,900	1	1	$5,319	$780,000
ESCAMBIA	202	311	$2,063,096	$192,051,103	6	0	$59,863	$3,469,500
FLAGLER	15	22	$110,960	$9,002,000	1	1	$13,994	$1,000,000
FRANKLIN	6	7	$34,726	$3,324,000	1	1	$11,678	$906,000

GULF	1	1	$6,536	$1,000,000	0	0	$0	$0
HERNANDO	5	8	$45,921	$3,868,250	0	0	$0	$0
INDIAN RIVER	29	66	$780,898	$39,519,009	(1)	(1)	($6,344)	($390,000)
LEE	71	175	$1,408,486	$109,871,945	1	2	$1,137	$6,000
LEVY	6	11	$56,813	$4,603,000	(3)	(3)	($16,031)	($1,048,000)
MANATEE	46	139	$830,031	$71,390,200	5	11	$48,606	$4,453,000
MIAMI-DADE	813	1,052	$10,951,119	$571,865,358	10	17	$171,163	$9,135,700
MONROE	594	1,167	$16,976,387	$699,859,056	0	0	($34,199)	$210,000
NASSAU	2	4	$38,393	$3,321,000	0	0	$0	$0
OKALOOSA	15	191	$1,616,496	$107,054,800	0	0	$0	$0
PALM BEACH	743	958	$7,712,563	$500,674,158	4	(9)	$154,545	$652,010
PASCO	5	5	$20,605	$1,790,000	(1)	(1)	($1,509)	($172,000)
PINELLAS	129	205	$1,308,951	$106,951,148	0	0	$16,795	$1,448,000
SANTA ROSA	23	28	$343,566	$17,575,300	1	1	$14,858	$994,000
SARASOTA	223	414	$2,048,152	$181,558,711	2	24	$94,802	$8,361,000
ST JOHNS	6	12	$84,190	$7,983,000	0	0	$0	$0
ST LUCIE	7	13	$150,264	$7,900,000	0	0	$0	$0
VOLUSIA	138	201	$934,412	$102,961,143	7	10	$20,769	$2,920,800
WAKULLA	2	8	$29,983	$3,121,000	0	0	$0	$0
WALTON	56	127	$872,396	$76,600,922	3	4	($11,316)	$857,000
Total	**4,025**	**6,413**	**$58,742,309**	**$3,558,716,951**	**60**	**83**	**$806,648**	**$50,204,610**
COASTAL CNR-M	Policies In-Force	Building Count	Total Premium	Total Exposure	Policies In-Force	Building Count	Total Premium	Total Exposure
BAY	14	14	$108,998	$9,306,700	0	0	($102)	($6,000)
BREVARD	7	11	$75,680	$9,894,900	0	0	($7)	$0
BROWARD	42	55	$731,058	$65,003,596	3	3	$66,409	$4,050,000
COLLIER	2	2	$522	$20,000	0	0	$0	$0
ESCAMBIA	25	29	$260,049	$25,942,700	2	2	$7,377	$992,000
FRANKLIN	2	2	$18,226	$1,800,000	0	0	$0	$0
GULF	1	1	$12,221	$928,300	0	0	$0	$0
INDIAN RIVER	3	3	$6,136	$600,000	0	0	$0	$0
LEE	8	11	$91,039	$10,634,200	0	0	($3,688)	($738,500)
LEVY	1	10	$95,360	$8,075,000	0	0	$0	$0
MANATEE	12	43	$410,671	$45,980,370	2	3	$40,012	$3,542,200
MIAMI-DADE	67	81	$1,231,018	$100,881,800	8	8	$150,748	$11,321,500
MONROE	13	30	$1,020,182	$35,104,400	0	0	($310)	($150,200)
NASSAU	1	1	$5,771	$580,400	0	0	$0	$0
OKALOOSA	7	18	$306,628	$28,201,100	0	0	$0	$0
PALM BEACH	55	69	$627,381	$52,406,800	4	4	$55,853	$3,811,900

PASCO	2	5	$53,748	$5,857,400	0	0	$0	$0
PINELLAS	10	23	$274,409	$30,592,500	0	0	$767	($32,000)
SANTA ROSA	9	21	$224,841	$23,441,800	0	0	$4,320	$395,300
SARASOTA	10	16	$102,106	$13,892,300	0	0	$0	$0
ST JOHNS	1	1	$10,225	$650,000	1	1	$10,225	$650,000
ST LUCIE	3	3	$30,399	$1,700,000	0	0	$0	$0
VOLUSIA	19	43	$208,849	$37,741,664	2	5	$20,070	$3,552,000
WALTON	20	81	$1,023,226	$91,289,400	0	0	$0	$0
Total	**334**	**573**	**$6,928,743**	**$600,525,330**	**22**	**26**	**$351,674**	**$27,388,200**
CLA CR-M	Policies In-Force	Building Count	Total Premium	Total Exposure	Policies In-Force	Building Count	Total Premium	Total Exposure
ALACHUA	2	36	$127,367	$25,242,000	1	25	$96,734	$14,537,600
BAY	21	187	$1,872,167	$299,390,400	1	1	$21,609	($335,700)
BREVARD	74	624	$6,628,011	$976,894,600	2	29	$190,318	$12,272,800
BROWARD	415	2,899	$47,190,771	$6,045,844,435	23	51	$813,115	$179,365,900
CHARLOTTE	18	105	$1,120,470	$188,268,300	2	0	($104,991)	($75,256,900)
CITRUS	7	87	$456,868	$62,973,500	0	(1)	$8,918	($284,900)
CLAY	2	25	$132,788	$18,121,700	0	0	$12,862	$1,548,800
COLLIER	137	1,066	$12,667,351	$1,815,275,600	13	99	$1,008,810	$153,079,800
DIXIE	3	19	$93,030	$16,880,000	0	0	$0	$0
DUVAL	33	371	$5,543,462	$556,674,200	2	20	$242,668	$31,556,100
ESCAMBIA	8	68	$277,736	$35,904,400	0	0	$1,032	($28,000)
FLAGLER	8	183	$1,119,983	$154,494,100	0	0	$0	$0
FRANKLIN	1	24	$39,266	$7,664,200	0	0	$0	$0
GULF	1	5	$49,223	$6,958,000	0	0	$0	$0
HERNANDO	4	33	$386,894	$49,738,000	0	0	$0	$0
HIGHLANDS	5	70	$430,457	$54,417,000	2	20	$104,558	$13,127,600
HILLSBOROUGH	94	1,308	$13,953,813	$2,421,820,400	3	14	$127,000	($7,506,400)
INDIAN RIVER	17	261	$3,189,615	$453,145,597	1	5	$103,102	$19,778,000
LAKE	2	48	$157,970	$26,005,200	0	0	$0	$0
LEE	94	893	$9,358,867	$1,342,509,900	19	133	$1,208,767	$112,482,500
LEON	18	117	$744,510	$132,980,100	0	0	$0	$0
MANATEE	40	678	$6,014,000	$789,251,800	4	47	$591,633	$45,417,600
MARION	10	111	$467,920	$106,632,200	1	3	$11,298	$1,113,500
MARTIN	73	852	$9,332,226	$1,065,705,718	3	19	$107,875	$37,967,300
MIAMI-DADE	827	3,056	$54,130,340	$7,849,843,764	40	143	$2,081,434	$208,332,700
MONROE	2	11	$44,128	$12,550,200	0	0	$0	$0
NASSAU	8	101	$706,217	$104,257,100	0	0	$0	$0
OKALOOSA	24	93	$913,796	$148,777,600	3	28	$235,898	$29,964,800

OKEECHOBEE	2	32	$168,931	$24,285,700	0	0	$0	$0
ORANGE	32	516	$3,605,125	$622,850,935	3	69	$242,621	$41,724,200
OSCEOLA	8	85	$472,230	$85,692,400	2	18	$202,099	$29,875,600
PALM BEACH	387	6,609	$52,829,511	$7,351,009,500	13	248	$2,942,742	$316,723,900
PASCO	36	960	$3,835,378	$637,322,200	3	51	$148,016	$23,017,800
PINELLAS	357	2,152	$31,659,032	$5,434,085,500	26	135	$2,266,712	$317,709,400
POLK	14	192	$817,572	$211,364,164	0	0	($266)	$0
PUTNAM	1	3	$38,641	$9,837,900	0	0	$0	$0
SANTA ROSA	13	152	$1,165,664	$232,271,300	0	0	$0	$0
SARASOTA	32	438	$4,445,140	$619,402,420	0	0	$0	$0
SEMINOLE	13	430	$2,374,270	$607,912,150	0	0	$77	($4,550)
ST JOHNS	12	205	$1,513,346	$167,358,800	0	0	$0	$0
ST LUCIE	42	394	$4,037,762	$556,365,200	3	18	$258,734	$25,626,200
SUMTER	2	2	$7,391	$1,275,500	0	0	$0	$0
VOLUSIA	25	135	$982,403	$214,084,100	3	35	$133,400	$16,250,200
WAKULLA	1	13	$41,864	$8,300,000	0	0	$0	$0
WALTON	2	6	$33,242	$6,718,700	0	0	$0	$0
Total	**2,927**	**25,655**	**$285,176,748**	**$41,558,356,483**	**173**	**1,210**	**$13,056,775**	**$1,548,055,850**
CLA CNR-M	Policies In-Force	Building Count	Total Premium	Total Exposure	Policies In-Force	Building Count	Total Premium	Total Exposure
ALACHUA	1	1	$1,268	$300,000	0	0	$0	$0
BAY	85	135	$798,037	$106,531,120	9	16	$74,989	$9,579,600
BREVARD	60	95	$555,305	$72,722,853	4	9	$30,630	$4,525,100
BROWARD	121	154	$1,795,898	$163,043,100	10	11	$132,296	$16,420,200
CALHOUN	0	1	$0	$7,000	0	0	$0	$0
CHARLOTTE	11	13	$105,449	$13,887,400	1	1	$14,379	$2,834,000
CITRUS	5	11	$53,672	$6,071,600	0	0	$0	$0
CLAY	1	1	$4,022	$600,000	0	0	$0	$0
COLLIER	21	28	$328,026	$36,272,400	3	3	$27,751	$3,092,000
DUVAL	15	30	$672,809	$43,860,560	2	4	$24,667	$2,986,000
ESCAMBIA	51	115	$691,823	$95,959,260	6	10	$125,259	$10,068,700
FLAGLER	1	9	$4,159	$8,717,200	1	1	$4,159	$450,000
GULF	7	7	$39,390	$3,448,038	0	0	$0	$0
HARDEE	1	1	$19,667	$2,303,200	1	1	$19,667	$2,303,200
HERNANDO	1	1	$3,128	$306,000	0	0	$0	$0
HILLSBOROUGH	50	65	$362,663	$60,137,100	6	6	$51,360	$7,082,700
HOLMES	0	1	$0	$5,000	0	0	$0	$0
INDIAN RIVER	20	30	$263,444	$23,599,800	2	2	$11,965	$1,000,000
JACKSON	1	5	$5,132	$1,070,700	0	0	$0	$0

LAKE	3	7	$75,270	$11,181,200	0	0	$791	($84,900)
LEE	33	62	$358,717	$58,800,500	2	3	$18,310	$2,089,500
LEON	3	5	$30,819	$7,098,000	0	0	$0	$0
MANATEE	31	38	$144,078	$18,877,330	2	3	$8,932	$1,149,000
MARION	5	17	$12,247	$13,492,620	1	2	$2,471	$520,000
MARTIN	18	34	$323,173	$24,429,300	1	3	$7,078	$308,800
MIAMI-DADE	347	414	$3,991,596	$344,156,074	41	46	$422,858	$29,854,294
NASSAU	3	22	$152,806	$16,990,700	0	0	$0	$0
OKALOOSA	80	138	$943,625	$112,241,653	2	2	$7,097	$843,078
ORANGE	18	23	$124,167	$19,754,200	2	3	$15,782	$2,626,900
OSCEOLA	4	53	$690,558	$109,697,989	1	1	$10,108	$2,058,600
PALM BEACH	75	113	$1,350,608	$110,128,212	3	4	$65,961	$4,157,400
PASCO	18	27	$125,738	$21,728,500	1	3	$9,411	$1,393,800
PINELLAS	122	161	$649,984	$116,983,982	13	17	$50,557	$7,409,000
POLK	7	10	$57,416	$11,242,100	0	0	$0	$0
PUTNAM	1	4	$4,972	$3,462,800	0	0	$0	$0
SANTA ROSA	41	53	$344,027	$52,460,458	2	2	$9,743	$1,500,000
SARASOTA	13	19	$81,723	$17,499,100	1	2	$3,065	$1,052,800
SEMINOLE	6	14	$30,005	$5,540,300	0	0	$0	$0
ST JOHNS	14	27	$160,121	$19,044,800	4	10	$41,097	$5,330,200
ST LUCIE	20	32	$272,209	$24,259,700	1	1	$2,751	$286,000
VOLUSIA	20	50	$257,981	$31,410,350	1	1	$4,776	$925,800
WALTON	2	5	$15,812	$2,318,200	0	0	$0	$0
WASHINGTON	2	2	$12,574	$1,484,500	1	1	$5,548	$670,000
Total	**1,338**	**2,033**	**$15,914,118**	**$1,793,124,899**	**124**	**168**	**$1,203,458**	**$122,431,772**

Unknown - Captures Policies in ePAS, CSC/Point With Unassigned Counties.

Unknown - Captures COASTAL With Counties Outside the Wind Area.

Personal Residential Exposure Includes Coverages A-D, except DP1/MDP1/MD1, Which Excludes Coverages B and D.

Commercial Exposure Includes Building, Other Structures and Business Personal Property. Commercial Non-Residential Multi-Peril Policy Exposure also Includes Business Income. For commercial policies with buildings in multiple counties, policy count and premium are assigned based on the location of the first risk listed on the policy. Total exposure is reported at the risk level.

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

1-16-24
Meeting Date

B+I
Committee

1106
Bill Number or Topic

Amendment Barcode (if applicable)

Name GARY ROSEN

Phone 954 614-7100

Address 2881 W Lake Vista Cir
Street

Email gary@mold-free.org

Davie FL 33328
City State Zip

Speaking: ☐ For ☒ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

1-16-2024
Meeting Date

Banking & Insurance
Committee

1106
Bill Number or Topic

Amendment Barcode (if applicable)

Name BG Murphy

Phone 863-698-8820

Address 3159 Shamrock S.
Street

Email bmurphy@faia.com

Tallahassee 32309
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:
FL Association of Insurance Agents

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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Senate professional staff conducting the meeting

1/16/24
Meeting Date

B & I
Committee

1106
Bill Number or Topic

Amendment Barcode (if applicable)

Name Robert Reyes

Phone 850 509 1802

Address 810 Inglesida Ave
Street

Email rreyes@capitolgroup

Tall
City

FL
State

32303
Zip

Speaking: ☐ For ☐ Against ☒ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:
Monroe County

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

COMMITTEE VOTE RECORD

COMMITTEE: Banking and Insurance
ITEM: SB 1106
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Tuesday, January 16, 2024
TIME: 11:00 a.m.—1:00 p.m.
PLACE: 412 Knott Building

FINAL VOTE			1/16/2024 1 Amendment adopted w/o objection Hooper					
Yea	**Nay**	**SENATORS**	**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**
X		Broxson						
X		Burton						
X		Hutson						
X		Ingoglia						
X		Mayfield						
X		Powell						
X		Thompson						
		Torres						
X		Trumbull						
X		DiCeglie, VICE CHAIR						
X		Boyd, CHAIR						
10	0	**TOTALS**	RCS	-				
Yea	**Nay**		**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered
RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment
TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call
WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

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:	SPB 7028
INTRODUCER:	Banking and Insurance Committee
SUBJECT:	My Safe Florida Home Program
DATE:	January 18, 2024
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Thomas	Knudson		**BI Submitted as Comm. Bill/Fav.**

I. Summary:

SPB 7028 amends s. 215.5586. F.S., relating to the My Safe Florida Home (MSFH) Program to:

- Allow a subsequent application for a mitigation inspection or mitigation grant only under certain circumstances;
- Authorize the Department of Financial Services (DFS) to request additional information from the applicant if the application contains apparent errors or omissions;
- Provide that an applicant meeting the requirements for a mitigation inspection may receive an inspection even if the applicant is not eligible for a mitigation grant or the applicant does not apply for such grant;
- Require the homeowner to agree to provide information received from the homeowner's insurer identifying the premium discounts realized by the homeowner due to the mitigation improvements funded through the program;
- Provide that the DFS will not maintain a list of participating contractors, but rather, the homeowner must use a properly licensed contractor for the project;
- Revise the list grant eligible improvements to specify the inclusion of windows and skylights;
- Require the DFS to prioritize applications for the first 60 days it accepts inspection applications and grant applications following an appropriation based on the following:
- First, applications from low-income homeowners who are at least 60 years old;
- Second, applications from all other low-income homeowners;
- Third, applications from moderate-income homeowners who are at least 60 years old;
- Fourth, applications from all other moderate-income homeowners; and
- Lastly, all other applications;
- Revise provisions regarding the distribution of the MSFH Program brochure which provides information on the benefits to homeowners of residential hurricane damage mitigation; and
- Reorganize and rephrase certain provisions within the statute to provide better clarity.

The bill appropriates, for the 2024-2025 fiscal year, $100 million in nonrecurring funds from the General Revenue Fund to the Department of Financial Services to provide mitigation grants under the MSFH Program and $7 million for administrative costs related to implementation.

The bill provides an effective date of July 1, 2024.

II. Present Situation:

My Safe Florida Home Program

Background

Following the 2004 and 2005 hurricane seasons, where 2.8 million Florida homeowners suffered more than $33 billion in insured property damage,[1] 86 percent of the 4.4 million homes in Florida were built prior to the adoption of stronger building codes in 2002, and the average age of a home was 26 years, Florida began to experience a decline in the availability of property insurance and an increase in its cost.[2] In 2006, the Legislature created the My Safe Florida Home (MSFH) Program [3] within the Department of Financial Services (DFS).[4] The original appropriation for the program was $250 million for a period not to exceed three years with any unused appropriated funds reverting to the General Revenue Fund on June 30, 2009.[5]

The MSFH Program was created with the intent to provide trained and certified inspectors to perform mitigation inspections for owners of site-built, single-family, residential properties (mitigation inspections), and mitigation grants to eligible applicants, subject to the availability of funds.[6] The Program was to "develop and implement a comprehensive and coordinated approach for hurricane damage mitigation…"[7] The Program allowed the DFS to undertake a public outreach and advertising campaign to inform consumers of the availability and benefits of the mitigation inspections and grants.[8] From its inception to January 30, 2009, the MSFH Program received approximately 425,193 applications, performed more than 391,000 inspections and awarded 39,000 grants. From July 2007 through January 2009, MSFH Program expenditures totaled approximately $151.9 million.[9] Funding for the program ceased on June 30, 2009.[10]

The DFS requested Risk Management Solutions (RMS) to conduct an impact analysis of the MSFH Program. RMS released a report of the impact analysis of the Program on May 14, 2009

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[1] Department of Financial Services, *My Safe Florida Home, 2008 Annual Report* (Feb. 2009) (on file with Senate Committee on Banking and Insurance).
[2] *Id*.
[3] *Id.*
[4] The Legislature initially established the program as the Florida Comprehensive Hurricane Damage Mitigation Program (ch. 2006-12, L.O.F.) however, the name was subsequently changed in 2007 (ch. 2007-126, L.O.F.).
[5] Chapter 2006-12 L.O.F.
[6] Section 215.5586, F.S.
[7] *Id*.
[8] Section 215.5586(3), F.S.
[9] Florida Auditor General, *Department of Financial Services, My Safe Florida Home Program, Operational Audit Report No. 2010-074* (Jan. 1010), *available at* https://flauditor.gov (last visited January 8, 2024).
[10] Department of Financial Services, *My Safe Florida Home, 2008 Annual Report* (Feb. 2009) (on file with Senate Committee on Banking and Insurance).

(report).[11] In the report, RMS concluded program grants were beneficial to the State of Florida, individual homeowners, and the insurance industry.[12] RMS indicated the predicted reduction in loss as a result of the grant projects completed far exceeded the grant money spent.[13] The MSFH Program was never repealed from law and additional funding was not provided until May 2022.

2022 Renewal and Funding of the MSFH Program

In May 2022, during Special Session 2022-D, and under a property insurance bill (SB 2-D), the Legislature reestablished the MSFH Program within the DFS to provide financial incentives for Florida residential property owners to obtain free home inspections which identify mitigation measures and provide mitigation grants to retrofit such properties, thereby reducing their vulnerability to hurricane damage and helping decrease the cost of residential property insurance.[14]

To implement the renewed MSFH Program, $150 million in nonrecurring funds from the General Revenue Fund was appropriated to the DFS. The funds were designated for the following purposes:

- $25 million for hurricane mitigation inspections;
- $115 million for hurricane mitigation grants;
- Four million dollars for education and consumer awareness;
- One million dollars for public outreach to contractors, real estate brokers, and sales associates; and
- Five million dollars for administrative costs.[15]

2023 Legislation and Funding of the MSFH Program

During the 2023 Regular Legislative Session, HB 881 was passed making additional changes to the MSFH program. The bill:

- Provided the MSFH Program may select as a mitigation inspector a licensed home inspector who has completed certain training;
- Provided an inspection under the MSFH Program may only be done on a property for which a homestead exemption has been granted;
- Revised eligibility requirements for mitigation inspections to include townhouses to determine if opening protection mitigation would provide improvements to mitigate hurricane damage;
- Revised eligibility requirements for mitigation grants to include dwellings with an insured value of $700,000 or less (up from $500,000 or less) and for opening protection for townhouses when recommended by a hurricane mitigation inspection;
- Deleted the requirement a property eligible for a mitigation grant must be located in the "wind-borne debris region;"

[11] Risk Management Solutions, *Analyzing the Effects of the My Safe Florida Home Program on Florida Insurance Risk*, (May 14, 2009), available at https://www.ipcc (last visited January 8, 2024).
[12] *Id*.
[13] *Id*.
[14] Section 3, ch. 2022-268, L.O.F.
[15] Section 4, ch. 2022-268, L.O.F.

- Increased the amount, from $5,000 to $10,000, low-income homeowners may receive from a grant and not have to provide a matching amount;
- Added the Citizens Property Insurance Corporation to the list of entities that may receive Program brochures for redistribution;
- Deleted the requirement contracts valued at one million dollars or more entered into by the Program be reviewed and approved by the Legislative Budget Commission; and
- Required the DFS to develop a quality assurance and reinspection program.

Also, during the 2023 Regular Legislative Session, the Legislature appropriated an additional $100 million for mitigation grants and $2,065,000 for operations and administration costs.[16]

During Special Session 2023-C, HB 1-C[17] was passed, which included provisions relating to the MSFH Program. The bill:

- Appropriated $176,170,000 in nonrecurring general revenue for the backlog of 17,617 mitigation grant applications that had been submitted and awaiting funding;
- Appropriated $5,285,100 in nonrecurring general revenue for administrative costs related to the processing of mitigation grants; and
- Prohibited the DFS from continuing to accept applications or to create a waiting list in anticipation of additional funding absent express authority from the Legislature.

Hurricane Mitigation Inspections

The MSFH Program provides licensed inspectors to perform inspections for owners of site-built, single-family, residential properties, for which a homestead exemption has been granted, to determine what mitigation measures are needed, what insurance premium discounts may be available, and what improvements to existing residential properties are needed to reduce the property's vulnerability to hurricane damage. A townhouse as defined in s. 481.203, F.S.,[18] for which a homestead exemption has been granted, may qualify to receive a mitigation inspection to determine if opening protection[19] mitigation would provide improvements to mitigate hurricane damage. The mitigation inspections must include, at a minimum:

- A home inspection and report that summarizes the results and identifies recommended improvements a homeowner may take to mitigate hurricane damage;
- A range of cost estimates regarding the recommended mitigation improvements; and
- Information regarding estimated premium discounts, correlated to the current mitigation features and the recommended mitigation improvements identified by the inspection.[20]

The DFS is authorized to contract with "wind certification entities" as vendors to provide such inspections. Each wind certification entity must, at a minimum, meet the following requirements:

- Use hurricane mitigation inspectors who are licensed or certified as:
  - A building inspector under s. 468.607, F.S.;
  - A general, building, or residential contractor under s. 489.111, F.S.;

[16] SB 2500 (2023); Specific Appropriations 2368A & 2368B, ch. 2023-239, Laws of Fla.
[17] Chapter 2023-349, L.O.F.
[18] "Townhouse" generally means "a single-family dwelling unit not exceeding three stories in height which is constructed in a series or group of attached units with property lines separating such units." Section 481.203(16), F.S.
[19] Opening protection includes windows, exterior doors, and garage doors. See s. 215.5586(2)(e), F.S.
[20] Section 215.5586(1)(a), F.S.

  - A professional engineer under s. 471.015, F.S.;
  - A professional architect under s. 481.213, F.S.; or
  - A home inspector under s. 468.8314 and who have completed at least 3 hours of hurricane mitigation training approved by the Construction Industry Licensing Board, which training must include hurricane mitigation techniques, compliance with the uniform mitigation verification form, and completion of a proficiency exam.
- Use hurricane mitigation inspectors who have also undergone drug testing and a background screening.
- Provide a quality assurance program that includes a reinspection component.[21]

Hurricane Mitigation Grants

The homeowner eligibility requirements for the mitigation grants are:
- The homeowner must have been granted a homestead exemption on the home;
- The home must be a dwelling with an insured value of $700,000 or less. Low-income homeowners are exempt from this requirement;
- The home must have undergone an acceptable hurricane mitigation inspection;
- The building permit for the initial construction of the home must have been made before January 1, 2008; and
- The homeowner must agree to make the home available for inspection upon completion of the mitigation project.[22]

MSFH Program grants must be matched on the basis of one dollar provided by the applicant for two dollars provided by the state, up to a maximum state contribution of $10,000 toward the actual cost of the mitigation project.[23] Low-income homeowners may receive up to $10,000 in grant funds without providing matching dollars.[24]

Program Transparency Requirements

The DFS must submit an annual report of MSFH Program activities to the President of the Senate and the Speaker of the House of Representatives by February 1 of each year. The report must indicate the number of inspections requested, the number of inspections performed, the number of grant applications received, the number and value of grants approved, the estimated average annual amount of insurance premium discounts and the total estimated amount of such discounts homeowners received from insurers resulting from the mitigation funded through the Program.[25]

MSFH Program Implementation

Following the passage of SB 2-D in 2022, the DFS procured a vendor to administer the program. A second solicitation was issued for vendors who could conduct the required home inspections for the program. A third solicitation was issued to enlist contractors who would agree to participate in the program and be placed on a list for homeowners to choose from to complete

[21] Section 215.5586(1)(b), F.S.
[22] Section 215.5586(2)(a), F.S.
[23] Section 215.5586(2)(b), F.S.
[24] Section 215.5586(2)(g), F.S.
[25] Section 215.5586(9), F.S.

mitigation work on their home.[26] The DFS compiled a list of approved vendors homeowners participating in the MSFH Program could choose for mitigation inspections and mitigation work.[27] On November 18, 2022, a web-based application for homeowners to request mitigation inspections and mitigation grant funds went live.[28]

As of November 28, 2023, the MSFH Program has disbursed $35,784,376, $181,060,000 has been obligated but has not yet been disbursed, with $174,320,000 remaining unobligated. The remaining $174,320,000 is sufficient funding to eliminate the existing backlog of grant applications.[29]

MSFH Program Statistics[30]

Inspections:
- 91,627 home inspections have been completed.
- 9,268 home inspections are either scheduled or are in the process of being scheduled.

Grants:
- 21,540 grants have been approved.
- Over $216.8 million has been obligated to homeowners who are in various stages of completing work on their homes
- 17,617 grant applications have been submitted and await funding.

Reimbursements:
- 3,897 Homeowners have been sent a check for their grant reimbursements.
- Average disbursement is $9,183 per homeowner.
- Total disbursements: $35,784,376

Insurance Premium Discounts Tracked:
- Of the 3,897 homeowners who have completed the process, 1,928 have reported an insurance premium discount.
- Average discount of those reporting is $981.[31]

[26] Florida Department of Financial Services, *Senate Bill 748 Agency Analysis* (Mar. 3, 2023) (on file with Senate Banking and Insurance Committee.)
[27] *Id.*
[28] *Id.*
[29] Email from Parker Powell, Deputy Director of Legislative Affairs, Department of Financial Services, RE: MSFH Program (Nov. 29, 2023).
[30] *Id.*
[31] The discount information typically comes in one of two forms:
1. The homeowner provides a declarations page with the cost of their insurance pre-construction and then an updated declarations page post construction. In this case, the Program will net the two numbers against each other to determine a savings.
2. The homeowner provides an email or other communication from their insurance agent/company stating exactly what the discount will be to their premium based on the work done on the home.

III. Effect of Proposed Changes:

Section 1 amends s. 215.5586. F.S., relating to the My Safe Florida Home Program to generally reorganize and rephrase certain portions of s. 215.5586, F.S., to provide better clarity.

The bill revises the inspection and grant application process and the eligibility criteria for inspections, as it:

- Allows a subsequent application for a mitigation inspection or mitigation grant if:
  - The original application was denied or withdrawn because of errors or omissions;
  - The original application was denied or withdrawn because the home did not meet the eligibility criteria at the time of the prior application and the homeowner reasonably believes that home now is eligible for an inspection or grant; or
  - The program's eligibility requirements have changed since the original application date and the applicant reasonably believes that the home is eligible under the new eligibility requirements;
- Authorizes the DFS to request additional information if the application contains apparent errors or omissions; the application is to be considered withdrawn if the DFS does not receive a response to its request within 60 days;
- Provides that an applicant meeting the requirements for a mitigation inspection may receive an inspection of a home even if the applicant is not eligible for a hurricane mitigation grant or the applicant does not apply for such grant; and
- Requires the homeowner to agree to provide information received from the homeowner's insurer identifying the premium discounts realized by the homeowner due to the mitigation improvements funded through the program.

The bill provides that the DFS will not maintain a list of participating contractors, but rather, the homeowner must use a properly licensed contractor for the mitigation project.

The bill revises the criteria for eligible improvements to:

- Include within improvements to "opening protection," exterior doors, garage doors, windows, and skylights;
- Clarify language authorizing projects for a "secondary water barrier" for a roof to instead refer to a secondary water "resistance" barrier for a roof.

The bill requires the DFS to prioritize applications for the first 60 days it accepts inspection applications and grant applications after any legislative appropriation funding inspections and grants based on the following:

- First, applications from low-income homeowners, as defined in s. 420.0004(11), F.S.,[32] who are at least 60 years old;

[32] Section 420.0004(11), F.S., defines "Low-income persons" to mean "one or more natural persons or a family, the total annual adjusted gross household income of which does not exceed 80 percent of the median annual adjusted gross income for households within the state, or 80 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater." Section 420.0004(2), F.S., defines "Adjusted gross income" to mean "all wages, assets, regular cash or noncash contributions or gifts from persons outside the household, and such other resources and benefits as may be determined to be income by the United States Department of Housing and Urban Development, adjusted for family size, less deductions allowable under s. 62 of the Internal Revenue Code."

- Second, applications from all other low-income homeowners, as defined in s. 420.0004(11), F.S.;
- Third, applications from moderate-income homeowners, as defined in s. 420.0004(12), F.S.,[33] who are at least 60 years old and are not low-income homeowners;
- Fourth, applications from all other moderate-income homeowners, as defined in s. 420.0004(12), F.S., who are not low-income homeowners; and
- Lastly, all other applications.

The bill requires, rather than encourages, the Citizens Property Insurance Corporation to distribute to its policyholders the MSFH Program brochure which provides information on the benefits to homeowners of residential hurricane damage mitigation. The bill removes existing language that encourages contractors and real estate licensees to distribute the brochure.

Section 2 appropriates to the Department of Financial Services, for the 2024-2025 fiscal year, $100 million to provide mitigation grants under the MSFH Program and $7 million for administrative costs related to implementation. The appropriated funds are nonrecurring funds from the General Revenue Fund.

The effective date of the bill is July 1, 2024.

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:

None.

[33] Section 420.0004(12), F.S., defines "Moderate-income persons" to mean "one or more natural persons or a family, the total annual adjusted gross household income of which is less than 120 percent of the median annual adjusted gross income for households within the state, or 120 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater."

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill increases the funds available for the MSFH Program, making it possible for more homes to be granted mitigation grants. Homeowners that complete mitigation projects funded by the MSFH Program will receive mitigation credits that reduce the cost of their property insurance.

C. Government Sector Impact:

The bill appropriates to the Department of Financial Services, for the 2024-2025 fiscal year, $100 million to provide mitigation grants under the MSFH Program and $7 million for administrative costs related to implementation. The appropriated funds are nonrecurring funds from the General Revenue Fund.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following section of the Florida Statutes: 215.5586.

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.

FOR CONSIDERATION By the Committee on Banking and Insurance

597-00929B-24 20247028pb

A bill to be entitled

An act relating to the My Safe Florida Home Program; amending s. 215.5586, F.S.; revising legislative intent; specifying eligibility requirements for hurricane mitigation inspections under the program; specifying requirements for a hurricane mitigation inspection application; authorizing an applicant to submit a subsequent hurricane mitigation inspection application under certain conditions; authorizing the Department of Financial Services to request certain information; providing that an application is considered withdrawn under certain circumstances; authorizing an applicant to receive a home inspection under the program without being eligible for a grant or applying for a grant; specifying eligibility requirements for hurricane mitigation grants; revising application requirements for hurricane mitigation grants; authorizing an applicant to submit a subsequent hurricane mitigation grant application under certain conditions; authorizing the department to request certain information; providing that an application is considered withdrawn under certain circumstances; deleting and revising provisions relating to the selection of hurricane mitigation inspectors and contractors; authorizing, rather than requiring, matching fund grants to be made available to certain entities; revising the improvements for which grants may be used; requiring the department to develop a process that ensures the most efficient

597-00929B-24 20247028pb

means to collect and verify inspection applications; requiring the department, for a specified timeframe, to prioritize applications in a specified order; revising provisions regarding the development of brochures; requiring the Citizens Property Insurance Corporation to distribute such brochures to specified persons; providing appropriations; providing an effective date.

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

Section 1. Section 215.5586, Florida Statutes, as amended by section 5 of chapter 2023-349, Laws of Florida, is amended to read:

215.5586 My Safe Florida Home Program.—There is established within the Department of Financial Services the My Safe Florida Home Program. The department shall provide fiscal accountability, contract management, and strategic leadership for the program, consistent with this section. This section does not create an entitlement for property owners or obligate the state in any way to fund the inspection or retrofitting of residential property in this state. Implementation of this program is subject to annual legislative appropriations. It is the intent of the Legislature that, subject to the availability of funds, the My Safe Florida Home Program provide licensed inspectors to perform hurricane mitigation inspections of eligible homes ~~for owners of site-built, single-family, residential properties~~ and grants to ~~eligible~~ fund hurricane mitigation projects on those homes ~~applicants~~. The department

shall implement the program in such a manner that the total amount of funding requested by accepted applications, whether for inspections, grants, or other services or assistance, does not exceed the total amount of available funds. If, after applications are processed and approved, funds remain available, the department may accept applications up to the available amount. The program shall develop and implement a comprehensive and coordinated approach for hurricane damage mitigation pursuant to ~~that may include~~ the ~~following~~ requirements provided in this section.~~:~~

(1) HURRICANE MITIGATION INSPECTIONS.—

(a) To be eligible for an inspection under the program:

1. A home must be a single-family, site-built, detached residential property or a townhouse as defined in s. 481.203; and

2. The homeowner must have been granted a homestead exemption on the home under chapter 196.

(b)1. An application for an inspection must contain a signed or electronically verified statement made under penalty of perjury that the applicant has submitted only one inspection application on the home or that the application is allowed under subparagraph 2., and must have documents attached to the application which demonstrate that the applicant meets the requirements of paragraph (a).

2. An applicant may submit a subsequent hurricane mitigation inspection application for the same home only if:

a. The original hurricane mitigation inspection application has been denied or withdrawn because of errors or omissions in the application;

b. The original hurricane mitigation inspection application was denied or withdrawn because the home did not meet the eligibility criteria for an inspection at the time of the previous application, and the homeowner reasonably believes the home now is eligible for an inspection; or

c. The program's eligibility requirements for an inspection have changed since the original application date, and the applicant reasonably believes the home is eligible under the new requirements.

3. The department may request that the applicant provide additional information if the application contains apparent errors or omissions. An application is considered withdrawn by the applicant if the department does not receive a response to its request for additional information within 60 days after the department notifies the applicant of any apparent errors or omissions.

(c) An applicant meeting the requirements of this subsection may receive an inspection of a home under the program without being eligible for a grant under subsection (2) or applying for such grant.

(d) Licensed inspectors are to provide home inspections of homes meeting the requirements of this subsection ~~site-built, single-family, residential properties for which a homestead exemption has been granted,~~ to determine what mitigation measures are needed, what insurance premium discounts may be available, and what improvements to existing residential properties are needed to reduce the property's vulnerability to hurricane damage. An inspector may inspect a townhouse as defined in s. 481.203 to determine if opening protection

mitigation as listed in subparagraph (2)(f)1. ~~paragraph (2)(c)~~ would provide improvements to mitigate hurricane damage.

(e)~~(b)~~ The department ~~of Financial Services~~ shall contract with wind certification entities to provide hurricane mitigation inspections. The inspections provided to homeowners, at a minimum, must include:

1. A home inspection and report that summarizes the results and identifies recommended improvements a homeowner may take to mitigate hurricane damage.

2. A range of cost estimates regarding the recommended mitigation improvements.

3. Information regarding estimated premium discounts, correlated to the current mitigation features and the recommended mitigation improvements identified by the inspection.

(f)~~(c)~~ To qualify for selection by the department as a wind certification entity to provide hurricane mitigation inspections, the entity must, at a minimum, meet the following requirements:

1. Use hurricane mitigation inspectors who are licensed or certified as:

a. A building inspector under s. 468.607;

b. A general, building, or residential contractor under s. 489.111;

c. A professional engineer under s. 471.015;

d. A professional architect under s. 481.213; or

e. A home inspector under s. 468.8314 and who have completed at least 3 hours of hurricane mitigation training approved by the Construction Industry Licensing Board, which

training must include hurricane mitigation techniques, compliance with the uniform mitigation verification form, and completion of a proficiency exam.

2. Use hurricane mitigation inspectors who also have undergone drug testing and a background screening. The department may conduct criminal record checks of inspectors used by wind certification entities. Inspectors must submit a set of fingerprints to the department for state and national criminal history checks and must pay the fingerprint processing fee set forth in s. 624.501. The fingerprints must be sent by the department to the Department of Law Enforcement and forwarded to the Federal Bureau of Investigation for processing. The results must be returned to the department for screening. The fingerprints must be taken by a law enforcement agency, designated examination center, or other department-approved entity.

3. Provide a quality assurance program including a reinspection component.

~~(d) An application for an inspection must contain a signed or electronically verified statement made under penalty of perjury that the applicant has submitted only a single application for that home.~~

~~(e) The owner of a site-built, single-family, residential property or townhouse as defined in s. 481.203, for which a homestead exemption has been granted, may apply for and receive an inspection without also applying for a grant pursuant to subsection (2) and without meeting the requirements of paragraph (2)(a).~~

(2) HURRICANE MITIGATION GRANTS.—Financial grants shall be

used by homeowners ~~to encourage single-family, site-built, owner-occupied, residential property owners~~ to make improvements recommended by an inspection which increase resistance ~~retrofit their properties to make them less vulnerable~~ to hurricane damage.

(a) ~~For~~ A homeowner is ~~to be~~ eligible for a hurricane mitigation grant if all of~~,~~ the following criteria are ~~must be~~ met:

1. The home must be eligible for an inspection under subsection (1) ~~The homeowner must have been granted a homestead exemption on the home under chapter 196~~.

2. The home must be a dwelling with an insured value of $700,000 or less. Homeowners who are low-income persons, as defined in s. 420.0004(11), are exempt from this requirement.

3. The home must undergo an acceptable hurricane mitigation inspection as provided in subsection (1).

4. The building permit application for initial construction of the home must have been made before January 1, 2008.

5. The homeowner must agree to make his or her home available for inspection once a mitigation project is completed.

6. The homeowner must agree to provide to the department information received from the homeowner's insurer identifying the discounts realized by the homeowner because of the mitigation improvements funded through the program.

(b)1. An application for a grant must contain a signed or electronically verified statement made under penalty of perjury that the applicant has submitted only one grant ~~a single~~ application or that the application is allowed under subparagraph 2., and must have ~~attached~~ documents attached

demonstrating the applicant meets the requirements of ~~this~~ paragraph (a).

2. An applicant may submit a subsequent grant application if:

a. The original grant application was denied or withdrawn because the application contained errors or omissions;

b. The original grant application was denied or withdrawn because the home did not meet the eligibility criteria for a grant at the time of the previous application, and the homeowner reasonably believes that the home now is eligible for a grant; or

c. The program's eligibility requirements for a grant have changed since the original application date, and the applicant reasonably believes that he or she is an eligible homeowner under the new requirements.

3. The department may request that the applicant provide additional information if the application contains apparent errors or omissions. An application is considered withdrawn by the applicant if the department does not receive a response to its request for additional information within 60 days after the department notifies the applicant of any apparent errors or omissions.

(c) ~~(b)~~ All grants must be matched on the basis of $1 provided by the applicant for $2 provided by the state up to a maximum state contribution of $10,000 toward the actual cost of the mitigation project, except as provided in paragraph (j).

(d) ~~(c) The program shall create a process in which contractors agree to participate and homeowners select from a list of participating contractors.~~ All hurricane mitigation

performed under the program must be based upon the securing of all required local permits and inspections and must be performed by properly licensed contractors. ~~Hurricane mitigation inspectors qualifying for the program may also participate as mitigation contractors as long as the inspectors meet the department's qualifications and certification requirements for mitigation contractors.~~

(e) ~~(d)~~ Matching fund grants may ~~shall~~ also be made available to local governments and nonprofit entities for projects that will reduce hurricane damage to eligible homes ~~single-family, site-built, owner-occupied, residential property~~. The department shall liberally construe those requirements in favor of availing the state of the opportunity to leverage funding for the My Safe Florida Home Program with other sources of funding.

(f) ~~(e)~~ When recommended by a hurricane mitigation inspection, grants for eligible homes may be used for the following improvements:

1. Opening protection, including exterior doors, garage doors, windows, and skylights.

2. ~~Exterior doors, including garage doors.~~

~~3.~~ Reinforcing roof-to-wall connections.

3.~~4.~~ Improving the strength of roof-deck attachments.

4.~~5.~~ Secondary water resistance barrier for roof.

(g) ~~(f)~~ When recommended by a hurricane mitigation inspection, grants for townhouses, as defined in s. 481.203, may only be used for opening protection.

(h) The department may require that improvements be made to all openings, including exterior doors, ~~and~~ garage doors,

windows, and skylights, as a condition of reimbursing a homeowner approved for a grant. The department may adopt, by rule, the maximum grant allowances for any improvement allowable under paragraph (f) or paragraph (g) ~~(e) or this paragraph~~.

(i) ~~(g)~~ Grants may be used on a previously inspected existing structure or on a rebuild. A rebuild is defined as a site-built, single-family dwelling under construction to replace a home that was destroyed or significantly damaged by a hurricane and deemed unlivable by a regulatory authority. The homeowner must be a low-income homeowner as defined in paragraph (j) ~~(h)~~, must have had a homestead exemption for that home before the hurricane, and must be intending to rebuild the home as that homeowner's homestead.

(j) ~~(h)~~ Low-income homeowners, as defined in s. 420.0004(11), who otherwise meet the applicable requirements of this subsection ~~paragraphs (a), (c), (e), and (g)~~ are eligible for a grant of up to $10,000 and are not required to provide a matching amount to receive the grant. ~~The program may accept a certification directly from a low-income homeowner that the homeowner meets the requirements of s. 420.0004(11) if the homeowner provides such certification in a signed or electronically verified statement made under penalty of perjury.~~

(k)1. ~~(i)~~ The department shall develop a process that ensures the most efficient means to collect and verify inspection applications and grant applications to determine eligibility. The department ~~and~~ may direct hurricane mitigation inspectors to collect and verify grant application information or use the Internet or other electronic means to collect information and determine eligibility.

2. The department, for the first 60 days it accepts inspection applications and grant applications after any legislative appropriation funding inspections and grants, must prioritize the review and approval of such applications in the following order:

a. First, applications from low-income persons, as defined in s. 420.0004, who are at least 60 years old;

b. Second, applications from all other low-income persons, as defined in s. 420.0004;

c. Third, applications from moderate-income persons, as defined in s. 420.0004, who are at least 60 years old;

d. Fourth, applications from all other moderate-income persons, as defined in s. 420.0004; and

e. Last, all other applications.

3. The program may accept a certification directly from a low-income homeowner or moderate-income homeowner who meets the requirements of s. 420.0004(11) or s. 420.0004(12) if the homeowner provides such certification in a signed or electronically verified statement made under penalty of perjury.

(3) EDUCATION, CONSUMER AWARENESS, AND OUTREACH.—

(a) The department may undertake a statewide multimedia public outreach and advertising campaign to inform consumers of the availability and benefits of hurricane inspections and of the safety and financial benefits of residential hurricane damage mitigation. The department may seek out and use local, state, federal, and private funds to support the campaign.

(b) The program may develop brochures for distribution to Citizens Property Insurance Corporation and other licensed entities or nonprofits that work with the department to educate

the public on the benefits of the program~~, general contractors, roofing contractors, and real estate brokers and sales associates who are licensed under part I of chapter 475 which provide information on the benefits to homeowners of residential hurricane damage mitigation~~. Citizens Property Insurance Corporation must ~~is encouraged to~~ distribute the brochure to policyholders of the corporation each year the program is funded. ~~Contractors are encouraged to distribute the brochures to homeowners at the first meeting with a homeowner who is considering contracting for home or roof repair or contracting for the construction of a new home. Real estate brokers and sales associates are encouraged to distribute the brochure to clients before the purchase of a home.~~ The brochures may be made available electronically.

(4) FUNDING.—The department may seek out and leverage local, state, federal, or private funds to enhance the financial resources of the program.

(5) RULES.—The department ~~of Financial Services~~ shall adopt rules pursuant to ss. 120.536(1) and 120.54 to govern the program; implement the provisions of this section; including rules governing hurricane mitigation inspections and grants, mitigation contractors, and training of inspectors and contractors; and carry out the duties of the department under this section.

(6) HURRICANE MITIGATION INSPECTOR LIST.—The department shall develop and maintain as a public record a current list of hurricane mitigation inspectors authorized to conduct hurricane mitigation inspections pursuant to this section.

(7) CONTRACT MANAGEMENT.—

(a) The department may contract with third parties for grants management, inspection services, contractor services for low-income homeowners, information technology, educational outreach, and auditing services. Such contracts are considered direct costs of the program and are not subject to administrative cost limits. The department shall contract with providers that have a demonstrated record of successful business operations in areas directly related to the services to be provided and shall ensure the highest accountability for use of state funds, consistent with this section.

(b) The department shall implement a quality assurance and reinspection program that determines whether initial inspections and home improvements are completed in a manner consistent with the intent of the program. The department may use valid random sampling in order to perform the quality assurance portion of the program.

(8) INTENT.—It is the intent of the Legislature that grants made to residential property owners under this section shall be considered disaster-relief assistance within the meaning of s. 139 of the Internal Revenue Code of 1986, as amended.

(9) REPORTS.—The department shall make an annual report on the activities of the program that shall account for the use of state funds and indicate the number of inspections requested, the number of inspections performed, the number of grant applications received, the number and value of grants approved, and the estimated average annual amount of insurance premium discounts and total estimated annual amount of insurance premium discounts homeowners received from insurers as a result of mitigation funded through the program. The report must be

delivered to the President of the Senate and the Speaker of the House of Representatives by February 1 of each year.

Section 2. (1) For the 2024-2025 fiscal year, the sum of $100 million in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Financial Services to provide mitigation grants pursuant to s. 215.5586(2), Florida Statutes, under the My Safe Florida Home Program. The department may not continue to accept applications or to create a waiting list in anticipation of additional funding unless the Legislature provides express authority to implement such actions.

(2) For the 2024-2025 fiscal year, the sum of $7 million in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Financial Services for administrative costs related to implementation of mitigation grants pursuant to s. 215.5586(2), Florida Statutes, under the My Safe Florida Home Program.

Section 3. This act shall take effect July 1, 2024.

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

1/16/24
Meeting Date

BANKG + INSURANCE
Committee

SPB 7028
Bill Number or Topic

Amendment Barcode (if applicable)

Name TASHA CARTER, FL'S INSURANCE CONSUMER ADVOCATE

Phone 850-413-2868

Address 200 E. GAINES STREET
Street

Email TASHA.CARTER@MYFLORIDACFO.COM

TALLAHASSEE, FL 32399
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
DFS, OFFICE OF INSURANCE CONSUMER ADVOCATE

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

1/16/24
Meeting Date

Banking and Insurance
Committee

SB 7028
Bill Number or Topic

Amendment Barcode (if applicable)

Name Murphy Kennedy Gering

Phone (407) 232-3820

Address 200 S Monroe St
Street

Email murphykge@floridarealtors.org

Tallahassee FL 32399
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing: Florida Realtors

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

1/16/24
Meeting Date

Banking & Insurance
Committee

7028 - My Safe FL Home
Bill Number or Topic

Amendment Barcode (if applicable)

Name Karen Murillo

Phone 850-567-0414

Address 215 S. Monroe St., Ste. 603
Street

Email kmurillo@aarp.org

Tallahassee FL 32308
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
AARP Florida

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

COMMITTEE VOTE RECORD

COMMITTEE: Banking and Insurance
ITEM: SPB 7028
FINAL ACTION: Submitted and Reported Favorably as Committee Bill
MEETING DATE: Tuesday, January 16, 2024
TIME: 11:00 a.m.—1:00 p.m.
PLACE: 412 Knott Building

FINAL VOTE								
Yea	**Nay**	**SENATORS**	**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**
X		Broxson						
X		Burton						
X		Hutson						
X		Ingoglia						
X		Mayfield						
X		Powell						
X		Thompson						
		Torres						
X		Trumbull						
X		DiCeglie, VICE CHAIR						
X		Boyd, CHAIR						
10	0	**TOTALS**						
Yea	**Nay**		**Yea**	**Nay**	**Yea**	**Nay**	**Yea**	**Nay**

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered
RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment
TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call
WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Military and Veterans Affairs, Space, and Domestic Security, *Vice Chair*
Appropriations Committee on Criminal and Civil Justice
Banking and Insurance
Commerce and Tourism
Fiscal Policy
Rules
Transportation

JOINT COMMITTEES:
Joint Select Committee on Collective Bargaining

SENATOR VICTOR M. TORRES, JR.
25th District

January 16, 2024

Jim Boyd, Chair
Banking and Insurance Committee.
404 S Monroe Street
Tallahassee

Please accept this letter of excusal from myself for the January 16th Banking and Insurance Committee due to an illness. Please accept this letter as a formal request for excusal of this absence. Please let me know if you have any questions or need any additional information.

Respectfully Submitted,

Victor M. Torres, Jr.
Florida State Senator
District 25

REPLY TO:
❒ 101 Church Street, Suite 305, Kissimmee, Florida 34741 (407) 846-5187 FAX: (850) 410-4817
❒ 214 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5025

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

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

CourtSmart Tag Report

Room: KB 412 **Case No.:** - **Type:**
Caption: Senate Banking and Insurance Committee **Judge:**

Started: 1/16/2024 11:02:53 AM
Ends: 1/16/2024 11:59:13 AM Length: 00:56:21

11:02:54 AM Chair DiCeglie calls meeting to order
11:02:59 AM CAA calls roll
11:03:19 AM Quorum present
11:03:23 AM Senator Torres is excused
11:03:31 AM Chair makes opening remarks
11:03:41 AM Take up Tab 6 - SB 1014 by Senator Perry
11:03:54 AM Senator Perry explains the bill
11:04:15 AM Questions:
11:04:19 AM Senator Powell
11:04:33 AM Senator Perry responds
11:05:06 AM Senator Powell
11:05:08 AM Senator Perry responds
11:05:50 AM Appearance forms:
11:06:02 AM Ash Mason, Office of Financial Regulation, waives in support
11:06:07 AM No debate
11:06:10 AM Senator Perry closes on bill
11:06:21 AM Roll call
11:06:48 AM Bill reported favorably
11:06:52 AM Take up Tab 3 - SB 556 by Senator Rouson
11:07:03 AM Senator Rouson explains the bill
11:09:15 AM Questions:
11:09:18 AM Senator Trumbull
11:09:50 AM Senator Rouson responds
11:09:57 AM Senator Trumbull
11:10:22 AM Senator Rouson responds
11:10:32 AM Senator Thompson
11:10:46 AM Senator Rouson responds
11:10:57 AM Take up amendment #279272 by Senator Rouson
11:11:07 AM Senator Rouson explains the amendment
11:11:54 AM No questions on amendment
11:12:01 AM Appearance form:
11:12:03 AM Brian Jogerst, Elder Law Section/FL Bar, waiving in support
11:12:16 AM No debate
11:12:21 AM Amendment adopted
11:12:28 AM Back on bill as amended
11:12:33 AM Appearance forms:
11:12:38 AM Kim Droege speaking for
11:15:24 AM Jeffery Merry, Hillsborough County Sheriff's Office, speaking for
11:18:39 AM Allan Stollberg, waiving in support
11:18:54 AM Karen Murillo, AARP FL, waiving in support
11:19:00 AM Brian Jogerst, Elder Law Section/FL Bar, waiving in support
11:19:10 AM Anthony DiMarco, FL Bankers Assoc. speaking for
11:20:05 AM Debate:
11:20:07 AM Senator Broxson
11:21:20 AM Chair Boyd
11:21:47 AM Senator Rouson closes on bill as amended
11:22:22 AM Roll call
11:22:48 AM Bill reported favorably
11:22:54 AM Chair returned to Chair Boyd
11:23:07 AM Take up Tab 2 - SB 532 by Senator Brodeur
11:23:30 AM Senator Brodeur explains the bill
11:24:06 AM Take up amendment #283890 by Senator Brodeur

11:24:12 AM Senator explains the amendment
11:24:31 AM No questions on amendment
11:24:37 AM No debate
11:24:41 AM Amendment adopted
11:24:49 AM Back on bill as amended
11:24:54 AM No questions
11:24:56 AM Appearance forms:
11:24:57 AM Stuart Cohn, The Business Law Section of the FL Bar, waiving in support
11:25:05 AM David Cruz, FL League of Cities, waiving in support
11:25:11 AM Ash Mason , Office of Financial Regulation, waiving in support
11:25:17 AM Tiffany Garling, FL Chamber of Commerce, waiving in support
11:25:26 AM No debate
11:25:32 AM Senator Brodeur closes on the bill
11:26:03 AM Roll call
11:26:24 AM CS/SB 532 reported favorably
11:26:31 AM Take up tab 8 - SB 1106 by Senator Hooper
11:26:41 AM Senator Hooper explains the bill
11:28:17 AM Take up amendment #320544 by Senator Hooper
11:28:28 AM Senator Hooper explains the amendment
11:29:27 AM No questions on amendment
11:29:32 AM No appearance forms
11:29:36 AM No debate
11:29:38 AM Senator Hooper waives close
11:29:43 AM Amendment adopted
11:29:46 AM Back on bill as amended
11:29:51 AM No questions
11:29:53 AM Appearance cards:
11:29:56 AM Gary Rosen, speaking against
11:35:22 AM BG Murphy, FL Assoc. of Insurance Agents, waiving in support
11:35:32 AM Robert Reyes, Monroe County, speaking for information
11:37:19 AM Debate:
11:37:24 AM Senator Broxson
11:39:03 AM Chair Boyd
11:40:37 AM Senator Hooper closes on bill
11:42:16 AM Roll call
11:42:40 AM Bill reported favorably
11:42:46 AM Take up Tab 7 - SB 1066 by Senator Burton
11:42:55 AM Senator Burton explains the bill
11:43:29 AM Take up amendment #579502 by Senator Burton
11:43:40 AM Senator Burton explains the amendment
11:44:02 AM No questions on amendment
11:44:05 AM No appearance cards on amendment
11:44:13 AM No debate
11:44:17 AM Amendment adopted
11:44:25 AM Back on bill as amended
11:44:31 AM No questions
11:44:33 AM Appearance cards:
11:44:36 AM Chase Mitchell, CFP Jimmy Patronis, waiving in support
11:44:44 AM BG Murphy, FL Assoc. of Insurance Agents, waiving in support
11:44:52 AM Tasha Carter, DFS, Office on Insurance Consumer Advocate, waiving in support
11:45:06 AM No debate
11:45:10 AM Senator Burton waives close
11:45:14 AM Roll call
11:45:37 AM CS/SB 1066 reported favorably
11:45:44 AM Take up Tab 4 - SB 846 by Senator DiCelgie
11:45:51 AM Senator DiCeglie explains the bill
11:46:10 AM Take up amendment #560190 by Senator DiCeglie
11:46:22 AM Senator DiCeglie explains the amendment
11:46:52 AM No questions
11:46:58 AM No appearance cards
11:47:03 AM Amendment adopted
11:47:17 AM Back on bill as amended

11:47:21 AM No questions
11:47:24 AM Appearance cards:
11:47:26 AM Alex Miller, FL Trucking Assoc., waiving in support
11:47:37 AM No debate
11:47:40 AM Senator DiCeglie waives close
11:47:46 AM Roll call
11:48:06 AM CS/SB 846 reported favorably
11:48:22 AM Chair turned over to Vice Chair DiCeglie
11:48:26 AM Take up Tab 1 - SB 514 by Senator Boyd
11:48:34 AM Senator Boyd explains the bill
11:48:53 AM Take up Strike all amendment #260562 by Senator Boyd
11:49:03 AM Senator Boyd explains the amendment
11:49:46 AM No questions on amendment
11:49:50 AM No appearance forms
11:49:56 AM No debate
11:50:00 AM Senator Boyd waives closes
11:50:04 AM Amendment adopted
11:50:08 AM Back on bill as amended
11:50:12 AM No questions
11:50:13 AM Appearance forms:
11:50:18 AM Robert Stuart, Habitat for Humanity of FL, waiving in support
11:50:25 AM Sean Stafford, FL Assoc. of Mortgage Professionals, waives in support
11:50:41 AM No debate on bill as amended
11:50:49 AM Roll call
11:51:12 AM CS/SB 514 reported favorably
11:51:20 AM Take up tab 5 - SB 902 by Senator Boyd
11:51:28 AM Senator Boyd explains the bill
11:52:49 AM Take up amendment #871000 by Senator Boyd
11:53:00 AM Senator Boyd explains the amendment
11:53:16 AM No questions
11:53:20 AM No appearance forms
11:53:24 AM No debate
11:53:29 AM Amendment adopted
11:53:34 AM Back on bill as amended
11:53:39 AM Questions:
11:53:43 AM Senator Ingoglia
11:54:01 AM Senator Boyd responds
11:54:23 AM Senator Ingoglia
11:54:26 AM Senator Boyd
11:54:32 AM No appearance forms
11:54:35 AM No debate
11:54:39 AM Senator Boyd closes on bill as amended
11:54:58 AM Roll call
11:55:21 AM CS/SB 902 reported favorably
11:55:28 AM Take up tab 9 - SPB 7028 by Banking and Insurance
11:55:44 AM Senator Boyd explains the SPB
11:57:15 AM No questions
11:57:22 AM Appearance forms:
11:57:25 AM Karen Murillo, AARP FL, waiving in support
11:57:32 AM Murphy Kennedy Gering, FL Realtors, waiving in support
11:57:43 AM Tasha Carter, DFS, Office of Insurance Consumer Advocate, waiving in support
11:57:52 AM No debate
11:57:58 AM Senator Boyd moves SPB 7028 be submitted as a committee bill
11:58:09 AM Motion adopted
11:58:12 AM Roll call
11:58:27 AM SPB 7028 favorably reported as a committee bill
11:58:41 AM Senator Boyd vote after
11:58:55 AM Motion adopted
11:58:59 AM Senator Boyd moves to adjourn
11:59:03 AM Meeting adjourned